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| Staff: | Randall Stemler |
| Staff Report: | August 28, 2003 |
| Hearing Date: | September 12, 2003 |
| Commission Action: | |

STAFF REPORT: APPEALDE NOVO HEARING

| | |
|----------------------|---|
| APPEAL NO.: | A-1-MEN-02-029 |
| APPLICANTS: | Dan & Rosanna Shia |
| AGENT: | Robert Schlosser, Leventhal / Schlosser Associates |
| LOCAL GOVERNMENT: | County of Mendocino |
| DECISION: | Approval with Conditions |
| PROJECT LOCATION: | At 5260 South Highway One, ¼ mile north of Elk, Mendocino County (APN 127-130-04 and 127-130-05). |
| PROJECT DESCRIPTION: | Construct a 3,025-square-foot, single-story, single-family residence with a maximum height of 18 feet above average natural grade, a 685-square-foot attached garage, septic system, wood fences and wood gate, add parking areas and turnouts to the existing driveway, extend underground utilities, connect the new residence to the existing community water system, install a new underground propane tank, and replace an existing mobile home with a new 768-square-foot 16 ½-foot-high, single-story residence. |

REVISED PROJECT
DESCRIPTION FOR
PURPOSES OF *DE NOVO*

For the purposes of the Commission's *de novo* review, the applicants have amended the project description to 1) relocate the new primary residence 23 feet toward the northeast to move the house away from the coastal bluff an additional 5 feet and provide a 10-foot setback-buffer from the newly surveyed rear extent of the previously identified sea caves; 2) reduce the height of the proposed structure by one foot; 3) provide landscaping for visual screening between the proposed development and the public trail on the northern tip of Greenwood State Park; 4) reduce the glass area on the south elevation to minimize potential reflectivity; 5) substantially darken the color of the proposed building materials; and 6) delete the proposal to replace the existing non-conforming mobile home with a new structure.

APPELLANT:

Dr. Hillary Adams

SUBSTANTIVE FILE:
DOCUMENTS

- 1) Mendocino County CDU No. 15-2001; and
- 2) Mendocino County Local Coastal Program

STAFF NOTES:

1. Procedure

On August 7, 2002, pursuant to Section 30625 of the Coastal Act and Section 13115 of the Title 14 of the California Code of Regulations, the Coastal Commission found that the appeal of the County of Mendocino's approval raised a substantial issue with respect to the grounds on which the appeal had been filed. As a result, the County's approval is no longer effective, and the Commission must consider the proposed project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program (LCP) and is between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with the County's certified LCP and the public access and public recreation policies of the Coastal Act. Testimony may be taken from all interested persons at the *de novo* hearing.

2. Submittal of Additional Information by the Applicant

For the purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information consisting of 1) additional geologic hazard evaluations including a slope stability analysis, sea cave mapping, and setback recommendations; 2) a

riparian ESHA width evaluation prepared by a consulting biologist with recommendations for ESHA protection, and 3) a septic system approval by the County Department of Environmental Health. The applicants have also amended their project description by 1) revising their site plan to move the house 23 feet toward the northeast to conform to the new geologic setbacks necessitated by the updated geologic evaluations; 2) reducing the height of the residence by one foot; 3) proposing a darker color for the exterior than previously proposed; 4) adding landscaping to visually screen the development from Greenwood State Park; 5) reducing the amount of glass area on the south facing elevation, and 6) deleting the proposal to replace the existing non-conforming mobile home with a new structure.

The supplemental information addresses issues raised by the appeal and provides additional information that was not a part of the record when the County originally acted to approve the coastal development permit.

SUMMARY OF STAFF RECOMMENDATION DE NOVO:
APPROVAL WITH CONDITIONS

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, the project is consistent with the County of Mendocino certified LCP and the access policies of Chapter 3 of the Coastal Act.

Since the August hearing on the Substantial Issue determination, the applicants have amended their project description for purposes of the Commission's *de novo* review of the appeal to modify the previously proposed house design.

As amended, the proposed project description includes construction of an 18-foot-high, 3,710-square-foot, single-story, single-family residence that would be constructed no closer than 35 feet from the edge of the coastal bluff. The proposed amended design includes an attached 685-square-foot, two-car garage, construction of a new segment of driveway connecting the garage to the existing rocked driveway road, the addition of a new guest parking area at an existing road turnout area near the walkway to the front entrance to the house, the installation of a septic system, a 1000-gallon, underground propane tank, underground existing power and telephone lines from an on-site power pole to the house, extending an underground waterline, and replacement and extension of the existing wooden fence located along Highway One and installation of a wooden roll-gate at the driveway road. The existing dilapidated house near the road would be demolished and its footprint returned to natural condition. A landscaping plan has been proposed that would serve to visually screen the house from view from the public trail at the tip of Greenwood State Park across Greenwood Cove.

The project as amended by the applicants for the Commission's *de novo* review would be consistent with visual resource policies of the LCP since although the subject site is in an area designated in the certified Mendocino County Land Use Plan as highly scenic, (1) the project would not block any existing views to and along the coast, (2) the project would conform to the

height limitations in highly scenic areas, and (3) with the currently proposed landscaping, existing backdrop of trees, the dark colors, and the use of glass that is not reflective, the project would be subordinate to the character of its setting. The proposed project would be consistent with geologic hazard policies of the LCP since (1) the development would not result in the creation of any geologic hazards, (2) would not have significant adverse impacts on the stability of the coastal bluff or on erosion, and (3) the Commission would be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. The proposed project would be consistent with protection of ESHA resources since (1) adequate buffers would protect the rare plant and riparian ESHA; and (2) invasive exotic species would be prohibited from being planted as part of the landscaping. The proposed project would be consistent with the LCP requirements for planning and locating new development since (1) the proposed single-family residence would be consistent with the rural residential zoning for the site; (2) the proposed development would be served by the Elk Water District; (3) adequate capacity for developing a septic system exists; and (4) no significant adverse impacts on traffic capacity would result from the proposed residential development.

Staff recommends that the Commission attach nine (9) special conditions, including conditions to 1) require that all terms and conditions of the permit are recorded as deed restrictions; 2) impose design restrictions on the color and materials used to ensure that building materials and colors are not replaced with unsuitable materials and colors in the future, as well as require lighting to be shielded; 3) require conformance of the design and construction plans to the geotechnical report recommendations; 4) prohibit future bluff or shoreline protective devices; 5) require the applicants to assume the risk of geologic hazard and waive liability for the Commission; 6) require an erosion and runoff control plan; 7) maintain the existing and proposed landscaping to ensure the development will continue to be visually screened in the future; 8) require removal of demolition debris that may fall to the beach or tidal zone; and 9) inform the applicants that this action has no effect on conditions imposed by the local government pursuant to an authority other than the Coastal Act.

Staff recommends that the Commission find the project, as conditioned, is consistent with the policies contained in the County's certified LCP and the Coastal Act public access and recreation policies.

I. MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-02-029 pursuant to the staff recommendation.

Staff Recommendation of Approval:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development, as conditioned will be in conformity with the certified County of Mendocino LCP, is located between the sea and the nearest public road to the sea and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See attached.

III. SPECIAL CONDITIONS:

1. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

2. Design Restrictions

- A. All exterior siding and roofing of the proposed structures shall be composed of materials of the colors proposed in the application or darker earthtone colors only. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that will lighten the color of the house or structures as approved without an amendment to this permit. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare; and;
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-

wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

3. **Conformance of the Design and Construction Plans to the Geotechnical Investigation Report**

- A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with the recommendations contained in the Engineering Geologic Reconnaissance report dated October 11, 1999, and Supplemental Evaluation report dated April 25, 2003 prepared by BACE Geotechnical Consultants. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical reports approved by the California Coastal Commission for the project site.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **No Future Bluff or Shoreline Protective Device**

- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. A-1-MEN-02-029, including, but not limited to, the residence with the attached garage, foundations, septic system, utilities, driveway, or appurtenant residential development in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under Mendocino County LUP Policy No. 3.4-12, and Mendocino County Coastal Zoning Ordinance No. 20.500.020(E)(1).
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including the residence with the attached garage, foundations, septic system, driveway, and other appurtenant residential development, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are

removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

- C. In the event the edge of the bluff recedes to within 10 feet of the principal residence but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the residence are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the principal residence without shore or bluff protection, including but not limited to removal or relocation of portions of the residence. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the residence or any portion of the residence is unsafe for occupancy, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

5. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicants acknowledge and agree: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, and earth movement; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

6. Erosion and Runoff Control Plan

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-02-029**, the applicants shall submit an Erosion and Runoff Control Plan for review and approval of the Executive Director. The Erosion and Runoff Control Plan shall incorporate design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The final drainage and runoff control plans shall at a minimum include the following provisions:

1. A physical barrier consisting of bales of straw placed end to end shall be installed between any construction and (1) bluff edges that are downslope of the construction, and (2) the edge of the riparian plant community adjacent to Laurel Creek. The bales shall be composed of weed-free rice straw, and shall be maintained in place throughout the construction period.
 2. Vegetation at the site shall be maintained to the maximum extent possible and any disturbed areas shall be replanted or seeded with native vegetation immediately following project completion.
 3. All on-site debris stockpiles shall be covered and contained at all times.
 4. Provide that runoff from the roof, driveway and other impervious surfaces from the completed development shall be collected and directed into pervious areas on the site (landscaped areas) for infiltration to the maximum extent practicable in a non-erosive manner, prior to being conveyed off-site. Where gutters and downspouts are used, velocity reducers shall be incorporated, to prevent scour and erosion at the outlet.
- B. The permittee shall undertake development in accordance with the approved Erosion and Runoff Control plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

7. Landscaping and Maintenance Requirement

- A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-02-029**, the applicants shall submit revised landscaping plans to the Executive Director for review and approval. The revised plans shall substantially conform with the sheet A1.2 of the amended site plans submitted to the California Coastal Commission on May 31, 2003, prepared by Leventhal and Schlosser, except that the landscaping plans shall also provide for the following changes to the project:
1. The landscaping plan notes shall include a prohibition against the planting of non-native invasive plants at the project site.
 2. The landscaping plan notes shall state that if any of the trees to be planted and/or maintained according to the plan die or are removed for any reason, they shall be immediately replaced in-kind. No limbing or pruning of the visually screening trees shall occur.
 3. The landscaping plan notes shall state that if any of the trees shown on the site plan (including sixteen Bishop pine trees (*Pinus muricata*) that form the backdrop

for the view of the residence from Greenwood State Park shall be maintained and if any of these trees die or are removed for any reason, they shall be immediately replaced in-kind. No limbing or pruning of the visually screening trees shall occur.

- B. The permittee shall undertake development in accordance with the approved revised landscaping plans. Any proposed changes to the approved landscaping plans shall be reported to the Executive Director. No changes to the approved revised site plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. Removal of Demolition Debris

All debris from the demolition of the existing residence near the bluff edge at the eastern end of the project site shall be removed from the site, and disposed at a location where such material may be lawfully disposed. In the event that portions of the development fall to the beach or tidal zone before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

9. Conditions Imposed By Local Government.

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated July 25, 2002.

B. Project History / Background

The applicants propose to develop a single-family residence with an attached garage and parking areas, demolish an existing residence, install a new septic system, a new underground propane tank, new wooden fences and gate, and provide underground utilities to the new building site at 5260 South Highway One, ¼ mile north of Elk, Mendocino County.

On May 16, 2002, the Mendocino County Planning Commission approved with conditions Coastal Development Use Permit #15-2001 for a 3,710 square-foot, single-story, single-family

residence with a maximum height of 18 feet above average natural grade. The County-approved development included a residence with 3,025 square feet of living space, a 685 square-foot attached garage, replacement of an existing mobile home with a new 768 square-foot single-story residence with a maximum height of 16 feet, 6 inches above average natural grade, and the demolition of an existing non-conforming residence. Additionally, the County approved the installation of a new septic disposal system, addition of parking areas and turnouts to the existing driveway, extension of underground utilities to the new building site, connection of the new residence to existing community water system, installation of a new underground propane tank, and installation of new wood fences and a new wood gate. The subject site is in an area designated in the certified Mendocino County Land Use Plan as highly scenic.

The County Planning Commission approved the project with seventeen conditions, attached as pages 5-8 of Exhibit No. 4. The County Planning Commission action was not appealed at the local level to the Board of Supervisors. After the close of the local appeal period, the County issued a Notice of Final Action for Coastal Development Use Permit #15-2001 for construction of the residence. The Notice of Final Action was received by Commission staff on June 6, 2002 (Exhibit No. 4). The project was appealed to the Coastal Commission by Dr. Hillary Adams in a timely manner on June 19, 2002, within 10-working days after receipt by the Commission of the Notice of Final Local Action. The appeal cited inconsistencies between the approved development and certain provisions of the certified LCP relating to community neighborhood, color, reflectivity, style of architecture, geologic hazards, and non-conforming uses (Exhibit No. 5). On June 20, 2002, staff requested all relevant documents and materials regarding the subject approval from the County; these materials were received on July 8, 2002. On July 11, 2002, the Commission opened and continued the appeal hearing. On July 17, 2002, prior to the 49th day after the appeal was filed, the applicants submitted a signed waiver of the requirements of Section 30621 that an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed.

On August 7, 2002, the Commission found that a substantial issue had been raised with regard to the consistency of the project as approved by the County with the provisions of certified LUP Policies 3.4-7, 3.5-1, 3.5-3, and Coastal Zoning Code Sections 20.376.025(C), 20.480, 20.500.020, 20.504.015, and 20.532.070 concerning geologic hazards, protection of visual resources, and conformance with non-conforming use standards.

The Commission continued the *de novo* portion of the appeal hearing.

C. Project and Site Description

1. Project Setting

The project site is a blufftop parcel west of Highway One, and is located on a point of land situated at the northern end of Greenwood Cove, approximately ½ mile south of Cuffey's Cove, and approximately ¼ mile north of the town of Elk, in an area along the Mendocino coastline designated as highly scenic (Exhibit Nos. 1 and 2).

The subject property is an approximately 11-acre bluff top parcel located on a coastal terrace. The parcel occupies a point of land with the southeast, southwest, and northwest sides of the property surrounded by ocean water. A chain of large, rock islands extends out into the ocean to the southwest. Greenwood Cove is on the southeast side of the rock/island chain, and Cuffey's Cove is on the northwest side. The coastal bluffs on the property range in height from 90 to 120 feet in vertical height above sea level. Six small to medium size sea caves are located at the toe of the bluffs. A sandy beach is located at the bluff toe in the western portion of the property. A dirt road goes partially down the bluff toward this beach. The lower portion of this road becomes a rough hiking trail down to the beach. There is another sandy beach at the northwest end of the property where the mouth of Laurel Creek meets the ocean. A dirt road goes partially down the bluff toward this beach. The property is predominantly grassland, with coastal bluff scrub on the bluff edge and bluff face, and a riparian plant community associated with the immediate banks of Laurel Creek, near the northwest corner of the site. An unnamed tributary to Laurel Creek forms the northerly boundary of the property. There are scattered stands of Bishop pine, Monterey cypress, and Douglas-fir with a predominate stand of 16 old pine trees located immediately behind the proposed house site. The riparian vegetation along the creek constitutes an ESHA for which a 100-foot buffer has been recommended. Populations of the Mendocino coast paintbrush—*Castilleja latifolia* spp. *mendocinensis*—grow on the bluff edge and bluff face. No development is proposed within 100 feet of this rare plant ESHA.

An existing house located about 65 feet from Highway One at the southeast entrance to the property is built along a steep-sided ravine and is dilapidated and presently uninhabited. The ground has dropped from beneath several supporting piers of that structure.

An ancient geologic fault-line extends up the west side of the ravine, approximately 100 feet from the dilapidated original house. The ravine was created by weathering and erosion along the inactive fault. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

A mobile home is located in the approximate north-central portion of the property. The proposed house would be located in the southwest portion of the property. The parcel is bordered by agricultural rangeland to the north and east.

The proposed new house construction would be visible from Greenwood State Park, approximately ½ mile south of the project site. The most visible portion of the structure would be the southeast elevation where the master bedroom would be located. The proposed residence would not be visible from historic public viewing and photographic points adjacent to Cuffey's Cove Cemetery to the north, due to the screening value of existing trees on the property.

The property is zoned Rural Residential, Five Acres Minimum, Development Limitations (DL). Within the Rural Residential Zone, a single-family residence is a permitted use, subject to approval of a coastal development permit.

2. Project Description

As approved by the County, the development would have consisted of an 18-foot-high, 3,710-square-foot, single-story, single-family residence with 3,025-square-feet of living space, and a 685-square-foot attached garage. The residence would have been located south of an existing barn, west of the original dilapidated residence (to be demolished), and would have been served by an existing driveway. A 768-square-foot residence would have been constructed as a second residential unit at the site of the existing legal non-conforming mobile home. The approved 16 ½-foot-high, second residence would have occupied the same footprint, and would have been equal in size to the existing mobile home. New wood fencing would have been built along the wall line of the existing original house near Highway One, and the old wooden fences along Highway One would have been repaired and maintained. A new wooden gate would have been installed at the driveway entrance to match the wooden fence. Existing telephone and electric lines would have been extended to the approved building site from an existing power pole underground at the center of the existing driveway. Elk water service would have been provided underground to the new residence, and connected to the existing hook-up at the site of the mobile home. A new guest parking area would have been created at an existing road turnout and a new driveway spur and turnaround to the approved attached garage would have been installed. A new 1,000-gallon underground propane tank would have been buried providing service to the approved house. A new septic system would have been installed northwest of the new building site to serve the proposed three-bedroom residence and the proposed second residential unit.

For the purposes of the Commission's *de novo* review, the project was subsequently revised by the applicants to: 1) relocate the new primary residence 23 feet toward the northeast to move the house away from the coastal bluff an additional 5 feet and provide a 10-foot setback-buffer from the newly surveyed rear extent of the previously identified sea caves; 2) reduce the height of the proposed structure by one foot; 3) provide landscaping for visual screening between the proposed development and the public trail on the northern tip of Greenwood State Park; 4) reduce the glass area on the south elevation to minimize potential reflectivity; 5) substantially darken the color of the proposed building materials; and 6) delete the proposal to replace the existing non-conforming mobile home with a new structure.

The proposed landscaping plan would serve to visually screen the house from view from the public trail at the tip of Greenwood State Park across Greenwood Cove approximately ½-mile to the south. The proposed landscaping includes the planting of Monterey cypress and shore pine in locations that would block the view of the house from the park trail. Use of wind-screens and an irrigation system is proposed along with monthly maintenance to ensure success of the planting and proper operation of the irrigation system. Existing trees to be retained for visual screening would be fenced from construction activities to protect them from being potentially damaged.

D. Planning and Locating New Development

LCP Provisions

LUP Policy 3.9-1 of the Mendocino County Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

LUP Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits.

The property is zoned Rural Residential, Five Acres Minimum, Development Limitation Combining District (DL). Within the Rural Residential Zone, a single-family residence is a permitted use, subject to approval of a coastal development permit. Coastal Zoning Code Chapter 20.376 establishes the prescriptive standards for development within Rural Residential (RR) zoning districts. Single-family residences are a principally permitted use in the RR zoning district. The minimum parcel size is 5 acres, pursuant to Coastal Zoning Code (CZC) Section 20.376.020(C). Setbacks for the subject parcel are twenty feet to the front and rear yards, and six feet on the side yards, pursuant to CZC Sections 20.376.030 and 20.376.035, respectively. Unless a further increase in height were found to not affect public views to the ocean or be out of character with surrounding structures, the maximum building height allowed by LUP Policy 3.5-3 is 18 feet above natural grade. CZC Section 20.376.065 sets a maximum of 20% structural coverage on RR lots of less than two acres in size. CZC Section 20.480.010 allows lawfully existing improvements and uses made non-conforming by the adoption of the Coastal Element of the Mendocino County General Plan and Coastal Zoning Code to be continued where the use is compatible with adjacent land uses and where it is not feasible to replace the activity with a conforming land use. Conformance is required with the applicable building code and/or zoning code in effect at the time of construction or modification.

Discussion

The proposed single-family residence would be consistent with the rural residential zoning for the site. As discussed above, the development as proposed would consist of an 18-foot-tall, one-story, 3,710-square-foot, single-family residence, that includes a 685-square-foot attached garage; appurtenant structures including an underground propane tank and installation of a septic system; driveway with parking at the existing turnout; pathway; extension of water, power, and phone lines from existing service to the new house; front gate; fencing; and landscaping. Demolition of the existing dilapidated house would also be accomplished, and the footprint returned to a natural condition. The proposed development and the existing mobile home on the property together represent less than 1% coverage of the approximately 11-acre parcel consistent with the maximum 20% structural coverage standard for the zoning district. The legal, non-

conforming mobile home provides a 2nd unit on the property, allowed by the non-conforming use policies articulated in the certified LCP. The use is compatible with adjacent land uses, and is contained within a structure built to accommodate the existing use.

The proposed development would be served by the Elk Water District, an existing community water service. The water district already served the primary residence to be demolished and continues to serve the mobile home on the property. Sewage would be handled by an on-site septic system. The Mendocino County Division of Environmental Health has determined that the proposed septic system would have adequate capacity to serve the proposed development and has granted its approval. Development of the site as a single-family residence is envisioned under the certified LCP. The cumulative impacts on traffic capacity of development approved pursuant to the certified LCP on lots meeting minimum parcel size standards established for the property under the certified LCP were addressed at the time the LCP was certified. When the Mendocino County LCP was certified by the Commission, the effect of the non-conforming 2nd unit mobile home on traffic capacity may not have been taken into account. However, since the proposed new residence would replace the existing primary home on the property to be demolished, there would be no net increase in residential density on the property from the proposed development that would result in significant adverse individual or cumulative impacts on the traffic capacity of Highway One. Therefore, as conditioned, the proposed development is located in an area able to accommodate the proposed development, consistent with the applicable provisions of LUP Policy 3.9-1.

As discussed below, the proposed development has been conditioned to include mitigation measures, which will minimize all adverse environmental impacts.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.9-1 3.8-1, and with Zoning Code Sections 20.376 as the development will be located in a developed area, there will be adequate services on the site to serve the proposed development, and the project will not result in significant adverse individual or cumulative impacts on highway capacity, scenic values, or other coastal resources.

E. Visual Resources

LCP Provisions

LUP Policy 3.5-1 states, in applicable part:

...The scenic and visual qualities of Mendocino county coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

LUP Policy 3.5-3 states, in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes...

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures... New development should be subordinate to natural setting and minimize reflective surfaces...[emphasis added]

Note 1: LUP Map No. 20 designates all of the area west of Highway One in the immediate vicinity of the applicants' parcel as highly scenic.

Note 2: Coastal Zoning Ordinance 20.504.015(A)(3) reiterates this section of coastline as being a "highly scenic area."

LUP Policy 3.5-4 states in applicable part:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists... Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; ...[emphasis added]

LUP Policy 3.5-5 states, in applicable part:

Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged ... [emphasis added]

Coastal Zoning Ordinance Section 20.504.010 states:

The purpose of this section is to insure that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

Coastal Zoning Ordinance Section 20.504.015(C) states, in applicable part:

- (1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
- (2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials shall be selected to blend in hue and brightness with their surroundings.*
...
- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited:*
(a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area.
...
- (7) Minimize visual impacts of development on terraces by the following criteria:*
 - (a) Avoiding development, other than farm buildings, in large open areas if an alternative site exists;*
 - (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;*
 - (c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*
 - (d) Design development to be in scale with rural character of the area.*
...
- (10) Tree planting to screen buildings shall be encouraged, however new development shall not allow trees to interfere with coastal/ocean views from public areas.*
...
- (13) Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible.*

Discussion

The subject parcel is located on a broad coastal terrace situated west of Highway One in an area designated as "highly scenic" under the Mendocino County LCP that is surrounded by ocean water on the southeast, southwest, and northwest sides. The property is predominantly open grassland, with coastal bluff scrub on the bluff edge and bluff face, and a riparian plant community associated with the immediate banks of Laurel Creek, near the northwest corner of the site. There are scattered stands of Bishop pine, Monterey cypress, and Douglas-fir with a prominent stand of 16 trees located immediately behind the proposed house site.

As discussed above, the application, as amended for purposes of the Commission's *de novo* review, proposes an 18-foot-tall, one-story, 3,710-square-foot single-family residence, with a 12-foot-tall, 685-square-foot attached garage; and appurtenant structures including an underground propane tank and septic system; driveway with parking at the existing turnout; extension of water, power, and phone lines from existing service to the new house; front gate; fencing; and landscaping. The proposed stucco exterior of the buildings would be painted a very dark flat black color. The colors of the roof and chimney flue pipe would also be dark colors. Demolition of the existing dilapidated house would also be accomplished, and the footprint returned to a natural condition.

The above listed visual resource protection policies set forth three basic criteria that development at the site must meet to be approved. First, LUP Policy 3.5-1 and CZC Section 20.504.010 require that development be sited and designed to protect views to and along the ocean and scenic coastal areas. Second, LUP Policy 3.5-3 and CZC Section 20.504.015(C)(2) generally require that new development in highly scenic areas be limited to one story and 18 feet in height. Finally, LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Section 20.504.015(C)(3) require that new development in highly scenic areas be subordinate to the character of its setting.

1. Protecting Views To and Along the Coast

LUP Policy 3.5-1 and CZC Sections 20.504.010 and 20.504.015(C)(1) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas from public areas including roads and trails.

Development at the proposed building site would not block any views to and along the coast because all views through the building site from public areas are screened by trees and the geographic setting.

Therefore, the Commission finds that the proposed development as conditioned will protect public views to and along the ocean and scenic coastal areas consistent with visual resource protection provisions LUP Policy 3.5-1 and CZC Sections 20.504.010 and 20.504.015(C)(1) of the certified LCP.

2. Consistency with Height Requirements

LUP Policy 3.5-3 requires that new development west of Highway One in designated highly scenic areas be limited to one-story (above natural grade). CZC Section 20.504.015(C)(2) requires that in highly scenic areas west of Highway 1, new development be limited to eighteen (18) feet above natural grade. Both Policy 3.5-3 and CZC Section 20.504.015(C)(2) would allow an increase in height if the increased height (a) would not affect public views to the ocean or (b) be out of character with surrounding structures. The proposed house would have only one story and a maximum height of 18 feet above average natural grade. Therefore, the Commission finds that the proposed development is consistent with the height limitations of LUP Policy 3.5-3 and CZC Section 20.504.015(C)(2).

3. Subordinate to the Character of its Setting

LUP Policies 3.5-1, 3.5-3, and 3.5-4, and CZC Section 20.504.015(C)(3) require that new development in highly scenic areas be subordinate to the character of its setting. To help ensure that new development will be subordinate, LUP Policy 3.5-4 also requires that buildings located within areas designated highly scenic shall be sited in or near the edge of a wooded area rather than in open areas and utilize natural landforms or artificial berms to screen development. In addition, Policy 3.5-5 states that tree planting to screen buildings be encouraged. Furthermore, the County's Coastal Zoning Ordinance Section 20.504.010 states that permitted development shall be sited and designed to minimize the alteration of landforms. Moreover, Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that in highly scenic areas, building materials, including siding and roof materials, shall be selected to blend in hue and brightness with their surroundings.

Several aspects of the project as proposed will help make the development subordinate to the character of its setting. The view of the building site on the subject property is essentially hidden from sight except from the public trail at the tip of Greenwood State Park located across Greenwood Cove more than ½-mile to the south. The existing trees would protect the development from public view from Highway One, including from the stretch of the highway upon which the parcel fronts and also from portions of the highway both south and north of the proposed development. The view from Highway One near Cuffy's Cove to the north is of one of the most beautiful scenes along the Mendocino coastline and it would be visually screened from the proposed development by existing trees on the property unless trees were limbed or removed. The proposed house would be built at the edge of the prominent stand of 16 old pine trees described earlier, consistent with LUP Policy 3.5-4. In addition, although the development would include minor grading for the establishment of building foundations, the development would not require significant landform alteration and a change in the natural topography, consistent with CZC Section 20.504.010, thereby helping to keep it subordinate to the character of its setting.

The applicants have also proposed a color for use on the stucco exterior of the proposed residence that would blend with, and be subordinate to, the surrounding forest environment. The proposed color for the stucco exterior is a very dark flat black color labeled "Black Tuxedo"

(ACE ® color chip number 181-A). The black color will contribute to the silhouette effect created by the backdrop of trees in the late afternoon sun and will not otherwise stand out. By using a flat black as opposed to a glossy black, the color will not reflect a substantial amount of light. The proposed roof would present a low profile with sloped sections and flat sections. The low-pitched sloped portions would be treated with an applied urethane roofing membrane. The flat portions would be composed of a single-ply, co-polymer alloy membrane. The proposed color of the roof would be a dark greenish-gray labeled "Shale" (Gacoflex ® color chip number 16). The color proposed for use on the chimney flue would be a dark gray labeled "Medium Gray" (Benjamin Moore ® color chip number 71). The colors used for the building materials, including the walls, roof, and chimney flue pipe, would not stand out in contrast to the background. The applicants have also proposed to use only glass that is not reflective to further minimize reflection from the proposed development. The use of the proposed flat black and other dark colors as described above and the use of glass that is not reflective is consistent with Coastal Zoning Code Section 20.504.015(C)(3), which requires that new development minimize reflective surfaces and requires that in highly scenic areas, building materials, including siding and roofing materials, shall be selected to blend in hue and brightness with the surroundings.

The applicants propose to landscape the development with trees that would visually screen the view of the residence from the public trail at Greenwood State Park to further ensure that the proposed development would be subordinate to the character of its setting. The submitted site plan indicates that eight (8), 15-gallon-sized, landscape-screening trees would be planted between the house and the bluff edge in locations consistent with the geologic setback recommendations of 35 feet from the edge of the coastal bluff and at least ten feet from the closest inland walls of the subterranean sea caves. The two species of trees to be planted would both be native and would include four Monterrey cypress (*Cupressus macrocarpa*) and four shore pine (*Pinus contorta*) planted at approximately 12-15-foot spacing in a pattern that would complement five existing pine trees providing visual screening for the house. Each planted tree would have humus builder amendment and water crystals added to the soil to provide nutrients and water retention capability. Three-foot-tall, green-colored windscreens would be provided to help protect the trees from physical damage and desiccation due to strong onshore winds. A drip irrigation system would be installed and maintained for a period of 12 to 15 years. Prior to any site development, temporary plastic fencing would be placed around all vegetation identified on the site plans for retention, specifically, the cypress and pine trees which would serve as visual screening for the proposed residence. No construction activities, vegetation removal, excavation, materials or equipment storage would be permitted within the dripline of the trees to be protected.

The view from the public trail at the tip of Greenwood State Park includes spectacular vistas of bluffs and sea stacks protruding into the ocean. The view is not limited to pristine views of natural beauty. Many of the buildings of the Town of Elk located between Highway One and the ocean are visible from this vantage point, including the existing house on the subject property that is proposed to be demolished. The proposed development would remove this house from the viewshed, but add a new house. However, by utilizing the backdrop of trees and adding additional landscaping, limiting the height to 18 feet, minimizing alteration of the landform, and

carefully selecting building colors and materials to blend the development into the natural surroundings as much as possible, the proposed development would be subordinate to the character of its setting consistent with LUP Policies 3.5-1, 3.5-3, and 3.5-4 and with CZC Section 20.504.010.

The subordinate appearance of the development is dependent on the development being built and maintained as proposed. Therefore, to ensure that the screening trees (both planted and retained) will always be present to shield the development from view from Highway One and from Greenwood State Park, Special Condition No. 7 is imposed to require that no limbing or tree removal occur, and that trees be replaced in kind as they die. Additionally, Special Condition No. 2 is imposed to restrict the color and building materials used for the development and require exterior lighting to have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel. To ensure that only the proposed dark colors that blend in hue and brightness with the surroundings as described above are utilized during the life of the project, the Commission attaches Special Condition No. 2. This condition requires all siding and roofing of the proposed structures to be composed of materials utilizing only the proposed color scheme. The design of the proposed house contains a significant amount of window glass that would not be consistent with the certified LCP if it were allowed to be reflective. Therefore, to ensure consistency with CZC Section 20.504.015(C)(3), Special Condition No. 2 is imposed to require that the window glass be non-reflective and any exterior lighting installed now or in the future be the minimum necessary for the safe ingress and egress of the structures and be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel. To ensure that any future buyers of the property will be aware of the limitations of Special Condition Nos. 7, and 2, on tree removal and limbing, maintaining the dark colors, prohibiting the use of reflective glass, and maintaining a certain kind and array of exterior lighting fixtures, the Commission imposes Special Condition No. 1. This condition requires that the applicant execute and record a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

As conditioned, the Commission finds that the proposed development will be subordinate to the character of its setting consistent with LUP Policies 3.5-1 and 3.5-3, and with CZC Section 20.504.010 of the certified LCP.

4. Conclusion

Therefore, for all of the above reasons, the Commission finds that the proposed development as conditioned will protect public views to and along the coast, conform to height requirements, and be subordinate to the character of its setting consistent with the visual resource protection provisions of the certified LCP.

F. Geologic Hazards and Site Stability

LCP Provisions

LUP Policy 3.4-1 states the following in applicable part:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site...

LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) state that:

The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:

Setback (meters) = Structure life (years) x Retreat rate (meters/year)

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.

All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist's report [emphasis added.]

LUP Policy 3.4-12 and Zoning Code Section 20.500.020(E)(1) state that:

Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses.

Section 20.500.010 of the Coastal Zoning Code states that development shall:

- (1) *Minimize risk to life and property in areas of high geologic, flood and fire hazard;*

- (2) *Assure structural integrity and stability; and*
- (3) *Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

Section 20.500.015(A) of the Coastal Zoning Code states in applicable part:

- (1) *Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*
- (2) *Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.*

Discussion

The subject parcel is a bluff top parcel that overlooks the ocean. The bluffs range in height from approximately 90 to 125 feet in vertical height. Initial mapping completed by BACE Geotechnical on September 13, 1999, reported seven sea caves and one arch in the vicinity of the proposed house site. A supplemental evaluation of the proposed building site was provided by BACE in response to the Commission's request for submittal of additional information to be considered during *de novo* review of the appeal (Exhibit No. 6). In a letter dated April 25, 2003, Engineering Geologist Erik Olsborg of BACE Geotechnical responded to staff's request for updated assessment of the following items:

- Plan and profile of the sea caves;
- Site stability (landsliding);
- Seismicity;
- Erosion potential;
- Expansive soil or rock;
- Tsunamis or storm surge;
- Quantitative stability analysis.

The letter states "[the subject] property above the bluff appears relatively stable; we conclude that the site is suitable for the planned residence." On December 3, 2002, a survey was conducted during a minus 1.3-foot tide to re-map the sea caves. The survey party found the largest caves are connected together about 50 feet inside the bluff, and extend 110 feet into the

bluff, which is about twice as far as previously described. However, no evidence of rock falls or severe erosion was observed with the caves during any of the visits.

In response to the request for an assessment of landslide stability, Mr. Olsborg reports that the two landslides previously reported on the property have not changed significantly since their 1999 reconnaissance.

"The noted landslides are the only areas of severe erosion at the site. The landslides are isolated areas of weak soils and weathered rock materials. The planned building area is not in danger from enlargement of the landslides, since the nearest is 150 feet from the planned building area. The bluffs elsewhere at the property are comprised of moderately hard to hard rocks that are generally not subject to landsliding or erosion."

The larger landslide is approximately 300 feet west-northwest of the planned building site. The smaller landslide is located adjacent to the existing dilapidated house, about 150 feet east and across a ravine from the planned building site. With regard to seismicity, Mr. Olsborg states that:

"no evidence of recent movement (creep or rupture) was observed along the previously mentioned fault traces, and neither of these two inactive faults trend through or towards the planned building area. 'No other faults were observed during our 1999 reconnaissance or our 2002 sea cave survey.' With regard to expansive soils, Mr. Olsborg reports that '[n]o evidence (such as ground cracks) of expansive clay soils or rock materials, has been observed at the site,' and '[n]o expansive soils or rocks were observed at the property.' With regard to tsunami or storm surge concerns, Mr. Olsborg states that '[s]ince the planned building area is approximately 120 feet above Mean Sea Level, the potential for inundation by tsunami or storm surge is not of concern.'"

With respect to Commission staff's inquiry regarding the quantitative slope stability analysis, a quantitative slope stability analyses was performed, and indicated a factor of safety of >1.5 (static) and >1.1 (seismic), indicating that no setback should be needed for slope stability concerns.

Mr. Olsborg discussed the adequacy of the bluff setback recommendation and the procedure he used to determine the average bluff retreat rate of 2 ¼-inches-per-year, stating that:

"During our 1999 reconnaissance, enlargements (from negatives) of 1964 and 1981 aerial photographs were used as an aid in determining the bluff retreat rate. For this supplemental analysis, we also use an enlargement of an aerial photograph dated April 2, 2000. In our analyses, BACE determined the scale of each photograph by measuring the length of various physical features in the site vicinity, including a 60-foot barn. The distances between the Highway One centerline and several points on the bluff, as well as the distance from the barn corner to the bluff were then measured on each photograph. The results of our supplemental analysis confirm our previously-determined, average bluff retreat rate of 2 ¼ inches per year."

The April 25, 2003 Supplemental Evaluation (Exhibit No. 6) revises the previously recommended blufftop setback to increase the distance of the residential structure from the bluff edge from 30 feet to 35 feet. The project design was also revised to move the residential structure 23 feet toward the northeast to provide a minimum 10-foot buffer between the proposed house and any inland walls of the sea caves.

After reviewing this analysis, Dr. Johnsson, the Commission's staff geologist, points out that the long-term bluff retreat rate was measured from three aerial photographs spanning only 36 years, a far less extensive record than generally needed to accurately characterize the long-term average erosion rate when, as here, erosion is highly episodic. Dr. Johnson states that: *"Bluff retreat at this site will likely be dominated by sea cave collapse and rock falls, which occur at widely spaced intervals in time. The long-term bluff retreat rate assumed, 2.25 inches per year, is effectively doubled by the 'factor of safety' of 2 recommended in the geologic reports, leading to a great degree of conservatism in the setback calculation."* Dr. Johnsson continues his discussion regarding the adequacy of the recommended blufftop setback stating that:

"Taking the slope stability analyses at face value, no setback is needed for slope stability considerations. Assuming that the 2.25 inches per year erosion rate does, indeed, represent a true long-term average, then slightly more than 14 feet of erosion would be expected over a 75 year assumed design life. To this should be added a 10-foot buffer to assure that foundation elements are not actually undermined at the end of the design life, to allow access for remedial action, such as moving the structure when it is threatened, to allow for uncertainties on the analysis, and to allow for possible acceleration of bluff erosion in the future due, for example, to increases in sea level. Thus, a 24-foot setback would appear to be adequate, again assuming that the very limited data available on the long-term bluff retreat rate and slope stability are accurate. The proposed setbacks are all greater than 24 feet."

As noted above, several sea caves extend into the bluff in the vicinity of the building site. Sea caves are well recognized as erosional hazards to bluff top development, and the Commission has reviewed many applications for the construction of seawalls, revetments, and infilling of sea caves as a response to the threat posed by sea cave collapse (see, for example, permits granted in San Diego County for the infill of sea caves in dense sandstones similar to the subject site, such as F8915 [Phillips], F9143 [Seascape Shores], 6-96-102 [Solana Beach and Tennis Club Homeowners Association], 6-98-027 [O'Neal], 6-98-021 [Blackburn], 6-00-066 [Monroe and Pierce] and A-42-79-A1 [22-240 Associates]).

Although it is impossible to predict when the cave will fail, when it does the most landward portion of the cave will be the new bluff edge. If the cave were to collapse early in the lifetime of the development, it is important that a setback of appropriate width be maintained to provide assurance that no seawall or other shoreline protective devices would be needed over the lifetime of the development. In previous coastal development permit decisions, the Commission has held that blufftop setbacks be required from the rear of the sea cave. Dr. Johnsson discusses the adequacy of the setback in relation to the rear of the sea caves. He notes that the proposed house would be setback 10 feet from the end of the largest sea cave. Generally, as staff geologist, he

would recommend that the recommended bluff setback be applied to the rear walls of the sea cave, so that in this instance, the structure would be set back at least 24 feet from all parts of the sea cave. He notes, however, in this case:

"the rear portion of the sea cave (those parts closer than 24 feet to the proposed structure) are less than 5 feet in height and contained within relatively strong rock. Nearly 100 feet of rock, most of it quite strong, overlies the roof of the cave, making it unlikely that an outright, catastrophic collapse of this part of the cave would occur. More likely would be gradual rock fall from the ceiling, particularly concentrated at the mouth of the cave or along fractures. It would be prudent to monitor the growth of the cave and take remedial action if the cave expands significantly."

Mendocino County LUP Policy 3.4-7 and CZC Section 20.500.020(B) require that new structures be set back a sufficient distance from the edge of the bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years) and the setback be of sufficient distance to eliminate the need for shoreline protection devices. As discussed above, BACE Geotechnical concluded that the bluff is eroding at an average rate of about 2 ¼-inches-per-year. Therefore, over a period of 75 years representing the economic life span of a house, the bluff would erode back approximately 14 feet. A factor-of-safety of two was applied to arrive at the 30-foot recommended bluff setback. The final geologic analysis determined that the setback from the coastal bluff should be increased to 35 feet to allow for an approximately 10-foot setback from the rear of the sea cave. After reviewing the requested additional documentation concerning the analysis of aerial photos, bluff retreat rate, and recommended bluff top setback; the extent of the sea caves; and the quantitative slope stability analysis and erosion potential; the Commission staff geologist determined that the applicants' geologist's projection of the bluff retreat rate and the other recommendations were reasonable. Special Condition No. 3 requires that all future development must be located no closer than 35 feet from the bluff edge. Therefore, the proposed development as conditioned will be set back a sufficient distance from the bluff edge to provide for a 75-year design life of the development consistent with LUP Policy 3.4-7 and CZC Section 20.500.020(B).

LUP Policy 3.4-1 states, in part, that geologic investigations for development in areas of known or potential geologic hazards shall determine if mitigation measures could stabilize the site. In its investigation of the site, BACE geotechnical advised that conventional footing foundations could be used with this setback provided that BACE reviews the project plans; verifies the setbacks in the field when the house corners have been staked; and observes the foundation excavations during construction. The presence of weak surficial soils may require that footings be deepened beyond Uniform Building Code minimums to gain uniform support in underlying firm soil or rock.

To ensure that the applicants adhere to the recommendations suggested in their consultant's geotechnical reports, and that the development does not contribute significantly to geologic hazards, the Commission attaches Special Condition No. 3. The special condition requires all final design and construction plans, including foundations, grading and drainage plans to be consistent with the recommendations contained in the geotechnical reports dated October 11,

1999, and April 25, 2003 prepared by BACE Geotechnical Consultants. As conditioned, the development will include the measures determined by the geologic investigation to be necessary to stabilize the site consistent with LUP Policy 3.4-1.

The Commission also attaches Special Condition No. 4, which prohibits the construction of shoreline protective devices on the parcel, requires that the landowner provide a geotechnical investigation and remove the house and its foundation if bluff retreat reaches the point where the structure is threatened, and requires that the applicants accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are consistent with LUP Policy 3.4-7 and Section 20.500.010 of the Mendocino County Coastal Zoning Ordinance, which state that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with LUP Policy 3.4-7 and Zoning Code Section 20.500.010 and 20.500.020(B) if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

The applicants are proposing to construct a new house as well as other improvements. The house as well as the other improvements would be located on a coastal terrace 120-125 feet in height that is eroding and underlain by sea caves. Thus, the house as well as the other improvements would be located in an area of high geologic hazard. The new development can only be found consistent with the above-referenced provisions if the risks to life and property from the geologic hazards are minimized and if a protective device would not be needed in the future. The applicants have submitted information from a geologist which states that if the new development is set back 35 feet from the bluff edge, the development would be safe from erosion and would not require any devices to protect the proposed development during its useful economic life. Similarly, the Commission finds that a 10-foot setback measured from the blufftop projection of any underlying sea caves must also be applied to the areas on the parcel underlain by sea caves so structures would be further safe-guarded from geologic hazards associated with catastrophic or incremental collapse of the materials above the sea caves.

Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given blufftop site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Examples of this situation include:

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989 the Commission approved the construction of a new house on a vacant blufftop parcel (Permit 1-87-230). Based on the geotechnical report prepared for the

project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the blufftop parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Niño storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.

- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984 the Commission approved construction of new house on a vacant blufftop lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Bennett home at 265 Pacific Avenue, Solana Beach (San Diego County). In 1995, the Commission approved a request to construct a substantial addition to an existing blufftop home (Permit 6-95-23). The minimum setback for the area is normally 40 feet. However, the applicants agreed to waive future rights to shore/bluff protection if they were allowed to construct 25 feet from bluff edge based on a favorable geotechnical report. The Commission approved the request on May 11, 1995. In 1998, a substantial bluff failure occurred, and an emergency permit was issued for a seawall. The follow-up regular permit (#6-99-56) was approved by Commission on May 12, 1999. On August 18, 1999, the Commission approved additional seawall and upper bluff work on this and several other properties (Permit #6-99-100).
- The McAllister duplex at 574 Neptune Avenue, Encinitas (San Diego County). In 1988, the Commission approved a request to construct a duplex on a vacant blufftop lot (Permit #6-88-515) based on a favorable geotechnical report. By October 1999, failure of the bluff on the adjoining property to the south had spread to the bluff fronting 574 Neptune. An application is pending for upper bluff protection (Permit #6-99-114-G).
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit # 5-88-177) for a blufftop project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot blufftop setback. An emergency coastal development permit (Permit #5-93-254-G) was later issued to authorize blufftop protective works.

The Commission notes that the examples above are not intended to be absolute indicators of bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal

processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form its opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates.

The April 6, 2003, BACE Supplemental Evaluation states that their geological and engineering services and review of the proposed development were performed in accordance with the usual and current standards of the profession, as they relate to this and similar localities, stating, "[n]o other warranty, expressed or implied, is provided as to the conclusions and professional advice presented in the report." This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat.

Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding both at the margins and underneath the landform, and that the proposed new development will be subject to geologic hazard and may someday require a bluff or shoreline protective device, inconsistent with LUP Policy 3.4-7 and Zoning Code Sections 20.500.010 and 20.500.020(B). The Commission finds that the proposed development could not be approved as being consistent with LUP Policy 3.4-7 and Zoning Code Section 20.500.010 and 20.500.020(B) if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Based upon the geologic report prepared by the applicants and the evaluation of the project by the Commission's staff geologist, the Commission finds that the risks of geologic hazard are minimized if the residence is set back 35 feet from the bluff edge and situated a minimum of 10 feet from the wall of any underlying sea caves. However, given that the risk cannot be eliminated and the geologic report cannot assure that shoreline protection will never be needed to protect the residence, the Commission finds that the proposed residence is consistent with the certified LCP only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 4 prohibiting the construction of seawalls and Special Condition No. 5 requiring the waiver of liability.

In addition, as noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean-up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, the Commission attaches Special Condition No. 4, which requires the landowner to accept sole responsibility for the removal of any structural debris resulting from

landslides, slope failures, or erosion on the site, and agree to remove the house should the bluff retreat reach the point where a government agency has ordered that the structure not be occupied.

The Commission finds that Special Condition No. 4 is required to ensure that the proposed development is consistent with the LCP and that Special Condition No. 1 is required to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a seawall could be constructed to protect the development. This condition requires that the applicant execute and record a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

Additionally, the Commission attaches Special Condition No. 5, which requires the applicants to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicants have chosen to implement the project despite these risks, the applicants must assume the risks. In this way, the applicants are notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, the requirement of Special Condition No. 1 that a deed restriction be recorded will ensure that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

The Commission notes that Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. However, in this case because the project site is located within a highly scenic area, future improvements to the approved project are not exempt from permit requirements pursuant to Section 30610(a) and Section 13250(b)(1) of the Commission's regulations. Section 30610(a) requires the Commission to specify by regulation those classes of development, which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect. Moreover, Section 13250(b)(1) indicates that improvements to a single-family structure in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the entire subject property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, future improvements to the approved development would not be exempt from coastal development permit requirements and the County and the Commission

would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in a geologic hazard.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the certified LCP regarding geologic hazards, including LUP Policies 3.4-1, 3.4-7, 3.4-12, and Coastal Zoning Code Sections 20.500.010, 20.015.015, and 20.500.020, since the development as conditioned will not contribute significantly to the creation of any geologic hazards, will not have adverse impacts on the stability of the coastal bluff or on erosion, will not require the construction of shoreline protective works, and the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. Only as conditioned is the proposed development consistent with the LCP policies on geologic hazards.

G. Environmentally Sensitive Habitat Areas

LCP Provisions

LUP Policy 3.1-7 in applicable part states:

"A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

- 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
- 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
- 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution [emphasis added.]*

LUP Policy 3.1-10 states:

"Areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. All such areas shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. No structure or development, including dredging, filling, vegetation removal and grading, which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the Riparian Corridor except for:

- *Channelizations, dams, or other substantial alterations of rivers and streams as permitted in Policy 3.1-9;*
- *pipelines, utility lines and road crossings, when no less environmentally damaging alternative route is feasible;*
- *existing agricultural operations;*
- *removal of trees for disease control, public safety purposes, or for firewood for the personal use of the property owner at his or her residence. Such activities shall be subject to restrictions to protect the habitat values [emphasis added.]"*

Section 20.496.010 of the Coastal Zoning Ordinance states in applicable part:

"Purpose.

The purpose of this Chapter is to ensure that environmentally sensitive habitat and other designated resource areas listed on Pages 39, 40 and 41 of the Coastal Element dated November 5, 1985, which constitute significant public resources are protected for both the wildlife inhabiting them as well as the enjoyment of present and future populations.

Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals."

Section 20.496.020 of the Coastal Zoning Ordinance states in applicable part:

"ESHA- Development Criteria

- (A) *Buffer areas. A buffer shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from*

future developments and shall be compatible with the continuance of such habitat areas.

(1) *Width.*

The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. ...Standards for determining the appropriate width of the buffer area are as follows:

- (a) *Biological Significance of Adjacent Lands*
...
- (b) *Sensitivity of Species to Disturbance*
...
- (c) *Susceptibility of Parcel to Erosion*
...
- (d) *Use of Natural Topographic Features to Locate Development*
...
- (e) *Use of Existing Cultural Features to Locate Buffer Zones*
...
- (f) *Lot Configuration and Location of Existing Development*
...
- (g) *Type and Scale of Development Proposed*
...

(2) *Configuration*
...

- (3) *Land Division. New Subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.*

- (4) *Permitted Development. Development permitted within the buffer area shall comply at a minimum with the following standards:*

- (a) *Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.*
- (b) *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.*
- (c) *Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall*

include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

- (d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.*
- (e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*
- (f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.*
- (g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.*
- (h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.*
- (i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.*
- (j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system whenever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.*

- (k) *If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats.*

Section 20.496.035 of the Coastal Zoning Ordinance states in applicable part:

"Riparian Corridors and other Riparian Resource Areas.

- (A) *No development or activity which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor or in any area of riparian vegetation except for the following:*
- (1) *Channelizations, dams or other alterations of rivers and streams as permitted in Section 20.496.030(C);*
 - (2) *Pipelines, utility lines and road and trail crossings when no less environmentally damaging alternative route is feasible;*
 - (3) *Existing agricultural operations;*
 - (4) *Removal of trees for disease control, public safety purposes or personal use for firewood by property owner.*
- (B) *Requirements for development in riparian habitat areas are as follows:*
- (1) *The development shall not significantly disrupt the habitat the habitat area and shall minimize potential development impacts or changes to natural stream flow such as increased runoff, sedimentation, biochemical degradation, increased stream temperatures and loss of shade created by development;*
 - (2) *No other feasible, less environmentally sensitive alternative exists;*
 - (3) *Mitigation measures have been incorporated into the project to minimize adverse impacts upon the habitat;*

Where development activities caused the disruption or removal of riparian vegetation, replanting with appropriate native plants shall be required at a minimum ratio of one to one (1:1) and replaced if the survival rate is less than seventy-five (75) percent [emphasis added.]"

Discussion

The subject property is situated on a geologically young coastal terrace vegetated by three plant communities. First, non-native grassland covers most of the flat terrace area of the site that was originally vegetated with coastal bluff scrub and/or coastal terrace prairie, but has been subject to regular mowing for many years. Second, coastal bluff scrub is present on the bluff edges and bluff faces. Lastly, a riparian plant community associated with the immediate banks of a small tributary of Laurel Creek traverses the site from the southwest to the northwest. The majority of

the developed area in the vicinity of the existing mobile home, up to the edge of riparian habitat, is lawn.

Mary Rhyne, Botanical Surveyor, and Dr. Gordon McBride have prepared several botanical reports for the subject parcel (Exhibit No. 7). The parcel has been surveyed for the presence of rare and endangered plant species, the riparian vegetation has been mapped, and the upland extent of the vegetation has been marked with flagging.

Dr. McBride's report, dated July 14, 1999, discovered one specimen of Mendocino paintbrush, a listed rare plant, growing on the edge of the bluff near the area where a historical road goes down to the beach, approximately 500 feet away from the closest area where new development is proposed. There were also several populations of the Mendocino paintbrush on the bluff face in the same vicinity as the historical road. No other rare or endangered plants were discovered on the site as a result of the surveys conducted. While the Mendocino paintbrush should be protected from disturbance, it should be noted that none of the proposed development would significantly disrupt the habitat value of the identified rare plant populations. Therefore, no mitigation is required for rare plants.

In her report dated April 2, 2001, Mary Rhyne identified the upland limit of the riparian vegetation growing on the sides of Laurel Creek, which drains water from the east side of Highway One. The creek is a natural channel that flows along the northern boundaries of the subject property and empties water into the Pacific Ocean. Dr. McBride states that alder, thimbleberry, salmon berry, sedge, elderberry and associated plants represent the riparian community. Watercourses and their associated riparian habitat are considered to be ESHA as defined by the Mendocino County certified LCP. Chapter 20.496 and Section 20.532.060, et seq. of the CZC contains specific requirements for protection of ESHA and development within the buffer area of an ESHA. A sufficient buffer area is required to be established and maintained to protect ESHA from disturbances related to proposed development. LUP Policy 3.1-7 and Section 20.496.020 require that:

The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation with the California Department of Fish and Game, and County Planning staff, that one hundred feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.

Both botanists recommend that a 100-foot non-disturbance setback be measured from the upland limit of the riparian habitat for new development. It is important to note that all of the existing development on the parcel (the dilapidated residence immediately adjacent to Highway One, the non-conforming mobile home, the workshop, the driveway, and a driveway pullout used as a turn-around and for occasional parking) is located within the recommended 100-foot riparian ESHA buffer setback. The new residence and the new septic system would be located just outside of the recommended 100-foot buffer. However, other portions of the proposed

development would be located within the recommended 100-foot buffer. These portions of the development include the proposed demolition of the existing primary residence, most of the underground utility extensions within the existing driveway road, and a pathway extending from the front door of the new residence to the driveway turn-around, which is an existing development within the buffer area.

LUP Policy 3.1-7 and CZC Section 20.496.020 require developments permitted within a buffer area to generally be the same as those uses permitted in the adjacent ESHA, and shall be (1) sited and designed to prevent impacts which would significantly degrade such areas, (2) compatible with the continuance of the habitat, and (3) allowed only if no other feasible site is available on the parcel and mitigation is provided to replace any particular value of the buffer lost by the development. LUP Policy 3.1-10 and CZC Section 20.496.035 state that no development or activity which could degrade the riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor except for certain limited kinds of development, including, but not limited to, utility lines and road and trail crossings when no less environmentally damaging alternative exists.

The proposed demolition of the primary house, an existing dilapidated structure located at the southeast entrance to the property, about 65 feet from Highway One, and about 60 feet from the riparian ESHA associated with Laurel Creek, would return the site to its natural condition restoring riparian ESHA buffer values. Demolition and therefore restoration of the footprint of this structure can be allowed consistent with LUP Policies 3.1-7 and 3.1-10 because the development would have restorative value for the riparian ESHA and is not the addition of a use that would degrade the riparian area or adversely affect its value as a natural resource. The applicants' biology consultant, Dr. Gordon McBride, has reviewed the demolition project proposal and has determined that the work would not adversely affect the riparian ESHA if certain mitigation measures are taken. Dr. McBride recommends that a barrier be placed between the dilapidated structure and the riparian plant community. He suggests that the barrier be either a four-foot-high plastic construction fence or bales of straw placed end to end. The barrier fence should be on the north side of the existing gravel driveway, thereby allowing access to the site for demolition work. Special Condition No. 6 requires hay bales to be placed end to end along the edge of the riparian plant community adjacent to Laurel Creek, between the riparian ESHA and the proposed demolition site, thereby meeting this recommendation. Therefore, as conditioned, the demolition and restoration work would not significantly disrupt the habitat value of the ESHA. The proposed and conditioned mitigation measures would act to minimize disruption to the habitat, consistent with the standards under LUP Policy 3.1-7 and CZC Section 20.496.020 required for development within ESHA buffers. No feasible less environmentally damaging alternative exists, since the house to be demolished is located at a site within the otherwise proposed 100-foot ESHA buffer.

The applicants also propose to provide utility service for the new residential development by extending existing utility lines down the center of the existing gravel road/driveway within the proposed 100-foot ESHA buffer. Placement of utility lines are expressly allowed within ESHA buffers by LUP Policy 3.1-10 and CZC Section 20.496.035 when no less damaging route is feasible. The use of the roadbed would be the most feasible least damaging alternative for

placement of the utility line extensions. The road is an existing development and would continue to be used to serve the new residential development. Therefore, burying the utilities below the road would avoid disruption of new ground and vegetation for placing the utility lines in another location. In certain locations between the existing utility lines and the proposed new residential development, the entire blufftop is within the 100-foot ESHA buffer, and avoidance of the buffer is impossible. The placement of utility lines underground, would minimize disruption to birds using the riparian ESHA from overhead lines hung from poles, and would also avoid disruption to riparian vegetation from avoiding the need to trim trees for utility line safety. For these reasons, the installation of the underground utility lines meets the standards under LUP Policy 3.1-7 and CZC Section 20.496.035 for allowing development within ESHA buffers.

The proposed construction of the pathway between the new residence and the existing road/driveway turnaround is also expressly allowed to occur within an ESHA buffer under CZC Section 20.496.035, when no less environmentally damaging route is feasible. Since the existing turn out and parking area is already located within the buffer itself, the pathway has to extend partially through the buffer area anyway, and the proposed pathway would take the most direct route possible leading to the front door of the new residence. For these reasons, and the fact that the approximately 4-foot-wide path is relatively narrow and would be composed of gravel allowing greater infiltration of surface water than a concrete or asphalt path would, the installation of the pathway meets the standards required under LUP Policy 3.1-7 and CZC 20.496.020 for development within ESHA buffers.

Landscaping of the residential development is proposed. To ensure that no invasive exotic vegetation is planted at the site that could spread into the ESHAs and significantly disrupt the value of the protected rare plant or riparian habitat, the Commission imposes Special Condition No. 7, requiring the preparation and installation of a revised landscape plan to protect visual resources, including a requirement that no invasive exotic plants will be planted along with the landscaping of the site.

As conditioned to (1) establish an adequate buffer to protect the adjacent rare plant and riparian ESHA, (2) limit development within the 100-foot riparian buffer area to only uses allowable under the LCP buffer policy and development that would not significantly disrupt the habitat value of ESHA resources, and (3) prohibit invasive exotic species from being planted as part of the landscaping, the Commission finds that the project as proposed and conditioned will protect the ESHA on the property consistent with LUP Policies 3.1-7 and 3.1-10 and with Coastal Zoning Code Sections 20.496.010, 20.496.020, and 20.496.035.

H. Water Quality

LCP Provisions

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible,

restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

CZC Section 20.492.020 incorporates sedimentation standards and states in part:

- (A) *Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*
- (B) *To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- (C) *Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*
- (D) *Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection [emphasis added.]*

Discussion

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. Section 20.492.020 of the Mendocino County Coastal Zoning Code sets forth sedimentation standards to minimize sedimentation of environmentally sensitive areas and off-site areas. Specifically, Section 20.492.020(B) requires that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation.

As discussed above, the subject parcel is located on a coastal terrace atop a steep coastal bluff. Runoff originating from the development site that is allowed to drain over the bluff edge would contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of marine waters. Sedimentation impacts from runoff would be of greatest concern during and immediately after construction. Consistent with CZC Section 20.492.020(B), the Commission attaches Special Condition No. 6 to minimize erosion and sedimentation impacts from the proposed construction of the residence. Special Condition No. 6 requires that the applicants submit for the review and approval of the Executive Director an Erosion and Runoff Control Plan that would provide that (1) hay bales be installed to contain runoff from construction and demolition areas; (2) on-site vegetation be maintained to the maximum extent possible during construction, and (3) any disturbed areas be replanted or seeded with native vegetation following project completion. In addition, Special Condition No. 6 requires that all on-site stockpiles of construction debris be covered and contained to prevent polluted water

runoff. The applicants propose to control runoff from the completed development by providing concrete splash blocks at outlets of downspouts, and to direct drainage from splash blocks away from the structure toward vegetated drainage swales or toward the direction of natural fall. Where underground drainage dispersal systems are specified, the applicant would provide drainage pipes for outlets of all downspouts from gutters or roof drains. All downspout pipes would drain into sumps filled with 2 cubic yards of ¾-inch gravel. No drainage would be allowed to flow over the bluff edge. To ensure that runoff from the completed development is controlled as proposed, Special Condition No. 6 requires that runoff from the roof, driveway, and other impervious surfaces of the development be collected and directed into pervious areas on the site for infiltration and that velocity reducers be used on roof downspouts as proposed.

The Commission finds that as conditioned, the proposed development is consistent with Section 20.492.020 because erosion and sedimentation will be controlled and minimized by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; (3) covering and containing debris stockpiles at all times, (4) using hay bales to control runoff during construction, and (5) directing runoff from the completed development in a manner that would provide for infiltration into the ground. Furthermore, the Commission finds that the proposed development as conditioned is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained because storm water runoff from the proposed development would be directed away from the coastal bluff.

I. Public Access and Recreation

Coastal Act Access Policies

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. Section 30211 states that development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected.

LCP Provisions

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps.

Policy 3.6-27 states that development shall not interfere with the public's right of access to the sea either acquired by the public at large, by court decree, or where evidence of historic public use indicates the potential existence of prescriptive rights of public access. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement.

Discussion

In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The approximately 11-acre subject parcel is located west of Highway One and sits atop a coastal bluff. The certified LUP does not designate the property for location of a potential coastal access trail. The nearest location currently providing public access to the coast is Greenwood State Park approximately ½-mile south of the parcel. LUP Map No. 20 identifies Cuffey's Point, located north of the subject property, as a location for potential public access. To date, however, no public access has been acquired. The subject parcel contains a sandy beach at the bluff toe in the western portion of the property. An old dirt road goes partially down the bluff at the western most tip of the property toward this beach. The lower portion of the road becomes a rough hiking trail down to the beach according to the afore-mentioned geotechnical survey conducted in October of 1999. However, the road and trail appear to have been used only by the property owners and their guests. No evidence exists that the old road (or the property in general) has been used by the public to gain access to the coast.

Therefore, the proposed project will not interfere with any possible public prescriptive rights. In addition, the proposed project would not otherwise adversely affect public access. The proposed replacement of the old house with a new house will not increase the density of development on the site, and therefore will not increase the demand for new public access.

Therefore, the Commission finds that the proposed development does not have any significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the County's certified LCP.

J. California Environmental Quality Act (CEQA)

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Commission incorporates its findings on conformity with LCP policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified LCP, the proposed project has been conditioned to be found consistent with the County of Mendocino LCP and the access and recreation policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts have been made requirements of project approval. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

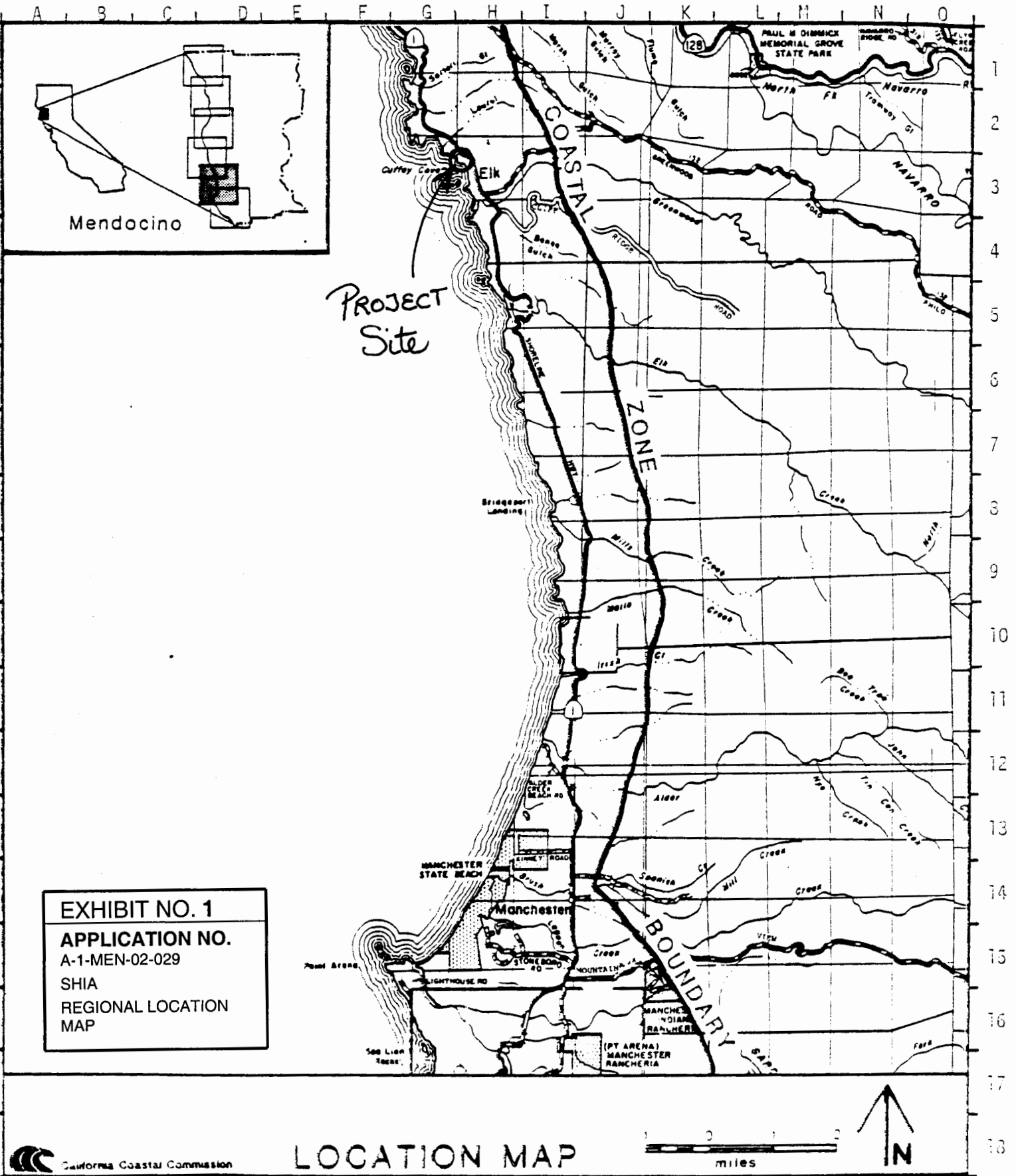
V. EXHIBITS:

1. Regional Location Map
2. Vicinity Location Map
3. Site Plans
4. Notice of Final Action
5. Appeal
6. Excerpts of Supplemental Geologic Evaluations
7. Excerpts of Botanical Surveys
8. Appellant's Correspondence
9. Correspondence

ATTACHMENT A

Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

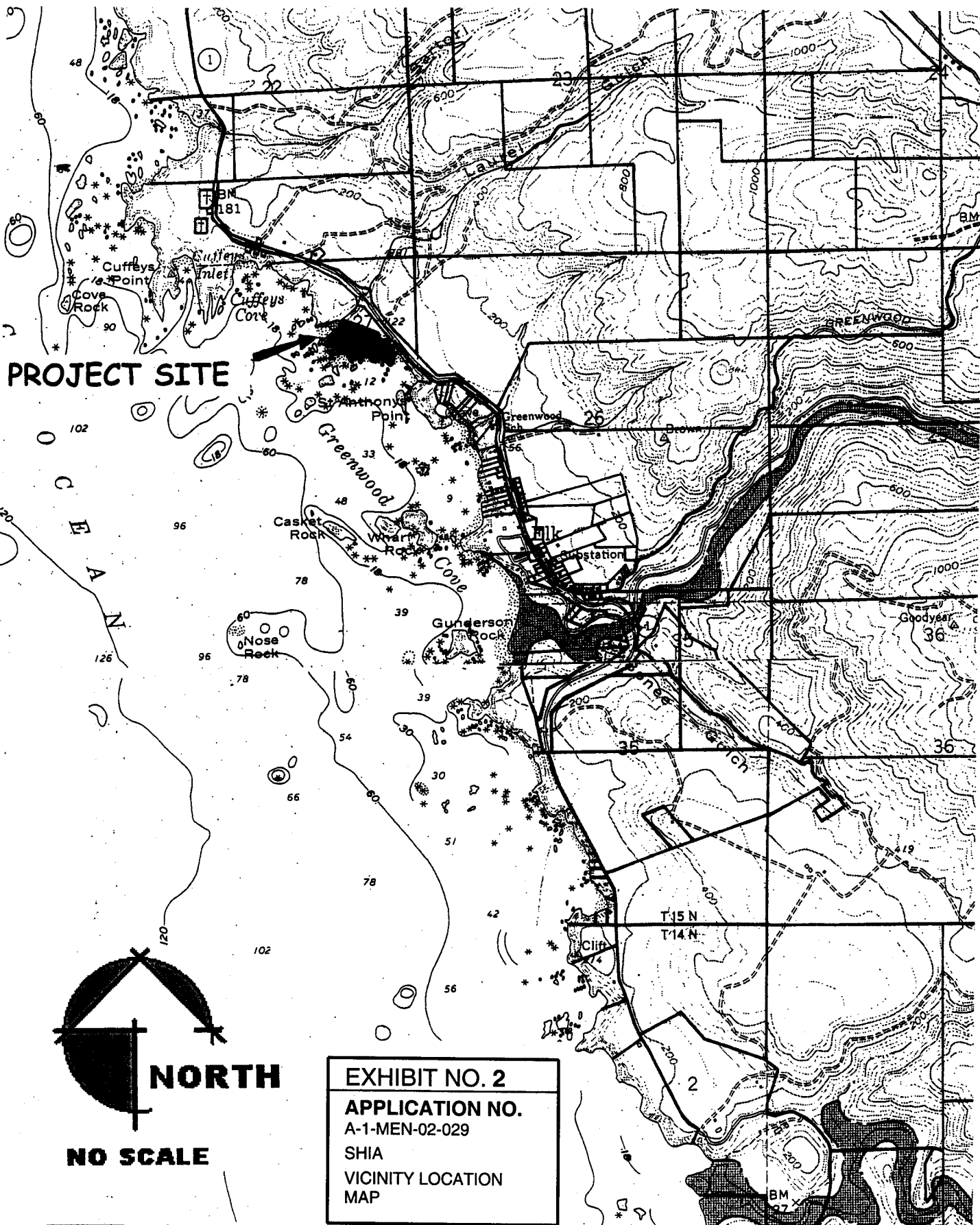


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Site

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Location Map

DAN and ROSANNA SHIA

EXHIBIT NO. 3
APPLICATION NO.
A-1-MEN-02-029
SHIA
SITE PLANS (1 of 5)

DRAWING INDEX

ABBREVIATIONS

[illegible]

CODE ANALYSIS

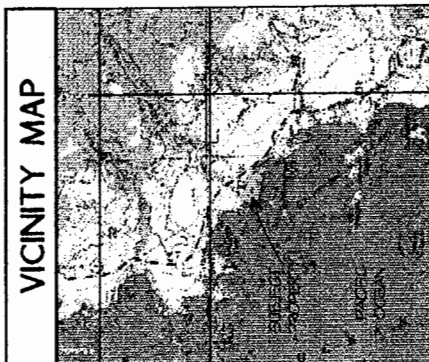
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SITE PLAN



VICINITY MAP

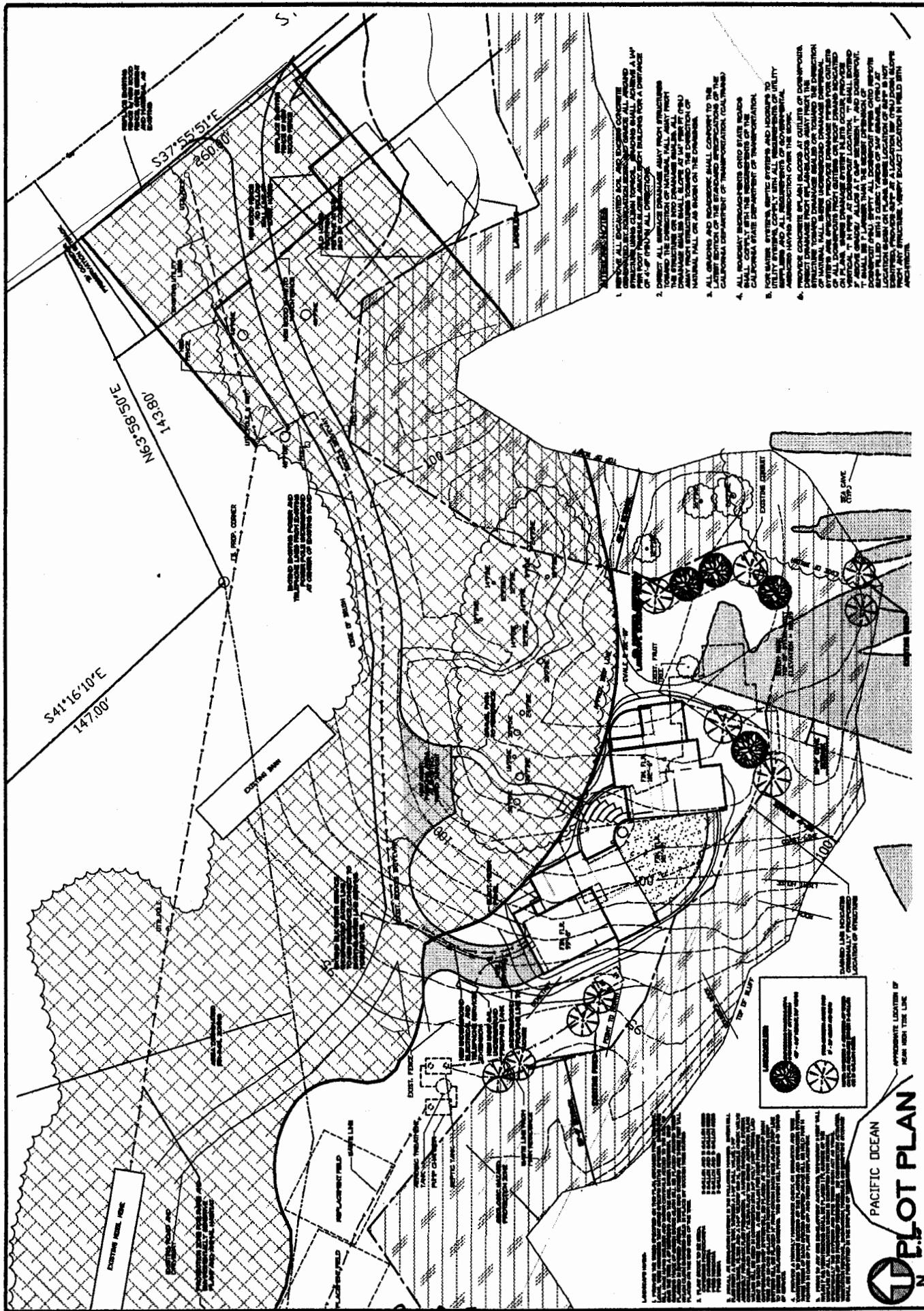
**TITLE SHEET
AND
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SHIVA
New Residence And Guest House for
Dan and Rosanna
55260 South Highway One
Bk, California 95432

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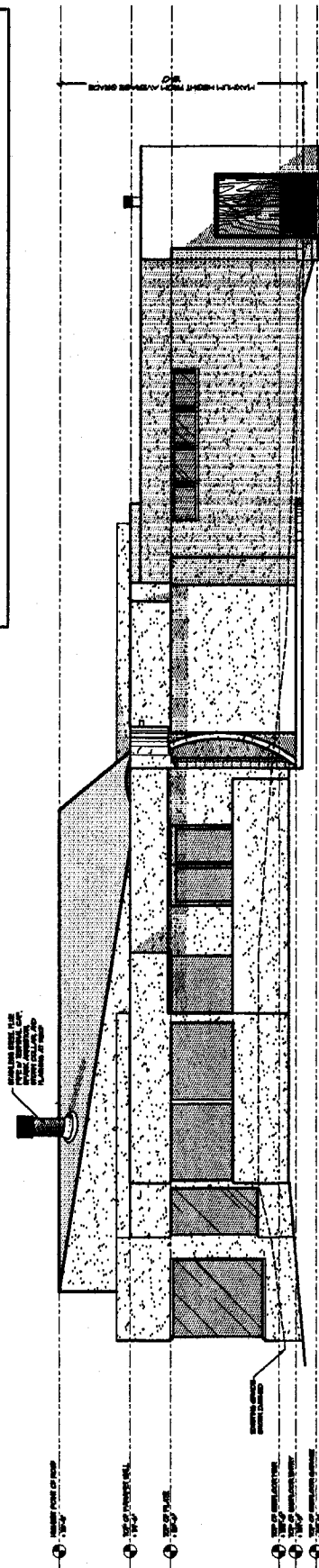


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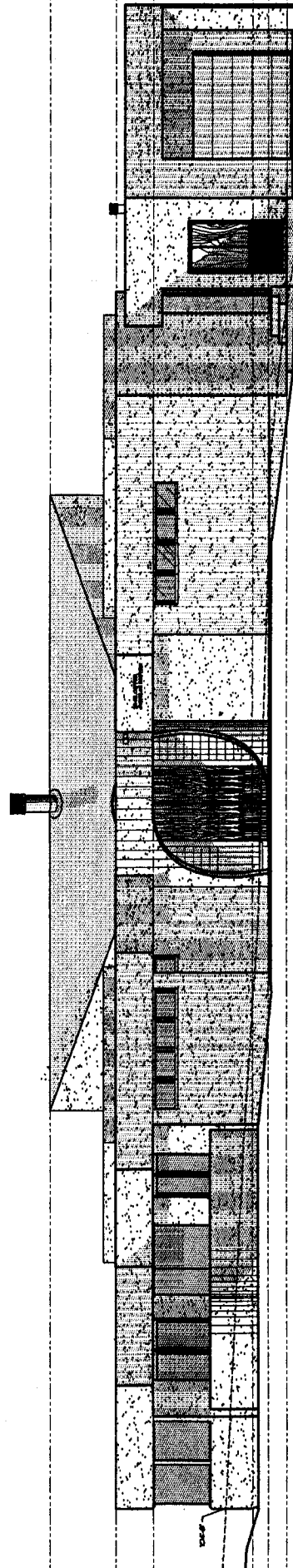
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185 | 186 | 187 | 188 | 189 | 190 | 191 | 192 | 193 | 194 | 195 | 196 | 197 | 198 | 199 | 200 | 201 | 202 | 203 | 204 | 205 | 206 | 207 | 208 | 209 | 210 | 211 | 212 | 213 | 214 | 215 | 216 | 217 | 218 | 219 | 220 | 221 | 222 | 223 | 224 | 225 | 226 | 227 | 228 | 229 | 230 | 231 | 232 | 233 | 234 | 235 | 236 | 237 | 238 | 239 | 240 | 241 | 242 | 243 | 244 | 245 | 246 | 247 | 248 | 249 | 250 | 251 | 252 | 253 | 254 | 255 | 256 | 257 | 258 | 259 | 260 | 261 | 262 | 263 | 264 | 265 | 266 | 267 | 268 | 269 | 270 | 271 | 272 | 273 | 274 | 275 | 276 | 277 | 278 | 279 | 280 | 281 | 282 | 283 | 284 | 285 | 286 | 287 | 288 | 289 | 290 | 291 | 292 | 293 | 294 | 295 | 296 | 297 | 298 | 299 | 300 | 301 | 302 | 303 | 304 | 305 | 306 | 307 | 308 | 309 | 310 | 311 | 312 | 313 | 314 | 315 | 316 | 317 | 318 | 319 | 320 | 321 | 322 | 323 | 324 | 325 | 326 | 327 | 328 | 329 | 330 | 331 | 332 | 333 | 334 | 335 | 336 | 337 | 338 | 339 | 340 | 341 | 342 | 343 | 344 | 345 | 346 | 347 | 348 | 349 | 350 | 351 | 352 | 353 | 354 | 355 | 356 | 357 | 358 | 359 | 360 | 361 | 362 | 363 | 364 | 365 | 366 | 367 | 368 | 369 | 370 | 371 | 372 | 373 | 374 | 375 | 376 | 377 | 378 | 379 | 380 | 381 | 382 | 383 | 384 | 385 | 386 | 387 | 388 | 389 | 390 | 391 | 392 | 393 | 394 | 395 | 396 | 397 | 398 | 399 | 400 | 401 | 402 | 403 | 404 | 405 | 406 | 407 | 408 | 409 | 410 | 411 | 412 | 413 | 414 | 415 | 416 | 417 | 418 | 419 | 420 | 421 | 422 | 423 | 424 | 425 | 426 | 427 | 428 | 429 | 430 | 431 | 432 | 433 | 434 | 435 | 436 | 437 | 438 | 439 | 440 | 441 | 442 | 443 | 444 | 445 | 446 | 447 | 448 | 449 | 450 | 451 | 452 | 453 | 454 | 455 | 456 | 457 | 458 | 459 | 460 | 461 | 462 | 463 | 464 | 465 | 466 | 467 | 468 | 469 | 470 | 471 | 472 | 473 | 474 | 475 | 476 | 477 | 478 | 479 | 480 | 481 | 482 | 483 | 484 | 485 | 486 | 487 | 488 | 489 | 490 | 491 | 492 | 493 | 494 | 495 | 496 | 497 | 498 | 499 | 500 | 501 | 502 | 503 | 504 | 505 | 506 | 507 | 508 | 509 | 510 | 511 | 512 | 513 | 514 | 515 | 516 | 517 | 518 | 519 | 520 | 521 | 522 | 523 | 524 | 525 | 526 | 527 | 528 | 529 | 530 | 531 | 532 | 533 | 534 | 535 | 536 | 537 | 538 | 539 | 540 | 541 | 542 | 543 | 544 | 545 | 546 | 547 | 548 | 549 | 550 | 551 | 552 | 553 | 554 | 555 | 556 | 557 | 558 | 559 | 560 | 561 | 562 | 563 | 564 | 565 | 566 | 567 | 568 | 569 | 570 | 571 | 572 | 573 | 574 | 575 | 576 | 577 | 578 | 579 | 580 | 581 | 582 | 583 | 584 | 585 | 586 | 587 | 588 | 589 | 590 | 591 | 592 | 593 | 594 | 595 | 596 | 597 | 598 | 599 | 600 | 601 | 602 | 603 | 604 | 605 | 606 | 607 | 608 | 609 | 610 | 611 | 612 | 613 | 614 | 615 | 616 | 617 | 618 | 619 | 620 | 621 | 622 | 623 | 624 | 625 | 626 | 627 | 628 | 629 | 630 | 631 | 632 | 633 | 634 | 635 | 636 | 637 | 638 | 639 | 640 | 641 | 642 | 643 | 644 | 645 | 646 | 647 | 648 | 649 | 650 | 651 | 652 | 653 | 654 | 655 | 656 | 657 | 658 | 659 | 660 | 661 | 662 | 663 | 664 | 665 | 666 | 667 | 668 | 669 | 670 | 671 | 672 | 673 | 674 | 675 | 676 | 677 | 678 | 679 | 680 | 681 | 682 | 683 | 684 | 685 | 686 | 687 | 688 | 689 | 690 | 691 | 692 | 693 | 694 | 695 | 696 | 697 | 698 | 699 | 700 | 701 | 702 | 703 | 704 | 705 | 706 | 707 | 708 | 709 | 710 | 711 | 712 | 713 | 714 | 715 | 716 | 717 | 718 | 719 | 720 | 721 | 722 | 723 | 724 | 725 | 726 | 727 | 728 | 729 | 730 | 731 | 732 | 733 | 734 | 735 | 736 | 737 | 738 | 739 | 740 | 741 | 742 | 743 | 744 | 745 | 746 | 747 | 748 | 749 | 750 | 751 | 752 | 753 | 754 | 755 | 756 | 757 | 758 | 759 | 760 | 761 | 762 | 763 | 764 | 765 | 766 | 767 | 768 | 769 | 770 | 771 | 772 | 773 | 774 | 775 | 776 | 777 | 778 | 779 | 780 | 781 | 782 | 783 | 784 | 785 | 786 | 787 | 788 | 789 | 790 | 791 | 792 | 793 | 794 | 795 | 796 | 797 | 798 | 799 | 800 | 801 | 802 | 803 | 804 | 805 | 806 | 807 | 808 | 809 | 810 | 811 | 812 | 813 | 814 | 815 | 816 | 817 | 818 | 819 | 820 | 821 | 822 | 823 | 824 | 825 | 826 | 827 | 828 | 829 | 830 | 831 | 832 | 833 | 834 | 835 | 836 | 837 | 838 | 839 | 840 | 841 | 842 | 843 | 844 | 845 | 846 | 847 | 848 | 849 | 850 | 851 | 852 | 853 | 854 | 855 | 856 | 857 | 858 | 859 | 860 | 861 | 862 | 863 | 864 | 865 | 866 | 867 | 868 | 869 | 870 | 871 | 872 | 873 | 874 | 875 | 876 | 877 | 878 | 879 | 880 | 881 | 882 | 883 | 884 | 885 | 886 | 887 | 888 | 889 | 890 | 891 | 892 | 893 | 894 | 895 | 896 | 897 | 898 | 899 | 900 | 901 | 902 | 903 | 904 | 905 | 906 | 907 | 908 | 909 | 910 | 911 | 912 | 913 | 914 | 915 | 916 | 917 | 918 | 919 | 920 | 921 | 922 | 923 | 924 | 925 | 926 | 927 | 928 | 929 | 930 | 931 | 932 | 933 | 934 | 935 | 936 | 937 | 938 | 939 | 940 | 941 | 942 | 943 | 944 | 945 | 946 | 947 | 948 | 949 | 950 | 951 | 952 | 953 | 954 | 955 | 956 | 957 | 958 | 959 | 960 | 961 | 962 | 963 | 964 | 965 | 966 | 967 | 968 | 969 | 970 | 971 | 972 | 973 | 974 | 975 | 976 | 977 | 978 | 979 | 980 | 981 | 982 | 983 | 984 | 985 | 986 | 987 | 988 | 989 | 990 | 991 | 992 | 993 | 994 | 995 | 996 | 997 | 998 | 999 | 1000 | 1001 | 1002 | 1003 | 1004 | 1005 | 1006 | 1007 | 1008 | 1009 | 1010 | 1011 | 1012 | 1013 | 1014 | 1015 | 1016 | 1017 | 1018 | 1019 | 1020 | 1021 | 1022 | 1023 | 1024 | 1025 | 1026 | 1027 | 1028 | 1029 | 1030 | 1031 | 1032 | 1033 | 1034 | 1035 | 1036 | 1037 | 1038 | 1039 | 1040 | 1041 | 1042 | 1043 | 1044 | 1045 | 1046 | 1047 | 1048 | 1049 | 1050 | 1051 | 1052 | 1053 | 1054 | 1055 | 1056 | 1057 | 1058 | 1059 | 1060 | 1061 | 1062 | 1063 | 1064 | 1065 | 1066 | 1067 | 1068 | 1069 | 1070 | 1071 | 1072 | 1073 | 1074 | 1075 | 1076 | 1077 | 1078 | 1079 | 1080 | 1081 | 1082 | 1083 | 1084 | 1085 | 1086 | 1087 | 1088 | 1089 | 1090 | 1091 | 1092 | 1093 | 1094 | 1095 | 1096 | 1097 | 1098 | 1099 | 1100 | 1101 | 1102 | 1103 | 1104 | 1105 | 1106 | 1107 | 1108 | 1109 | 1110 | 1111 | 1112 | 1113 | 1114 | 1115 | 1116 | 1117 | 1118 | 1119 | 1120 | 1121 | 1122 | 1123 | 1124 | 1125 | 1126 | 1127 | 1128 | 1129 | 1130 | 1131 | 1132 | 1133 | 1134 | 1135 | 1136 | 1137 | 1138 | 1139 | 1140 | 1141 | 1142 | 1143 | 1144 | 1145 | 1146 | 1147 | 1148 | 1149 | 1150 | 1151 | 1152 | 1153 | 1154 | 1155 | 1156 | 1157 | 1158 | 1159 | 1160 | 1161 | 1162 | 1163 | 1164 | 1165 | 1166 | 1167 | 1168 | 1169 | 1170 | 1171 | 1172 | 1173 | 1174 | 1175 | 1176 | 1177 | 1178 | 1179 | 1180 | 1181 | 1182 | 1183 | 1184 | 1185 | 1186 | 1187 | 1188 | 1189 | 1190 | 1191 | 1192 | 1193 | 1194 | 1195 | 1196 | 1197 | 1198 | 1199 | 1200 | 1201 | 1202 | 1203 | 1204 | 1205 | 1206 | 1207 | 1208 | 1209 | 1210 | 1211 | 1212 | 1213 | 1214 | 1215 | 1216 | 1217 | 1218 | 1219 | 1220 | 1221 | 1222 | 1223 | 1224 | 1225 | 1226 | 1227 | 1228 | 1229 | 1230 | 1231 | 1232 | 1233 | 1234 | 1235 | 1236 | 1237 | 1238 | 1239 | 1240 | 1241 | 1242 | 1243 | 1244 | 1245 | 1246 | 1247 | 1248 | 1249 | 1250 | 1251 | 1252 | 1253 | 1254 | 1255 | 1256 | 1257 | 1258 | 1259 | 1260 | 1261 | 1262 | 1263 | 1264 | 1265 | 1266 | 1267 | 1268 | 1269 | 1270 | 1271 | 1272 | 1273 | 1274 | 1275 | 1276 | 1277 | 1278 | 1279 | 1280 | 1281 | 1282 | 1283 | 1284 | 1285 | 1286 | 1287 | 1288 | 1289 | 1290 | 1291 | 1292 | 1293 | 1294 | 1295 | 1296 | 1297 | 1298 | 1299 | 1300 | 1301 | 1302 | 1303 | 1304 | 1305 | 1306 | 1307 | 1308 | 1309 | 1310 | 1311 | 1312 | 1313 | 1314 | 1315 | 1316 | 1317 | 1318 | 1319 | 1320 | 1321 | 1322 | 1323 | 1324 | 1325 | 1326 | 1327 | 1328 | 1329 | 1330 | 1331 | 1332 | 1333 | 1334 | 1335 | 1336 | 1337 | 1338 | 1339 | 1340 | 1341 | 1342 | 1343 | 1344 | 1345 | 1346 | 1347 | 1348 | 1349 | 1350 | 1351 | 1352 | 1353 | 1354 | 1355 | 1356 | 1357 | 1358 | 1359 | 1360 | 1361 | 1362 | 1363 | 1364 | 1365 | 1366 | 1367 | 1368 | 1369 | 1370 | 1371 | 1372 | 1373 | 1374 | 1375 | 1376 | 1377 | 1378 | 1379 | 1380 | 1381 | 1382 | 1383 | 1384 | 1385 | 1386 | 1387 | 1388 | 1389 | 1390 | 1391 | 1392 | 1393 | 1394 | 1395 | 1396 | 1397 | 1398 | 1399 | 1400 | 1401 | 1402 | 1403 | 1404 | 1405 | 1406 | 1407 | 1408 | 1409 | 1410 | 1411 | 1412 | 1413 | 1414 | 1415 | 1416 | 1417 | 1418 | 1419 | 1420 | 1421 | 1422 | 1423 | 1424 | 1425 | 1426 | 1427 | 1428 | 1429 | 1430 | 1431 | 1432 | 1433 | 1434 | 1435 | 1436 | 1437 | 1438 | 1439 | 1440 | 1441 | 1442 | 1443 | 1444 | 1445 | 1446 | 1447 | 1448 | 1449 | 1450 | 1451 | 1452 | 1453 | 1454 | 1455 | 1456 | 1457 | 1458 | 1459 | 1460 | 1461 | 1462 | 1463 | 1464 | 1465 | 1466 | 1467 | 1468 | 1469 | 1470 | 1471 | 1472 | 1473 | 1474 | 1475 |
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EXTERIOR MATERIALS

[illegible]

EAST



NORTH

L. J. L. ARCHITECTS
 1000 10th Street, Suite 100
 San Francisco, CA 94103
 Phone: (415) 774-1000
 Fax: (415) 774-1001
 E-mail: ljla@earthlink.net

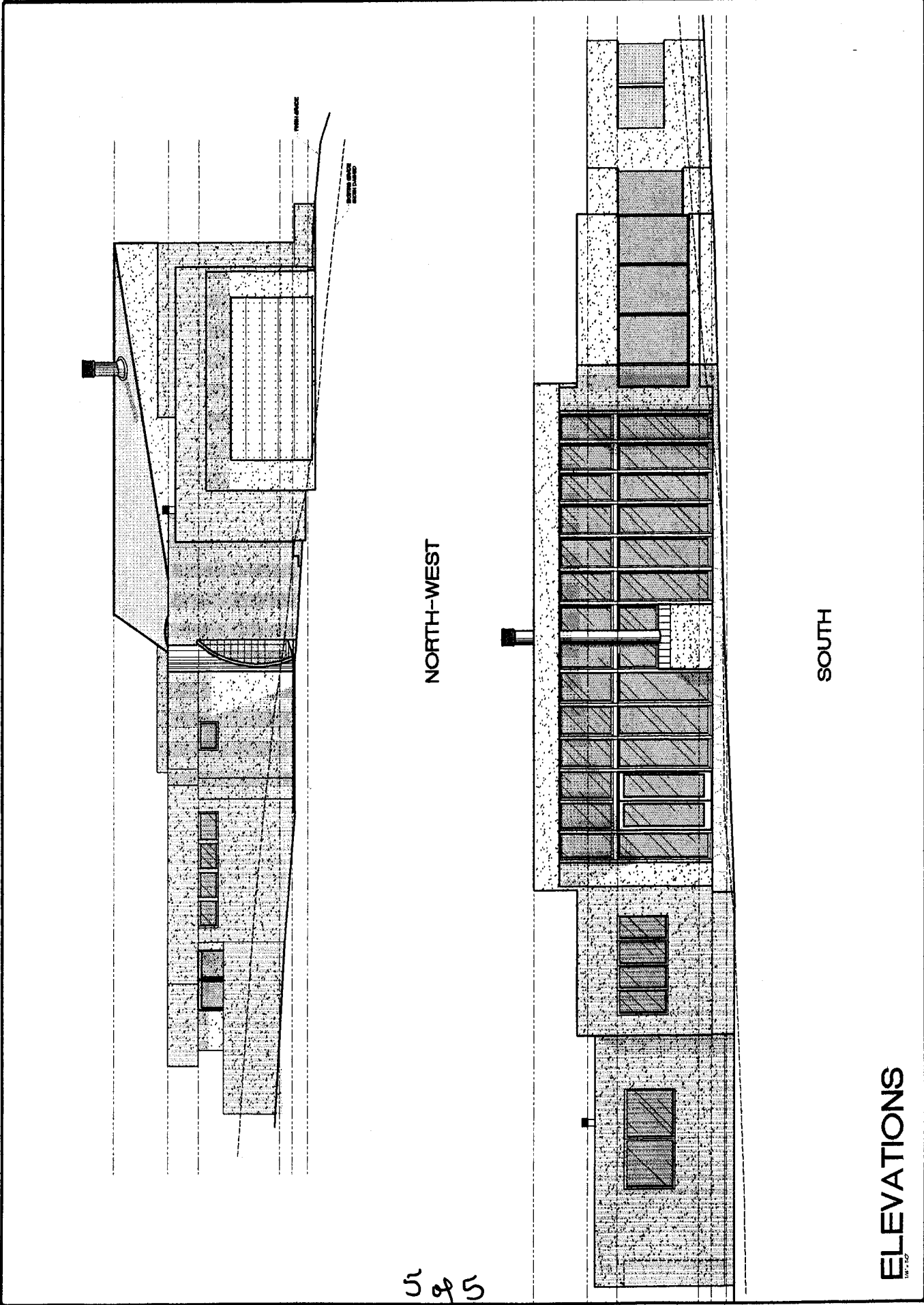
ELEVATIONS

New Residence And Guest House for
 Dan and Roseanna
 5260 South Highway One
 Elk, California 95432

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A3.2



NORTH-WEST

SOUTH

ELEVATIONS

5 of 5



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD • ROOM 1440 • UKIAH • CALIFORNIA • 95482

RAYMOND HALL, DIRECTOR
Telephone 707-463-4281
FAX 707-463-5709
pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

RECEIVED

June 3, 2002

JUN 06 2002

NOTICE OF FINAL ACTION CALIFORNIA
COASTAL COMMISSION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: #CDU 15-2001

OWNER: DAN & ROSANNA SHIA

AGENT: LEVENTHAL / SCHLOSSER ARCHITECTS

REQUEST: Coastal Development Use Permit to construct a 3,710 sq. ft. single story single family residence with a maximum height of 18 feet above average natural grade. The proposed residence includes 3,025 sq. ft. of living space and a 685 sq. ft. attached garage. Replace an existing mobile home with a new 768 sq. ft. single story residence with a maximum height of 16'6" feet above average natural grade. Demolish an existing non-conforming residence. Install a new septic disposal system, add parking areas and turnouts to the existing driveway, extend underground utilities to the new building site, connect new residence to existing community water system and install a new underground propane tank. Build new wood fences and install a new wood gate.

LOCATION: In the Coastal Zone, on the west side of Highway 1, approximately 1/2 mile south of Cuffey's Cove Cemetery and 1/4 mile north of the town of Elk, at 5260 South Highway 1 (AP# 127-130-04 and 127-130-05).

PROJECT COORDINATOR: Rick Miller

ACTION TAKEN:

The Planning Commission, on May 16, 2002, approved the above-described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

This project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Attachments

cc: Dan & Rosanne Shia
Leventhal & Schlosser
Coastal Commission
Assessor
Fort Bragg Planning

EXHIBIT NO. 4

APPLICATION NO.

A-1-MEN-02-029

SHIA

NOTICE OF FINAL ACTION
(1 of 24)

**MENDOCINO COUNTY PLANNING COMMISSION
MINUTES – DRAFT
MAY 16, 2002**

4B. #CDU 15-2001 – DAN & ROSANNA SHIA – North of Elk

Request: Coastal Development Use Permit to construct a 3,710 square foot single story single family residence with a maximum height of 18 feet above average natural grade. The proposed residence includes 3,025 square feet of living space and a 685 square foot attached garage. Replace an existing mobile home with a new 768 square foot single story residence with a maximum height of 16 feet 6 inches above average natural grade. Demolish an existing non-conforming residence. Install a new septic disposal system, add parking areas and turnouts to the existing driveway, extend underground utilities to the new building site, connect new residence to existing community water system and install a new underground propane tank. Build new wood fences and install a new wood gate.

Mr. Lynch reviewed the staff report. Mr. Rick Miller reviewed an addendum to the staff report recommending a modification to Condition 7 to address skylights. Mr. Miller described the project and discussed the sea caves and bluff retreat. In response to Commissioner Nelson, Mr. Miller identified the location of agricultural preserve property to the north and east. In response to Commissioner Lipmanson, Mr. Miller indicated that staff did not refer this project to the Bureau of Land Management (BLM). Commissioner Lipmanson noted that a brochure prepared for BLM was submitted depicting this area. Commissioner Lipmanson advised that he site viewed this area and it appears that the main residence would be less visible if it were moved closer to the tree line and perhaps excavated to reduce the height. Mr. Miller discussed ESHA and visual protection policies and indicated that the site location took both of these issues into consideration. Given site constraints, Commissioner Lipmanson suggested a size reduction might be appropriate. Photographs of the site were circulated to Commissioners.

Mr. Lynch advised the Commission that copies of a letter from Jane Corey, accompanied by a brochure from BLM, was provided to Commissioners. No other correspondence has been received from the public.

RECESS: 10:26 – 10:40 a.m.

Mr. Robert Schlosser, representing the project, described the project and site constraints which resulted in the proposed location of the residence. He discussed visual aspects of the project and requested that the Commission approve the stone grey color proposed by the applicant. Mr. Schlosser reviewed revised drawings of the primary residence, which reduces the glass in the master bedroom by 50 percent as requested by staff in Condition 8. He requested that the Commission accept these drawings as meeting the requirement in Condition 8. Mr. Schlosser pointed out that the main residence is oriented in such a way that visual impacts are minimized from public viewing areas. He had concerns with moving the main residence closer to the tree line explaining that this could result in damage to tree roots during excavation. Mr. Schlosser submitted photographs of the site and of the Fladlien residence into the record. Mr. Schlosser indicated that the applicant is willing to relocate the dwelling that will replace the existing mobile home if the Commission feels it is necessary in order to provide more protection to the plant area. Mr. Schlosser identified an area where the replacement dwelling could be relocated.

Mr. Schlosser and staff responded to questions from Commissioners regarding relocation of the structures, impacts to existing trees, size reductions, exterior colors, height and size of other residences that have been issued coastal development permits in the recent past, landscaping, and site constraints (i.e., sea caves, ESHA, visual impacts).

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The public hearing was declared open.

Dr. Hilary Adams discussed visual impacts from the project and impacts to the ESHA. She submitted photographs into the record, which she reviewed. Given the potential visual impacts from the project, Dr. Adams felt that the Department of Fish and Game should be consulted to determine what potential impacts would result if the 100-foot buffer is reduced in order to minimize visual impacts. Dr. Adams also discussed the importance of protecting the sea caves and recommended that the location of the caves be specifically identified. Protection of the caves is another reason for moving the structures farther back. She supported the staff recommendation to minimize impacts from skylights.

The public hearing was declared closed.

Discussion continued by the Commission with Mr. Schlosser and staff responding to questions. Mr. Schlosser indicated that the applicant is willing to add additional landscaping to minimize visual impacts.

Commissioner Calvert described exterior colors of other structures along the coast line and indicated that she could support the applicant's proposed stone grey color. She noted that the town of Elk can be seen from this area and pointed out that the barn roofs shown in the pictures submitted by Dr. Adams are very visible. She suggested that additional tree plantings may help minimize visual impacts. She stated that she does not believe skylights would be visible from public places. She stated that she will support the application.

Commissioner Barth discussed visual aspects of the project and suggested that additional landscaping be provided to minimize visual impacts from public places. She also stated that she could accept the proposed stone grey color. She also suggested that Condition 9 be modified to allow for removal of hazardous trees.

Commissioner Lipmanson voiced concerns with allowing massive and aesthetically out of place structures along the coast. He stated that the proposed structure is highly visible and will degrade the natural viewshed. He suggested that the Department of Fish and Game be consulted regarding the ESHA to determine the feasibility of moving the structure farther back in order to minimize visual impacts. He stated that he could not support the project as proposed.

Commissioner Nelson supported planting of additional trees to buffer the structure from the north and south. He also indicated that he could support the applicant's proposed stone grey color.

Chairman McCowen stated that he also has some concerns regarding the size of the structure as well as the potential for glare given the amount of glass on the structure. He stated that he could support reducing the 100-foot buffer to minimize visual impacts. Moving the structure closer to the ESHA buffer would also provide additional room to add landscaping to minimize visual impacts. He noted that the color of the structure is of less importance if landscaping is properly done.

Commissioner Lipmanson moved to deny the project (#CDU 15-2001) without prejudice and in order for the applicant to give more consideration to sighting of structures to minimize visual impacts, provide additional visual representations in order for the Commission to determine visual impacts and consultation with BLM.

Chairman McCowen passed the gavel to Vice-chairman Little and seconded the motion to deny the permit.

The motion failed on the following roll call vote:

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AYES: Lipmanson, McCowen
NOES: Calvert, Nelson, Barth, Berry, Little
ABSENT: None

The gavel was returned to Chairman McCowen.

Commissioner Calvert requested a short recess in order to develop modifications to conditions of approval.

RECESS: 11:31 – 11:52 a.m.

Staff reviewed modifications to Conditions 7, 8 and 9, which were incorporated into the final motion for approval.

Upon motion by Commissioner Calvert, seconded by Commissioner Barth and carried by the following roll call vote, IT IS ORDERED that the Planning Commission approves #CDU 15-2001, making the following findings and subject to the following conditions of approval further finding that the application is Categorically Exempt from environmental review:

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the following conditions of approval.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

Supplemental Coastal Development Permit Findings:

1. The identified watercourse will not be significantly degraded by the proposed development.

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2. There is no feasible less environmentally damaging alternative.
3. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

Nonconforming Use Findings:

1. That it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan designation; and
2. That the use is, and, after expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated; and
3. That the site is physically separate from surrounding properties such that continued nonconforming use is appropriate in this location; and
4. The expansion is consistent with all other applicable policies of the Coastal Element of the Mendocino County General Plan.

Project Findings: The Planning Commission, making the above findings, approves #CDU 15-2001 subject to the following conditions of approval.

CONDITIONS OF APPROVAL:

Conditions that must be met prior to use and/or occupancy and for the duration of this permit:

1. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
2. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith is mandatory, unless a modification has been approved by the Planning Commission.
3. All recommendations of the geotechnical report prepared by BACE Geotechnical dated October 11, 1999 shall be incorporated into the design and construction of the development. BACE shall review the project plans; verify the setbacks in the field when the house corners have been staked; and observe the foundation excavations during construction.
4. Prior to the issuance of the Coastal Development Use Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Director of the Department of Planning and Building Services that shall provide that:
 - a. The landowner understands that the site may be subject to extraordinary geologic and erosion hazard and the landowner assumes the risk from such hazards;
 - b. The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorney's fees and costs of the suit) arising out of the design, construction, operation,

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maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;

- c. The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
 - d. The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
 - e. The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
 - f. The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
5. The applicant shall obtain an encroachment permit from Caltrans for all work within the State right-of-way.
 6. Prior to issuance of a building permit, the applicant shall submit to the Department of Planning and Building Services written verification from the Division of Environmental Health that approval of the site disposal system plan has been obtained.
 7. ~~Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Coastal Permit Administrator, color samples for the proposed residences. The colors shall be reviewed for consistency with Policy 3.5-1 of the Coastal Element and Section 20.504.015(C) of the Coastal Zoning Code. Specifically, the colors shall be dark earthtones that will blend with the dark evergreen tree backdrop. Tan, beige or other "light" colors shall not be appropriate. The exterior stucco color shall be the stone grey color as submitted at the public hearing on May 16, 2002.~~ All other exterior building materials and finishes shall match those specified in the coastal development permit approval. Windows and the skylight shall be made of non-reflective glass and shall not be frosted. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.
 8. ~~Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Coastal Permit Administrator, a revised south and east building elevation for the primary residence which reduces the glass ("greenhouse feature") in the master bedroom by approximately 50 percent. The building plans shall be consistent with the revised elevation drawings labeled Exhibit A and dated May 16, 2002 depicting the south and west elevations with reduced glass treatment for the master bedroom.~~
 9. The evergreen trees surrounding the proposed residence and shown on the site plan provide a significant visual buffer from public view areas and shall be retained. A revised landscape plan

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shall be submitted to the Coastal Permit Administrator. The new plan shall provide for three or more groupings of two or three native pines north and east of the currently proposed additional landscaping shown on the site plan. No tree removal or limbing of the existing trees shall occur without prior review and approval by the Department of Planning and Building Services. In cases of emergencies such as diseased, damaged or dying trees, verbal approval from the Coastal Permit Administrator shall be obtained and replacements shall be provided where feasible. In the event that the screening trees die during the life of the project, they shall be replaced with similar species in the same location.

Prior to the final building inspection, all required landscaping indicated on the site plan shall be installed, irrigated and staked. All required landscaping shall be maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity for the life of the project.

10. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
11. The riparian habitat associated with the watercourse and described by Mary Rhyne and Gordon McBride shall be protected with a 100-foot buffer from the edge of the riparian habitat. No development, disturbance, or tree removal shall occur within the buffer except as explicitly described in this permit. Prior to removal and replacement of the mobile home, a temporary protective fence or hay bale barrier shall be extended at least ten feet beyond the footprint of the existing mobile home. Construction debris, disturbance or material storage shall not be allowed between the barrier and the riparian plant community. Construction vehicles shall not be permitted to park or drive between the barrier and the riparian plant community. The fence or barrier shall remain in place until the final building inspection of the proposed residence.
12. Prior to issuance of a demolition permit for the residence adjacent to Highway 1, the applicant shall submit written approval from the Air Quality Management District to perform the work.
13. An amendment to this coastal use permit shall be obtained prior to construction of any additions, additional structures, or placement of exterior lighting on any portion of the site within view of public access areas or Highway 1.
14. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
15. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
16. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.

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- b. That one or more of the conditions upon which such permit was granted have been violated.
- c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

- 17. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

AYES: Neison, Berry, Little, Barth, Calvert

NOES: Lipmanson, McCowen

ABSENT: None

STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT

CDU 15-2001
May 16, 2002
PAGE PC-1

OWNER:

DAN & ROSANNA SHLA
5553 PERUGIA CIRCLE
SAN JOSE, CA 95138

AGENT:

LEVENTHAL / SCHLOSSER ARCHITECTS
435 NORTH MAIN STREET
FORT BRAGG, CA 95437

REQUEST:

Coastal Development Use Permit to construct a 3,710 sq. ft. single story single family residence with a maximum height of 18 feet above average natural grade. The proposed residence includes 3,025 sq. ft. of living space and a 685 sq. ft. attached garage. Replace an existing mobile home with a new 768 sq. ft. single story residence with a maximum height of 16'6" feet above average natural grade. Demolish an existing non-conforming residence. Install a new septic disposal system, add parking areas and turnouts to the existing driveway, extend underground utilities to the new building site, connect new residence to existing community water system and install a new underground propane tank. Build new wood fences and install a new wood gate.

LOCATION:

In the Coastal Zone, on the west side of Highway 1, approximately 1/2 mile south of Cuffey's Cove Cemetery and 1/4 mile north of the town of Elk, at 5260 S Highway 1 (AP# 127-130-04/05).

TOTAL ACREAGE:

11 +/- acres

ZONING:

RR: L-5 (DL)

ADJACENT ZONING:

North and East: RL
South & West: Pacific Ocean

GENERAL PLAN:

RR - 5 (DL)

ADJACENT GENERAL PLAN:

North and East: RL-160
South & West: Pacific Ocean

EXISTING USES:

Residential

SURROUNDING LAND USES:

North and East: Type II agricultural preserve
South and West: Pacific Ocean

SURROUNDING LOT SIZES:

North: 22 - acres

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East: 20 + acres
South: Pacific Ocean
West: Pacific Ocean

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt, Class 2 & Class 3(a)

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Use Permit U 15-84, approved on May 10, 1984, expired on May 30, 1987, allowed a temporary mobile home for use by an agricultural employee (BF #7264) on the subject property. The temporary mobile home has been removed. Pre-Application Conferences #5-96, #1-99 & #6-99, which discuss applicable sections of the Coastal Zoning Code that apply to the subject property for prospective buyers.

PROJECT HISTORY: The proposed development underwent a series of revisions based on several environmental/feasibility studies, input from staff and discussions with the agent. However, no revisions were made for the location of the proposed 3,710 sq. ft. residence and attached garage. The original proposal included the conversion of the existing single family residence adjacent to Highway 1 into a guest cottage and the removal of the mobile home. After reviewing various geotechnical reports and conducting a site view, staff asserted that the existing residence location along Highway 1 was problematic based on the three factors. First, the building site would be highly visible from Highway 1, as demonstrated by the visibility of the existing residence. Second, the proposed guest cottage structure would not meet the geotechnical setback requirements for new structures. Third, the replacement structure would be located within the designated 100-foot environmentally sensitive habitat area (ESHA) buffer setback.

The revised request to replace the mobile home and demolish the residence along Highway 1 eliminates two of the problems discussed above. The mobile home site is not visible from public view areas and is not located near the blufftop edge. The mobile home is located within the 100 foot ESHA buffer but is to be replaced on the exact footprint of the existing mobile home.

The project requires a Coastal Development Use Permit because Section 20.480.025 (A) of the Coastal Zoning Code states in pertinent part:

"Existing legal nonconforming uses conforming with Section 20.480.010 may be expanded or reduced to a use of lesser intensity through the issuance of a Coastal Development Use Permit..."

PROJECT DESCRIPTION: The property site is located west of Highway 1, on the coastal bluff approximately 1/2 mile north of Elk. The residential parcel is bordered by agricultural/range land to the north and east, and by the Pacific Ocean to the south and west. At present, the site is developed with two legal nonconforming residences and a barn. A rocked driveway accesses the site from Highway 1.

The applicant proposes to construct a 3,710 sq. ft. single story single family residence with a maximum height of 18 feet above average natural grade. The proposed three bedroom residence includes 3,025 sq. of living space and a 685 sq. ft. attached two-car garage. The residence would be located south of an existing barn, west of the residence to be demolished and would be served by an existing driveway. A second 768 sq. ft. residence would be constructed at the site of an existing mobile home (mobile home is a legal non-conforming second residential unit). The proposed second residence would share the same footprint and be equal in size to the mobile home. The residence would have a maximum height of 16'6"

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feet above average natural grade. The non-conforming residence and garage framing located along Highway 1 would be demolished at the conclusion of construction activities. New wood fences would be built to follow the wall line of the existing house. The existing wood fence along the highway would be repaired and maintained. A new wood gate would be installed to match the fence. Existing power and telephone lines would be extended to the proposed building site from an existing power pole underground at the center of the existing driveway. Elk water service would be extended underground to the new residence and connected to the existing hook-up for the mobile home. A new guest parking area would be created at an existing road turnout and a new driveway spur and turnaround would be installed to the proposed attached garage. A new 1,000 gallon underground propane tank would be placed and an underground propane line would be established to the house. A new septic system would be installed northwest of the new building site to serve the proposed three bedroom residence and the proposed second residential unit.

At the time this recommendation was prepared, staff had not received any comments from the public either in favor of or against the project.

Public Access: The project site is located west of Highway 1 along the ocean bluff. The Land Use Plan does not designate the property as a potential coastal access trail. The nearest location providing public access to the coast is Greenwood/Elk State Park approximately ½ mile south of the subject parcel. Cuffey's Point, located 1 mile north of Elk, is identified on LUP map #20 as a location for potential public access. As discussed in the Visual Resources section of this report, Policy 4.10-6 of the Coastal Element states Caltrans should acquire an area west of Highway 1 to construct a parking area and vista point overlooking Cuffey's Cove. To date, no public access has been acquired by Caltrans. The area is privately owned and supports two cemeteries. On the subject parcel, a sandy beach is located at the bluff toe in the western portion of the property. A dirt road goes partially down the bluff toward this beach. The lower portion of the road becomes a rough hiking trail down to the beach according to a geotechnical survey conducted in October of 1999. No documentation was discovered from the applicable files on the property or in the Land Use Plan to indicate public use of the old road.

Geology/Blufftop Parcel: The southeast, southwest, and northwest sides of the property are surrounded by ocean water. The bluffs within the westerly three-fifths of the property are approximately 90 to 100 feet in vertical height; the easterly two-fifths of the property bluffs are approximately 120 feet in vertical height. An indentation into the bluff separates the two terrace areas and another bluff indentation forms a steeply sloping ravine on the southwest side of the existing residence adjacent to Highway One. Six small to medium size caves are located at the toe of the easterly two-fifths of the bluffs. Two of the medium size caves are connected about 50 feet back into the bluff. Due to the slope of the bluff in this area, the caves do not extend more than a few feet beyond the upper bluff edge. The smaller caves are only about 10 to 30 feet in length.

Policy 3.4-1 of the Coastal Element [Hazards Management] states:

"The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site."

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In addition, Policy 3.4-7 states:

"The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation..."

A Geotechnical Report was prepared by BACE Geotechnical dated October 11, 1999, to evaluate the ocean bluff stability at the property in order to determine building feasibility and setback criteria for the proposed residence. BACE also performed reconnaissance of the site on August 5 (for a previous client) and September 13, 1999. The September reconnaissance included the exploration of the sea caves at the property by use of a kayak.

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. Weathering and erosion along an ancient, inactive fault created the bluff indentation separating the two terrace levels. The near vertical fault strikes to the north. A lineament (possible fault) described as a "linear feature of unknown origin observed (regionally) on aerial photographs" is shown going through the southeasterly bluff indentation on Open File Report 84-12. BACE saw a north striking, near vertical, ancient fault trending up the west side of the ravine, approximately 100 feet from the existing residence. The active San Andreas Fault is located offshore, approximately four miles to the southwest. An area of shallow landsliding or slope creep was observed on the bluff face above the sandy beach at the northwest end of the property. The landslide may have been caused by past road construction in the area. The landslide has destroyed the dirt road that once went to the beach in this area. One other small landslide was observed on the upper slope of the ravine at the southwest corner of the existing residence adjacent to Highway One. The landslide has undermined a support pier at the residence corner.

In the area of the proposed residence, the required blufftop setback ranges between 30 and 50 feet. The Report offers the following conclusions and recommendations:

"The setbacks for those portions of the bluffs in direct contact with ocean waves were based upon an average retreat rate of 2-1/4 inches per year for 75 years (considered to be the economic lifespan of a house by the California Coastal Commission) times a safety factor of two (then rounded up slightly). Other portions of the bluffs have slightly higher setbacks based upon the bluff stability (landsliding) or susceptibility to bluff face erosion unrelated to wave erosion. Conventional footing foundations can be used with the recommended setbacks provided that BACE reviews the project plans; verifies the setbacks in the field when the house corners have been staked; and observes the foundation excavations during construction. The presence of weak superficial soils may require that footings be deepened beyond Uniform Building Code minimums to gain uniform support in underlying firm soil or rock. As typical of the Mendocino County coast, the site will be subject to ground shaking during future, nearby earthquakes. Since BACE found no evidence of active faulting in the property vicinity, the risk of fault rupture at the site is considered to be relatively low."

Based on the conclusions of the Geotechnical Report, the blufftop setback depicted on the site plan is considered to be satisfactory. There shall be a minimum 30-foot setback for all development from the blufftop edge. Staff recommends that the applicant be required to follow the design and construction

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guidelines as stated in the Report. Specifically, BACE shall review the final project plans, verify the setbacks in the field when the house corners have been staked and observe the foundation excavations during construction. Condition #3 has been added to assure that all the recommendations of the geotechnical investigation are incorporated into the building design and construction of the project.

The California Coastal Commission and Mendocino County have been applying a deed restriction for blufftop parcels where the development is within 100 feet of the bluff prohibiting the construction of seawalls with the requirement that the structures be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean up associated with portions of the development which might fall onto a beach. It is anticipated that the Coastal Commission will continue to apply this deed restriction for any blufftop development. Therefore, staff recommends including Condition #4 to address this issue.

Transportation/Circulation: The project site is presently developed and the proposed project would not increase the intensity of use at the site. The project would use an existing driveway approach onto Highway 1 that has served the development on the property for many years. Caltrans responded to the application with a generic requirement that any work within the state right of way, including access improvements, would require a current encroachment permit and that any new driveway must be constructed to meet Caltrans standards for a single family road approach. There is no request to construct a new driveway in conjunction with the project but Condition #5 is added to require the applicant to obtain an encroachment permit for any work within the right-of-way. The County Department of Transportation offered no comment. A new gate would be installed approximately 50 feet from the front property line. This setback should provide a safe distance for entering and existing vehicles. The existing rocky driveway would be extended to the proposed building site and new parking areas would be established.

Groundwater Resources: The site is located within an area mapped as Critical Water Resources. The Elk Water District would serve the proposed development and the project should not adversely affect this resource. The Division of Environmental Health is prepared to issue a clearance for the proposed single family residence and replacement residential septic system. The septic system for the second residence is expected to either connect to an existing system currently serving the mobile home or connect to the proposed system for the primary residence. As discussed in the project history section of this report, the proposed guest cottage structure (which has been eliminated from the project request) would have been connected to the new septic system. Condition #6 requires the applicant to submit written approval from the Division of Environmental Health to the Department of Planning and Building Services prior to the issuance of building permits.

Visual Resources: The subject property is located in a designated Highly Scenic Area (HSA) west of Highway 1. Several Local Coastal Plan (LCP) policies and corresponding sections of the Coastal Zoning Code apply to the project. In general, staff finds the project design to be consistent with the required policies. As discussed below, exterior color and landscaping conditions are recommended to ensure the project is consistent with the requirements for development in a HSA. The demolition of the residence adjacent to Highway 1 will have a positive visual affect in the area. The structure has become dilapidated, is painted a light beige color and is highly visible from the road. Story poles were erected for the proposed residence the last week of January 2002.

The consistency of the proposed project design with LCP visual resource protection policies is addressed below:

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Policy 3.5-1 of the Mendocino County Coastal Element states:

"The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."

Policy 3.5-3 states:

"Any development permitted in [highly scenic] areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes"

"...In addition to other visual policy requirements, new development west of Highway One in designated highly scenic areas is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures...New development shall be subordinate to the setting and minimize reflective surfaces. Variances from this standard may be allowed for planned unit development(s) that provides clustering and other forms of meaningful mitigation."

3.5-4 "Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists..."

"Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms. (3) Provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area."

Sec. 20.504.015 (C) (3) of the Coastal Zoning Code states in part:

"New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings."

Section 20.504.015 (C) (2) of the Coastal Zoning Code states:

"In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures."

The replacement of the mobile home with a new single story residence will not have a significant impact on visual resources. The existing mobile home is not visible from Highway 1 or from the Greenwood/Elk State Park to the south. The 768 sq. ft. single story residence would have a maximum height of 16' 6"

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above average natural grade. White story poles were erected to indicate the height of the structure and its visibility from public view areas. Staff was unable to see the poles from the highway or the State Park. The structure would be clad with stucco, dark bronze anodized aluminum sash windows and asphalt composition shingle roofing. No landscaping or exterior material changes are required to bring the structure into compliance. Therefore, the proposed second residential unit is consistent with the applicable policies highlighted above.

The proposed 3,710 sq. ft. single story single family residence would have a maximum height of 18 feet above average natural grade. The proposed three bedroom residence includes 3,025 sq. of living space and a 685 sq. ft. attached two-car garage. The location of the structure was mainly determined by the ESHA setback and the geotechnical bluff top setback. The residence is positioned to comply with these required setbacks. There is a stand of pine trees to the north and east of the building site which provides substantial screening from Highway 1.

The proposed exterior surfaces and colors of the 3,710 residence would be comprised of the following:

Siding: Portland cement plaster (stucco) to be a smooth finish with Benjamin Moore #OC-12 (muslin -beige) exterior paint.

Roofing: Gacoflex flat roof membrane to be a shale color

Chimney: exterior flue pipe to be stainless steel painted low luster Benjamin Moore #71 Medium Gray exterior paint finish.

Windows: dark bronze anodized aluminum sash

Staff asserted that a darker exterior stucco color would help the structure blend in hue and brightness with the surroundings and reduce its dominance. However, staff was unable to come to an agreement with the applicant for a darker color. A color sample was provided by the applicant of 34 colors available from Highland Stucco & Lime Products with three selections from the applicant. The selections included 2026 Apricot Ice, 171 Valencia and 449 Santa Fe. These colors had the same brightness as the earlier requested color and would also create a contrast with the backdrop of evergreen trees behind the structure. As a compromise, staff found the color 882 Shadow (offered by the same company) to be acceptable, but the applicant declined to agree. The exterior color of the stucco is still unresolved. Experience has shown that the exterior colors of blufftop residences can make a big difference in the development's visual impact on public views. The darker the hue, brightness and color value of the exterior colors, the more the structure blends in with the natural environment. Due to the visibility of the residence from the park and the comments received from the State Park District Superintendent, staff has added Condition #7 to request a darker color finish for the stucco walls. The color 822 Shadow would be appropriate or another "dark" color with a similar hue and brightness.

The State Parks Department has reviewed this proposal and has the following comment:

"In the present case, the proposed structure is highly visible from the park in many prime viewing locations and unfortunately continues the natural viewshed degradation further north from the town of Elk. For the structure to be built in a manner taking this concern into account it needs to be sited as far back from the bluff edge as possible considering construction limitations, be screened by native tree species that screen and break up the presence of the house, use non-reflective glass in the windows, and maintain dark materials for the siding and roofing."

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As stated above, the single story structure will be highly visible from Greenwood/Elk State Park approximately ½ mile south of the project site. The most visible portion of the structure would be the southeast elevation where the master bedroom is located. The south elevation is mostly glass but will be oriented out to the ocean and only a portion of this glass wall will be visible from the park view. The applicant has proposed a "greenhouse" type enclosure for the master bedroom which will be oriented directly towards the park. Staff expressed concern about the amount of glass and reflective surface of this feature. The proposed residence would be partially visible from an historic public viewing and photographic point adjacent to Cuffey's Cove Cemetery to the north. Upon conducting several site views to view the story poles, staff determined that the residence would not be visible from the actual roadway but would be seen from the public cemetery west of the highway at Cuffey's Cove. Page 189 of the Coastal Element states:

"Cuffey's Point

Location: 1 mile north of Elk

Ownership: Private

*Characteristics: Superb view of coast across Greenwood Cove and setbacks to south.
Suitable for viewpoint, not shoreline access.*

Potential Development: Turnout and parking area; picnic tables.

Policy 4.10-6 Caltrans should acquire an area west of Highway 1 of sufficient area to construct a parking area and vista point overlooking Cuffey's Cove. An offer to dedicate a parking area and vista point overlooking Cuffey's Cove. An offer to dedicate a parking area and vista point at this location shall be obtained consistent with Policy 3.6-5 if Caltrans is not successful in acquiring this area prior to application for a coastal development permit. If the land use on this large area changes in the future, an offer to dedicate an easement for public access shall be required for the area delineated on the Land Use Map, consistent with Policy 3.6-5."

At this time there has been no change in the land use on this parcel and staff has no knowledge of Caltrans acquiring the area. Nonetheless, the view from the headlands looking south would be affected by the proposed residence. This is an area of historic public viewing. As seen from the southern portion of Cuffey's Cove Cemetery the structure would be backdropped by the town of Elk in the distance. A substantial stand of trees would shield a majority of the development from this view but the garage on the west end of the house would be visible. This end of the structure has very little glass and is mostly a stucco wall with a height of 13 to 14 feet above grade. The brightness and color of the stucco will make a big difference as to how much the structure stands out from the surrounding environment.

3.5-5 "Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged... New development shall not allow trees to block ocean views."

The applicant has indicated planting two Shore Pines and one Monterey Cypress tree to shield the master bedroom "green house" feature from public view at the park. The site plan shows two other existing pine trees east of the three proposed trees. Landscaping should be used as a last resort to help a project comply with the visual resource policies. The project should be designed to comply with the HSA policies. The placement of this "greenhouse" feature is not consistent with the requirement that exterior materials and finishes blend in with the surrounding area and be non-reflective. Staff is further concerned that the light from the master bedroom at night would be directly in view from the park. Landscaping is requested

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regardless of this glass feature to help break up the architecture and shield the development. Condition #8 is added to require the applicant to reduce the proposed glass in the master bedroom by at least 50 %. The applicant could employ skylights and more conventional windows to accomplish the goal of reducing the amount of glass and reflective surfaces in the master bedroom. The landscaping is intended to screen and break up the presence of the house. Condition #9 is added to require the submitted landscaping to be installed and that the existing trees be retained in perpetuity due to the screening they would provide from public view areas.

3.5-15 "...No lights shall be installed so that they distract motorists and they shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible."

The applicant has submitted the exterior lighting fixtures. There are to be wall sconce lights with copper shields on the residence and on the fence, downlights at soffits, underwater uplights in the reflecting pool at the entry and path lights along the path and around the guest parking area. All the light fixtures are downcast and shielded. No lighting would distract motorist. Therefore, proposed lighting is in compliance with exterior lighting requirements of Policy 3.5-15 and Section 20.504.035 of the MCC.

Fire Protection: The project is located within the local responsibility area of the Elk Community Services District, with shared responsibility by the California Department of Forestry and Fire Protection (CDF). The property has a moderate fire hazard classification. The applicants have obtained a clearance from CDF (#233-01) which requires that the project meet the Defensible Space Standard of thirty feet from all property lines and addressing and driveway standards.

Archaeological/Cultural Resources. The project site is currently developed. Max A. Neri of North Coast Resource Management prepared an archaeological assessment of the subject parcel dated October 21, 1999. The investigation resulted in the discovery of one prehistoric site. The survey was reviewed and accepted by the Mendocino County Archaeological Commission on November 14, 2001. The Archaeological Commission recommended further analysis prior to any development that might impact the site, pursuant to the report. The identified site would not be impacted by the development proposed in this permit. Nonetheless, Condition #10 advises the applicant of the County's "discovery clause" which establishes procedures to follow in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

Natural Resources. According to Gordon E. McBride, Ph. D., the property is situated on the youngest coastal terrace. Three plant communities are represented on the site. Non-native grassland is on most of the level portion that was originally coastal bluff scrub and or coastal terrace prairie, but has been subject to regular mowing for many years. Coastal bluff scrub is present on the bluff edge and bluff face. Lastly, a riparian plant community associated with the immediate banks of a small tributary of Laurel Creek traverses the site from southeast to northwest. The majority of the developed area, up to the edge of riparian habitat, is lawn. Mary Rhyne, Botanical Surveyor and Gordon E. McBride, Ph.D. have prepared several botanical reports for the subject parcel. Due to changes in the project and the relocation of some of the proposed septic system waste lines, many of the reports and subsequent addenda are irrelevant. The parcel has been surveyed for the presence of rare or endangered plant species, the riparian vegetation has been identified and the upland extent of the vegetation has been marked with flagging.

Dr. McBride's report, dated July 14, 1999, discovered one Mendocino Paintbrush, a listed rare plant, growing on the edge of the bluff near the area where the historical road goes down to the beach. There were also several populations of the Mendocino Paintbrush on the bluff face. The Mendocino Paintbrush should be protected from disturbance and none of the proposed development would have an impact on the

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identified resource. No other rare or endangered plants were discovered on the site as a result of the survey. Therefore, no mitigation is required for rare plants.

In her report dated April 2, 2001, Mary Rhyne identified the upland limit of the riparian vegetation growing on the sides of Laurel Creek which drains water from the east side of Highway One. The creek is a natural channel that follows along the northern boundaries of the subject property and empties water into the Pacific Ocean. Dr. McBride states that Alder, Thimbleberry, Salmon Berry, Sedge, Elderberry and associated plants represent the riparian community. Watercourses and their associated riparian habitat are considered to be environmentally sensitive habitat areas (ESHA's) as defined by the Local Coastal Plan and the Coastal Act.

Chapter 20.496 and Section 20.532.060, et. seq. of the Coastal Zoning Code contains specific requirements for protection of ESHA's and development within the buffer area of an ESHA. A sufficient buffer area is required to be established and maintained to protect ESHA's from disturbances related to proposed development. Section 20.496.020 requires that:

"The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width."

Both botanists recommend that a 100-foot non-disturbance setback be measured from the upland limit of the riparian habitat for new development. It is important to note that all of the existing development on the parcel (the residence adjacent to Highway One, the mobile home, the workshop and the driveway) are located within the recommended ESHA buffer setback. The new 3,710 sq. ft. residence and the new septic system will be outside of the required setback. All underground utility extensions will be located within the driveway. The new turnaround and parking area can not be practically located outside of the buffer area due to the location of the existing driveway. The second residential unit would be connected to either the existing septic system for the mobile home or would be connected to the new system installed outside of the ESHA buffer. There is the potential that components of the connection to the new septic system would have to pass through the ESHA buffer.

Per section 20.532.100 (A) (1) of the Coastal Zoning code, development shall be allowed within an ESHA only in accordance with the following findings:

- (a) The identified watercourse will not be significantly degraded by the proposed development.*
- (b) There is no feasible less environmentally damaging alternative.*
- (c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.*

The existing second residential unit (mobile home) is situated outside of the upland limit of the riparian habitat but is within the 100-foot ESHA buffer setback established for new development. Dr. McBride prepared a supplemental report dated March 13, 2002, which recommended mitigation for the construction of a new second residential unit on the footprint of the existing mobile home. He states although the new structure would be within the recommended 100 foot buffer, it would not pose a threat to the adjacent riparian plant community beyond that which is posed by the existing mobile home. He

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recommends mitigation during construction. The riparian habitat should be protected from damage or disturbance by either a plastic debris fence held in place by metal fence posts or by a row of straw bales placed end to end. Either form of barrier should be extended at least ten feet beyond the footprint of the existing mobile home. Construction debris, disturbance or material storage should not be allowed between the barrier and the riparian plant community. Construction vehicles should not be permitted to park or drive between the barrier and the riparian plant community. The recommended mitigation is very similar to the condition normally applied to projects with a reduced ESHA buffer setback. Staff recommends mitigation be either form of barrier suggested by Dr. McBride. The barrier should be placed approximately 10 feet from the edge of the upland limit of the riparian habitat and should extend 50 feet on either side of the building footprint. A copy of the botanical report and recommended setback along with the coastal permit application were sent to the California Department of Fish and Game for comment. Liam Davis, Environmental Specialist III, responded with a phone call on April 5, 2002 stating he had no comment on the project, the ESHA setback or the mitigation recommended by Dr. McBride. Condition #11 will ensure that human intrusion or disturbance does not negatively impact the ESHA and that the mitigation recommended by Dr. McBride and staff is incorporated into the project. According to Dr. McBride, the mitigation measures, if properly implemented, should ensure there is no loss of habitat on the project site. Further, supplemental findings 8, 9 and 10 have been added as is required by Section 20.532.100 (A) (1) MCC to allow for the proposed development.

Planning Criteria: The proposed single family residence is compatible with the Rural Residential Zoning District and is designated as a principal permitted use per Section 20.376.010 (A) of MCC. The proposed garage is permitted as an accessory structure per Section 20.456.015 (A) of MCC. The proposed development complies with the maximum building height and setback requirements of the Rural Residential Zoning District and corridor preservation setbacks from Highway One.

Section 2.2 of the Coastal Element and Chapter 20.480 of the Coastal Zoning Code [Nonconforming Uses] allows expansion or reduction of a legal, nonconforming use to a use of lesser intensity through the issuance of a Coastal Development Use Permit uses provided the following four criteria are satisfied:

- (a) That it is not reasonably economically or physically feasible to make the use of the property compatible with the applicable general plan land use designation;
- (b) That the use is and, after expansion, will be compatible with adjacent land uses and that any increased adverse impacts on access or public facilities and services will be mitigated;
- (c) That the site is physically separate from surrounding properties such that continued non-conforming use is appropriate in that location; and
- (d) Expansion of the non-conforming use will require a conditional use permit in each case. Such conditional use permit shall be granted only if affirmative findings can be made on the criteria listed above (a) (b) and (c), and only if the expansion is found consistent with all other applicable policies of the Coastal Element.

The replacement structure would be in the same location and be the same size as the mobile home. Although the proposed 16' 6" maximum average height would be slightly higher than the existing structure it is not considered an expansion of use. The proposed project would result in the same housing density (two single-family residences) as currently exists. The elimination of the residence adjacent to Highway One is a beneficial result of the project. The residence to be removed is within the corridor preservation setback and is being undermined by a landslide and a retreating blufftop.

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Section 20.508.020 of the Coastal Zoning Code requires buffer areas for development adjacent to agriculturally designated parcels.

Section 20.508.020(A)(1) states:

"No new dwellings in a residential area shall be located closer than two hundred feet from an agriculturally designated parcel unless there is no other feasible building site on the parcel."

The parcel is approximately 250 wide at the thinnest point and is heavily constrained. The replacement second residential unit would be sited in an established location adjacent to the agriculturally designated parcel to the north. The other residence would be as far south away from the agriculturally zoned parcel and as close to the blufftop edge as the geologic setback would allow. The project would result in the same level of residential intensity that has previously been established.

Condition #12 has been added to require the applicant to obtain a permit from the Air Quality Management District prior to the demolition of the residence adjacent to Highway 1.

GENERAL PLAN CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan and Local Coastal Plan, specifically as they relate to geology, blufftop parcels, hazards, visual resources, and nonconforming uses.

PROJECT RECOMMENDATIONS: staff recommends that the Planning Commission approve Coastal Development Use Permit #CDU 47-2001, finding the project to be consistent with the goals and policies of the General Plan and Local Coastal Plan.

RECOMMENDED MOTION:

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions being recommended by staff.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.

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6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.

SUPPLEMENTAL FINDINGS:

8. The identified watercourse will not be significantly degraded by the proposed development.
9. There is no feasible less environmentally damaging alternative.
10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

Project Findings: The Planning Commission, making the above findings, approves #CDU 15-2001 subject to the conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:**Conditions which must be met prior to use and/or occupancy and for the duration of this permit:**

1. This permit shall become effective after all applicable appeal periods have been expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
2. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith is mandatory, unless a modification has been approved by the Planning Commission.
3. All recommendations of the geotechnical report prepared by BACE Geotechnical dated October 11, 1999 shall be incorporated into the design and construction of the development. BACE shall review the project plans; verify the setbacks in the field when the house corners have been staked; and observe the foundation excavations during construction.
4. Prior to the issuance of the Coastal Development Use Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Planning Commission that shall provide that:
 - a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazard and the landowner assumes the risk from such hazards:
 - b) The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including

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without limitation attorney's fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;

- c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
 - d) The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
 - e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
 - f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
- 5. The applicant shall obtain an encroachment permit from Caltrans for all work within the State Right-of-Way.
 - 6. Prior to issuance of a building permit, the applicant shall submit to the Department of Planning and Building Services written verification from the Division of Environmental Health that approval of the site disposal system plan has been obtained.
 - 7. Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Coastal Permit Administrator, color samples for the proposed residences. The colors shall be reviewed for consistency with Policy 3.5-1 of the Coastal Element and Sec. 20.504.015 (C) of the Coastal Zoning Code. Specifically, the colors shall be dark earthtones which will blend with the dark evergreen tree backdrop. Tan, beige or other "light" colors shall not be appropriate. All other exterior building materials and finishes shall match those specified in the coastal development permit approval. Windows shall be made of non-reflective glass. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.
 - 8. Prior to the issuance of the coastal development permit the applicant shall submit for the review and approval of the Coastal Permit Administrator, a revised south and east building elevation for the primary residence which reduces the glass ("greenhouse feature") in the master bedroom by approximately 50%.
 - 9. The evergreen trees surrounding the proposed residence and shown on the site plan provide a significant visual buffer from public view areas and shall be retained. No tree removal or limbing of the existing trees shall occur without prior review and approval by the Department of Planning

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and Building Services. In the event that the screening trees die during the life of the project, they shall be replaced with similar species in the same location.

Prior to the final building inspection, all required landscaping indicated on the site plan shall be installed, irrigated and staked. All required landscaping shall be maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity for the life of the project.

10. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.
11. The riparian habitat associated with the watercourse and described by Mary Rhyne and Gordon McBride shall be protected with a 100-foot buffer from the edge of the riparian habitat. No development, disturbance, or tree removal shall occur within the buffer except as explicitly described in this permit. Prior to removal and replacement of the mobile home, a temporary protective fence or hay bale barrier shall be extended at least ten feet beyond the footprint of the existing mobile home. Construction debris, disturbance or material storage shall not be allowed between the barrier and the riparian plant community. Construction vehicles shall not be permitted to park or drive between the barrier and the riparian plant community. The fence or barrier shall remain in place until the final building inspection of the proposed residence.
12. Prior to issuance of a demolition permit for the residence adjacent to Highway 1, the applicant shall submit written approval from the Air Quality Management District to perform the work.
13. An amendment to this coastal use permit shall be obtained prior to construction of any additions, additional structures, or placement of exterior lighting on any portion of the site within view of public access areas or Highway 1.
14. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
15. That this permit be subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
16. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which such permit was granted have been violated.

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STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT

CDU 15-2001

MAY 16, 2002

PAGE PC-16

- c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

17. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

 DATE

 Rick Miller
 Coastal Planner II

Attachments: Exhibit A- Location Map
 Exhibit B- Site Plan
 Exhibit C- Plot Plan
 Exhibit D- Second Residential Unit Plans
 Exhibit E- Residence Elevations
 Exhibit F- Residence Elevations
 Exhibit G- Residence Floor Plan

Appeal Fee - \$600.00
 Appeal Period - 10 days

| REFERRAL AGENCIES | REFERRAL NOT RETURNED | REFERRAL RECEIVED "NO COMMENT" | COMMENTS RECEIVED |
|----------------------|--------------------------|--------------------------------------|----------------------|
|----------------------|--------------------------|--------------------------------------|----------------------|

| | | | |
|--------------------------------|--------------------------|---|---|
| Dept. of Fish & Game | | X | |
| Transportation | | X | |
| Environmental Health- Ft Bragg | | | X |
| Building Inspection - Ft Bragg | | X | |
| Assessor | | X | |
| Caltrans | | | X |
| Dept of Forestry | | | X |
| Coastal Commission | X | | |
| Sonoma State (Arch.) | | | X |
| Elk Water District | X | | |
| State Parks | | | X |
| Pt. Arena City Hall - | Posted for public review | | |

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Law Offices of
JOSEPH J. BRECHER
436 14th STREET, SUITE 1300
OAKLAND, CALIFORNIA 94612

(510) 832-2800
FAX: (510) 496-1366
e-mail: brecher@pacbell.net

June 18, 2002

RECEIVED

by Federal Express

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

JUN 19 2002
CALIFORNIA
COASTAL COMMISSION

re: Appeal from Mendocino County approval of Shia application, CDU 15-2001

Dear Folks:

Enclosed are an original and one copy of a Notice of Appeal on behalf of Dr. Hillary Adams in the above-referenced proceeding, as well as a certificate of service by mail on other interested parties. Would you please file the original with the Commission and return the copy to me, file-stamped, in the enclosed envelope.

Thank you for your cooperation.

Yours truly,



Joseph J. Brecher
Attorney for Dr. Hillary Adams

JJB: gr
Encls.
cc: Hillary Adams

| |
|--|
| EXHIBIT NO. 5 |
| APPLICATION NO. A-1-MEN-02-029 |
| SHIA |
| APPEAL (1 of 7) |

PROOF OF SERVICE

I, the undersigned, declare that I am over the age of eighteen years and not a party to the within action. My address is 436 14th Street, Suite 1300, Oakland, California 94612.

I am familiar with the practices of this office whereby each document is placed in an envelope, sealed, postage applied and the sealed envelope is placed in a U.S. mailbox at or before the close of each day's business. On June 18, 2002 I served the following document(s): **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT** on the following person by placing a true copy of said document(s) in a sealed envelope, with first class postage prepaid, and deposited in the U.S. mail at Oakland, California, addressed as follows:

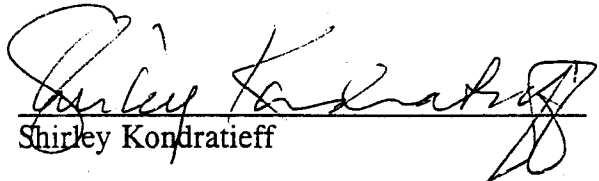
Dan and Rosanna Shia
5553 Perugia Circle
San Jose, CA 95138

Supt. Greg Picard
California Department of Parks and
Recreation
P. O. Box 440
Mendocino, CA 95432

Ms. Jane Corey
P. O. Boxholder
Elk, CA 95432

Leventhal/Schlosser Architects
433 North Main Street
Fort Bragg, CA 95437

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Oakland, California on June 18, 2002.


Shirley Kondratieff

297

STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

MAILING ADDRESS:

710 E STREET - SUITE 200

P.O. BOX 4908

EUREKA, CA 95501-1865

EUREKA, CA 95502-4908

VOICE (707) 445-7833

FACSIMILE (707) 445-7877

RECEIVED

JUN 19 2002

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENTCALIFORNIA
COASTAL COMMISSIONPlease Review Attached Appeal Information Sheet Prior To Completing
This Form.SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Dr. Hillary Adams

P. O. Box 1936

Mendocino, CA. 95460

(707) 877-3527

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed1. Name of local/port government: County of Mendocino2. Brief description of development being
appealed:Demolish an existing, non-conforming use residence (sq. ft. and ht. ?); construct a
3,710 sq. ft. single family residence and attached garage, of 18' ht. (average natural
grade). Remove an existing mobile home; construct a second residence of 768 sq. ft., (over)3. Development's location (street address, assessor's parcel
no., cross street, etc.):

4. Description of decision being appealed:

a. Approval; no special conditions:

b. Approval with special conditions: X

c. Denial:

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-02-029DATE FILED: 6/19/02DISTRICT: North Coast

H5: 4/88

3097

Project
Description: cont'd

16'6" ht.(average natural grade). Extremely modern design for both units: wall of windows, skylight and lighted reflecting pool. Six foot fence with gate. 1/4 mile north of Greenwood/Elk, west side of highway One; highly scenic. RR:L-5

4 of 7

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. ☐ Planning Director/Zoning Administrator c. ☒ Planning Commission
b. ☐ City Council/Board of Supervisors d. ☐ Other _____

6. Date of local government's decision: May 16, 2002
7. Local government's file number (if any): CDU- 15-2001

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

- a. Name and mailing address of permit applicant: Leventhal/Schlosser Architects
- Dan and Rosanna Shia 433 North Main Street
- 5553 Perugia Circle Fort Bragg, CA. 95437 (agent)
- San Jose, CA. 95138

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Supt. Greg Picard
- Calif. Dept. of Parks and Recreation _____
- P. O. Box 440 _____
- Mendocino, CA. 95432 _____
(2) Ms. Jane Corey _____
P. O. Boxholder _____
Elk, CA. 95432 _____
(3) _____

(4) _____

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

Reasons for appeal: (See Attachment A)

Very visible from Greenwood State Park and coastal trails. Six foot high fence and gate impact scenic Highway One. Impact on Bureau of Land Management National Monument of Elk Sea Stacks. Extremely modern architecture does not blend with nearby historic town or with natural setting. Color and roofing too light and reflective; skylight, curved window-wall and lighted reflecting pool. Safety - Geologic hazard setback may not be adequate considering; sea caves, fault lines, landslides; and landscaping placed in geologic hazard zone.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Hillary de M. Adams, appellant &
Joseph J Brecher
Signature of Appellant(s) or
Authorized Agent

Date 6/18/02

NOTE: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Joseph Brecher to act as my/our representative and to bind me/us in all matters concerning this appeal.

Hillary de M. Adams
Signature of Appellant(s)

Date June 8, 2002

6 of 7

Coastal Act: 30603 (a)(1) and (b)(2): "fails to protect public views...from a recreational area to and along the coast;" and (5): landscape requirement "does not comply with shoreline erosion and geologic setback requirements."

Coastal Act: 30001 et seq., especially (a) and (b); and 3001.5 (a): "protect, maintain, enhance and restore...coastal zone environment and its natural and artificial resources;" 30251: "the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance etc.;" 30253 (hazard) especially (1), (2) and (5).

Impact on Greenwood/Elk and Greenwood State Park, coastal trails Sea Stack National Monument and Highway One: "New development shall...where appropriate, protect special communities...which, because of their unique characteristics, are popular visitor destination points for recreational uses." LCP 3.5 et seq., especially LUP 3.5- 1 (visual resources) including six-foot high gate and fence which impact highway One; 3.5-2 (special communities: Elk), 3.5-3 (coastal views from coastal trails, parks, waters used for recreational purposes [Elk has a nationally known kayak business named Force Ten]; 3.5-5 (landscape; needs to be outside of geologic hazard zone). CZC 20.504.015 et seq., especially (C)(3) (subordinate to natural setting) and LUP 3.5-5 (landscape; presently in area of geologic hazard);

Geologic hazard of six sea caves, two fault lines and two landslides: LCP 3.4 et seq., especially LUP 3.4-7 (setback) and 12; CZC 20. 500.020 and 20.532.070 (geologic hazards) Geologic setback may not be adequate (sea caves, faults and landslides). Because of the extreme geologic hazard and the visual impacts on numerous coastal resources, and because the riparian area habitat has been mowed since the 1970's and the gate, fence, road, and second residential unit are all within the 100' setback area (CZC 20. 632.100), the ESHA riparian area of less than 100 foot setback [CZC 20.496.020(A) (1)] in this case should be subordinate to visual impacts and geologic hazard and the 50' minimum buffer allowed. Moving the main residence back to the 50 feet' ESHA setback will provide room for mitigating landscape outside the geologic hazard setback.

Question: Why are two residential units allowed on a single lot in the coastal zone when both original non-conforming units (a house and a mobile home) are being removed, and the project is an entirely new development? (CZC 20.376-025 (C) one dwelling unit per 5 acres for RR;L-5)



BACE Geotechnical
A Division of Bruning Associates, Inc.

RECEIVED

11411.2

April 25, 2003

MAY 02 2003

Mr. So-Ming (Dan) Shia
765 Market Street, No. 26A
San Francisco, CA 94103

CALIFORNIA
COASTAL COMMISSION

RE: Supplemental Evaluation, Proposed Shia Residence, 5250 South Highway One, Elk, Mendocino County, California

Dear Mr. Shia:

Introduction

This letter presents BACE Geotechnical's (BACE's) supplemental evaluation of your proposed building site at 5250 South Highway One, Mendocino County, California. The site is located on the west side of Highway One, approximately one-half mile northwest of the community of Elk, as shown on the Vicinity Map, Plate 1.

BACE previously performed an engineering geologic reconnaissance of the property and presented the results in a letter dated October 11, 1999. At that time, the building site location had not yet been determined. The present building site and sea cave locations are shown on the Site Geologic Photo Map, Plate 2.

Our supplemental evaluation is in response to comments in a letter dated August 9, 2002 from Randall Stemler of the California Coastal Commission (CCC), as well as the CCC Staff Report dated July 25, 2002. In Mr. Stemler's letter he requests an updated assessment of the following items:

- Plan and profile of the sea caves;
- Site stability (landsliding);
- Seismicity;
- Erosion potential;
- Expansive soil or rock;
- Tsunamis or storm surge;
- Quantitative stability analysis.

EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-02-029

SHIA

EXCERPTS OF
SUPPLEMENTAL GEOLOGIC
EVALUATIONS (1 of 20)

Sea Cave Survey

As previously mentioned in our 1999 letter, there are seven sea caves and one "arch" in the building site vicinity. The sea caves, labeled Caves "A" through "G", are shown on Photograph A, Plate 3. Photograph B, showing a close-up of the mouths of Caves "D" through "G", is also presented on Plate 3. Our

Principal Engineering Geologist participated in a survey of the sea caves performed by Richard A. Seale, Licensed Land Surveyor, on December 3, 2002. The survey was conducted during a tide level of minus 1.3 feet, Mean Lower Low Water, per published tide tables. The survey was performed using a transit and a 100-foot tape. Measurements were radioed to an assistant with another instrument at a vantage point on a bluff (St. Anthony's Point) approximately 1200 feet to the south-southeast. The results of the survey are shown the Building Area Geologic Map, Plate 4.

Revised Site Description

The bluff in the building site vicinity is as much as 125 feet in vertical height (estimated to be 120 feet high in our 1999 reconnaissance letter). The sea caves below the building site are essentially as previously described in our 1999 letter. The six caves mentioned in our October 11, 1999 letter, including one other cave (Cave "E", a branch off of Cave "D"), are shown on Plate 4. The main caves, Caves "C" and "D", are connected approximately 50 feet inside the bluff. Cave "C" extends further (110 feet) into the bluff than our previous, visual estimate. The back of the sea cave was probably filled with beach sand during our 1999 reconnaissance. The beach sand thickness appears to have been less during our 2002 survey than our 1999 reconnaissance.

No evidence of rock falls or severe erosion was observed within the caves during our past reconnaissance or recent survey. The insides of Caves "C" and "D" are shown in Photograph C, Plate 5, taken during our December, 2002 survey, and Photograph D, Plate 6, taken during our September, 1999 reconnaissance by kayak. A view of the cave mouth, extending toward the back of the cave, is shown on Photograph E, Plate 6. A profile (cross section) of the bluff, taken through Cave "C", is presented on Plate 7.

The two landslides at the property have not changed significantly since our 1999 reconnaissance. The larger landslide is approximately 300 feet west-northwest of the planned building site. The smaller landslide is located adjacent to the existing guesthouse, about 150 feet east and across a ravine from the planned building site. No evidence of recent movement (creep or rupture) was observed on the previously mentioned fault traces.

No Pleistocene terrace deposits have been observed at the site. However, there may be a few feet of these generally sandy deposits on the upper bluff, hidden by the brush and weed cover. No evidence (such as ground cracks) of expansive clay soils or rock materials, has been observed at the site.

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Stability Analysis

The results of the slope stability analysis of the bluff are attached in Appendix A. There are four soil/rock "units", with different density and strength parameters, that were delineated within the bluff for our stability analysis. Unit "A" is the upper, relatively thin deposit of weak soil and friable, deeply weathered bedrock. Unit "B" is the moderately hard, moderately weathered bedrock within the near-vertical upper bluff, beneath unit "A". Unit "C" is the hard, little weathered, erosion-resistant bedrock within the lower bluff. Unit "D" is the large sea cave (Cave "C") near the planned building site.

For our stability analysis Unit "A" was assigned relatively low density, 130 pounds per cubic foot (pcf), wet density, and low strength parameters, cohesion (C) of 500 pounds per square foot (psf) and friction angle (phi) of 25 degrees. These values are "typical" for the surficial soils and weathered rock materials at similar sites on the Mendocino Coast.

Unit "B" was assigned a higher wet density, 135 pcf and moderately high strength parameters, 1600 C and phi of 25 degrees. These higher values would be expected to support a near-vertical bluff slope.

Unit "C" was assigned the highest values, 145 pcf wet density, and a C of 7500 along with a phi of 35 degrees. This harder rock projects out from the bluff face and resists the erosive effects of ocean waves.

Unit "D" (sea cave) was considered a void for our stability analysis with no density or strength parameters.

The above assigned strengths were assumed from strength test results obtained from geotechnical investigations of other projects with similar geologic conditions, as well as from back-analysis of the slope stability calculations. Results of the stability analyses are presented in Appendix A.

Our slope stability analyses were performed to correspond to the guidelines by Mark J. Johnsson, Staff geologist, California Coastal Commission, "Establishing Development Setbacks from Coastal Bluffs", Proceedings, California and the World Ocean '02, in which he suggests a factor of safety greater than 1.5 for static conditions and 1.1 for seismic conditions is necessary for the area beyond the required setback distance.

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Aerial Photograph Analysis

During our 1999 reconnaissance, enlargements (from the negatives) of 1964 and 1981 aerial photographs were used as an aid in determining the bluff retreat rate. For this supplemental analysis, we also used an enlargement of an aerial photograph dated April 2, 2000. In our analyses, BACE determined the scale of each photograph by measuring the length of various physical features in the site vicinity, including a 60-foot barn. The distances between the Highway One centerline and several points on the bluff, as well as the distance from the barn corner to the bluff were then measured on each photograph. The results of our supplemental analysis confirm our previously-determined, average bluff retreat rate of 2-1/4 inches per year.

Sea Level Rise

Although not previously mentioned, the potential for increased erosion as sea level rises due to global warming has been considered. Sea level rise appears probable, however, the projected rise (1.6 feet over the next century, or 1.2 feet in the next 75 years) will be a gradual process, with the ocean rising slowly over the years. Since the lower bluffs are comprised of relatively hard rock, a gradual rise in sea level should have little effect upon present erosion rates.

CONCLUSIONS AND PRELIMINARY RECOMMENDATIONS

General

The property above the bluff appears relatively stable; we conclude that the site is suitable for the planned residence. The main considerations affecting the site, as typical of other coastal sites, are bluff retreat, landsliding, erosion, sea cave collapse, expansive soil or rock, tsunamis or storm surges, faulting and seismicity.

Retreat Rate

As discussed above, the bluff retreat rate at the site is relatively low, approximately 2-1/4 inches per year. This rate is an average that includes periodic, localized rock falls as well as long-term deterioration of the bluff face. The sea caves are not rapidly eroding; no evidence of recent rock falls or other erosion was observed within the organic stain coated rocks inside the caves.

Landslides

The noted landslides are the only areas of severe erosion at the site. The landslides are isolated areas of weak soils and weathered rock materials. The

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planned building area is not in danger from enlargement of the landslides, since the nearest is 150 feet from the planned building area. The bluffs elsewhere at the property are comprised of moderately hard to hard rocks that are generally not subject to landsliding or erosion.

Slope Stability - Revised Bluff Setback

For the bluff conditions nearest the planned residence with no underlying sea caves, our stability analyses indicate that the critical failure intercepts the ground surface approximately 35 feet back from the top of bluff for both static and seismic conditions. Therefore, we are revising our recommended bluff setback in this area from 30 to 35 feet, as shown on Plate 2.

A two dimensional analyses at the largest sea cave (Cave C) indicates that the critical failure intercepts the ground surface approximately 93 feet back from the top of bluff above the cave entrance for both static and seismic conditions. However, for this failure surface to extend beyond the sea cave toward the residence site, the added resistance of rock adjacent to the cave would increase the stability resulting in the same critical failure surface as that without the sea cave.

Another consideration on sea cave stability would be that their more likely failure mode would be a sequence of roof collapses that would progress up to the ground surface forming a "chimney". Such a collapse would be in a relatively limited area extent compared to that resulting from the conventional slope stability approach.

The sea caves have formed during the last approximately 5,000 years when present sea levels were "stabilized". During that time, the site has been subject to approximately three major seismic events on the San Andreas Fault (similar to the 1906 event) per 1000 years. Despite experiencing several such earthquakes, there has been no significant amounts of cave roof collapse.

Expansive Soil/Rock

No expansive soils or rocks were observed at the property.

Site Drainage

Since the bluffs are comprised of moderately hard to hard rocks, the erosion potential of the bluffs is relatively low. Nonetheless, runoff water should be uniformly dispersed, away from the residence or other impermeable structures or pavements. As much as practical, concentrated drainage water should be directed or conducted to the ravine east of the planned building area. The

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ground should be sloped away from the structure for proper site drainage; BACE recommends a 5 percent slope for the perimeter 5 feet adjacent to the structure.

Tsunamis

Since the planned building area is approximately 120 feet above Mean Sea Level, the potential for inundation by tsunami or storm surge is not of concern.

Faulting

The two, previously mentioned faults are located 65 feet northwest and 95 feet northeast of the planned building site, as shown on Plates 2 and 4. Neither of these inactive faults trend through or towards the planned building area. No other faults were observed during our 1999 reconnaissance or our 2002 sea cave survey.

Seismicity

Due to the proximity of the active, San Andreas Fault, there is a probability of strong seismic shaking during the lifetime of the proposed residential structure. Generally, wood-framed structures founded in firm soil/rock, and designed in accordance with current building codes, are well suited to resist the effects of ground shaking.

LIMITATIONS

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

The observations made are considered representative of the site; however, soil and geologic conditions may vary significantly between man-made excavations or natural exposures. As in most projects, conditions revealed during construction excavation may be at variance with preliminary findings. If this occurs, the changed conditions must be evaluated by BACE, and revised recommendations be provided as required.

Changes in the conditions of a site can occur with the passage of time, whether they are due to natural events or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge.

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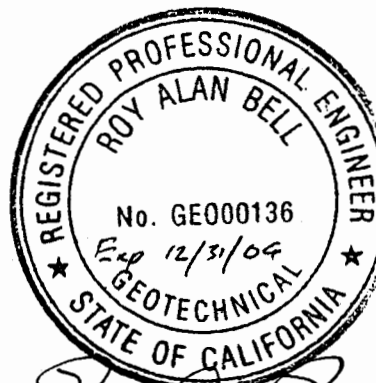
Accordingly, this report may become invalidated wholly or partially by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

The conclusions and recommendations contained in this report are based on certain specific project information regarding type of construction and building location that has been made available to us. If any conceptual changes are undertaken during final project design, we should be allowed to review them in light of this report to determine if our recommendations are still applicable.

Respectfully submitted,



Erik E. Olsborg
Erik E. Olsborg
Engineering Geologist - 1072



Roy A. Bell
Roy A. Bell
Geotechnical Engineer - 136

EEO/RAB/mjh

Attachments:

- Plate 1 - Vicinity Map
- Plate 2 - Site Geologic Map
- Plate 3 - Photographs A and B
- Plate 4 - Building Area Geologic Map
- Plate 5 - Photographs C and D
- Plate 6 - Photograph E
- Plate 7 - Bluff Profile A-A'

Appendix A - Slope Stability Analysis

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BACE Geotechnical
A Division of Brunsing Associates, Inc.

November 15, 2001

11411.2

Mr. So-Ming (Dan) Shia
765 Market Street, No. 26A
San Francisco, CA 94103

**RE: Engineering Geologic Reconnaissance, Existing Guest Residence Remodel,
5260 South Highway One, Elk, A.P. No. 127-130-05, Mendocino County,
California**

Dear Mr. Shia,

Introduction

This letter presents the results of our Engineering Geologic Reconnaissance of the existing guest residence to be remodeled at 5260 South Highway One, A. P. No. 127-130-05, Mendocino County, California. The property is located on the southwest side of Highway One, approximately one half-mile northwest of the community of Elk.

The existing guest house is currently affected by a small landslide to the southwest and slope creep on the upper bluff to the south-southeast. In order to maintain the structure for the next 75 years, it will be necessary to move the structure to the north-northeast, away from the unstable areas.

The planned guest house remodel is shown on the Plot Plan and the Guesthouse Plan and Elevations, dated May 15, 2001, prepared by Leventhal, Schlosser, Architects. According to these plans, the remodel will result in a smaller structure that is moved away from the unstable areas, but will remain within the existing house and deck "footprint".

The purpose of our services was to evaluate the existing house foundations and nearby ravine and ocean bluff stability. The scope of our services, as outlined in our Service Agreement dated October 18, 2001, consisted of studying aerial photographs, researching published geologic maps, field reconnaissance, consultation, and the preparation of this letter.

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Reconnaissance

Our undersigned Principal Engineering Geologist performed reconnaissances of the site on August 5 and September 13, 1999, and with our Project Geologist on July 18, 2001. Our September 1999 reconnaissance included exploration of the sea caves and lower bluff slopes at the property by use of a kayak. As part of our reconnaissance, we reviewed the following published geologic maps:

- Ukiah Sheet, Geologic Map Series of California, 1960, California Division of Mines and Geology (CDMG);
- Geology and Geomorphic Features Related to Landsliding, Elk 7.5-Minute Quadrangle, 1984, Open File 84-12, CDMG.

We also studied aerial photographs dated July 2, 1963 and June 23, 1981, both enlarged to a scale of one-inch equals approximately 200 feet. The bluff lines shown in those photographs were compared with each other as well as with the present bluff line, as an aid in determining bluff retreat rates for various portions of the property.

Site Conditions

The property contains an existing guest residence, a trailer-residence, and a large shed. The guest residence is located at the southeast entrance to the property, adjacent to Highway One. The trailer-residence and shed are located in the approximate north-central portion of the property. A planned main residence will be located in the southwest portion of the property.

The existing, dilapidated guest residence is just above a roughly south-facing bluff slope. The bluff edge, where the bluff steepens, begins within a few feet downslope of the attached deck. A steep-sided, south-trending ravine is adjacent to the westerly side of the residence. The ground has dropped a couple of feet from beneath a support pier at the southwest residence corner. The remainder of the house support piers (pier blocks on soil) which are visible appear to be in relatively fair condition, although the house wood siding extends down to the ground in most areas, therefore obscuring the foundations. The ground has also dropped from beneath some of the south deck support pier blocks.

Site vegetation consists of stands of fir and pine trees in the nearby vicinity, along with dense brush along the upper portions of the bluff and within the ravine west of the house.

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Site Geology

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. These rocks are generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), and little to moderately weathered. No rock bedding orientation was observed in the site vicinity.

A lineament (possible fault?) described as a "linear feature of unknown origin observed (regionally) on aerial photographs" is shown going through the ravine on Open File Report 84-12. Although the lineament does not show in our aerial photograph enlargements, we did see a north striking, near vertical, ancient fault trending up the west side of the ravine, approximately 100 feet from the existing residence. The ravine west of the house was created by weathering and erosion along the ancient, inactive fault. The near vertical fault strikes to the north. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

X
A small landslide was observed on the upper ravine at the southwest corner of the existing guest residence. The landslide has dropped several feet and undermined a support pier at the residence corner. The pier has been crudely underpinned with additional concrete, but the landslide has dropped further beneath this "repair". Slope creep is affecting the south bluff where the ground has dropped from beneath some of the deck pier blocks.

Conclusions

Based upon the results of our aerial photograph study and reconnaissances, it appears that the bluff is eroding at an average rate of about 3 to 4 inches per year. Using a retreat rate of 4 inches per year over a period of 75 years (the economic lifespan of a house per the California Coastal Commission), we estimate that the bluff will erode back approximately 25 feet. This retreat rate considers the periodic movements of the small southwesterly landslide and the creep affecting the south-southeasterly bluff.

The guest house can be protected from future bluff erosion at its current location by using relatively massive foundation improvements and/or retaining structures. The current plans by Leventhal, Schlosser, Architects to reduce the guesthouse size, thereby moving the structure away from the bluff edges, will eliminate the need for massive retaining structures. In order to protect the remodeled structure from bluff retreat over the next 75 years, the structure will need a foundation system of closely spaced, deep drilled piers, installed under the planned southwest and southeast attached decks. The deep, drilled piers should penetrate the unstable slide debris soils and gain support in the underlying firm rock. Foundation design criteria should be determined by a geotechnical investigation that would include sampled test borings, laboratory testing, and geologic and engineering analyses.

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As is typical of the Mendocino County coast, the site will be subject to ground shaking during future, nearby earthquakes. Since we observed no evidence of active faulting in the property vicinity, we consider the risk of fault rupture at the site to be relatively low.

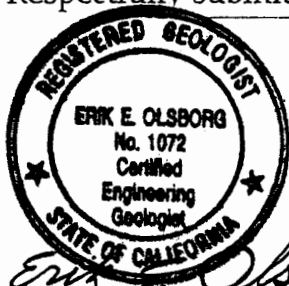
Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

Changes in the condition of a site can occur with the passage of time, whether they are due to natural events, or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become wholly or partially invalidated by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

The conclusions and recommendations contained in this report are based upon certain specific project information regarding type of construction and project location, which has been made available to us. If any project modifications are made later, we should be allowed to review them in light of this report to determine if our conclusions and recommendations are still applicable.

Respectfully submitted,



Erik E. Olsborg
Engineering Geologist - 1072



Peter R. Dodsworth
Geotechnical Engineer - 278

EEO/PRD/cp

Two copies submitted

cc: Leventhal, Schlosser, Architects

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BACE Geotechnical
A Division of Bruning Associates, Inc.

October 11, 1999

11411.1

Mr. So-Ming (Dan) Shia
5553 Perugia Circle
San Jose, CA 95138

**RE: Engineering Geologic Reconnaissance, Proposed Blufftop Residence,
5250 South Highway One, Elk, A. P. No. 127-130-04 & 05, Mendocino
County, California**

Dear Mr. Shia:

This letter presents the results of our Engineering Geologic Reconnaissance of 5250 South Highway One, A. P. No. 127-130-04 & 05, Mendocino County, California. The property is located on the southwest side of Highway One, approximately one half-mile northwest of the community of Elk.

The purpose of our services was to evaluate the ocean bluff stability at the property in order to determine building feasibility and setback criteria. The scope of our services, as outlined in our Service Agreement, dated September 9, 1999, consisted of studying aerial photographs; researching published geologic maps; field reconnaissance, including exploration of sea caves by kayak; consultation; and the preparation of this letter.

Reconnaissance

Our undersigned, Principal Engineering Geologist performed reconnaissances of the site on August 5 (for a previous client) and September 13, 1999. Our September reconnaissance included exploration of the sea caves at the property by use of a kayak. As part of our reconnaissance, we reviewed the following published geologic maps:

- Ukiah Sheet, Geologic Map Series of California, 1960, California Division of Mines and Geology (CDMG);
- Geology and Geomorphic Features Related to Landsliding, Elk 7.5-Minute Quadrangle, 1984, Open File Report 84-12, CDMG.

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Site Conditions

The southeast, southwest, and northwest sides of the property are surrounded by ocean water. A sandy beach is located at the bluff toe in the western portion of the property; a dirt road goes partially down the bluff toward this beach. The lower portion of this road becomes a rough hiking trail down to the beach. A chain of large, rock islands extends out into the ocean, southwest of the beach. Greenwood Cove is on the southeast side of the rock/island chain; Cuffeys Cove is on the northwest side. There is another sandy beach at the northwest end of the property where the mouth of Laurel Gulch meets the ocean. An unnamed tributary to Laurel Gulch forms the northerly boundary of the property.

The bluffs within the westerly three-fifths of the property are approximately 90 to 100 feet in vertical height; the easterly two-fifths of the property bluffs are approximately 120 feet in vertical height. An indentation into the bluff separates the two terrace areas, as can be seen on the attached Site Photograph. Another bluff indentation forms a steeply sloping ravine on the southwest side of the existing residence.

Six small to medium size sea caves are located at the toe of the easterly two-fifths of the bluffs. Two of the medium size caves are connected about 50 feet back into the bluff. Due to the slope of the bluff in this area, the caves do not extend more than a few feet beyond of the upper bluff edge. The smaller caves are only about 10 to 30 feet in length.

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Mr. Shia
October 11, 1999
Page Three

11411.1

Site vegetation consists of stands of fir and pine trees in the north and east areas of the property, along with dense brush along the upper portions of the bluffs and within the unnamed tributary to Laurel Gulch on the north side of the property. Outside of the stands of trees, closely mowed grasses and weeds cover the upper terrace level of the property. The lower bluffs are mostly bare rock.

Site Geology

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. These rocks are generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), and little to moderately weathered. No rock bedding orientation was observed in the site vicinity. The bluff indentation separating the two terrace levels was created by weathering and erosion along an ancient, inactive fault. The near vertical fault strikes to the north.

A lineament (possible fault?) described as a "linear feature of unknown origin observed (regionally) on aerial photographs" is shown going through the southeasterly bluff indentation on Open File Report 84-12. Although the lineament does not show in our aerial photograph enlargements, we did see a north striking, near vertical, ancient fault trending up the west side of the ravine, approximately 100 feet from the existing residence. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

An area of shallow landsliding or slope creep was observed on the bluff face above the sandy beach at the northwest end of the property. This landslide may have been caused by the past road construction in this area. The landslide has destroyed the dirt road that once went to the beach in this area. The slide debris that reaches the bluff toe is periodically washed away by "large" storm waves; "normal" high tides do not reach the bluff toe in this area. One other small landslide was observed on the upper slope of the ravine at the southwest corner of the existing residence. The landslide has undermined a support pier at the residence corner.

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Mr. Shia
October 11, 1999
Page Four

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Conclusions

Preliminary bluff setback distances for buildings are provided on the attached Site Photograph. The setbacks for those portions of the bluffs in direct contact with ocean waves are based upon an average retreat rate of 2-1/4 inches per year for 75 years (considered to be the economic lifespan of a house by the California Coastal Commission) times a factor of safety of two (then rounded up slightly). Other portions of the bluffs have slightly higher setbacks based upon the bluff stability (landsliding) or susceptibility to bluff face erosion unrelated to wave erosion.

Conventional footing foundations can be used with these setbacks provided that BACE reviews the project plans; verifies the setbacks in the field when the house corners have been staked; and observes the foundation excavations during construction. The presence of weak surficial soils may require that footings be deepened beyond Uniform Building Code minimums to gain uniform support in underlying firm soil or rock.

As typical of the Mendocino County coast, the site will be subject to ground shaking during future, nearby earthquakes. Since we found no evidence of active faulting in the property vicinity, we consider the risk of fault rupture at the site to be relatively low.

Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

Changes in the condition of a site can occur with the passage of time, whether they are due to natural events, or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become wholly or partially invalidated by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

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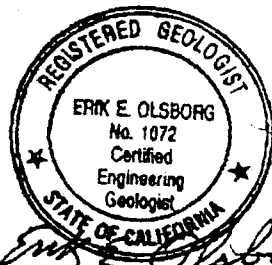


Mr. Shia
October 11, 1999
Page Five

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The conclusions and recommendations contained in this report are based upon certain specific project information regarding type of construction and project location which has been made available to us. If any project modifications are made later, we should be allowed to review them in light of this report to determine if our conclusions and recommendations are still applicable.

Respectfully submitted,



exp 2/29/01

Erik E. Olsborg
Engineering Geologist - 1072

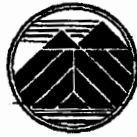
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two copies submitted

cc: Ms. Giovanna Chacon, Mendo Realty

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BACE Geotechnical
A Division of Bruning Associates, Inc.

October 12, 1999

T1411.1

Mr. So-Ming (Dan) Shia
5553 Perugia Circle
San Jose, CA 95138

RE: Engineering Geologic Reconnaissance, Existing Residence, 5250 South Highway One, Elk, A. P. No. 127-130-04 & 05, Mendocino County, California

Dear Mr. Shia:

This letter presents the results of our Engineering Geologic Reconnaissance of the existing residence at 5250 South Highway One, A. P. No. 127-130-05, Mendocino County, California. The property is located on the southwest side of Highway One, approximately one half-mile northwest of the community of Elk.

The purpose of our services was to evaluate the existing house foundations and nearby ocean bluff stability. The scope of our services, as outlined in our Service Agreement, dated September 9, 1999, consisted of studying aerial photographs; researching published geologic maps; field reconnaissance, including exploration of sea caves by kayak; consultation; and the preparation of this letter.

Reconnaissance

Our undersigned, Principal Engineering Geologist performed reconnaissances of the site on August 5 (for a previous client) and September 13, 1999. Our September reconnaissance included exploration of the sea caves and lower bluff slopes at the property by use of a kayak. As part of our reconnaissance, we reviewed the following published geologic maps:

- Ukiah Sheet, Geologic Map Series of California, 1960, California Division of Mines and Geology (CDMG);
- Geology and Geomorphic Features Related to Landsliding, Elk 7.5-Minute Quadrangle, 1984, Open File 84-12, CDMG.

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Mr. Shia
October 12, 1999
Page Two

11411.1

We also studied aerial photographs, dated July 2, 1963 and June 23, 1981, both enlarged to a scale of one-inch equals approximately 200 feet. The bluff lines shown in those photographs were compared with each other as well as with the present bluff line, as an aid in determining bluff retreat rates for various portions of the property.

Site Conditions

The property contains an existing residence, a trailer-residence, and a large shed. The residence is at the southeast entrance to the property, adjacent to Highway One. The trailer-residence and shed are located in the approximate north-central portion of the property.

The existing, dilapidated residence is just above a roughly south-facing bluff slope. The bluff edge, where the bluff steepens, begins within a few feet downslope of the attached deck. A steep-sided, south-trending ravine is adjacent to the westerly side of the residence. The ground has dropped a couple of feet from beneath a support pier at the southwest residence corner. The remainder of the support piers (pier blocks on soil) which are visible appear to be in relatively fair condition, although the house wood siding goes down to the ground in most areas, therefore obscuring the foundations. The house does not have a perimeter, footing foundation, as presently required by the Uniform Building Code (UBC).

Site vegetation consists of stands of fir and pine trees in the nearby vicinity, along with dense brush along the upper portions of the bluff and within the ravine west of the house.

Site Geology

The bluffs are comprised of sandstone and minor shale of the Cretaceous-Tertiary Franciscan Complex coastal belt. These rocks are generally massive, little to closely fractured, friable to very hard (predominantly moderate in hardness), and little to moderately weathered. No rock bedding orientation was observed in the site vicinity.

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Mr. Shia
October 12, 1999
Page Three

11411.1

A lineament (possible fault?) described as a "linear feature of unknown origin observed (regionally) on aerial photographs" is shown going through the ravine on Open File Report 84-12. Although the lineament does not show in our aerial photograph enlargements, we did see a north striking, near vertical, ancient fault trending up the west side of the ravine, approximately 100 feet from the existing residence. The ravine west of the house was created by weathering and erosion along the ancient, inactive fault. The near vertical fault strikes to the north. The active San Andreas Fault is located offshore, approximately four miles to the southwest.

A small landslide was observed on the upper ravine at the southwest corner of the existing residence. The landslide has dropped several feet and undermined a support pier at the residence corner. The pier has been crudely underpinned with additional concrete, but the landslide has dropped further beneath this "home repair".

Conclusions

The house foundations should be upgraded in accordance with the UBC, and the southwest house corner should be shored by a retaining structure. Drilled piers penetrating the unstable slide debris soils and gaining support in the underlying firm rock will be necessary for support of the retaining structure. The house foundation and retaining wall design criteria should be determined by a geotechnical investigation that would include sampled test borings, laboratory testing, and geologic and engineering analyses. Such a retaining structure and upgraded foundations should provide stability for the house for at least 25 years, or more.

As typical of the Mendocino County coast, the site will be subject to ground shaking during future, nearby earthquakes. Since we found no evidence of active faulting in the property vicinity, we consider the risk of fault rupture at the site to be relatively low.

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Mr. Shia
October 12, 1999
Page Four

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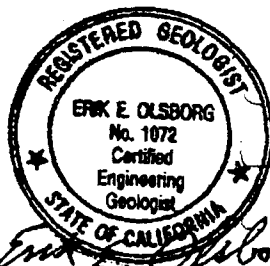
Limitations

This engineering geologic reconnaissance was performed in accordance with the usual and current standards of the profession, as they relate to this, and similar localities. No other warranty, either expressed or implied, is provided as to the conclusions and professional advice presented in this report. Our conclusions are based upon reasonable geologic and engineering interpretation of available data.

Changes in the condition of a site can occur with the passage of time, whether they are due to natural events, or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge. Accordingly, this report may become wholly or partially invalidated by changes outside of our control. Therefore, this report is subject to review and revision as changed conditions are identified.

The conclusions and recommendations contained in this report are based upon certain specific project information regarding type of construction and project location which has been made available to us. If any project modifications are made later, we should be allowed to review them in light of this report to determine if our conclusions and recommendations are still applicable.

Respectfully submitted,



Erik E. Olsborg
Engineering Geologist - 1072

EEO/PRD/mab

two copies submitted

cc: Ms. Giovanna Chacon, Mendo Realty

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Botanical Surveys
GORDON E. McBRIDE, Ph.D.

August 5, 2003

R

EXHIBIT NO. 7

APPLICATION NO.

A-1-MEN-02-029

SHIA

EXCERPTS OF
BOTANICAL SURVEYS
(1 of 13)

AUG 12 2003

CALIFORNIA
COASTAL COMMISSION

Mr. Randolph Stemler, Coastal Planner
California Coastal Commission
North Coast Office
710 E Street, Eureka, CA 95501

RE: PROTECTION OF SENSITIVE HABITAT DURING REMOVAL OF EXISTING
STRUCTURE ON SITE OF COASTAL DEVELOPMENT PERMIT #A-1-MEN-02-029
AT 5260 SOUTH HIGHWAY ONE, ELK (AP #127-130-04, SHIA)

Dear Mr. Stemler:

In order to avoid potential impact to the riparian plant community on the above referenced site I recommend that a deconstruction protective barrier be erected between the dilapidated frame structure and the riparian plant community. The barrier may be either 4 foot high plastic construction fencing supported by temporary steel posts or bales of straw placed end to end. The barrier fence should be on the north side of the existing gravel driveway and the riparian plant community, allowing access to the site.

The proposed method for deconstructing the structure is first salvage of any material that is useful, then back hoe demolition. I recommend that, as the structure is torn down, it should not be allowed to fall or accumulate between the protective barrier and the riparian plant community. The resulting debris from the deconstruction of the house should be removed from the site to an appropriate dump, leaving only the bare footprint of the existing structure.

When the existing structure is removed I recommend that the exposed soil be stabilized by straw or hay mulch, using if possible, local grass straw or hay. This mulch will absorb kinetic energy associated with rain fall that could otherwise trigger erosion of the unvegetated soil. The mulch will also: (1) act as a matrix to trap seeds of natural adjacent vegetation to hasten the revegetation of the site and (2) provide a source of seeds for revegetation. The mulching should be done as soon as the deconstruction is complete and all debris cleaned up and removed. If at all possible the deconstruction should be completed before the onset of the rainy season. If deconstruction is undertaken during the rainy season exposed soil should be mulched as soon as it is exposed.

In order to provide a plant community with structural diversity, screening of the proposed construction from the road, privacy for the new proposed construction and to minimize erosion, I recommend that the disturbed soil under the footprint of the existing structure be planted with eventual overstory Bishop Pine (*Pinus muricata*) container stock and any of the following native midlevel vegetation: Coyote Brush (*Baccharis pilularis*), Wax Myrtle (*Myrica californica*), Coffee Berry (*Rhamnus californica*) or

stock and any of the following native midlevel vegetation: Coyote Brush (Baccharis pilularis), Wax Myrtle (Myrica californica), Coffee Berry (Rhamnus californica) or Gooseberry (Ribes sanguinum or R. menziesii). The plantings should take place in the late fall, well after the rainy season is established and the ground is wet, so the container stock will have the subsequent wet season to establish root contact with a permanent water level. The Bishop Pine container stock should be planted not closer than +/- fifteen foot centers. The midlevel vegetation should be planted on +/- five foot centers. If the winter of 2003 or 2004, or whenever the project is undertaken, proves to be a dry one (with an average of less than 30 inches) of the spring and early summer following deconstruction are particularly dry with desiccating winds, I recommend that the container stock plantings be watered either on a weekly basis or by the installation of a drip irrigation system. This will insure the establishment of root contact with the permanent water table.

Naturally occurring ground level vegetation will establish itself by the matrix of mulch trapping seeds from nearby vegetation and direct germination of seeds contained in the native grass hay. Unless mowing is mandated for fire safety (by California Department of Forestry and Fire Protection or by a local fire district, etc) the ground level vegetation that is established the first year should not be mowed until it has gone to seed to encourage future ground level vegetation on the footprint of the demolished house.

Please do not hesitate to contact me if you have questions.

Sincerely,

Gordon E. McBride

2/9/13

Botanical Surveys
GORDON E. McBRIDE, Ph.D.

September 4, 2002

Mr. Randolph Stemler
California Coastal Commission
North Coast District Office
710 E. Street, Suite 200
Eureka, CA 95501

RE: Coastal Development Permit #A-1-MEN-02-029(Appeal of CDU #15-2001)

Dear Mr. Stemler:

This letter addresses Item 4, page 3 of your letter of August 9, 2002 to Mr. and Mrs. Shia concerning the above referenced Coastal Development Permit appeal.

Regarding the proposed primary residence I do not recommend relocation of the proposed structure within the 100 foot buffer that has been previously been recommended. As I understand your letter, this recommendation precludes the necessity to address the standards in the certified Mendocino County Coastal Zoning Code Section 20:496.020 (A) (1) (a) through (g) in regard to the proposed primary structure. The property owner is willing to abide by the recommended 100 foot buffer. If another party has an interest in moving the proposed main residence within the 100 foot buffer, it should be incumbent upon them develop the requested analysis. A critical point that must be made is that if the house is relocated within the 100 foot buffer it will necessitate the removal (including root systems – a substantial impact to soil stability) of a significant portion of the copse of Bishop pine trees within the buffer area. The removal of some or all of the Bishop pine grove may render the proposed single family dwelling just as visible from the road as the proposed location outside of the 100 foot buffer. That impact is unnecessary if the house remains in its proposed location outside of the 100 foot buffer.

The existing driveway on the parcel is another matter. There is one overriding fact that must be taken into account pertaining to the requested evaluation of the width of the riparian ESHA – that is there is no other potential choice for locating the driveway. The proposed 100 foot buffer extends beyond the edge of the bluff to the south. Any discussion of relocating the existing driveway outside of the 100 foot buffer is at best academic. The existing driveway has been in place for many years. It is rocked so the surface will allow penetration of rainwater while the rock surface intercepts the kinetic energy associated with rainfall that would accelerate erosion on unprotected soil. The driveway is on essentially level ground. There is no evidence of driveway associated erosion moving in the direction of the riparian habitat to the north. Regarding Section 20.496.020 (A) (1) (a) Biological Significance of Adjacent Lands: Surely a functional relationship exists between the riparian habitat and the adjacent lands. Wildlife species that use the riparian habitat may indeed access the open portions of the site for feeding or

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rest: the key to maintaining the functional relationship would be maintaining access between the riparian habitat and the other habitat types on the parcel. The historic existence of the road does not in any way compromise access between the riparian habitat and other habitats on the site. Regarding 20.496.020 (A) (1) (b) Sensitivity of Species to Disturbance: any wildlife species that would otherwise inhabit the riparian habitat and other communities on the site, but would be sensitive to any development would have abandoned the site when the State Highway 1 and the existing development were established. The species that presently inhabit the riparian habitat have already demonstrated a tolerance to existing human presence and use of the road. Use of the existing road will not disturb any wildlife species. I am aware of no plant species in coastal Mendocino County that would be negatively impacted by continued use of the existing road.. Regarding 20.496.020 (A) (1) (c) Susceptibility of Parcel To Erosion: The soil type on the site, according to the Mendocino County Soil Survey is Flumeville clay loam (see attached printout). The hazard of water erosion is "slight if the surface if left bare". The existing road surface is rocked, so the susceptibility of the road to erosion is less than slight. Regarding 20.496.020 (A) (1) (d) Use of Natural Topographic Features to Locate Development: There is nothing to address regarding this point. The access road has existed for decades. No new road construction is proposed. Any proposed road relocation would still be within the 100 foot buffer. Regarding 20.496.020 (A) (1) (e) Use of Existing Cultural Features to Locate Buffer Zones: There are no cultural features, with the exception of the road in question, that can be used to locate buffer zones. Regarding 20.496.020 (A) (1) (f) Lot Configuration and Location of Existing Development: It appears that the only two developments under consideration in this category are roads. State Highway 1 crosses the subject riparian habitat without any buffer zone considerations. It is paved and thus concentrates runoff more than a pervious road surface would. State Highway 1 has, compared to the driveway in question, a high traffic load with considerable potential for negative impact to the riparian habitat, but outside of the direct impact of original construction, I can discern no negative impact from State Highway 1 on the riparian habitat. If the rationale of the premise behind item (f) is applied to the existing road on the Shia lot, it should be allowed to remain in use. Regarding 20.496.020 (A) (1) (g) Type and Scale of Development Proposed: no new development is proposed. Only the use of an existing and stable road is proposed.

In reference to the proposed new residence in the footprint of the existing mobile home the initial observation must be made: the existing mobile home, while less than 100 feet from the existing riparian habitat, does not appear to have compromised the integrity of the riparian habitat. It is hard to generate an argument that a new structure, built entirely within the footprint of the existing structure, with adequate temporary physical protection for the riparian habitat from construction activities, will compromise the adjacent riparian habitat any more than the existing structure. Regarding 20.496.020 (A) (1) (a):

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As previously stated, a functional relationship exists between the riparian habitat and adjacent plant communities. I can find no evidence that the existing mobile home has compromised the functional relationship. I see no reason to conclude that the proposed new structure in the footprint of the existing mobile home would negatively impact that functional relationship. Regarding 20.496.020 (A) (1) (b): As with the road argument above, any species sensitive to human impact would have abandoned the area when the site was first settled and the existing mobile home put in place. The bird, mammal, reptile, amphibian and invertebrate species presence have long since adapted to human activity. Regarding 20.496.020 (A) (1) (c): The soil in the vicinity of the existing mobile home is Flumeville clay loam and the erosion potential is slight if the soil is left bare. If a new structure is put in place in the footprint of the existing mobile home there will be little or no soil left bare. As I previously recommended, a physical barrier - bales of straw - should be erected between the proposed construction footprint and the riparian habitat during construction, and any disturbed soil should be mulched with straw or another appropriate material until vegetation has reestablished (the following growing season). Regarding 20.496.020 (A) (1) (d): There are no natural topographic features available to use as elements of the buffer area. Regarding 20.496.020 (A) (1) (e): There are no existing cultural features (roads or dikes) available to use as elements of the buffer area. Regarding 20.496.020 (A) (1) (f): The site is not a component of a subdivision and there is no buildout to consider. The proposed structure is a replacement of an existing mobile home with a new structure, and it will be the same distance from the riparian habitat as the existing structure. I question whether this constitutes "new" development. No new development is proposed in an area that is undeveloped. Regarding 20.496.020 (A) (1) (g): The type and scale of development will utilize the existing footprint of an existing mobile home. It does not appear to change the relationship between the proposed structure and the riparian habitat.

Please do not hesitate to contact me if you have any questions or comments.

Sincerely,

Gordon E. McBride

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144—Flumeville clay loam, 0 to 5 percent slopes

This very deep, poorly drained soil is on marine terraces. It formed in alluvium derived from mixed rock sources. The vegetation is mainly perennial grasses and forbs. Elevation ranges from 10 to 1,200 feet. The average annual precipitation is 35 to 45 inches, the average annual air temperature is about 53 degrees F, and the average frost-free period is 250 to 330 days.

Typically, the surface layer is dark gray clay loam about 11 inches thick. The upper 15 inches of the subsoil is grayish brown clay loam and clay that have reddish brown and strong brown mottles. The lower 36 inches is light gray and white clay that has strong brown mottles. In some areas the surface layer is loam.

Included with this soil in mapping are small areas of Windyhollow and Cabrillo soils and Tropaquepts. Also included are small areas that have slopes of 5 to 9 percent. Included areas make up about 15 percent of the total acreage of the unit. The percentage varies from one area to another.

Permeability is very slow in the Flumeville soil. Available water capacity is high. The effective rooting depth is limited by saturation for long periods following episodes of heavy rain from December through April. The saturated zone starts between the depths of 12 and 30 inches and extends to a depth of more than 60 inches. Surface runoff is very slow or slow, and the hazard of water erosion is slight if the surface is left bare.

This unit is used for livestock grazing, hay production, pasture, or wildlife habitat.

In areas used for livestock grazing, the characteristic plant community is mainly common velvetgrass, bentgrass, and California oatgrass.

The main limitations affecting range management are trafficability and the seasonally saturated soil conditions. The use of equipment is limited to dry periods. Grazing should be delayed until the soil has drained sufficiently and is firm enough to withstand trampling by livestock. If seeding is considered, species that are tolerant of the saturated soil conditions should be selected.

If this unit is used for hay production or pasture, the main limitations are the seasonally saturated soil conditions, the very slow permeability, and the clayey textures. The wetness limits the choice of plants and the period of cutting. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition and minimize surface compaction. Because of the restricted permeability, applications of irrigation water should be regulated so that adequate infiltration is possible. The seasonally saturated soil conditions reduce the amount of irrigation water needed. Because of the clayey textures, grazing when the soil is wet causes compaction and poor tilth. Grazing should be deferred when the surface layer is saturated.

Windbreaks may be desirable on this unit to protect buildings, livestock, and fields from prevailing winds. The main limitation affecting the establishment of windbreaks is the seasonal wetness. Trees and shrubs that are tolerant of saturated soil conditions should be planted. Among the trees that are suitable for planting are eucalyptus and bishop pine.

The capability classification is IIIw-2(4), nonirrigated, and IIw-2(4), irrigated.

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Botanical Surveys
GORDON E. McBRIDE, Ph.D.

November 16, 2001

Mr. Dennis Chatty
Coastal Planner
Mendocino County
Department of Planning and Building Services
501 Low Gap Road, Room 1440
Ukiah, CA 95482

RE: RIPARIAN SETBACK BUFFER AREA ON SHIA PARCEL, 5280 HIGHWAY
ONE, ELK - AP # 127-130-04, 127-130-05.

Dear Mr. Chaty:

In the matter of the recommended riparian setback on the Shia parcel I defer to the recommendation of a 100 foot buffer, measured from the edge of the riparian plant community, as recommended by Mary Rhyne in her reports of April 2, 17, and September 30, 2001.

Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

Gordon E. McBride

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Planning and Building Services
Mendocino County Courthouse
501 Low Gap Road, Ukiah, CA

April 17, 2001

APN 127-130-04, 127-130-05

Dear Planners:

This is an ammended Botanical Survey Report for Dan and Rosanna Shia whose property is located north of Elk at 5280 Highway One.

My earlier report of April 2, 2001 addressed the need to stake the upland limits of the riparian vegetation of a creek running through a corner of their property. This staking was done.

I also stated that the presence of rare and endangered plants could not be addressed in March and recommended that a botanical survey be conducted in late May or June.

During this past week I was furnished a copy of Dr. Gordon McBride's botanical report of July 14, 1999 made after two surveys May 13 and July 12, 1999. He covers his search for rare and endangered plants and lists the few that he found well beyond a possible building site. I feel his report obviates the need for another botanical survey to locate rare plants. His surveys were conducted at times when rare plants were blooming.

I would disagree with his suggestion of requiring a 50 ft. buffer between the riparian vegetation and a possible building envelope. I see no reason to not use the usual 100 ft. buffer for wetlands protection.

I hope you will consider both McBride's and my reports for the required Botanical Survey.

Sincerely,

Mary Rhyne

Mary Rhyne, Botanical Surveyor
42227 Roseman Creek Rd.
Gualala, CA 95445

cc: Schlosser

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Planning and Building Services
Mendocino County Courthouse
501 Low Gap Road, Ukiah, CA

April 2, 2001

APN 127-130-04, 127-130-05

Dear Planners:

Robert Schlosser, architect for Dan and Rosanna Shia, has asked me to stake the upland margin of the riparian vegetation on the Shia parcels APN 127-130-04 and 127-130-05. The parcels are located north of Elk and west of Highway One, (mileage marker 34.87) with the street address 5280 Highway One.

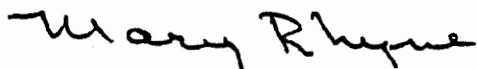
This was done March 30, 2001. The riparian vegetation is growing on the sides of a creek which drains water from the east side of Highway One. It is a natural channel which empties water into the Pacific Ocean by way of Laurel Creek to the northwest. The creek on the Shia parcels follows the northern boundaries of both parcels.

Stakes marked with a "BOT" in orange color were placed 50 to 100 feet apart where the creek enters their property from Highway One and then the spacing becomes wider after the creek joins Laurel Creek and approaches the ocean. The vegetation in this most western portion of Laurel Creek is on a very steep canyon and it is no longer riparian until deeper into the canyon. It is mixed chaparral with Ceanothus, Poison Oak and Coffee Berry predominating.

The usual buffer of 100 feet from the upland border of riparian vegetation should be observed for the building envelope.

The presence of rare or endangered plants cannot be addressed at this season as the flowers will not be developed until late May or June. However it is very unlikely that rare plants exist on the prairie portion of parcel 04 as that vast field has been cultivated and mowed by previous owners. The higher elevations of parcel 05 with a small forest of Bishop Pine may have Lilium maritimum (Maritime Lilies), Campanula californica (California Harebell), Erigeron supplex (Suplex Daisy) but they will not be evident until late May or June. If this area is chosen as a building site it should be examined for rare plants in May/June.

Sincerely,



Mary Rhyne, Botanical Surveyor
42227 Roseman Creek Rd.,
Gualala, CA 95445

cc: Schlosser

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Botanical Surveys

Requested by Earl Burger

GORDON E. MCBRIDE, Ph.D.

will show me the endangered plant, if I let him go get some abundance.

DATE: July 14, 1999

To: Mendocino County
 Department of Building and Planning Services
 589 Low Gap Road
 Ukiah, CA 95482

From: Gordon E. McBride, PhD
 30301 Sherwood Road
 Fort Bragg, CA 95437
 707 964 2922

Re: BOTANICAL SURVEY AS REQUIRED FOR PROPOSED COASTAL DEVELOPMENT PERMIT ON A 11.18+- ACRE PARCEL AT 5250 AND 5260 SOUTH HIGHWAY ONE, ELK, CA. (AP #127-130-04 AND 127-130-05, MATSON).

1. PROJECT DESCRIPTION: The proposed Coastal Development Permit would allow the construction of a single family dwelling on a 11.18+- acre parcel at 5250 and 5260 South Highway 1, Elk, Ca.
2. AREA DESCRIPTION: The site is on the youngest coastal terrace situated between State Highway 1 and the Pacific Ocean. Three plant communities are represented on the site: non native grassland on most of the level portion (that was originally coastal bluff scrub and or coastal terrace prairie, but has been subject to regular mowing for accumulated years), coastal bluff scrub on the bluff edge and bluff face and a riparian plant community associated with the immediate banks of Laurel Creek, near the northwest corner of the site.

There is a single family dwelling, well, septic system, driveway and a mobile home on the site. There is a historical road that goes from the level terrace, along the western bluff face, to the area of the beach.

Within the non native grassland there are several scattered Bishop Pine (Pinus muricata), Monterey Cypress (Cupressus macrocarpa) and Douglas Fir (Pseudotsuga menziesii).

There is no midlevel vegetation in this area.

Groundcover vegetation is composed of Sweet Vernal Grass (Anthoxanthum odoratum), Velvet Grass (Holcus lanatus), Ripgut Grass (Bromus diandrus), Blackberry (Rubus ursinatus), Wild Oat (Avena fatua), Douglas Iris (Iris douglasiana), Blue Eyed Grass (Sisyrinchium bellum), Cat's Ear (Hypochaeris radicata), Plantain (Plantago lanceolata), Pineapple Weed (Chamomilla suaveolens), Silver Hairgrass (Aira caryophylla), Horkelia (Horkelia californica ssp. californica), Flax (Linum).

30301 Sherwood Road, Fort Bragg, CA 95437 USA (707) 964-2922

email: gmcbride@jps.net

website: <http://www.jps.net/gmcbride/consult.htm>

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Matson Botanical Survey, Pg. 2

usitatissimum), Sheep Sorrel (Rumex acetosella), Vulpia (Vulpia bromoides), Hedge Nettle (Stachys rigida), Sow Thistle (Sonchus oleracea), Buckwheat (Eriogonum lanatum), Quaking Grass (Briza maxima), California Poppy (Eschscholzia californica), Wild Radish (Raphanus sativa), Birdsfoot Trefoil (Lotus corniculatus) and associated plant species.

The coastal bluff scrub plant community is composed of Willow (Salix sp.), Coyote Brush (Baccharis pilularis), Silktassel (Garrya elliptica), Poison Oak (Toxicodendron diversilobum), Poison Hemlock (Conium maculatum), Coffee Berry (Rhamnus californica), Blueblossom (Ceanothus thyrsiflorus), Honeysuckle (Lonicera involucrata), Blackberry, Cow Parsnip (Heracleum lanatum), Himalaya Berry (Rubus discolor), Buckwheat (Eriogonum latifolium), Seaside Wooly Sunflower (Eriophyllum staechadifolium), Bee Plant (Scrophularia californica), Rape (Brassica rapa), Yarrow (Achillea borealis), Monkeyflower (Mimulus aurantica), Lupine (Lupinus arboreus), Douglas Iris (Iris douglasiana), Bull Thistle (Cirsium vulgare), Seaside Daisy (Erigeron glauca), Mendocino Paintbrush (Castilleja mendocinensis), Wight's Paintbrush (Castilleja wightii), Horkelia (Horkelia californica ssp californica), Dogtail Grass (Cynosurus echinatus), Skunkweed (Navaretia squarrosa), Tarweed (Madia sativa), Wild Cucumber (Marah oreganus), Dock (Rumex crispus), Barley (Hordeum murinum ssp gussoneanum), Phacelia (Phacelia californica), Thimbleberry (Rubus parviflorus), Fireweed (Erichites glomerata), Live Forever (Dudleya farinosa) and associated plant species.

The riparian plant community is represented by Alder (Alnus oregana), Thimbleberry (Rubus parviflorus), Salmon Berry (Rubus spectabilis), Sedge (Carex obnupta), Elderberry (Sambucus mexicana) and associated plant species.

3. SURVEY METHODOLOGY AND DATES: The site was surveyed on May 13 and July 12, 1999. The survey was conducted by walking the site and making field notes of the plant communities and species represented. Any material needing further identification was taken to the laboratory and keyed in one or more of the references listed below.

The California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Plants of California shows eight plants to be anticipated from the Elk quadrangle: Blasdale's Bent Grass, Swamp Harebell, California Sedge, Mendocino Coast Paintbrush, Pygmy Cypress, Coast Lily, Bolander's Pine and the Point Reyes Checkerbloom. See Appendix A for a CNPS Fulldata Printout for these species.

Bolander's Pine and the Pygmy Cypress are trees and can be recognized any time of year. Blasdale's Bent Grass, the Swamp Harebell, the California Sedge, Mendocino Paintbrush and the Coast Lily were all known to be blooming from reference.

Matson Botanical Survey, Pg. 3

populations at the time of the July 12 field survey. I have no reference population for the Point Reyes Checkerbloom, however the CNPS Electronic Inventory shows the blooming window for the Point Reyes Checkerbloom to be open between the months of April to September.

4. RESULTS AND DISCUSSION: Blasdale's Bent Grass, the Swamp Harebell, California Sedge, Pygmy Cypress, the Coast Lily, Bolander's Pine and the Point Reyes Checkerbloom were not located on the Matson site by this survey.

There is one plant of the Mendocino Paintbrush growing on the edge of the bluff near the area where the historical road goes down to the beach. There are several populations of the Mendocino Paintbrush on the bluff face. These populations should be protected from development or disturbance. These populations would be protected by the fact no development is proposed or possible on the bluff face. No additional protection appears necessary. In addition to the Mendocino Paintbrush on the bluff edge and bluff face, there are several populations of Wight's Paintbrush intermingled with the Mendocino Paintbrush in that area. Wight's Paintbrush is not rare or endangered.

- * No other rare or endangered plants were discovered on the site as a result of this survey.

The riparian plant community along the banks of Laurel Creek is sensitive habitat and should be protected from disturbance. Laurel Creek, however, only crosses the northwest corner of the parcel where both the creek banks and ocean bluff are very steep and the coastal bluff scrub is dense and impenetrable. Without extensive machete work it is not even possible to reach the riparian community to flag it for identification. No development or disturbance is proposed in this portion of the site. Should, at any point in the future, any development or disturbance be proposed in this portion of the parcel the riparian community should be delineated and protected by a 50 foot buffer in which no development or disturbance is permitted. This would probably be best accomplished using aerial photography, given the steep nature of the terrain and density of the coastal bluff scrub.

5. IMPACT ASSESSMENT AND MITIGATION MEASURES: No mitigation measures are necessary for the protection of Blasdale's Bent Grass, Swamp Harebell, California Sedge, Pygmy Cypress, Coast Lily, Bolander's Pine and the Point Reyes Checkerbloom.

The several populations of the Mendocino Paintbrush should be protected from any disturbance or development. These populations would be protected from any impact by their location on the bluff lip and the bluff face. The Mendocino County General Plan - Coastal Element - specifies a bluff setback. The bluff setback would protect the population

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Matson Botanical Survey, Pg. 4

of Mendocino Paintbrush growing on the edge of the bluff near the historical road to the beach as well at the several populations on the bluff face. No additional protection appears necessary.

Should any development or disturbance be proposed in the area of the northwest corner of the parcel where Laurel Creek is located, the area should be surveyed by a qualified botanist or ecologist, the extent of the riparian vegetation identified and flagged, and the impact of any proposed development on the riparian plant community be evaluated.

6. REFERENCES:

- Anon. 1985. Mendocino County General Plan - Coastal Element Ukiah.
- Anon. 1991. Mendocino County Zoning Code - Coastal Zone. Ukiah.
- Hitchcock, A.S. 1950. Manual of the Grasses of the United States. U.S. Government Printing Office, Washington.
- Hickman, J. C. (ed). 1993. The Jepson Manual The Higher Plants of California Univ. of California Press, Berkeley
- Holland, R.F. 1986. Preliminary Descriptions of the Terrestrial Plant Communities of California. California Department of Fish and Game, Sacramento
- Mason, H.G. 1959. A Flora of the Marshes of California Univ. of California Press, Berkeley
- Munz, P.A. and D. B. Keck. 1959. A California Flora Univ. of California Press, Berkeley.
- Skinner, M. and B. Pavlik. 1994. Inventory of Rare and Endangered Vascular Plants of California. California Native Plant Society, Sacramento.
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RECEIVED

SEP 16 2002

CALIFORNIA
COASTAL COMMISSION

Dr. Hillary Adams
P. O. Box 1936
Mendocino, California 95460

EXHIBIT NO. 8

APPLICATION NO.

A-1-MEN-02-029

SHIA

APPELLANT'S -
CORRESPONDENCE
(1 of 3)

Mr. Randall Stemler
California Coastal Commission
North Coast District Office
P. O. Box 4908
Eureka, CA. 95520-4908

RE: A-1-MEN-02-029 (Shia)

Dear Mr. Stemler:

The following comments relate to the de novo hearing for A-1-MEN-02-029 (Shia) at 5260 South Highway One, just north of the village of Elk, Mendocino County.

The issues involved are: 1) placement of the house to reduce visual impact upon views to and along the coast and upon a major visitor destination (Greenwood State Beach); 2) color to make the house subordinate to its natural setting; 3) safety concerning geologic hazards including six sea caves and two landslides which relate to fault zones 4) night lighting in relation to impact on country setting and visitor destination; 5) Environmentally Sensitive Habitat Area and buffer zone in relation to placement of house, second unit, road and barn; 6) the presence of a full second unit when the removal of both previous units makes both units essentially a new project.

The Shia house has been placed so that its visual impact on both Greenwood State Beach trails and on views to and along the coast are as intense as possible. The placement of the house means that the landscaping which the Planning Commission required to help shield the house would all be within the geologic setback recommended by the geological report. The required watering of such landscape trees would be likely to further destabilize the bluff edge. The house should be placed further back where it would have less impact on the viewshed.

At the Planning Commission meeting, agent Robert Schlosser of Leventhal and Schlosser, Architects, argued that the house was placed where it was because that was the only place available outside of the 25' setback required for geologic safety, and the 100' buffer required for Environmentally Sensitive Habitat Area (ESHA). The ESHA is created by Laurel Creek on the north side of the lot. He colored the ESHA buffer yellow and the geologic setback green on the large blueprint sheet he presented at the public hearing. The sheet was requested by planning staff. As usual for Leventhal and Schlosser, the writing on the blueprint sheets is too small to read in the reductions. The blueprint shows only a few trees behind the house, whereas the number of trees actually on the lot appear to be much greater. Mr. Schlosser's colored chart also failed to make clear that the road and the barn were both within the ESHA as is second unit. Moreover, the 100 foot ESHA buffer has, in this case, been mown for at least thirty years.

These points were made by one of the two Planning Commissioners who voted against the project.

On another project under appeal to the Coastal Commission (A-1-MEN- 02-12: Brorsen/Egelston; 9300 Highway One, Mendocino County), Fish and Game stated that because the 100' ESHA buffer had been mowed for many years it no longer had its original value as an ESHA. They therefore recommended a 50' setback with other mitigations for loss of the buffer. Because of the strong visual impact of the Shia project, the Department of Fish and Game should determine whether or not the house can be moved further back in order to lessen the visual impact.

The sea stacks and rocks immediately off of Greenwood/Elk are now a national monument under the protection of the Bureau of Land Management. These particular stacks were chosen to be represented on the poster for the National Monument because, as BLM recently stated at a public hearing in Elk, they considered them the most beautiful and significant of any along the more than 1000 mile coastline. The view of these stacks are frequently photographed, not only from a pullout many miles north of the village of Greenwood/Elk, but also from the trails of Greenwood Beach. The only house visible in the poster is the Crahan house, which was in process of being built. Since that time the Berlincourt house, projecting to the south of Greenwood Beach, has been built and is very visible, not only in the view to and along the coast, but from the village of Elk and from the coastal trails in the park. Fortunately, that house has been painted a dark brown, which helps to mitigate the extremely modern architecture and its great visibility.

The color chosen for the Shia house is gray. Mr. Schlosser argued at the public hearing that he had submitted a chart of 28 colors and that the gray color the applicant wanted was just as dark as the brown color the staff preferred. In fact, all of the colors are too light. Any gray or light brown reflects far too much light, as has been proven by the Crahan project south of Elk, which was allowed to be a combination of tan and medium green. Like the Crahan house, the surface of the Shia house would be a stucco, material and tends to reflect light. Colors of both house and roof should be a dark earth tone. Anything else is far too reflective in the bright ocean light, and does not allow the building to be subordinate to its natural setting. This is particularly important because of the extreme modernity of the architecture and its sharply angled roofs.

None of the sea caves were represented on the blueprint. Mr. Schlosser mentioned that there were three. According to the geotechnical report, there are six sea caves, two old fault lines and two landslides. The condition of safety should be more thoroughly studied. In my opinion, this lot is one which is in the process of forming a sea stack, similar to those which it overlooks. Landslides are not gradual on the Mendocino Coast. They are rapid and extensive when they occur. The reason for demolishing the existing house at the road was the existence of a severe

203

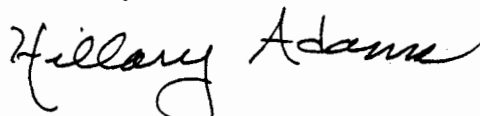
landslide there. Therefore there would be less danger of the house and garage falling into the ocean if they were placed further back on the lot.

One member of the Planning Commission argued that a barn in a Type II agricultural area on the east side of Highway One and several miles to the north, was visible in the photograph which I presented at the hearing and had a gray metal roof. Therefore the Shia project should be allowed to be gray. The barn is both historic and agricultural, and runs under completely different LCP rules than a single family residence on the west side of scenic Highway One. The photograph does point out, however, how visible any gray color is in the coastal light.

Night lighting is especially important in our country areas. The small village of Greenwood/ Elk, once a lumber and fishing town, is now entirely dependent upon tourism for its economy. The same Planning Commissioner argued that night lighting was not important because there were bed-and-breakfasts nearby in the village which would have lights shining from their windows. Tourists do not come here to see a string of modern houses along the coast lite up at night. They like the old-fashioned village of Greenwood/ Elk and the spectacular ocean views. Both villagers and visitors walk to the park after dark to look at the ocean. Our LCP recognizes the importance of moderating night lighting. The Shia project, like others designed by Leventhal and Schlosser, has a great number of night lights, including a decorative pool at the entrance of the house and a skylight, both of which will allow a column of light to shoot upward into the night sky. The entire night lighting scheme should be carefully studied and reduced to a minimum.

Because both the original house near the road and the mobile home in the ESHA are being entirely removed, the Shia project should be treated as new development. The second unit would not be allowed in a new development and should not be allowed here. Only a guest house without a kitchen should be allowed.

Sincerely,


Dr. Hillary Adams



DEPARTMENT OF PARKS AND RECREATION
Mendocino District
P.O. Box 440
Mendocino, CA 95460

Ruth G. Coleman, Acting Director

August 5, 2002

Robert Merrill
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED

AUG 08 2002

CALIFORNIA
COASTAL COMMISSION

Dear Mr. Merrill,

My staff has reviewed the Shia development proposal (A-1-MEN-02-029) on site with their architect Bob Schlosser, and we feel his newly proposed modifications to the plan could be acceptable to state parks.

In summary, his proposal is that the house could be set back approximately 50 feet south and 20 feet east to get it back from the bluff and allow it to be lower and better hidden behind some existing trees and shrubs. This has the advantage of leaving the trees that will assist in screening the residence, and this location would still leave the building outside of the 100 ft. riparian ESHA and required bluff setback. The house design will be modified to reduce the height of the windows and the number of windows that would face the park. Additional screening will be planted on the south side of the property to better screen the house from the park.

If Mr. Schlosser does make these plan changes to the proposed development, parks will very likely support the project (pending creation of a submitted set of blueprints with the changes for us to review, and an additional set of story poles to facilitate assessment of the viewshed.)

Sincerely,

Greg Picard
District Superintendent

EXHIBIT NO. 9

APPLICATION NO.

A-1-MEN-02-029

SHIA

CORRESPONDENCE

(1 of 27)

7450 So. Highway 1
PO Box 14, Elk, CA 95432
September 30, 2002

California Coastal Commission
c/o North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED

OCT 02 2002

Re: Appeal No. A-1-MEN-02-029
Mendocino County CDU-15-2001

CALIFORNIA
COASTAL COMMISSION

Dear Sirs:

We are writing with regard to the above listed appeal to the Rosanna and Dan Shia project here in Elk. We have reviewed their project and as residents of Elk for 18 years request that you deny this appeal for the following reasons.

We feel that the Shias have made every effort to place the house with the least possible impact on the view shed. The house will be almost totally screened from Highway One by a stand of mature trees which runs along two sides of the building site. It will not be visible from the burner ring scenic outlook of the State Park and only slightly from the south end of the Park.

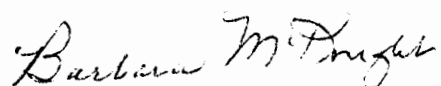
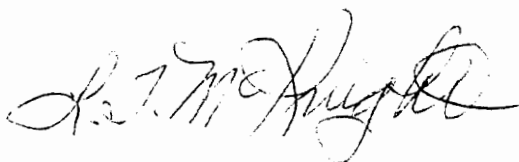
Considering there are at least 24 other buildings that are visible from the upper level of the State Park, the Shia house will be barely visible. All in all approximately 70 buildings are visible from various locations in the lower level of the State Park, many much larger than the Shia house will be.

To place their new house in the riparian buffer area as suggested in the appeal would result in the loss of several of the aforementioned screening trees. This would result in a greater visual impact on Highway One. It has always been our belief that one of the Coastal Commission's main purposes was to retain as much of the natural landscape as possible. Therefore destroying these trees would make quite an impact.

We are proud of our small town and feel the Shias would be a welcome additon. They are trying very hard to meet all the rules and restrictions of the Coastal Commission and to become responsible neighbors. We want them to know they are welcomed and we are hopeful they will find the peace and serenity we have found here.

We respectfully request that you deny this appeal and allow the Shias to complete their project as soon as possible.

Sincerely,



20927

MARJORIE AND TED BERLINCOURT

California Coastal Commission and Staff
c/o North Coast District Office
710 E Street, Suite 200
P.O. Box 4908
Eureka, CA 95502-4908

June 12, 2003

RECEIVED

JUN 17 2003

CALIFORNIA
COASTAL COMMISSION

REF: Coastal Development Permit No. A-1-MEN-02-029 (Appeal of
CDU #15-2001)
Shia Residence, 5260 South Highway One, Elk CA 95432

Dear Commissioners and Staff:

As residents of Elk we are writing to express support for the Dan and Rosanna Shia project, Mendocino County CDU-15-2001. We respectfully request that the California Coastal Commission approve the Shia project. As pointed out below, the above-referenced appeal fails to recognize the net benefit to public views of the Shia's planned demolition of the old house next to the highway, and the appeal grossly exaggerates the extent to which the new Shia house will be visible from public view points.

In fact, the siting of the Shia project is most considerate of the setting and will be subordinate to it. Other sites on the property would afford better ocean views from the Shia's new house, but the Shias elected not to pursue them because their new house would then be more prominently visible from public view points.

The Shia's case is very different from the usual case considered by the California Coastal Commission. Rather than add development to an undeveloped parcel, the Shias will demolish a very-high-visual-impact existing house and then build a new house at a more remote and lower-visual-impact site. The result will actually be of net benefit to public views of their parcel and to public views to the ocean and to the Elk sea stacks. At present there is an older house on their parcel which is a mere 30 feet from Highway One. There are spectacular views of the ocean and the Elk sea stacks from this older house. But the older house blocks public views of the ocean and sea stacks from Highway One. Under the regulations, the Shias could have exercised their right to use this older house as is, to remodel it, or to raze it and build a new house on its footprint. Instead, they have agreed simply to raze it and relinquish their

30927

MARJORIE AND TED BERLIN COURT

right to utilize its footprint for development. They propose to build elsewhere in a much-more-distant location virtually hidden from Highway One behind a stand of mature trees. So the net effect of their project will be to enhance public views to the ocean.

In our opinion the Shia's original plans were fully subordinate to the character of the setting. Their newly modified plans are even more so, for they have:

- moved the house location by 23 feet to assure adequate sea cave setback and allow for additional screening plantings,
- lowered the structure by one foot,
- reduced windowglass area by 50 square feet,
- withdrawn the second residential unit from the permit application.

Contrary to the assertions of the referenced appeal, the Shia's siting choice will have only very minimal visual impact on public views. The facts of the case are as follows:

- The Shia house will be almost totally screened from Highway One by a stand of mature trees which runs along two sides of the building site. Moreover, the Shias have already planted an additional fifty trees for screening purposes.
- Visibility of the Shia house from the State Park will be restricted to a very small, relatively-isolated area at the park's far northwestern corner, where it will be of scant notice. At a distant 0.6 mile away, it will amount to a miniscule part of the scene, and its stone-gray color will blend harmoniously with the surrounding vegetation. Moreover, it will be of negligible note in comparison with the 24 other Elk buildings (homes, barns, and inns) that are visible from that location, most at much, much closer range. All in all, approximately seventy buildings are visible from various locations in the State Park.
- The referenced appeal of the Shia project proposes relocating the house within a riparian buffer area. We strongly oppose any such action. Not only would it violate the very environmental regulations that the Coastal Commission was chartered to uphold, but, most significantly, placing the house in the riparian buffer area would involve destruction of several of the mature screening trees mentioned above. This would result in much greater visual impact on public views.
- The Shias have made many concessions including sacrificing the best view sites on their parcel.

MARJORIE AND TED BERLINCOURT

All factors considered, the Shias have complied with all regulations and are making every effort to blend their house sensitively with the setting. Most importantly, when account is taken of the removal of the older house from the parcel, the overall result of the Shia project will actually be of net benefit to public views of their parcel and to public views to the ocean and to the Elk sea stacks. We respectfully urge the California Coastal Commission to approve the Shia's project as they are proposing it.

Sincerely,

*Marjorie A. Berlincourt
Ted B. Berlincourt*

RECEIVED

JUN 18 2003

CALIFORNIA
COASTAL COMMISSION

TO: California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908, Eureka, CA 95502-4908

FROM: David Lieberman
35970 Philo Greenwood Rd.
Elk, CA 95432

SUBJECT: **SUPPORT FOR**
Coastal Development Permit No. A-1-Men-02-029
(Appeal of CDU #15-001)
Shia Residence, 5260 South Highway 1, Elk, CA 95432


Dear Commissioners and Staff:

I am in support of the project being submitted for your review. The proposed development would greatly improve the beauty of the property for residents as well as tourists visiting our coast.

As a resident of Elk, I have spoken to many of my neighbors who also drive by the Shia property and have found no one in our community who is in opposition to the location of the proposed dwelling and removal of the deteriorating house. The proposed plan will greatly improve the scenic beauty of our small rural community.

I work and live in Elk and feel as my neighbors that your **support** of this project will improve the beauty of our scenic coastline.

Sincerely,


David Lieberman

6 of 27

TO: California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908, Eureka, CA 95502-4908

RECEIVED

JUN 18 2003

FROM: Chris Johnson
35970 Philo Greenwood Rd.
Elk, CA 95432

CALIFORNIA
COASTAL COMMISSION

SUBJECT: SUPPORT FOR
Coastal Development Permit No. A-1-Men-02-029
(Appeal of CDU #15-001)
Shia Residence, 5260 South Highway 1, Elk, CA 95432

Dear Commissioners and Staff:

I am in support of the project being submitted for your review. The proposed development would greatly improve the beauty of the property for residents as well as tourists visiting our coast.

As a resident of Elk, I have spoken to many of my neighbors who also drive by the Shia property and have found no one in our community who is in opposition to the location of the proposed dwelling and removal of the deteriorating house. The proposed plan will greatly improve the scenic beauty of our small rural community.

I work and live in Elk and feel as my neighbors that your support of this project will improve the beauty of our scenic coastline.

Sincerely,


Chris Johnson

70927

TO: California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908, Eureka, CA 95502-4908

RECEIVED

JUN 18 2003

FROM: Jeanna Kennedy
P.O. Box 117, Elk, CA 95432

CALIFORNIA
COASTAL COMMISSION

SUBJECT: Coastal Development Permit No. A-1-Men-02-029
(Appeal of CDU #15-001)
Shia Residence, 5260 South Highway 1, Elk, CA 95432

Dear Commissioners and Staff:

Along with my husband, I am a permanent resident of Elk and very familiar with the current Shia property. I am also in support of the project being submitted for your review. The proposed development would greatly improve the beauty of the property for tourists as well as local residents.

As a resident of the small village of Elk, I also drive by this property daily and feel the location of the proposed dwelling and removal of the structure on the road would add to the rural beauty of the area. I have walked the proposed site, examined the plan documents and viewed the plot from different locations to the north and south. The proposed plan will greatly enhance the scenic beauty of this area.

It is also in my interest to protect the natural beauty of the area while providing for the normal development of our town while improving its economical, social, and aesthetical benefits. With the above considerations in mind, I strongly support your approval of this project.

Sincerely,

Jeanna Y. Kennedy
Jeanna Y. Kennedy

8 of 27

RECEIVED

June 13, 2003

JUN 18 2003

California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908
Eureka, CA 95502-4908

CALIFORNIA
COASTAL COMMISSION

REF: Coastal Development Permit No. A-1 MEN-02-029 (Appeal of DU #15-2001)
Shia Residence, 5260 South Highway One, Elk CA 95432

Dear Commissioners and Staff:

As residents of the Elk Coastal area, we are writing to express support for the Shia project, Mendocino County CDU-15-2001. We respectfully request that the California Coastal Commission approve this project. As pointed out below, the above-referenced appeals fails to recognize the net benefit to public views of the Shia's planned demolition of the old house next to the highway, and the appeal grossly exaggerates the extent to which the new Shia house will be visible from public view points.

The siting of the Shia project is most considerate of the setting and will be subordinate to it. Other sites on the property would afford better ocean views from the Shia's new house, but the Shias elected not to pursue them because their new house would then be more prominently visible from public view points.

Rather than add development to an undeveloped parcel, the Shias will demolish a very-high-visual-impact existing house and then build a new house at a more remote and lower-visual-impact site. At present there is an older house on their parcel, which is a mere 30 feet from Highway One. There are spectacular views of the ocean and the Elk sea stacks from this older house. But the older house blocks public views of the ocean from Highway One.

The Shia house will be almost totally screened from Highway One by a stand of mature trees which runs along two sides of the building sit. Moreover, the Shias have already planted additional fifty trees for screening purposes.

The referenced appeal for the Shia project proposes relocating the house within a riparian buffer area. We strongly oppose any such action. Not only would it violate the very environment regularings that the Coastal Commission was chartered to uphold, but, most significantly, placing the house in this area would involve destruction of several of the mature screening trees. This would result in a much greater visual impact on public views.

The Shias have complied with all regulations and are making every effort to blend their house sensitivity with the setting. We respectfully urge the California Coastal Commission to approve the Shi's project as they are proposing it.

Sincerely,

Charles and Charlotte Saunders
Charles and Charlotte Saunders
PO Box 244
Albion, CA
Charlee@mcn.org



90927

RECEIVED

JUN 18 2003

CALIFORNIA
COASTAL COMMISSION

George R. del Gaudio

P.O. Box 25
Elk, CA 95432

6-13-03

To: California Coastal Commission
Ref: CDP No A-1-MEN-02-029
(appeal of CDU # 15-2001)

Shia Residence, 5260 S. Hwy 1 Elk, Ca 95432

Attention: Randy Stember

Dear Randy

The purpose of this communication is to support the Shia's CDP for 5260 S. Hwy 1 in Elk. I am an Elk resident, have reviewed their plans, walked the property, and support the project for the following reasons:

- 1) location of proposed house will be much less visible than existing old house on Hwy 1
- 2) reduction in height and glazing area supports the spirit of coastal development
- 3) new house is located in "best possible" site given all considerations (view impact, environment, etc.), and
- 4) demolition of old house will represent a major improvement to ocean view shed upon entering Elk.

Please contact me if you wish to discuss this matter further.

10 of 27

Regards,
JR del Gaudio

June 16, 2003
California Coastal Commission and Staff
of North Coast District Office
710 E. Street Suite 200
P.O. Box 4908
Eureka, Ca 95502-4908

RECEIVED

JUN 19 2003

CALIFORNIA
COASTAL COMMISSION

Ref: Coastal Development Permit No C-1-MC 7-02-
029 (Appeal of C.D.U. #15-2001)
Shia Residence 5260 So Highway One. Lot 95432

Dear Commissioners and Staff

I am writing to you to express support
for the Shia project, Mendocino Co C.D.U.
15-2001. I respectfully request that you
approve their project.

The Shias have been very cognizant
of the visual impact of a new house on
their property and have situated the
house with the least visual impact, even
though other sitings would have given
them better ocean views.

The Shias will be demolishing an
old house on Highway One that will
greatly enhance the public view of the
ocean and sea stacks.

The Shias have made concessions with
their plans and desire to be good
neighbors. I respectfully request that

11927

their project be approved as submitted.

Sincerely,

Raymond L. Hanson

1060 Navarro Bluff Rd.

Albion, Ca 95410

P.S.

I actually live in Los with an Albion
mailing address.

R.L.H.

P.O. Box 14
7450 So. Highway #1
Eck, CA 95432
June 17, 2003

RECEIVED

JUN 20 2003

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
P.O. Box 4908
Eureka, CA 95502

Re: Coastal Development Permit # A-1-MEN-02-029
(Appeal of CDO # 15-2001)
Shua Residence, 5260 So. Highway #1, Eck, CA 95432

Dear Sirs

We are again writing in support of the above listed project. We understand there has been an appeal and after reviewing the situation, we feel the appeal was extremely unfounded.

Everything the Shias have done & will do with this project will greatly enhance the whole area. They have agreed to remove the old house located on the property which will open up the entire view to the highway. They have already planted 50 trees for screening purposes around 2 sides of the proposed house while an existing stand of mature trees will screen the other 2 sides. They have moved the location of the house back 23 feet to allow for the sea cave below.

In our opinion the Shias have complied with all regulations and are making a definite effort to shield their house from view. We urge the Coastal Commission to approve the project as planned.

Sincerely,

L.T. and Barbara M. Knight

13 of 27

Phone 707/577-3230

TO: California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908, Eureka, CA 95502-4908

RECEIVED

JUN 20 2003

CALIFORNIA
COASTAL COMMISSION

FROM: Kenneth Kennedy
P.O. Box 117, Elk, CA 95432

SUBJECT: Coastal Development Permit No. A-1-Men-02-029
(Appeal of CDU #15-001)
Shia Residence, 5260 South Highway 1, Elk, CA 95432

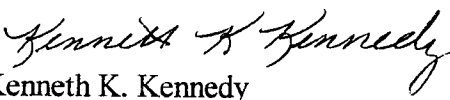
Dear Commissioners and Staff:

As a permanent resident of Elk I am very familiar with the current Shia property and support the project being submitted for your review. The proposed development would greatly improve the beauty of the property for tourists as well as local residents.

As a resident of the small village of Elk, I drive by this property daily and feel the location of the proposed dwelling and removal of the structure on the road would add to the rural beauty of the area. I have walked the proposed site and viewed it from different locations to the north and south. The proposed plan will greatly enhance the scenic beauty of this area.

It is my interest to protect the natural beauty of the area while providing for the normal development of our town while improving its economical, social, and aesthetical benefits. With this in mind, I strongly support your approval of this project.

Sincerely,


Kenneth K. Kennedy

14 of 27

TO: California Coastal Commission and Staff
C/o North Coast District Office
710 E Street, Suite 200
P. O. Box 4908, Eureka, CA 95502-4908

RECEIVED

JUN 20 2003

FROM: Janine Gardner
P.O. Box 117,
Elk, CA 95432

CALIFORNIA
COASTAL COMMISSION

SUBJECT: **SUPPORT FOR**
Coastal Development Permit No. A-1-Men-02-029
(Appeal of CDU #15-001)
Shia Residence, 5260 South Highway 1, Elk, CA 95432

Dear Commissioners and Staff:

As a resident of Elk, I often drive by the Shia property and feel the location of the proposed dwelling and removal of the deteriorating house on the road would add to the rural beauty of the area. The proposed plan will greatly improve the scenic beauty and visibility to this pristine coastline view.

I am in support of the project being submitted for your review. The proposed development would greatly improve the beauty of the property for residents as well as visitors driving along our coast.

It is my interest to protect the natural beauty of the area. I strongly urge your **support** in the approval of this project.

Sincerely,


Janine Gardner

15 of 27

June 16, 2003

California Coastal Commission and Staff
c/o North Coast District Office
710 E Street Suite 700
P.O. Box 4908
Eureka, CA 95502-4908

RECEIVED

JUN 20 2003

CALIFORNIA
COASTAL COMMISSION

Ref: Coastal Development permit No. A-1-MEN-02-029 (Appeal of CDU # 15-7001)
Shia Residence, 5260 South Hwy 1, Elk Ca.

Dear Commissioners and Staff:

After making a study of the Shia project as I am sure you will do, it becomes very clear that their proposed site for the home is the best possible location.

It is my understanding that they have complied with every request made by the Coastal Commission.

Because of the above points there should not be any question with respect that approval should be given to them.

I do hope for the benefit of the Shias, the town of Elk and the County of Mendocino that you will approve their most recent plans.

16 of 27

Sincerely

Dean R. Wisdom
1060 Navarro Bluff Rd
Albion, Ca 95410

P.S. My wife and I live in the very
northerly part of Elk and for the first
mile south of the Navarro River all
residences have a Albion address not
our choice

L. J. Lobbezoo
PO Box 207
Elk, CA 95432

RECEIVED

June 16, 2003

JUN 23 2003

CA Coastal Commission
710 E. Street Suite 200
PO Box 4908
Eureka, CA 95502-4908

CALIFORNIA
COASTAL COMMISSION

Dear Commissioners and Staff,

I am writing to urge you to support the Dan and Rosanna Shia project, CDP A-1-MEN-02-029. The Shia project has been appealed by Hillary Adams, (an Elk area resident who opposes nearly every building project in the area.) Apparently Ms. Adams objects to the fact that a portion of the Shia house will be visible from the northernmost portion of a trail in the Greenwood State Park. Ms. Adams does not address the fact that twenty or thirty buildings are now visible from various portions of the Greenwood State Park, and those structures are located closer to the Park than the Shias proposed house. In this regard, I believe Ms. Adams appeal of the Shia project based on visibility should be considered frivolous.

I have reviewed the Shia project in detail, and have walked their property. I would like to stress that the Shias have chosen the LEAST visible portion of their property on which to locate their house. They actually have a much better view site located in an open area west of their proposed building site. However, in order to comply with Coastal Act requirements to minimize visual impacts to public areas, they have proposed to build their house next to an existing stand of shore pines, and in addition they have planted over forty trees to provide a visual buffer. Their originally proposed house conformed to the local coastal plan, but in resubmitting their project they have made a number of concessions in order to attempt to address all concerns raised by the county or the public. The current project has significantly reduced glazing, a height reduction of one foot, and increased screening landscaping. Additionally, the Shias plan to remove an existing house located only thirty feet from the highway. The removal of this house will actually benefit the public, by removing a dilapidated eyesore, and opening up a view of the ocean from the highway.

18 of 27

I respectfully request you deny the appeal, and approve the Shia project
as currently proposed.

Sincerely,



L. J. Lobbezoo

19 of 27

THE RUDMANS
1651 CAMERON ROAD
ELK, CALIFORNIA 95432
Telephone (707) 877-3335
Fax (707) 877-3531
e-mail nrudman@mcn.org
June 18, 2003

RECEIVED

JUN 23 2003

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
North Coast District Office
POBox 4908
Eureka, CA 95502-4908

Re: Coastal Development Permit No. A-1-MEN-02-029 (Appeal of CDU#15-2001) Shia Residence, 5260 South Highway 1, Elk, CA 95432

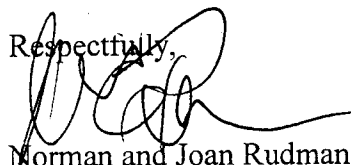
Gentlepersons:

We support the application of Dan and Rosanna Shia for a permit to demolish an existing residence located close to Highway 1 and to build a new residence at a site on the property--and in a fashion--that will impinge much less on the public's coastal views.

In addition to virtually looming over the highway, the existing residence is something of an eyesore. Moreover, it significantly obstructs the ability of the public to see the Pacific and the Elk sea stacks from Highway 1. Demolition of that structure and restoration of vegetation in its place will accomplish a major public service, if fostering the ability of the public to take in coastal views from Highway 1 is considered an objective of the Coastal Act. In turn, the Shias' plans, especially as modified during the application process, will site their residence in a much less obtrusive location and will further minimize the visual impact of the structure by strategic plantings.

In light of these considerations, we urge approval of the Shias' application.

Respectfully,



Norman and Joan Rudman

cc: Mr. And Mrs. Dan Shia
765 Market Street, No. 26A
San Francisco, CA 94103

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California Coastal Commission and Staff
c/o North Coast District Office
710 E Street, Suite 200
PO Box 4908
Eureka, CA 95502-4908

RECEIVED

JUN 23 2003

CALIFORNIA
COASTAL COMMISSION

Elk, CA
June 20, 2003

REF: Coastal Development Permit No A-1-MEN-02-029
(Appeal of CDU#15-2001)
Project coordinator: Randy Stemler

Dear Commissioners and Staff,

As a resident of Elk since 1972 (5951 SO Hwy.1) and Director of the Docent Council for the Greenwood State Park Museum and Visitor's Center, I am writing to express support for the Dan and Rosanna Shia Project, Mendocino County CDU-15-2001. I hopefully request that the project be approved by the California Coastal Commission.

The Shias have made many concessions already to take in consideration the view shed for the public, such as lowering the house by a foot and changing the site of the house to make it less visible from the public view points. One of the view points referenced in the appeal is the headlands on the State Park over-looking "Wharf Rock". It is my opinion (from one who walks the trail to the headlands almost daily) that the Shia Project will not affect the view toward the ocean and the sea stacks and also will not be interrupting the view northward along the coast which already consists of the backs of many inns and homes.

The removal of the old house on the property facing the highway which is planned by the Shias will indeed make for a spectacular view of the ocean and rocks at that site - a clear bonus for the public.

The Shias have made every effort to blend their house into the setting and be mindful and considerate of the majestic views which they appreciate as much as the public. I urge you to approve the Shia Project as they propose.

Sincerely,

Paul Wilcox

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Robert R. Smiley
10927 S. Hwy One
Elk, CA 95432

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June 18, 2003

JUN 23 2003

CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
710 E. Street Suite 200
PO Box 4908
Eureka, CA 95502-4908

Dear Coastal Commissioners and Staff,

I am writing in support of the Shia residential project, CDP No. A-1-MEN-02-029, 5260 S. Hwy One, Elk, CA, on the ground that it will result in a large improvement of the visual impact of the property as a whole, as a result of the removal of one eyesore, (an old house near highway One), and the substitution therefore by a residence shielded by a closely grouped and fully developed line of shore pines. No proposal could present the Commission with a clearer win-win outcome.


I will also take this opportunity to point out to the Coastal Commission and staff, the undesirable effects of a regulation which permits anyone claiming to act in the public interest, to appeal any county CDP approval directly to the Commission, paying no fee whatever, and incurring no expense, win or lose. When the appellant bears no burden to show proof of damage or injury, has no requirement to provide facts to support allegations, and incurs no costs in filing an appeal, the net result is a number of "knee jerk" or "throw away" appeals filed in response to any proposed development on the coast. This results not only in significantly increased costs and time delays for the project developer, but it also places an unnecessary burden on all of the state's coastal County Planning Departments and the Coastal Commission, all of which are currently stressed by budgetary constraints. I believe the appellants should either be required to appeal projects locally to their County Board of Supervisors, and pay an appeal fee, or pay a fee to the Coastal Commission when they file an appeal. For those filing appeals in the public interest, the fee could even be reduced somewhat, but the appellants should bear some cost. In that way, many of the "knee jerk, throw away" type of appeals would not be filed, and coastal

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County Planning Departments and the Coastal Commission could concentrate on legitimate appeals, and at the same time recoup some of the expenses they now incur when dealing with many of these inappropriate appeals.

Again, I urge you to deny this appeal of the Shia project, and approve the project, as proposed.

Sincerely,



Robert R. Smiley

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California Coastal Commission and Staff
c/o North Coast District Office
710 E. Street, Suite 200
P.O. Box 4908
Eureka, CA 95502

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JUN 26 2003

CALIFORNIA
COASTAL COMMISSION

Ref: Coastal Development Permit No. A-1-MEN-029 (Appeal of
CDU #15-2001)
Shia Residence, 5260 South Highway One. Elk CA 95432

Dear Commissioners and Staff,

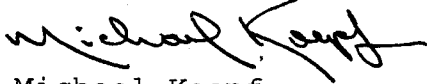
As a former commercial fisherman, journalist, and current novelist I have been a resident of the Elk area for over thirty-three years. I am writing this letter to express my wholehearted support for the home that Dan and Rosanna Shia wish to construct in Elk. I especially applaud the Shia's plan to demolish (and not rebuild upon) an existing house on their property that is adjacent to highway one. This dump is an eyesore that currently restricts views of Greenwood cove. Everybody in town will be glad to see this house disappear to be replaced by the new Shia residence which will be set back and screened by a wall of existing trees that will make it virtually invisible to the passing public. The new Shia residence will be an asset to our community, and their sacrifice of an existing dwelling will represent a scenic gain for the people of California.

One further note. I understand that a complaint and appeal of this project has been filed with your commission by an individual who has selectively filed complaints (friends of friends excluded) with your commission for a number of years. Is the Coastal Commission and staff at all aware of the fact that this very same individual has published articles in local newspapers and organized lectures on the preposterous notion that the American government is deliberately releasing chemicals from high flying aircraft above Mendocino county in order to conduct covert medical experiments upon its citizenry? Which brings me to a crucial observation that may be of interest to the people of California: when the coastal commission and its staff review appeals to project applications, do they scrutinize the source of the complaint as diligently as they review the real or imagined details of the complaint? The people of this state need reassurance on this issue. I believe the

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Shia's should be able to build their home undisturbed by those who fervently believe the sky is falling.

Respectfully,



Michael Koepf
1055 Greenwood Rd.
Elk, CA. 95432

707 877 3518

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Marliss Waidhofer
P.O. Box 309
Elk, CA 95432

June 24, 2003

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California Coastal Commission and Staff
C/O North Coast District Office
710 E Street, Suite 200
P.O. Box 4908
Eureka, CA 955502-4908

JUN 30 2003

CALIFORNIA
COASTAL COMMISSION

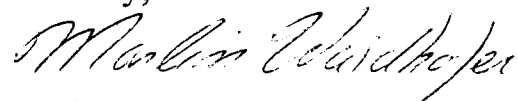
REF: Coastal Development Permit No. A-1-MEN-02-029
(Appeal of CDU #15-2001)
Shia Residence, 5260 South Highway One, Elk CA 95432

Dear Commissioners and Staff:

I am a resident of Elk, and I'm writing to express my support for the Dan and Rosanna Shia project, Mendocino County CDU-15-2001. I have visited the building site, and I strongly believe that Dan and Rosanna have placed the house in the least conspicuous location on the parcel. One is not able to visualize the house at all from highway one, and with the mature shore pines positioned behind the house, it greatly reduces any visual impact from either Cuffey's Cove or the park south of this site. Their positioning of the house has given careful thought of not impacting the sea caves to the East and not too far back so that the roots of the mature shore pines will not be compromised. The screening of these trees is very important for reducing any visual impact.

Additionally, I am surprised that the Coastal Commissioners ever had a problem with this project. This parcel is right on the edge of Village Elk, therefore it is right in line with the other numerous houses and B&Bs. There is very little noticeable visual impact. Furthermore, Dan and Rosanna will be improving the visuals on Highway One by removing the decaying building right on the road. Summing the information I have gathered, I urge the California Coastal Commission to approve the Shia's house project as they are proposing it.

Sincerely,



Marliss Waidhofer

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California Coastal Commission
710 E. Street, Suite 200

Elk, Ca. 95502
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JUL 07 2003

CALIFORNIA
COASTAL COMMISSION

Ref. Permit #A-1-Men-02-029

Shia Residence 5260

Highway One, Elk 95432

Dear Commissioners,

After having "walked" the Shias property, I believe their project plans should be approved. The removal of the old house next to the highway will be a great view improvement; and the new house will be well hidden by trees and the contour of the land. It will not interfere at all with the ocean view from Highway One.

Please know also that our community of Elk is shrinking in population. We need new people for this area. We need the taxes, and we need the diversity. Our lives will be enriched by the Shias, as we hope theirs will be by their Elk neighbors.

Thank you for your attention to this matter.

Sincerely,

Hildegard Graves

7500 South Highway One

Elk, Ca. 95432

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707-877-3590