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Staff:	Jim Baskin
Staff Report:	July 23, 2004
Hearing Date:	August 12, 2004
Commission Action:	

STAFF REPORT: APPEAL

DE NOVO HEARING

APPEAL NO.:	**A-1-DNC-02-152**
APPLICANT:	**The Redland Company**
LOCAL GOVERNMENT:	County of Del Norte
DECISION:	Approval with Conditions
PROJECT LOCATION:	145 Redland Lane, Smith River, Del Norte County, APN 102-080-47.
PROJECT DESCRIPTION:	Subdivision of a 9.4-acre parcel into four lots ranging in size from .58 acre to one acre with a 6.5-acre remainder parcel.
APPELLANTS:	Commissioners **Sara Wan & John Woolley**
SUBSTANTIVE FILE: DOCUMENTS	1) Del Norte County Zoning Amendment R0203C; 2) Del Norte Tentative Parcel Map Approval MS0211C; 3) Wetland Delineation and Buffer Analysis (Galea Wildlife Consulting, 2002-04); 4) Onsite Sewage Disposal Evaluation (Lee Tromble PE, 2002); 5) Botanical Study, (Lindsey A. Ogden, 2004); and 6) Del Norte County Local Coastal Program

STAFF NOTES:

1. Procedure.

On January 8, 2003, the Coastal Commission found that the appeal of the County of Del Norte's conditional approval of a coastal development permit for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the 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 within the area 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 recreation policies of Chapter 3 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) a revised wetland delineation; (2) an analysis of the adequacy a buffer width of less than 100 feet between the proposed future development sites on the parcels and impounded wetland and riparian vegetation environmentally sensitive habitat areas (ESHAs) on the project site; 3) a preliminary drainage plan; and 4) a rural land division lot size study. 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. Staff believes that, as conditioned, the development as amended for purposes of the Commission's *de novo* hearing is consistent with the County of Del Norte Local Coastal Program (LCP) and the public access policies of the Coastal Act.

At its meeting of January 8, 2003, the Commission found that the appeal raised a substantial issue of conformance of the project as approved with the certified LCP. The major contention of the appeal related to the County's action to conditionally approve the land division contingent upon the Commission's future certification of a zoning amendment to add a Density Combining Zone designation to the property. As the subdivision's conformance with coastal zoning standards depended, in part, upon the successful future amendment of the zoning map, the action to approve the coastal development permit for the subdivision was procedurally premature. In addition, the Commission found that the approval raised a substantial issue of conformance of the project as approved with LCP policies and standards relating to whether: (1) fifty percent of

the usable parcels in the area have been developed to allow further land divisions in the area to be authorized; (2) the resulting parcels created by the subdivision would be no smaller than the average size of surrounding parcels; (3) the extent of wetlands and riparian vegetation environmentally sensitive habitat areas on the project site had been fully delineated; and (4) buffers of adequate width would be provided between development and the environmentally sensitive areas at the site.

The Commission continued the project and directed staff to further analyze the project's potential impacts to area wetlands and riparian vegetation habitat areas, water quality and to ascertain whether the subdivision would be timely and its proposed lot sizes compatible with the surrounding rural land development pattern. On May 6, 2004, the County applied to the Commission for certification of a comprehensive LCP amendment. In addition to revising the zoning designation of the Redland Company parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D), amendments were also proposed to both the Land Use Plan's New Development chapter and the Density Combining Zoning District and Subdivision ordinance maps portions of its Implementation Plan (IP).

On June 9, 2004, the Commission approved the proposed LCP amendments with two suggested modifications to make the wording of a policy that appears in the LUP, subdivision ordinance, and coastal zoning code read consistently. As reported to the Commission at the July 14, 2004 meeting, the County accepted the suggested modifications on June 29, 2004. The LCP amendment is therefore effectively certified.

Since the January 2003 hearing on the Substantial Issue determination, the applicant has also provided considerable additional information on the effects of the proposed project on these coastal resources. A revised wetlands delineation was prepared based upon Commission definitions and utilizing established field analytical protocols. In addition, further analysis was provided regarding the adequacy of the proposed less-than-100-foot-wide buffer area between a proposed development site and the wetland and riparian vegetation environmentally sensitive areas on the parcel. The applicant has also provided preliminary information as to how drainage from the subdivision site would be managed. Finally, a lot size study was provided evaluating whether the proposed subdivision's parcel sizes would be no smaller than the average size of parcels in the surrounding area.

Based upon these investigations, Commission staff has had the opportunity to more fully analyze the proposed land division's potential impacts on coastal resources. Staff recommends that the Commission approve the development with a special condition that would ensure that the land division shall remain in compliance with the policies and standards of the County LCP's requiring the protection of environmentally sensitive resources as future development is undertaken on the parcels created by the subdivision. Specifically, staff believes that, based upon the information submitted by the applicant, the adequacy of the 25- to 50-foot-wide reduced-width buffers proposed to be established around the perimeter of wetland and riparian vegetation environmentally sensitive habitat areas on the project site has not been demonstrated. In such cases the County LCP requires that a buffer with a minimum width of 100 feet be provided.

With respect to the role the physical layout and the location of a parcel have in determining the proper width of an ESHA buffer, it should be noted that the proposed development is a subdivision that will establish new parcel lines. Thus, an opportunity exists to configure parcels in a manner that will accommodate whatever width of buffer is determined to be appropriate and still provide for new building sites for the new parcels to be created.

As discussed previously, the request for the reduced-width buffer would facilitate the future construction of a homesite that would be located within 60 feet of the outer edge of the delineated wetland and riparian vegetation ESHAs. Thus, the impetus for seeking authorization to establish a reduced-width buffer may be predicated upon a desire to pursue future development in a particular desired location rather than in response to other site limitations, such as small parcel size or the presence of geologically unstable areas beyond the buffer, where application of a full 100-foot-wide buffer would unduly preclude a reasonable level of development at the site or force the development into hazardous areas. The 6.5-acre remainder parcel is the only lot in the proposed subdivision that would be affected by the ESHA buffer, as all of the other lots are located more than 100 feet from the outer edges of the wetlands and riparian vegetation on the site. As shown on the graphic in Exhibit No. 11, the easternmost portion of the remainder parcel, from its apex where it abuts Highway 101 to the proposed access road that would serve Parcels 1, 2, and 3, is situated beyond the extent of a 100-foot-wide buffer around the periphery of the gullied ESHAs. This area ranges in width from approximately 20 feet to 150 feet. Moreover, this lot portion contains two areas each comprised of approximately 12,000 square-feet of cleared, relatively flat land, triangular to rectilinear in shape, where a building site for a conventional residence could be developed. Therefore, imposition of a full 100-foot-wide buffer would not result in depriving the remainder parcel of a building site for development of a single-family residence or other uses provided for under the LCP.

Thus, based upon the configuration of the lots that would result from the proposed subdivision development and the pattern and extent of existing development on the subject property, the Commission finds that these project site conditions do not warrant the need for, or serve to substantiate the adequacy of, the proposed reduced-width buffers.

Accordingly, staff recommends the Commission impose Special Condition No. 1 that requires the applicants to record an open space and conservation deed restriction over all portions of the parcels created by the subdivision that are within an ESHA and located within 100 feet of the outer edge of the areas delineated as containing wetlands or riparian vegetation ESHA. Exceptions would be provided for the planting of native vegetation to further enhance the function of the ESHA buffer, subject to the securement of a permit amendment from the Commission.

In conjunction with requiring future development to occur within portions of the project site that would minimize impacts to environmentally sensitive habitat areas, staff is recommending other special conditions to ensure the project's consistency with all other applicable policies of the County's certified LCP:

Special Condition No. 2 requires that a final erosion control and runoff plan be submitted for review and approval by the Executive Director to ensure that the construction of subdivision road and drainage improvements do not result in impacts to coastal water quality.

Special Condition No. 3 requires that a zoning amendment, subject to approval by Del Norte County and certification by the Commission, be obtained before any further land divisions be authorized on any portion of the 9.4-acre property. In addition, the condition prohibits any such future subdivision from causing the residential density of the pre-subdivided 9.4-acre property to exceed one unit per acre.

Special Condition No. 4 requires that all terms and conditions of the permit be recorded as deed restrictions.

Special Condition No. 5 requires that certain information be illustrated and/or noted on the final parcel map regarding the extent of non-developable resource buffers on the property, the location of all existing and proposed easements, and a notation that prohibits further subdivision of the property unless: (1) a zoning amendment is first approved by the County and certified by the Commission; and (2) the density of the pre-subdivided 9.4-acre property remains less than one unit per acre.

Special Condition No. 6 requires the applicant to comply with the recommendation of the archaeological report prepared for the project that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Special Condition No. 7 requires that an encroachment permit be obtained from the County for any road improvements.

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.

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

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-DNC-02-152 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 Del Norte 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.

I. STANDARD CONDITIONS: See attached.

II. SPECIAL CONDITIONS:

1. Open Space Restrictions

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area generally depicted on Exhibit No. 11, which includes all areas of the subject parcels created by the land division situated in or within one-hundred feet (100') of the exterior boundary of delineated wetlands and riparian vegetation environmentally sensitive habitat areas as documented in Exhibit No. 9, and more generally illustrated in Exhibit No. 11, except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation to improve the habitat value of the buffer, and (b) removal of debris and unauthorized structures.

B. **PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-02-152,** the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 11 attached to this staff report.

2. Final Erosion and Runoff Control Plan

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-02-152, the applicant shall submit a plan for erosion and run-off control to the Executive Director for review and approval.

1) EROSION CONTROL PLAN COMPONENT

a. The erosion control plan shall demonstrate that:

(1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;

(2) The following temporary erosion control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-1), *Preservation of Existing Vegetation* (EC-2), *Velocity Dissipation Devices* (EC-10), *Stabilized Construction Roadway* (TC-2), *Silt Fences* (SE1), and *Storm Drain Inlet Protection* (SE-10); and

(3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources.

b. The plan shall include, at a minimum, the following components:

(1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;

(2) A site plan showing the location of all temporary erosion control measures;

(3) A schedule for installation and removal of the temporary erosion control measures;

(4) A site plan showing the location of all permanent erosion control measures; and

(5) A schedule for installation and maintenance of the permanent erosion control measures.

2) <u>RUN-OFF CONTROL PLAN COMPONENT</u>

a. The runoff control plan shall demonstrate that:

(1) Runoff from the project shall not increase sedimentation into coastal waters;

(2) Runoff from access roads and driveways, emergency vehicle turn-around areas, and other impervious surfaces on the site shall be collected and conveyed into a roadside vegetated swale to avoid sedimentation either on or off the site, and provide for bio-filtration treatment of pollutants entrained in runoff; and

(3) The following temporary runoff control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: Demolition Adjacent to Water (NS-15), *Material Delivery and Storage* (WM-01), *Solid Waste Management* (WM-05), and *Vehicle and Equipment Fueling* (NS-9).

b. The plan shall include, at a minimum, the following components:

(1) A narrative report describing all temporary runoff control measures to be used during construction and all permanent runoff control measures to be installed for permanent runoff control;
(2) A site plan showing the location of all temporary runoff control measures;
(3) A schedule for installation and removal of the temporary runoff control measures;
(4) A site plan showing the location of all permanent runoff control measures; and
(5) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.

B. The erosion and runoff control plan shall, prior to submittal to the Executive Director, be reviewed and certified by a qualified professional to ensure that the plan is consistent with the drainage recommendations of the letter-report from the applicants' civil engineer (Lee Tromble Engineering), dated January 30, 2003, attached as Exhibit No. 4.

C. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Further Subdivision

No further land division of any of the parcels created by the parcel map conditionally approved by this permit is permissible unless: (1) a zoning amendment is approved by the County of Del Norte and certified by the California Coastal Commission; and (2) the overall density of the entire pre-divided 9.4-acre property (APN 102-080-47) remains less than one dwelling unit per one acre.

4. Deed Restriction

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-02-152, 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.

5. Final Parcel Map Review and Approval

A. **PRIOR TO RECORDATION OF THE FINAL PARCEL MAP**, the applicant shall submit for the review and approval of the Executive Director a copy of the final parcel map approved by the County of Del Norte. The final map shall be consistent with the terms and conditions of Coastal Development Permit No. A-1-DNC-02-152 as well as Tentative Parcel Map Approval No. MS0211C, approved by Del Norte County October 2, 2002, and shall contain the following graphically-depicted information and textual notations:

1) Illustrations to be included on the Final Parcel Map

a. Demarcation of the open space deed restriction area over the environmentally sensitive habitat area and the 100-foot buffer area required by Special Condition No. 1; and

b. Depiction of all existing and proposed deed restriction and easement areas consistent with the requirements of Coastal Development Permit No. A-1-DNC-02-152.

2) Notes to be placed on the Final Parcel Map

a. "The open space area depicted on this map is an area in which no 'development' as defined by Section 30106 of the Coastal Act may occur as required by Special Condition No. 1 of Coastal Development Permit No. A-1-DNC-02-152."

b. "No further land division of any of the parcels created by this parcel map, including the 6.5-acre remainder parcel is permissible unless: (1) a zoning amendment is approved by the County and certified by the California Coastal Commission; and (2) the overall density of the entire pre-divided 9.4-acre property (APN 102-080-47) remains less than one dwelling unit per acre as required by Special Condition No. 3 of Coastal Development Permit No. A-1-DNC-02-152."

B. The applicant shall record the final subdivision map consistent with the final subdivision map as approved by the Executive Director.

6. Archaeological Resources

A. The applicant shall comply with the recommendation contained in the Cultural Resources Study prepared for the project (James Roscoe, 2002) that if an area of cultural deposits is discovered during the course of the project all construction shall cease and shall not recommence except as provided in subsection (c) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.

B. An applicant seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.

(i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.

(ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.

7. Encroachment Permit

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-DNC-02-152, the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit or exemption from Del Norte County. The encroachment permit or exemption shall evidence the ability of the applicant to improve the entrance road to the subdivision at its intersection with Mouth of Smith River Road, as conditioned herein.

8. 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 as follows:

A. Incorporation of Substantial Issue Findings.

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated December 20, 2002.

B. Project History / Background.

On June 12, 2002, Regan Carroll, agent-of-record for The Redland Company, submitted Minor Subdivision /Coastal Development Permit Application No. MS211C and Zoning Amendment /Coastal Development Permit Application Bo. R0203C to the Del Norte County Community Development Department for the subdivision of a 9.4-acre parcel into four parcels ranging in size from 0.58 acre to one acre with a 6.5 acre remainder parcel as well as application of a "Density" (-D) combining zone overlay onto the subject property's Rural Residential (RR-1) base zone designation. The purpose of requesting the zoning reclassification in addition to the subdivision

was to provide the developer with the ability to cluster building sites onto parcels of less than the one-acre minimum lot size required by RR-1 zoning district standards, while not exceeding the overall density of development allowed for the site by the Rural Residential One Dwelling per One Acre (RR 1/1) Land Use Plan designation.

Following completion of the Community Development Department staff's review of the project, on October 2, 2002, Del Norte County Planning Commission approved with conditions Tentative Minor Subdivision Map / Coastal Development Permit No. MS0211C for the subject development. The Planning Commission attached a number of special conditions, including requirements that: (1) the project be subject to approval of the zoning amendment by the County Board of Supervisors and certification by the Commission; (2) no more than four lots and a remainder parcel be created and said lots not be smaller in size than as shown on the plot plan; (3) a parcel map be recorded within 24 months of the date of approval; (4) all construction comply with relevant County Code provisions regarding the posting of street address numbers; (5) the project comply with the Unified Fire Code at the time of completion; (6) any residential structure within 142 feet of the nearest lane of Highway 101 include noise attenuation designs to meet interior CNEL or L_{dn} levels of 45 dB_A; (7) a designated potential development area no smaller than 20,000 square feet be identified for each lot on the recorded parcel map and the extent of subsequent site improvements be limited thereto; (8) measures to protect archaeological resources encountered during construction be noticed within deed covenants; (9) the parcel map identify all wetland buffers as identified in the site visit study and note that the buffer areas are not suitable for residential development and vegetation removal is prohibited; (10) soil testing for the proposed sewage disposal systems be completed prior to recordation of the parcel map; (11) verification of the availability of a public water source be provided prior to recordation of the parcel map and notation be included regarding the possible need for filtration equipment; (12) the parcel map note the existence of the engineering report for the sewage disposal system and its availability for review at County offices; (13) an encroachment permit be secured for any work within the Mouth of Smith River Road right-of-way; (14) an engineered grading and drainage plan, including sediment and erosion control measures, be prepared, submitted, and approved prior to recordation of the parcel map; (15) specified road improvements be made to the Mouth of Smith River access road onto the property, including an onsite road turn-around for emergency vehicles; and (16) a note be placed on the parcel map stating that there is no further subdivision potential of Parcel Nos. 1 through 4. The concurrently processed zoning amendment was forwarded to the Board of Supervisors by the Planning Commission with a recommendation that the zoning change be approved.

The decision of the Planning Commission regarding the conditional approval of the subdivision was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action which was received by Commission staff on October 17, 2002. The appellants filed an appeal to the Commission on October 31, 2002, within 10 working days after receipt by the Commission of the Notice of Final Local Action (see Exhibit No. 7).

At its meeting of January 8, 2003, the Commission found that the appeal raised a substantial issue of conformance of the project as approved with the certified LCP. The major contention of the appeal related to the County's action to conditionally approve the land division contingent upon the Commission's future certification of a zoning amendment to add a Density Combining Zone designation to the property. As the subdivision's conformance with coastal zoning

standards depended upon the successful future amendment of the zoning map, the action to approve the coastal development permit for the subdivision was procedurally premature. In addition, the Commission found that the approval raised a substantial issue of conformance of the project as approved with LCP policies and standards relating to whether: (1) fifty percent of the usable parcels in the area have been developed to allow further land divisions in the area to be authorized; (2) the resulting parcels created by the subdivision would be no smaller than the average size of surrounding parcels; (3) the extent of wetlands and riparian vegetation environmentally sensitive habitat areas on the project site had been fully delineated; and (4) buffers of adequate width would be provided between development and the environmentally sensitive areas at the site.

In reviewing the issues under appeal, Commission staff discovered internal inconsistencies between the wording of the New Development chapter of the County's Land Use Plan and how these provisions were implemented through the certified coastal zoning and subdivision ordinances. Text within the rural land division criteria of the New Development chapter is intended to carry out the rural land division standards of Section 30250 of the Coastal Act which establish development timing and minimum parcel size restrictions for land divisions in areas outside of urban service areas. However, the wording of the New Development policies confused maximum land use density limitations with minimum parcel size standards and contained a statement that equated the lot size standards of the base zone in which the subdivision would be located with the average size of surrounding parcels. This rural land division wording in the LUP significantly limited use of the provisions of the Density Combining Zone designation within the County's certified Implementation Plan (IP) that allow for creation of parcels smaller than those specified within the base zoning district standards. These limitations also appear within the text of the County's subdivision and coastal zoning ordinances of the IP. In addition, the LUP New Development chapter typographically misquoted Coastal Act Section 30250, contained vague and confusing wording with regard to determining which parcels are "usable" for purposes of determining if 50% of parcels in the area of the proposed subdivision have been developed, and provided no guidance on setting study area bounds or how to calculate the average size of parcels "surrounding" the subdivision site.

After the January 8, 2003 hearing on substantial issue, the County acted to amend the LCP provisions which conflict with the proposed project and asked staff to schedule the *de novo* portion of the hearing on the appeal for a Commission meeting after the LCP amendment was acted on by the Commission. On January 23, 2003, the County applied to the Commission for certification of an amendment to the zoning maps section of the IP. The proposed amendment (DNC-MAJ-1-03) would have revised the zoning designation of the subject parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D). However, amendment of the zoning map for the property alone would not by itself have corrected the above-described underlying problems within the policy wording of the LUP New Development chapter and the proposed IP amendment would not have conformed with or carried out the existing LUP standards for the subdivision of rural lands. Accordingly, the amendment was scheduled for a hearing at the Commission's March 2004 meeting and on March 4, 2004, staff published a staff report containing a recommendation that the Commission deny the amendment as submitted. Upon discussing the inherent problems associated with amending only the zoning designation, the County subsequently withdrew LCP Amendment Application No. DNC-MAJ-1-03 on March 9, 2004, prior to the scheduled hearing on the LCP amendment.

On May 6, 2004, the County again applied to the Commission for certification of a more comprehensive set of LCP amendments. In addition to reiterating the previous proposed amendment to revise the zoning designation of the Redland Company parcel from Rural Residential (RR-1) to Rural Residential with Density Combining Zone (RR-1-D), amendments were also proposed to both the Land Use Plan's New Development chapter, and the Density Combining Zoning District and Subdivision ordinance maps portions of its Implementation Plan (IP).

On June 9, 2004, the Commission approved the proposed LCP amendments with two suggested modifications to make the wording of a policy that appears in the LUP, subdivision ordinance, and coastal zoning code read consistently. On June 17, 2004, a Notice of Decision was filed with the Secretary of Resources, pursuant to Section 13544(d) of the Commission's administrative regulations. On June 28, 2004, the Board of Supervisors accepted the suggested modifications by Resolution No. 2004-49, and concurrently adopting Ordinance Nos. 2004-001 and 2004-04, enacting the changed policies and standards into its Land Use Plan and Implementation Plan, respectively. On July 14, 2004, the Executive Director reported to the Commission that the County's resolution and ordinances were legally adequate. The Commission did not object to this determination.

With effective certification of the LCP amendment, the Commission can consider approval of the subdivision project. Approval would not have been possible without certification of the LCP amendment, as the proposed creation of less-than-one-acre parcels would not have been consistent with the one-acre minimum parcel size standard of the RR-1 zoning district.

C. Project and Site Description.

1. Project Setting

The subject site consists of a vacant irregularly shaped 9.4-acre parcel on Redland Lane, a private road that runs south-southwest from Highway 101, approximately ½ mile north of the mouth of the Smith River, and approximately three miles west-northwest of the unincorporated town of Smith River (see Exhibit Nos.2-4). The property consists of a generally flat, grass-covered lot situated on an uplifted marine terrace that contains wetlands and riparian vegetation within a gulch along its western-central portion. These resource areas consist of two seep-fed ponds and a connecting watercourse with a well-established tree- and brush-covered riparian corridor along their margins.

Plant cover on the elevated portions of the parcel is comprised of upland grasses, forbs, and landscaping shrubs and trees. The portion of the property within the gulch side slopes is covered by thickets of Red alder (Alnus rubra) interspersed with Sitka Spruce (Picea sitchensis), with a variably dense under story comprised of Himalaya blackberry (Rubus discolor), California blackberry (Rubus ursinus), salmonberry (Rubus spectablis), cascara sagrada (Rhamnus purshiana), and tansy ragwort (Senecio jacobaea). Areas within the ponds were covered by a combination of obligate hydrophytes, including pondweed (Potomogeton sp.), water lentil (Lemna sp.), and wappato (Sagittaria sp.), and surrounded by sedges (Carex sp.). Given the presence of surface hydrology and the composition of plants within the ponds, connecting

stream, and the adjacent gulch slopes, the area comprises a mixture of wetland and riparian vegetation environmentally sensitive habitat areas as defined by the certified LCP. Other than yard and landscaping improvements associated with the single-family use by one of the applicant company's principals on an adjoining parcel, the project parcel is presently vacant.

The subject site lies within the LCP's "Smith River" sub-region and is subject to the specific area policies and rural land division requirements for "Planning Area No. 1, Ocean View Drive." As amended by Del Norte County LCP Amendment No. DNC-MAJ-2-04, certified by the Commission on July 14, 2004, the subject property is designated in the Land Use Plan as Rural Residential – One Dwelling Unit per One Acre (RR 1/1) and on Coastal Zoning Map B-3 as Rural Residential with Density Combining Zoning District (RR-1-D).

The subject property is not within any viewpoint, view corridor, or highly scenic area as designated in the Visual Resources Inventory of the LCP's Land Use Plan. Due to the property's location on a private road and the surrounding private land development pattern, public views to and along the ocean across the property are limited. Additionally, given the presence of tall trees and other mature vegetation between the highway and project parcel, views of the site from Highway 101 and other public recreational areas are limited to a relatively brief gap in the roadside vegetation along southbound Highway 101 as it passes the parcel's 30-foot-wide highway frontage.

2. Project Description

The proposed development consists of the creation of four parcels of 0.58-acre, 0.63-acre, 0.67-acre, and one-acre in size by land division of the 9.4-acre property wherein a-6.5 remainder parcel would be retained (see Exhibit No. 4). Water service would be provided to the parcels by the Smith River Community Services District. Wastewater treatment would be accommodated by individual on-site sewage disposal "Wisconsin Mound" systems to be developed on each lot.

As part of their action on the tentative parcel map, the County required that the proposed access drive intended to serve Parcels 1, 2, and 3 that enters the southwest corner of the property from Mouth of Smith River Road be extended approximately 400 feet to the lots and improved to a 20-foot width, surfaced with a four-inch thickness of gravel atop a compacted ¾-inch thickness of class 2 crushed aggregate base, and two-foot-wide bladed shoulders. Roadside drainage ditching shall also be constructed as may be needed. In addition, an emergency vehicle turn-around area meeting California Department of Forestry and Fire Protection (CDF) standards must be constructed with to the same surface improvement standard as the access road. During construction of the access roadway improvements, the culvert that crosses the outlet of the wetland ponds may need to be extended. If a longer culvert is needed to span the wider roadway and shoulders, the extended-length culvert would be placed in an intermittent seasonal drainage course that has not been identified as a wetland. Other than constructing these roadway improvements, no other physical improvements, such as the construction of residences, have been proposed at this time.[1]

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[1] The Commission notes that while not detailed in the project description before the County, or subsequently included as an amendment to the project for purposes of consideration at the Commission's hearing *de novo*, the applicant indicates that construction of a residence by the current owner is planned for a location on the eastern half of the remainder parcel, approximately

D. Planning and Locating New Development.

1. LCP Provisions

The LUP Land Use Categories chapter defines the purpose of the Rural Residential (R/R) category as follows:

> *This category is intended to maintain the character of rural areas and minimize the services required by smaller lot development. The primary use of these lands is single family residential (one unit per specified minimum parcel). Uses permitted within residential areas include single-family residences, the keeping of horses for use by the owner, light agricultural activities, and accessory buildings appropriate to the residential use.*

LCPZEO Chapter 21.16 establishes the prescriptive standards for the Rural Residential (RR-1) zoning district. LCPZEO Section 21.16.010 states, in applicable part:

> *This district classification is designed for the orderly development of rural homesites in the one acre category, to encourage a suitable environment for family life for those who desire rural residential land.*
>
> *Since there is a limited area within the county which is suitable for rural residential land, this district is intended to protect rural residential uses against encroachment by other uses which may be in conflict therewith... It is the intention of this section to prevent the further subdividing of rural residential land into lot sizes which might threaten the rural quality of areas zoned RR-1, and changes of zone from RR-1 to another classification are to be made only where such uses are in accord with the General Plan or an adopted specific plan.* [Emphases added.]

Section D of the LUP's New Development chapter, titled "Rural Land Division Criteria," reads, in applicable part:

> *In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval...*

LCPZEO Chapter 21.36 establishes the standards for Density Combining Zoning Districts (-D).[2] When combined with a basic zoning district, the -D designation will allow for cluster-type developments, and/or varied lot sizes, including the creation of parcels smaller than specified by the base zoning district standards, which would best utilize unique site situations, yet require the subdivision to remain consistent with the maximum density limitations and use requirements of the county General Plan. The -D zone standards further require that the building site area required for each lot shall be shown on the final subdivision map. In addition, no further land

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60 feet east-southeast from the upper wetland pond. No other information has been provided as to the size, bulk, or design of this future-envisioned development.

2 The full text of LCPZEO Chapter 21.36 is provided as Exhibit No. 6.

divisions shall be permitted unless a zoning amendment is first granted and the subsequent land division has been determined to be consistent with the General Plan or adopted specific plan density requirement for the total original project site. LCPZEO Section 21.36 states, in part, the following:

> *C. The overall project density shall not exceed the General Plan density requirement for the project site.*
>
> *D. The building site area required for each lot shall be shown on the final subdivision map. No further land divisions shall be permitted unless a rezone is granted and the land division is consistent with the General Plan or adopted specific plan density requirement for the total original project site.*

2. Discussion

Conformance with Base Zone Requirements

The subject property is designated in the Land Use Plan Map as Rural Residential One Dwelling per One Acre (RR 1/1). This land use designation is implemented through a zoning designation of Rural Residential with Density Combining Zone (RR-1-D). Local Coastal Program Zoning Enabling Ordinance (LCPZEO) Chapter 21.16 establishes the prescriptive standards for development within Rural Residential (RR-1) zoning districts. One-family residences are a principally permitted use in the RR-1 zoning district. In addition, animal husbandry, where no more than one horse, mule, cow or steer, nor more than five goats, sheep or similar livestock are kept for each twenty thousand square feet of lot area, is allowed by-right, subject to special fencing and setback standards. Section D of the LUP's New Development chapter directs that such improvements only be approved after the subject area's ability to accommodate such development has been demonstrated.

Parcel sizes within RR-1 zoning districts may not be smaller than one acre pursuant to LCPZEO Section 21.16.060, unless the property has been designated with a Density Combining zoning district designation, as this project has been designated. A 100-foot minimum lot width requirement is established for parcels created within RR-1 districts by LCPZEO Section 21.16.060.

Minimum yard areas requirements for subsequent development on the parcels that would be created by the proposed subdivision are 25 feet to the front and rear property lines, and ten feet for side yards, with provisions for the placement of accessory structures within five feet of the rear property line, pursuant to LCPZEO Sections 21.16.080 - 21.16.100. CZC Sec. 21.16.040 limits main building heights to 25 feet above natural grade; accessory structures are limited to a 16-foot height, per LCPZEO Section 21.04.140. CZC Section 21.16.065 sets a maximum of 20% structural coverage on RR-1 lots, regardless of their overall size. The proposed subdivision would create single-family residential lots that would conform with the use, minimum lot width, and yard width requirements of the RR-1-D zoning district.

Conformance with the Density Combining Zone Requirements

The Density Combining Zone (-D) designation grants design flexibility for subdivisions, subject to certain restrictions, allowing the creation of lots smaller than the RR-1 district's one-acre standard for affording greater protection of coastal resources on or in proximity to the parcel being subdivided. Three of the five parcels created by the proposed subdivision would be smaller than one acre in size.

LCPZEO Section 21.36.030.D states that the building site area required for each lot shall be shown on the final subdivision map. To carry out this requirement, in their action on the tentative parcel map, the Del Norte Planning Commission attached a condition to the map approval requiring the applicant to illustrate on the final parcel map a "Potential Development Area" (PDA) of a minimum of 20,000 square-feet on each of the lots created by the subdivision wherein construction of the primary residential building, primary and secondary sewage disposal fields, driveway, and accessory buildings could be constructed consistent with all applicable setbacks. Development outside of the designated PDA on each lot would be prohibited.

LCPZEO Section 21.36.030.C specifically requires that the overall project density shall not exceed the General Plan density requirement for the project site. The project site comprises a total of 9.4 acres and has a Rural Residential - One Dwelling per One Acre (RR 1/1) land use designation. Thus, for the subject proposed subdivision wherein a total of five single-family residential building sites would be created, the resulting density would be approximately 1 dwelling per 1.88 acres, well below the 1 dwelling per 1 acre maximum density requirement set by the LUP. Concern arises that if the proposed subdivision were to be approved and the 6.5-acre remainder parcel were then to be further subdivided to create a total of six additional roughly one-acre lots, the density of total original project site could be exceeded (i.e., a total of ten lots on 9.4 acres, or a density of 1 dwelling per .94-acre).

To ensure that the overall project density does not exceed the General Plan density requirement for the project site through repeat or subsequent subdivisions, LCPZEO Section 21.36.030.D directs that no further land divisions shall be permitted unless a rezone is granted and the land division is found consistent with the General Plan or adopted specific plan density requirement for the total original project site. Therefore the Commission attaches Special Condition Nos. 3 and 4. Special Condition No. 3 requires that a zoning amendment, subject to the County's approval and Commission certification is required prior to any further subdivision of the lots created by the subject land division, and that no division would be allowed that would result in an overall density of the entire pre-divided 9.4-acre property of greater than one dwelling unit per acre. Special Condition No. 4 requires that a deed restriction be recorded against all lots created by the subdivision informing future owners of the conditions attached to the approval of the subdivision, including the requirement of Special Condition No. 3 that a zoning amendment, subject to County approval and Commission certification is required prior to the approval of any further subdivision of the lots created by the subject land division proposal. Special Condition No. 5 requires that further constructive notice of this requirement be given by a notation on the final parcel map. As conditioned, the Commission finds that the subdivision is consistent with the density requirements of LCPZEO Section 21.36.030.D.

Adequate Services

Domestic water service for the proposed subdivision would be provided from the Smith River Community Services District (SRCSD). In personal discussions with SRCSD and County of Del

Norte Department of Public Health, Division of Environmental Health (DEH) officials, Commission staff were informed that the District has reserve water system capacity to provide the parcels that would be created by the subdivision with an adequate and dependable supply of domestic water to support the proposed single-family residential use. Wastewater from the future residences that would be accommodated by the subject subdivision would be processed by individual septic disposal systems located on each of the lots created by the subdivision. The subdivision's sewage disposal plan design has received a preliminary approval "clearance" letter from the DEH (see Exhibit No. 15). Therefore, the proposed development is consistent with the LUP and Zoning designations for the site and would be constructed within an existing developed area consistent with applicable provisions of LUP Policy 3.9-1.

The future development of the property with single-family residences at a density of one residence per acre is envisioned under the certified LCP. The cumulative impacts on traffic capacity of development approved pursuant to the certified LCP on lots recognized in the certified LCP were addressed at the time the LCP was certified. Further, the proposed development would meet the prescriptive standards for development within its rural residential zoning district in terms of minimum parcel width and coverage, and demonstrated adequacy of water and wastewater infrastructure. Moreover, as conditioned by the application of Special Condition Nos. 3 and 4, the subdivision is consistent with the density capping provisions of the LCP's -D Combining Zoning District. Therefore, the proposed development is consistent with the land use category and zoning designations for the site, would be constructed within an existing developed rural residential area, and would not adversely impact transportation or public service infrastructure capacities consistent with applicable provisions of the LUP RR/1 land use designation and the LCPZEO's RR-1 and -D zoning district standards.

E. <u>Conformance with Rural Land Division and Subdivision Ordinance</u>.

1. <u>LCP Provisions</u>

Section D of the LUP's New Development chapter, titled "Rural Land Division Criteria," reads as follows:

> *In rural areas new development shall be required to prove the subject area's ability to accommodate such development prior to approval. Land divisions, both major and minor subdivisions (not including boundary adjustments and inside the urban/rural boundary) shall be permitted when 50% of the useable parcels in the area have been developed and the created parcels would not be smaller than the average size of the surrounding parcels. To determine if this criteria is met, the following shall apply:*
>
> *a. Useable parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat*

> *areas, floodway management, or other such siting restrictions required by the certified LCP.*
>
> *b. To determine if the 50% rule has been met, a survey of the existing parcels in each planning area (delineated on the Land Use Maps) will need to be conducted. If 50% or more of the existing lots are developed, then the land division may be processed.*[3]

LCPZEO Section 21.36.030.B provides further criteria for determining the sample extent of the lands surrounding the subdivision site in which the usable parcels therein should be considered in terms of the 50% development threshold and for deriving the average parcel size of neighboring parcels:

> *The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.*
>
> *The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided.*
>
> *The study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major street or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.* [Emphases added.]

2. Discussion

The subject property is located outside of the Urban-Rural Boundary (U-RB) line that delineates areas where domestic water and/or wastewater treatment is provided by municipalities or community service special districts. In such rural areas beyond the U-RB, domestic water supplies and sewage disposal are either developed individually on-site or provided by small private or community systems subject to overview by local and state government public heath and water resources agencies. The LUP's New Development chapter together with implementing provisions within the County's subdivision and coastal zoning ordinances require that any land division proposal in rural areas demonstrate that the following two conditions exist before the proposed subdivision may be authorized:

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[3] These criteria are reiterated in Sections 16.04.037.B.1 & 2 of the Subdivision Ordinance, and Section 21.36.060.B of the Density Combining Zoning District standards of the LCPZEO.

- Development Timing Threshold: Fifty percent (50%) of the *usable* parcels *in the area* have been developed; and

- Development Pattern Compatibility: None of the parcels being created by the land division would be smaller than the *average* size of the parcels *surrounding* the subdivision site.

In defining which parcels are "usable," the extent of lands considered to be "in the area" or "surrounding" the subdivision site, and how to derive the "average" parcel size, the LUP, subdivision, and coastal zoning provisions direct that:

- To determine if the 50% rule has been met, a survey of the existing parcels in each planning area (delineated on the Land Use Maps) will need to be conducted. If 50% or more of the existing, usable lots are developed, then the land division may be processed.

- "Useable" parcels do not include: (1) parcels committed to agricultural and designated as such in the Land Use Plan; (2) parcels committed to timberland and designated as such on the Land Use Plan; (3) parcels or portions of parcels committed to open space for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP.

- The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided.

- The "surrounding parcels" study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major street or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes of compliance with zoning district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.

- The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.

Fifty Percent Pre-developed Area Threshold Requirement

For purposes of determining if the 50% pre-developed threshold has been met, Commission staff have examined the latest property tax assessment rolls compiled by the Del Norte County Assessor's Office. Using the criteria stated above, Commission staff examined property records for the 139 parcels within Planning Area No. 1 - Ocean View Drive. Planning Area No.1

comprises the roughly 3½-mile-long by ¾-mile-wide area that runs from the California-Oregon border down either side of Highway 101 to a point approximately one mile west-northwest of the unincorporated town of Smith River near the intersection of Highway 101 and Sarina Road (see Exhibit No.12).

Planning Area No. 1 encompasses approximately 2½ square miles and is comprised of approximately 178 parcels. Many of the planning area properties on the east side of Highway 101 would not be considered "usable," as they are designated either agricultural or timberlands. Thus, of the total parcels in the Planning Area No. 1, 106 parcels would be considered "usable" for purposes of the 50% pre-developed criterion.

Based upon the most recent County assessment rolls, 73 parcels of the 106 usable parcels within Planning Area No. 1, or approximately 69%, were shown to have structural improvements on the lots for purposes of *ad valorem* property taxation. Accordingly, at least 50% of the usable parcels in the area of the proposed subdivision, as defined by the LCP have been already developed. Thus, the proposed subdivision would conform with the development timing requirement of the LCP's rural land division standards.

Surrounding Parcel Size Compatibility

For purposes of determining if the size of the proposed subdivision's parcels would be compatible with the development pattern of the project site surroundings, as directed by the above-listed LCP criteria, Commission staff initially delineated a ¼-mile radius around of the project site. A total of 82 individual parcels and four mobilehome / recreational vehicle parks lie within one-quarter mile of the subject property. However, several significant features exist within the quarter-mile radius that distinguish the low-density rural residential area in which the project site is located from the other adjacent lands. These factors include: (a) surrounding areas dissimilarly zoned for commercial-recreational and large-lot rural residential / agricultural uses; (b) lands under the regulatory authority of the Smith River Rancheria and/or held in trust by the Bureau of Indian Affairs; and (c) lots within the RR-1 zoning district, where major portions of their overall lot areas are reserved for forested open space or the protection of estuarine or riparian corridor resources rather than being developable for low-density rural residential uses.

Staff excluded the above-described parcels under dissimilar zoning or regulatory programs and assessed only those thirty-five lots lying within the area ascribed by Highway 101, Mouth of Smith River Road, Salmon Harbor Drive, and the mouth of the Smith River as being "surrounding parcels." These parcels lie within a definable neighborhood area as delineated by the perimeter streets developed with 1,000- to 2000-square-foot single-family residences. Like the project parcel, all of these lots are designed by the LCP for Rural Residential use at a one-dwelling-unit-per-one-acre development density (RR 1/1), implemented through a Rural Residential – One Acre Minimum Parcel Size zoning district (RR-1). Further, for those 16 lots having significant portions taken up by estuarine or riparian resource areas, only the net developable area of these parcels were considered (see Exhibit No. 12).

Of these 36 residential parcels in the lot size study area, over half (20) are less than one acre in gross size, with the largest being five acres. The arithmetic mean of these parcels is .89-acre, the median parcel size (the value falling in the middle of the range) is .54-acre, and the mode (the value which occurs most frequently) is one acre (n = 4). Two of the five parcels that would be

created by the proposed subdivision, the one-acre Parcel 4 and the 6.5-acre remainder parcel, would be larger than the .78-acre arithmetic mean; Parcels 1, 2, and 3 at .63-acre, .58-acre, and .67-acre, respectively, would exceed the area of the .54-acre median size of surrounding parcels.

As noted above, LCPZEO Section 21.36.030.B indicates that the decision making authority is not limited to solely utilizing the arithmetic mean in determining the "average" parcel size for purposes of determining consistency with the LCP's rural land division standards. LCPZEO Section 21.36.030.B provides that the mode or median size may be used where the majority of parcels are of common size and very few parcels skew the mean to create an average size atypical of the size of surrounding parcels.

For the subject parcel size study, when the distribution of sampled parcel sizes is considered relative to the .98-acre arithmetic mean, a "positive skewing" situation becomes evident; of the thirty-six parcel sizes surveyed, 21 of the parcels, or roughly 58%, fall at or below one standard deviation (±.89-acre) compared to only 12 parcels, or approximately 33%, falling at or above one standard deviation. For a distribution to be "normal," wherein the arithmetic average would be considered most representational of "average parcel size," approximately 34% of the sample parcel sizes, or approximately 12 parcels should fall within one standard deviation above the arithmetic mean value and 12 parcels below of the arithmetic mean. Consequently, the distribution of the 36 parcel sizes used in this lot size study is not normative, as a far greater number of parcels are smaller than the arithmetic mean. Thus, the Commission concludes that rote use of the arithmetic mean as the average size of surrounding parcels would not be appropriate as it would not be representative of the most typical parcel size in the area surrounding the proposed subdivision.

The Commission also notes that with respect to use of the mode, or most common parcel size, only four of the thirty-six lots considered in the study, or roughly 11% of the total sample, comprise the one-acre modal size. As this number is similarly not representative of a significant quotient of the total number of surrounding lots, the Commission likewise concludes that use of the one-acre modal lot size would not be appropriately representative of the most typical parcel size in the proposed subdivision's surroundings.

The Commission therefore finds that a better representation of the typical parcel size in the area would be realized if the .54-acre median or mid-rank parcel size is used instead of either the .89-acre arithmetic mean or one-acre modal sizes for determining conformance with the minimum parcel size criterion. Applying the median parcel size would acknowledge that 21 lots, or a 58% majority, of the parcels in the 36-lot surrounding area are smaller than the arithmetic average parcel sizes. Thus, all of the lot sizes in the proposed subdivision would be larger than the .54-acre "average" size of parcels in the area surrounding the project site, as determined from the median lot size value. Therefore, the proposed subdivision would conform with the lot size development pattern compatibility requirement of the LCP's rural land division standards.

Conclusion

Thus, as discussed above, the subject subdivision as proposed may be authorized, contingent upon findings of consistency with all other applicable LCP policies and standards, as: (1) fifty percent (50%) of the usable parcels in the subdivision's area have been developed; and (2) none of the parcels being created by the land division would be smaller than the average size of the

parcels surrounding the subdivision site. Therefore, the Commission finds that the subject development, as proposed and conditioned, is consistent with the requirements of the LCP's rural land division criteria, the Subdivision Ordinance, and the Density Combining Zoning District.

F. Environmentally Sensitive Habitat Areas.

1. LCP Provisions

Section VI.C.6 of the County of Del Norte LUP's Marine and Water Resources chapter states:

> *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Section VII.D.4 of the LUP's Marine and Water Resources chapter sets policy directives for the review of development in a variety of biologically significant areas and types, stating in particular regard to the establishment of wetland buffers:

...

> *d. Performance standards shall be developed and implemented which will guide development in and adjacent to wetlands, both natural and man-made, so as to allow utilization of land areas compatible with other policies while providing adequate protection of the subject wetland...*
>
> *f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's* [or the Commission's on appeal] *determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*

...

The Marine and Water Resources chapter of the LUP includes "riparian vegetation systems" and "riparian vegetation" among its list of "sensitive habitat types," defining such as areas, respectively, as:

> *The habitat type located along streams and river banks usually characterized by dense growths of trees and shrubs is termed riparian. Riparian systems are necessary to both the aquatic life and the quality of water courses and are important to a host of wildlife and birds;*
>
> and
>
> *Riparian vegetation is the plant cover normally found along water courses including rivers, streams, creeks and sloughs. Riparian vegetation is usually characterized by dense growths of trees and shrubs.*

Marine and Water Resources Policy VII.E.4.a of the County of Del Norte LUP states:

> *Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.* [emphases added]

Section IV.D.1.f of the LUP's Marine and Water Resources chapter establishes other standards for buffers, stating that:

> *Natural vegetation buffer strips may be incorporated to protect habitat areas from the possible impacts of adjacent land uses. These protective zones should be sufficient along water courses and around sensitive habitat areas to adequately minimize the potential impacts of adjacent land uses.* [Emphasis added.]

2. Discussion

Extent of ESHA

The subject property is situated on a middle Quaternary-aged uplifted coastal terrace vegetated by six plant communities: (1) a mixture of native and exotic upland grasses and shrubs covering most of the open terrace area on the eastern half of the site that was subjected to timberland harvesting and conversion activities several decades ago; (2) remnants of North Coast Coniferous Forest bracketing a gulch that traverses the center of the property and extends to the western property line; (3) a roughly 60-foot-wide band of riparian vegetation / palustrine wetlands on the periphery of the ponds and connecting stream within the gulch; (4) an approximately 10- to 20-foot-wide band of upland riparian vegetation situated immediately to the west of the riparian vegetation wetlands; (5) two impounded aquatic bed/emergent wetland areas totally approximately 15,000 square feet; and (6) a roughly 5-foot-wide intermittent riverine wetlands connecting the two impounded wetlands.

The Land Use Plan's Marine and Water Resources chapter defines ESHA's as including wetlands and riparian vegetation areas. LUP Policy VII.D.4 sub-sections f & g state that where there is uncertainty or a dispute over the boundary or location of an ESHA, a biological survey to

determine the extent of the sensitive resource is the appropriate mechanism to resolve the issue. The biological survey may include a topographic base map, a vegetation map, and a soils map. In addition, the LCP incorporates by reference the Commission's February 4, 1981 Statewide Interpretative Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas as a source of definitions and criteria for identifying and classifying wetlands. An initial report dated August 2002 as well as several subsequent reports were developed and submitted to the Commission staff during its *de novo* review of the project. The initial report identified a riparian plant community along the stream. A habitat and wetland assessment (Galea Wildlife Consulting, 2002-04) was conducted for the wetlands areas within the impounded gulch located in the central portion of the proposed remainder parcel (see Exhibit No. 9).

Cumulatively, a roughly 450-foot-long by 70-foot-wide area comprising the floor and lower side slopes of the gulch has been identified as ESHA by the habitat and wetland assessment. In addition, other areas at the upper end of the gulch north of the ponds also likely contain aquatic and emergent shrub-scrub wetlands, although, because of the dense, thorny brambles that dominate this area, a precise boundary of the extent of wetlands in this area has not been precisely delineated. Only a boundary around the extent of the area with similar vegetation to that within the mapped ESHAs has been established. Although the wetlands delineation and riparian habitat assessment does not formally establish that all of this northern area within the demarcated boundary contains ESHA, this area shares a functional hydrologic relationship with the delineated and mapped ESHAs further to the south in that this thicket surrounds the seep that is the source of the ponds within the gulch. To avoid the need to obtain a wetland delineation for this area, and because the proposed project does not raise buffer issues in this area, the applicant has stipulated to the treatment of all of the northern area within the demarcated area as ESHA.

Establishing the Extent of Wetland and Riparian Vegetation ESHA Buffer Areas

LUP Marine and Water Resources Policy VII.D.4f states that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. This policy further states that the primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. Alternately, if an applicant can demonstrate that one hundred feet is not necessary to protect the wetland area from adverse impacts caused by the proposed development, and specific findings are adopted by the permitting authority, in cooperation with the California Department of Fish and Game, as to the adequacy of a reduced buffer to protect the resource area, the buffer may be reduced to less than 100 feet in width.

Ecologically, a buffer is a transition zone between one type of habitat and another. Buffers provide an area of refuge for plants and animals between their normal or preferred habitat and human activities. Buffers also serve to lessen the impacts caused by road and paved area runoff, landscape fertilizing, and spills of other household hazardous materials that could severely reduce a wetland's ecological value and the quality of the water flowing outward or downward into surface or sub-surface waters.

The applicant's consultant's initial habitat and wetland assessment report proposed a 25- to 50-foot reduced-width wetlands/riparian buffer along the eastern side of the upper pond and a

reduced 50-foot reduced-width buffer over the remainder of the eastern and western sides of the ponds and the connecting streambed/riparian wetlands. Pursuant to the requirements of Section VII.D.4.g of the LUP's Marine and Water Resources chapter, on January 30, 2003, Mr. Galea provided a supplemental analysis of the adequacy of a less-than-100-foot-wide buffer area to protect the wetlands and riparian vegetation (see Exhibit No. 9). This evaluation concluded that given the relatively small and isolated nature of the resource areas, the actual habitat utilization within the vegetated gully and riparian corridor, and the scope and extent of the proposed development, reducing the buffer from a default 100-foot-width to the proposed 50- to 25-feet would still provide adequate protection to this environmentally sensitive area as required by the certified LCP.

A final map of the buffer area proposed by the consultant has not been provided. However, based upon the text within the applicant's consultant's analysis of the adequacy of the proposed reduced-width buffer, the perimeter boundary of the buffer area is understood to extend easterly and westerly outward from the external boundary of the mapped wetlands and riparian vegetation a distance of fifty horizontal feet onto the cleared and lawn covered portion of the site and into the non-riparian forested area, respectively. Upon reaching the heavily side sloped area of gulch on the southeastern side of the upper pond wetland, the proposed easterly buffer tapers down to a 25-foot width. This 25-foot-wide buffer runs along the eastern side of the ponds, with the edge of the buffer roughly corresponding to the top of the bank of the gulch, for approximately 160 feet. No specific buffer width for the portions of the wetlands and riparian vegetation located within the bramble thickets at the northern end of the gulch mapped as containing "potential wetlands" on the delineation map, or around the periphery of the lower pond have been specified.[4]

The consultant cites the following in justifying their recommendation for a 25- to 50-foot reduced-width wetland buffer:

- The wetland ponds and connecting stream course are man-made features, dredged out of the bottom of the gully to and below the water table level several decades ago. They are not a naturally occurring landform feature.

- The area in proximity of the wetlands has a history of being previously modified and developed with residential uses. Historically, a house was once located within 60 feet of the pond above the eastern bank. In addition, agricultural uses have been conducted as close as 30 feet from the edge of the riparian vegetation ESHA on westerly neighboring parcel APN 102-081-62, up to the late 1970's (see Photo #2 in May 12, 2004 report). The resource area is presently surrounded on all sides by manicured lawns, residential housing, and pasturage.

- The man-made ponds contain no fish and only a few wetland plants or animal species. Based upon multiple site visits, no wetland-dependent animal species were observed utilizing the ponds or adjoining wetland areas. The botanical survey found no evidence

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[4] As discussed above, the subject project does not propose development adjacent to this northern area. Accordingly, the sufficiency of the buffer area is not at issue in this northern area.

of the presence of either candidate or listed federal or state rare/endangered/threatened plant species.

- There is no hydrologic connectivity between the ponds or the wetland habitats and other wetlands in the vicinity of the project site.

- As the wetlands are relatively small in overall size and narrow in physical extent, and bordered on all sides by development, they are inherently unattractive to wetland dependent animal species for nesting or roosting, and the need to provide a buffer width to prevent disturbance to such habitat uses is a moot point. The only wetland resource located at the site are the sensitive plant species, and these do not require a 100-foot buffer width.

- The proposed 50-foot-wide buffer along the western side of the ponds and connecting channel is inclusive of the western band of riparian vegetation. As these relatively dense and mature vegetation afford significant screening of the wetlands from light, noise, and human intrusion on that side of the parcel, the proposed reduced width buffer for this area would be adequate to protect the wetlands from these identified potentially adverse impacts.

- With regard to the impetus for the reduced buffer proposed around the upper pond, on page 9 of the January 30, 2003 report the consultant states that:

> On the east side of the pond, the Applicant has requested a buffer reduction to 25 feet. Currently, the area directly east of the pond is landscaped and mowed lawn, which has been in place several decades. As there are no environmentally sensitive habitats in the area east of the pond, and there are no significant populations of sensitive wildlife species or plants in and around the pond, a 25 foot buffer is adequate. The Applicant has requested a 50 foot buffer on the west side of the pond. Again, this appears to be adequate based upon the lack of wetland habitats on the west side, and the lack of any other sensitive habitats west of the pond. [Emphases added.]

This rationale for the proposed reduced buffer widths around the upper pond is reiterated in the supplement to the wetland delineation and buffer analyses on page 11 of the consultant's February 27, 2004 submittal and on page 2 of the March 12, 2004 report amendment.

Galea Wildlife Consulting also performed an assessment of the habitat utilization of the riparian vegetation that laterally brackets the various wetland areas within the gullied area on the proposed remainder parcel. The assessment observed that the pond wetlands were surrounded by a narrow band of mature vegetation, consisting of four to five large Sitka spruce trees, two of which had fallen since the date that the habitat investigation was initiated in late 2002 and within the subsequent year. The consultant noted that these trees are located very close to the edge of the pond and are seasonally subject to saturated soil conditions. In addition, as the project site is located near the open coastline where during the winter months storm wind velocities on occasion reach gale force, the tree strata within the riparian corridor about the pond are

susceptible to windfall and/or apical bud tip and branch damage that can stunt the trees' growth and impact their overall health. The consultant also made note of the shrub layer riparian vegetation along the north side of the upper pond. This area is comprised primarily of dense, tall salmonberry (Rubus spectabilis).

With specific regard to habitat utilization, the consultant's analysis reiterates many of the same factors identified in the wetland buffer analysis as posing limitations on the actual and potential habitat value of the riparian corridor. Mr. Galea notes that there is anecdotal evidence of possible past use of the riparian trees by wood ducks (Aix sponsa), based on the presence of several nesting boxes found at the base of the trees. However, the consultant states that he encountered no ducks or other riparian tree layer dependent animal species during his visits to the site. No discussion of habitat usage or potential was provided for the shrub layer portions of the riparian corridor.

Thus, the consultant concludes that as the riparian vegetation is: (a) very limited in its extent and viability; (b) subject to substantial environmental stressors that limit habitat capability; (c) wholly located within the buffer area proposed for protecting the wetlands in which development would be precluded; and (d) not providing any observable habitat use therein, retention of these streamside plants would suffice to adequately conserve the resource and no additional buffer area to that proposed for the wetland areas would be needed to protect the habitat value of the riparian vegetation on the site.

Along the eastern side of the gulch between the upper and lower ponds, the riparian vegetation is composed of a predominance of hydrophytes that also qualify the area in which these plants are growing as wetlands. However, along the gulch's western side between the ponds, a 10- to 20-foot-wide band of riparian vegetation that does not contain a prevalence of hydrophytes exists on the side slopes. Thus, the proposed reduced-width buffer in this western area is only 50-feet-wide with respect to the extent of the wetlands and not the riparian vegetation. Accordingly, if the full extent of both wetland and riparian ESHAs is used as the basis from which the buffer is measured, the proposed buffer along the western side of the gulch would actually be 30 to 40 feet in width.

Review Coordination with Department of Fish and Game

Staff of the California Department of Fish and Game (CDFG) reviewed the initial habitat assessment and buffer width analyses prepared in 2002. In a letter dated September 25, 2002, sent to Del Norte County shortly before its October 2, 2002 hearing on the subject Tentative Parcel Map Approval/Coastal Development Permit, CDFG staff stated they had determined that, based upon the past modifications at the site and in the surrounding area to establish residential uses, the inherent habitat provided within the gullied wetlands, and the configuration of lots within the proposed subdivision, the recommended 25- to 50-foot reduced-width buffer would be an adequate buffer for this particular project (see Exhibit No. 9). This correspondence was attached to the February 27, 2004 Galea Wildlife Consulting submittal of a revised wetland delineation and buffer analysis.

Although there is no indication that CDFG staff reviewed the supplemental information and refinements in the wetland delineation and buffer adequacy analyses developed subsequent to the issuance of their September 2002 letter, as contained in the consultant's January 30, 2003,

February 27, 2004, or May 12, 2004 submittals, Commission staff has discussed this more recent information with CDFG staff. CDFG staff indicates that for the same reasons explained in their previous letter, the Department continues to find that the proposed 25- to 50-foot-wide reduced width buffers will be adequate for protecting the wetland and riparian resources and habitat within the gullied area of the property.[5]

Specific Findings to Substantiate Adequacy of Reduced-width ESHA Buffers

In addition to coordinating the review of wetland delineations and proposals for less-than-100-foot-wide buffers with the California Department of Fish and Game, Section VII.D.4.f of the LUP's Marine and Water Resources chapter further requires that determinations by the hearing board to utilize a buffer of less than one-hundred feet be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resources. However, the LCP does not provide further specifics as to what those findings of adequacy should be based upon.

Although the analyses prepared by the consultant did provide information as to the extent of the ESHAs on the site, the lack of observable utilization of wetland and riparian vegetation habitat by resource-dependent species, and the factors that may be lessening wildlife use or habitat potential, the evaluation did not analyze of the need to protect the intrinsic habitat values these areas afford notwithstanding their relatively small size, location, less than pristine condition, or man-made origin. Moreover, the habitat value of the gullied wetlands and riparian vegetation to other more common, less sensitive, and non-obligate coastal woodland species, such as passerine songbirds, deer, bear, fox, skunks, raccoons, and other small mammals, or the role of the area as a noncontiguous part of a wildlife corridor, were largely disregarded. Thus, the Commission finds that the buffer analyses provided by the applicant does not provide a sufficient evidentiary foundation on which specific findings can be based to support a determination as to the adequacy of the proposed reduced-width buffers.

Although the LCP policies do not specify particular factors that should be considered in determining whether a proposal to use a wetland buffer of less than 100 feet would be adequate to protect the wetland resources, at least the following criteria are relevant:

1. Biological significance of adjacent lands;

2. Sensitivity of species to disturbance;

3. Susceptibility of parcel to erosion;

4. Use of natural topographic features to locate development;

5. Use of existing cultural features to locate buffer zones;

6. Lot configuration and location of existing development; and

7. Type and scale of development proposed.

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[5] Pers. comm., Karen Kovacs, Supervising Biologist, California Department of Fish and Game

Given the omissions in information provided by the applicant for purposes of developing adopted findings regarding the adequacy of proposed reduced-width buffers between the subdivision development and the wetland and riparian vegetation ESHAs in compliance with LUP Marine and Water Resources Section VII.D.4.g, the Commission employs the above-listed criteria to analyze the adequacy of the proposed reduced-width buffer to protect ESHA resources at the site:

1. Biological significance of adjacent lands.

The lands adjacent to the gullied wetlands and riparian vegetation habitat areas are composed of open lawn area with scattered tree and shrub landscaping to the east and a band of non-riparian upland tree and brush cover along the property's western side. Depending upon the species utilizing the wetlands and riparian areas, functional relationships may exist between these ESHAs and the adjoining open grassy and upland tree and brush covered areas. For example, while the more hydric/mesic resource-dependent species, such as amphibians or waterfowl may restrict their habitat use to the immediate wetland and riparian vegetated areas where they are dependent upon such areas during breeding seasons, these species also require adjacent uplands for wintering habitat. In addition, species with broader ecological niches, such as raptors and passerine songbirds, deer, bear, raccoon, skunks, or rabbits may spend a significant portion of their lifecycles traversing these adjoining upland areas hunting or browsing for food. In such instances where significant functional relationship exists, the land supporting this relationship should also be considered to be part of the environmentally sensitive habitat area, and the buffer area should be measured from the edge of these lands and be sufficiently wide to protect these functional relationships.

No information has been provided by the applicant addressing the functional relationship of the lands adjacent to the wetland and riparian vegetation ESHAs for habitat utilization by species that are not exclusively dependent upon the wetland and riparian vegetation or hydrology. Accordingly, from the perspective of the biological significance of adjacent lands, the Commission finds that the adequacy of the proposed reduced-width buffer has not been substantiated.

2. Sensitivity of species to disturbance.

The width of the buffer area should also be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Factors relevant to this analysis include the following: (a) nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species; and (b) an assessment of the short-term and long-term adaptability of the various species to human disturbance.

The consultant's analysis of habitat utilization of the wetland and riparian vegetation ESHAs was limited to noting that the ponds were absent of fish, that no wetland-dependent species had been observed using the site during any of the three field visits made to the property, and anecdotal disclosure of possible past wood duck nesting based upon the presence of discarded nesting boxes.

In presenting these conclusions, no citation or discussion was provided indicating whether the site investigations for the presence of wetland-dependent or other species were conducted pursuant to established wildlife survey protocols. In addition, the area currently does not have an

undisturbed buffer. With an appropriately vegetated buffer, there will probably be greater wildlife use. Accordingly, from the perspective of the sensitivity of species that would be affected by a reduction in buffer width, the Commission finds that the adequacy of the proposed reduced-width buffers has not been substantiated.

3. Susceptibility of parcel to erosion.

A determination regarding the sufficiency of the width of the buffer area is also dependent, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As described in greater detail within the Project Description Finding Section IV.C.2 above, the proposed development consists solely of the platting of four lots and a remainder parcel and related infrastructural improvements under the regulations of the County's Subdivision Ordinance and relevant LCP provisions. No residential development is currently proposed. However, the applicant's consultant states that the impetus for the proposed reduced-width buffers is to allow the property owner to eventually construct a residence on the remainder parcel at the former site of a home that burned-down in the past. The consultant describes this house site as being approximately 60 feet from the eastern edge of the upper pond wetlands. No other information was provided or considered with respect to this envisioned future development in assessing the adequacy of the proposed buffer widths.

Given that a specific development scenario for future residential construction on the parcels that would be created by the subdivision has not been provided, the assessment of potential erosion and runoff impacts to the ESHAs, and the buffer width that would be needed to mitigate such effects must then be reviewed in terms of the maximum allowable development that might be permitted on the site. The Commission notes that the RR-1 zone allows, contingent upon compliance with all other standards, for up to 20% of each parcel to be covered with structures. For the 7.5-acre combined area of Parcel 4 and the remainder parcel, the two lots that are situated wholly and partially upslope from the wetland and riparian vegetation ESHAs, respectively, up to 65,340 square feet of impervious structural development could theoretically be authorized on these lots. Stormwater runoff from such a large area could have significant adverse erosional and water quality impacts to both the onsite ESHAs and to areas further down slope of the property if such significant runoff were not properly addressed and mitigated in the project's design and siting. Accordingly, with respect to the ability of the proposed buffer to mitigate the potentially adverse impacts from erosion and stormwater runoff originating from impervious surfaces associated with future residential development on the proposed parcels to less than significant levels, the Commission finds that the adequacy of the proposed reduced-width buffers has not been substantiated.

4. Use of natural topographic features to locate development.

Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces, hillsides, and other such terrain breaks should not be developed, but should be included in the buffer area. Although the ponds and riparian wetlands are man-made in their origin, the side slopes of the gulch in which they are situated are natural topographic features that would be used to buffer the wetlands and riparian vegetation below from the future residential uses above.

The side slopes of the gulch would be included in the proposed reduced-width buffer. Although use of this natural topographic feature may improve the effectiveness of the proposed reduced-width buffer, the applicants have not demonstrated that this positive aspect of the buffer in and of itself is sufficient to evidence the adequacy of the buffer in protecting ESHA resources. As discussed in the preceding and following sections, the applicant has not demonstrated how a reduced-width buffer at this site meets other criteria that support a reduced-width buffer, and has not demonstrated that when taking all such criteria into consideration, the proposed reduced buffer will be adequate to protect the affected ESHA resources.

5. Use of existing cultural features to locate buffer zones.

Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area. The applicant's wildlife consultant evaluated the site for the presence of cultural features on the property in recommending the 25- to 50-foot reduced-width buffers. Mr. Galea observed that as the uplifted marine terrace setting beyond the gulch edges to the easterly and westerly property lines is effectively featureless with respect to cultural features. Accordingly, the Commission finds that there are no such features at the site that could be incorporated into the development buffer to bolster its effectiveness and support use of a reduced-width buffer.

6. Lot configuration and location of existing development.

With respect to the role the physical layout and the location of a parcel have in determining the proper width of an ESHA buffer, it should be noted that the proposed development is a subdivision that will establish new parcel lines. Thus, an opportunity exists to configure parcels in a manner that will accommodate whatever width of buffer is determined to be appropriate and still provide for new building sites for the new parcels to be created.

As discussed previously, the request for the reduced-width buffer would facilitate the future construction of a homesite that would be located within 60 feet of the outer edge of the delineated wetland and riparian vegetation ESHAs. Thus, the impetus for seeking authorization to establish a reduced-width buffer may be predicated upon a desire to pursue future development in a particular desired location rather than in response to other site limitations, such as small parcel size or the presence of geologically unstable areas beyond the buffer, where application of a full 100-foot-wide buffer would unduly preclude a reasonable level of development at the site or force the development into hazardous areas. The 6.5-acre remainder parcel is the only lot in the proposed subdivision that would be affected by the ESHA buffer, as all of the other lots are located more than 100 feet from the outer edges of the wetlands and riparian vegetation on the site. As shown on the graphic in Exhibit No. 11, the easternmost portion of the remainder parcel, from its apex where it abuts Highway 101 to the proposed access road that would serve Parcels 1, 2, and 3, is situated beyond the extent of a 100-foot-wide buffer around the periphery of the gullied ESHAs. This area ranges in width from approximately 20 feet to 150 feet. Moreover, this lot portion contains two areas each comprised of approximately 12,000 square-feet of cleared, relatively flat land, triangular to rectilinear in shape, where a building site for a conventional residence could be developed. Therefore, imposition of a full 100-foot-wide buffer would not result in depriving the remainder parcel of a building site for development of a single-family residence or other uses provided for under the LCP.

Thus, based upon the configuration of the lots that would result from the proposed subdivision development and the pattern and extent of existing development on the subject property, the Commission finds that these project site conditions do not warrant the need for, or serve to substantiate the adequacy of, the proposed reduced-width buffers.

7. Type and scale of development proposed.

The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by case basis depending upon the resources involved, and the type and density of development on adjacent lands.

As discussed above, given that a specific development scenario for future residential construction on the parcels that would be created by the subdivision has not been provided, the assessment of impacts to the ESHAs from the type and scale of future development on the site can only be assessed utilizing the maximum potential development at the site that would be allowed under the LCP. Thus, based upon the lack of specific information as to the extent of future development that would result from the proposed subdivision development, the Commission finds that the type and scale of proposed development does not warrant the need for, or serve to substantiate the adequacy of, the proposed reduced-width buffers.

Conclusion

The Commission's biologist, John Dixon PhD, has reviewed the various wetland delineation and buffer adequacy analyses prepared by the applicant's consultant. Dr. Dixon does not agree with the conclusion drawn by the consultant that a buffer width of less than 100 feet would adequately protect the wetland and riparian resources on the site. As discussed in the review criteria above, Dr. Dixon notes that the likely reason for a lack of wildlife presence in and around the ESHAs is due more to the fact that an adequate buffer has not been maintained around the periphery of the resource area and this has led to the decreased wildlife habitat utilization rather than an absence of potential habitat amenities within the area. Dr. Dixon reasons that had an adequate buffer been established between the residential uses on the property and the gulch area when the site was first developed and maintained over the years, wildlife use would likely be more extensive than has been observed. Further, Dr. Dixon also notes that the consultant's reported observations of wildlife habitat utilization of the ESHA appear to be casual in nature, as no established survey protocols were cited. Finally, Dr. Dixon concludes that, as stated within the consultant's various reports, the primary motivation for the specific reduced-width buffers being proposed seems to be based upon accommodating the siting for a particular future development project (i.e., reestablishing a residence in the former location of a burnt homesite) rather than for assuring that adequate protection for the ESHA resources on the property is provided.

Under LUP Marine and Water Resources Section VII.D.4.g, in order to reduce a buffer to less than 100 feet in width, the sufficiency of the reduced-width buffer must be demonstrated. Based on all of the foregoing, the Commission finds that the applicant has failed to demonstrate that the proposed 25- to 50-foot buffer between the proposed development and the riparian and wetland ESHAs on the site will provide adequate protection the ESHA. Therefore, under LUP Marine and Water Resources Section VII.D.4.g, the buffer cannot be reduced and a full 100-foot-wide

buffer must be provided. Accordingly, to assure compliance with the LCP, the Commission attaches Special Condition No. 1. Special Condition No. 1 requires the applicant to prohibit development over all wetland and riparian vegetation ESHA on the site as well as all areas within 100 feet from the outer boundary of all wetlands and riparian vegetation ESHAs on the property. Special Condition No. 4 requires that a deed restriction be recorded against all lots created by the subdivision informing future owners of the conditions attached to the approval of the subdivision, including the requirements of Special Condition No. 1 that the ESHA area and all areas within 100 feet of the ESHA be restricted as open space. Special Condition No. 5 requires that further constructive notice of this requirement be given by designating the open space deed restricted area on the final parcel map that must be submitted for review and approval of the Executive Director before recordation of the final parcel map. As conditioned, the Commission finds that the project is consistent with LUP Marine and Water Resources chapter Section VII.D.4.g, as all ESHA resources and a full 100-foot-wide buffer around the ESHA will be restricted from future development.

G. Stormwater Runoff.

1. LCP Provisions

Section VI.C.1 of the LUP's Marine and Water Resources chapter states:

> *The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*

Section VI.C.4 of the LUP's Marine and Water Resources chapter states:

> *Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.*

Discussion

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. Recognizing this potential impact, Section VI.C.1 of the LUP's Marine and Water Resources chapter indicates that the County seeks to maintain and, where feasible, enhance the quality of water resources. LUP Marine and Water Resources Policy 4 goes further to prohibit waste discharges from land uses that would cause public health hazards or result in the impairment of the biological productivity of coastal waters.

The subject parcel is located on a gently sloping portion of uplifted coastal terrace planned and zoned for low-density rural residential development. Runoff from the vacant property generally flows southerly and westerly across the property or into the ponds on the proposed remainder parcel and into the drainage ditching along the southwesterly access stub to Mouth of Smith River Road. The runoff eventually discharges onto the beach on the north shore of the Smith River, approximately ¼-mile to the south of the project site.

As discussed in Project History/Background and Project Description Findings Sections IV. B and C, above, the project entails only the platting of a total of five lots, consisting of four parcels and a remainder parcel in the parlance of the Subdivision Map Act, with no residential improvements being proposed at this time. The County's approval of the tentative subdivision map was, however, conditioned upon certain access roadway and drainage improvements being performed on the roughly 40-foot-wide access stub that abuts Mouth of Smith River Road. In addition, an emergency vehicle turn-around area is to be constructed at the end of this access road where it enters Parcel 3. Runoff originating from the development site that is allowed to drain off the site to the river through these areas could contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including both onsite wetlands and downstream marine waters. The applicant's engineer has submitted a preliminary drainage plan that identifies several water quality management practices to be used and considerations to be followed during the construction of the road improvements (see Exhibit No. 10).

Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction of the access road improvements. Consistent with LUP Marine and Water Resources Policy 4, the Commission attaches Special Condition No. 2, requiring that the applicants minimize erosion and sedimentation impacts from the proposed construction of the residence. Special Condition No. 2 requires that the applicants submit for the review and approval of the Executive Director a final erosion and runoff control plan that would require that: (1) debris fencing be installed to contain runoff from road construction areas; (2) coffer damming or other appropriate in-water barriers be installed in the outlet of the ponds and wetlands to impound and/or redirect flows from entering the excavation site; (3) over-water construction protocols be followed; (4) on-site vegetation be maintained to the maximum extent possible during construction; (5) a velocity dissipation device be installed at the outfall of the drainage culvert; (6) the construction roadway be stabilized; and (7) runoff from all roads, driveways, and emergency vehicle turn-around areas be conveyed into a roadside vegetated swale.

The Commission notes that as subsequent residential construction is undertaken on the lots created by the subdivision, the County will have an opportunity to assess the effects this construction would have on water quality resources of the area during the review of the related coastal development permits for any future residences.

The Commission thus finds that as conditioned, the proposed development is consistent with LUP Marine and Water Resources Policies 1 and 4 because existing water quality will be maintain protected from impairing waste discharges by: (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; and (3) using hay bales, coffer damming, or other appropriate devices to control runoff during construction.

H. <u>Archaeological Resources</u>.

A Cultural Resources Investigation was prepared for the site by a qualified archaeologist (James Roscoe, 2002). According to the report, the Tolowa people prehistorically occupied the project area. Tolowa settlements lay along Lake Earl, Smith River, and along the banks of many of the streams and sloughs in the area.

According to the report, the study was designed to (1) identify all archaeological resources or sites of ethnic significance; (2) perform preliminary evaluations of site significance; (3) consider the potential adverse effects to cultural resources resulting from project implementation; and (4) advance recommendations aimed at reduction or elimination of adverse impacts to significant cultural resources as needed. A literature search and a field survey were conducted as part of the site review.

The field survey did not identify the presence of any culturally significant resources on the parcel. The report recommends that if buried archaeological resources are encountered during construction activities, that all work in the immediate area of the find should be halted temporarily and/or shifted to another area, so that the monitor can evaluate the materials to determine their significance.

To ensure protection of any archaeological or cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches Special Condition No. 6. The condition requires the applicant to comply with the recommendation contained in the archaeological report prepared for the project that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, would not result in adverse impacts to cultural resources.

I. Public Access.

1. 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.

2. LCP Provisions

The Del Norte County LUP includes a number of policies regarding standards for providing and maintaining public access:

Section III.C of the LUP's Public Access chapter states that:

> *The County shall work actively towards the attainment of maximum coastal access for the public, where it is consistent with public safety, property owner rights and the protection of fragile coastal resources.*

However, much of the focus of the LCP's policies and standards address the protection, acquisition, and improvement of lateral and vertical accessways in immediate shoreline settings, rather than in more inland locales such as where the subject property is situated.

3. 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.

Although the subject property is situated on a portion of an uplifted coastal terrace that is between the first through public road (Highway 101) and the sea (Smith River), the property is surrounded on all sides by low-density rural residential development (see Exhibit No. 3). The County's land use maps do not designate the subject parcel for public access, and there does not appear to be any safe vertical access to the rocky shoreline down through the steep and heavily vegetated bluffs along the north side of the Smith River that would avoid trespassing through one of the neighboring lots that adjoining the property's southern boundary.

Public access facilities are located within a ¼-mile radius of the project site, including the beach access at the terminus of Mouth of Smith River Road to the south, and the Indian Road ocean beach access near the Howonquet Cemetery to the northwest. Additional boat launching and public access to the river is also allowed across the private lands that comprise the *Ship Ashore* recreational complex, approximately ½-mile to the southeast.

The proposed development would not significantly increase the demand for public access to the shoreline and would have no other significant adverse impacts on existing or potential public access. In addition, a variety of access facilities are located within a convenient proximity from the project site. Therefore, the Commission finds that the development, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

J. Visual Resources.

1. LCP Provisions

The County of Del Norte's certified LCP contains several policies relating to the protection of visual resources within those portions of the coastal zone meeting the criteria for designations as

"highly scenic areas." Section II.A & B of the LUP's Visual Resources chapter states, in applicable parts:

> *...Criteria for designating highly scenic coastal areas in Del Norte County are proposed as follows:*
>
> *1. Views of special interest to the general public (e.g., Pacific Ocean; lighthouses, old growth forests);*
>
> *2. Visually distinctive scenes resulting from unique contrasts or diversity in landscape patterns (e.g., offshore rocks, forested uplands);*
>
> *3. Views with special integrity or unimpaired conditions (e.g.,open space, nature preserves)...*
>
> *Views within the coastal region of Del Norte County with particular visual distinctiveness, integrity, harmony and/or of special interest to the general public include the following:*
>
> *1. View of water bodies (e.g., ocean, estuary, streams);*
>
> *2. Views of sensitive habitats and open space (e.g., wetland, rocky intertidal);*
>
> *3. View of expressive topographic features (i., offshore rocks, sea cliffs);*
>
> *4. View of special cultural features (e.g., historical, maritime settings).*
>
> *Areas identified as having present one or more of the above elements are enventoried* [sic] *and evaluated by this study for their value as significant visual resources.*

In addition, LUP Visual Resources Section III.C.6 identifies and described the following scenic viewpoints within the vicinity of the project site:

> *3. Prince Island Court: At the end of Prince Island Court is a little used coastal viewing point. This is one of the closest public vantage points for observing the birdlife of Prince Island and Hunter Rock.*
>
> *4. Mouth of the Smith River: The mouth of the Smith River is a County maintained public access and viewpoint situated on a terrace overlooking the Smith Riverls entrance to the ocean. The view from this area extends from Point St. George to Pyramid Point and includes scenes of the Smith River estuary and its wildlife, a large sandspit, coastal dunes and distant forested uplands.*

Section V.C.6 of the LUP's Visual Resources chapter states:

> *Activities which significantly and permanently alter natural landforms, such as mining and excavation, shall be required to restore disturbed areas to, close as possible, a natural appearance.*

2. Discussion.

The 9.4-acre parcel is situated between Highway 101 and the Mouth of Smith River Road within the "Ship Ashore" community area of the Smith River sub-region of Planning Area No. 1 – Ocean View Drive, approximately 2½ miles northwest of the unincorporated town of Smith River (see Exhibit Nos. 2 and 3). The property is not situated within a designated highly scenic area as enumerated within the LUP. Thus, the majority of the LCP's policies and standards regarding visual resource protection are not applicable to the project site and its surroundings. The closest designated coastal scenic viewpoints are located at the public access facility at the southern terminus of the Mouth of Smith River Road and at the end of Prince Island Court, ¼ mile to the northwest of the site. Both of these vista points have their ocean and coastline views oriented away from the subject property.

Due to the property's location on a private road and the surrounding private land development pattern, public views to and along the ocean across the property are limited. Additionally, given the presence of mature vegetation between the highway and project parcel, views of the site from Highway 101 and other public recreational areas are limited to a relatively brief gap in the roadside vegetation along southbound Highway 101 as it passes the parcel's 30-foot-wide highway frontage, and from near the end of Mouth of Smith River Road up the 40-foot-wide strip of the parcel that abuts the County road. Both of these vantages of the project site are fleeting and partially obscured by intervening vegetation. No views to and along the open coastline are afforded either from or through the project site from public vantages.

As no above-grade improvements are proposed as part of this land division, no new structures would be introduced into the landscape that could adversely affect visual resources in the area as part of this development project. Furthermore, given the property's location surrounded by other rural residential development and dense, mature vegetation, residences that in the future could permissibly be developed on the lots created by the proposed subdivision would not need to be sited so that they are visually prominent from public viewing areas or result in significant adverse impacts to the area's visual resources, even if developed to the maximum 25-foot height and 20% lot coverage standards of the RR-1 zoning district.

Furthermore, as subsequent residential construction is undertaken on the lots created by the subdivision, the County and the Commission on appeal will have an opportunity to assess the effects these structures would have on visual resources of the area during the review of the related coastal development permits for these future residences. The permit review for these developments will provide an occasion for ensuring that all related grading and utility extensions are similarly performed consistent with the LCP.

Therefore, the Commission finds that the proposed land division development as proposed and conditioned is consistent with the visual resource protection provisions of the certified LCP.

K. 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 Del Norte LCP. 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 Map
3. Site Aerial
4. Excerpt, Land Use Plan Map – *Smith River Area*
5. Tentative Parcel Map
6. Excerpt, Local Coastal Program Zoning Enabling Ordinance – Chapter 21.36
7. Notice of Final Local Action
8. Appeal, filed October 31, 2002 (Wan & Woolley)
9. Excerpts, Wetlands Delineation and Buffer Adequacy Analyses (Galea Wildlife Consultants)
10. Preliminary Erosion and Runoff Control Plan (Lee Tromble Engineering)
11. Extent of 100-foot-wide ESHA Buffer
12. Lot Size Study
13. General Correspondence

ATTACHMENT A:

STANDARD CONDITIONS

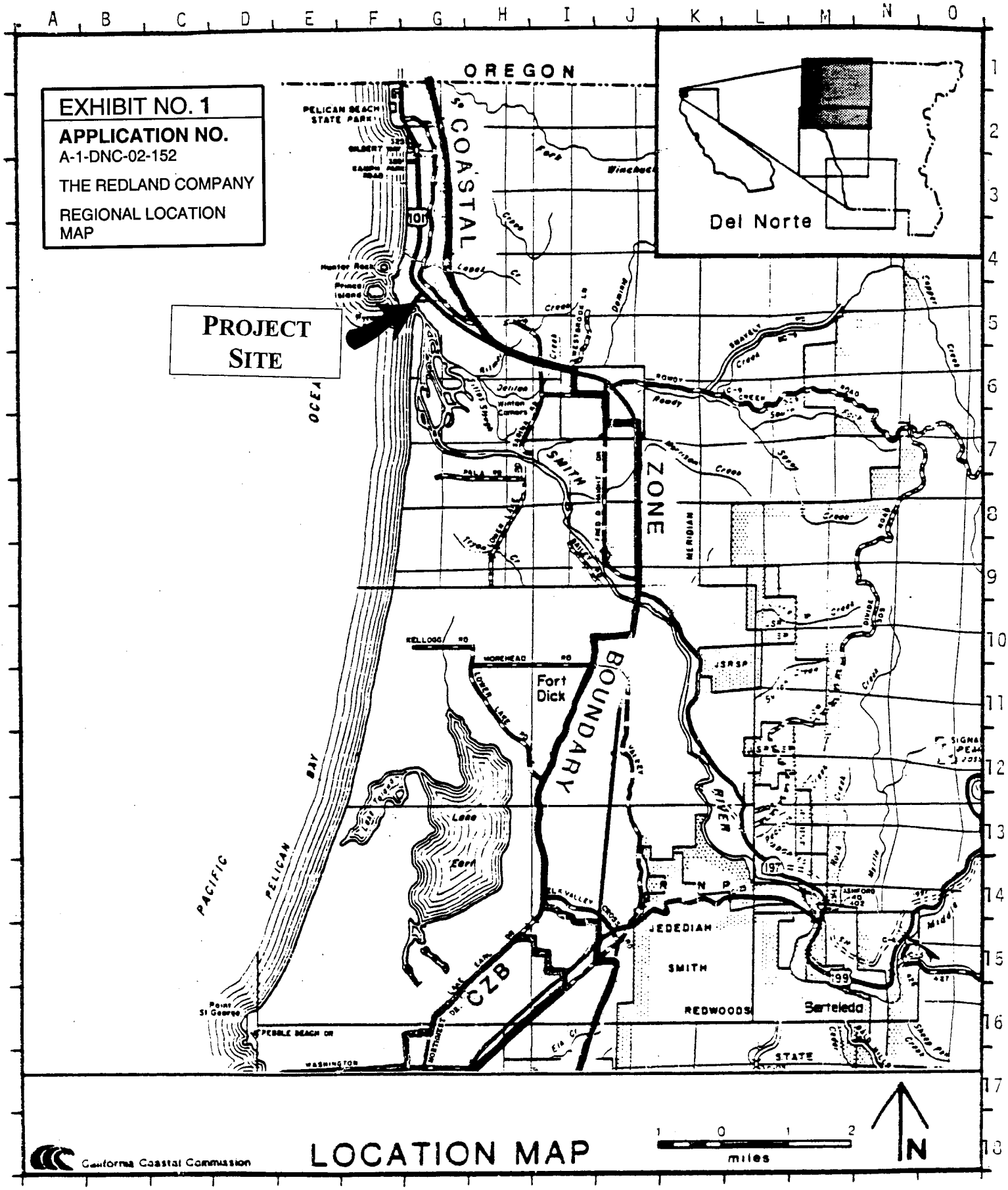
1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

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 or interpretation of any condition will be resolved by the Executive Director of 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.



County of Del Norte

Sheet 1 of 3

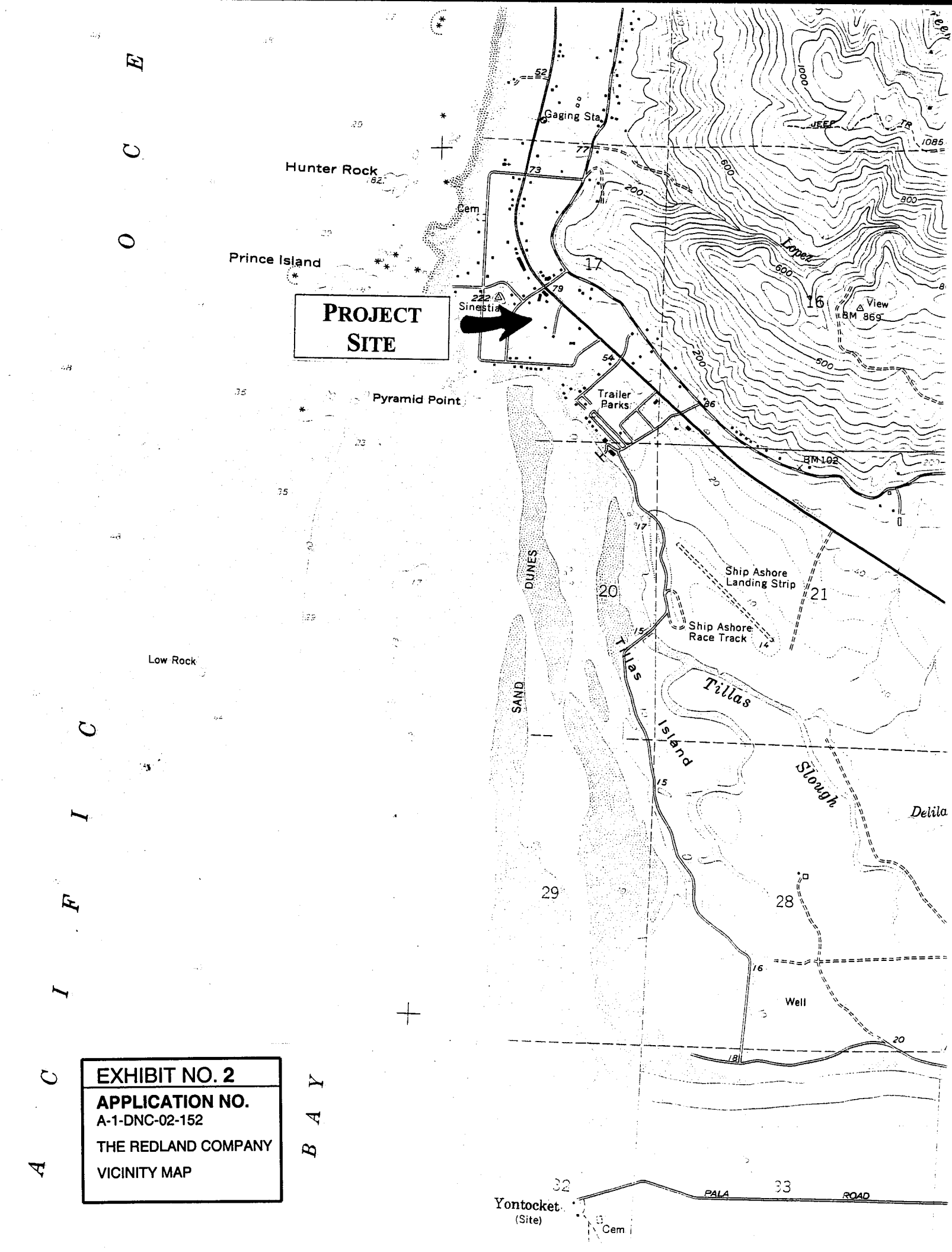


EXHIBIT NO. 2

APPLICATION NO.
A-1-DNC-02-152

THE REDLAND COMPANY

VICINITY MAP

[\\Carpetshark\GISProducts\GeoTools\2001_A~2\NORTH_~2\DEL_NO~1\208-21.sid] Scale 1:1.752

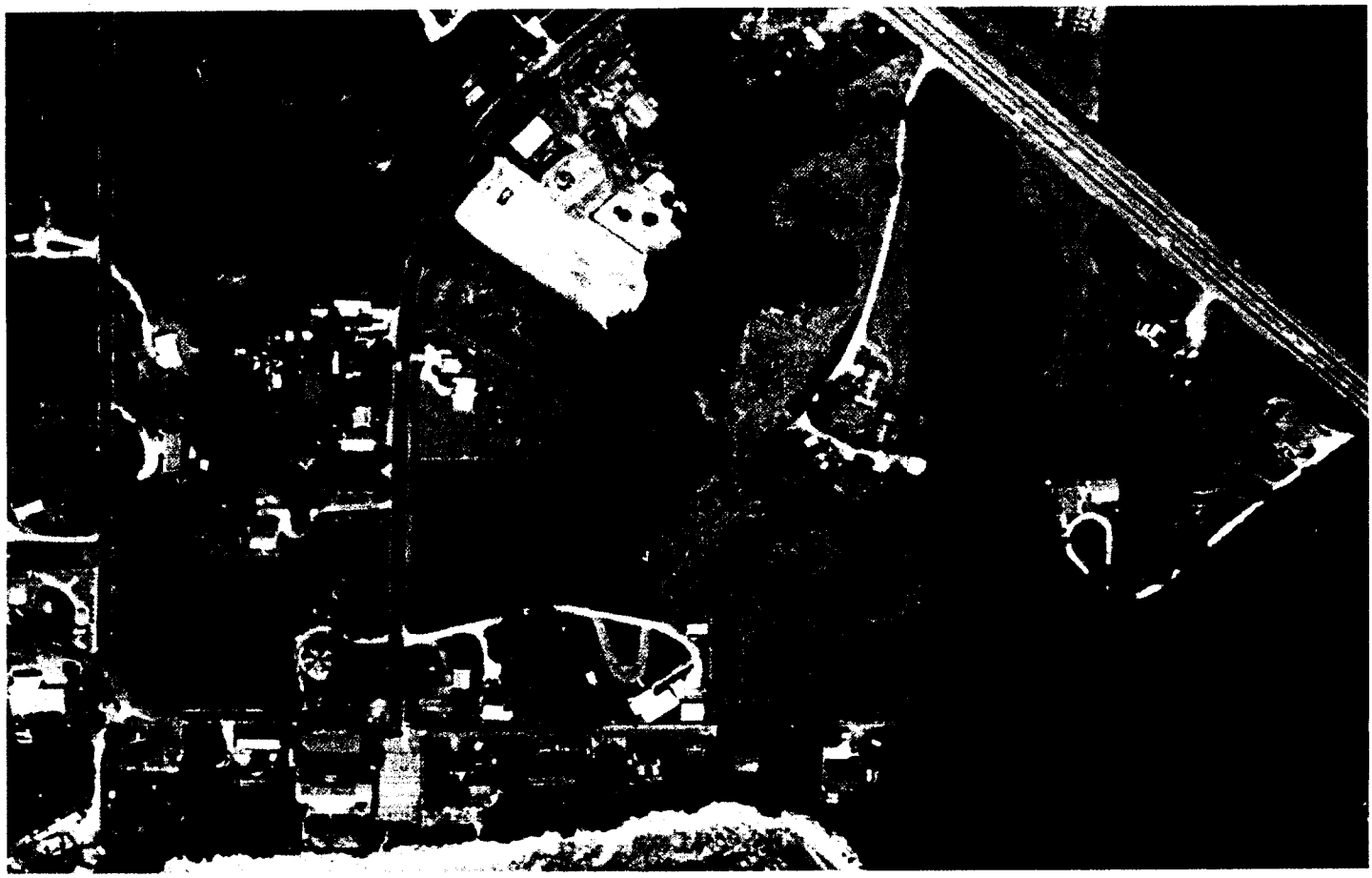


EXHIBIT NO. 3

APPLICATION NO.
A-1-DNC-02-152

THE REDLAND COMPANY

SITE AERIAL

MrSID Viewer

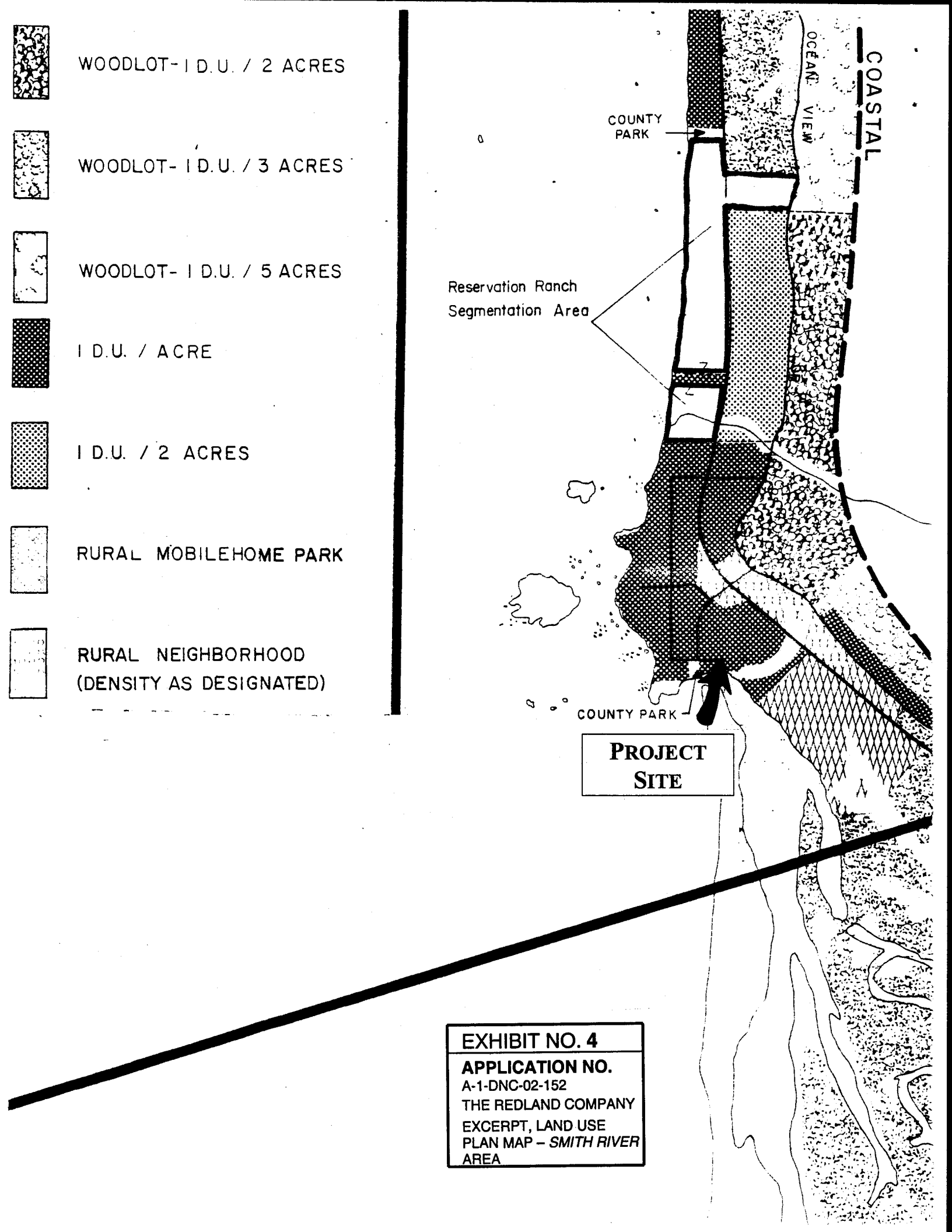
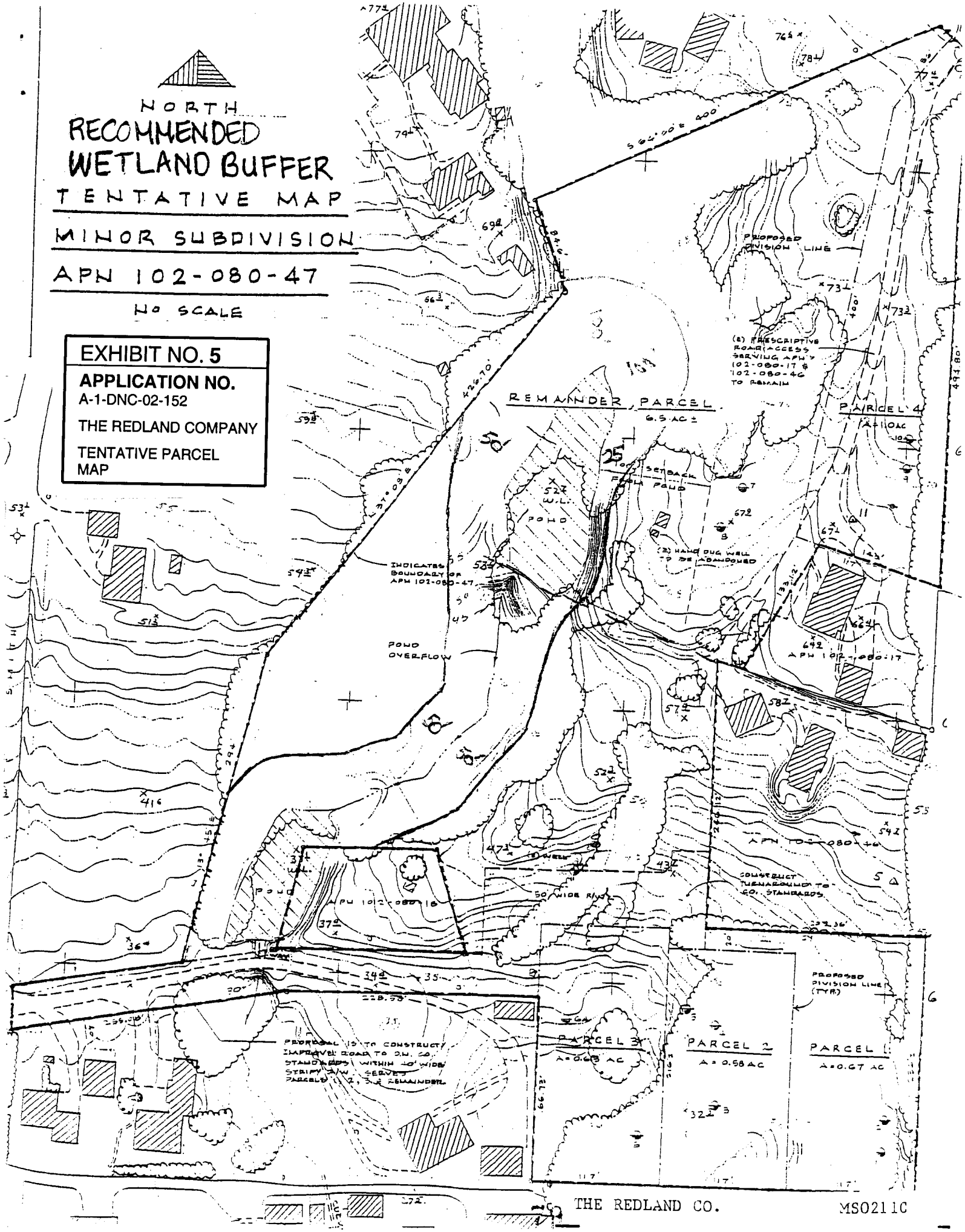


EXHIBIT NO. 4

APPLICATION NO.
A-1-DNC-02-152
THE REDLAND COMPANY
EXCERPT, LAND USE PLAN MAP – *SMITH RIVER* AREA



THE REDLAND CO. MS0211C

Minor Subdv. 102-080-47

Chapter 21.36

D COMBINING DISTRICT

Sections:

21.36.010 Intent.

The intent of this chapter is to create a district which, when combined with a basic zoning district, will not allow further land division of lots created by a subdivision. This in turn will allow cluster-type developments, and/or varied lot sizes which would best utilize unique site situations yet remain consistent with density and use requirements of the county General Plan or adopted specific plan. (Ord. 83-03 (part))

21.36.020 Application.

This D district may be combined with any A, RR, R or CT zoning district. The regulations set forth in this chapter shall apply in lieu of the respective regulations specified for the subject district with regard to minimum lot sizes. (Ord. 83-03 (part))

21.36.030 Restrictions.

A. The D combining district may be utilized on subdivision projects when, because of terrain, site characteristics or overall project design, varying lot sizes or cluster development with mitigating open areas are more desirable than standard uniform lot sizes.

B. For subdivisions utilizing the D combining district located within the Coastal Zone outside of the urban/rural boundary, the resulting lot sizes of the subdivided parcel(s) shall be no smaller than the average size of surrounding parcels, as established under the criteria for Division of Rural Lands within the general plan coastal element land use plan.

The "average size" usually means the arithmetic mean, although the mode or the median size may be used when the majority of parcels are of a common size and a very few parcels skew the mean to create an average atypical of the size of surrounding lots.

The study area for determining "the average size of surrounding parcels" shall include all parcels within one-quarter (1/4) mile of the exterior bounds of the property being subdivided. The study area may be reduced to exclude parcels with land use or zoning designations, or other characteristics markedly dissimilar to the subject property, or those lying outside of a readily identifiable neighborhood area as delineated by a perimeter of major streets. or other cultural or natural features. Parcels or portions of parcels committed to the resource conservation area for purposes of compliance with zoning

district minimum yard regulations, traffic safety visibility standards, setbacks from geologically unstable areas, buffers around environmentally sensitive habitat areas, floodway management, or other such siting restrictions required by the certified LCP may be excluded from the "average size" calculation.

C. The overall project density shall not exceed the General Plan density requirement for the project site.

D. The building site area required for each lot shall be shown on the final subdivision map. No further land divisions shall be permitted unless a rezone is granted and the land division is consistent with the General Plan or adopted specific plan density requirement for the total original project site.

E. The subdivision map may not be approved by the County prior to certification of the D overlay rezone as an LCP amendment by the Coastal Commission. (Ord. 83-03 (part), Amended by Ord.2004-04)

EXHIBIT NO. 7
APPLICATION NO.
A-1-DNC-02-152
THE REDLAND COMPANY
NOTICE OF FINAL LOCAL ACTION (1 of 10)

DEL NORTE COUNTY COMMUNITY DEVELOPMENT DEPAR
981 H STREET, SUITE 110
CRESCENT CITY, CA 95531

NOTICE OF ACTION

I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **October 2, 2002** regarding the application for development listed below:

Action: ✓ Approved ___Denied ___Continued ___Recommended EIR
___Forwarded to Board of Supervisors

RECEIVED
OCT 17 2002
CALIFORNIA
COASTAL COMMISSION

Application Number: MS0211C
Project Description: Minor Subdivision
Project Location: 145 Redland Lane, Smith River
Assessor's Parcel Number: 102-080-47
Applicant: The Redland Company
Applicant's Mailing Address: 1155 Tennessee Street, San Francisco, Ca. 94107
Agent's Name & Address: Regan Carroll,PO Box 149 ,Smith River, Ca. 95567 707-487-7825 phone
415 640 3000/ 888-637-1341

A copy of any conditions of approval and/or findings adopted as part of the above action is attached.

II. **If Approved:**

✓ This County permit or entitlement serves as a Coastal permit. No further action is required unless an appeal is filed in which case you will be notified.

This County permit or entitlement DOES NOT serve as a Coastal permit. Consult the Coastal Zone Permit procedure section of your NOTICE OF APPLICATION STATUS or the Planning Division of the Community Development Department if you have questions.

III. **Notice is given that this project:**

Is not appealable to the California Coastal Commission, however, a local appeal period does exist.

✓ Is appealable to the California Coastal Commission.

✓ Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by October 14, 2002 for consideration by the Board of Supervisors.

✓ Any action of the Board of Supervisors on this item may be appealed to the California Coastal Commission within 10 working days or 21 calendar days subject to the requirements of Chapter 21.52 DNCC and Coastal Regulations.

Must be forwarded to the California Coastal Commission for final action. You will be notified of its status by the Coastal Commission Office.

(Continued on the next page)

Is not subject to Coastal Commission regulations, however, a local appeal process is available. Written appeals must be filed with the Clerk of the Board of Supervisors by _____. Consideration will be by the Board of Supervisors.

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by _____, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

✓ Parcel map must be filed within 24 months of the date of approval.

Record of Survey and new deeds must be filed within 24 months of the date of approval.

New deeds must be filed within 24 months of the date of approval.

EXTENSIONS – MAJOR & MINOR SUBDIVISIONS OR BOUNDARY ADJUSTMENTS – Maps (or Records of Survey/Deeds) must be filed within 12 months after the original date of expiration.

NOTICE – SECTION 1.40.070

The time within which review of this decision must be sought is governed by the California Code of Civil Procedure, Section 1094.6, and the Del Norte County Ordinance Code, Chapter 1.40. Any petition seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision was made; however, if within 10 days after the decision was made, a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to no later than the 30th day following the date on which the record is either personally delivered or mailed to you or your attorney of record.

FISH AND GAME FILING FEES

Projects subject to CEQA are also subject to the following fees as required by the California Department of Fish and Game:

Applicable Fee - ___Neg. Dec. ($1,275) ___EIR ($875) ✓ Exempt

This fee is due and payable to the County Clerk's Office. If not paid within 10 days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089(b)) and will be referred to Fish and Game's Department of Compliance and External Audits in the Clerk's monthly deposit and report to Fish and Game.

ATTENTION PROSPECTIVE SUBDIVIDER

As a prospective subdivider of property, this notice is to advise you that **all taxes** must be paid in full prior to the recordation of your map. If the map is filed **after December 16th, you must pay all taxes due PLUS NEXT YEAR'S TAXES** before the map can be recorded.

If you have any questions regarding the payment of taxes, call the Del Norte County Tax Collector's Office at (707) 464-7283.

2910

Agent: Regan Carroll

APP# MS0211C
R0203C

STAFF REPORT

APPLICANT: The Redland Company

APPLYING FOR: Minor Subdivision and Rezone with Density Overlay

AP#: 102-080-47 LOCATION: Redland Lane

PARCEL(S) SIZE: 9.4 ac. | EXISTING USE: Vacant | EXISTING STRUCTURES: None

PLANNING AREA: 1 GENERAL PLAN: RR(1/1)

ADJ. GEN. PLAN: Same

ZONING: RR-1 ADJ. ZONING: Same

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 6/6/02 HEALTH DEPT X BUILDING INSP X
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Redland Ln. and Mouth of Smith River Rd. ADJ. USES: Res. and Vacant
TOPOGRAPHY: Generally Flat DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: 6/12/02

3. ERC RECOMMENDATION: Previous Negative Declaration Applies. SCH# 2002062086.
Approval with conditions.

4. STAFF RECOMMENDATION:

The Redland Co. has submitted an application for a minor subdivision and Density "D" Overlay Rezone of a 9.4-acre parcel into four parcels and a remainder. The parcels are approximately 1.0 ac., .63 ac., .58 ac., .67 ac. and 6.5 ac. each in size. The subject property has a General Plan Land Use designation of RR (1/1) (Rural Residential - one dwelling unit per acre) and a zone designation of RR-1 (Rural Residential - one dwelling unit per acre). The property is located on Redland Lane off of Highway 101 and Mouth of Smith River Road in Smith River.

The applicant is jointly applying for a "D" Overlay rezone, which allows the applicant the potential to cluster, parcels into sizes less than the 1-acre minimum. The overall density potential for the parcel is nine parcels, which may not be exceeded. The proposed project creates four parcels and a remainder. In the future, the property owner may apply for a future subdivision of the remainder; however, approval of any future division of the remainder is not guaranteed. A condition is placed on the project alerting the property owners and any future property owners that a density overlay exists on the parcels and that no further subdivision of parcels one through four is allowed.

Site Characteristics

The subject parcel slopes from its northern boundary at Highway 101 toward its southern boundary at the Mouth of the Smith River Rd. and Rivers End Lane. Based on a topographical map submitted by the applicant, the northern boundary is roughly at the 75-foot contour and the southern boundary is roughly at the 32-foot contour. It is a gradual slope. There are two man-made ponds that were excavated many years ago which are located on the north and West Side of the remainder parcel. The ponds are separated by approximately 250 feet.

Coastal Commission staff review of the Initial Study resulted in comments related to the ponds as wetlands and lack of specific information regarding the ponds in the initial study. Under the County's adopted Local Coastal Program all wetlands by default have a 100-ft. buffer, which serves as the primary tool to prevent development from impeding on recognized environmentally sensitive habitat area. Buffers of less than 100 feet in width may be utilized when it can be determined that there is no adverse impact on the wetland. The determination of a reduced wetland buffer must be in conjunction with the Department of Fish and Game and must be based on specific findings. Because no information was provided in the Initial Study regarding buffers for the ponds, the applicant was requested to submit a Habitat and Wetland Assessment for the pond area. The assessment was prepared in August 2002 by Frank Galea, a Certified Wildlife Biologist with Galea Wildlife Consulting. The assessment describes the physical characteristics of the ponds in greater depth, which is related below.

According to the assessment the upper pond is the larger of the two and very shallow with its greatest depth at only 3-4 feet. The upper end of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. Thick stands of riparian and upland vegetation exist at the upper end of the bog. North of this area within this vegetation is a seep which feeds the upper pond. Original mapping indicated it was a stream but this information is now superceded by this assessment.

The upper pond has relatively steep (40 to 80%) banks on the East Side. With the exception of a few horsetails, which are associated with wetlands, the majority of the vegetation in this area either planted (i.e. rhododendron, Oregon grape) or known wetland vegetation (i.e. grasses, Himalayan Blackberry, and tansy ragwort). At the top of the bank on the east side, the ground was leveled and maintained by mowing. The mowing activity was verified through landowner statements and historical aerial photography. A residence, which was destroyed by fire in the

early 1980s, was located within 60 feet of the east bank.

The lower pond ends at an existing access road. A culvert runs under the road at this location. The pond overflow is run through a pipe that empties into a narrow trench off-site that runs downhill to the south. Lawns manicure both sides of the trench. The trench continues downhill, off-site, as part of the drainage system for the residential area beyond the subject parcel. Neither pond has potential for anadromous fish.

Based on the Assessment, the wildlife biologist has recommended buffers of less than 100 feet for both ponds. For the upper pond he recommends that the buffer for the East Side of the pond be the top of bank, where at its widest the bank is 13 feet from the edge of the pond. On the attached map, a 25-ft. buffer is shown that meets and exceeds his 13-ft. recommendation. On the west side of the side of the pond it is recommended that the top of bank be used as the buffer which is more gentle and greater in width than the east side of the pond. The attached map identifies a 50-foot buffer from the top of bank, which meets and exceeds the recommendation. Furthermore, a 100-foot buffer is recommended from upper pond's north edge that takes in the seep, which is the source of water for both ponds. This buffer also includes most or the entire habitat that could be called wetlands that exist north of the pond.

The area between the two ponds where the waterflow runs downhill is considered a wetland. The area is thick with vegetation with the exception of the east edge that is manicured lawn. Galea notes that this condition has been in effect many years and that it can be maintained without adversely impacting the wetland area. The attached map shows a 50-ft. buffer from the centerline of the vegetated area between the ponds that creates a total buffer in this area of 100 ft. The buffer extends to the lower pond approximately 50 ft. from the edge of pond. All recommended buffers will be required to shown on the parcel map and a note placed on the map stating that no development shall occur within the designated buffered area. The Habitat and Wetland Assessment and associated mapping were sent to Karen Kovacs, Sr. Wildlife Biologist for the California Department of Fish and Game for review and comment. Ms. Kovacs has verbally accepted the buffer recommendations for the project and will follow up with a written letter acknowledging the acceptance of the reduced buffer recommendation.

The three proposed lots on the south side of the parcels were also reviewed as part of the assessment. The lots are all mowed and open with no ditches, drainages or wetland attributes present.

Water Supply and Sewage Disposal

All proposed parcels will utilize community water provided by the Smith River Community Services District. On-site sewage disposal testing was conducted for the four parcels and the remainder. Testing indicated that the Wisconsin Mound sewage disposal systems are required for proposed parcel one through three. Testing for proposed parcels one and the remainder indicated that conventional sewage disposal systems may be utilized. Each parcel will be required to show a potential developable area (pda) of a minimum of 20,000 square feet on the parcel map. This assures future property owners that a building site, primary and reserve

sewage disposal area, and driveway will have adequate area to be constructed on the subject parcel.

Archaeology

The project is located in an area of known archaeological sensitivity due to the known presence of Native Americans in the area. The parcel is within the boundary of the Smith River Rancheria. The applicant has submitted an extensive archaeological and historic report that was prepared by a recognized archaeologist/historian. Although no specific findings were noted in the report, the report did recognize that subsurface findings may be located on-site. As such, a condition is placed on the project that if any archaeological resources are encountered during any construction activities that all work must be halted and the Planning Division contacted. A qualified archaeologist would then be hired at the applicant's expense to evaluate the find.

Access, Road Improvements and Drainage

The subject parcel is currently undeveloped. Redland Lane, which is located on proposed parcel four and the remainder parcel serves two single family residences on separate parcels. Proposed parcel 4 and the remainder parcel have frontage on Highway 101 and also propose to utilize Redland Lane for access. Proposed Parcels 1, 2, and 3, will be accessed off of Mouth of Smith River Rd. via an existing driveway/road that serves three separate developed parcels and one separate undeveloped parcel. The driveway/road will be extended to serve the parcels with a hammerhead/turnaround at its terminus. Road conditions are a condition of the project approval.

A comment was received from California Coastal Commission staff questioning possible impacts associated with changes in drainage patterns or substantial erosion or siltation that would result from the project. Specific information was not provided in the Initial Study. Of particular concern to Coastal staff is the work that is be done for road that will serve proposed parcels 1,2 and 3. The commenter notes that the road may be located close to the lower pond and depending on the grade of the road may result in sediment entering this waterbody or the Smith River, and/or change the flow dynamics at its outlet culvert. A condition of the project approval is that an engineered grading and drainage plan for on-site and off-site drainage improvements be submitted to the Community Development Department, Engineering and Surveying Division, for review and acceptance. The plan shall contain provisions, if any, for sediment and erosion control. Galea's Assessment addresses the culvert that runs under the current access road and contains the flow from the ponds. He suggest that any required road improvements to the current access way be done to the south to avoid adverse impacts upon the lower pond and habitats on either banks. On the south side of the road the culvert ends in a small, narrow ditch. The culvert may need to be lengthened as a result of the road widening. These suggestions place all improvements in areas where there are no wetlands and as such do not have adverse impacts to any wetland habitats. Glenn Payne Sr., who owns Assessor Parcel Number 102-080-30 has submitted a letter regarding potential impacts to his parcel and to Rivers End Road from increased drainage runoff as a result of the project. As mentioned above, the standard condition for an engineered grading and drainage plan to address on-site and off-site issues is placed on the project. The general topography of the site places the new

proposed development downslope of the ponds and connecting stream. As stated before, the 90-degree crossing of the outlet stream will be addressed as part of the grading plan.

RCA Designation

Coastal staff is advocating that the subject wetland area be rezoned as part of this project to include RCA-2 zoning and has indicated that when the "D" overlay request is before the Coastal Commission, Coastal staff may recommend that the RCA-2 be included. The Local Coastal Plan process does not specifically identify this property as having a Resource Conservation Area (RCA) therefore Coastal staff has acknowledged that the RCA rezone process is not a procedural obligation of the County at this time. However Coastal Staff has stated that they may recommend to the Coastal Commission as a condition of approval of the "D" overlay that the RCA-2 rezone be imposed.

The imposition of the RCA-2 rezone is not as effective as the conditional approval of the subdivision map. The recommendation of County staff will impose a permanent no-build setback on the "wetland" areas of concern. This map restriction runs with the land as compared to rezone, which is a legislative action potentially subject to change. County staff has previously used this map restriction process on previous projects where no RCA zoning exists but a sensitive habitat is found to be on the property under consideration.

Noise

A noise attenuation zone requirement is also placed on the project approval due to the parcels proximity to Highway 101. A note shall be placed on the parcel map stating that any residential development placed within 142 feet of the nearest lane of Highway 101 may be required to include noise attenuation design to meet interior CNEL or Ldn levels of 45 dBA.

Revisions to Negative Declaration as a Response to Comments

The following revisions apply to the circulated negative declaration in response to comments received:

Item IV (c)

The ponds and the connecting stream were mapped and a habitat and wetland assessment has been prepared by a qualified biologist. The recommendations of the biologist have been reflected in the staff recommendation.

Item VIII (c)

There is no significant drainage alterations or pattern changes proposed as part of the project. A drainage plan is required to address the limited minor changes in localized drainage as a result of construction of the access road.

Conclusion

A Negative Declaration has been posted with the State Clearinghouse for the proposed project with the two above comments received from the California Coastal Commission and Glenn Payne Sr.. Staff recommends the Commission adopt the findings and the Negative Declaration and approve the project subject to the conditions listed below.

5. FINDINGS:

A) The project is consistent with the policies and standards of the Local Coastal Plan and Title 21 Zoning;

B) A Negative Declaration has been prepared pursuant to the California Environmental Quality Act which the Commission has considered in reviewing the project and making its decision;

C) An initial study has been conducted by the lead agency, circulated to the State Clearinghouse and responses have been made to comments received on as a result of this process so as to evaluate the potential for adverse environmental impact; and

D) Considering the record as a whole, there is no evidence before the lead agency that the proposed project will have potential for adverse effect on wildlife resources or the habitat upon which the wildlife depends, as defined in Section 711.2, of the Fish and Game Code.

6. CONDITIONS:

1) ****The project is subject to review and approval of Rezone R0203C by the Board of Supervisors and California Coastal Commission;**** Amended per PC meeting 10/2/02****

2) This project approval is for four parcels and a remainder as shown on the submitted plot plan. All lots shall be no smaller than those shown on the plot plan;

3) A parcel map shall be recorded with the County Clerk within 24 months of the date of approval;

4) All construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County Code regarding the posting of address numbers;

5) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (6/02);

6) A note shall be placed on the parcel stating that "Any residential structure placed within 142 feet of the nearest lane on Highway 101 may be required to include noise attenuation designs to meet interior CNEL or Ldn levels of 45 DBA";

8 & 10

7) Each of the lots created shall have a designated potential development area, which is no smaller than 20,000 sq.ft. in size which is consistent with the locations on the approved project map. Driveways and potential development areas (pda's) shall be shown on the parcel map and total area of each site indicated. No development shall occur outside the designated potential development area identified on the parcel map;

8) The owner and any subsequent owners shall be on notice that if any archaeological resources are encountered during any construction activities; such construction activities shall be halted, the Planning Division notified, and a qualified archaeologist shall be hired at the owner's expense to evaluate the find. A covenant deed restriction shall be developed to provide such notice prior to recordation of the final or any phase of the map;

9) ****The parcel map shall identify all wetland buffers shown on map identified as Exhibit A and a note shall also be placed on the map stating that the area within the wetland buffers are not suitable for residential development and no vegetation removal is permitted;**** Amended per PC meeting 10/2/02****

10) Prior to recordation of the parcel map any final soils testing required by Klamath Basin Standards shall be completed. The final location and design for the proposed Wisconsin Mound Sewage Disposal system(s) shall be prepared by a registered engineer. These shall be submitted to the County Building Inspection Division for review and acceptance;

11) The proposed water supply shall be from an approved public water source or from some other source approved for the purpose by the Health Office prior to recordation of a parcel map. If testing indicates, it may be necessary to place a note on the final or parcel map advising any prospective purchaser that: "The installation of filtration treatment equipment may be desirable on proposed individual wells in order to avoid any unacceptable levels of such minerals or corrosiveness. This equipment may be costly to install and maintain.";

12) A note shall be placed on the parcel map referring to the engineered sewage disposal system report by name and date, stating that the report is on record with the County Community Development Department, Building Inspection and Planning Divisions;

13) An encroachment permit from the Community Development Department, Engineering and Surveying Division shall be obtained for any work in the Mouth of Smith River Road right-of-way;

9 of 10

14) Prior to recordation of the parcel map, an engineered grading and drainage plan for on-site and off-site drainage improvements shall be submitted to the Community Development Department, Engineering and Surveying Division, for review and acceptance. The plan shall contain provisions, if any, for sediment and erosion control. The plan shall also be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval and include all calculations for surface water runoff. Any improvements called for in the plan shall be the responsibility of the developer and shall be constructed prior to recordation of the parcel map. If grading is necessary, no grading shall be conducted on any parcel between October 30 and April 30;

15) Prior to recording the parcel map, the existing access road serving the adjacent property to parcel 3 shall be extended and improved to a 20 foot wide by 4 inches thick. Compacted thickness ¾ inch minus class 2 aggregate base (crushed rock) with 2 foot graded shoulders on both sides within a 50 foot road and utility easement, from the intersection of the Mouth of Smith River Road to the northwest corner of parcel 2. Drainage ditches shall be constructed where necessary;

16) Prior to recordation of the parcel map, an onsite road turnaround shall be installed at the end of the access road incoming from the Mouth of Smith River Road. The minimum turning radius for a turnaround, including a cul-de-sac or terminus bulb, shall be forty feet from the centerline of the subject road. If a hammerhead/T is used, the tip of the "T" shall be a minimum of seventy feet in length. The road surface shall also be four inches compacted crushed rock; and

17) **** A note shall be placed on the map stating that there is no further subdivision potential for proposed parcels one through four, based on Title 21 Coastal Zoning and the Local Coastal Program. ****Amended per PC meeting 10/2/02****

10 of 10

STATE OF CALIFORNIA – THE RESOURCES AGENCY GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

MAILING ADDRESS:
P. O. BOX 4908
EUREKA, CA 95502-4908

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

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

Commissioners Sara J. Wan and John Woolley
(See Attachment 1)

Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. **Name of local/port government:**
County of Del Norte

2. **Brief description of development being appealed:**
Zoning Amendment to add a Density (-D) Combining Zone and subdivide a 9.4-acre parcel into four lots ranging in size from .58 acre to one acre with a 6.5-acre remainder parcel

3. **Development's location (street address, assessor's parcel no., cross-street, etc.:**
145 Redland Lane, Smith River, CA
APN 102-080-47

4. **Description of decision being appealed:**

a. **Approval; no special conditions:** _____

b. **Approval with special conditions:** ✓

c. **Denial:** _____

Note: For jurisdiction 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-DNC-02-152

DATE FILED: October 31, 2002

DISTRICT: North Coast

EXHIBIT NO. 8
APPLICATION NO.
A-1-DNC-02-152
THE REDLAND COMPANY
APPEAL, FILED 10/31/02
(WAN & WOOLLEY) (1 of 8)

RECEIVED
OCT 31 2002
CALIFORNIA
COASTAL COMMISSION

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: October 2, 2002

7. Local government's file number (if any): MS0211C / R0203C

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:

The Redland Company (Applicant)	Regan Carroll (Agent)
1155 Tennessee Street	P.O. Box 149
San Francisco, CA 94107	Smith River, CA 95567

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) Glen E. Payne
140 Rivers End Road
Smith River, CA 95567

(2) Jo Redland
P.O. Box 149
Smith River, CA 95567-0149

(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 competing 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.)

(See Attachment 2)

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.

Signed: _____
Appellant or Agent

Date: 10/31/02

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

(Document2)

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.)

(See Attachment 2)

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.

Signed: _____
Appellant or Agent

Date: 10/31/02

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT #1:
APPELLANTS

☑ **Sara J. Wan, Chair**
22350 Carbon Mesa Road
Malibu, CA 90265
(310) 456-6605

☑ **John Woolley**
Board of Supervisors
825 – 5th Street
Eureka, CA 95501-1153
(707) 476-2393

ATTACHMENT #2:
REASONS FOR APPEAL

The proposed coastal development project as approved by County of Del Norte is inconsistent with the minimum lot size standards of the for Rural Residential zoning districts of the Local Coastal Program Zoning Enabling Ordinance (LCPZEO) of the County of Del Norte, and Marine and Water Resources Policies VIC.6, VIID.4.f & g, and VII.E.4.a of the Land Use Plan (LUP) of the Del Norte County Local Coastal Program (LCP) as currently certified.

Policy Citations

In establishing the prescriptive standards for development within the Rural Residential (R-R) zoning district, LCPZEO Section 21.16.050 states, "*Minimum lot area required. Minimum lot area shall be as specified by the planning commission, but in no case less than one acre.*" [emphasis added]

Marine and Water Resources Policy VI.C.6 of the County of Del Norte LUP states, "*Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*"

The Marine and Water Resources chapter of the LUP includes "riparian vegetation systems" and "riparian vegetation" among its list of "sensitive habitat types," defining such as areas, respectively, as, "*The habitat type located along streams and river banks usually characterized by dense growths of trees and shrubs is termed riparian. Riparian systems are necessary to both the aquatic life and the quality of water courses and are important to a host of wildlife and birds;*" and "*Riparian vegetation is the plant cover normally found along water courses including rivers, streams, creeks and sloughs. Riparian vegetation is usually characterized by dense growths of trees and shrubs.*" [emphasis added]

Marine and Water Resources Policy VII.D.4f & g of the County of Del Norte LUP states:

> f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.
>
> g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.
ii.) Vegetation map.
iii.) Soils map.

Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation. [emphasis added]

Marine and Water Resources Policy VII.E.4.a of the County of Del Norte LUP states that, "*Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.*" [emphases added]

Conformance Analysis

On October 2, 2002, the County of Del Norte Planning Commission forwarded a supporting recommendation to the Board of Supervisors that a Density (-D) combining zone be applied to the subject project site. Concurrent with that action, the Planning Commission granted a conditional tentative parcel map approval for the subdivision of a 9.4-acre parcels into four parcels ranging in size from .58 to one acre in size with a 6.5-acre remainder parcel. The subdivision approval was conditioned upon subsequent approval of the –D combining zone reclassification by the Board of Supervisors and subsequent certification of the LCP amendment by the California Coastal Commission. In granting the tentative parcel map approval, the Planning Commission adopted findings that the project is consistent with the policies and standards of the Local Coastal Plan and Title 21 – *Coastal Zoning* of the Del Norte County Code.

As cited above, the minimum lot size for the Rural Residential zoning district in which the project site is one acre. Accordingly, as the concurrently requested zoning amendment for application of a –D combining zone onto the property has not yet been approved by the Board of Supervisors or certified by the Coastal Commission, the flexibility that the –D designation would provide with respect to creating lots in variance from the lot size minimum standards of the R-R base zoning district does not currently apply to the property. Pursuant to Section 30604(b) of the Coastal Act, after certificatio of a local coastal program, a coastal development permit can only be be issued if the local government or Coastal Commission finds that the proposed development is in conformity with the certified local coastal program. Thus, the County acted prematurely in approving the tentative subdivision prior to formal application of the –D designation. As a result the project as approved, in which three lots with less than one-acre in size would result, is inconsistent with the policies and standards of the LCP as currently certified contrary to the adopted findings.

The project site also contains wetlands and riparian vegetation along its western-central portions. These areas consist of impounded water areas and a series of adjoining and connecting watercourses and seeps. These areas were the subject of a "site visit report" prepared by Gilea Wildlife Consulting for the purpose of establishing buffers around these areas. As cited above, the LUP's Marine and Water Resources chapter contains policies intended to ensure that these environmentally sensitive areas are protected from development. Policy VII.D.4.f requires that development be sited and designed to prevent impacts and degradation and establishes a default

100-foot-wide buffer between the edge of the wetlands and any proposed development. Provisions are also included to allow for reduced buffer width subject to coordinated review with the California Department of Fish and Game and the County making specific findings as to the adequacy of the reduced buffer to protect the wetland areas. In cases where the edge of the wetlands is not precisely known, Policy VII.D.4.g provides the criteria in which the boundary of the environmentally sensitive habitat area is to be delineated.

In its approval of the subdivision project, the County required a reduced-width buffer of between 25 to 50 feet in width around the edge of the ponds and from the centerline of the connecting stream. However, as indicated in the site visit report, wetland areas were found to exist outside of the pond and stream course areas within the proposed buffer. These areas were not addressed within the site visit report nor did this document contain the informational items enumerated within Marine and Water Resources Policy VII.D.4.g . The County staff report indicates the Department of Fish and Game approves of the proposed buffer. However, the findings adopted by the Planning Commission did not include a specific determination as to why the proposed reduced-width buffer would be adequate to protect identified resources. The site visit report only indicates the buffers would be sufficient because they would include all wetland areas within the buffers. Pursuant to Marine and Water Resources Policy VII.D.4.f & g, buffers must be established between the edge of the wetland and the development, not from within a wetland. Therefore, the required buffers are inconsistent with this provision of Policy VII.D.4.f & g and the statement that the buffers include all wetlands within them does not provide a basis for determining that the buffer widths are adequate. Therefore, the project as approved is inconsistent with the requirements of Marine and Water Resources Policy VII.D.4.f & g that a determination that a buffer of less than 100 feet is appropriate must be based upon specific findings of adequacy of the proposed buffer to protect the resource.

With regard to non-wetland riparian areas on the project site, the County's approval of the project did not include any discussion as to how these environmentally sensitive habitat areas would be maintained and protected for their qualities as wildlife habitat, stream buffer zones, and bank stabilization, inconsistent with Marine and Water Resources Policies VI.C.6 and VII.E.4.a.

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Amendments to January, 2003, Routine Wetland Delineation, Redland Minor Subdivision Proposal, Smith River, CA. APN # 102-080-47, including Riparian Habitat Assessment. May, 2004.

INTRODUCTION

An assessment of habitat and wetland attributes for the Redland property was initially conducted in August, 2002 by Frank Galea, Certified Wildlife Biologist. Additional information was requested by the California Coastal Commission, therefore the property was re-visited on January 6, 2003. After submitting a wetland delineation report, the California Coastal Commission responded with a request for additional information. An additional visit was conducted on November 11th, 2003, and a report submitted in January, 2004.

This amendment clarifies the wetland delineation described in the January, 2004 report, and responds to additional concerns raised by the Coastal Commission staff regarding wildlife use of riparian areas on the property, and justification for reduced wetland buffers. This amendment also includes a botanist's report for the property (Appendix A).

Amendment to Wetland Delineation:

Sample Plot 3 of the wetland delineation is located on the west side of the wetland perimeter on the property, and just below the upper pond. In the January 2004 report, sample plot #3b was incorrectly determined to be upland habitat. However, due to the dominance of an obligate wetland sedge, this site should be considered wetland.

Sample plot 3c was located 10 feet farther west of the stream than sample plot 3b. This plot is dominated by upland plants (swordfern and salmonberry) in the shrub/ herbaceous layer, and by Douglas-fir in the tree layer. None of the dominant plants species for this sample plot were FAC, FACW, or OBL, therefore this community is not an indicator of hydrophytic (see Appendix B).

An 18 inch hole was dug at this location, and was found to be dry with no moisture evident at the bottom (in January). Silty loam soils at the lower levels of the hole rated to 3/2 7.5 YR, which are not indicative of hydric soils, and no mottles or other wetland indicators were observed. Sample plot 3c is therefore the proper location for the wetland edge, approximately 10 feet west of plot 3b (see amended map).

Assessment of Riparian Vegetation Habitat Utilization

The small pond located on this property is has several (4-5) large spruce trees around it. One of these large trees fell over since the onset of investigations for this report, and another had fallen over in the year previous to habitat analysis. These trees are large and old, and as they are next to the pond their root systems are saturated in winter, therefore as this location is close to the ocean where winds are high during winter storms the entire tree is blown over instead of a top breaking off. A few smaller spruce and Douglas-fir are becoming established. The line of trees around the pond, and the wetland area directly below it, is very narrow as open fields and homes surround this site. Therefore, there is very little riparian vegetation surrounding the pond and wetland strip.

North of the pond there is an area of dense, tall salmonberry, after which is an open lot and Highway 101. Immediately west of the pond and small wetland is open field, which has been in place since at least 1967, based upon aerial photos (Photo #1) available. The house which once stood next to the pond to the east before it burned down is evident in 1967 and 1972 (Photo #2) photos. Manicured lawns adjacent to the pond and wetland areas are also visible back to 1967, and are of the same shape and dimension as the lawn found there today. To the south the wetland drains into a smaller artificial pond, after which the water flows through standard ditch drainage into the mouth of the Smith River, which is one row of homes away.

This is a very small and isolated pond and wetland site, less than 100 feet wide on average. It is surrounded by homes and open fields and has been since at least 1967. Highway 101 is located within 100 yards of the pond to the north, and the Smith River to the south. Although deer, raccoons and other terrestrial wildlife could potentially forage in the area, the site does not provide enough cover for such animals to safely remain. Waterfowl use the pond as a roost site, as was evident by a mallard duck observed and the occasional, non-native western Canada goose. Wood duck boxes found on the ground around the pond once may have provided nest sites, however none are up now and no wood ducks were observed in the small pond area.

Reduced Buffers

Current plans are for a division of the property, with three potential lots at the southeast corner of the property to be sold. They are located over a small rise and are some distance (200 feet) from the pond and wetland area. As stated in earlier reports, this site is relatively small and does not contain any significant fauna which might be disturbed by nearby development (houses). This is a residential area and has been since before 1967. Therefore, there are no significant fauna to disturb within this limited area.

A reduced buffer of twenty-five feet on the east side of the pond and wetland area is requested so as to be able to rebuild a home on the site where one was previously located. Allowing such a reduced buffer would cause no changes in the vegetative community which has been in place since at least 1967, as there would be no vegetation removed or disturbed. Such a reduced buffer would have no negative impacts upon riparian or wetland dependant fauna as there are few or none which utilize this wetland micro-site.

Botanical Survey

A botanical survey of the property was conducted by botanist Lindsay Ogden on May 9th, 2004 (Appendix A). Included in the botanist report is a list of plant species found. None of the target species were located during surveys, which included the pond area. An unidentified lily species was located in two locations within the demarked "wetland" area, and within the pond boundary. The species is not identifiable until the plant blooms, which should be relatively soon. A biologist or botanist will visit the site once per week until the plants bloom, to rule out the presence of *Lilium occidentale*, a target species.

APPENDIX A. BOTANIST REPORT

Redland Road Wetland
Botanical Review and Rare Plant Survey

Prepared by Lindsay A. Ogden
1661 Johnson Lane, McKinleyville, CA 95519
(707) 839-0314
May 9, 2004

The pond at Redland Rd. is constructed from a natural onsite seep; the water has been dammed and collected into a large pond (~75x30yards). The flora is a mixture of natives and cultivated and escaped exotic species. The Redland Rd. wetland and pond margins are cleanly and distinctly maintained on their eastern sides by mowing at the very edges of their respective slopes. A stand of mixed conifers and *Vaccinium ovatum* and *Maianthemum dilatatum* extends to the west for approximately 15 yards. The southern and northern ends of the wetland and pond areas are bounded respectively by more residential property.

The only species identified growing in the pond itself are introduced water lily and *Myriophyllum aquaticum*. I found no sign of *Potamogeton foliosus* var. *fibrillosus*. The species growing along the east bank are almost entirely cultivated invasive species: *Rhododendron* sp., *Vinca major*, *Cotoneaster pannosa*, *Ilex aquifolium* (see Appendix A). There are also native wetland species present: *Salix scouleriana, Picea sitchensis, Psuedotsuga menziesii* ssp. *menziesii, Ceanothus thrysiflorus, Tellima grandiflora*, among others (see Appendix A). The composition of species growing along the west bank is more native: *Vaccinium ovatum, Maianthemum dilatatum, Lonicera involucrata, Baccharis pilularis, Rubus ursinus* (see Appendix A). The wetland seep area downstream from the pond is populated with a mix of wetland obligate and facultative species: *Malus fusca, Rubus discolor, Carex* sp., *Holcus lanatus, Ranunculus occidentalis, Alnus rubra, Lysichiton americanus* (see Appendix A).

An unidentified lily was found on the east side of the wetland seep area, approximately halfway between the south and north ends. Another lily, presumably of the same species, was found at the southwest corner of the pond. Both of these plants have been flagged overhead with white and blue "BOTANY" flagging. Both of these specimens are close to flowering. They should be revisited upon flowering to determine the species and rule out the presence of *Lilium occidentale*.

5 of 38

Scientific Name	Family	Common Name
Alnus rubra	Betulaceae	red alder
Anthoxanthum odoratum	Poaceae	sweet vernal grass
Avena sativa	Poaceae	oats
Baccharis pilularis	Asteraceae	coyote brush
Bellis perennis	Asteraceae	English daisy
Bromus diandrus	Poaceae	ripgut brome
Carex sp.	Cyperaceae	sedge
Ceanothus thyrsiflorus	Rhamnaceae	blue blossom
Corylus cornuta var. *californica*	Betulaceae	hazelnut
Cotoneaster pannosa	Rosaceae	-
Cytisus scoparius	Fabaceae	scotch broom
Dactylis glomerata	Poaceae	orchard grass
Digitalis purpurea	Scrophulariaceae	foxglove
Equisetum arvense	Equisetaceae	horsetail
Eriogonum sp.	Polygonaceae	-
Fuschia sp.	Onagraceae	fuschia
Gaultheria shallon	Ericaceae	salal
Hedera helix	Araliaceae	english ivy
Holcus lanatus	Poaceae	London fog
Ilex aquifolium	Aquifoliaceae	English holly
Lilium sp.	**Liliaceae**	**lily**
Lonicera involucrata	Caprifoliaceae	honeysuckle
Lysichiton americanum	Araceae	skunk cabbage
Maianthemum dilatatum	Liliaceae	false liliy-of-the-valley
Malus fusca	Rosaceae	Oregon crabapple
Myriophyllum aquaticum	Haloragaceae	parrot feather
Narcissus sp.	Liliaceae	daffodil
Nymphaea sp.	Nymphaeaceae	water Lily
Oxalis sp.	Oxalidaceae	oxalis
Picea sitchensis	Pinaceae	Sitka Spruce
Pinus sp.	Pinaceae	pine
Plantago lanceolata	Plantaginaceae	English plantain
Poa pratensis	Poaceae	Kentucky bluegrass
Pseudotsuga menziesii ssp. *menziesii*	Pinaceae	Douglas-fir
Pteridium aquilinum var. *pubescens*	Dennstaedtiaceae	bracken fern
Ranunculus officinale	Ranunculaceae	western buttercup
Rhamnus purshiana	Rhamnaceae	cascara
Rhododendron macrophyllum	Ericaceae	rhododendron
Rubus discolor	Rosaceae	Himalayan blackberry
Rubus parviflorus	Rosaceae	thimbleberry
Rubus spectabilis	Rosaceae	salmonberry
Rubus ursinus	Rosaceae	California blackberry
Salix laevigata	Salicaceae	willow
Stachys ajugoides var. *ajugoides*	Lamiaceae	hedge nettle
Streptopus amplexifolius var. *americanus*	Liliaceae	twisted stalk
Taeniatherum asperum	Asteraceae	oxeye daisy
Taraxacum officinale	Asteraceae	dandelion
Tellima grandiflora	Saxifragaceae	big flower tellima
Trifolium dubium	Fabaceae	little hop clover
Trillium ovatum	Liliaceae	trillium
Vaccinium ovatum	Ericaceae	evergreen huckleberry
Vancouveria hexandra	Berberidaceae	small inside out flower
Vicia sativa ssp. *nigra*	Fabaceae	Narrow-leaved vetch

Vinca major	Apocynaceae	periwinkle

APPENDIX B. WETLAND DELINEATION FORMS FOR SAMPLE PLOT 3C.

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CALIFORNIA
COASTAL COMMISSION

Routine Wetland Delineation, Redland Minor Subdivision Proposal, Smith River, CA.
APN # 102-080-47, Habitat and Wetland Assessment, January, 2003.

INTRODUCTION

An assessment of habitat and wetland attributes for the Redland property was initially conducted in August, 2002 by Frank Galea, Certified Wildlife Biologist. Additional information was requested by the California Coastal Commission, therefore the property was re-visited on January 6, 2003. After submitting a wetland delineation report, the California Coastal Commission responded with a request for additional information. An additional visit was conducted on November 11th, 2003.

This report summarizes the initial work conducted plus additional wetland delineation work conducted on the property in order to meet the requirements set by the California Coastal Commission.

The property is located in a residential setting in Smith River California. The site is located on the west side of Highway 101. This property, approximately 8.5 acres in size, is under proposal for splitting into four separate parcels and a remainder, forming a minor subdivision. Currently, the property has two man-made ponds on it, one at a slightly higher elevation than the other, separated by approximately 250 feet. The ponds were excavated many years ago (circa 1940's?) to take advantage of natural springs which are located on the north end of the property. The upper pond is spring (or seep)-fed, while the lower pond receives the overflow from the upper pond, after the overflow runs down through a low channel between the two ponds. It is unknown if the depression is natural or man-made. The amount of water overflowing from the upper pond is not that great, and the flow exits the lower pond via a culvert and then into an existing drainage channel, therefore the location has no potential for anadromous fish.

The upper pond is the larger of the two. It was very shallow, with the greatest depth at only 3-4 feet. The upper end (north) of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. At the upper end of the bog thick stands of riparian and upland vegetation was found. The seep from which the upper pond is fed

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lies a short (approximately 15 feet) distance up into this thick vegetation. Farther north of the pond is a very dense stand of tall salmonberry, extending all the way to the property line, approximately 300 north of the pond.

Approaching the source of the water from the north through dense stands of salmonberry resulted in no evidence of waterflow until one approaches the boggy area to within approximately 15 feet, although some wetland indicator species of plants (mainly sedges) were evident.

The upper pond has relatively steep (40 to 80 percent) banks on the east side. At the top of the bank on the east side the ground leveled and was kept manicured by mowing. This condition has been maintained for a long time, based upon the land owners statement and aerial photographs available through Del Norte County.

The lower pond ended at an access road, where a culvert ran under the road. The overflow from the lower pond was run through a pipe which empties into a very narrow, small trench, running downhill to the south. Both sides of the small trench were manicured by lawns. The trench continued downhill as part of a drainage system for a residential area. There was no possible access for salmonids within the system examined.

METHODS

The primary purpose of a wetland determination at this site was to determine the delineation of wetland versus non-wetland areas within the property. Both ponds are aquatic, protected areas, however the extent, if any, that wetland attributes were present around the ponds was not known. Also, the overflow area between the ponds definitely contained wetland habitats, however the extent of the wetlands was not clear. Therefore, a Routine Wetland Delineation, as described in the U.S. Army Corp of Engineers 1987 Manual, was used to determine the delineation between wetland and non-wetland areas.

A vegetation map of the site was prepared which identifies the boundaries of the major vegetative types present with polygons around each more-or-less homogeneous area that has a predominance of wetland indicator species (FAC, FACW, & OBL).

The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's visual hydrology. To validate the extent of wetland habitats, sample plots ten feet in diameter were assessed using the routine wetland delineation method. Sample plots were set on either side of the apparent line between wetland and upland habitats along an axis perpendicular to the watercourse, and sampling continued until definitive results demonstrated one sample in wetland and an adjacent sample in upland along the axis.

Each sample plot was assessed for percentage of wetland plants. A soil test pit was dug to determine soil type, water and moisture depth, and if soil reduction was occurring at the location, as determined by gleyed soils or other hydric indicators. Soil color was determined using Munsell soil color charts. All data collected was recorded on Routine Wetland Determination forms as provided in the U.S. Army Corp of Engineers 1987 Manual. Once a delineation between upland and wetland habitats was determined, the delineation line was marked with red flagging hung on vegetation along the line.

In order to accurately map and report sample locations, the southeast corner of the concrete dam at the lower end of the upper pont was used as a base point to measure from. A 200 foot measurement tape was used to locate all sample plots.

Sample plot #1 was located just east of the upper pond, midway up the bank, two feet from the edge of the pond. This location was 89 feet north of the base point.

Sample plot #2A was located below the upper pond, approximately 30 feet east of the midst of the overflow channel between the two ponds. Sample plot #2B was located immediately adjacent to #2A, but closer to the watercourse.

Sample plot #3A was located just below the upper pond but on the west side of the overflow channel, 20 feet west of the midst of the channel. Sample plot #3B was adjacent but 30 feet from the channel, on the same perpendicular axis, and Sample plot #3C was sampled 40 feet from the watercourse.

Sample plot #4 was located on the west bank of the upper pond, five feet from the water (Figure 1).

The project site was also reviewed for it's potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as was recommended by the staff of the California Coastal Commission. This information is valuable in making a determination as to the size of buffers which may be applicable surrounding any wetland habitats found on the property.

The vascular plants associated with each of the four wetland sampling sites were assigned an indicator from the U.S. Fish and Wildlife Service *1996 National List of Plant Species that Occur in Wetlands for California.* The indicator assigned to a species designates the probability of that species occurring in a wetland, as follows:

OBL	- obligate wetland plants with > 99% occurrence in wetlands
FACW	-facultative wetland plants with 67-99 99% occurrence in wetlands
FAC	- facultative plants with 34-66% occurrence in wetlands
FACU	- facultative upland plants with 1-33% occurrence in wetlands
UPL	- obligate upland plants with <1% occurrence in wetlands

11938

NI	-no indicator (insufficient information) for the region
NL	-not listed (rated as upland)
plus sign(+)	- frequency toward higher end of a category
minus sign(-)	- frequency toward lower end of a category
asterisk(*)	- indicates tentative assignment based on limited information.

The predominance of hydrophytic vegetation, and subsequent determination of a wetland, is calculated using one of two methods, the 50/20 Rule and the Prevalence Index. The 50/20 Rule (Federal Interagency Committee for Wetland Delineation 1989) is a dominance ratio. When using the 50/20 Rule, greater than 50 percent of the plants must be facultative, facultative wet, or obligate wet species for a site to be considered wetland.

RESULTS

Sample Area #1

Sample area #1 was located at the east bank of the upper pond (Figure 2). The distance from the edge of the water to the top of the bank was approximately 13 feet. The steep bank is covered with diverse vegetation, including grasses, Himalayan blackberry, native blackberry, tansy ragwort, chitum, and red alder. Planted species on the slope include desert succulents, rhododendron, and Oregon grape.

An assessment of the vegetation along this bank resulted in only 20 percent being FACW or FAC. Ten percent of these were Pacific bramble (blackberry) (*Rubus ursinus*), which, although being considered FACW* in the California wetland indicator plant list, it is listed as only FACU in Oregon, which is less than ten miles north of this site (see Table 1). The asterisk after the designation for this species is an indication that the designation is tentative based on limited information. No obligate wetland plant species were found (see data forms, Site 1, Appendix B), and vegetation indicated an upland site for sample plot 1.

Two feet from the edge of the pond a soils test hole was dug to 18 inches, and was found to be dry at this depth. No indications of reduction were noted in the soil profile, and color was not indicative of gleyed soils (see data forms, Site 1, Appendix B). Therefore, based upon the vegetation present, site hydrology and soil indicators, the east bank directly along the upper pond was determined not to be wetland habitat. The wetland delineation line therefore would be the edge of the pond.

Sample Area #2

Sample area #2 was located below the upper pond, directly above the break-in-slope which appeared to separate the wetland habitat below the break from the apparent non-wetland above it. To determine if the visual assessment was correct, and that the break-in-slope at 27 feet east of the overflow channel was a good location for the wetland/non-

wetland delineation, sample plot #2A was located just east and above the break-in-slope, and proved to be out of the wetland area. Ten feet closer to the watercourse we sampled plot #2B, which demonstrated wetland attributes, as described below.

Table 1. Primary Plant Species found in Sample Plots.

Vegetation Layer	*Scientific Name* Common Name	USFWS Indicator, California	USFWS Indicator, Oregon
Tree	*Alnus rubra* red alder	FACW	FAC
	Pseudotsuga menziesii Douglas-fir	NI	NI
	Picea sitchensis Sitka spruce	FAC	FAC
Shrub	*Baccharis pilularis* coyote brush	NL	NL
	Vaccinium ovatum huckleberry	NL	NL
Herbaceous	*Polystichum munitum* sword fern	NL	NL
	Rubus ursinus Pacific blackberry (bramble)	FAC+*	FACU
	Rubus spectabilis salmonberry	FAC+	FAC+
	Gaultheria shallon salal	NL	NL
	Festuca arundinacea tall fescue	FAC-	FAC-
	Equisetum arvense Common horsetail	FAC	FAC

Sample Plot #2A: During the January 6, 2003 sampling vegetation at plot #2A was determined to be 93 percent FACW or FAC. However, 90 percent of this percentage consisted of native blackberry which, as noted above, is not considered a wetland indicator in Oregon and perhaps should not be considered an indicator here.

13 of 38

During the November 11, 2003 visit to the same plot (#2A) vegetative conditions had changed, based upon a qualitative assessment. The amount of native blackberry was greatly reduced, and the amount of common horsetail and, to some degree sword fern, was much greater than in the January 6th visit.

The hydrology of #2A did not indicate wetland conditions. There was a 3 to 4 foot break-in-slope located 27 feet east of the overflow channel, and plant species changed dramatically at this break. Below the break the vegetation was definitely composed of wetland plant species, where above the break they did not. The degree of slope and height of the break-in-slope suggested a defined channel where overflow from the upper pond was contained, and hydric conditions did not permeate above the break-in-slope.

Soil conditions at plot #2A were also indicative of a non-wetland site. A soils test hole was dug 30 feet east of the overflow channel, or 3 feet east of the break-in-slope. At 18 inches depth, soils were dry and consisted of a dark, loamy soil, with a minute amount of clay and sands. No indications of reduction were present.

Sample Plot #2B: Ten feet from sample plot 2A, toward the watercourse sample plot #2B was placed, which was sampled on Nov. 11th. Only an herb layer was present in this plot, which contained 60 percent OBL and FAC species. Saturated soils were encountered at 4 inches. Therefore, sample plot #2B, located just below the break-in-slope, was wetland habitat.

Therefore, based upon the vegetation present, site hydrology and soil indicators, below the upper pond the break-in-slope at 27 feet east of the overflow channel is the proper delineation between wetland and non-wetland habitats. This delineations was flagged in the field with red flagging hung on vegetation immediately above the break-in-slope.

Sample Area #3

Sample area #3 was located just below the upper pond on the west side of the overflow. Unlike the east side of the overflow, the west side of the overflow channel had less of a gradient. The break-in-slope occurred at approximately 25 feet from the centerline of the overflow channel. The hydrology of the site, therefore, was a very moderate slope from the overflow channel, up to a defined, 3-4 foot break-in-slope located 25 feet west of the channel.

Habitat above the break-in-slope at 25 feet appeared to be upland, composed of swordfern under conifers (Douglas -fir). Below the break-in-slope the ground gradually sloped toward the overflow channel, and the vegetation was relatively consistent, except for a profusion of wetland obligates directly in the midst of the channel. Overflow from the upper pond during periods of heavy rain appeared to run through this area as well,

evidenced by the bent-over vegetation in a downstream pattern from the pond to the overflow channel.

Sample Plot #3A:

Plot #3A was sampled on January 6th. Sample plot #3A was placed 20 feet west of the centerline of the overflow channel. Using the 50/20 rule, dominant vegetation at this herbaceous layer was determined to be FAC+ or OBL.

Soils at sample site #3 were dark with no evidence of mottling. Color of soil at 12 inches was slightly more gleyed than at other sample sites. A test hole dug 20 feet from the overflow channel was slightly wet at 12 inches, demonstrating inundated conditions at greater depth. The hydrology, damp soil and preponderance of hydrophytic plants demonstrates sample plot #3A was located in wetland habitat.

Sample Plot #3B: Ten feet up from plot #3A and perpendicular from the watercourse we sampled plot #3B. Although one obligate plant species was found, using the 50/20 rule only 40 percent of the herbaceous layer was found to be OBL, and all others with at least 20 percent cover being FAC-, therefore the vegetation did not indicate a wetland site.

Soils from an 18 inch hole were dry, consisting of a silty loam, mineral soil. The "A" horizon, to 16 inches, was full of roots. There was no signs of oxidation on the roots, and fine root hairs were evident. The "B" horizon, from 16-18 inches, had a lack of roots and appeared to be mainly inorganic in nature. Overall the soils demonstrated no signs of saturation or oxidation of organic material.

Therefore, based upon the vegetation present, site hydrology and soil indicators, below the upper pond the break-in-slope at 25 feet west of the overflow channel is the proper delineation between wetland and non-wetland habitats. This delineations was flagged in the field with red flagging hung on vegetation immediately above the break-in-slope.

Sample Area #4

Sample area #4 was located just west of the upper pond, along the bank. This sample site was located 87 feet north of the dam and five feet from the edge of the pond. The west bank of the upper pond was more gradual in slope than the east bank.

Vegetation at sample site #4 demonstrated almost no wetland dependant species, with only 15 percent of the understory being FACW or FAC+ (10 percent of which was native blackberry). The overstory was composed of young Douglas-fir (*Pseudotsuga menziesii*), larger Sitka spruce (*Picea sitchensis*) were set farther back from the pond beyond the sample site.

Soils at this site were black loam, with no moisture at 12 inches depth, though the sample hole was dug only 5 feet from the pond edge. Sample plot #4, located 5 feet from the west bank of the upper pond, was determined to be upland habitat, therefore the edge of the pond was determined to be the extent of wetland and no additional sample plots were necessary.

Just north of sample site #4, however, appeared to have some wetland attributes. The upper end (north) of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. At the upper end of the bog thick stands of riparian and upland vegetation was found. The seeps (number unknown) from which the upper pond is fed apparently come out of the ground some distance from the pond to the northwest. Approaching the source of the water from the north through dense stands of salmonberry resulted in no actual evidence of waterflow until one approaches the boggy area to within approximately 15 feet, although some wetland plants (mainly sedges) were evident. The exact locations of the origins of the seeps was not searched out as there may be several seeps and this area was not delineated as it is not of consequence to this report. Farther north of the pond the ground slopes upward, where there is a very dense stand of tall salmonberry, extending all the way to the property line, approximately 300 feet north of the pond.

Wetland Resources

This site consists of a minimal amount of aquatic, riparian and wetland resources. There is an upper pond, above which is a small area of wetland habitat, originating from underground springs, consisting of dense salmonberry brush. Below the dam containing the upper pond there is a thin strip of wetland habitat, approximately 52 feet wide and 325 feet long, between the upper and lower pond. At the lower pond, which is much smaller than the upper pond, the wetland strip ends. On the east side of the wetland strip there is a limited amount of short, herbaceous brush before a large manicured lawn. On the west side of the wetland strip there is a narrow strip of riparian vegetation approximately 25 feet wide, consisting of spruce, chitum and herbaceous vegetation. Overall, therefore, there is very little wetland habitat, and that which is present is in the form of a narrow strip of low-growing herbaceous species and is therefore well exposed to the residential community surrounding it.

The wetland strip and associated ponds provide a minimal amount of habitat for aquatic and wetland plants, however there is no preferred habitat (in the form of a large block of contiguous wetland habitat) for wetland dependant wildlife species to utilize, and in fact none were noted during investigations and none were noted by the landowner. Several old wood duck nest boxes were located on the ground around the pond, however the landowner states that this species has not been seen utilizing the ponds for many years.

Reduced Width Wetland Buffers

The Marine and Water Resources Policy VII.D.4f of the Del Norte County Land Use Plan calls for a default 100-foot-wide buffer between development and the edge of a wetland. Buffers of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland.

The Applicant is requesting a reduction of the 100 foot buffer around the ponds and overflow area. Historically, a house was located within approximately 60 feet of the pond, above the east bank. Current regulations would place the house site within the current 100 foot setback, or buffer, for wetland areas.

A reduced buffer would have no adverse impacts to the ponds or limited wetland habitats found within the overflow channel. The man-made ponds are supporting few wetland plant or animal species, and there is no connectivity between the ponds or the wetland habitats and other wetland areas. There are no fish in the ponds, and after three visits to the site this biologist saw no wetland dependant animal species. The entire site is surrounded by manicured lawns, residential housing, pastures and, off the property, recently-cleared building sites.

The primary purpose of a 100 foot buffer around a wetland is to provide screening to prevent disturbance, visual and auditory, to wildlife species which may be utilizing the wetland habitat. In this case, the wetland is too small and narrow to be utilized by wetland dependant species for nesting or roosting, therefore disturbance to wildlife species is not an issue. The only wetland resource located at this site would be sensitive plant species, and these do not require a 100 foot buffer.

Buffers East of Upper Pond and Wetland Strip: Buffers around the upper pond should begin at the pond edge, as it was demonstrated during wetland delineation that the east bank of the pond does not constitute wetland habitat (sample sites #1).

On the east side of the pond, the Applicant has requested a buffer reduction to 25 feet. Currently, the area immediately east of the pond (within 10 feet of the edge of the pond) is landscaped and mowed lawn, which has been in place for several decades. As there is no other environmentally sensitive habitats on the east side of the pond, and there are no fish or wildlife species utilizing the pond which might be disturbed, a 25 foot buffer is sufficient. There will be no adverse impacts to plant or animals species if there is less than a 100 foot buffer. It should be noted that allowing a buffer of only 25 feet will not decrease the amount of screening vegetation along the pond, as there is none there to begin with.

The same conditions exist for the area east of the narrow wetland strip between the ponds. The wetland delineation line is 27 feet east of the overflow channel. Between the

delineation line and the mowed lawn there is approximately 10 to 15 feet of herbaceous plants, mostly native blackberry or low-growing ferns. One can look directly down into the overflow channel from the manicured lawn. Therefore, a buffer of 25 feet on the east side of the wetland area is sufficient, as there are no fish or wildlife species present which require protection from disturbance, no removal of vegetation (to go from a 100 to 25 foot buffer) and conditions would be the same. There will be no adverse impacts to plant or animals species if there is less than a 100 foot buffer. The California Department of Fish and Game concurs with this assessment (see attached letter).

Buffers West of Upper Pond and Wetland Strip:

On the west side of the upper pond, the there are no wetland habitats except near the far northern corner of the pond. Sample site #4, located 87 feet north of the dam on the west side of the pond, only five feet from the edge of the pond, demonstrated that there is no wetland habitat along the pond up to that point. Beyond sample plot # 4 potential wetlands exist, however this area was not delineated.

Below the upper pond the delineation between wetland and non-wetland habitats was located at 25 feet west of the overflow channel. A break-in-slope is located along this delineated line.

The Applicant has requested a 50 foot buffer on the west side of the pond and wetlands. This appears to be adequate based upon the lack of wetland habitats on the west side of the pond and the limited amount of wetland habitat located in a thin strip between the upper and lower ponds. There are no sensitive wetland dependant species using the pond or wetland area, and on the west side there is a narrow strip of riparian vegetation in place which screens the wetlands to the west. A 50 foot buffer from the wetland delineation line would take in all of the riparian strip and would provide an adequate buffer for the wetland strip. The California Department of Fish and Game concurs with this assessment (see attached letter).

Buffers North of Upper Pond

On the north side of the upper pond there is a large area of dense vegetation where apparently several small seeps come out of the ground at different locations and provide moisture to support a dense stand of salmonberry. The closer one approaches the upper pond the more the vegetation includes hydrophytic species. This area was not delineated as it is not near an area of proposed development and costs to delineate the entire area would be excessive. This area is on the remaining parcel and is distant (over 100 yards) from the parcels to be split off, and therefore distant from any future potential building sites.

Therefore, 100 foot buffer from the ponds edge as requested by the Applicant would be appropriate. The California Department of Fish and Game concurs with this assessment (see attached letter).

New lots: Three new properties would result from this subdivision. All three were reviewed as a part of this assessment. The lots are located in the southeast corner of the property, distant from the ponds and associated wetlands. The lots were all mowed and open, and no ditches, drainages or wetland attributes were present. The topography was that of a gentle slope to the south. There was no evidence of wetland vegetation or did it appear that there was any potential for wetland habitats within the lots. Natural vegetation along the east edge of the lots was all upland vegetation, and no wetland associated plants were seen.

Improvements to road access across spillway: As noted above, below the second pond the flow runs under a current access road via a culvert. Should the subdivision be approved, the access road would also need improvement in order to accommodate higher vehicle traffic.

The proposal for improvement, as suggested on an available subdivision proposal map, would be to increase the width of the road by extending the road width to the south. This would have no adverse impacts upon the lower pond or habitats on either bank, as all road improvements would be on the other side of the current access road. On the south side of the road the culvert ends in a small, narrow ditch. This may require some extension of the culvert to deal with the road widening, and perhaps some reinforcement of the sides of the ditch, however there are no wetlands associated with this portion of the project, and therefore this should have no adverse impacts to any wetland habitats.

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Tiner, R.W., 1999. *Wetland Indicators, A guide to Wetland Identification, Delineation, Classification and Mapping.* Lewis Publishers, Boca Raton, Florida.

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APPENDIX A

PLANT SPECIES LOCATED IN OR NEAR SAMPLE AREAS DURING ROUTINE WETLAND DELINEATION

Alnus rubra red alder
Berberis aquifolium tall Oregon-grape
Baccharis pilularis coyote brush
Equisetum arvense common horsetail
Festuca arundinacea tall fescue
Gaultheria shallon salal
Picea sitchensis Sitka spruce
Polystichum munitum sword fern
Pseudotsuga menziesii Douglas-fir
Rubus discolor Himalayan blackberry
Rubus spectabilis salmonberry
Rubus ursinus Pacific blackberry (bramble)
Vaccinium ovatum evergreen huckleberry
Yucca (sp?)

APPENDIX B

WETLAND DELINEATION DATA FORMS

APPENDIX C

LETTER FROM CALIFORNIA DEPARTMENT OF FISH AND GAME

22938

STATE OF CALIFORNIA-THE RESOURCES AGENCY
GRAY DAVIS, GOVERNOR
DEPARTMENT OF FISH AND GAME
NORTHERN CALIFORNIA-NORTH COAST REGION
619 SECOND STREET
EUREKA, CA 95501
(707)445-6493

Flex your POWER

September 25, 2002

Ms. Heidi Kunstal (via fax)
Del Norte County
Community Development Department
981 H Street, Suite 110
Crescent City, CA 95531

Re: Redland Company Minor Subdivision/ Density Overlay Rezone

Dear Ms. Kunstal,

Per your phone request, I am providing some comment on the above project application. I have reviewed the project application as well as the wetland assessment (prepared by Galea Wildlife Consulting, August 2002), and aerial photography.

It is clear that this area has been modified as a result of development of the surrounding landscape which is primarily residential that includes homes, roads, driveways, outbuildings, etc. The proposed project identifies four parcels and a remainder (whereby the wetland habitat will be incorporated within the larger 6.5 acre remainder).

It is also my understanding that a previous home adjacent to one of the ponds (remainder parcel) was destroyed years ago by fire.

Based on information regarding the surrounding landscape, the habitat value of the site, the location of the proposed parcels, etc., I believe that the proposed setbacks that have been developed for the project are adequate.

Should you have any questions, please do not hesitate to contact me at (707) 441-5789 or e-mail kkovacs@dfg.ca.gov.

Sincerely,

Karen Kovacs
Senior Biologist Supervisor

23938

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COASTAL COMMISSION

Routine Wetland Delineation Redland Minor Subdivision Proposal, Smith River, CA.
APN # 102-080-47, Habitat and Wetland Assessment, January, 2003.

INTRODUCTION

An assessment of habitat and wetland attributes for the Redland property was conducted in August, 2002 by Frank Galea, Certified Wildlife Biologist. Additional information was requested by the California Coastal Commission, therefore the property was re-visited on January 6, 2003.

The property is located in a residential setting in Smith River California. The site is located on the west side of Highway 101. This property, approximately 8.5 acres in size, is under proposal for splitting into four separate parcels and a remainder, forming a minor subdivision. Currently, the property has two man-made ponds on it, one at a slightly higher elevation than the other, separated by approximately 250 feet. The ponds were excavated many years ago (circa 1940's?) to take advantage of natural springs which are located on the north end of the property. The upper pond is spring (or seep)-fed, while the lower pond receives the overflow from the upper pond, after the overflow runs down through a low channel between the two ponds. It is unknown if the depression is natural or man-made. The amount of water overflowing from the upper pond is not that great, and the flow exits the lower pond via a culvert and then into an existing drainage channel, therefore the location has no potential for anadromous fish.

The upper pond is the larger of the two. It was very shallow, with the greatest depth at only 3-4 feet. The upper end (north) of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. At the upper end of the bog thick stands of riparian and upland vegetation was found. The seep from which the upper pond is fed lies a short (approximately 15 feet) distance up into this thick vegetation. Farther north of the pond is a very dense stand of tall salmonberry, extending all the way to the property line, approximately 300 north of the pond.

Approaching the source of the water from the north through dense stands of salmonberry resulted in no evidence of waterflow until one approaches the boggy area to within

24 of 36

approximately 15 feet, although some wetland indicator species of plants (mainly sedges) were evident.

The upper pond has relatively steep (40 to 80 percent) banks on the east side. At the top of the bank on the east side the ground leveled and was kept manicured by mowing. This condition has been maintained for a long time, based upon the land owners statement and aerial photographs available through Del Norte County.

The lower pond ended at an access road, where a culvert ran under the road. The overflow from the lower pond was run through a pipe which empties into a very narrow, small trench, running downhill to the south. Both sides of the small trench were manicured by lawns. The trench continued downhill as part of a drainage system for a residential area. There was no possible access for salmonids within the system examined.

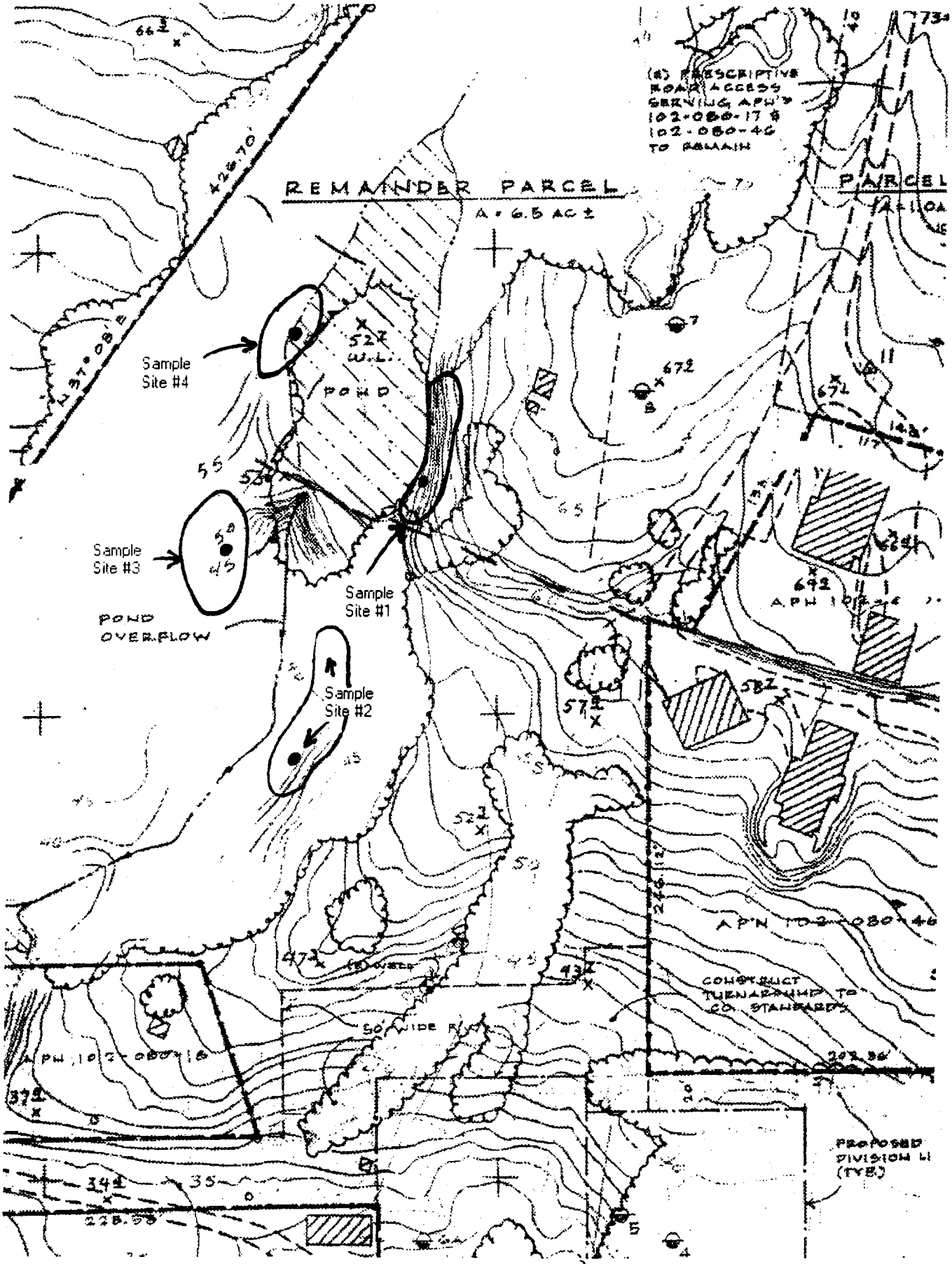
METHODS

The primary purpose of a wetland determination at this site was to determine the delineation of wetland versus non-wetland areas within the property. Both ponds are aquatic, protected areas, however the extent, if any, that wetland attributes were present around the ponds was not known. Also, the overflow area between the ponds definitely contained wetland habitats, however the extent of the wetlands was not clear. Therefore, a Routine Wetland Delineation, as described in the U.S. Army Corp of Engineers 1987 Manual, was used to determine the delineation between wetland and non-wetland areas.

The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's hydrology. To validate the apparent delineation, four locations, which vegetation and hydrology parameters suggested were out of wetland habitat, were sampled using the routine wetland delineation method to insure the location was non-wetland. Each sample location was then assessed for percentage of wetland plants. A soil test pit was dug to determine soil type, water and moisture depth, and if soil reduction was occurring at the location, as determined by gleyed soils or other hydric indicators. Soil color was determined using Munsell soil color charts. All data collected was recorded on Routine Wetland Determination forms as provided in the U.S. Army Corp of Engineers 1987 Manual. Once a delineation between upland and wetland habitats was determined, the delineation line was marked with red flagging hung on vegetation along the line.

Sample plot #1 was located just east of the upper pond, in the midst of the bank, two feet from the edge of the pond. Sample plot #2 was located below the upper pond, approximately 30 feet east of the midst of the overflow channel between the two ponds. Sample plot #3 was located just below the upper pond but on the west side of the overflow channel, 20 feet west of the midst of the channel. Sample plot #4 was located on the west bank of the upper pond, five feet from the water (Figure 1).

Figure 1. Location of Sample Areas, #'s1- 4, Redland Property Routine Wetland Delineation. Polygons are areas vegetation was sampled, dot within is the soil sample site.



26438

The project site was also reviewed for it's potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as was recommended by the staff of the California Coastal Commission. This information is valuable in making a determination as to the size of buffers which may be applicable surrounding any wetland habitats found on the property.

The vascular plants associated with each of the four wetland sampling sites were assigned an indicator from the U.S. Fish and Wildlife Service *1996 National List of Plant Species that Occur in Wetlands for California.* The indicator assigned to a species designates the probability of that species occurring in a wetland, as follows:

OBL	- obligate wetland plants with > 99% occurrence in wetlands
FACW	-facultative wetland plants with 67-99 99% occurrence in wetlands
FAC	- facultative plants with 34-66% occurrence in wetlands
FACU	- facultative upland plants with 1-33% occurrence in wetlands
UPL	- obligate upland plants with <1% occurrence in wetlands
NI	-no indicator (insufficient information) for the region
NL	-not listed (rated as upland)
plus sign(+)	- frequency toward higher end of a category
minus sign(-)	- frequency toward lower end of a category
asterisk(*)	- indicates tentative assignment based on limited information.

RESULTS

Sample Site #1

Sample site #1 was located at the east bank of the upper pond (Figure 2). The distance from the edge of the water to the top of the bank was approximately 13 feet. The steep bank is covered with diverse vegetation, including grasses, Himalayan blackberry, native blackberry, tansy ragwort, chitum, and red alder. Planted species on the slope include desert succulents, rhododendron, and Oregon grape.

An assessment of the vegetation along this bank resulted in only 20 percent being FACW or FAC, and of these 10 percent were Pacific bramble (blackberry) (*Rubus ursinus*), which, although being considered FACW* in the California wetland indicator plant list, it is listed as only FACU in Oregon, which is less than ten miles north of this site (see Table 1). The asterisk after the designation for this species is an indication that the designation is tentative based on limited information. No obligate wetland plant species were found (see data forms, Site 1, Appendix B)..

Two feet from the edge of the pond a soils test hole was dug to 18 inches, and was found to be dry at this depth. No indications of reduction were noted in the soil profile, and

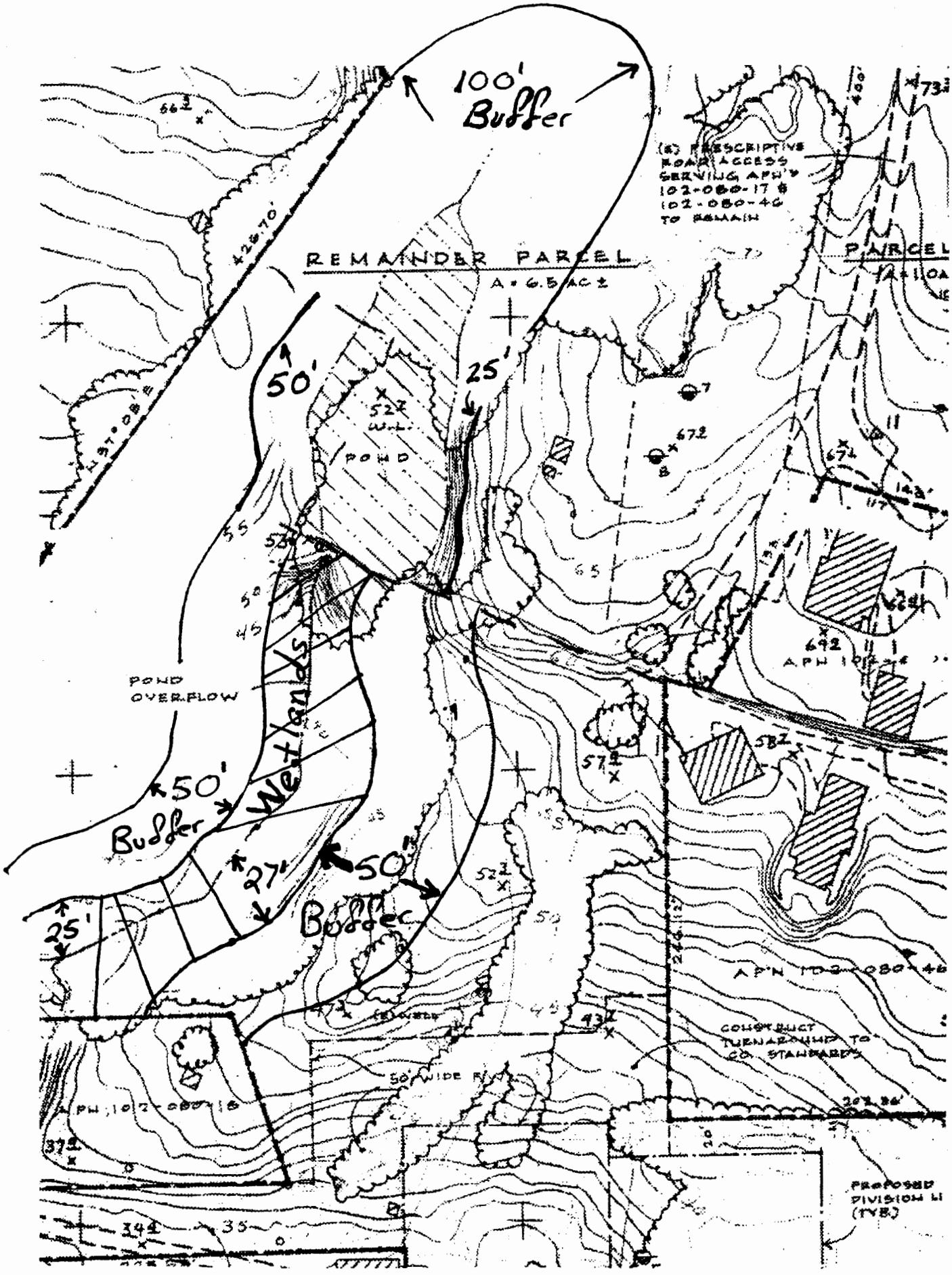


Figure 2. Delineation of Wetland Habitat and proposed, associated protection buffers, Redland Property Routine Wetland Delineation.

color was not indicative of gleyed soils (see data forms, Site 1, Appendix B). Therefore, based upon the vegetation present, site hydrology and soil indicators, the east bank directly along the upper pond was determined not to be wetland habitat.

Sample Site #2

Sample site #2 was located below the upper pond, directly above the break-in-slope which appeared to delineate the wetland habitat below the break from the apparent non-wetland above it. To determine if the visual assessment was correct, and that the break-in-slope at 27 feet east of the overflow channel was a good location for the wetland/non-wetland delineation, sample site 2 was located just east and above the break-in-slope.

Table 1. Primary Plant Species found in Sample Plots.

Vegetation Layer	*Scientific Name* Common Name	USFWS Indicator, California	USFWS Indicator, Oregon
Tree	*Alnus rubra* red alder	FACW	FAC
	Pseudotsuga menziesii Douglas-fir	NI	NI
	Picea sitchensis Sitka spruce	FAC	FAC
Shrub	*Baccharis pilularis* coyote brush	NL	NL
	Vaccinium ovatum huckleberry	NL	NL
Herbaceous	*Polystichum munitum* sword fern	NL	NL
	Rubus ursinus Pacific blackberry (bramble)	FACW*	FACU
	Rubus spectabilis salmonberry	FAC+	FAC+
	Gaultheria shallon salal	NL	NL
	Festuca arundinacea tall fescue	FAC-	FAC-
	Equisetum arvense Common horsetail	FAC	FAC

Vegetation at this site was determined to be 93 percent FACW or FAC. However, 90 percent of this percentage consisted of native blackberry which, as noted above, is not considered a wetland indicator in Oregon and perhaps should not be considered an indicator here.

The hydrology of this site did not indicate wetland conditions. There was a 3 to 4 foot break-in-slope located 27 feet east of the overflow channel, and plant species changed dramatically at this break. Below the break the vegetation was definitely composed of wetland plant species, where above the break they did not. The degree of slope and height of the break-in-slope suggested a defined channel where overflow from the upper pond was contained, and hydric conditions did not permeate above the break-in-slope.

Soil conditions at Site 2 were also indicative of a non-wetland site. A soils test hole was dug 30 feet east of the overflow channel, or 3 feet east of the break-in-slop. At 18 inches depth, soils were dry and consisted of a dark, organic loam, with a minute amount of clay and sands. No indications of reduction were present. Therefore, based upon the vegetation present, site hydrology and soil indicators, below the upper pond the break-in-slope at 27 feet east of the overflow channel is a good location for the wetland/non-wetland delineation. This delineations was flagged in the field with red flagging hung on vegetation immediately above the break-in-slope.

Sample Site #3

Sample site #3 was located just below the upper pond on the west side of the overflow. Unlike the east side of the overflow, the west side of the overflow channel had less of a gradient. The break-in-slope occurred at approximately 25 feet from the centerline of the overflow channel. The hydrology of the site, therefore, was a very moderate slope from the overflow channel, up to a defined, 3-4 foot break-in-slope located 25 feet west of the channel. Habitat above the break-in-slope at 25 feet was definitely upland, composed of swordfern under conifers (Douglas -fir). Below the break-in-slope the ground gradually sloped toward the overflow channel, and the vegetation was relatively consistent, except for a profusion of wetland obligates directly in the midst of the channel. Overflow from the upper pond during periods of heavy rain appeared to run through this area as well, evidenced by the bent-over vegetation in a downstream pattern from the pond to the overflow channel.

To insure that the area directly below the break-in-slope was wetland, sample plot #3 was placed 20 feet west of the centerline of the overflow channel. Vegetation at this site was determined to be 70 percent OBL, FACW or FAC. Both obligate wetland plants and upland plants were found in the sample area, demonstrating that it is a transitional zone between wetland habitat and the upland habitat located just above and west of the sample site.

Soils at sample site #3 were highly organic with no evidence of mottling. Color of soil at 12 inches was slightly more gleyed than at other sample sites. A test hole dug 20 feet from the overflow channel was slightly wet at 12 inches, demonstrating inundated conditions at greater depth. Although sample site #3 was not highly hydrophytic, the hydrology, damp soil and preponderance of hydrophytic plants demonstrates sample site #3 was located in wetland habitat, and the 3-4 foot break-in-slope immediately west is the proper delineation between wetland and upland habitats. This delineations was flagged in the field with red flagging hung on vegetation immediately above the break-in-slope.

Sample Site #4

Sample site #4 was located just west of the upper pond, along the bank. The west bank of the upper pond was more gradual in slope than the east bank.

Vegetation at sample site #4 demonstrated almost no wetland dependant species, with only 15 percent of the understory being FACW orFAC+ (10 percent of which was native blackberry). The overstory was composed of large Sitka spruce (*Picea sitchensis*) which were set farther back from the pond.

Soils at this site were black and highly organic, with no moisture at 12 inches depth, though the sample hole was dug only 5 feet from the pond edge. Sample site #4, which sampled the west bank of the upper pond, was determined to be upland habitat.

The upper end (north) of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. At the upper end of the bog thick stands of riparian and upland vegetation was found. The seep from which the upper pond is fed lies a short (approximately 15 feet) distance up into this thick vegetation. Farther north of the pond the ground slopes upward, where there is a very dense stand of tall salmonberry, extending all the way to the property line, approximately 300 north of the pond.

Approaching the source of the water from the north through dense stands of salmonberry resulted in no evidence of waterflow until one approaches the boggy area to within approximately 15 feet, although some wetland plants (mainly sedges) were evident.

Reduced Width Wetland Buffers

The Marine and Water Resources Policy VII.D.4f of the Del Norte County Land Use Plan calls for a default 100-foot-wide buffer between development and the edge of a wetland. Buffers of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than 100 feet must be done in cooperation with the California Department of Fish and Game.

The Applicant prefers a reduction of the 100 foot buffer around the ponds and overflow area. Historically, a house was located within approximately 60 feet of the pond, above the east bank. This would place the house site within the current 100 foot setback, or buffer, for wetland areas.

A reduced buffer would have no adverse impacts to the ponds or limited wetland habitats found within the overflow channel. The man-made ponds are supporting few wetland plant or animal species, and there is no connectivity between the ponds or the wetland habitats and other wetland areas. There are no fish in the ponds, and after three visits to the site this biologist saw few wetland dependant animal species. The entire site is surrounded by manicured lawns, residential housing, pastures and, off the property, recently-cleared building sites.

Buffers around Upper Pond: Buffers around the upper pond should begin at the pond edge, as it was demonstrated during wetland delineation that the east and west banks of the pond do not constitute wetland habitats (sample sites #1 & 4). On the east side of the pond, the Applicant has requested a buffer reduction to 25 feet. Currently, the area directly east of the pond is landscaped and mowed lawn, which has been in place several decades. As there is no other environmentally sensitive habitats in the area east of the pond, and as there are no significant populations of sensitive wildlife species or plants in and around the pond, a 25 foot buffer is adequate. The Applicant has requested a 50 foot buffer on the west side of the pond. Again, this appears to be adequate based upon the lack of wetland habitats on the west side, and the lack of any other sensitive habitats west of the pond. The California Department of Fish and Game concurs with this assessment.

On the north side of the upper pond a 100 foot buffer from the ponds edge as requested by the Applicant would be appropriate. A 100 foot buffer north of the pond would include the seep at 15 feet plus an additional buffer of 85 feet. The California Department of Fish and Game concurs with this assessment.

Buffers around Overflow Channel Wetland Habitats: For the wetland habitats in the overflow channel below the upper pond, on the east side the buffer should begin at the obvious break-in-slope located approximately 27 feet east of the overflow channel (see sample site #2). For the west side, the buffer area should begin at the obvious break-in-slope at 25 feet (see sample site #3) and continue down past the lower pond. A reduced wetland buffer area of 50 feet from the wetland delineation line on either side would be adequate, including the west side of the lower pond. The wetland area in the overflow channel is very small, there does not appear to be any significant resource at this location, and there are no similar habitats in the area. The California Department of Fish and Game concurs with this assessment.

New lots: Three new properties would result from this subdivision. All three were reviewed as a part of this assessment. The lots are located in the southeast corner of the

property, distant from the ponds and associated wetlands. The lots were all mowed and open, and no ditches, drainages or wetland attributes were present. The topography was that of a gentle slope to the south. There was no evidence of wetland vegetation or did it appear that there was any potential for wetland habitats within the lots. Natural vegetation along the east edge of the lots was all upland vegetation, and no wetland associated plants were seen.

Improvements to road access across spillway: As noted above, below the second pond the flow runs under a current access road via a culvert. Should the subdivision be approved, the access road would also need improvement in order to accommodate higher vehicle traffic.

The proposal for improvement, as suggested on an available subdivision proposal map, would be to increase the width of the road by extending the road width to the south. This would have no adverse impacts upon the lower pond or habitats on either bank, as all road improvements would be on the other side of the current access road. On the south side of the road the culvert ends in a small, narrow ditch. This may require some extension of the culvert to deal with the road widening, and perhaps some reinforcement of the sides of the ditch, however there are no wetlands associated with this portion of the project, and therefore this should have no adverse impacts to any wetland habitats.

APPENDIX A

PLANT SPECIES LOCATED IN OR NEAR SAMPLE AREAS DURING ROUTINE WETLAND DELINEATION

Alnus rubra red alder
Berberis aquifolium tall Oregon-grape
Baccharis pilularis coyote brush
Equisetum arvense common horsetail
Festuca arundinacea tall fescue
Gaultheria shallon salal
Picea sitchensis Sitka spruce
Polystichum munitum sword fern
Pseudotsuga menziesii Douglas-fir
Rubus discolor Himalayan blackberry
Rubus spectabilis salmonberry
Rubus ursinus Pacific blackberry (bramble)
Vaccinium ovatum evergreen huckleberry
Yucca (sp?)

APPENDIX B

ROUTINE WETLAND DELINEATION DATA FORMS

GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531
Tel: 707-464-3777 . Fax: 707-464-6634
E-mail: galea@cc.northcoast.com . Web: cc.northcoast.com/~galea

Site Visit Report, Redland Minor Subdivision Proposal, Smith River, CA. APN # 102-080-47
Habitat and Wetland Assessment, August, 2002.

An assessment of habitat and wetland attributes for the Redland property was conducted in August, 2002 by Frank Galea, Certified Wildlife Biologist. This property, approximately 8.5 acres in size, is under proposal for splitting into four separate properties, forming a minor subdivision. Currently, the property has two man-made ponds on it, one at a slightly higher elevation than the other, separated by approximately 250 feet. The ponds were excavated many years ago, and have no potential for anadromous fish. The upper pond is spring (or seep)-fed, while the lower pond receives the overflow from the upper pond, after the overflow runs down through a wetland area.

The upper pond is the larger of the two. It was very shallow, with the greatest depth at only 3-4 feet. The upper end (north) of the larger pond contains a muddy bog, with minimal water flow over it, and little vegetation. At the upper end of the bog thick stands of riparian and upland vegetation was found. The seep from which the upper pond is fed lies a short (approximately 15 feet) distance up into this thick vegetation. Farther north of the pond is a very dense stand of tall salmonberry, extending all the way to the property line, approximately 300 north of the pond. Approaching the source of the water from the north through dense stands of salmonberry resulted in no evidence of waterflow until one approaches the boggy area to within approximately 15 feet, although some wetland plants (mainly sedges) were evident.

The upper pond has relatively steep (40 to 80 percent) banks on the east side. The banks are covered with diverse vegetation, including grasses, Himalayan blackberry, native blackberry, tansy ragwort, chitum, and red alder. Planted species on the slope include desert succulents, rhododendron, and Oregon grape. The only species with definite wetland association were a few horsetails. Overall, the slope was steep, especially toward the midst of the pond, and the soil appeared very well drained. At the top of the bank on the east side the ground leveled and was kept manicured by mowing. This condition has been maintained for a long time, based upon the land owners statement and aerial photographs available through Del Norte county.

The lower pond ended at an access road, where a culvert ran under the road. The overflow was run through a pipe which empties into a very narrow, small trench, running downhill to the south. Both sides of the small trench were manicured by lawns. The trench continued downhill as part of a drainage system for a residential area. There was no possible access for salmonids within the system examined.

36 of 38

Reduction of 100 foot buffer: Historically, a house was located within approximately 60 feet of the pond, above the east bank. This would place the house site within the current 100 foot setback, or buffer, for wetland areas. However, there would be no adverse impacts to the wetlands if the buffer were less than 100 feet as there is no wetland vegetation within the buffer except those found directly next to the pond. An appropriate buffer for the upper pond would be to the top of the bank, where at it's widest point the bank is 13 feet from the edge of the pond. Therefore, one could use the top of the east pond bank for the buffer, or use 13 feet as a buffer around the east side of the pond. On the west side of the pond the top of the bank may be appropriate, as the slope appears more gentle and greater in width, with Himalayan blackberry as the dominant vegetation. Either of these would also be applicable to the lower pond, as conditions there are very similar.

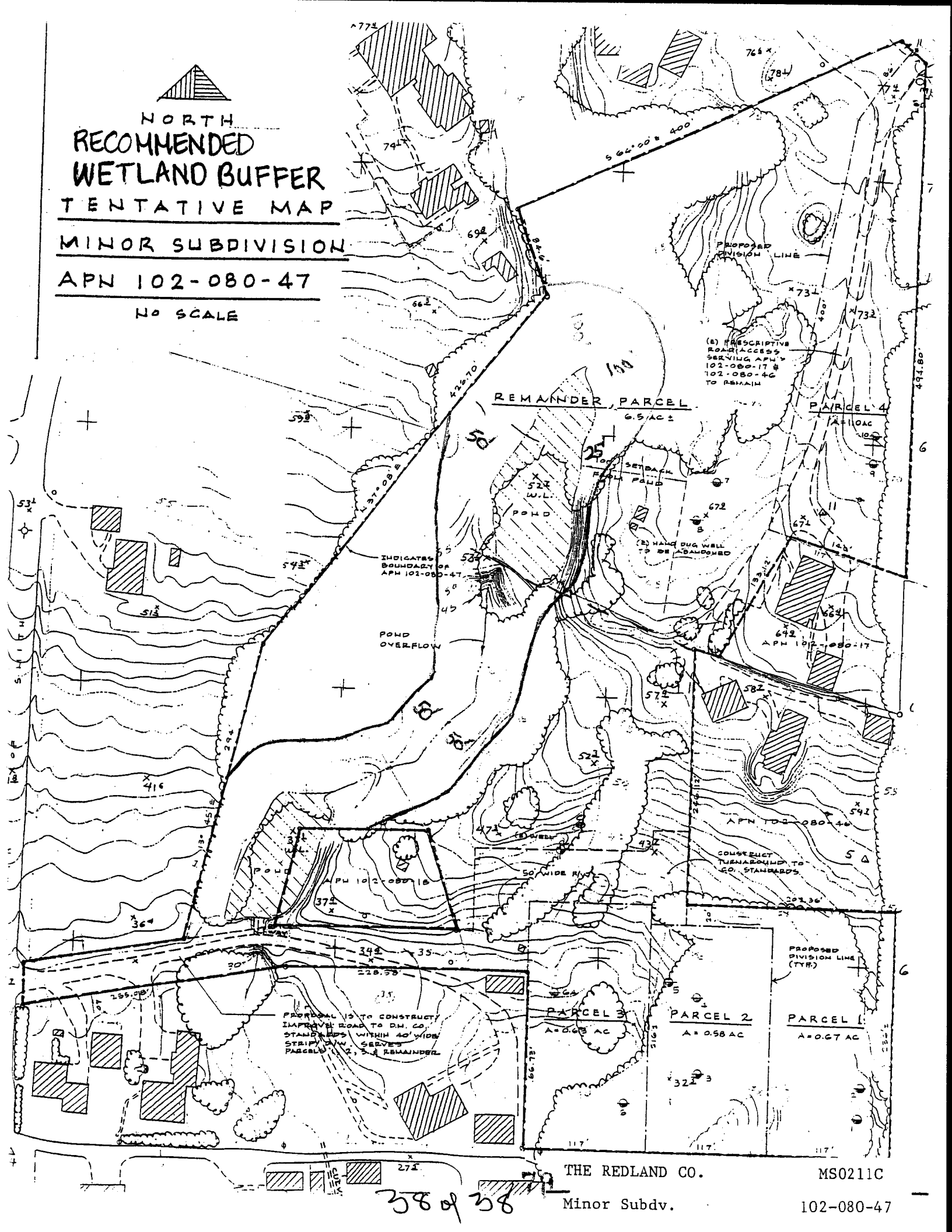
On the north side of the upper pond a 100 foot buffer from the ponds edge would be appropriate, as this would take in the seep which is the source of the water for the ponds, and would also include most or all of the habitat which could appropriately be called wetlands, which are north of the pond.

Below the upper pond the waterflow runs downhill and through the property, creating a wetland. This area is thick with vegetation, except along the east edge where the property has been maintained as lawn through mowing. This condition has been in existence for many years, and there would be no adverse impacts to the wetland area if the buffer were retained at the current line, which is where the thick riparian vegetation currently meets the mowed lawn. On the west edge of the wetland area the property is not mowed, and "natural" (native and non-native species) has grown into a dense brush patch.

Improvements to road access across spillway: As noted above, below the second pond the flow runs under a current access road via a culvert. Should the subdivision be approved, the access road would also need improvement in order to accommodate higher vehicle traffic.

The proposal for improvement, as suggested on an available subdivision proposal map, would be to increase the width of the road by extending the road width to the south. This would have no adverse impacts upon the lower pond or habitats on either bank, as all road improvements would be on the other side of the current access road. On the south side of the road the culvert ends in a small, narrow ditch. This may require some extension of the culvert to deal with the road widening, and perhaps some reinforcement of the sides of the ditch, however there are no wetlands associated with this portion of the project, and therefore this should have no adverse impacts to any wetland habitats.

New lots: Three new properties would result from this subdivision. All three were reviewed as a part of this assessment. The lots are located in the southeast corner of the property, distant from the ponds and associated wetlands. The lots were all mowed and open, and no ditches, drainages or wetland attributes were present. The topography was that of a gentle slope to the south. There was no evidence of wetland vegetation or did it appear that there was any potential for wetland habitats within the lots. Natural vegetation along the east edge of the lots was all upland vegetation, and no wetland associated plants were seen.


NORTH
RECOMMENDED
WETLAND BUFFER
TENTATIVE MAP
MINOR SUBDIVISION
APN 102-080-47
NO SCALE
REMAINDER PARCEL
6.5 AC ±
PARCEL 4
A = 1.0 AC
PARCEL 3
A = 0.63 AC
PARCEL 2
A = 0.58 AC
PARCEL 1
A = 0.67 AC
PROPOSED DIVISION LINE
PROPOSED DIVISION LINE (TYP.)
(E) PRESCRIPTIVE ROAD & ACCESS SERVING APN'S 102-080-17 & 102-080-46 TO REMAIN
INDICATES BOUNDARY OF APN 102-080-47
POND
POND OVERFLOW
(E) HAND DUG WELL TO BE ABANDONED
(E) WELL
APN 102-080-17
APN 102-080-46
APN 102-080-16
CONSTRUCT TURNAROUND TO CO. STANDARDS
50' WIDE R/W
PROPOSAL IS TO CONSTRUCT IMPROVED ROAD TO D.M. CO. STANDARDS WITHIN 40' WIDE STRIP R/W SERVES PARCELS 1, 2, 3 & REMAINDER
SETBACK
POND
W.L.
494.80'
426.70'
L37°08'E
S64°00'E 400'
294'
328.12'
202.36'
285.08'
228.58'
669.72'
313'
323'
383'
30'
35'
117'

LEE TROMBLE ENGINEERING
879 J Street, Ste. A
Crescent City, CA 95531

Phone (707) 464-1293
FAX (707) 465-8358

January 30, 2003

EXHIBIT NO. **10**
APPLICATION NO.
A-1-DNC-02-152
PRELIMINARY EROSION & RUNOFF CONTROL PLAN (LEE TROMBLE ENGINEERING) (1 of 6)

RECEIVED
FEB 13 2003
CALIFORNIA
COASTAL COMMISSION

Ms. Sara J. Wan
Mr. John Woolley
California Coastal Commission
P.O. Box 4908
Eureka, CA 95502-4908

re: Appeal, Permit No. A-1-DNC-02-152

Dear Commissioners Wan and Wooley:

As you know, the Coastal Commission has appealed the above referenced minor subdivision project. As partial basis for the appeal, the Commission has required the applicant to implement erosion control measures and mitigations to avoid adverse impacts of sedimentation to site wetlands. On behalf of The Redland Company, this is to respond to those concerns.

The proposed improvements include the construction of an on-site road to County Private Road Standards. Other improvements will eventually include the construction of homes and the installation of on-site sewage disposal systems. Home construction are not a part of the project but will be undertaken by future property owners. Applicable sections of the "California Storm Water Best Management Construction Activity Handbook" will be used as a reference for the erosion control measures to be undertaken.

No site grading other than sod removal for road and home construction is proposed. Present runoff patterns will not be altered. Attached are maps and drawings indicating the nature of the work to be done. We are proposing the following measures to limit erosion and avoid sedimentation of wetlands.

1. All existing vegetation, excepting sod removal for road construction, shall be preserved. This is identified on the attached drawings as best management practice ESC2.

2. All areas which are disrupted by construction activities shall be seeded and planted and maintained as healthy vegetation in a condition no worse than existed prior to construction. This is identified on the attached drawings as best management practice ESC10.

3. Construct the access road to allow for surface water flow across the road. This will eliminate the need for roadside ditches and point discharges of surface water runoff. Generally, the site drains well and infiltration is generally rapid. As a result, little increase in runoff attributable to subdivision development is expected. As required by County Ordinance, grading work and road construction must take place during the dry season. The typical road cross section is attached.

4. The access road crossing over the existing culvert located downstream of the pond spillway should be constructed in accordance with the attached sketch. This involves placement of an engineered fill (with ESC10) and silt fence (ESC50) at the fill daylight line. Since the existing culvert extends beyond the proposed fill prism, this work can be performed without sedimentation or disturbance of the stream channel.

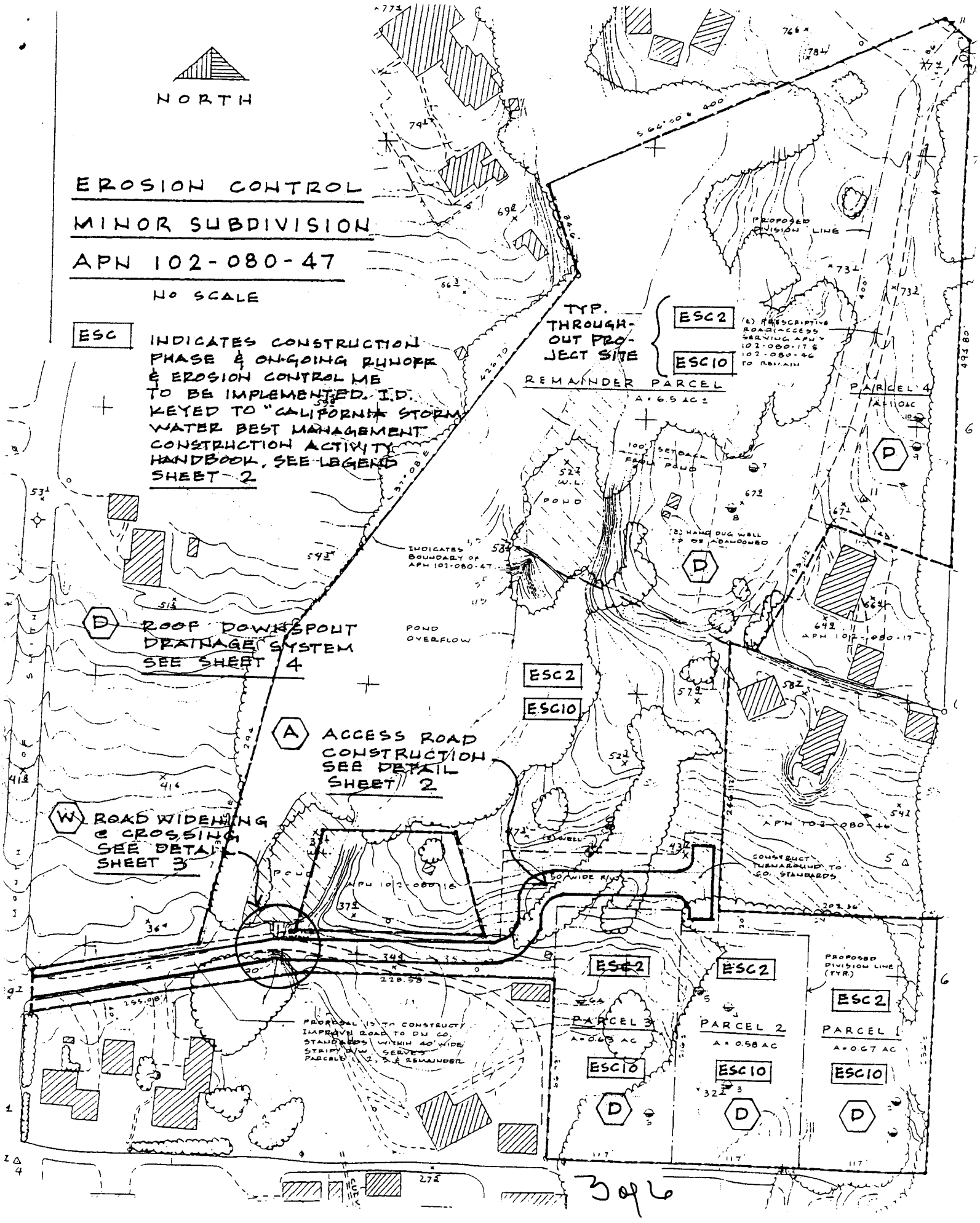
5. Lastly, new roof downspouts should discharge into downspout drainage systems as shown on the attached "Infiltrator" publication. This will limit surface water runoff resulting from home construction.

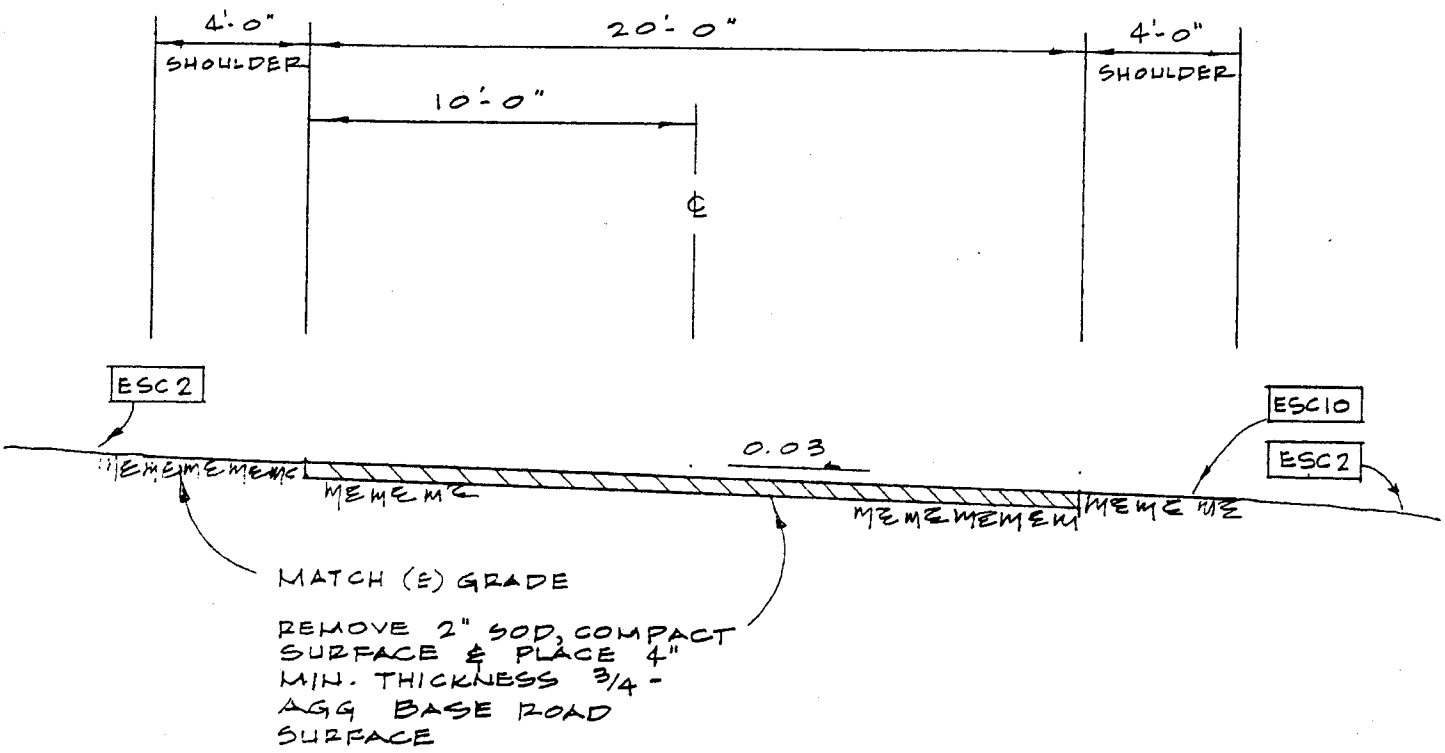
We understand that the final construction plans delineating these improvements may have to be submitted to the Coastal Staff for review for compliance prior to the County's issuance of a permit to construct the improvements. If you have any questions or need any additional information regarding this matter, please call me.

Very truly yours,

REGISTERED PROFESSIONAL ENGINEER
LEE A. TROMBLE
2/11/03
37325
Lee Tromble
6/30/04
EXPIRES
CIVIL
STATE OF CALIFORNIA

Lee Tromble


NORTH
EROSION CONTROL
MINOR SUBDIVISION
APN 102-080-47
NO SCALE
ESC INDICATES CONSTRUCTION PHASE & ON-GOING RUNOFF & EROSION CONTROL ME TO BE IMPLEMENTED. I.D. KEYED TO "CALIFORNIA STORM WATER BEST MANAGEMENT CONSTRUCTION ACTIVITY HANDBOOK, SEE LEGEND SHEET 2
TYP. THROUGH-OUT PROJECT SITE
ESC2
ESC10
(E) PRESCRIPTIVE ROAD ACCESS SERVING APN'S 102-080-17 & 102-080-46 TO REMAIN
PROPOSED DIVISION LINE
REMAINDER PARCEL
A=6.5 AC±
PARCEL 4
A=11 AC±
100' SETBACK FROM POND
POND
(2) HAND DUG WELL TO BE ABANDONED
INDICATES BOUNDARY OF APN 102-080-47
D ROOF DOWNSPOUT DRAINAGE SYSTEM SEE SHEET 4
POND OVERFLOW
A ACCESS ROAD CONSTRUCTION SEE DETAIL SHEET 2
W ROAD WIDENING & CROSSING SEE DETAIL SHEET 3
APN 102-080-16
APN 102-080-17
APN 102-080-46
CONSTRUCT TURNAROUND TO CO. STANDARDS
60' WIDE R/W
PROPOSED DIVISION LINE (TYP.)
PARCEL 3
A=0.68 AC
PARCEL 2
A=0.58 AC
PARCEL 1
A=0.67 AC
PROPOSAL IS TO CONSTRUCT IMPROVED ROAD TO DN CO STANDARDS WITHIN 40' WIDE STRIP R/W SERVES PARCELS 1, 2, 3 & REMAINDER
3096



(A) TYPICAL ROAD X-SECTION

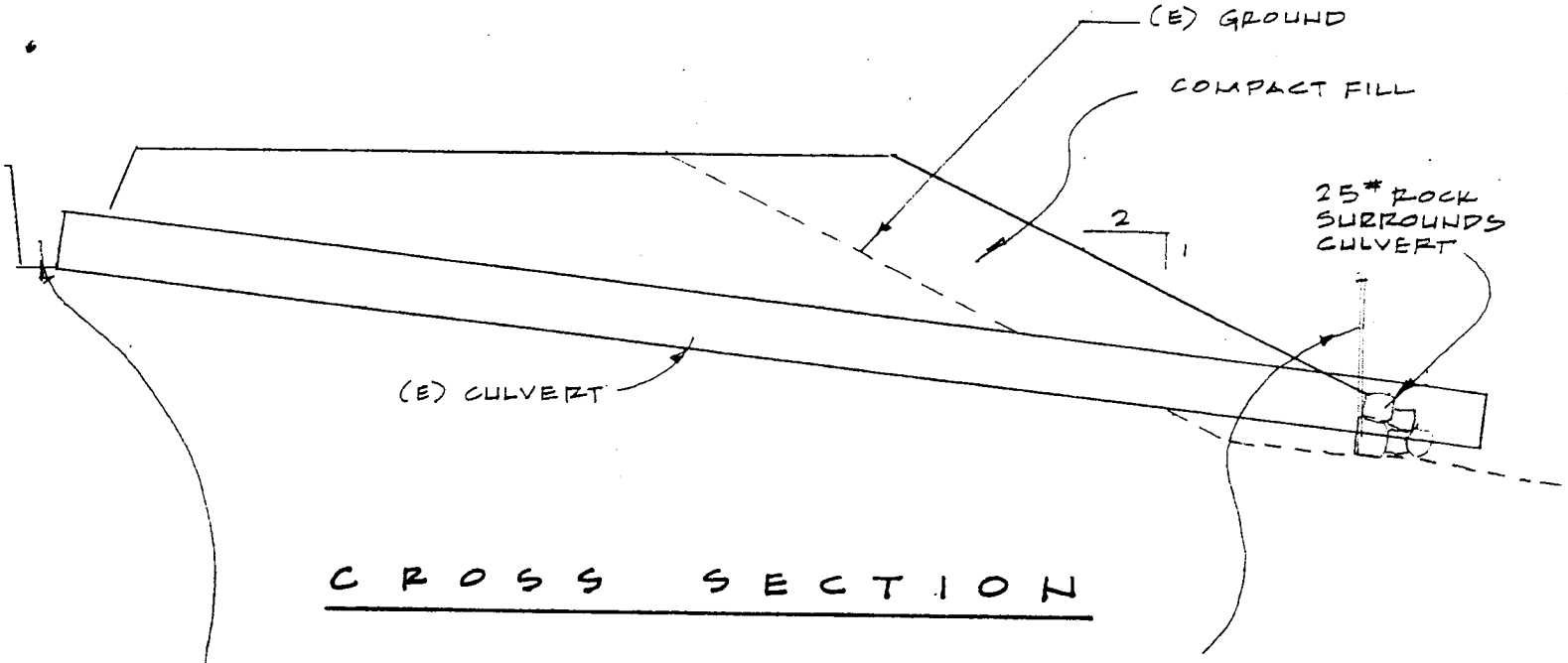
SCALE: 1" = 5' H. & V.

ESC 2 PRESERVATION OF EXISTING VEGETATION

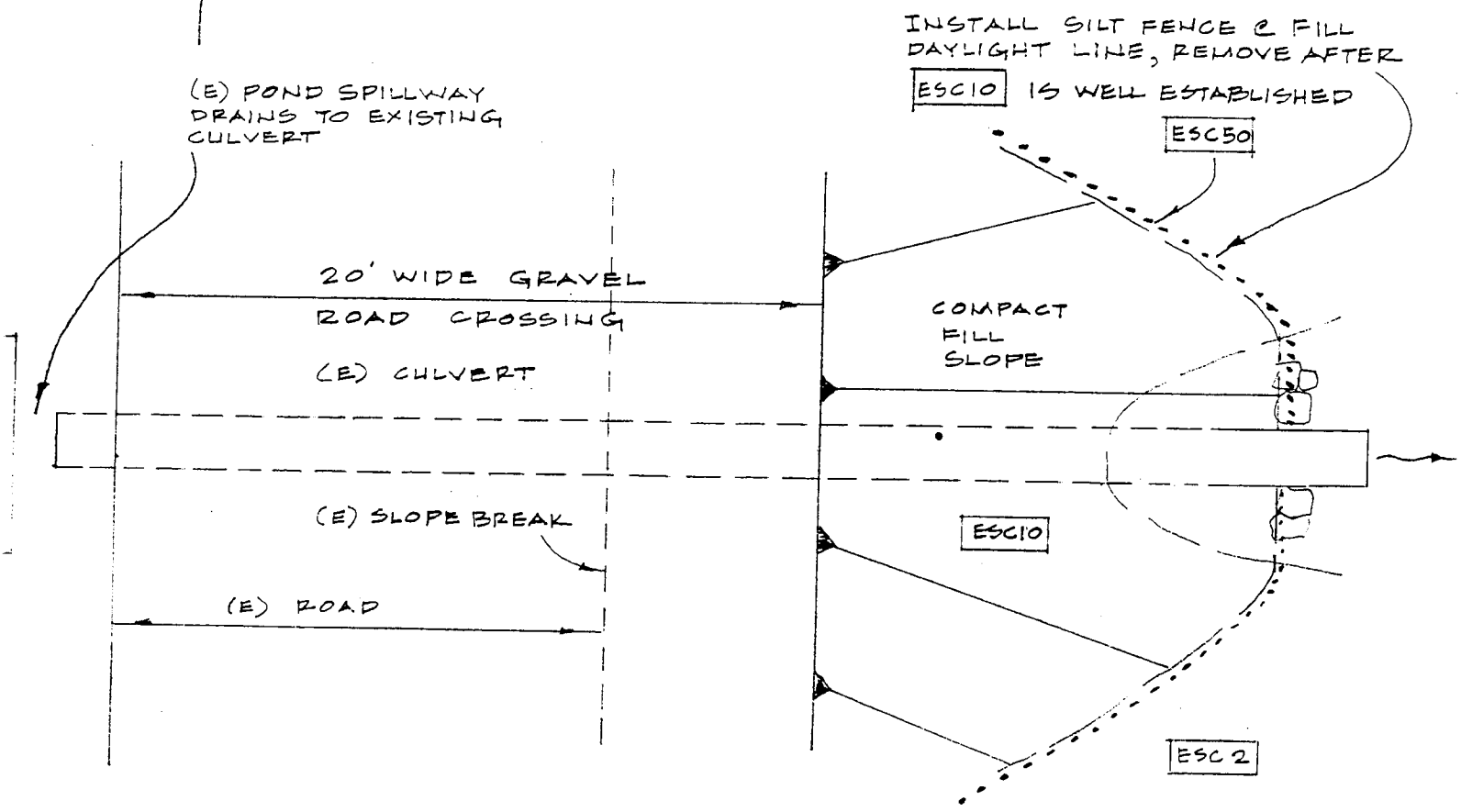
ESC 10 SEEDING & PLANTING

496

JOB # 2031



CROSS SECTION



PLAN

W ROAD WIDENING @ CULVERT CROSSING

SCALE: 1" = 5' H. & V.

5 of 6

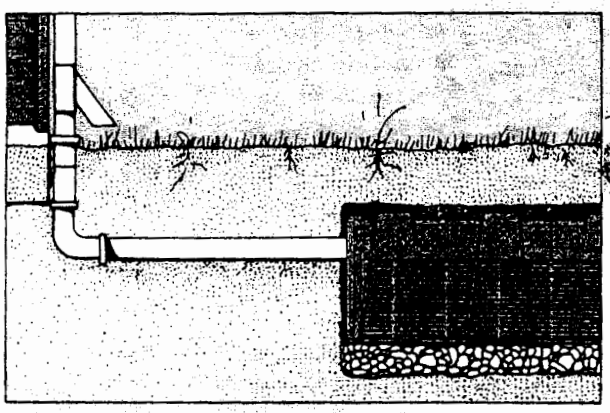
SHEET 3

THE

INFILTRATOR®

Downspout Drainage System

Eliminate the problem of standing water on lawns and keep stormwater away from foundations with an **INFILTRATOR® chamber downspout system.** The system also meets stormwater recharge regulations (where applicable).



- **KEEPS STORM DRAINAGE AWAY FROM FOUNDATIONS**
- **ELIMINATES EROSION DITCHES CAUSED BY CONVENTIONAL ROOF DRAINS**
- **ELIMINATES UNSIGHTLY WATER BUILDUP ON LAWNS**
- **COST EFFECTIVE MEANS FOR UNDERGROUND DRAINAGE AND RECHARGE**
- **USED FOR DRIVEWAY DRAINS, TENNIS COURTS AND SWIMMING POOLS**
- **MINIMIZES RUNOFF ONTO ADJOINING PROPERTIES**
- **PROVIDES GREATER STORAGE THAN 1.5 CUBIC YARDS OF STONE**

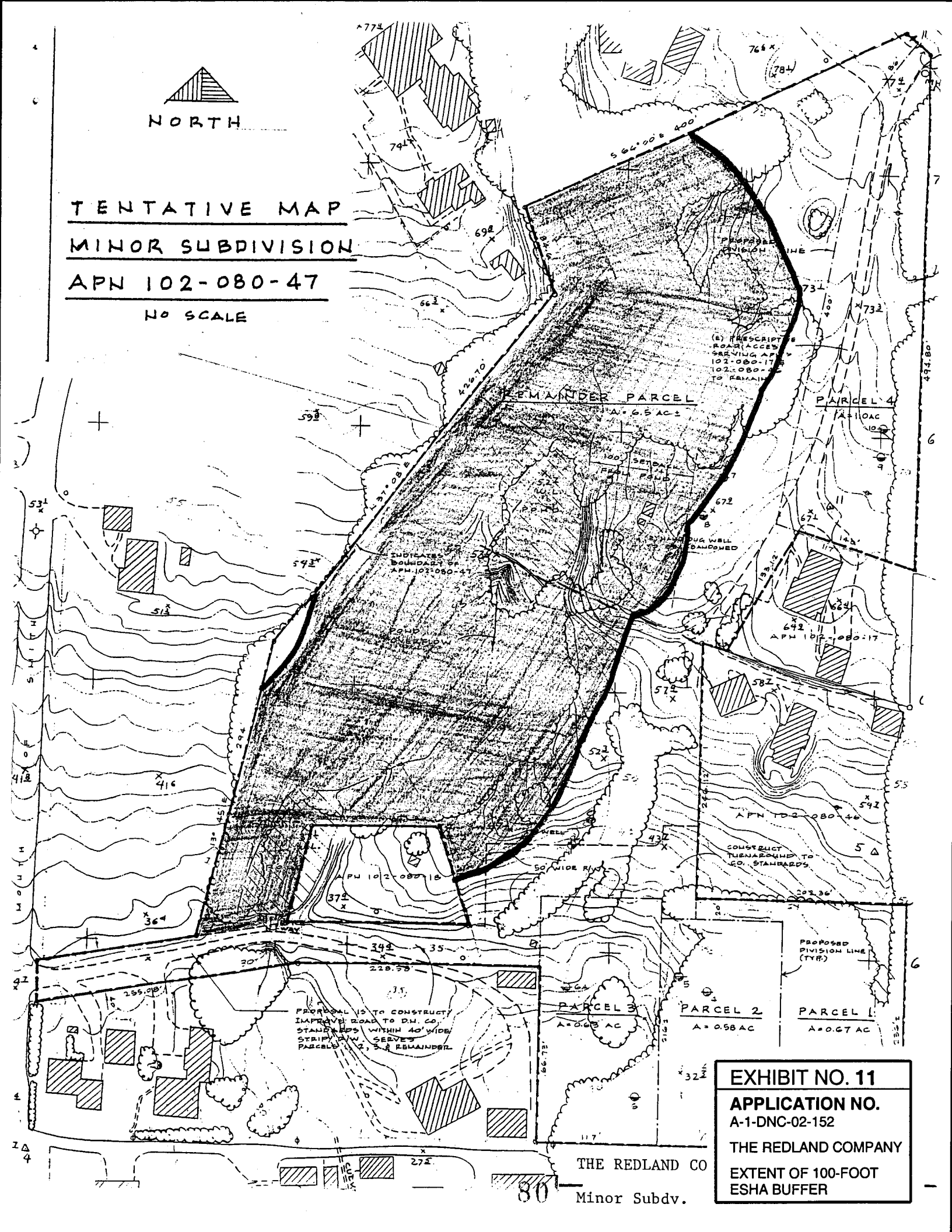


EXHIBIT NO. 11

APPLICATION NO.
A-1-DNC-02-152

THE REDLAND COMPANY

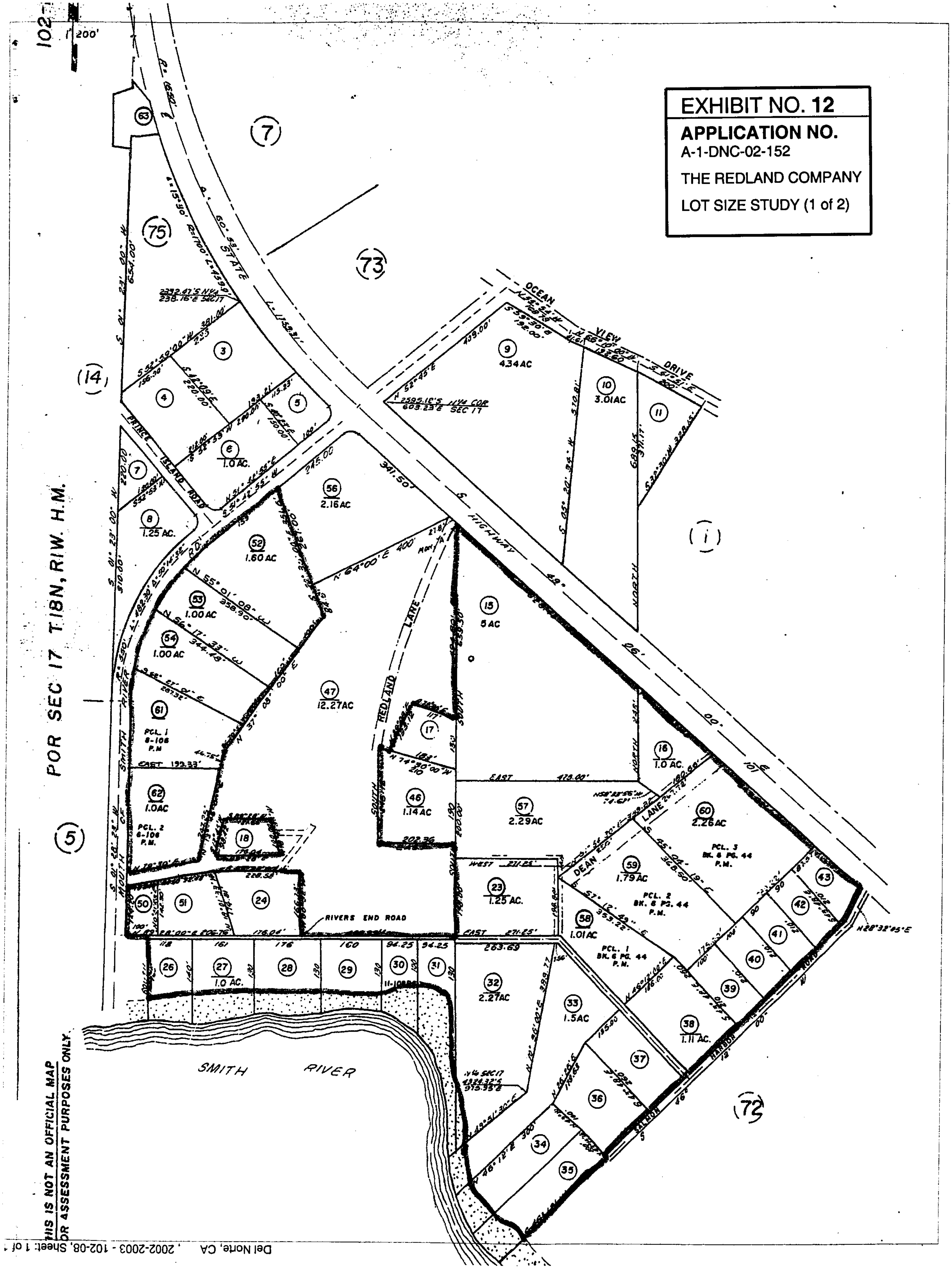
EXTENT OF 100-FOOT ESHA BUFFER

EXHIBIT NO. 12

APPLICATION NO.
A-1-DNC-02-152

THE REDLAND COMPANY

LOT SIZE STUDY (1 of 2)



LOT SIZE STUDY FOR SUBDIVISION OF ASSESSORS PARCEL NO. 102-080-47
PLANNING AREA NO. 1, SMITH RIVER SUB-SECTION OF THE
COUNTY OF DEL NORTE'S LOCAL COASTAL PROGRAM
THE REDLAND COMPANY, APPLICANT

ASSESSORS PARCEL NO	SIZE (SQ. FT.)	
102-080-31	9425	
102-080-41	9731	
102-080-30	10838	
102-080-39	10909	
102-080-40	10909	
102-080-42	11231	
102-080-50	13068	
102-080-18	14201	
102-080-37	15034	
102-080-36	15284	
102-080-43	16685	
102-080-26	16815	
102-080-38	20452	
102-080-29	20800	
102-080-27	21735	
102-080-17	21780	
102-080-28	21780	
102-080-34	**22670**	**23670** (median)
102-080-35	**24670**	
102-080-51	28453	
102-080-24	33731	**39122** (mean)
102-080-58	40946	
102-080-61	42688	
102-080-16	**43560**	**43560** (mode)
102-080-53	**43560**	
102-080-54	**43560**	
102-080-62	**43560**	
102-080-46	49658	
102-080-33	54290	
102-080-23	54450	
102-080-59	68389	
102-080-52	69696	
102-080-60	74923	
102-080-32	91381	
102-080-57	99752	
102-080-15	217800	
TOTAL	**1408414**	

n = 36 min = 9,425 sq. ft. (0.21 ac.) max = 217,800 sq. ft. (5 ac.)
Σ_n = 1,408,414 sq. ft. (32.33 ac. total net parcel area)
mean = $\mu = \Sigma_n / n$ = 1,408,414 ÷ 36 = 39,122 sq. ft. (.89 ac.)
median = $\tilde{\chi}$ = (22,670 + 24,670) ÷ 2 = 23,670 sq. ft. (.54 ac.)
mode = 43,560 sq. ft. (1.0 ac.)
standard deviation = $\sigma = \sqrt{((\Sigma(x-\mu)^2)/n)}$ = ±38,786 sq. ft. (.89 ac.)

Data Sources: First American Real Estate Solutions, LLC (gross parcel sizes)
County of Del Norte - Community Development Department (net parcel sizes)

2 of 2

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

Wednesday June 9, 2004
12 a. Del Norte County
Redland Company
Oppose

Jim Baskin
Coastal Program Analyst
North Coast District

Re; Del Norte County
LCP Amendment
NO DNC-MAJ-2-04
Redland Company

Dear Sir;

We are concerned about the discharge from so many additional septic systems in an area so close to the mouth of the Smith River.

The above parcel of land, as you probably already know, is about twenty feet higher than the river and only two hundred to one thousand plus feet from the river bank. That bank already has seepage at certain times of the year.

We fear that the discharge of so many septic systems, or one large septic system, may contaminate the water at the entrance of the river which is an important entrance to the Smith River salmon spawning ground.

Thank you for your attention to this matter,

Donald Ward

Donald Ward

Irene Ward

Irene Ward
12650 Mouth Smith River Road

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

Wednesday June 9, 2004
12 a. Del Norte County
Redland Company
Oppose

Jim Baskin
Coastal Program Analyst
North Coast District

Re: Del Norte County
LCP Amendment
NO DNC-MAJ-2-04
Redland Company

Dear Sir;

I am totally against this amendment. I have deep concerns about the Septic Systems.

The Redland property is too close to the Smith River for additional septic tanks, also my property is located on the river and I fear this extra septic system will contaminate my property.

Thank you for your attention to this amendment,

Pauline A Spikre

Pauline A. Spikre
105 RIVERS END RD
SMITH RIVER, CA 95567

2092