

CALIFORNIA COASTAL COMMISSION

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W12c

Filed: May 24, 2005
49th Day: July 12, 2005
Staff: Robert Merrill
Staff Report: May 26, 2005
Hearing Date: June 8, 2005
Commission Action:

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

APPEAL NO.: A-1-MEN-05-023

APPLICANTS: Frederick Everts, Charles Higgins, & Leela Gill

PROJECT LOCATION: 38520 Pacific Drive, Gualala, Mendocino County (APN 145-163-06).

PROJECT DESCRIPTION: Construction of a 2,517-square-foot, 27-foot-high single-family residence with proposed connection to existing utilities, installation of a propane tank, and the temporary occupancy of a travel trailer during construction.

APPELLANT: Susan Dawes

**SUBSTANTIVE FILE:
DOCUMENTS** 1) Mendocino County CDP No. 52-04, and
2) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

1. Summary of Staff Recommendation: Substantial Issue

The staff recommends that the Commission, after public hearing, determine that a SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a *de novo* hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The appellant contends the project as approved is inconsistent with the requirements of CZC Section 20.472.010(H) that allows only one of the two required off-street parking spaces to be located within the 20-foot front yard setback that applies to this suburban residential lot. As approved, the off street parking area to be provided for the single-family residence would be located in an uncovered parking area entirely within the required front yard setback area. The appellant contends that the failure to comply with the requirements of CZC Section 20.472.010(H) that limit the number of vehicles in the front yard setback to one will result in a car lot being established for cars and SUV's that would front directly onto the public street, which is not satisfactory or appropriate and is unprecedented within the neighborhood.

The text of the County staff report and the initial permit application do not specify details about the approved parking. However, the approved site plan indicates that the entire parking area appears to be located within the 20-foot front yard setback. The appellant correctly notes that CZC Section 20.472.010(H) limits the number of vehicles in the front yard setback to one. As both of the required off-street parking spaces required by the zoning district for this property would be located within the required front yard setback, staff recommends that the Commission find that the approved development raises a substantial issue of conformance with CZC Section 20.472.010(H).

Staff also recommends that the Commission continue the *de novo* portion of the appeal hearing to a subsequent meeting because the Commission has not yet received the local record and does not yet have sufficient information to evaluate the proposed project and prepare a recommendation for the Commission as to whether the approved development can be found consistent with the certified LCP.

The motion to adopt the staff recommendation of Substantial Issue is found on page 3.

STAFF NOTES:

1. Appeal Process

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603).

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission because the proposed house is located (1) between the sea and the first public road paralleling the sea; and (2) within a sensitive coastal resource area. Section 20.308.110(6) of the Mendocino County Zoning Code and Section 30116 of the Coastal Act define sensitive coastal resource areas as "*those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity,*" including, among other categories, "*Special communities or neighborhoods which are significant visitor destination areas.*" The approved development is located within Gualala, in an area west of Highway One, which is an area designated in the LCP as a "*special neighborhood*" and, as such, is appealable to the Commission.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that the appeal raises no substantial issue of conformity of the approved project with the certified LCP. Since the staff is recommending substantial issue, unless three Commissioners object, it is presumed that the appeal raises a substantial issue and the Commission may proceed to its *de novo* review.

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal

raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

The only persons qualified to testify before the Commission on the substantial issue question are the applicants, the local government, the appellants and persons who made their views known to the local government (or their representatives). Testimony from other persons regarding substantial issue must be submitted in writing.

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* portion of the appeal hearing and review the merits of the proposed project. This *de novo* review may occur at the same or subsequent meeting. If the Commission were to conduct a *de novo* hearing on the appeal, because the proposed development is located between the first public road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and recreation policies of the Coastal Act.

2. Filing of Appeal

An appeal was filed by Susan Dawes (Exhibit No.7). The appeal was filed with the Commission in a timely manner on May 24, 2005 within 10 working days of receipt of the County's Notice of Final Action (Exhibit No. 6) by the Commission on May 11, 2005.

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE:

Pursuant to Section 30603(b) of the Coastal Act and as discussed below, the staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-05-023 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become

final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution to Find Substantial Issue:

The Commission finds that Appeal No. A-1-MEN-05-023 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

I. FINDINGS AND DECLARATIONS:

The Commission hereby finds and declares:

A. APPELLANT'S CONTENTIONS:

The Commission received one appeal from Susan Dawes of the County of Mendocino's decision to approve the development.

The project as approved by the County consists of construction of a 2,517-square-foot, 27-foot-high single-family residence with proposed connection to existing utilities, installation of a propane tank, and the temporary occupancy of a travel trailer during construction. The project site is located at 38520 Pacific Drive, in Gualala (APN 145-163-06). The subject property is located west of Highway One within an existing residential neighborhood. Several intervening parcels exist between the subject property and the ocean bluff.

The appellant contends there is an inconsistency of the County approval with the provisions of Coastal Zoning Code (CZC) Chapter 20.472 regarding off-street parking. In particular, the appellant contends that the project as approved is inconsistent with the requirements of CZC Section 20.472.010(H) that allows only one of the two required off-street parking spaces to be located within the 20-foot front yard setback that applies to this suburban residential lot. The approved project does not include a garage. As approved the off street parking area to be provided for the single-family residence would be located in an uncovered parking area entirely within the required front yard setback area. The appellant contends that the failure to comply with the requirements of CZC Section 20.472.010(H) that limit the number of vehicles in the front yard setback to one will result in a car lot being established for cars and SUV's that would front directly onto the public street, which is not satisfactory or appropriate and is unprecedented within the neighborhood.

B. LOCAL GOVERNMENT ACTION:

On April 28, 2005, the Mendocino County Coastal Permit Administrator approved with conditions a Coastal Development Permit for the subject development. The County attached to its coastal development permit four special conditions summarized below and attached in their entirety as Exhibit No. 6.

Special Condition No. 1 sets limits on the use and occupancy of an existing trailer coach while constructing the new residence. The use is only authorized for two years and the trailer coach must be removed prior to the final building inspection or occupancy of the new residence, whichever comes first.

Special Condition No. 2 requires the applicants to obtain all necessary water, sewer, and electrical permits for the connection of the temporary trailer.

Special Condition No. 3 required the applicants to obtain an encroachment permit from eh Mendocino County Department of Transportation and construct appropriate improvements to protect the County Road during construction and a standard driveway approach to the parcel prior to final occupancy.

Finally, Special Condition No. 4 requires the applicants, prior to issuance of the permit, to submit for the review and approval of the Coastal Permit Administrator a drainage report that details surface drainage improvements designed to prevent increased erosion on or off the parcel.

The decision of the Coastal Permit Administrator was not appealed at the local level to the Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on May 11, 2005, (Exhibit No. 6). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals. The project was appealed to the Coastal Commission in a timely manner on May 24, 2005, within 10 working days after receipt by the Commission of the Notice of Final Action.

C. PROJECT LOCATION AND SITE DESCRIPTION:

The project site is located at 38520 Pacific Drive, approximately 113 feet south of Westward Ho Drive, in the unincorporated community of Gualala on the southern Mendocino coast. The subject approximately 12,460-square-foot parcel is located west of Highway One, within an existing residential neighborhood. The site is not a bluff top lot, as several intervening parcels exist between the subject property and the ocean bluff.

The neighborhood is zoned as Suburban Residential and single-family residences are a principally permitted use. The zoning requires 20-foot front and rear yard setbacks, with six feet for side yards.

The property is served with municipal sewer system and water is provided by a private water company.

There is no evidence of public access use of the parcel which is several parcels inland from the bluff edge and shoreline.

Cypress trees are present along the northern and western boundaries of the property, and pine foliage is present in the southeast corner of the parcel. According to the County staff report, there are no known environmentally sensitive habitat areas on the property or located within 100 feet of the development.

The subject property is not located within a designated "Highly Scenic" area and is not visible from public vantage points along the coast other than the public streets in the neighborhood.

D. PROJECT DESCRIPTION

Approval has been granted by the County for the proposed development, which would consist of construction of a 2,517-square-foot, 27-foot-high single-family residence. The two-story four-bedroom house would be constructed with front and back decks. The development does not include a garage. However, the approved development does include the establishment of an off-street parking area, which according to the site plan, would be located entirely within the 20-foot front yard setback from Pacific Drive.

The residence would be connected to existing utilities and the approved project includes installation of a sewage tank, with a connecting line to the municipal sewer system, and a propane tank. The approved project also includes authorization for the temporary occupancy of a travel trailer during construction. The travel trailer would be connected to the community sewer and other utilities during its use.

E. SUBSTANTIAL ISSUE ANALYSIS:

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (California Code of Regulations, Title 14, Section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines with respect to the contentions concerning the consistency of the project as approved with the provisions of the LCP regarding off-street parking, the appeal raises a substantial issue of conformity of the approved project with the certified Mendocino County LCP.

Contentions Raising Substantial Issue:

1. **Off-Street Parking**

The appellant contends that the County approved the project inconsistent with Mendocino County's LCP policies and standards regarding off-street parking.

LCP Policies:

CZC Chapter 20.472—Off-street Parking—in applicable part states:

CZC Section 20.472.005

The purpose of this Chapter is to require off-street parking spaces for all land uses in sufficient numbers to accommodate vehicles which will be congregated at a given location to minimize on-street parking, increase traffic and pedestrian safety and promote the general welfare.

CZC Section 20.472.010

(A) *Accessible off-street parking areas shall be provided and maintained as set forth in this Chapter to provide minimum parking and maneuvering room for motor vehicles and for pedestrian safety based on the anticipated occupancy of a given building, structure or area of land or water...*

...

(C) *In any SR, RV, or RR Residential District, no motor vehicle over three-quarter (3/4) ton, boat, or recreational vehicle shall be stored or parked in any front yard setback nor any side or rear yard setback facing a street for a continuous period exceeding seventy-two hours.*

...

(H) *One of the required parking spaces for any parcel may be located in the front or side yard setback area.*

...

(J) *All required parking spaces shall be at least nine (9) by twenty (20) feet, unless otherwise provided for under this section.*

CZC Section 20.472.015 Residential

(A) *Single-family detached dwelling or mobile home: two (2) parking spaces.*

CZC Section 20.384.030 Minimum Front and Rear Yards for Suburban Residential District

Twenty (20) feet each.

Discussion:

Mendocino County CZC Section 20.492.015 requires that a minimum of two off-street parking spaces be provided for building a single-family residence on property located in the Suburban Residential zoning district where the subject property exists. Pursuant to CZC Section 20.472.010(J), each parking space must be at least 9 by 20 feet in size, and pursuant to CZC Section 20.472.010(H), only one of the required parking spaces may be located in a front or side yard setback area. Pursuant to CZC Section 20.472.010(C), no motor vehicle over three-quarter ($\frac{3}{4}$) ton, boat, or recreational vehicle may be stored or parked in any front yard setback nor any side or rear yard setback facing a street for a continuous period exceeding seventy-two hours.

The appellant contends the project as approved is inconsistent with the requirements of CZC Section 20.472.010(H) that allows only one of the two required off-street parking spaces to be located within the 20-foot front yard setback that applies to this suburban residential lot. The approved project does not include a garage. As approved, the off street parking area to be provided for the single-family residence would be located in an uncovered parking area entirely within the required front yard setback area. The appellant contends that the failure to comply with the requirements of CZC Section 20.472.010(H) that limit the number of vehicles in the front yard setback to one will result in a car lot being established for cars and SUV's that would front directly onto the public street, which is not satisfactory or appropriate and is unprecedented within the neighborhood.

The text of the County staff report and the initial permit application do not specify details about the approved parking. However, the approved site plan (See Exhibit 3) shows an off street parking area fronting onto Pacific Drive. As determined by scaling from the site plan, the parking area would extend approximately 25 feet along Pacific Drive and extend approximately 20 feet back from the front property line along the street. As noted above, the property is subject to a 20-foot front yard setback. Thus, the entire parking area appears to be located within the 20-foot front yard setback. The appellant correctly notes that CZC Section 20.472.010(H) limits the number of vehicles in the front yard setback to one. As both of the required off-street parking spaces required by the zoning district for this property would be located within the required front yard setback, the approved development raises a substantial issue of conformance with CZC Section 20.472.010(H). The County findings contain no discussion of the conformance of the approved development with the parking provisions of the certified coastal zoning code.

Because the County made its determination to approve the proposed development without any findings discussing conformance of the approved off-street parking with the parking provisions of the certified coastal zoning code, there is not a high degree of factual or legal support for the County's decision to approve the project as being consistent with the certified LCP. Thus, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding off-street parking.

Conclusion

The foregoing contentions raised by the appellants have been evaluated against the claim that they raise a substantial issue in regard to conformance of the local approval with the certified LCP. The Commission finds that the project as approved raises a substantial issue of conformance with the certified LCP with respect to contentions raised concerning off-street parking.

Local Record Necessary for de novo Review of Application

As stated above, Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue exists with respect to the grounds on which an appeal has been filed. Section 30621 of the Coastal Act instructs the Commission to provide for a de novo hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the de novo hearing to a subsequent date. The de novo portion of the appeal must be continued because the Commission does not have sufficient information to determine what, if any, development can be approved, consistent with the certified LCP and the public access and recreation policies set forth in the Coastal Act.

The appeal was filed on May 24, 2005, two days prior to the mailing of this staff report. Commission notification of the appeal was mailed to the County and the applicant the next day, May 25, 2005. As a result, the County did not have the opportunity prior to the mailing of the Commission staff report on May 26, 2005, to copy the local record of the project and forward it on to the Commission as required pursuant to Section 13112 of the Commission's regulations. The local record will contain additional details and primary information concerning the approved development. The Commission staff needs to review the information in the local record to evaluate the project and prepare a recommendation for the Commission as to whether the project can be found to be consistent with the certified LCP and the public access and recreation policies of the Coastal Act.

Exhibits:

- 1) Regional Location Map
- 2) Project Vicinity Map
- 3) Project Site Plan
- 4) Floor Plans
- 5) Elevations
- 6) Notice of Final Action
- 7) Appeal

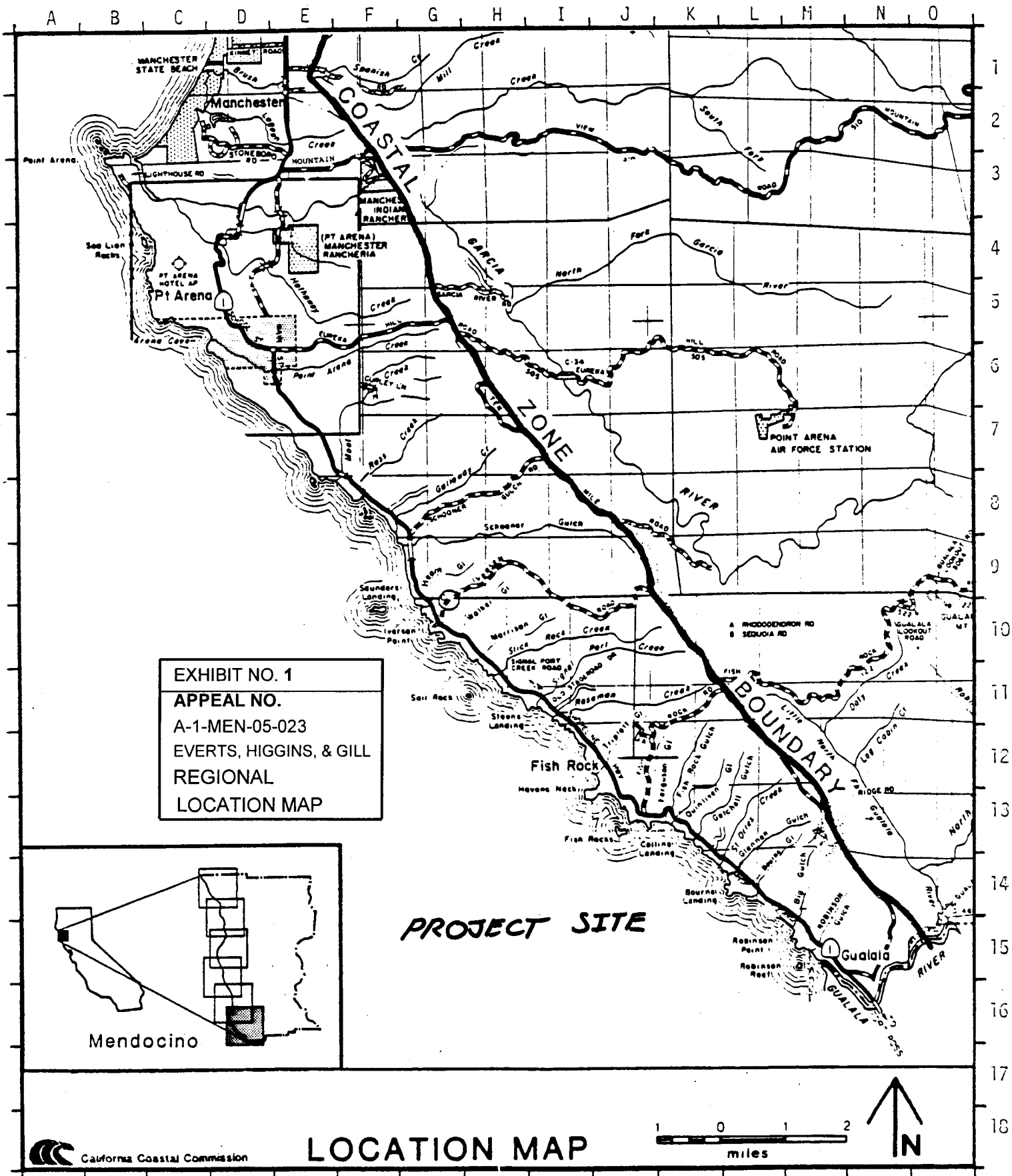
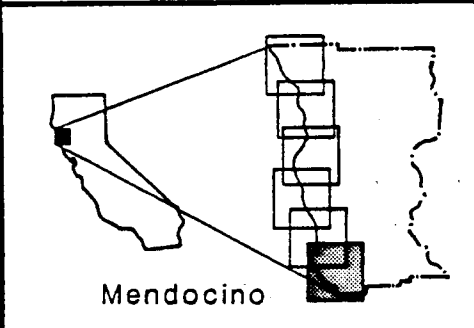


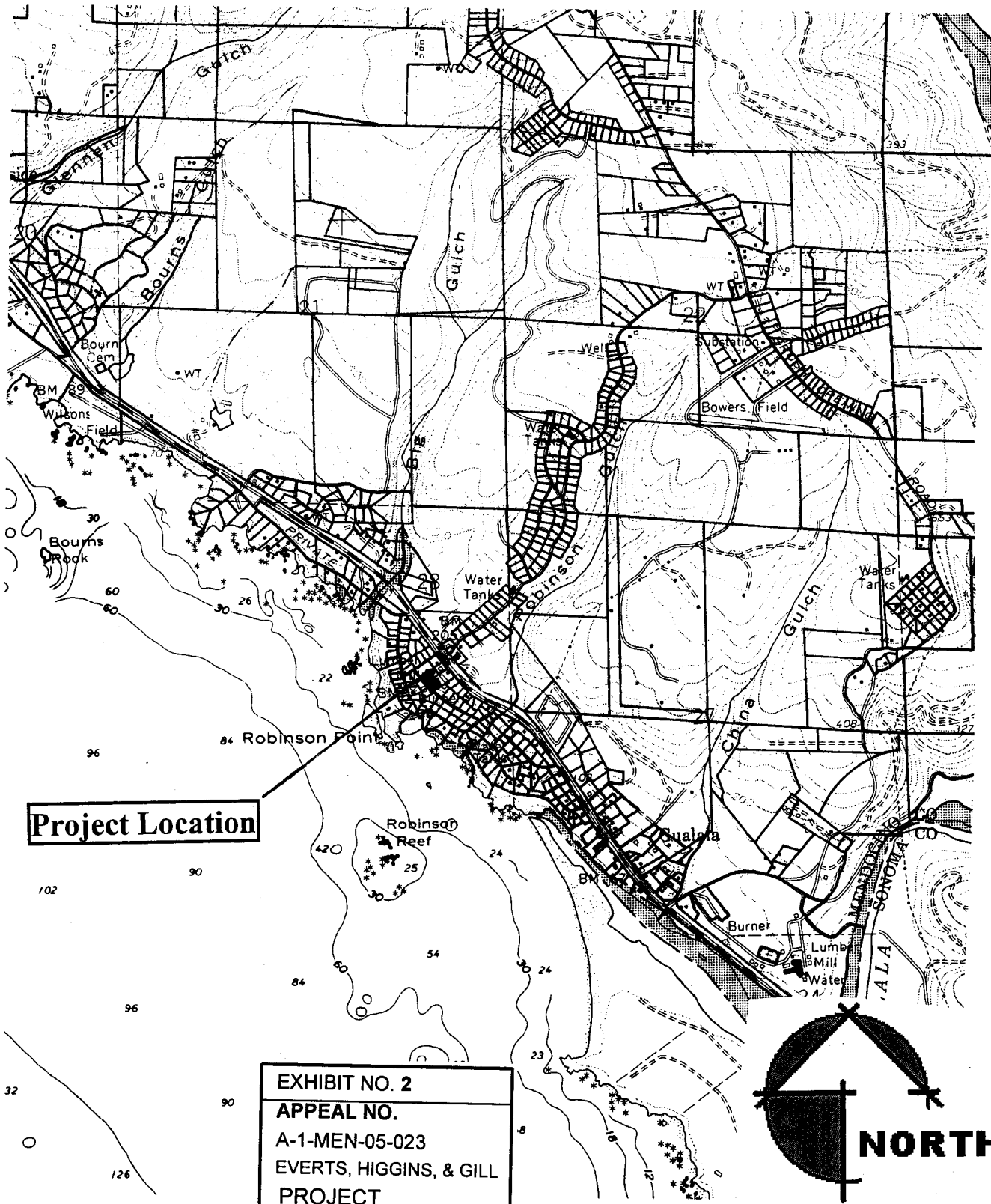
EXHIBIT NO. 1
 APPEAL NO.
 A-1-MEN-05-023
 EVERTS, HIGGINS, & GILL
 REGIONAL
 LOCATION MAP



Mendocino

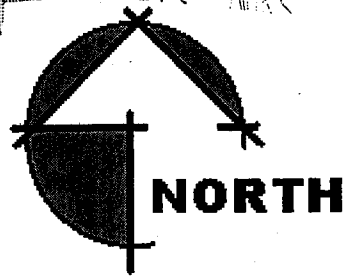
LOCATION MAP





Project Location

EXHIBIT NO. 2
APPEAL NO.
A-1-MEN-05-023
EVERTS, HIGGINS, & GILL
PROJECT
VICINITY MAP



NO SCALE

EXHIBIT B

SITE PLAN

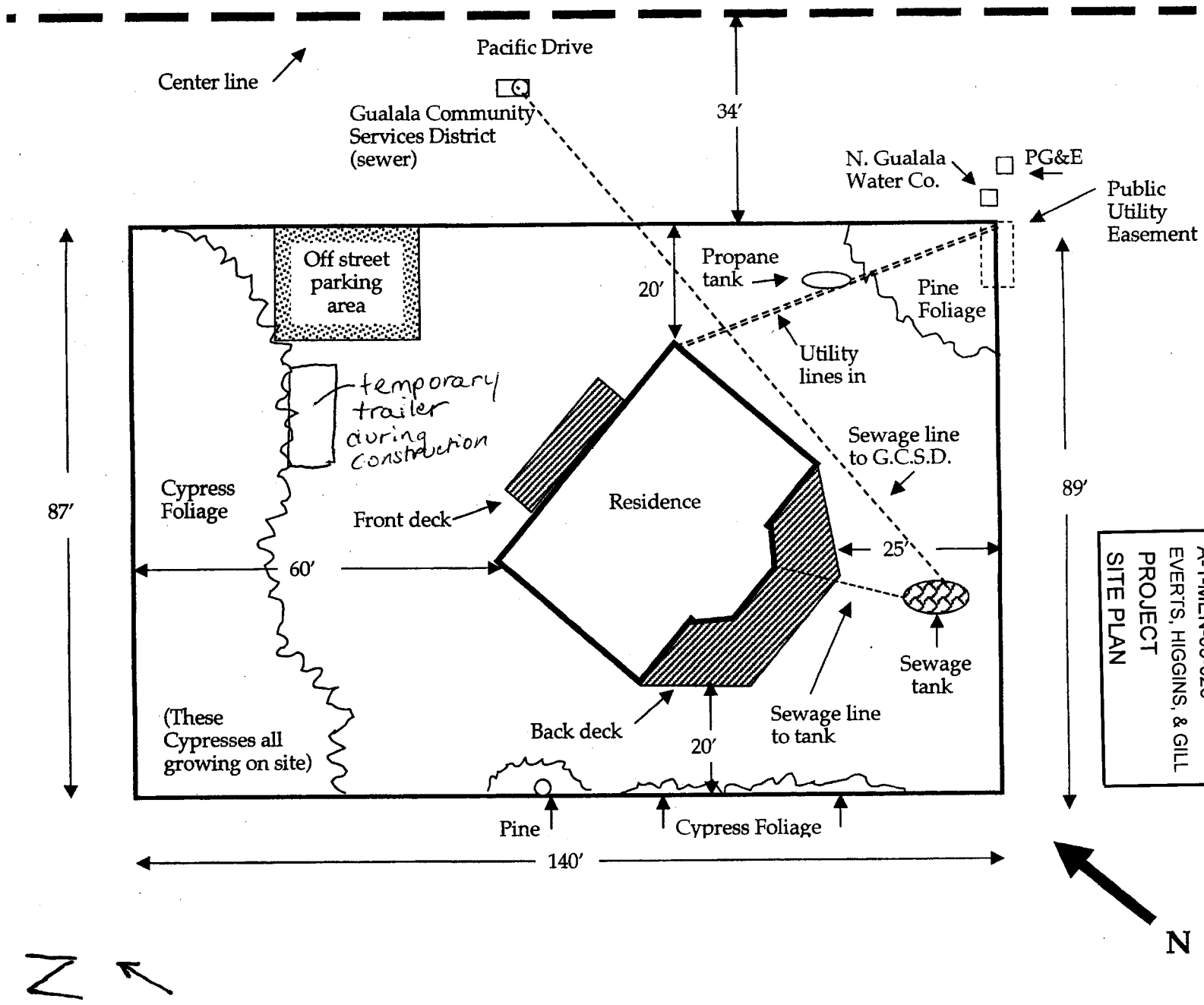
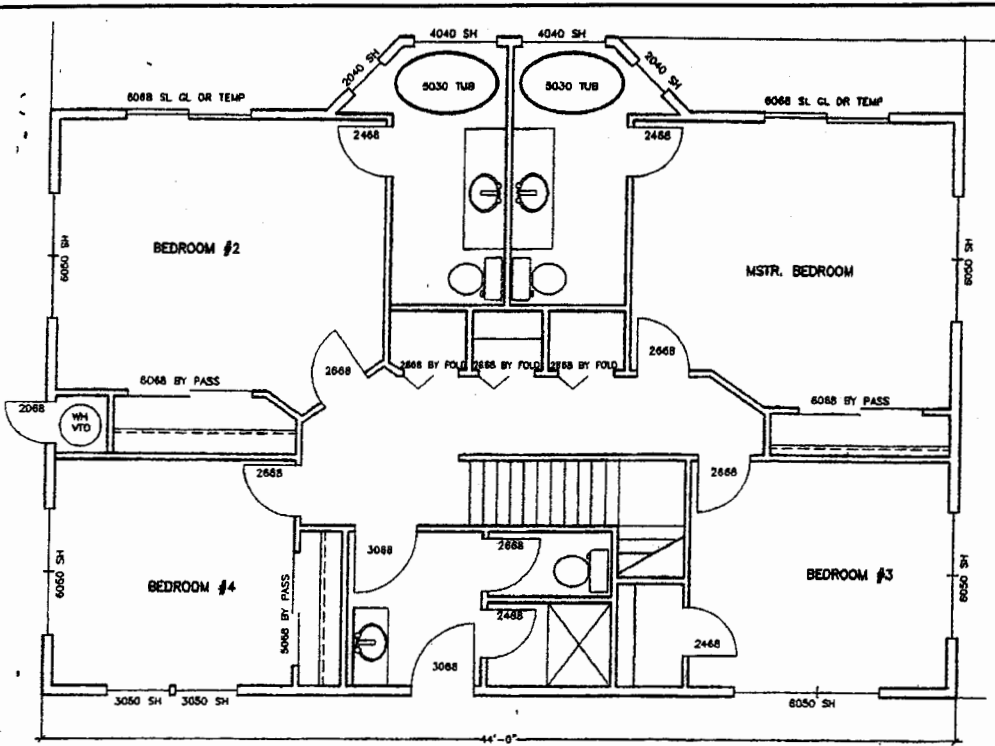


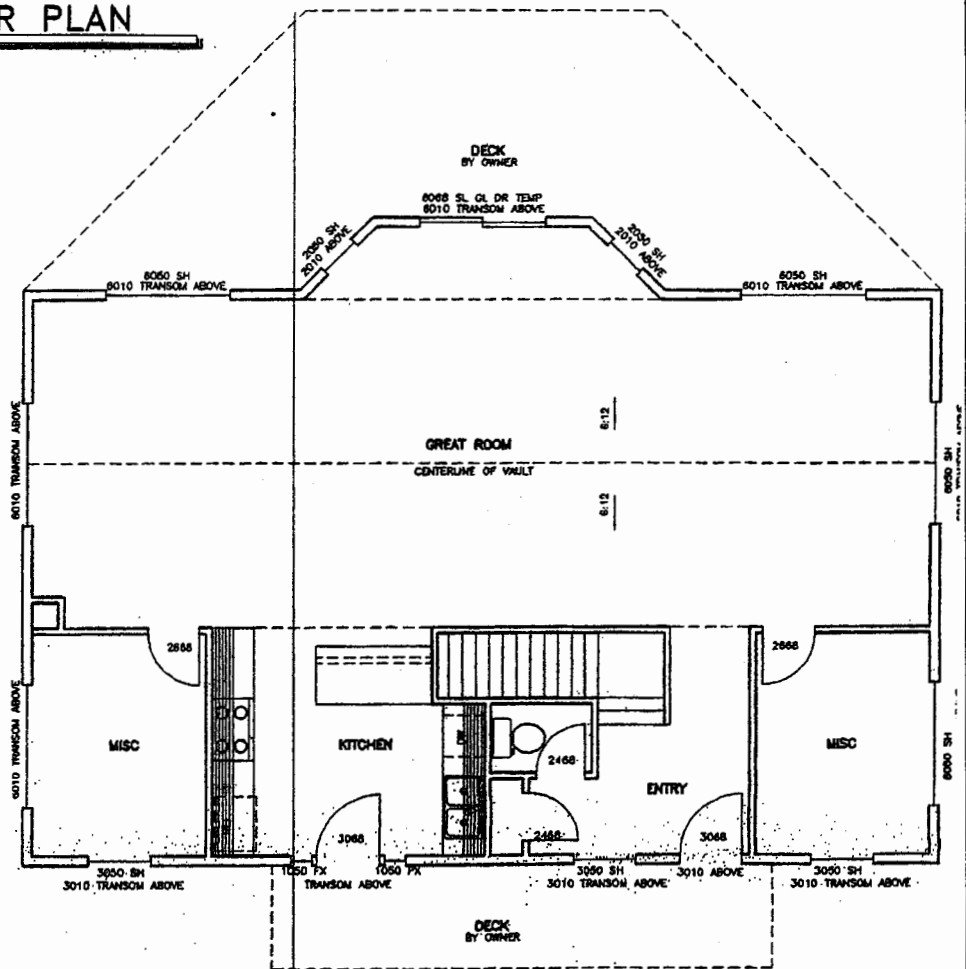
EXHIBIT NO. 3
APPEAL NO.
A-1-MEN-05-023
EVERTS, HIGGINS, & GILL
PROJECT
SITE PLAN

CDP 52-04
April 28, 2005

CDP 52-04
April 28, 2005



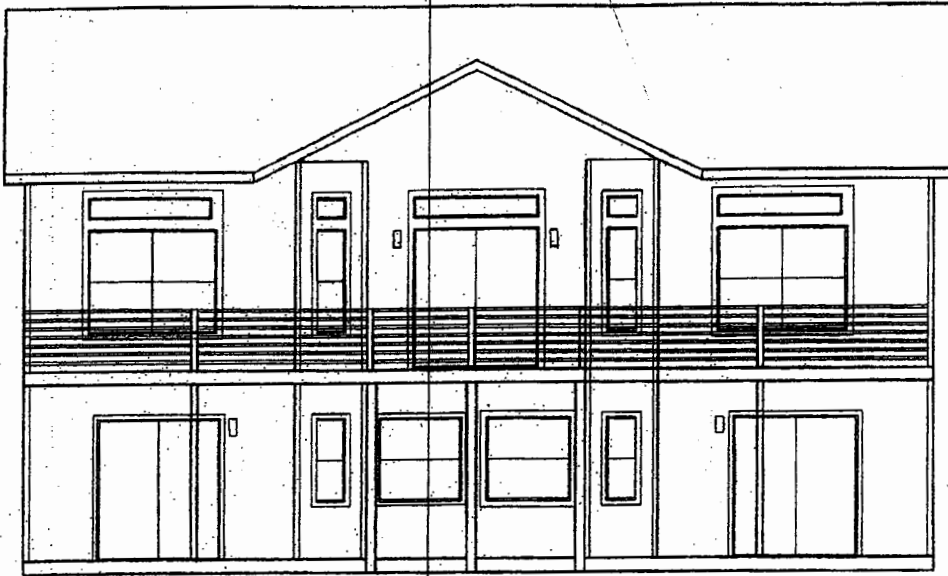
LOWER FLOOR PLAN



UPPER FLOOR PLAN

EXHIBIT NO. 4
APPEAL NO.
A-1-MEN-05-023
EVERTS, HIGGINS, & GILL
FLOOR PLANS

CDP 52-04
April 28, 2005



REAR ELEVATION - SOUTH



FRONT ELEVATION - NORTH

EXHIBIT NO. 5
APPEAL NO.
A-1-MEN-05-023
EVERTS, HIGGINS, & GILL
ELEVATIONS

EXHIBIT D

ELEVATIONS



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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www.co.mendocino.ca.us/planning

May 9, 2005

NOTICE OF FINAL ACTION

RECEIVED

MAY 11 2005

**CALIFORNIA
COASTAL COMMISSION**

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

CASE#: CDP #52-04
OWNER: Frederick Everts, Charles Higgins, Leela Gill
REQUEST: Construct a 2,517 square foot single-family residence with a maximum height of 27 feet from average finished grade, connect to existing utilities (sewer, water and power). Install a propane tank. Temporary occupancy of a travel trailer during construction.
LOCATION: In the Coastal Zone, on the west side of Pacific Drive (CR# 530), approximately 113 feet south of its intersection with Westward Ho (CR # 529), at 38520 Pacific Drive, APN 145-163-06.

PROJECT COORDINATOR: Paula Deeter

HEARING DATE: April 28, 2005

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

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

EXHIBIT NO. 6

APPEAL NO.

A-1-MEN-05-023

EVERTS, HIGGINS, & GILL

NOTICE OF FINAL LOCAL

ACTION (Page 1 of 14)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP #52-04 HEARING DATE: 4/28/05

OWNER: Everts, Higgins, Gille

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt

Negative Declaration

EIR

FINDINGS:

Per staff report

Modifications and/or additions

ACTION:

Approved


Denied

Continued _____

CONDITIONS:

Per staff report

Modifications and/or additions Conditions in Staff Report + special condition dated 4/28 as contained in memo from P. Dexter as modified


Signed: Coastal Permit Administrator

INTEROFFICE MEMORANDUM

TO: CDP FILE 52-04

FROM: PAULA DEETER, PROJECT COORDINATOR

Paula Deeter

SUBJECT: ADDENDUMS/CLARIFICATIONS

DATE: 4/28/2005

As per the Coastal Permit Administrator's request, Planning and Building Division ^{has} researched the requirements for drainage issues in an area previously prone to landslides. The following comments are included in order to add a special condition:

CDP
of the Building Division

Special Condition # 4: Prior to the issuance of the ~~building permit~~, the applicant shall submit, for the review and approval of the Coastal Permit Administrator, a drainage report prepared by a licensed civil engineer that specifically details surface drainage improvements required to assure that the project does not increase erosion on or off the parcel. The most critical part of the report shall identify the stabilization of the "old mill site" fill debris on the subject parcel. The approved drainage report shall become part of the building permit application.



RECEIVED

APR 18 2005

April 15, 2005

CALIFORNIA
 COASTAL COMMISSION

**PUBLIC NOTICE OF PENDING ACTION
 STANDARD COASTAL DEVELOPMENT PERMIT**

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, April 28, 2005 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

- CASE #:** CDP #52-04
- DATE FILED:** 6/30/04
- OWNER:** Frederick Everts, Charles Higgins, Leela Gill
- REQUEST:** Construct a 2,517 square foot single-family residence with a maximum height of 27 feet from average finished grade, connect to existing utilities (sewer, water and power). Install a propane tank. Temporary occupancy of a travel trailer during construction.
- LOCATION:** In the Coastal Zone, on the west side of Pacific Drive (CR# 530), approximately 113 feet south of its intersection with Westward Ho (CR # 529), at 38520 Pacific Drive, APN 145-163-06.
- PROJECT COORDINATOR:** Paula Deeter

As you are an adjacent property owner and/or interested party, you are invited to appear at the hearing, or to direct written comments to this office at the above address. If you would like to be notified of the Coastal Permit Administrator's action, please submit a written request to this office. All correspondence should contain reference to the above noted case number.

The decision of the Coastal Permit Administrator shall be final unless a written appeal is submitted to the Board of Supervisors with a filing fee within 10 calendar days thereafter. If appealed, the decision of the Board of Supervisors to approve the project shall be final unless appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the above case in court, you may be limited to raising only those issues described in this notice or that you or someone else raised at the public hearing, or in written correspondence delivered to the Coastal Permit Administrator at or prior to, the public hearing.

Additional information regarding the above noted case may be obtained by calling the Planning and Building Services Department at 964-5379, Monday through Friday.

Raymond Hall, Coastal Permit Administrator

4 of 14

OWNER: Frederick Everts, Charles Higgins & Leela Gill
6917 California Street
San Francisco, CA 94121

REQUEST: Construct a 2,517 square foot single-family residence with a maximum height of 27 feet from average finished grade, connect to existing utilities (sewer, water and power). Install a propane tank. Temporary occupancy of a travel trailer during construction.

LOCATION: In the Coastal Zone, on the west side of Pacific Drive (CR# 530), approximately 113 feet south of its intersection with Westward Ho (CR# 529), at 38520 Pacific Drive, APN 145-163-06.

APPEALABLE AREA: Yes, west of the first public road

PERMIT TYPE: Standard

TOTAL ACREAGE: 12,460 square feet

ZONING: Suburban Residential (SR)

GENERAL PLAN: RR:5 [Suburban Residential]

EXISTING USES: Vacant

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically exempt, Class 3

OTHER RELATED APPLICATIONS: Preliminary approval #85-46 (no permit secured); # F-87671 single family residence (permit issued in 1985 and subsequently cancelled by the owner in 1988; no work was done)

PROJECT DESCRIPTION: The applicant proposes to construct a 2,517 square foot single-family residence with a maximum height of 27 feet from average finished grade and connect to existing utilities (sewer, water and power) that are located on site. Installation of a propane tank is included in this request. Temporary occupancy of a travel trailer during the construction of the residence is included as well.

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION: The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

Land Use

The proposed single-family dwelling and the placement of a temporary travel trailer are compatible with the Suburban Residential zoning district and are designated as principal permitted uses. Section

20.460.010 (E) of the Mendocino County Coastal Zoning Code allows for the temporary use of a travel trailer for certain purposes. Section 20.460.035(C) notes:

Occupancy while constructing a dwelling. The installation, use and occupancy of a trailer coach as a temporary dwelling by the owner of a lot or contiguous lot on which a dwelling is under construction or for which a building permit has been issued. Such administrative permit may be issued for the period required to complete construction of the facility, but not to exceed two years unless renewed.

Special Condition #1 is recommended to ensure compliance with the above noted Code.

During the construction period, the travel trailer shall be connected to a waste line, which shall connect to Gualala Community Services District for sewage disposal. Special Condition #2 is recommended to reflect this.

The proposed development complies with the maximum building height requirements of the Suburban Residential zoning district, which is 35 feet. The structure would not exceed 27 feet from average finished grade. Setbacks would be met, as the requirement of 20 feet for the front and rear yards and 6 feet for the side yards is recognized. Front and rear setbacks are proposed at 20 feet each, and side yard setbacks are 60 and 25 feet, respectively.

Corridor preservation setbacks also are exceeded, as Pacific Drive requires a 25-foot setback from the centerline of the road, as a local road. It is 54 feet to the centerline of Pacific Drive from the closest portion of the residence and over 35 feet to the proposed propane tank.

Public Access

The project site is located west of Highway 1, but is not a blufftop site and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site.

Hazards

The project site is less than one acre in size and is exempt from CDF's fire safety regulations. Fire safety issues are addressed as part of the building permit process.

The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure.

There are no known faults, landslides or other geologic hazards in close proximity to the proposed development.

Visual Resources

The project site is not located within a designated "highly scenic area" and is not visible from any public viewing location.

Policy 3.5-1 of the County of Mendocino Coastal Element applies to all development within the Coastal Zone. It states:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed

to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

The project complies with the exterior lighting regulations of Section 20.504.035 of the Zoning Code as the applicant has submitted lighting details that indicate downcast and shielded exterior lighting.

Natural Resources

There are no known rare or endangered plant or animal species located on or in close proximity to the project site.

There are no environmentally sensitive habitat areas located within 100' of the proposed development.

Archaeological/Cultural Resources

The project site is not located in an area where archaeological and/or cultural resources are likely to occur. The applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

Groundwater Resources

The site is located in an area mapped as "Critical Water Resources".

The proposed development would be served by an existing community water system and a community wastewater treatment system, and would not adversely affect groundwater resources.

A response to a referral sent to the Division of Environmental Health states:

Comments concerning waste system for this CDP should be solicited from GCSD.

A letter dated April 8, 2003 from Gualala Community Services District notes the availability of service to the subject parcel once the fees are paid and all permits are acquired.

Transportation/Circulation

The Department of Transportation requires that the applicant obtain an encroachment permit. A new encroachment would be constructed on to Pacific Drive to serve the proposed development.

Special Condition #3 is recommended to ensure compliance with the Department of Transportation's requirements.

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned. No adverse impacts would occur.

Zoning Requirements

The project, as conditioned, complies with all of the zoning requirements of Division II of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, and adopts the following findings and conditions.

FINDINGS:

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.

4. The permit is subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which such permit was granted have been violated.
 - c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or is a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. The temporary occupancy of an existing trailer coach while constructing a new residence is subject to the following conditions of approval:
 - (a) The term of this permit is valid for the period required to complete construction of the dwelling, but shall not exceed two years unless renewed. The permit shall be effective on the effective date of CDP 52-04 and shall expire on April 28, 2007.
 - (b) All utility connections to the existing trailer coach shall be disconnected and the trailer shall be removed prior to the final building inspection of the new single family residence, or occupancy of the new dwelling, whichever occurs first.

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2. Prior to the commencement of construction activities for the residence, the applicant shall obtain all necessary water, sewer, and electrical permits for the connection of the temporary trailer.
3. Prior to commencement of construction activities for the residence, the applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and construct appropriate improvements to protect the County road during the construction phase of the project. Prior to final occupancy, the applicant shall complete, to the satisfaction of the Department of Transportation, a standard private driveway approach onto Pacific Drive (CR# 530), to a minimum width of ten feet, area to be improved fifteen feet from the edge of the County road, to be surfaced with surfacing comparable to that on the County road.

Staff Report Prepared By:

4-5-05

Date

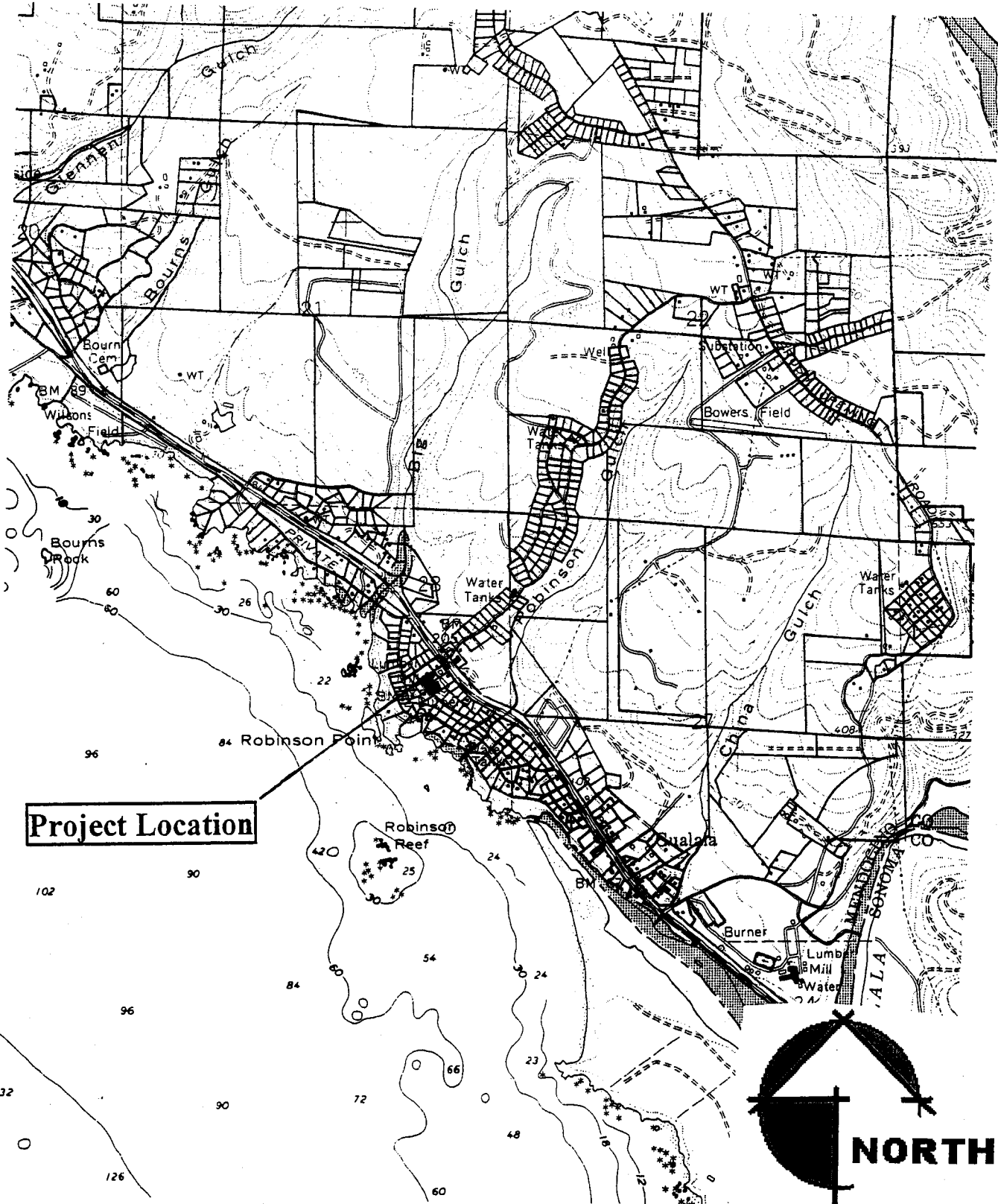


Paula Deeter
Planning Technician II

Attachments: Exhibit A: Location Map
Exhibit B: Site Plan
Exhibit C: Floor Plan
Exhibit D: Elevations

Appeal Period: Ten calendar days for the Mendocino County Board of Supervisors, followed by ten working days for the California Coastal Commission following the Commission's receipt of the Notice of Final Action from the County.

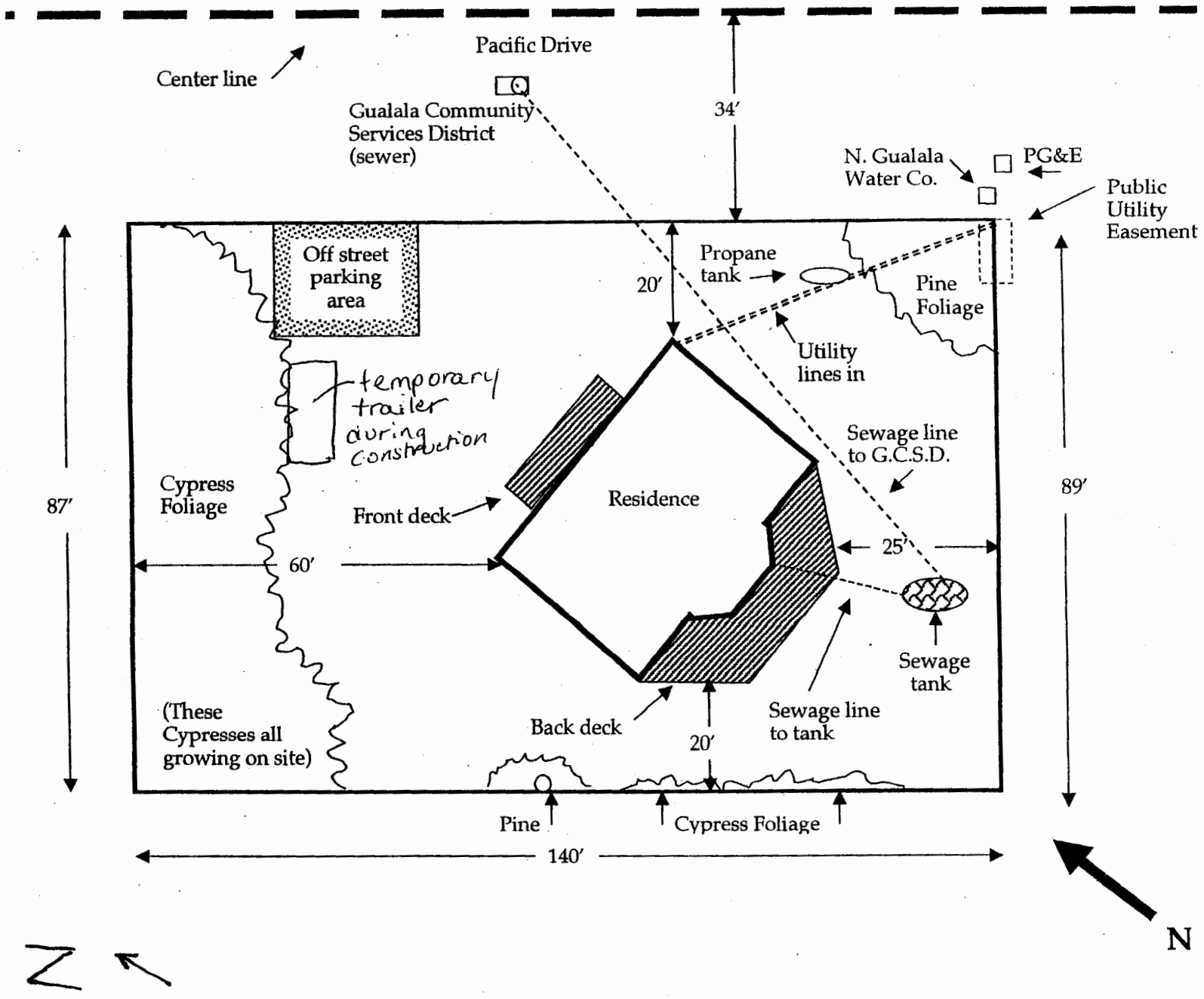
Appeal Fee: \$715 (For an appeal to the Mendocino County Board of Supervisors.)

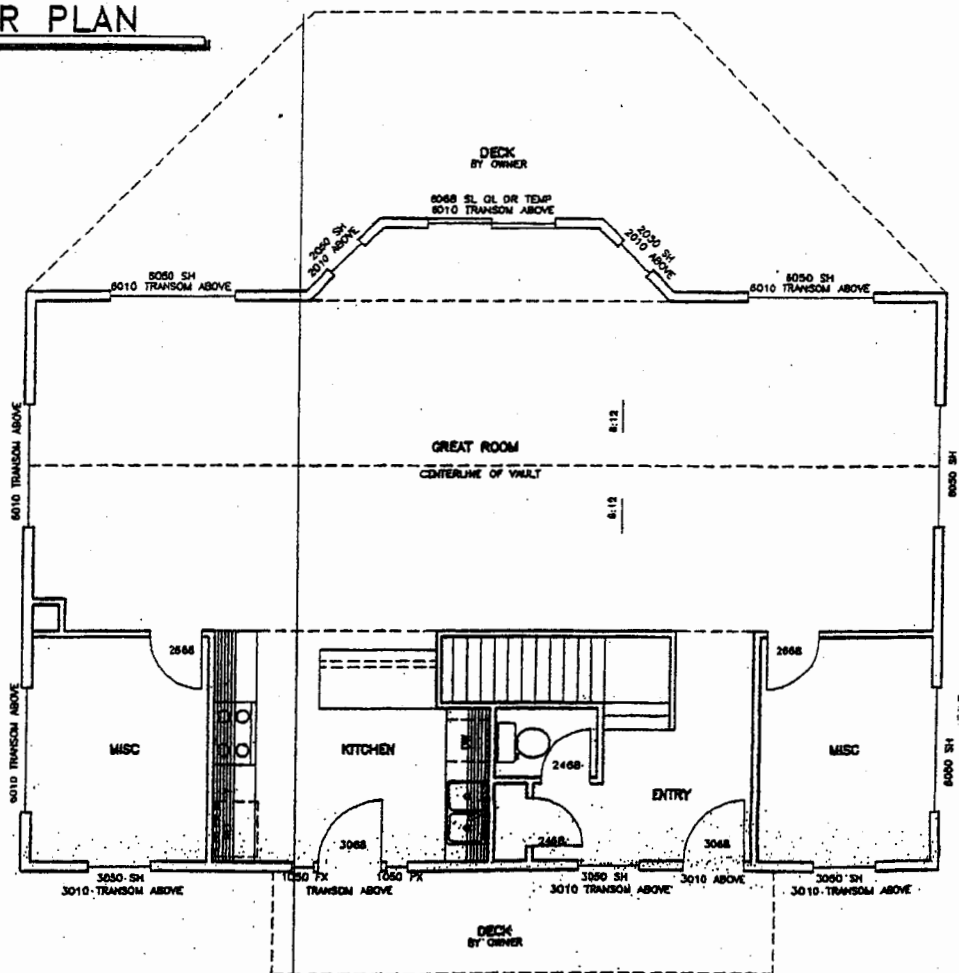
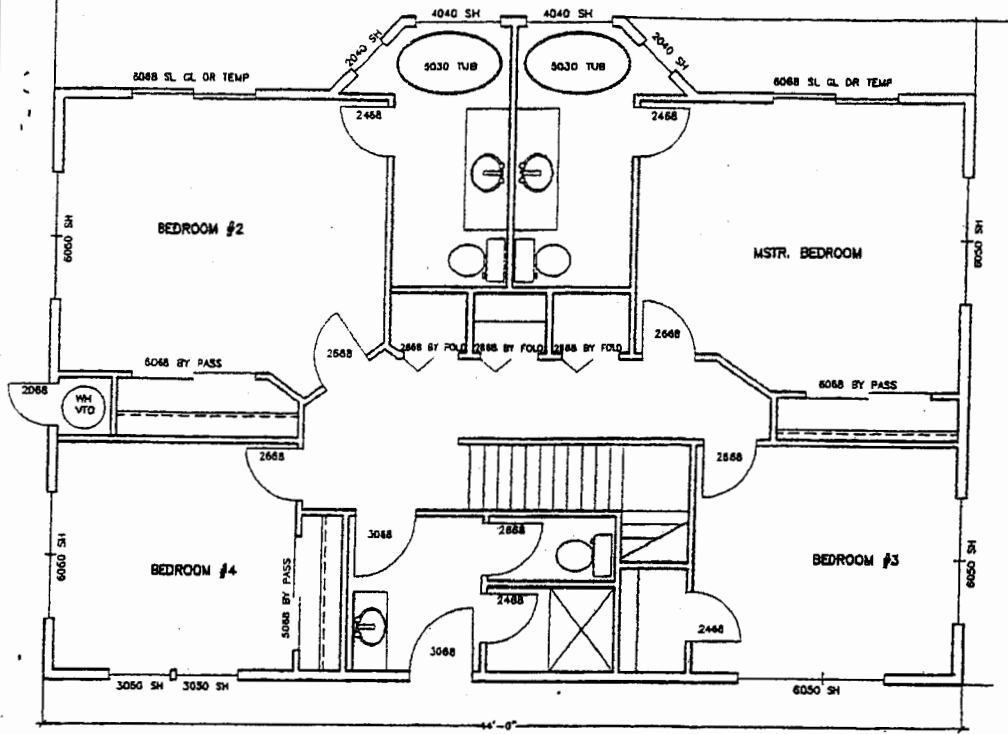


Project Location



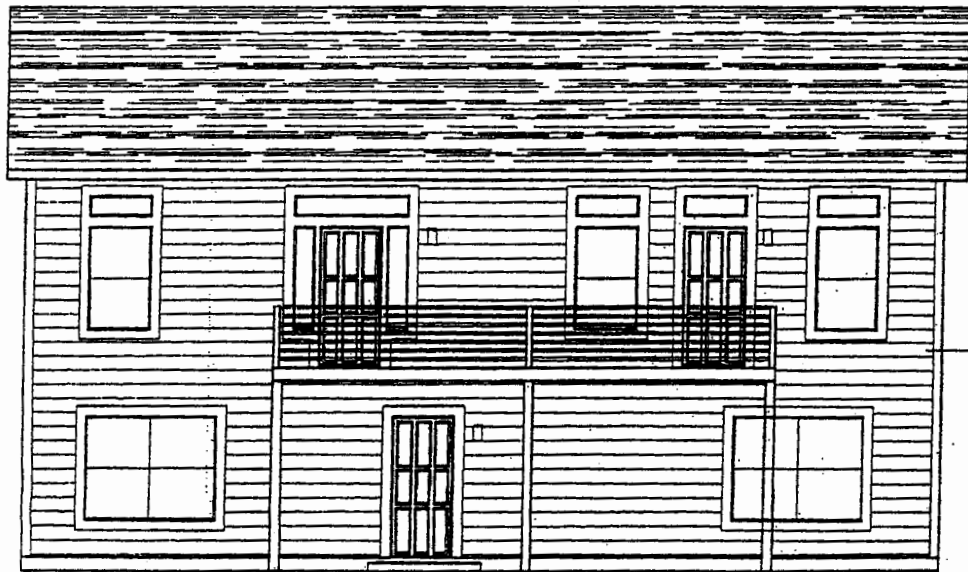
NO SCALE







REAR ELEVATION - SOUTH



FRONT ELEVATION - NORTH

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CA COASTAL COMMISSION

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STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7835 FAX (707) 445-7877

RECEIVED

MAY 24 2005

CALIFORNIA COASTAL COMMISSION



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: SUSAN C. DAWES

Mailing Address: P.O. Box 1047

City: GUALALA CA.

Zip Code: 95445

Phone: 707-884-4708

SECTION II. Decision Being Appealed

1. Name of local/port government:

MENDOCINO PLANNING DEPT.

2. Brief description of development being appealed:

SINGLE FAMILY DWELLING ON APPROX 1/3 ACRE SUBDIVISION LOT DWELLING 2517 #

3. Development's location (street address, assessor's parcel no., cross street, etc.):

38520 PACIFIC DR. GUALALA AP 145-163-06

4. Description of decision being appealed (check one.):

Approval; no special conditions

Approval with special conditions: ADDITIONAL SOILS, DRAINAGE REPORT

Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

DATE FILED:

EXHIBIT NO. 7

APPEAL NO.

A-1-MEN-05-023

EVERTS, HIGGINS, & GILL

APPEAL

(Page 1 of 6)

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: APRIL 28, 2005

7. Local government's file number (if any): CDP 52-04

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:

*EVERTS, HIGGINS, GILL
6917 CALIFORNIA ST
SAN FRANCISCO, CA 94121*

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) *JULIE VERRAN
P.O. BOX 1200
GUALALA, CA.
95445-1200*
- (2) *HENRIK LIISBERG
P.O. BOX 726
GUALALA, CA.
95445-0726*
- (3) *SLOANE McDONALD
% LIISBERG
P.O. BOX 726
GUALALA, CA 95445-0726*
- (4) *ROBERT GANT
% GUALALA HOTEL
GUALALA, CA 95445*

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CA COASTAL COMMISSIO

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)**SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- 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.)
- This 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.

THE APPLICANTS PROPOSE A LARGE 4 BDRM 3+ BATH HOME ON APPROX 1/3 AC. DEVELOPERS LOT. THE ABOVE IS TO BE USED BY THREE UN-RELATED PRINCIPALS AND THEIR FAMILIES.

MY REASON FOR APPEAL IS NO SATISFACTORY OR APPROPRIATE SPACE FOR CARS + SUV'S GENERATED BY ABOVE AND GUESTS.

THEIR PLAN DRAWING INDICATES CARS TO PARK FRONTING THE PUBLIC ROADWAY (ATTACHED) THE SUBDIVISION, AS BUILT, SETS NO SUCH PRECEDENT FOR A CAR LOT IN THE RESIDENTIAL SETBACK SPACE.

I REFER YOU TO CHAPTER 20.472 OF THE LOCAL COASTAL PLAN ORDINANCE (ATTACHED) REGARDING VEHICLES AND PROPERTY SETBACK.

THE ABOVE PROPOSED DWELLING IS ON A PUBLIC COUNTY STREET BETWEEN HWY I AND THE OCEAN.

Respectfully

SUSAN C. DAWES

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CA COASTAL COMMISSIO

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

Susan Dawes
Signature of Appellant(s) or Authorized Agent

Date: 5-24-05

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

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PBS FORT BRAGG

PAGE 01/02

20.472.005

CHAPTER 20.472

OFF-STREET PARKING

Sec. 20.472.005 Declaration.

The purpose of this Chapter is to require off-street parking spaces for all land uses in sufficient numbers to accommodate vehicles which will be congregated at a given location to minimize on-street parking, increase traffic and pedestrian safety and promote the general welfare. (Ord. No. 3785 (part), adopted 1991)

Sec. 20.472.010 General.

(A) Accessible off-street parking areas shall be provided and maintained as set forth in this Chapter to provide minimum parking and maneuvering room for motor vehicles and for pedestrian safety based on the anticipated occupancy of a given building, structure or area of land or water. Where there is a combination of principal uses in any one facility, the sum of the parking requirements of these uses shall be provided unless otherwise indicated. If the calculation of parking needs results in the requirement for a fraction of a parking space, such a parking space need not be provided unless the fraction equals or exceeds fifty (50) percent. This Division shall not be construed to prohibit the installation and maintenance of more parking spaces than the minimums required.

(B) At the time of initial occupancy of a site or of construction of a structure or of a major alteration or enlargement of site or structure, there shall be provided off-street parking facilities for automobiles in accordance with the regulations prescribed in this Chapter. For the purposes of this Chapter the term "major alteration or enlargement" shall mean a change of use or an addition which would increase the number of parking spaces required by more than ten (10) percent of the total number required.

(C) In any SR, RV, or RR Residential District, no motor vehicle over three-quarter (¾) ton, boat, or recreational vehicle shall be stored or parked in any front yard setback nor any side or rear yard

setback facing a street for a continuous period exceeding seventy-two (72) hours.

(D) For any use not specified in the following sections, the same number of parking spaces shall be provided as required for the most similar specified use, as determined by the Coastal Permit Administrator.

(E) Where there is a question of primary use of any given site the use requiring the most parking spaces shall be used.

(F) The required parking spaces shall be on-site except that a variance may be granted pursuant to Chapter 20.540 from the parking requirements of this Division in order that some or all of the required parking spaces be located off-site, including locations in other local jurisdictions, or that in-lieu fees or facilities be provided instead of the required parking spaces, if all of the following conditions are met:

(1) The variance will be an incentive to, and a benefit for, the non-residential development.

(2) The variance will facilitate access to the non-residential development by patrons of public transit facilities, particularly guideway facilities.

(3) The variance shall not impact existing or proposed traffic patterns or parking conditions on residential or other adjacent property use types.

(G) Where an unnecessary hardship results and is inconsistent with the general purpose of this section due to the strict application of certain provisions herein, a variance may be granted by the Coastal Permit Administrator consistent with the provisions of Chapter 20.540.

(H) One of the required parking spaces for any parcel may be located in the front or side yard setback area.

(I) Parking areas shall, at a minimum, be surfaced with gravel; however, the approving authority may require a hard surface such as road oil mix, or other surfacing of a more durable type such as a bituminous plant mix, asphaltic concrete or concrete as a condition of the Coastal Development Permit.

(J) All required parking spaces shall be at least nine (9) by twenty (20) feet, unless otherwise pro-

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CDP 52-04
April 28, 2005

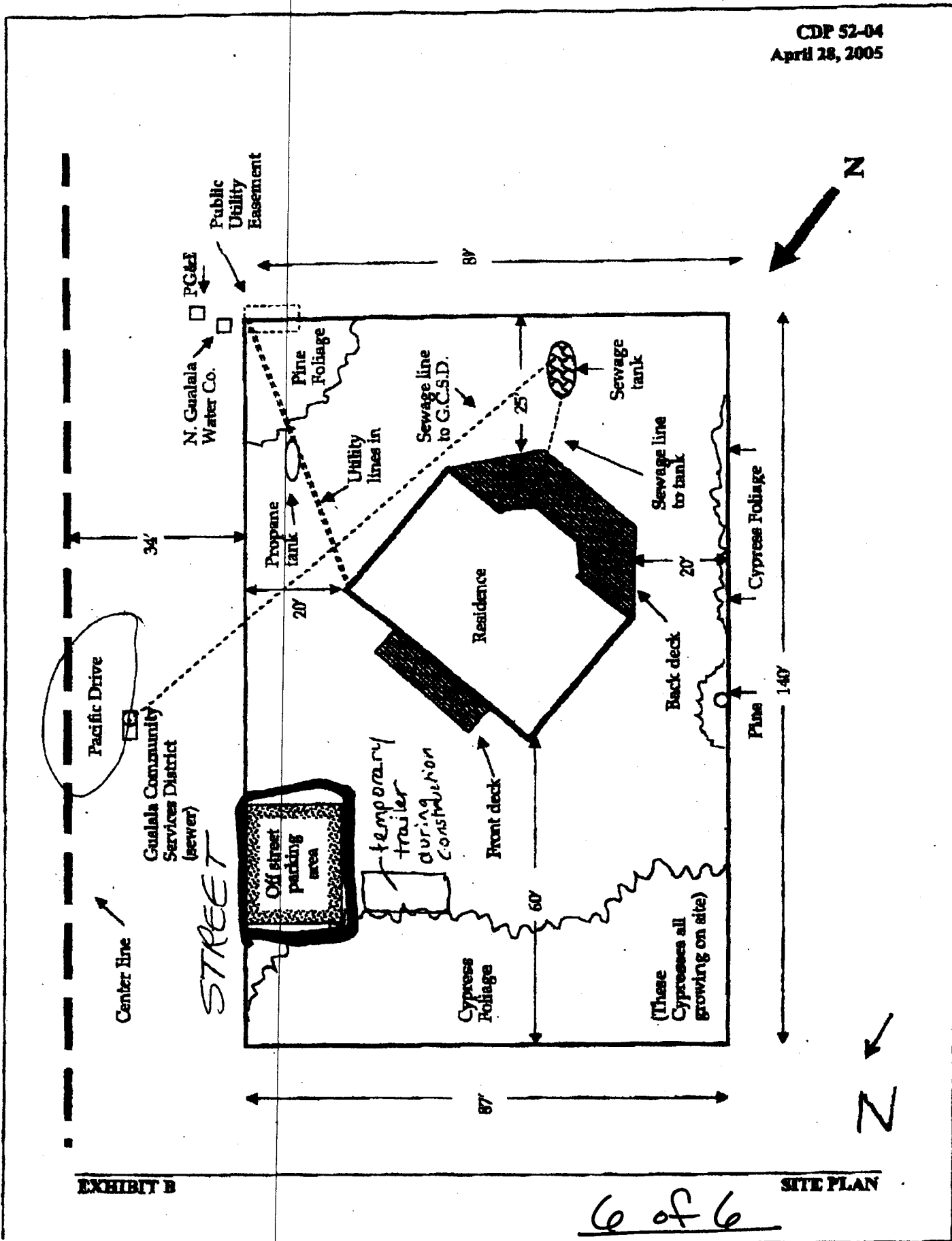


EXHIBIT B

SITE PLAN

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