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Staff:	Ruby Pap
Staff Report:	July 29, 2005
Hearing Date:	August 12, 2005

STAFF REPORT: APPEALSUBSTANTIAL ISSUE

APPEAL NO.: **A-1-MEN-05-032**

APPLICANTS: **MacCallum House, L.L.C.**

LOCAL GOVERNMENT: **County of Mendocino**

DECISION: **Approval with Conditions**

PROJECT LOCATION: **In the Town of Mendocino, on the north side of Albion Street and the south side of Ukiah Street at 45020 Albion Street, Mendocino County (APNs 119-236-10, 119-236-12).**

PROJECT DESCRIPTION: **Conversion of existing storage shed into a catering kitchen and use of the lawn to place tents and hold outdoor temporary wedding gatherings.**

APPELLANT: **Mary Cesario Weaver**

SUBSTANTIVE FILE DOCUMENTS: **1) Mendocino County CDP No. 02-04; and
2) Mendocino County Local Coastal Program**

SUMMARY OF STAFF RECOMMENDATION:

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 development, as approved by the County, consists of the conversion of an existing storage shed into a catering kitchen and the use of the lawn to place tents and hold outdoor temporary wedding gatherings.

The project site is located in the Town of Mendocino, on the north side of Albion Street and the south side of Ukiah Street, at 45020 Albion Street in Mendocino County.

The Appellant poses six separate contentions that the project is inconsistent with the certified Local Coastal Program (LCP), including visual resource policies, policies for temporary events, cumulative effect policies, maximum lot coverage policies, and inconsistency with LCP policies regarding accessory uses and buildings.

Staff recommends that the Commission find that appellant's contentions are valid grounds for an appeal and raise a substantial issue of conformity of the approved development with the certified LCP.

The motion to adopt the staff recommendation of Substantial Issue is found on page no. 4.

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 [emphasis added] 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. Further, Section 30603(a)(4) makes the approval of "any development" by a coastal county appealable to the Commission, with the only exception being development that is "designated as the principal permitted use" under the zoning in the LCP.

The approved development is appealable to the Commission for two independent reasons: (1) because it is not specifically identified as the principal permitted use in the county's zoning code and (2) because the approved development is located in the Town of Mendocino, a special community as designated in the certified LCP and therefore an appealable sensitive coastal resource area pursuant to Section 30603(a)(3) of the Coastal Act.

Regarding the approved development's appealability pursuant to Section 30603(a)(4), Mendocino Town Zoning Section 20.608.035(I) provides a definition of "Principal Permitted Use" as follows:

"Principal Permitted Use(s)" means the primary use as designated in the Mendocino Town Plan and this Division for each land use classification. Use Types allowed within each principal permitted use category are specified in Chapters 20.644 through 20.684.

The Mendocino Town Plan describes the principally permitted uses for the "Commercial" land-use classification, where the subject property is designed:

Principal Permitted Uses:

Residential: Single family, two family and multifamily dwelling units, subject to density requirements.

Civic Uses: Clinic services, libraries, cultural facilities, lodge, fraternal and civic assembly, religious assembly, minor impact services and utilities.

Commercial Uses: Administrative and business offices, specialty shops, personal services, retail stores (all of which are under 1,000 square feet of floor area per parcel).

The Mendocino Town Zoning Code lists the principally permitted uses for the "Mendocino Commercial" district, where the subject property is designated:

A) The following use types are permitted in the MC District:

(1) Residential Use Types

Family Residential: Single Family

Family Residential: Two Family

Family Residential: Multi-Family

(2) Civic Use Types

Administrative Services Government

Clinic Services

Cultural Exhibits and Library Services

Lodge, Fraternal and Civic Assembly

*Minor Impact Utilities
Religious Assembly*

(B) The following Use Types which do not exceed one thousand (1,000) square feet of gross floor area per parcel are permitted in the MC District.

(1) Commercial Use Types

Administrative and Business Offices

Medical Services

Personal Services

Retail Sales: Limited

(C) For the purposes of appeal to the Coastal Commission, the Principal Permitted Use for the Commercial District shall be Commercial Use Types. (Ord. No. 3915 (part), adopted 1995) [emphasis added.]

The Mendocino Town Zoning Code lists the principally permitted uses for the *Visitor Serving Facilities Combining District:

*The following use types are permitted in the * District:*

(A) Residential Use Types

Family Residential: Single Family (Ord. No. 3915 (part), adopted 1995)

The property affected by the (1) approved conversion of the storage shed to a kitchen at the MacCallum House Inn and (2) the approved use of the lawn to place tents and hold outdoor temporary wedding gatherings is designated Commercial under the LUP and zoned Mendocino Commercial *Visitor Serving Facilities Combining District (MC*) under the Town Coastal Zoning Code. The County's LUP and zoning ordinance designates commercial use types as the principally permitted use for the Mendocino Commercial Zoning District. The certified zoning code defines commercial use types to solely include administrative and business offices, medical services, personal services and retail sales. Commercial use types do not include inns, restaurants or food sales for consumptive or non-consumptive use. In fact, dining establishments in this zone are solely allowed as a conditional use, subject to a conditional use permit. Therefore, use of the property as an inn, restaurant, dining establishment, or food sales for consumption or non-consumption is not the principal permitted use under the applicable Mendocino Town Plan or Zoning District (C, MC, and *). Because the approved coastal development permit application for (1) conversion of a storage shed to a kitchen and (2) the approved use of the lawn to place tents and hold outdoor temporary wedding gatherings involves development that is not the principal permitted use in an MC* zone, such approved development is appealable to the Coastal Commission. Therefore, the County's approval of the coastal development permit application for the conversion of a storage shed to a kitchen and the use of the lawn to place tents and hold outdoor events is appealable to the Commission pursuant to Section 30603(a)(4) of the Coastal Act.

The approved development is also appealable to the Commission pursuant to 30603 (a)(3) of the Coastal Act because the proposed development is within a sensitive coastal resource area. Section 20.608.038(6) of the Mendocino Town 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." Policy 4.13-1 of the Mendocino Town Plan designates the town of Mendocino as a special community. Therefore, the development is located within a sensitive coastal resource area as defined in the LCP, and, as such, is also appealable to the Commission pursuant to Section 30603(a)(3) of the Coastal Act.

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 appellant 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, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program.

2. Filing of Appeal

One appeal was filed by Mary Cesario Weaver (Exhibit No. 3). The appeal was filed with the Commission in a timely manner on July 14, 2005 within 10 working days of receipt by the Commission of the County's Notice of Final Action (Exhibit No. 4) on July 7, 2005.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION

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-05-032 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 hereby finds that Appeal No. A-1-MEN-05-032 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 Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received one appeal of the County of Mendocino's decision to conditionally approve the development from Mary Cesario Weaver. The project as approved by the County involves the conversion of an existing storage shed into a catering kitchen and the use of the lawn to place tents and hold outdoor temporary wedding gatherings.

The approved project is located in the Town of Mendocino, on the north side of Albion Street and the south side of Ukiah Street, at 45020 Albion Street in Mendocino County.

The appeal raises six contentions alleging inconsistency of the approved project with the County's certified LCP. The appellants' contentions are summarized below, and the full text of the contentions is included as exhibit no.3.

1. Visual Resources and Special Communities

The appellant contends that the tents and crowds associated with the outdoor events are not subordinate to the character of its setting, and block public views to a number of surrounding

landmark structures, including the MacCallum house itself, and the Red Baptist Church, a Category I landmark structure built in 1984.

2. Duration for Temporary Events

The appellant further contends that the use of the lawn to put up tents for weekend weddings would exceed the requirements of the County Zoning Code, which require that temporary events not exceed 14 days in any 12-month period. The appellant further states that the coastal permit administrator should have considered the temporary event regulations in the County code over the temporary event regulations in the Town code, because the former are the most protective of coastal resources, and there is a provision in the Town code that states that where provisions overlap, the provision that is the most protective of coastal resources shall take precedence. The appellant further states that even if one were to use the temporary use provisions of the Town code, that the County erred in its decision to exempt the use from CDP requirements because it did not properly apply the term, "limited duration" to the proposed outdoor wedding events, which means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis. The County instead stated that each event at the subject property would not be the same as the one before it unless the same couple repeats their wedding vows twice within a four-month period, so it therefore would not be consecutive. The appellant disputes this interpretation of the term.

3. Cumulative Effects

The appellant further contends that the frequency and crowds at the outdoor wedding events at the inn cause cumulative effects on the special community of Mendocino.

4. Maximum Lot Coverage

The appellant further contends that the outdoor tents and canopies associated with the wedding events cause the lot coverage to increase beyond the allowable 25% on the property.

5. Temporary Uses should be Subject to All Regulations

The project description in the coastal development permit application submitted to the County included the use of the lawn area to put up a 40 x 60 foot tent on weekends when weddings would be held. The appellant further contends that the temporary wedding events that were ultimately approved by the County because they were exempted from coastal development permitting requirements should have been subject to all the regulations that would be applied in the Mendocino Commercial (MC) *Visitor Serving Facilities combining district zone.

6. Accessory Uses/Structures and Public Services

The appellant further contends that the approval of the kitchen as an "accessory structure" is inconsistent with County LCP definition of accessory buildings, which states that they shall not

include sleeping quarters or kitchens. The appellant further contends that the development is not provided with an adequate access road for private vehicles, fire trucks, and ambulances, and that pedestrian safety, health, and general welfare are threatened because the approved development is not served by adequate services, such as access roads and proof of adequate water supply. The appellant further contends that the approved kitchen as well as the outdoor gatherings would have an enormous negative impact on transportation, circulation, parking, and pedestrian traffic, since there are now sidewalks in the narrow alley leading to the inn.

B. LOCAL GOVERNMENT ACTION

On June 23, 2005, the Mendocino County Coastal Permit Administrator conditionally approved the coastal development permit application for the project (CDP #2-04) (exhibit no.4). The permit approved the coastal development permit application for the conversion of an existing storage shed into a catering kitchen as well as the use of the lawn to place tents and hold outdoor temporary wedding gatherings.

There were no special conditions imposed on this permit. The County approved the kitchen as an accessory use to the existing hotel and restaurant. Although neither an inn/hotel nor a dining establishment is a principally permitted use in the Mendocino Commercial (MC) zone where MacCallum house is located, the hotel and restaurant were determined by the County to be legally non-conforming uses, as they pre-dated the Coastal Act and the town's zoning regulations, and therefore the kitchen was determined to be accessory to this legally-non-conforming dining establishment use, and therefore approvable under a standard coastal development permit. Permanent accessory structures such as the catering kitchen are subject to approval of a coastal development permit, as per the Town code's accessory use regulations. This permit is partially "after the fact," because in November of 2004, the County determined that the kitchen had been partially installed and was in use. In 2003, the applicants obtained a building permit and a Mendocino Historic Review Board (MHRB) permit to enclose an existing 184-square-foot wood storage shed and combine it with an adjacent 153-square-foot storage building to create a 337-square-foot storage building. In 2004 they then applied for the subject coastal development permit to allow the use of the storage building to be changed to an auxiliary catering kitchen. In 2004, the applicants then obtained another building permit to extend electrical service to the building, and MHRB permits were obtained for exhaust fans and other exterior alterations to the building. Toward the end of 2004 it was determined that the kitchen was in use.

The application for the coastal development permit also included a request to allow the use of 40-feet by 60-feet outdoor tents on dates, usually weekends, when weddings and other temporary events are held. Since the County determined that this portion of the application was exempt from coastal development permit requirements because temporary events and temporary structures are exempt under the Town code's temporary event provisions, the County's action on the coastal development permit application also approved the applicant's request to use outdoor tents and the outdoor lawn for outdoor weddings.

The decision of the Coastal Permit Administrator to approve the development proposed in the coastal development permit application 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 the Commission staff on July 7, 2005 (exhibit no.4). 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 County's approval of the project was appealed to the Coastal Commission in a timely manner on July 14, 2005, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

C. PROJECT AND SITE DESCRIPTION

The approved development is located in the coastal zone in the Town of Mendocino on the north side of Albion Street and the south side of Ukiah Street, at 45020 Albion Street in Mendocino County (APNs 119-236-10, 119-236-12). The site is currently developed with the MacCallum House Inn, a 2,600 square foot historic house, and several smaller surrounding structures, including a gazebo, cottage, carriage house, green house, loft, and water tower. The front of the inn facing Albion Street contains a large lawn and landscaped area where the tent would be placed on weekends during wedding gatherings. The kitchen as approved would be located in back of the inn near Ukiah Street (to the north), and would contain a walk-in refrigeration unit, two 6-burner commercial ranges with a vent hood above, a dishwasher, three sinks, drainboards, counters, a stainless steel work table, and dry storage shelving.

The Town of Mendocino is recognized as a unique community on the northern California coast, and is listed on the National Register of Historic Places. The town is designated as a "Special Community" in the County's LCP. The MacCallum House Inn is a historic building located in the core historic district of downtown Mendocino, which contains structures dating back to the late 1800s.

D. 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...

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.

1. **Appellant's Contentions Are Valid Grounds for Appeal**

The appellant's contentions present potentially valid grounds for appeal in that they allege the approved development's inconsistency with the policies of the certified LCP. These contentions allege that the approval of the project by the County raises significant issues related to LCP provisions regarding accessory uses/structures, public services, and temporary events. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the appeal raises a substantial issue with regard to the approved project's conformance with the certified Mendocino County LCP.

Allegations Raising Substantial Issue:

a. **Accessory Uses/Structures and Public Services**

The appellant contends that the approval of the kitchen as an "accessory structure" is inconsistent with the County LCP definition of accessory buildings, which states that they shall not include sleeping quarters or kitchens. The appellant further contends that the approved development is

not provided with an adequate access road for private vehicles, fire trucks, and ambulances, and that pedestrian safety, health, and general welfare are threatened because the approved development is not served by adequate services, such as access roads and proof of adequate water supply. The appellant further contends that the approved kitchen as well as the outdoor gatherings would have an enormous negative impact on transportation, circulation, parking, and pedestrian traffic, since there are now sidewalks in the narrow alley leading to the inn.

LCP Policies

Mendocino Town Zoning Code Section 20.608.020(F) states:

"Accessory Building" means a detached subordinate structure, the use of which is incidental to the established primary use or main structure located on the same lot or building site; i.e., private garage, storage shed, farm out buildings, etc. In no case shall such accessory structure dominate, in purpose, the principal lawful structure or use. This definition, by itself, is not intended to prohibit an accessory structure which is greater in size than the main structure. Accessory buildings shall not contain any sleeping quarters or kitchen facilities and are therefore not intended for human occupancy except as provided in Chapter 20.704 [emphasis added].

Section 20.704.010 of the Mendocino Town Zoning Code, Accessory Uses Encompassed by Principal Use, states:

(A) In addition to the principal uses expressly included in the zoning districts each use type shall be deemed to include accessory uses which are specifically identified by these Accessory Use Regulations; and such other accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses. When provided by these regulations, it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based on the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use. Accessory uses shall not include manufacturing, processing or transportation of flammable, combustible, explosive, toxic or other hazardous materials. Such determinations which are made by the Director shall be subject to the administrative appeal procedure commencing at Chapter 20.728 [emphasis added.]

(B) An accessory structure may be constructed prior to the construction of a dwelling on the premises. An accessory structure shall not be used for temporary or permanent occupancy as a residence, without compliance with Section 20.708.025(B) (Construction Support). Accessory uses and structures shall be subject to the provisions of Chapter 20.720 (Coastal Development Permit Regulations).

Section 20.704.015 of the Mendocino Town Zoning Code, "Residential and Agricultural Use Types," States:

Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single family residence:

(A) Private Garages.

(B) Children's playhouses, patios, porches, gazebos, etc.

(C) Windmills.

(D) Shops (non-business purposes).

(E) Barns.

(F) Private swimming pools and hot tubs (not subject to setback requirements in the side or rear yards of any district).

(G) Accessory Living Unit. Not more than one (1) accessory living unit for each legal parcel.

(H) Day care center, family care home or school, for six (6) or less persons.

(I) Travel Trailer or Camper. The maintaining of one (1) travel trailer or camper in dead storage where it is not used for occupancy or business purposes and only when authorized pursuant to Section 20.760.045. All stored travel trailers or campers in excess of one (1) shall be stored out of sight from a public right-of-way. The connection, for any continuous period exceeding forty-eight (48) hours, of any utility or service such as electrical, water, gas or sewage to the travel trailer or camper shall be prima facie evidence that it is being used for habitation or business purposes.

(J) Home Occupations. Subject to Chapter 20.696.

(K) Household Pets. The keeping of dogs and cats and other household pets, but not including kennels.

(L) Accessory Parking. When authorized pursuant to Section 20.760.045, the following may be allowed:

(1) The parking of one (1) large vehicle or construction equipment upon private property forty thousand (40,000) square feet or less in size.

(2) The parking of two (2) large vehicles or construction equipment upon private property greater than forty thousand (40,000) square feet but less than five (5) acres.

(3) The parking of three (3) large vehicles or construction equipment upon private property in excess of five (5) acres.

(4) Nothing in this subsection shall restrict the number of vehicles or construction equipment used by the property owner for their own agricultural or home use.

As used in this subsection "large vehicle" shall mean vehicles of three ton tare (unladen weight).

(M) Public Access. The offer to dedicate and acceptance of a dedication for an accessway except that the construction of a public access trail and, or construction of a staircase accessway on a bluff face (as determined by the Department of Planning and Building Services) will require a Coastal Development Use Permit.

(N) Other Necessary and Customary Uses. Accessory non-residential uses and non-residential structures, in addition to those identified above, which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal use, as determined by the Director. (Ord. No. 3915 (part), adopted 1995)

Section 20.704.020, Civic and Commercial Use Types, of the Mendocino Town Code states:

(A) Public Access. The offer to dedicate, acceptance of a dedication or construction of a public access trail except that the construction of a staircase accessway on a bluff face (as determined by the Department of Planning and Building Services) will require a use permit.

(B) Accessory structures and uses necessarily and customarily associated with, and appropriate, incidental, and subordinate to the principal civic or commercial uses shall be permitted where these use types are permitted. [emphasis added.]

Section 20.664.010 of the Mendocino Town Code, Principal Permitted Uses for MC Districts, states:

(A) The following use types are permitted in the MC District:

(1) Residential Use Types

Family Residential: Single Family

Family Residential: Two Family

Family Residential: Multi-Family

(2) Civic Use Types

*Administrative Services Government
Clinic Services
Cultural Exhibits and Library Services
Lodge, Fraternal and Civic Assembly
Minor Impact Utilities
Religious Assembly*

(B) The following Use Types which do not exceed one thousand (1,000) square feet of gross floor area per parcel are permitted in the MC District.

(1) Commercial Use Types

*Administrative and Business Offices
Medical Services
Personal Services
Retail Sales: Limited*

(C) For the purposes of appeal to the Coastal Commission, the Principal Permitted Use for the Commercial District shall be Commercial Use Types.
[emphasis added.]

Section. 20.664.015 of the Mendocino Town Code, Uses for MC Districts Subject to a Minor Use Permit, states:

The following use types may be permitted in the MC District upon issuance of a minor use permit:

(A) Civic Use Types

Day Care Facilities/Small Schools

(B) Commercial Use Types

*Business Equipment Sales and Services
Food and Beverage Preparation: Without Consumption
Food and Beverage Retail Sales
Repair Services, Consumer
Retail Sales: General (Ord. No. 3915 (part), adopted 1995)*

Section 20.664.020 of the Mendocino Town Zoning Code, Uses for MC Districts Subject to a Major Use Permit, states:

The following use types may be permitted in the MC District upon issuance of a major use permit.

(A) Civic Use Types

*Educational Facilities
Major Impact Services and Utilities*

(B) Commercial Use Types

Agricultural Sales and Services
Animal Sales and Services: Household Pets
Animal Sales and Services: Veterinary (Small Animals)
Automotive and Equipment: Gasoline Sales
Automotive and Equipment: Repairs
Building Maintenance Services
Commercial Recreation: Indoor Sports and Recreation
Commercial Recreation: Indoor Entertainment
Communication Services
Construction Sales and Services
Custom Manufacturing
Eating and Drinking Establishments
Financial Services [emphasis added.]

Sec. 20.624.010 of the Mendocino Town Code defines “Administrative and Business Offices” as:

Offices of private firms or organizations which are primarily used for the provision of professional, executive, management, or administrative services. Typical uses include administrative offices, and services including real estate insurance, property management, investment, travel, secretarial services, telephone answering, photocopy and reproduction, and other activities when the service rendered is that customarily associated with administrative office services. Excluded are banks.

Sec. 20.624.090 of the Mendocino Town Code defines “Medical Services” as:

Establishments primarily engaged in the provision of personal health services ranging from prevention, diagnosis and treatment or rehabilitation services provided by physicians, dentists, nurses and other health personnel as well as the provisions of medical testing and analysis services. Typical uses include medical offices, dental laboratories, health maintenance organizations, or clinics.

Sec. 20.624.095 of the Mendocino Town Code defines “Personal Services” as:

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, photography studios, driving schools, dance studios, handicraft and hobby instruction.

20.624.115 of the Mendocino Town Code defines Retail Sales: Limited as:

Sale or rental of commonly used goods, and merchandise for personal or household use, but excludes those classified more specifically in Sections 20.624.005 to 20.624.110 (all other commercial use types) inclusive. Typical uses

include apparel stores, furniture stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, and stationery, notions, books, tobacco products, cosmetics, and specialty items; flowers, plants, hobby materials, toys, and handcrafted items; apparel, jewelry, fabrics, and like items; cameras, photography services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing, art supplies and framing, arts and antiques, paint and wallpaper, interior decorating services, bicycles.

Sec. 20.684.010 of the Mendocino Town Zoning Code, Principal Permitted Uses for *Visitor Serving Facilities Combining Districts states:

*The following use types are permitted in the * District:*

(A) Residential Use Types

Family Residential: Single Family (Ord. No. 3915 (part), adopted 1995)

Sec. 20.684.015 Conditional Uses for * Districts.

*The following use types may be permitted in the * District upon issuance of a use permit:*

(A) Residential Use Types

All Residential Use Types specified in the base zone.

(B) Visitor Accommodation Use Types

Hostel

Hotel

Inn

Motel

Student/Instructor Temporary Housing (Ord. No. 3915 (part), adopted 1995)

Sec. 20.684.020 Development Regulations for * Districts.

*Within the * District, site development regulations of the base zone shall apply, including the provisions of Section 20.660.075(A) and (B) when combined with the MMU District [emphasis added.]*

Sec. 20.720.035 of the Mendocino Town Code, "Findings" states in applicable part:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and...

(6) Other services, including but not limited to, solid waste, public roadway capacity and proof of an adequate water supply pursuant to Chapter 20.744 have been considered and are adequate to serve the proposed development...

Discussion

The approved conversion of the storage shed to a kitchen was approved by the County as an "accessory structure", as per Mendocino Town Zoning Code Section 20.704.020(B). This section states that in addition to the principally permitted uses included in the zoning district, other accessory uses that are associated with and incidental to the principal uses shall be permitted with a coastal development permit; and for those developments located in commercial zones, accessory structures and uses necessarily and customarily associated with the principal civic or commercial uses shall be permitted. The subject development is located in the Mendocino Commercial (MC) zone overlain with an *Visitor Serving Facilities combining zone.

The principally permitted uses in the Commercial (MC) zone do not include inns, hotels, or eating and dining establishments. Dining establishments in this zone are solely allowed as a conditional use, subject to a conditional use permit. Therefore the approval of the accessory kitchen raises a substantial issue of conformance with Section 20.704.010(B) because it is not incidental to the principal commercial uses in the MC zone (which are administrative and business offices, medical services, personal services, and retail sales: limited). None of these principal commercial uses in the MC zone are defined to include restaurants, food sales, or dining establishments. While the subject development is located in a *Visitor Serving Facilities Combining Zone, uses other than residential uses associated with an inn are subject to a conditional use permit. Therefore, for purposes of analysis as to whether a particular use is allowable as an accessory structure, one must use those principally permitted uses in the Mendocino Commercial zone. None of these principal commercial uses in the MC zone are defined to include restaurants, food sales, or dining establishments. Therefore, the County had little legal or factual basis with which to make the finding that the approved kitchen is a structure or use accessory to the principal commercial uses of the zoning district. Further, the definition of an accessory building explicitly excludes kitchen facilities, as per Section 20.608.020(F) of the Mendocino Town Zoning Code.

Therefore, for the reasons described above, the Commission finds that the project as approved raises a substantial issue of conformance with the provisions of Mendocino Town Zoning Code 20.704.010(B) and 20.608.020(F).

2. Temporary Events

Appellant's contentions 1-5 (described in Section (II)(A)) also present valid grounds for appeal, as they allege the project's inconsistency with policies of the certified LCP. Contentions 1 – 5 provide allegations against the use of the lawn to place tents and to hold outdoor temporary wedding gatherings. The project description in the coastal development permit application submitted to the County included the use of the lawn area to put up a 40 x 60 foot tent on weekends when weddings would be held. The County ultimately approved this portion of the coastal development permit application by determining that these temporary events were not subject to coastal development permitting requirements, as per the temporary use regulations of the Town's zoning code.

Coastal Act Section 30603(a) states in applicable part:

After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments: [Emphasis added]

LCP Policies

Chapter 20.708, Temporary Use Regulations, of the Mendocino Town Zoning Code states in applicable part:

Sec. 20.708.010 Identification of Permitted Temporary Uses.

The following temporary uses and associated development may be permitted as specified by these regulations:

(A) Entertainment Events or Religious Assembly. The temporary gathering of people for a circus, carnival, concert, lecture, art or antique show or religious purposes.

(B) Construction Support. Temporary building and structures supporting residential development and/or major construction.

(C) Uses in New Subdivisions. Temporary uses in new major or parcel subdivisions which support the sale of dwellings and lots within the same subdivision.

(D) Use of a Trailer Coach. Temporary use of a trailer coach for certain purposes.

(E) Family Care Unit. The temporary use of a building, structure or trailer coach to provide housing for (a) not more than two (2) adult persons who are sixty (60) years of age or older, or (b) an immediate family member or members who requires daily supervision and care, or (c) person or persons providing necessary daily supervision and care for the person or persons residing in the main residence.

(F) Film Production. The temporary use of a building, structure or property for the purposes of film production. If film production activities constitute development as defined by Section 20.608.023(C), a Coastal Development Permit shall be required. (Ord. No. 3915 (part), adopted 1995)

Sec. 20.708.015 Temporary Uses Subject to Controls.

Temporary uses shall be subject to all regulations as would be applied to any use located in the same zone, except as otherwise provided by these regulations. All temporary uses must comply with Chapter 20.760. (Ord. No. 3915 (part), adopted 1995)

Sec. 20.708.020 Entertainment Events, Religious Assembly, Other Large Public Gatherings or Other Temporary Events.

(A) Purpose and Authority. The purpose of this section is to identify the standards the Department of Planning and Building Services, under the direction of the Director, will use in determining whether a temporary event is excluded from coastal development permit requirements.

(B) Procedure. The organizer of a temporary event is required to contact the Department of Planning and Building Services to allow the Director or his/her designee to review the project and determine if a coastal development permit is necessary, pursuant to the following regulations.

(C) Criteria for Requiring a Coastal Development Permit. Except as described below, temporary events are excluded from coastal development permit requirements.

The Director may determine that a temporary event is subject to coastal development permit review if the Director determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include the following:

(1) The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

(2) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Subsection (D) below;

(3) The event would restrict public use of parking areas to the extent that it would significantly impact public recreation areas or public access to coastal waters;

(4) The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

(D) Definitions. For purposes of this section, the following definitions shall apply.

(1) "Temporary event(s)" means an activity or use that constitutes development as defined in Section 20.608.023 of the Mendocino Town Zoning Code; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, street, or parking area which is otherwise open and available for general public use;

(2) "Limited duration" means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis;

(3) "Non-permanent structures" include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, etc., which do not involve grading or landform alteration for installation;

(4) "Exclusive use" means a use that precludes use in the area of the event for public recreation, beach access, or access to coastal waters other than for or through the event itself;

(5) "Coastal resources" include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources;

(6) "Sandy beach area" includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest...[emphasis added.]

Discussion

The approved conversion of the outdoor storage shed to a catering kitchen facility is intended to serve the outdoor wedding events at MacCallum House. This suggests that the approved use of the lawn to place tents and hold outdoor temporary wedding gatherings would be ongoing, continuing indefinitely into the future. Temporary events are defined in the town code as being of "limited duration." "Limited duration" is defined as a period of time that does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis. Therefore, because the on-going wedding events do not appear to be of

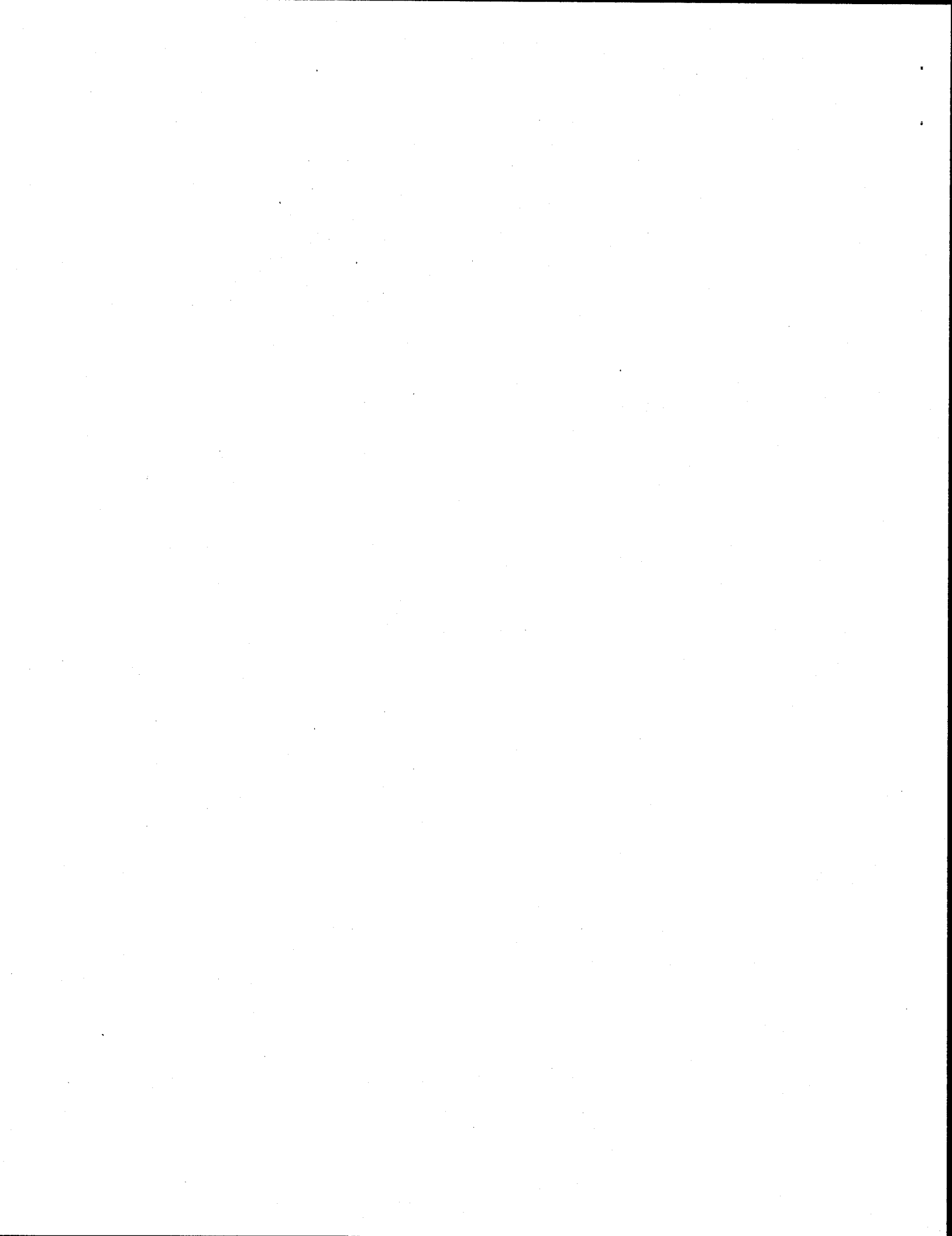
“limited duration” or “temporary,” and because a permanent structure, the catering kitchen, would be constructed to support the events, the decision by the Coastal Permit Administrator to authorize the use of the MacCallum House lawn for outdoor wedding events raises a substantial issue of conformance with Mendocino Town Code Section 20.708.020.

Conclusion

All of the various 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 development proposed by the applicant in the coastal development permit application and approved by the County raises a substantial issue of conformance with the certified LCP, regarding inconsistency of the approved development with the accessory use and temporary use policies of Mendocino Town Zoning Code.

EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Appeal
4. Notice of Final Local Action
5. Project Plan

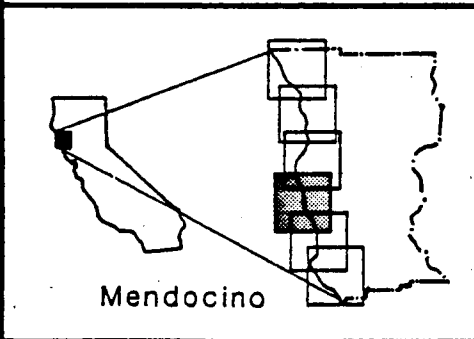


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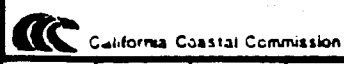
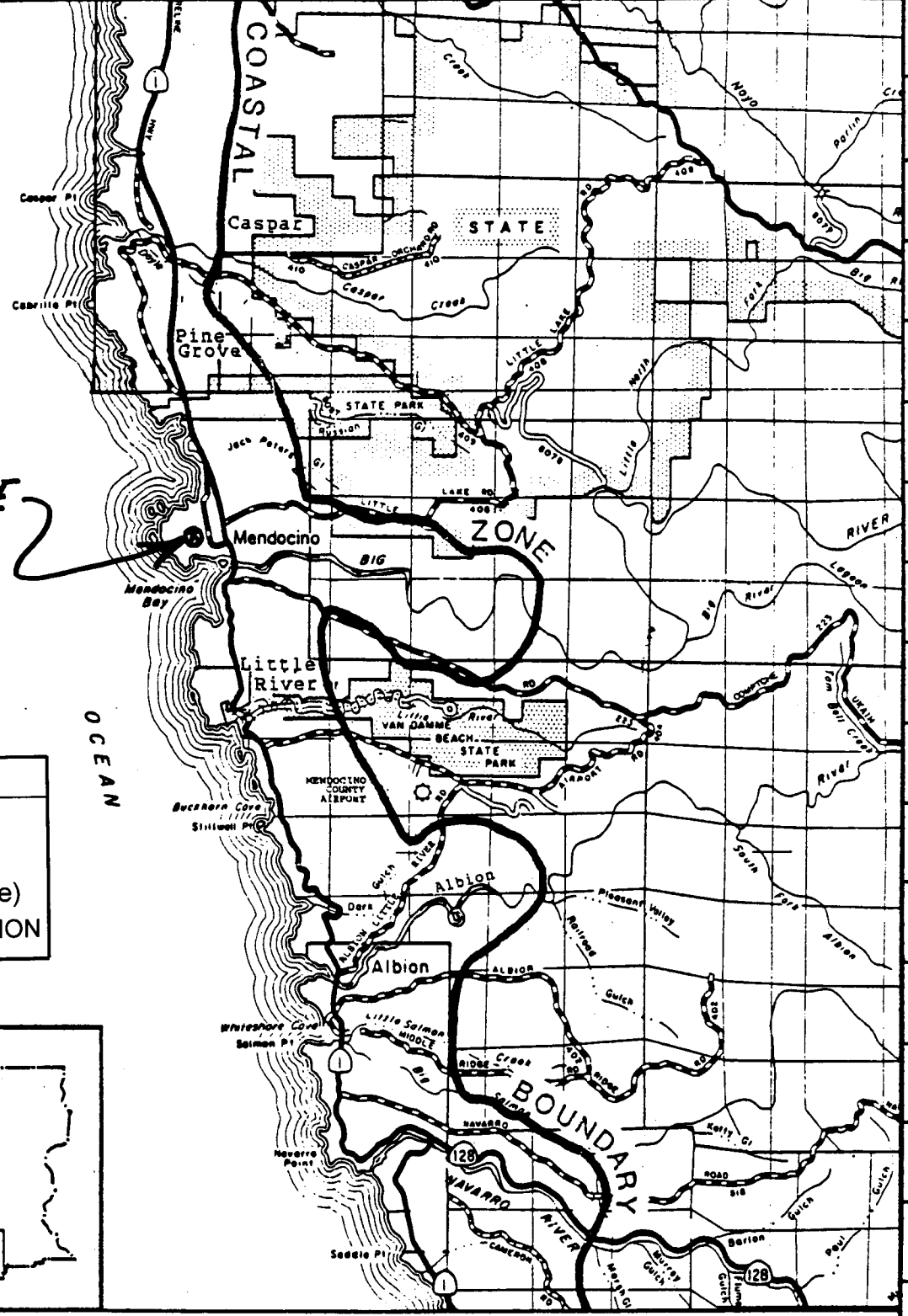
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PROJECT SITE

EXHIBIT NO. 1
APPEAL NO.
A-1-MEN-05-032
(MacCallum House)
REGIONAL LOCATION



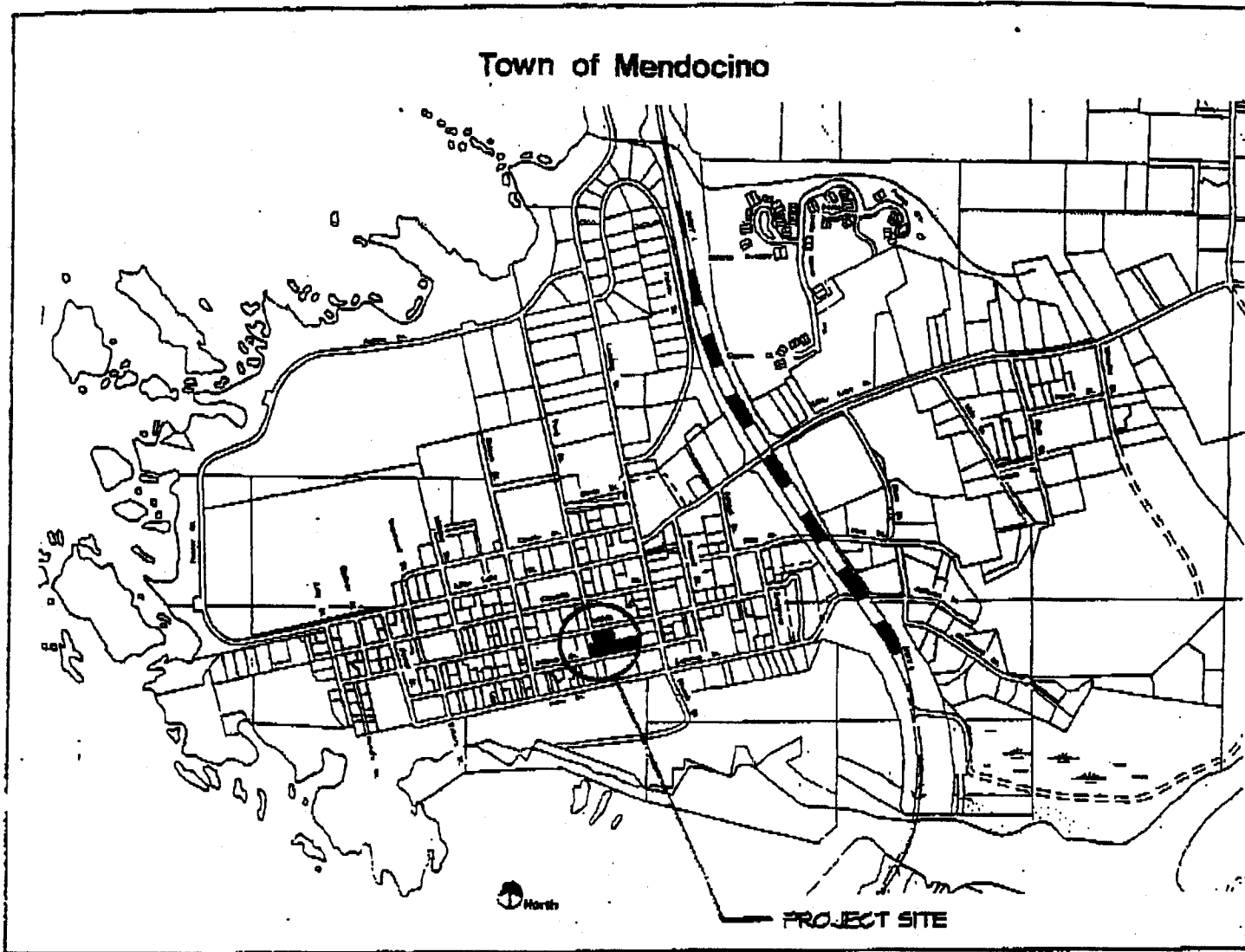
Mendocino



LOCATION MAP



Town of Mendocino



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LOCATION MAP



EXHIBIT NO. 2
APPEAL NO.
A-1-MEN-05-032
(MacCallum House)
VICINITY MAP

c

MacCALLUM HOUSE LLC

LOCATION MAP
SCALE: NONE



Mary Cesario Weaver
P.O. Box 1395
Mendocino, CA 95460
961-0937 or 357-2846
marvinmendo@hotmail.com

Bob Merrill
California Coastal Commission
North Coast District Office
P.O. Box 4908
Eureka, CA 95502-4908
445-7833 445-7877 fax

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COASTAL COMMISSION

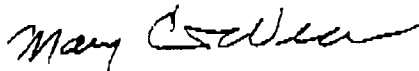
July 11, 2005

Dear Mr. Merrill,

Enclosed is my appeal of CDP #2-04, the staff report on this project, a list of code sections cited in my appeal and a letter from Wanda Traber in regards to this hearing.

Please do not hesitate to contact me if you have any questions or information for me about this appeal. I was present and spoke against this project at the June 23, 2005 hearing in Fort Bragg heard by Ray Hall, Mendocino County Coastal Permit Administrator.

Sincerely,



Mary Cesario Weaver

EXHIBIT NO. 3

APPEAL NO.

A-1-MEN-05-032

(MacCallum House)

APPEAL (Page 1 of 12)

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877

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APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT



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

SECTION I. Appellant(s)Name: MARY CESARIO WEAVERMailing Address: P.O. Box 1395City: MENOCINO, CAZip Code: 95460Phone: (707) 961-0937SECTION II. Decision Being Appealed

1. Name of local/port government:

MENOCINO COUNTY

2. Brief description of development being appealed:

CDP #2-04CONVERT EXISTING STORAGE SHED INTO A CATERING KITCHEN AND USE THE LAWN AREA TO PUT UP A 40' BY 60' (2,400 SQ. FT.) TENT ON WEEKENDS WHEN WEDDINGS ARE HELD.

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

IN THE COASTAL ZONE, IN THE TOWN OF MENOCINO (HISTORIC ZONE A), ON THE NORTH SIDE OF ALBION ST. (CR# 407D) AND THE SOUTH SIDE OF ULIATH ST. (CR# 407C), APPROXIMATELY 250' WEST OF THEIR INTERSECTIONS WITH LAWSING ST. (CR# 500), AT 45020 ALBION ST., AP # 119-236-10

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

- Approval; no special conditions
 Approval with special conditions:
 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: _____

DISTRICT: _____

2 of 12

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: 6-23-05

7. Local government's file number (if any): CAP # 2-04

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:

MACCALLUM HOUSE
NOAH STEPPARD + JEA AYRES
P.O. Box 206
MENDOCINO, CA 95460

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) SUSAN SMITH c/o JOHN CURRY P.O. Box 457 MENDOCINO, CA 95460
- (2) KATHLEEN CAMERON P.O. Box 438 MENDOCINO, CA 95460
- (3) WANDA TRABER P.O. Box 813 MENDOCINO, CA 95460
- (4) CLINTON SMITH P.O. Box 1761 MENDOCINO, CA 95460
- (5) KATHLEEN DONOVAN P.O. Box 393 MENDOCINO, CA 95460
- (6) IAN MAYENO P.O. Box 813 MENDOCINO, CA 95460

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.

SEE ATTACHED PAGES.

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.

Mary Coleman
Signature of Appellant(s) or Authorized Agent

Date: 7. 11. 05

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

Section VI. Agent Authorization

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

Signature of Appellant(s)

Date: _____

History: Prior to the purchase of the MacCallum House about two years ago by Noah Sheppard and Jed Ayers, the previous owners used the inside of the inn/restaurant/bar for the normal business activities associated with an inn. In the thirty years I have lived here, it was rare for any events to be held outside of the building itself. When they did have a special event, they closed the restaurant/bar to the general public. There is **no established history** of outdoor gatherings at the MacCallum House. It is a new use that the current owners are lobbying hard to continue.

In addition to wedding receptions, other activities now vigorously promoted by the new inn owners as "outdoor events" held in tents or under canopies at the inn include political candidates' fundraisers, music concerts, outdoor barbecues and other uses, most attended by between 100 and 500 people.

The inn would like to build a 2,400 square foot addition to their 2,600 sq. ft. inn, but the zoning laws prevent that, so instead a "2,400 sq. ft. tent" and/or 4 or 5 canopies are erected to shelter the participants.

Since they do not close the restaurant/bar/inn for these weekly events, they need an extra kitchen, recently installed in an accessory building, to serve the food and drinks to people at the outside event.

Although residential neighbors and business owners have complained for two years about these loud, boisterous activities, the Mendocino Historical Review Board, which grants permits for tents (but has never been asked about the canopies) has no jurisdiction over the "use" of the premises, only the "design" of structures.

At the CDP hearing on June 23, 2005, the Coastal Permit Administrator, Ray Hall, stated that in his opinion the county also has **no jurisdiction** over the use of the premises for these kind of activities.

The narrow alley, Albion Street, that the inn is located on, is virtually blocked for days at a time with large delivery trucks bringing in products not just for the restaurant and bar in the inn, but for the additional products used by the 100 to 500 people who attend the outdoor events; food, drinks, tents, canopies, portable toilets, musical and video equipment, portable wooden dance floors, tables, chairs, and so on.

The **cumulative impact of this intensification of use** is horrific. These kind of events should not be held outdoors. There are plenty of halls to rent in Mendocino with parking lots for these activities. **This intensification of use has a negative impact on the character of the special community of Mendocino.**

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Since it is Ray Hall's opinion that a CDP is not needed, the local fire department is not required to perform an inspection of the premises and the California Department of Forestry and Fire Protection does not require review of projects on parcels smaller than one acre for compliance with CDF fire standards. This highly congested narrow street, Albion Street, is further compromised during these activities when fire trucks or ambulances could not make their way down the alley to protect the health, safety and welfare of the citizens. **20.604.035(C)**

Precedent Setting: A neighbor in Mendocino, Ruth Schnell, who wanted to have outdoor events at her home a few blocks away was told a few years ago by the Mendocino County Board of Supervisors that she is limited to 2 outdoor events a year with tents and canopies for all of the reasons I have addressed in my statement. To permit the MacCallum House to have these perpetual, unlimited events would set a **new precedent** for all property owners in the Town of Mendocino to have the same events on their properties every day of the year.

Why policies and requirements make the project (CDP #2-04) inconsistent with the land use plan and the reasons why the decision warrants a new hearing:

The Town of Mendocino is the **only recognized special community** in the Local Coastal Plan.

30251. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance...New development shall be subordinate to the character of the setting. **This development is not.**

30253(5). New development shall protect special communities and neighborhoods... **This development does not.**

30116. Sensitive coastal resource areas include (e) special communities or neighborhoods and © highly scenic areas. **These coastal resources are impacted by this development.**

Title 20 Division III of the Mendocino Town Plan segment of the Coastal Element of the Mendocino County General Plan states:

Land use regulations are deemed necessary to preserve the character of the Town, allow for orderly growth by careful delineation of land uses, and protect Mendocino's status as a special community.

20.604.035(B) Where regulations overlap between this Division and between Divisions of Title 20 overlap, the regulation which, on balance, is **most protective of coastal resources shall take precedence.**

20.460.020(B) Duration. The period of operation for a temporary event shall not exceed 14 days in any 12 month period. The Coastal Administrator did not cite this section in his interpretation of the code yet it is the most protective of coastal resources and this special community. **20.604.035(B)**

20.460.020(C) Gatherings of 100 to 1,000 persons shall be required to obtain a CDP. The Coastal Administrator also did not enforce or require this section in his decision and it also is the most protective. **20.604.035(B) 20.604.035(C)**

Transportation and Circulation: The Coastal Administrator states the second kitchen and outdoor gatherings will not result in any change in traffic to the site and will have no impact on transportation or circulation. This is absolutely not true, as stated earlier. These events, this intensification of use, has an enormous negative impact on transportation, circulation, parking and on pedestrian traffic since there are no sidewalks on this narrow alley. **20.604.035(C)**...and the requirements shall be held to be the minimum requirements for the promotion and protection of the public safety, health and the general welfare. *

Accessory Buildings: 20.608.020(F) Accessory buildings shall not contain any sleeping quarters or kitchens. A permit should not have been granted for the kitchen. *

Cumulative Effect: 20.608.022(J) The frequency and crowds at these events on this property have created a cumulative effect on this special community and neighborhood.

Maximum Lot Coverage: 20.664.060 Maximum lot coverage at this site is 25% and with the tents and canopies goes over this limit. **20.608.031(13)** (Definition covers all structures) and **20.708.015** Temporary uses shall be subject to all regulations as would be applied to any use located in the same zone.

Protect public views to landmark structures as described in the Inventory of Historic Structures in the Appendix of the Mendocino Town Plan. **20692.020(B)** This development blocks public views of a number of surrounding landmark structures including the MacCallum House itself and the Red Baptist Church, a Category I landmark structure built in 1894.

Temporary Uses: If the activities for which this permit was approved are a temporary use (uncertain at this time) all temporary uses shall be subject to all regulations as would be applied to any use in the same zone, (which they are not complying with.) **20.708.015** The Coastal Administrator at the June 23, 2005 hearing wanted to split this permit in half at the time of the hearing and consider the issue of temporary events and tents separately at a later time. This was not done, however, and the permit was approved. Mr. Hall could not determine what a "temporary use" was or what any definition of "limited duration" meant or what the word "event" meant. Yet he determined that this project was excluded from CDP requirements and **20.708.020:** did not think the unique and changing circumstances on this property and its current intensification of use had the

potential for significant adverse impacts on coastal resources, and the special community of the Town of Mendocino.

Although one definition says "limited duration" means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis, Mr. Hall said in so many words that each event is not the same as the one before it, so therefore are not consecutive unless the same couple repeats their wedding vows twice within a four month period, which is an outrageous and insulting interpretation of the code.

I asked Mr. Hall to check with county counsel for an interpretation (as I have for over two years) with no reply from counsel or Frank Lynch, the chief county planner, who I personally wrote a four page letter to on this issue in February of 2005.

In addition, Mr. Hall **did not cite 20.460.020(B) duration shall not exceed 14 days in any 12 month period or 20.460.020(C) permit shall be required for gatherings of 100 to 1,000 persons. 20.604.035(B) and when there is a conflict in divisions, the most protective of coastal resources, special community, shall take precedence.**

In his findings, Mr. Hall also said the use did not require any permits because it has not historically been required to obtain a permit or to monitor the associated impacts. This is simply not true. As stated in the introduction, this is a **"new use, an intensification of use with negative cumulative impacts"** and those impacts have been entered into the record by neighbors and businesses in the neighborhood for over two years with no resolution. The MHRB says it cannot rule on use and neither can the county according to Ray Hall. The neighbors have stated in the record that the use is a **nuisance.**

Zoning: This project does not comply with the zoning requirements for the Mendocino Commercial District. It exceeds the lot coverage.

Findings: 1. The proposed development is **not** in conformity with the certified LCP.

2. The proposed development is **not** provided with an adequate access road.

3. The proposed development is **not** consistent with the purpose and intent of the zoning district applicable to the property as well as all other provisions of Division III of the Mendocino County Code and does **not** preserve the integrity of the zoning district.

4. Other public services, including but not limited to public roadway capacity for private vehicles, fire trucks, and ambulances; fire hazards, transportation, circulation, parking, pedestrian safety, health, safety and general welfare of the public and proof of adequate water supply have **not** been adequately addressed and are **not** adequate to serve the proposed development.

Enclosures: Staff report 6/23/05 Letter from Wanda Traber

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Appeal from Coastal Permit Decision of Local Government CDP #2-04
Heard before Coastal Permit Administrator Ray Hall on June 23, 2005

JUL 1 4 2005

List of code sections cited in my statement for easy reference: (3 pages)

CALIFORNIA
COASTAL COMMISSION

Special communities: The Town of Mendocino is the only recognized special community in the Local Coastal Plan. (Mendocino County General Plan Coastal Element 3.5)

30251. "The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance.....New development shall be subordinate to the character of its setting."

30253(5). "New development shall protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses."

30106. "Development" means, on land, in or under water, the placement or erection of any solid material or structure.....change in the density or intensity of use of land....change in the intensity of use of water....."

"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground....Section 20.608.038(33) Mendocino County Zoning Code Town of Mendocino Title 20-Division III of the Mendocino County Code

30116. "Sensitive coastal resource areas" include (e) special communities or neighborhoods and © highly scenic areas.

This Division is adopted pursuant to Title 7 of the Government Code and Section 30500 et. seq. of the California Public Resources Code to implement the Mendocino Town Plan segment of the Coastal Element of the Mendocino County General Plan; to prescribe land use regulations for the Town of Mendocino deemed necessary to preserve the character of the Town; to allow for orderly growth by careful delineation of land uses, provision of community services and review of development proposals; to protect Mendocino's status as a special community, significant coastal resource, and a historic residential community; and to supplement the policies of Division II. Section 20.604.010 Necessity and Purpose of Title 20-Division III.

20.604.015 All development shall conform to all regulations applicable to the zone in which the land is located. No land, building, structure or premises shall be used for any purpose or in any manner other than as is permitted in the zone in which such land, building, structure or premise is located.

20.604.035(B) Where regulations overlap within this Division and between Divisions of

10 of 12

Title 20 overlap, the regulation which, on balance, is most protective of coastal resources shall take precedence.

20.604.035(C) In interpreting and applying the provisions of this Division, the Mendocino Town Plan and Chapter 3 of the California Coastal Act (PRC Sections 30210 through 30263) shall guide its interpretation, and the requirements shall be held to be the minimum requirements for the promotion and protection of the public safety, health and the general welfare.

20.608.005 Definitions contained in the Uniform Building Code shall be applicable except when in conflict with definitions contained in this Division, in which case the Division definition shall prevail.

20.608.010(C) "Shall" is always mandatory and not discretionary.

20.608.020(F) "Accessory Building" means a detached subordinate structure, the use of which is incidental to the established primary use or main structure located on the same lot or building site..... Accessory buildings shall not contain any sleeping quarters or kitchen facilities.

20.608.030(B) "Kitchen" means any room or portion of a building used or intended or designed to be used for cooking or the preparation of food, whether the cooking unit be permanent or temporary and portable, including any room having a sink and cooking stove that has a flat top with plates or racks to hold utensils over flames or coils.

20.608.022(J) "Cumulatively" or "Cumulative Effect" means the incremental effects of an individual project in connection with the effect of past projects, the effects of other current projects, and the effects of reasonably foreseeable probable future projects.

20.608.031(13) "Lot Coverage" means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, porches and walkways; excluding uncovered required parking areas, landscaping, patios and terracing."

20.664.060 Maximum lot coverage for MC Districts is 25%.

20.692.020(B) All applications for new development shall be reviewed for consideration of requiring dedicated scenic easements (4) to protect public views to landmark structures as described in the Inventory of Historic Structures in the Appendix of the Mendocino Town Plan.

20.708.015 Temporary Uses shall be subject to all regulations as would be applied to any use located in the same zone, except as provided by these regulations. All temporary uses must comply with Chapter 20.760.

20.708.020 Entertainment Events, Other Large Public Gatherings or other Temporary

Events. The purpose of this section is to identify the standards the Department of Planning and Building Services, under the direction of the Director, will use in determining whether a temporary event is excluded from coastal development permit requirements.

The Director may determine that a temporary event is subject to a CDP review if the Director determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources.

Such circumstances may include (2) that the event and its associated activities or access requirements will either directly or indirectly impact significant scenic resources (Special Community) or other coastal resources as defined in Subsection (D)(5) visitor and recreational facilities. (3) The event would restrict public use of parking areas to the extent that it would significantly impact public recreation areas or public access to coastal waters or (4) The event has historically required a CDP to address and monitor associated impacts to coastal resources.

D(1) "Temporary event" means an activity or use that constitutes development (30106 or Section 20.608.023 (same definition, see above), is an activity or function of limited duration and involves the placement of non-permanent structures.

D(2) "Limited duration" means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.

D (3) "Non-permanent structures" include but are not limited to bleachers, perimeter fencing, vendor tents, canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, etc., which do not involve grading or landform alteration for installation.

D(5) "Coastal resources" include visitor and recreational facilities.

Title 20 Division III supplements Title 20 Division II (see above) and when the two are in conflict, the division with the regulation that is most protective of coastal resources shall take precedence. 20.604.035(B)

20.460.020(B) Duration. The period of operation for a temporary event shall not exceed 14 days in any 12 month period.

20.460.020(C)1 Gatherings of 100 to 1,000 persons shall be required to obtain a CDP.

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RECEIVED

JUL 07 2005

CALIFORNIA
COASTAL COMMISSION

July 5, 2005

NOTICE OF FINAL ACTION

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

CASE#: CDP #02-04
OWNER: MacCallum House LLC
APPLICANT: Noah Sheppard & Jed Ayres
REQUEST: Convert existing storage shed into a catering kitchen and use the lawn area to put up a 40' by 60' tent on weekends when weddings are held.
LOCATION: In the coastal zone, in the Town of Mendocino (Historic Zone A), on the north side of Albion St. (CR# 407D) and the south side of Ukiah St. (CR# 500), at 45020 Albion St., AP# 119-236-10 & 12.
PROJECT COORDINATOR: Charles N. Hudson

HEARING DATE: June 23, 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. 4

APPEAL NO.

A-1-MEN-05-032

(MacCallum House)

NOTICE OF FINAL ACTION

(Page 1 of 11)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP 02-04 HEARING DATE: 6/23/05

OWNER: MacCallum House (Sheppard/Ayres)

ENVIRONMENTAL CONSIDERATIONS:

- Categorically Exempt
- Negative Declaration
- EIR

FINDINGS:

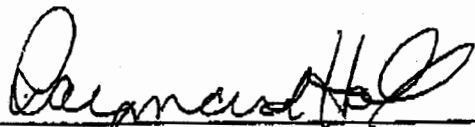
- Per staff report
 - Modifications and/or additions
-
-
-

ACTION:

- Approved
- Denied
- Continued _____

CONDITIONS:

- Per staff report
 - Modifications and/or additions
-
-
-



Signed: Coastal Permit Administrator

**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 2-04
June 23, 2005
CPA-1**

OWNER: MacCallum House LLC
P. O. Box 206
Mendocino, CA 95460

APPLICANT: Noah Sheppard & Jed Ayres
P. O. Box 206
Mendocino, CA 95460

REQUEST: Convert existing storage shed into a catering kitchen and use the lawn area to put up a 40' by 60' tent on weekends when weddings are held.

LOCATION: In the coastal zone, in the Town of Mendocino (Historic Zone A), on the north side of Albion St. (CR# 407D) and the south side of Ukiah St. (CR# 407C), approximately 250 feet west of their intersections with Lansing St. (CR# 500), at 45020 Albion St., AP# 119-236-10 & 12.

APPEALABLE AREA: Yes (Special Community) **RECEIVED**

PERMIT TYPE: Standard **JUN 15 2005**

TOTAL ACREAGE: 0.7± acre **CALIFORNIA
COASTAL COMMISSION**

GENERAL PLAN: C (Commercial)

ZONING: MC * (Mendocino Commercial with visitor-serving facilities combining district)

EXISTING USES: MacCallum House Inn and Restaurant

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically Exempt – Class 3(e)

OTHER RELATED APPLICATIONS: Numerous permit applications have been submitted in conjunction with the MacCallum House property. The permits listed below are those related to the present coastal development application, CDP 2-04.

MHRB Permit No. 03-06, submitted 2/11/03, approved 4/7/03, issued 4/18/03, for (in part) enclosing the two open sides of a storage shed with redwood siding to match existing.

Building Permit No. 2003-0669, submitted 7/1/03, revised 8/21/03, issued 8/28/03, not finalized, for enclosing an existing storage area. The initial application showed a kitchen, and was not approved because it would have been a change in use. The application was revised to show only dry storage and a refrigerator.

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**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 2-04
June 23, 2005
CPA-2**

CDP 2-04 (this application) was submitted 1/23/04 for the catering kitchen.

MHRB Permit No. 04-09, submitted 3/15/04, approved 5/3/04, issued 5/14/04, for new exterior siding, new doors, and a wall-mounted vent fan for the catering kitchen. At the hearing it was determined that the roof on the remodeled building was too high and was required to be lowered.

Building Permit No. 2004-0138, submitted 2/12/04, issued 2/12/04, not finalized, for adding an electrical sub-panel in an existing storage building.

MHRB Permit No. 04-28, submitted 6/22/04, approved 7/12/04, and issued 7/22/04, for a ventilation fan for a commercial range in the catering kitchen. The fan is to be recessed into a copper-lined well in the roof.

MHRB Permit No. 04-46, submitted 9/22/04, approved 10/4/04, and issued 10/15/04, allowing the copper enclosure of the fan approved by MHRB 04-28 to be changed to unfinished redwood siding.

A violation fee was collected for CDP 2-04 on 11/4/04 after it was determined that the kitchen had been partially installed and was in use.

Use of a 40' by 60' tent in conjunction with events on the MacCallum House property has been repeatedly approved by MHRB. Following is a list of MHRB Permits issued within the last three years, the hearing dates, and the dates approved for tent use. For some events the tent may be erected on the day preceding the approved dates of use, and/or removed on day following the approved dates of use.

MHRB #03-50	9/8/03	Sept. 26-27, 2003; Oct. 18, 2003; and Nov. 15-16, 2003.
MHRB #04-09	5/3/04	June 18-19, 2004; Aug. 20-21, 2004.
MHRB #04-21	6/7/04	June 25-26, 2004; Aug. 3, 2004; Aug. 7-8, 2004.
MHRB #04-39	8/23/04	Sept. 3-5, 2004; Sept. 16-18, 2004; Sept. 24-25, 2004; Oct. 1-2, 2004; Oct. 8-10, 2004; Nov. 5-6, 2004.
MHRB #05-16	4/4/05	April 23, 2005; May 14, 2005; June 4, 2005; July 16, 2005; Sept. 3, 2005; Sept. 24, 2005; Oct. 8-9, 2005; Oct. 15, 2005; Oct. 22, 2005.

PROJECT DESCRIPTION: The applicants have enclosed an existing 184 square foot wood storage shed and combined it with an adjacent 153 square foot storage building to create a 337 square foot storage building. They are requesting a coastal development permit to allow the use of the storage building to be changed to an auxiliary catering kitchen. The kitchen will contain a walk-in refrigeration unit, two 6-burner commercial ranges with a vent hood above, a dishwasher, three sinks, drainboards, counters, a stainless steel work table, and dry storage shelving. In 2003 the applicant obtained an MHRB permit and building permit to close in the open wood storage shed. In 2004, after CDP 2-04 was submitted requesting conversion of the building to a catering kitchen, a building permit was obtained to extend electrical service to the building, and MHRB permits were obtained for exhaust fans and other exterior alterations to the building. Toward the end of 2004 it was determined that the kitchen was in use, and a violation fee was imposed for CDP 2-04, to include legitimizing the unauthorized change in use.

The application also includes a request to allow the use of a 40' by 60' tent on dates, usually weekends, when weddings and other temporary events are held.

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STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 2-04
June 23, 2005
CPA-3

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 parcel is classified on the Town of Mendocino Land Use Map as Commercial; and is zoned Mendocino Commercial with the Mendocino Visitor-Serving Facilities Combining District (MC*). The property is the site of the MacCallum House, a hotel, restaurant and bar recognized in the Town Plan (Table 4.13-1) and the Town Zoning Code (Section 20.684.025) as an existing 21 unit visitor-serving facility. The MacCallum House has an established history of hosting weddings and other outdoor gatherings. Weddings and similar gatherings are a permitted accessory use, and the proposed catering kitchen is a permitted accessory structure, as provided by Chapter 20.704 (Accessory Use Regulations) of the Mendocino Town Code. Permanent accessory structures such as the catering kitchen are subject to approval of a coastal development permit (Section 20.704.010 (B)), while temporary events and temporary structures such as a tent are exempt (Section 20.708.020 (C) and (D)).

Section 20.708.020 (C) of the Mendocino Town Code states:

(C) Criteria for Requiring a Coastal Development Permit. Except as described below, temporary events are excluded from coastal development permit requirements.

The Director may determine that a temporary event is subject to coastal development permit review if the Director determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include the following:

(1) The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;

(2) The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Subsection (D) below;

(3) The event would restrict public use of parking areas to the extent that it would significantly impact public recreation areas or public access to coastal waters;

(4) The event has historically required a coastal development permit to address and monitor associated impacts to coastal resources.

Section 20.708.020 (D) of the Mendocino Town Code states:

(D) Definitions. For purposes of this section, the following definitions shall apply.

(1) "Temporary event(s)" means an activity or use that constitutes development as defined in Section 20.608.023 of the Mendocino Town Zoning Code; and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, street,

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 2-04
June 23, 2005
CPA-4

or parking area which is otherwise open and available for general public use;

(2) "Limited duration" means a period of time which does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis;

(3) "Non-permanent structures" include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, etc., which do not involve grading or landform alteration for installation;

(4) "Exclusive use" means a use that precludes use in the area of the event for public recreation, beach access, or access to coastal waters other than for or through the event itself;

(5) "Coastal resources" include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources;

(6) "Sandy beach area" includes publicly owned and privately owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.

Weddings and the associated use of temporary tents at the MacCallum House do not preclude the public from use of a public recreational area, do not impact environmentally sensitive habitat areas or other coastal resource areas, do not restrict parking that would impact to public access to recreation areas or coastal waters, and has not historically required a coastal development permit. Consequently, approval of a coastal development permit is not required for temporary events such as weddings and the associated use of temporary tents at the MacCallum House,

The use of tents in conjunction with temporary events in Mendocino is an issue that has generated some controversy in the Town. The matter was on the MHRB agenda for the October 4, 2004, meeting and several people spoke and/or submitted correspondence in opposition to frequent use of tents. The MHRB considered various alternative means of regulating the use of tents, ranging from unlimited use of tents during certain months of the year to only allowing the use of tents for a specified (small) number of events per year. The Board decided to continue with the current policy, which requires MHRB approval of any dates on which tents are to be used, but does not restrict the number of applications that can be submitted or the number of dates that can be requested. As noted above, the MacCallum House has received approval of several MHRB permits for use of tents in conjunction with temporary events, each permit including two or more events. Also, as noted above, temporary events and associated temporary structures such as tents are exempt from the need to obtain approval of a coastal development permit, and therefore are not evaluated for approval in this report. The use of temporary tents does require approval by the MHRB.

No setbacks are required from property lines in the MC zone. The catering kitchen will be installed within an existing structure, and will not affect any existing setbacks. The proposed development complies with setback requirements.

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**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

CDP# 2-04
June 23, 2005
CPA-5

The maximum building height allowed in an MC zone is two stories, and at no point on the parcel more than 28 feet. The drawings submitted with the application show the building to be in compliance, having a maximum height of 12 feet.

Section 20.648.050 of the Mendocino Town Zoning Code limits lot coverage to a maximum of 25%. Lot coverage includes structures, decks, porches and walkways, but does not include uncovered required parking areas, landscaping, patios and terracing. No new lot coverage is proposed.

Growth Management: Policy 4.13-1 of the Mendocino Town Plan states that the controlling goal of the Plan is the preservation of the town's character, which shall be achieved by maintaining a balance between residential units, visitor accommodations, and commercial uses. On the Land Use Map for the Town, the MacCallum House parcel is classified as Commercial, and the MacCallum House is listed in the Plan as one of the Town's visitor-serving facilities. The project will not add any new visitor units to the site and will not alter the balance between residential, visitor, and commercial uses in the Town.

Design Guidelines: Policy 4.13-8 of the Mendocino Town Plan specifies that the Historical Preservation District Zoning Ordinance shall be made a part of the Town Zoning Code, and that development within the Town shall continue to be reviewed by the Mendocino Historical Review Board. Policy 4.13-9 requires that development be consistent with adopted design review guidelines. The Historical Preservation District Ordinance is included in the Town Zoning Code as Chapter 20.760, which also includes design standards for use when considering applications within the Town of Mendocino.

The project entails closing in an existing open shed and combining it with an adjacent shed and converting the combined structure to a catering kitchen. Redwood siding matching existing siding on the building was used on the new exterior walls, and black composition shingles were used for the roof. A solid door was replaced with a door with divided windows, and a second matching door was added.

The project is located in Historic Zone A of the Mendocino Historical Preservation District, and therefore the alterations to the storage sheds to accommodate the catering kitchen are subject to review and approval by the MHRB. As noted above under Other Related Applications, the MHRB has reviewed and approved various aspects of the proposed conversion of the storage buildings into a catering kitchen. On April 7, 2003, the enclosure of the open woodshed was approved. On May 3, 2004, an approval for new siding, new doors, and a wall-mounted fan was granted, and the Board determined that the roof had been constructed higher than permitted and required that it be lowered. On July 12, 2004, another vent fan was approved, and on October 4, 2004, the vent fan enclosure was allowed to be changed from copper to redwood. As required by Section 20.760.065 of the Mendocino County Zoning Code, the MHRB found that the exterior appearance and design of the proposed structure would be in harmony with the exterior appearance and design of existing structures within the District; and that the appearance of the proposed work will not detract from the appearance of other property within the District; and that the alteration of the existing structure will not unnecessarily damage or destroy a structure of historical, architectural or cultural significance.

Visual Resources: The exteriors of the remodeled sheds have not changed appreciably. Visual resource issues were addressed by the MHRB as discussed above, and found to be in compliance with the requirements of both the Historical Preservation District design standards, and the Local Coastal Plan.

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**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 2-04
June 23, 2005
CPA-6**

Public Access: The project site is located west of Highway 1, but east of Heezer Drive, designated as the first public road paralleling the shoreline. Consequently the project will have no impact on public access to the shoreline.

Hazards: The project site is within a State Responsibility Area administered by the California Department of Forestry and Fire Protection, and has a moderate fire hazard severity rating as determined by CDF. CDF does not require review of projects on parcels smaller than one acre for compliance with CDF fire safe standards. There are no other apparent hazards associated with the site.

Natural Resources: The project site has been previously developed. No impact to natural resources is anticipated.

Archaeological/Cultural Resources: The project site is not close to streams or the ocean, and is not an area where archaeological and/or cultural resources are deemed likely to be found. Standard Condition Number 8 is recommended, advising the applicant of the requirements of the County's Archaeological Ordinance (Chapter 22.12 of the Mendocino County Code) in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

Groundwater Resources: The Coastal Ground Water Study prepared in 1982 by the Department of Water Resources shows the parcel to be in an area designated as "Critical Water Resources". The project is within the Mendocino City Community Services District. Water is provided by an on-site well, while sewer service will be provided by the District. The District reviewed the application and submitted the following comments:

The MacCallum House parcels have established A Groundwater Allotment with the MCCSD in the amount of 6,649 gallons per day.

The MCCSD has determined that the catering kitchen is an expansion of the existing kitchen facilities, and the District believes that the use of an outside catering kitchen for special events would not increase the applicant's existing groundwater extraction allotment established for current use.

No adverse impact to groundwater resources is anticipated.

Transportation/Circulation: The property is the site of the MacCallum House, a hotel, restaurant and bar, which has an established history of hosting weddings and other outdoor gatherings. The auxiliary kitchen for providing food service to outdoor gatherings will not result in any change in traffic to the site, and will have no impact on transportation or circulation. Weddings and similar gatherings are a permitted accessory use as provided by Chapter 20.704 of the Mendocino Town Code. They are also exempt from the need to obtain approval of a coastal development permit by Chapter 20.708.020, and could occur with or without the proposed kitchen and tent. The Mendocino County Department of Transportation reviewed the application and had no comment on the project.

Public Health and Safety: The auxiliary kitchen will be used to provide food service to the public, and consequently is subject to the provisions of the California Uniform Retail Food Facility Law, as administered by the Mendocino County Division of Environmental Health. The application was reviewed by Thomas Worley, REHS, who found the plans to be acceptable, and made the following request of the applicant:

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**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 2-04
June 23, 2005
CPA-7**

Please contact me at least 2 weeks before you plan to operate, to schedule a preopening inspection. All the equipment must be installed and operating for the preopening inspection. You may want a consultation inspection before the preopening inspection to avoid any delays.

Standard Condition Number 4 requires that all required permits from other agencies having jurisdiction be obtained.

Zoning Requirements: The project complies with the zoning requirements for the Mendocino Commercial (MC) District set forth in Chapter 20.664, and with all other zoning requirements of Division III of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.720 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt 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 zoning district applicable to the property, as well as all other provisions of Division III of the Mendocino County Code, 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, public roadway capacity, and proof of an adequate water supply pursuant to Chapter 20.744 have been considered and are adequate to serve the proposed development; and
7. The proposed development is in conformance with the design standards of Section 20.760.050.

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.

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**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 2-04
June 23, 2005
CPA-8**

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 III 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. This 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 the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be 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.

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STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 2-04
June 23, 2005
CPA-9

SPECIAL CONDITIONS:

1. None

Staff Report Prepared By:

June 13, 2005
Date

Charles N. Hudson
Charles N. Hudson
Senior Planner

Attachments: Exhibit A- Location Map
Exhibit B- Site Plan
Exhibit C- Floor Plans
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.

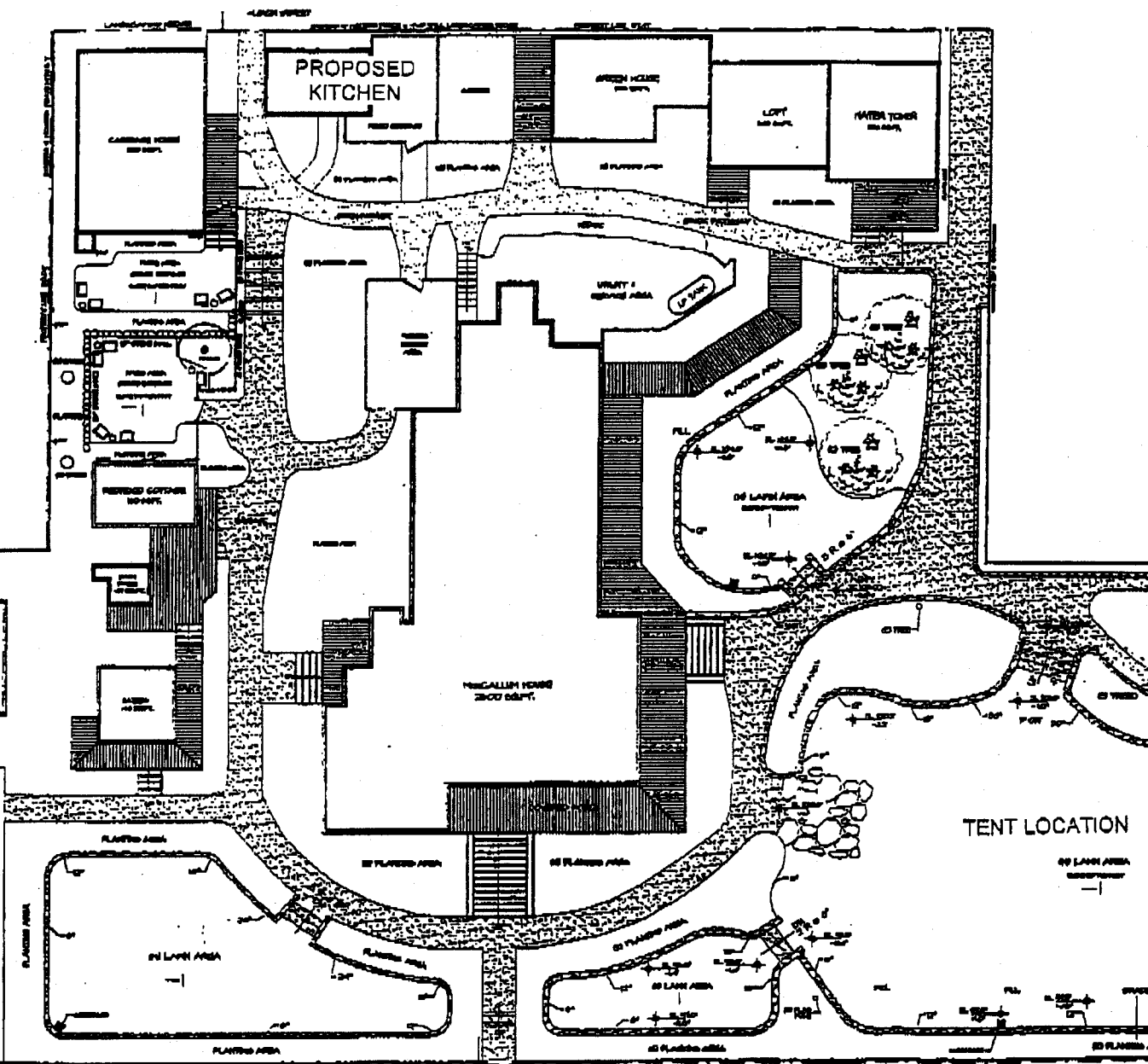
Appeal Fee: \$715 (For an appeal to the Mendocino County Board of Supervisors.)

SUMMARY OF REFERRAL AGENCY COMMENTS:

Department of Transportation	No comment.
Environmental Health – Fort Bragg	Please refer to Tom Worley, REHS with DEH in Ukiah.
Environmental Health – Ukiah	3/11/04: Plans incomplete. 6/29/04: Revised plans accepted. Preopening inspection required two weeks prior to opening for operation.
Building Inspection – Fort Bragg	No comment.
Assessor	No response.
Coastal Commission	No response.
MHRB	Must comply with requirements of Section 20.760.065.
MCCSD	The proposed catering kitchen will not require an increase in the applicant's groundwater extraction allotment.

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UKIAH STREET



TENT LOCATION

ALBION STREET

EXHIBIT NO. 5
APPEAL NO.
A-1-MEN-05-032
(MacCallum House)
PROJECT PLAN

MacCALLUM HOUSE LLC

SITE PLAN
SCALE: NONE

