

CALIFORNIA COASTAL COMMISSION

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

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



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49th Day: July 29, 2005
180th Day: December 7, 2005
Staff: Tiffany S. Tauber
Staff Report: September 28, 2006
Hearing Date: October 13, 2006
Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-94-113-A3**

APPLICANT: **Paul Kaufman & Myra Saunders**

APPLICANTS' AGENT: Ed McKinley

PROJECT LOCATION: On a blufftop lot west of Highway One, approximately one mile north of Albion, at 4330 North Highway One, Mendocino County (APN 123-010-20)

DESCRIPTION OF PROJECT
ORIGINALLY APPROVED
(NCR-77-CC-415): Construction of a 2,000-square-foot, 16-foot-high, one-story, single-family residence with a garage, barn, water storage tank, well, and septic system.

DESCRIPTION OF
AMENDMENT NO. 1
(1-94-113-A): Construct a 5.5-foot-high, 670-foot-long periphery fence along the north and east property boundaries.

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**DESCRIPTION OF
AMENDMENT NO. 2**

(1-94-113-A2):

(1) Relocate the house site approximately 450 feet to the west near the bluff edge; (2) construct an enlarged and redesigned 18-foot-high house of 3,557 square feet; and (3) substitute a 625-square-foot, 23-foot-high guest cottage for the approved 600-square-foot, 12-foot-high barn and relocate it to a new site. This permit amendment was conditioned to require the house to be relocated toward the east end of the property. This amendment was never accepted by the applicants and has since expired.

**DESCRIPTION OF PROPOSED
AMENDMENT NO. 3**

(1-94-113-A3):

(1) Relocate the house site toward the northern property boundary outside of the wetland and wetland buffer area, (2) modify the design of the approved residence to construct an approximately 3,416-square-foot single-family residence with a 596-square-foot attached garage, entry path and decks, (3) abandon the existing septic system and well in place and install a new septic system and well, (4) install pump house, propane tank, water storage tank, and generator, (5) relocate a portion of the existing gravel driveway, (6) install underground utilities, and (7) install two benches within the 25-foot-wide lateral public access easement along the bluff edge for public use.

GENERAL PLAN DESIGNATION:

Rural Residential – 10-acre minimum (RR-10)

SUBSTANTIVE FILE DOCUMENTS:

CDP No. NCR-77-CC-415 (Roberts); CDP Amendment No. 1-94-113-A; CDP Amendment No. 1-94-113-A2; Mendocino County LCP

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions the requested amendment to the coastal development permit on the basis that, as conditioned, the proposed development with the proposed amendment is consistent with the certified Mendocino County Local Coastal Program and the public access and recreation policies of the Coastal Act. The principle issues raised by the proposed amendment are potential impacts to environmentally sensitive wetland and rare plant habitat and visual resources. Staff recommends a number of special conditions to address these issues.

The project site is an eight-acre blufftop lot located west of Highway One approximately one mile north of Albion at 4430 North Highway One (APN 123-010-020). The property is located approximately 500 feet south of Dark Gulch and the Heritage House, a prime visitor-serving destination along the Mendocino coast. The subject parcel is located within an area designated in the LUP as “highly scenic.”

The originally approved permit for construction of a single-family residence and associated accessory structures was approved by the Commission in 1977 (NCR-77-CC-415, Roberts) with several conditions intended to address visual and public access issues, including a condition requiring recordation of an offer to dedicate a lateral and vertical public access easement. The offer to dedicate was recorded in 1978 and the permit was issued in 1979. The driveway, septic system and well were constructed, thereby vesting the permit, but the house and barn were never built. In 1995, the Executive Director approve an immaterial amendment to authorize construction of a fence along the north and east property lines.

At the time the original permit was approved in 1977, no wetland survey had been done. A subsequent site survey revealed the presence of the 1.6-acre wetland area on the property and the approved house was sited directly adjacent to the wetland with portions of the development encroaching into the wetland and wetland buffer, including the septic system and well. A further botanical survey determined that the wetland supports several populations of swamp harebell (*Campuanula californica*), a CNPS List 1b species, indicating it as rare, threatened, or endangered in California and elsewhere. Several populations of fringed-false hellebore (*Veratrum fimbriatum*) were also identified within the wetland area. This species is a CNPS List 4 species, indicating it is on a watch list for species with limited distribution.

In October 1997, the Commission approved a second amendment to the original permit (CDP No. 1-94-113-A2). This amendment request sought to relocate the house and accessory structure from a site 540 feet west of the eastern property boundary to a site approximately 30 feet from the bluff edge, where it would be prominently visible from the nearby Heritage House. In its action on CDP No. 1-94-113-A2, the Commission

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found that were the house to be built at the proposed site near the bluff edge, the house would be the only residence visible on the open headland from numerous locations on the Heritage House property, and thus would not be visually compatible with or subordinate to the character of its setting. The Commission further found that although proposed berming and landscaping would screen the house from view, the berming and landscaping would still be visible from public viewing areas and would not be subordinate to the character of the natural setting. Instead of appearing as an open, flat, grassy coastal terrace, the Commission found that the view of the terrace would be dominated by a tree-covered berm, which would be unlike any other feature within that landscape. The Commission approved the amendment with a condition requiring the house site to be relocated away from the bluff edge to a location near the eastern property boundary to avoid significant adverse impacts on visual resources, public access, and wetland ESHA. The applicants chose not to accept this amendment and the approved amendment expired and is no longer valid.

The applicants do possess a valid coastal permit to construct the originally approved development. However, as the originally approved residence and associated development would be sited directly adjacent to wetland and rare plant ESHA and portions of the development would encroach into wetlands, the applicants propose the current amendment that would locate the house in the same general central vicinity of the parcel with the same western extent as the originally approved residence, but the house would be relocated further north and redesigned in a manner that would locate all development outside of wetlands and rare plant habitat and provide a 50-foot buffer from the edge of the ESHA.

Specifically, the current amendment request seeks to (1) relocate the house site toward the northern property boundary outside of the wetland and wetland buffer area, (2) modify the design of the approved residence to construct an approximately 3,416-square-foot single-family residence with an attached 596-square-foot garage, entry path and decks, (3) abandon the existing septic system and well in place and install a new septic system and well, (4) install a pump house, propane tank, water storage tank, and generator, (5) relocate a portion of the existing gravel driveway, (6) install underground utilities, and (7) install two benches within the 25-foot-wide lateral public access easement along the bluff edge for public use.

The applicants' biologist provided an updated biological evaluation that substantiates that a 50-foot buffer is adequate to protect the wetland and rare plant ESHA based on the seven standards for establishing buffer widths set forth by the County's LCP. Based on this analysis, staff believes that the 50-foot buffer would be adequate to ensure the protection of the wetland and rare plant habitat from significant degradation resulting from the development, and to ensure the continuance of the ESHA consistent with the LCP ESHA policies.

To ensure that the proposed 50-foot buffer is established, staff recommends Special Condition No. 8 that requires the wetland and rare plant area to be restricted as open space and prohibits development from occurring within the area of wetland and rare plant habitat, or within the 50-foot buffer area as measured from the outer edge of the ESHA.

The established open space and buffer areas will remain undeveloped areas of high infiltration capability that will minimize the amount of runoff potentially reaching the wetland ESHA. However, to further ensure that drainage structures are not directed to the ESHA and to ensure the protection of the quality and biological productivity of the ESHA by minimizing the volume of stormwater runoff that could potentially drain to the ESHA, staff recommends Special Condition No. 9 that requires the applicant to submit an erosion and runoff control plan demonstrating that the runoff from the site is collected and directed away from the ESHA and requires implementation of erosion control measures. Recommended Special Condition No. 10 would require all ground disturbing work to be performed and completed during the non-rainy season between May 1 and October 15 to further minimize erosion and sedimentation. Recommended Special Condition No. 11 would require the temporary placement of a construction barrier along the entire length of the 50-foot buffer line to protect the wetland and rare plant habitat during construction from encroachment and intrusion by equipment, vehicles, and materials.

Furthermore, staff recommends Special Condition No. 13 that requires only native and/or non-invasive plant species be planted at the site to avoid the introduction of invasive exotic plant species that could spread into the ESHA and displace native wetland vegetation and rare plants, thereby disrupting the value and function of the ESHA.

Staff further recommends several special conditions to ensure the project's consistency with the visual resource protection policies of the LCP applicable to designated "highly scenic" areas. The subject parcel does not abut Highway One, as there is an intervening parcel between the subject lot and the highway and views of the site from Highway One are quite limited. However, as discussed in the findings for the original permit, the subject property is partially visible from the nearby Heritage House Inn. Although the Heritage House is privately owned, in past permit actions, the Commission has found views from the Heritage House to be coastal views from a public area as contemplated by the LCP, as the historic Heritage House is a heavily visited, unique visitor-serving facility that serves the public.

The majority of the proposed amended residence would be located in line with, and directly south of, an existing residence and landscaping on the adjacent parcel to the north, which would largely block views of the proposed amended residence from the Heritage House. A portion of the proposed amended residence would extend further westward beyond the existing residence. However, this portion of the proposed amended residence is oriented at a south-facing angle, thereby limiting its visibility as viewed across the terrace from the north. The recently constructed residence to the north involved planting landscaping along the shared property boundary with the subject site in a manner

that would provide additional landscape screening for the proposed amended residence. However, as this existing landscaping is not on the applicants' property, it cannot be relied upon to screen the residence in the future should the existing landscaping not be properly maintained or replaced by the owners of the parcel to the north of the subject property. Therefore, staff recommends Special Condition No. 12 that requires the applicant to submit a landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that would include provisions for planting native trees and shrubs along the northern side of the residential structure to the western extent of the residence to further soften the view of the permitted development from the Heritage House. Staff believes that as conditioned to require additional screening landscaping, the proposed amended house in its proposed location would be subordinate to the character of its setting. Staff notes that unlike development of a house in the location originally proposed in Amendment No. 1-94-113-A2 near the bluff edge on the open coastal terrace where no trees or houses exist, developing a house with shielding landscaping in the currently proposed location adjacent to an existing house and forested area would be subordinate to the character of its setting.

The applicant proposes to utilize dark earhttone and natural materials in the construction of the proposed amended residence including cedar siding and stone trim. The proposed exterior building materials and colors would be subordinate to the natural setting, and would blend in hue and brightness with the development's surroundings consistent with LCP requirements. To ensure that the exterior building materials and colors blend in hue and brightness with their surroundings as proposed, staff recommends Special Condition No. 14(A), which requires that all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors only. Recommended Special Condition No. 14 also requires that (1) non-reflective building materials be used in the construction of the proposed amended residence, (2) all exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel, and (3) utility extensions be placed underground as proposed and required by the LCP.

Lastly, staff recommends Special Condition No. 17 that requires that the applicants to record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

The residence as proposed to be amended would be located over 250 feet away from the edge of the bluff and therefore, the proposed amendment does not raise an issue with regard to conformance to the geologic hazard policies set forth in the LCP. Additionally, as there is already an existing lateral and vertical public access easement on the property, the applicants are proposing to install two benches for public access use within the lateral easement, and the proposed amended project would not interfere with existing public

access or increase the demand for public access above that created by the originally approved project, staff believes that no requirement for additional public access area is warranted other than the requirements of Special Condition No. 18 that would require the applicants to install the two benches as proposed.

Staff recommends that the Commission find that the proposed amended development, as conditioned, is consistent with the policies of the Mendocino County LCP regarding environmentally sensitive habitat areas, visual resources, new development, geologic hazards, and LCP and Coastal Act policies regarding public access.

The Motion to adopt the staff recommendation can be found on page 11.

STAFF NOTES:

1. Procedure and Background:

Section 13166 of the California Code of Regulations states that the Executive Director shall reject an amendment request if it (a) lessens or avoids the intent of the approved permit unless (b) the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and procured before the permit was granted.

The original permit, Coastal Permit No. NCR-77-CC-415 (Roberts), was approved by the Commission on December 8, 1977 with seven special conditions intended to address visual and public access concerns, and to ensure that the development would be subordinate to the visual character of the highly scenic area where it would be constructed. Special Condition No. 1 required that prior to issuance of the coastal permit, the applicant record an offer to dedicate a lateral and vertical easement for public access. Special Condition No. 2 required elimination of the proposed tennis court. Special Condition No. 3 required that the height of the house be reduced to 16 feet. Special Condition No. 4 required that the height of the barn be reduced to 12 feet. Special Condition No. 5 required that the area of the barn be a maximum of 600 square feet and relocated to a less conspicuous location on the site. Special Condition No. 6 required that all utilities shall be located underground. Special Condition No. 7 required amended site, house, grading, and landscaping plans be submitted for review and approval prior to construction.

The prior to issuance condition of the permit (recordation of an offer to dedicate a lateral and vertical easement for public access) was satisfied and the permit was issued in February of 1979. Unless the Commission authorizes this coastal development permit amendment and this amendment vests, all of the other originally imposed special conditions remain in effect. The driveway, septic system and well were constructed, thereby vesting the permit, but the house and barn were never built. The permit was

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assigned several times to different property owners. In February 1995, the current owners, Kaufman/Saunders, obtained an immaterial amendment to the coastal permit (CDP No. 1-94-113-A) for construction of a 5-1/2-foot-high, 670-foot-long periphery fence along the north and east property boundaries set back to avoid the roadway and access easements. No conditions were imposed as part of the immaterial amendment. This fence has been constructed.

At the time the original permit was approved in 1977, no wetland survey had been done. A subsequent site survey revealed the presence of the 1.6-acre wetland area on the property and the approved house was sited directly adjacent to the wetland with portions of the development encroaching into the wetland and wetland buffer, including the septic system and well.

In October 1997, the Commission approved a second amendment to the original permit (CDP No. 1-94-113-A2). This amendment request sought to relocate the house and accessory structure, which was proposed to be amended to be a guest cottage rather than a barn as originally approved, and to enlarge and redesign both structures. The house was proposed to be relocated from a site 540 feet west of the eastern property boundary to a site approximately 30 feet from the bluff edge, where it would be prominently visible from the nearby Heritage House, a major historic visitor-serving destination, and where it would be as close as five feet from the recorded offer to dedicate a public access easement. In its action on CDP No. 1-94-113-A2, the Commission found that were the house to be built at the proposed site near the bluff edge, the house would be the only residence visible on the open headland from numerous locations on the Heritage House property, and thus would not be visually compatible with or subordinate to the character of its setting. The Commission further found that although proposed berming and landscaping would screen the house from view, the berming and landscaping would still be visible from public viewing areas and would not be subordinate to the character of the natural setting. Instead of appearing as an open, flat, grassy coastal terrace, the Commission found that the view of the terrace would be dominated by a tree-covered berm, which would be unlike any other feature within that landscape. The Commission approved the amendment with a condition requiring the house site to be relocated away from the bluff edge to a location near the eastern property boundary to avoid significant adverse impacts on visual resources, public access, and wetland ESHA. The applicants chose not to accept this amendment and the amendment expired and is no longer valid.

The applicants do possess a valid coastal permit to construct a residence in the central portion of the site, pursuant to the original authorization granted by the Commission and as amended by CDP No. 1-94-113-A2 to allow construction of the fence along the north and east property boundary. However, as the originally approved residence and associated development would be sited directly adjacent to wetland and rare plant ESHA and portions of the development would encroach into wetlands, the applicants propose in the current amendment request to locate the house further north and redesigned in a

manner that would locate all development outside of wetlands and provide a 50-foot buffer from the edge of the wetland ESHA.

Specifically, the current amendment request seeks to (1) relocate the house site toward the northern property boundary outside of the wetland and wetland buffer area, (2) modify the design of the approved residence to construct an approximately 3,416-square-foot single-family residence with an attached 596-square-foot garage, entry path and decks, (3) abandon the existing septic system and well in place and install a new septic system and well, (4) install a pump house, propane tank, water storage tank, and generator, (5) relocate a portion of the existing gravel driveway, (6) install underground utilities, and (7) install two benches within the 25-foot-wide lateral public access easement along the bluff edge for public use. The proposed new location is in the same general central vicinity of the parcel with the same western extent as the originally approved residence, but the house would be located outside of the wetlands and proposed buffer area. The proposed new location is consistent with the Commission's intent in its actions on both the approved permit and Amendment No. 1-94-113-A2 to protect visual resources and ensure the development would be subordinate to the character of the setting by locating the development in and amongst the trees rather than out on the grassy, open coastal terrace.

Upon receipt of the amendment request, the Executive Director accepted the amendment request for filing on the basis that with conditions, the proposed modifications to the project could be made consistent with the policies of the certified LCP and the public access and recreation policies of the Coastal Act, and would not lessen or avoid the intent of the Commission's prior action on the original permit (CDP No. NCR-77-CC-415).

With the inclusion of Special Condition Nos. 8, 9, 10 and 13, the proposed amendment would be consistent with the environmentally sensitive habitat areas (ESHA) policies of the LCP. Special Condition No. 8 requires the wetland and rare plant area to be restricted as open space and prohibits development from occurring within the area of wetland and rare plant habitat, or within the 50-foot buffer area as measured from the outer edge of the ESHA. Special Condition No. 9 requires the applicant to submit an erosion and runoff control plan demonstrating that the runoff from the site is collected and directed away from the ESHA and requires implementation of erosion control measures. Special Condition No. 10 requires all ground disturbing work to be performed and completed during the non-rainy season between May 1 and October 15 to further minimize erosion and sedimentation. Special Condition No. 11 requires the temporary placement of a construction barrier along the entire length of the 50-foot buffer line to protect the wetland and rare plant habitat during construction from encroachment and intrusion by equipment, vehicles, and materials. Special Condition No. 13 requires only native and/or non-invasive plant species be planted at the site to avoid the introduction of invasive exotic plant species that could spread into the ESHA and displace native wetland vegetation and rare plants, thereby disrupting the value and function of the ESHA. As conditioned, the proposed amended project would (1) not significantly degrade adjacent

ESHA, (2) would be compatible with the continuance of the wetland and rare plant habitat area, and (3) would establish a wetland and rare plant buffer width based on the standards set forth in the LCP.

The proposed amended location and design of the house would not adversely affect visual resources and would be consistent with the visual resource protection policies of the LCP, as the redesigned residence would be sited where it would be largely blocked from view from the nearby Heritage House and would be constructed of dark, natural-appearing earth tone exterior materials that would be compatible with the character of the surrounding area. Special Condition No. 12 requires the applicant to submit a landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that would include provisions for planting native trees and shrubs along the northern side of the residential structure to the western extent of the residence to soften the view of the permitted development from the Heritage House. Special Condition No. 14 requires that (1) all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors only as proposed, (2) non-reflective building materials be used in the construction of the proposed amended residence, (3) all exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel, and (4) utility extensions be placed underground as proposed and required by the LCP.

As conditioned, the amended development would (1) be within applicable height limits for the designated highly scenic area, (2) be sited and designed to protect coastal views from public areas, (3) be visually compatible with the character of surrounding areas, (4) be subordinate to the character of its setting, (5) place power distribution lines underground, and (6) minimize alteration of natural landforms consistent with the visual resource protection policies of the LCP.

With the inclusion of Special Condition No. 17, which would require the applicant to record and execute a deed restriction to impose the special conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the property, future purchasers of the property would be informed of all of the coastal development permit requirements that pertain to the property.

Furthermore, the residence as proposed to be amended would be located over 250 feet away from the edge of the bluff and therefore, the proposed amendment does not raise an issue with regard to conformance to the geologic hazard policies set forth in the LCP. Lastly, as there is already an existing lateral and vertical public access easement on the property, the applicants are proposing to provide two benches in the lateral easement area, and the proposed amended project would not interfere with existing public access or increase the demand for public access above that created by the originally approved project, the project would be consistent with the public access policies of the certified LCP and the Coastal Act.

Therefore, for the reasons discussed above, the Executive Director has determined that the proposed amendment, as conditioned, would not lessen the intent of the Commission's prior action on the original permit. Since this amendment request would not result in a lessening or avoidance of the intent of the originally approved permit, the Executive Director has accepted the amendment for processing.

2. Standard of Review

The original permit was approved by the Commission in 1977, prior to certification of the Mendocino County LCP. The standard of review for the project at that time was the Chapter 3 policies of the Coastal Act. The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective certification of an LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access and recreation policies of the Coastal Act.

3. Commission Action Necessary

Unless the applicant extends the time for Commission review, the Commission must act on the application at the October 13, 2006 meeting to meet the requirements of the Permit Streamlining Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

Motion:

I move that the Commission approve Coastal Development Permit Amendment No. 1-94-113-A3 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve Permit:

The Commission hereby approves the proposed permit amendment and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Mendocino County LCP and the public access policies of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. STANDARD CONDITIONS: See attached Appendix A.

III. SPECIAL CONDITIONS:

Special Condition No. 1 of the original permit (CDP No. 1-94-113) remains in full force and effect. Special Conditions Nos. 2-7 of the original permit are replaced by new Special Conditions 8-18 which are hereby imposed and set forth below. The full text of the special conditions imposed in the original permit is included in Exhibit No. 9 attached to this staff report.

8. Open Space Restriction

A. No development, as defined in Section 30106 of the Coastal Act shall occur (1) within the area labeled "Wetland and Rare Plant Area" on Exhibit No. 4 attached to this staff report, or (2) within 50 feet of the edge of the area labeled "Wetland and Rare Plant Area" on Exhibit No. 4 and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for the following development and activities, if granted coastal development authorization by the Coastal Commission:

1. Tree limbing and the removal of dead trees or other vegetation as required by fire management law for maintaining defensible space; and planting of native vegetation and the restoration of environmentally sensitive habitat.

B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOI FOR THIS COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1-94-113-A3, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 4 attached to this staff report.

9. Erosion and Runoff Control Plan

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1-94-113-A3, the applicant shall submit to the Executive Director, for review and written approval, an erosion and runoff control plan demonstrating the following:

- (1) Straw bales shall be installed to contain runoff from construction areas from entering the wetland and rare plant habitat area;
 - (2) On-site vegetation shall be maintained to the maximum extent possible during construction;
 - (3) Any disturbed areas shall be replanted or seeded with native, non-invasive vegetation following project completion;
 - (4) All on-site stockpiles of construction debris shall be covered and contained to prevent polluted water runoff from entering the wetland and rare plant habitat area; and
 - (5) Runoff from the roof and other impervious surfaces of the development shall be collected and directed away from the wetland and rare plant habitat area (ESHA) as shown on Exhibit No. 4 in a non-erosive manner into pervious areas of the site (i.e. undeveloped areas, landscaped areas) to achieve infiltration to the maximum extent practicable.
- B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. Timing of Development

All ground disturbing work must be performed and completed during the non-rainy season between May 1 and October 15.

11. Construction Barrier

A construction barrier consisting of temporary construction fencing or netting shall be erected and maintained along the entire length of the 50-foot wetland and rare plant buffer line to prevent workers and equipment from entering the sensitive habitat area during construction.

12. Landscaping Plan

- A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT AMENDMENT NO. 1-94-113-A3**, the applicant shall submit to the Executive Director, for review and written approval, a landscaping plan that includes the following:

- i. Provisions for planting, at a minimum, eight (8) shore pines on 10-foot centers along the northern property boundary for the approximately 160-foot length of the residential structure to soften the view of the permitted development from the Heritage House;
 - ii. A schedule shall be provided for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; and
 - iii. A map showing the type, size, and location of all plant materials that will be retained and installed on the developed site, the irrigation system, delineation of the approved development, and all other landscape features.
- B. The permittees shall undertake development in accordance with the approved plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

13. Landscaping Restrictions

- A. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed demolition. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.
- B. No limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan required by Special Condition No. 12 above shall occur unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning.
- C. All plantings and all existing trees on the parcel shall be maintained in good growing condition throughout the life of the project, and to ensure continued compliance with the landscape plan required by Special Condition No. 12 above. If any of the existing trees or any of the trees and plants to be planted according to the plan required by Special Condition No. 12 above die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height.
- D. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

14. Design Restrictions

- A. All exterior siding, trim, fascia, and roofing of the proposed structure shall be composed of the materials proposed in the application and shall be dark earth tone colors only. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that will lighten the color of the house or other approved structures without an amendment to this permit. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare; and
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.
- C. All utilities serving the proposed project shall be placed underground.

15. No Future Bluff or Shoreline Protective Device

- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit Amendment No. 1-94-113-A3, including, but not limited to, the residence with the attached garage, foundations, well, septic system, and driveway in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235 or under Mendocino County Land Use Plan Policy No. 3.4-12, and Mendocino County Coastal Zoning Code No 20.500.020(E)(1).
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the residence with the attached garage, septic system, and driveway if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and

lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

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

16. Assumption of Risk, Waiver of Liability and Indemnity

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

17. Deed Restriction

PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and approval, documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit, as amended, as covenants, conditions and restrictions on the use and enjoyment of the property. The

deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit, as amended, shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

18. Public Access Improvements

The applicant shall install two benches within the 25-foot-wide lateral public access easement along the bluff for public use as proposed in the amended project description dated September 27, 2006 and attached as Exhibit No. 11.

IV. FINDINGS AND DECLARATIONS FOR APPROVAL

The Commission hereby finds and declares:

1. Site Description

The project site is an eight-acre blufftop lot located west of Highway One approximately one mile north of Albion at 4430 North Highway One (APN 123-010-020). The property is located approximately 0.2 miles south of Dark Gulch and the Heritage House, a prime visitor-serving destination along the Mendocino coast. Surrounding land uses include undeveloped coastal headlands and low density rural residential development to the south, two residences and Dark Gulch and the Heritage House to the north, rural residential and State Park land to the east, and the Pacific Ocean to the west (see Exhibit Nos. 1 & 2). The subject parcel is located within an area designated in the LUP as “highly scenic.”

The area is characterized by expansive coastal terraces with low-density rural residential development largely sited and screened among dense forested areas. One exception is an existing residence located directly to the north of the subject property which, due to its size and red color, is visible in the viewshed from the Heritage House. The subject property is only minimally visible from Highway One due to an intervening parcel and dense vegetation. The site is vegetated with Northern Coastal Bluff Scrub, Coastal Terrace Prairie, Northern (Franciscan) Coastal Scrub, and Beach Pine Forest. Much of the central portion of the site is heavily vegetated with native shrubs and pine forest, while the portion of the parcel extending seaward of the proposed house site is comprised of grassy, open coastal terrace devoid of trees or other significant vegetation.

The subject parcel contains environmentally sensitive habitat including an approximately 1.6-acre wetland in the central portion of the property and a small seasonal drainage in the southwestern portion of the parcel (see Exhibit No. 6). The wetland area is a mix of

seasonal wetland/marsh and a prairie community dominated by facultative wetland plant species and includes a number of small stands of shore pine. The wetland supports several populations of swamp harebell (*Campuanula californica*), a CNPS List 1b species, indicating it as rare, threatened, or endangered in California and elsewhere. Swamp harebell is a perennial plant found in coastal prairie and associated wetland habitats along the coast from Mendocino to Santa Cruz counties. Several populations of fringed-false hellebore (*Veratrum fimbriatum*) were also identified within the wetland area. This species is a CNPS List 4 species, a watch list for species with limited distribution.

A 25-foot-wide lateral and 6-foot-wide vertical public access easement established by a condition of the originally approved permit and subsequently accepted by the American Land Conservancy are located along the western and southern property boundaries, respectively. The access easements have not yet been opened for public use.

The subject parcel is designated in the Land Use Plan as Rural Residential-10 (RR-10), meaning that there may be one parcel for every 10 acres. The subject parcel is a legal, non-conforming lot.

2. Background & Project Amendment Description

The original permit, Coastal Permit No. NCR-77-CC-415 (Roberts), was approved by the Commission on December 8, 1977 with seven special conditions intended to address visual and public access concerns, and to ensure that the development would be subordinate to the visual character of the highly scenic area where it would be constructed. Special Condition No. 1 required that prior to issuance of the coastal permit, the applicant record an offer to dedicate a lateral and vertical easement for public access. Special Condition No. 2 required elimination of the proposed tennis court. Special Condition No. 3 required that the height of the house be reduced to 16 feet. Special Condition No. 4 required that the height of the barn be reduced to 12 feet. Special Condition No. 5 required that the area of the barn be a maximum of 600 square feet and relocated to a less conspicuous location on the site. Special Condition No. 6 required that all utilities shall be located underground. Special Condition No. 7 required amended site, house, grading, and landscaping plans be submitted for review and approved be submitted prior to construction.

Special Condition No. 1 requiring recordation of an offer to dedicate a lateral and vertical easement for public access was satisfied and the permit was issued in February of 1979. Unless the Commission authorizes this coastal development permit amendment and this amendment vests, all of the other originally imposed special conditions remain in effect. The driveway, septic system and well were constructed, thereby vesting the permit, but the house and barn were never built. The permit was assigned several times to different property owners. In February 1995, the current owners, Kaufman/Saunders, obtained an immaterial amendment to the coastal permit (CDP No. 1-94-113-A) for construction of a

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5-1/2-foot-high, 670-foot-long periphery fence along the north and east property boundaries set back to avoid the roadway and access easements. This fence has been constructed.

At the time the original permit was approved in 1977, no wetland survey had been done. A subsequent site survey revealed the presence of the 1.6-acre wetland area on the property. The previously approved house was sited directly adjacent to the wetland with portions of the development encroaching into the wetland and wetland buffer, including the septic system and well.

In October 1997, the Commission approved a second amendment to the original permit (CDP No. 1-94-113-A2). This amendment request sought to relocate the house and accessory structure, which was proposed to be amended to be a guest cottage rather than a barn as originally approved, and to enlarge and redesign both structures. The house was proposed to be relocated from a site 540 feet west of the eastern property boundary to a site approximately 30 feet from the bluff edge, where it would be prominently visible from the nearby Heritage House, a major historic visitor-serving destination, and where it would be as close as five feet from the recorded offer to dedicate a public access easement. The Commission approved the amendment with a condition requiring the house site to be relocated away from the bluff edge to a location near the eastern property boundary to avoid significant adverse impacts on visual resources, public access, and wetland ESHA. The applicants chose not to accept this amendment and the permit amendment expired.

The applicants do possess a valid coastal permit to construct a residence in the central portion of the site pursuant to the original authorization granted by the Commission. However, as the originally approved residence and associated development would be sited directly adjacent to wetland and rare plant ESHA and portions of the development would encroach into wetlands, the applicants propose the current amendment to locate the development with the same western extent as the originally approved residence, but further north and redesigned to be outside of wetlands and 50 feet away from the edge of the wetland ESHA.

Specifically, the current amendment request seeks to (1) relocate the house site toward the northern property boundary outside of the wetland and wetland buffer area, (2) modify the design of the approved residence to construct an approximately 3,416-square-foot single-family residence with an attached 596-square-foot garage, entry path and decks, (3) abandon the existing septic system and well in place and install a new septic system and well, (4) install a pump house, propane tank, water storage tank, and generator, (5) relocate a portion of the existing gravel driveway, (6) install underground utilities, and (7) install two benches within the 25-foot-wide lateral public access easement along the bluff edge for public use. The project as proposed to be amended does not include a barn or guesthouse.

3. Environmentally Sensitive Habitat Areas (ESHA)

LCP Policies

Environmentally Sensitive Habitat Areas (ESHA) are defined on page 38 of the Mendocino County LUP as:

Any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

Coastal Zoning Code Section 20.496.010 “Environmentally Sensitive Habitat and other Resource Areas—Purpose” states (emphasis added):

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

LUP Policy 3.1-7 states:

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

- 1. It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
- 2. It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
- 3. Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian*

vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

Coastal Zoning Code Section 20.496.020 “Environmentally Sensitive Habitat and other Resource Areas—Development Criteria” states:

*(A) **Buffer Areas.** A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

*(1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

Standards for determining the appropriate width of the buffer area are as follows:

*(a) **Biological Significance of Adjacent Lands.** Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

*(b) **Sensitivity of Species to Disturbance.** The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following*

after consultation with the Department of Fish and Game or others with similar expertise:

(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

(iii) An assessment of the impact and activity levels of the proposed development on the resource.

(c) Susceptibility of Parcel to Erosion. *The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.*

(d) Use of Natural Topographic Features to Locate Development. *Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.*

(e) Use of Existing Cultural Features to Locate Buffer Zones. *Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.*

(f) Lot Configuration and Location of Existing Development. *Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.*

(g) Type and Scale of Development Proposed. *The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area...*

(2) Configuration. *The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).*

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

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

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

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

(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.

(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.

(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)

Discussion:

When the Commission acted on the original permit application in 1977, the standard of review for the project was the Chapter 3 policies of the Coastal Act. The Coastal Act policies regarding buffers to environmentally sensitive habitat areas (ESHA), such as the wetland and rare plant habitat the subject site, state that development adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas. These Coastal Act policies do not specify a particular buffer width requirement, although in practice, 100-foot buffers are commonly applied.

At the time the original permit was approved in 1977, no wetland survey had been done and the approved house was sited directly adjacent to the wetland with portions of the development encroaching into the wetland and wetland buffer, including the septic system and well. A subsequent site survey revealed the presence of a 1.6-acre wetland area on the property. A further botanical survey identified the presence of several populations of rare plant species including swamp harebell (*Campuanula californica*, CNPS List 1b) and fringed-false hellebore (*Veratrum fimbriatum*, CNPS List 4), located within the delineated wetland area (see Exhibit No. 4). Subsequent to the Commission's

action on the original permit, the Commission effectively certified Mendocino County's LCP in October of 1992. Pursuant to Section 30604 of the Coastal Act, after effective certification of an LCP, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP (and the public access policies of the Coastal Act). Therefore, the Commission must apply the ESHA policies of the LCP to the proposed amendment.

As noted above, Coastal Zoning Code Section 20.496.010 states that environmentally sensitive habitat areas (ESHA) include wetlands and habitats of rare and endangered plants. Therefore, these habitat areas are subject to the ESHA buffer requirements of LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game (DFG), that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width. Coastal Zoning Code Section 20.496.020 states that the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of the parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed.

The applicants propose to amend the originally approved residence to relocate and redesign the house in a manner that would locate all development outside of the wetland and rare plant habitat area and provide a 50-foot buffer from the edge of the ESHA. Although the subject parcel is approximately eight acres in size, acceptable building sites are quite limited due to the presence of the large wetland area in the central portion of the property, the required bluff edge and property boundary setbacks, and by the highly visible nature of the western portion of the site from public vantage points. To facilitate provision of a 50-foot wetland buffer in this location, the applicants applied for and received a variance from the County (CDV #07-04) to reduce the required side yard setback along the northern property line from 50 feet to 28 feet. The variance provides adequate area for the proposed residence and a 50-foot buffer from the edge of the wetland in a location that would also be consistent with the visual resource protection policies of the LCP as discussed in further detail in Finding No. 4 below.

Without adequate buffer areas, development in or adjacent to this wetland and rare plant habitat area could adversely affect the habitat by causing erosion, impacting water quality, and/or destroying vegetation. The applicants' biologist provided an updated biological evaluation that substantiates that a 50-foot buffer is adequate to protect the wetland and rare plant ESHA based on the seven standards contained within Coastal

Zoning Code Section 20.496.020(A)(1)(a) through (g) of the MCCZC as discussed below.

Regarding the biological significance of adjacent lands, the applicants' biologist indicates that the lands adjacent to the wetland area support a coastal prairie plant community. These areas are dominated by annual and perennial grasses typical of coastal bluffs integrated with beach pine forest dominated by shore pine and Bishop pine. These habitats provide resting, nesting, and escape cover for a variety of wildlife species. However, the biologist states that there is no functional relationship between the onsite wetland and the surrounding upland habitats and thus, the 50-foot buffer is not expected to disrupt wetland/upland functional relationships.

Regarding the sensitivity of wetland species to disturbance, the applicants' biologist notes that a search of the California Department of Fish and Game's Natural Diversity Database did not find any potential sensitive species of fish or wildlife for the habitat that occurs on the subject parcel. The biological report indicates that wildlife observed during site surveys included red-tailed hawks, northern harriers, a sharp-shinned hawk, and a western toad. In addition, the site is expected to support resident and migratory wildlife typical of coastal habitats. The proposed development would have impacts in two phases: a relatively short phase during construction and an ongoing phase that consists of activities related to the daily life at a single-family dwelling. The construction phase would consist of daily, relatively small, disturbances, including loud noise, ground disturbance, and an altered landscape in the vicinity of the construction site. The second phase includes the activities associated with a single-family dwelling such as cars coming and going occasionally and people spending some amount of recreational time outdoors. Local populations of wildlife typical of the coastal bluffs are adaptable to low levels of human disturbance and these levels of disturbance would have a minimal impact on species associated with the site. The proposed amended residential development would leave the majority of the parcel undisturbed. Local wildlife may avoid the home site, but would still utilize other portions of the eight-acre property. Some populations of wildlife may avoid the site during the short-term construction phase of the project, but would be expected to continue long-term use of the parcel. Thus, the biological report concludes that short and long term disruptions to wildlife are not expected and that the proposed 50-foot buffer would allow for the continued use of the wetland resource by local (resident and migratory) wildlife populations for nesting, feeding, breeding, and resting, as the proposed project would alter only a small portion of the parcel with low levels of human disturbances, and local populations of wildlife can adapt to such disturbance.

Regarding the susceptibility of the parcel to erosion, the applicants' biologist notes that as the site is located on a nearly level coastal bluff, the small elevation changes that occur are on the scale of a few feet. The wetland drains to the southwest corner of the property and there is a low rise in elevation between the wetland and the proposed home site. Drainage from the home site flows to the northwest side of the parcel, away from the wetland. Therefore, it is highly unlikely that any erosion into the wetland would occur.

Regarding the use of natural or cultural features to locate the buffer area, the biologist notes that other than an existing overgrown dirt road which will become a part of the driveway to the proposed residence, no other cultural features (e.g., roads, dikes, etc.) exist at the site that would affect the consideration of an appropriate buffer area.

Lastly, regarding the lot configuration, location of existing development, and the type and scale of the development proposed, the development as proposed to be amended would provide improved protection of the wetland and rare plant habitat by relocating the development out of, and away from, the ESHA and therefore, the development as proposed to be amended would have less impact on ESHA than the originally approved development. Furthermore, the type and scale of the development proposed is consistent with that of surrounding residential development and would involve approximately one acre, leaving the majority of the eight-acre parcel undeveloped.

Of the several factors raised by the applicants' biologist as reasons why a reduced 50-foot buffer would be adequate, the Commission finds that the most significant are those regarding (1) the type and scale of the development, and (2) the low susceptibility of the parcel to erosion. The fact that the development site is relatively flat indicates that erosion and sedimentation from construction and in the future from the completed development are less likely to affect the wetland and rare plant ESHA than erosion and sedimentation would if the building site had a steeper slope with greater potential for erosion, particularly with implementation of the additional erosion and sedimentation controls required by Special Condition No. 9 described below. Therefore, there is less need for a wide buffer to help protect the wetland and rare plant ESHA from erosion and sedimentation and to protect the plant and wildlife species that utilize and inhabit the wetland.

The Commission also notes that the type and scale of development proposed is of a nature that it would have comparatively less impact on the ESHA than the impacts that would be associated with a more intensive use. The proposed three-bedroom single-family residence is not excessively large and is situated on an eight-acre parcel. The site is also located in an area with 10-acre minimum parcel sizes. This relatively low intensity of use of the property and the surrounding area generates a relatively low level of disturbance that would not require as large a buffer as more intensive development would. Therefore, the Commission finds that primarily based on the buffer width criteria of subsections (c) and (g) of Coastal Zoning Code Section 20.496.020 regarding the susceptibility of the parcel to erosion, and the type and scale of the development proposed, the proposed 50-foot buffer width in conjunction with implementation of Special Condition Nos. 2 and 6 requiring certain erosion and sedimentation controls and prohibitions on the planting of invasive exotic species as described below is adequate to protect the wetland and rare plant habitat at the project site from possible significant disruption caused by the proposed development.

To ensure that the proposed 50-foot buffer is established, and to ensure the protection of the wetland and rare plant habitat from significant degradation resulting from the development, and ensure the continuance of the wetland and rare plant habitat as required by LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020, the Commission attaches Special Condition No. 8. This condition requires the wetland and rare plant area to be restricted as open space and prohibits development from occurring within the area of wetland and rare plant habitat, or within the 50-foot buffer area as measured from the outer edge of the "Wetland and Rare Plant Area" as delineated on Exhibit No. 4.

Even with the established buffer area, the ESHA could be adversely affected by the proposed development from site runoff that could impact the water quality of the wetland habitat. The subject site is comprised of sandy substrate and does not contain any developed impervious surfaces. Thus, the majority of stormwater at the site currently infiltrates prior to leaving the site as surface runoff. However, the increase in impervious surface area from the development would decrease the infiltrative function and capacity of the existing permeable land on site. The reduction of permeable surface area leads to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Further, pollutants commonly found in runoff associated with residential use include petroleum hydrocarbons including oil and grease from vehicles; heavy metals; synthetic organic chemicals including paint and household cleaners; soap and dirt from washing vehicles; dirt and vegetation from yard maintenance; litter; fertilizers, herbicides and pesticides; and bacteria and pathogens from animal waste. The discharge of these pollutants to coastal wetlands can cause significant cumulative adverse impacts such as adverse changes to species composition, excess nutrients causing algae blooms, increased turbidity from sedimentation, and acute and sublethal toxicity in wetland organisms leading to adverse changes in reproduction and feeding behavior, thereby reducing the biological productivity and the quality of coastal wetlands.

The established open space and buffer areas will remain undeveloped areas of high infiltration capability that will minimize the amount of runoff potentially reaching the wetland ESHA. However, to further ensure that drainage structures are not directed to the ESHA and to ensure the protection of the quality and biological productivity of the ESHA by minimizing the volume of stormwater runoff that could potentially drain to the ESHA, the Commission attaches Special Condition No. 9. This condition requires the applicant to submit an erosion and runoff control plan for the review and approval of the Executive Director prior to the issuance of the coastal development permit. The condition requires the drainage plan to demonstrate that the runoff from the site is collected and directed away from the ESHA in a non-erosive manner into pervious areas on the site to achieve infiltration to the maximum extent practicable and requires implementation of erosion control measures including: installing straw bales to contain runoff from construction areas, maintaining onsite vegetation to the maximum extent possible during construction, replanting any disturbed areas following project completion, and covering and containing all construction debris stockpiles. Additionally, Special Condition No. 10 requires all ground disturbing work to be performed and

completed during the non-rainy season between May 1 and October 15 to further minimize erosion and sedimentation. Special Condition No. 11 requires the temporary placement of a construction barrier along the entire length of the 50-foot buffer line to protect the wetland and rare plant habitat during construction from encroachment and intrusion by equipment, vehicles, and materials.

Furthermore, although non-native invasive plant species, such as bull thistle, already occur within the wetland and rare plant habitat area, the ESHA could be adversely affected by the development if additional non-native, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native wetland vegetation and rare plants, thereby disrupting the value and function of the ESHA. The applicant is not proposing any landscaping as part of the proposed project. However, to ensure that the ESHA is not adversely impacted by any future landscaping of the site, the Commission attaches Special Condition No. 13 that requires only native and/or non-invasive plant species be planted at the site.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/ wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bioaccumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential cumulative impact to environmentally sensitive wildlife species, the Commission attaches Special Condition No. 13(D) prohibiting the use of specified rodenticides on the property governed by CDP No. 1-94-113-A3.

Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, in this case because the project site is located within a highly scenic area, future improvements to the approved project will not be exempt from permit requirements pursuant to Section 30610(a). Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect.

Section 13250(b)(1) indicates that improvements to a single-family structure in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the entire subject property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b) (1) of the Commission's regulations, all future improvements to the approved development will be required to obtain a coastal development permit so the County and the Commission will have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact, including impacts to ESHA.

Additionally, Special Condition No. 17 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the proposed amended project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the wetland and rare plant habitat area.

Therefore, the Commission finds that the proposed permit amendment, as conditioned, is consistent with the provisions of LUP Policies 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 concerning establishment of buffers between development and existing ESHA because the proposed amendment as conditioned will establish a wetland and rare plant buffer width based on the standards set forth in Coastal Zoning Ordinance Section 20.496.020(A)(1)(a) through (g) for reducing the minimum buffer below 100 feet that will provide a sufficient area to protect the ESHA from significant degradation from the proposed amended development.

4. Visual Resources

Summary of LCP Policies

Section 30251 of the Coastal Act has been specifically incorporated into LUP Policy 3.5-1 of the Mendocino LCP and states in part:

The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with

the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

LUP Policy 3.5-3 states in applicable part:

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

Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

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

NOTE 1: The LUP Maps designate the area west of Highway One in the project vicinity as highly scenic.

NOTE 2: Coastal Zoning Ordinance 20.504.015(A) reiterates that this section of coastline is a “highly scenic area.”

Zoning Code Section 20.504.015(C)(1) states that:

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

Zoning Code Section 20.504.015(C)(2) states that:

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

Zoning Code Section 20.504.015(C)(3) states that:

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

Zoning Code Section 20.504.015 (C)(12) states that:

Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions...

Discussion

Policy 3.5-1 of the County's LUP provides for the protection of the scenic and visual qualities of the coast, requiring permitted development to be sited and designed to protect views to and along the ocean and to be visually compatible with the character of surrounding areas. Policy 3.5-3 states that new development west of Highway One in designated "highly scenic areas" should be subordinate to the natural setting. The County's Zoning Ordinance reiterates these policies. Specifically, Coastal Zoning Ordinance Section 20.504.015(C)(1) requires that new development in highly scenic areas protect coastal views from public areas including roads and trails. Section 20.504.015(C)(2) of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that new development be subordinate to the natural setting and minimize reflective surfaces and requires that in highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

The subject site is a bluff top parcel located west of Highway One in an area designated as "highly scenic" in the Mendocino County LUP.

The development originally approved by the Commission in 1977, as noted above, includes the construction of a 16-foot-high, one-story single-family residence, garage, barn, water storage tank, well, and septic system on the subject parcel. The approved house site was located in the center of the parcel, approximately 540 feet west of the eastern property boundary. Findings for the originally approved project indicate that the proposed development was sited and designed to minimize visual impacts (see Exhibit No. 9) because it was west of an existing knoll and screened by trees so that it would not be visible from Highway One. Special Conditions were attached to the permit to ensure that significant adverse impacts to visual resources were minimized. Portions of the project including the driveway, septic system, and well were constructed, thereby vesting the permit, but the house was never built.

The applicants do possess a valid coastal permit to construct a residence in the central portion of the site. However, as discussed in the ESHA findings above, the originally approved residence and associated development would be sited directly adjacent to

ESHA and portions of the development would encroach into wetlands. Although the subject parcel is approximately eight acres in size, acceptable building sites are quite limited due to the presence of the large wetland area in the central portion of the property, the required bluff edge and property boundary setbacks, and by the highly visible nature of the western portion of the site from public vantage points. Therefore, the applicants propose the current amendment that would locate the house in the same general central vicinity of the parcel with the same western extent as the originally approved residence, but the house would be relocated further north and redesigned in a manner that would site all development outside of the wetland and provide a 50-foot buffer from the edge of the wetland ESHA.

The subject parcel does not abut Highway One, as there is an intervening parcel between the subject lot and the highway and views of the site from Highway One are quite limited. However, as discussed in the findings for the original permit, the proposed house site would be visible from the nearby Heritage House Inn, a major visitor destination and historic landmark in Mendocino County that has been in operation since 1949. In addition, the proposed amended house site would be visible from the public access easement along the western bluff edge required and recorded as a condition of the original permit.

Many thousands of visitors come yearly to the Heritage House for overnight accommodations, dining, to visit the nursery, or just to walk on the grounds and enjoy the coastal views. Staff at Heritage House estimates that on average, each month approximately 3,000 visitors lodge and dine at Heritage House, which has been also used as a location to film movies. The Heritage House and the nearby Little River Inn are the two most heavily patronized inns along the Mendocino coast. From many vantage points on the Heritage House property one can see dramatic views of the spectacular headland at the western portion of the subject property, which is undeveloped and appears as an open, flat coastal terrace that contains a grassy meadow with no trees within several hundred feet of the bluff edge.

The few houses that are built on nearby parcels are set back in trees several hundred feet back from the bluff edge which they do not interfere with coastal views across the terrace, with the exception of a recently constructed residence on the parcel directly to the north of the subject property. In its action on CDP No. 1-94-113-A2, the Commission found that the house proposed to be built at the site near the bluff edge would be the only residence visible on the open headland from numerous locations on the Heritage House property and thus, would not be visually compatible with or subordinate to the character of its setting. Although privately owned, the Commission found that views from the Heritage House constitute coastal views from a public area as contemplated by Section 20.504.015(C)(1), as the historic Heritage House is a heavily visited, unique visitor-serving facility that serves the public, even if not staying as overnight guests. The Commission further found that although proposed berming and landscaping would screen the house from view, the berming and landscaping would still be visible from public

viewing areas and would not be subordinate to the character of the natural setting. Instead of appearing as an open, flat, grassy coastal terrace, the Commission found that the view of the terrace would be dominated by a tree-covered berm, which would be unlike any other feature within that landscape. The Commission approved the amendment with a condition requiring the house site to be relocated away from the bluff edge to a location near the eastern property boundary to avoid significant adverse impacts on visual resources, public access, and wetland ESHA. The currently proposed location for the house under the current amendment request was not an option for relocation of the residence at the time the Commission acted on CDP No. 1-94-113-A2 because no variance had been obtained at that time to allow the house to encroach into the 50-foot side yard setback along the northern boundary of the property. The applicants have now secured such a variance that allows a reduced 28-foot side yard setback making this location a feasible alternative location for the house.

The applicants constructed story poles on the site to assess the visual impact of the project as proposed to be amended. Commission staff visited the site and determined that the majority of the proposed amended residence would be located in line with, and directly south of, this recently constructed residence on the adjacent parcel to the north. This existing residence, because of its size and unusual red color, make it visible from the Heritage House. For the most part, this existing residence would block views of the proposed amended residence and its associated landscaping and native vegetation as viewed from the Heritage House. Additionally, the proposed amended development would be subordinate to the character of its setting because it would be sited in an area that is already partially forested where the development with additional screening vegetation would blend into its surroundings unlike locations further west on the open, grassy terrace void of any shrubs or trees where a house with screening vegetation would stand out in contrast with its surroundings.

A portion of the proposed amended residence would extend further westward beyond the existing residence to the north. However, this portion of the proposed amended residence is oriented at a south-facing angle, thereby limiting its visibility as viewed across the terrace from the north and the Heritage House.

Additionally, the recently constructed residence to the north involved planting landscaping along the shared property boundary with the subject site in a manner that would provide additional landscape screening for the proposed amended residence. However, as this existing landscaping is not on the applicants' property, it cannot be relied upon to screen the residence in the future should the existing landscaping not be properly maintained or replaced by the owners of the parcel to the north of the subject property. Therefore, Special Condition No. 12 requires the applicant to submit a landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that would include provisions for planting native trees and shrubs along the northern side of the residential structure to the western extent of the residence to soften the view of the permitted development from the Heritage House. The

condition requires the plan to demonstrate that all landscape planting be completed prior to occupancy. Additionally, Special Condition No. 13 sets forth landscaping restrictions that (1) prohibit planting of non-native, invasive plant species, (2) prohibit limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan required by Special Condition No. 12 above unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning, and (3) require all plantings and all existing trees to be maintained in good growing condition throughout the life of the project to ensure continued compliance with the landscape plan required by Special Condition No. 12 above. If any of the existing trees or any of the trees and plants to be planted according to the plan die or are removed for any reason, Special Condition No. 13 requires that they be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height.

The original residence was approved at 16 feet in height prior to certification of the Mendocino LCP that limits the height of structures built in highly scenic areas west of Highway One to eighteen (18)-feet above average natural grade and limits the number of stories to one unless an increase in height would not affect views to the ocean, or be out of character with surrounding structures. The residence as proposed to be amended would be one-story and 18-feet-high. Although the residence as proposed to be amended would be two feet higher than the originally approved residence, the additional two feet of height would not cause a significant adverse impact on visual resources and the proposed amended residence would be consistent with the story and height limitations of LUP Policy 3.5-3, and Coastal Zoning Code Section 20.504.015(C)(2).

The applicant proposes to utilize dark earthtone and natural materials in the construction of the proposed amended residence including cedar siding and stone trim. The proposed exterior building materials and colors would be subordinate to the natural setting, and would blend in hue and brightness with their surroundings consistent with Coastal Zoning Code Section 20.504.015(C)(3). The Commission finds that if the applicant or future owner(s) choose to change the materials or colors of the residence to brighter, non-earth tone colors or materials, the development may no longer be subordinate to the natural setting and may become increasingly visible from public vantage points. To ensure that the exterior building materials and colors used in the construction of the development as proposed to be amended are compatible with natural-appearing earth tone colors that blend in hue and brightness with their surroundings as proposed, the Commission attaches Special Condition No. 14(A), which requires that all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors only. Special Condition No. 14(B) also requires that non-reflective building materials be used in the construction of the proposed residence to minimize glare from glass building materials that could result in an adverse visual impact as viewed from the ocean if the building materials were reflective in nature. Additionally, Special Condition No. 14(B) requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel as required by LUP Policy 3.5-15. As conditioned,

the project is consistent with LUP Policy 3.5-4 and 20.504.015(C)(3) requiring building materials to be of non-reflective surfaces and the proposed project would not result in a significant adverse impact to public views as required by LUP Policy 3.5-3 and Zoning Code Section 20.504.015(C)(1).

Moreover, the applicants propose to install underground utility extensions consistent with Zoning Code Section 20.504.015 (C)(12) that requires power distribution lines to be placed underground in designated "highly scenic areas" west of Highway 1. To ensure that the proposed utility extensions would not result in an adverse impact to visual resources and the scenic qualities of the designated "highly scenic" area, Special Condition No. 14(C) requires that utility extensions be placed underground as proposed consistent with Zoning Code Section 20.504.015(C)(12), and as required by the original permit.

Special Condition No. 17 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

As the subject site is relatively flat, construction of the proposed amended residence would not involve significant grading or alteration of topographic features consistent with the provisions of LUP 3.5-1 that require that permitted development minimize the alteration of natural landforms.

Therefore, the Commission finds that as conditioned, the proposed amendment is consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.504.015(C) of the Zoning Code, as the amended development would (1) be within applicable height limits for the designated highly scenic area, (2) be sited and designed to protect coastal views from public areas, (3) be visually compatible with the character of surrounding areas, (4) be subordinate to the character of its setting, (5) place power distribution lines underground, and (6) minimize alteration of natural landforms.

5. Locating New Development

Summary of LCP Provisions

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for coastal development permits. The intent of the policy is to channel development toward more

urbanized areas where services are provided and potential impacts to resources are minimized.

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

Zoning Code Section 20.376.025 provides for one dwelling unit per residentially designated parcel.

Discussion

The subject parcel is designated in the Land Use Plan as Rural Residential-10 (RR-10), meaning that there may be one parcel for every 10 acres. The eight-acre subject parcel is a legal, non-conforming lot. The proposed amendment involves the construction of a single-family residence located in an area planned for single-family residential use. Therefore, the proposed single-family residence is consistent with the LUP and zoning designation for the site.

Development of the site as a single-family residence is envisioned under the certified LCP. The significant cumulative adverse impacts on traffic capacity of Highway One from development approved pursuant to the certified LCP were addressed at the time the LCP was certified. Therefore, as conditioned, the proposed single-family residence is located in an area able to accommodate traffic generated by the proposed development and would not result in adverse impacts to the traffic capacity of Highway One consistent with the applicable provisions of LUP Policy 3.8-1.

The originally approved permit included a well and septic system to serve the originally approved single-family residence, which have been installed. However, as discussed above, the well and septic system are located in an area of environmentally sensitive wetland habitat and habitat buffer area. The applicants propose to abandon the existing septic system and well by filling the septic tank and well with concrete slurry and sealing them in place consistent with the requirements of the Mendocino County Health Department. Abandoning the well and septic tank would not require any excavation, use of heavy equipment, or any other disturbance to, or development in, the wetland or wetland buffer area. The applicants propose to construct a new septic system and well outside of the environmentally sensitive wetland habitat area and 50-foot ESHA buffer. The proposed amended septic system and well have been approved by the Mendocino County Department of Environmental Health.

As discussed above, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts. Therefore, the Commission finds that as conditioned, the proposed development with the proposed amendment is consistent with LUP Policies 3.9-1, 3.8-1, and with Zoning Code Sections 20.376.025, because there will be only one residential unit on the parcel, there

would be adequate services on the site to serve the proposed development, and the project would not contribute to adverse cumulative impacts on highway capacity, scenic values, environmentally sensitive habitat areas, water quality, or other coastal resources.

6. Geologic Hazards

Summary of LCP Policies

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

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

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

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

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

The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation. All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologist’s report.

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

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

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

- “(1) *Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.*

- (2) *Geologic Investigation and Report. In areas of known or potential geologic hazards such as shoreline and bluff top lots and areas delineated on the hazards maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.”*

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

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

- (2) *Assure structural integrity and stability; and*

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

Section 20.500.020(B) of the Coastal Zoning Code states in applicable part:

- “(1) *New structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years). New development shall be set back from the edge of bluffs a distance determined from information derived from the required geologic investigation and the setback formula as follows:*

$$\text{Setback (meters)} = \text{structure life (75 years)} \times \text{retreat rate (meters/year)}$$

Note: The retreat rate shall be determined from historical observation (aerial photos) and/or from a complete geotechnical investigation.

- ...
- (3) *Construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff..*

Discussion

The subject property is an approximately eight-acre bluff top parcel situated on an approximately 90-foot-high elevated marine terrace. LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) require new development to be set back a sufficient distance from the edge of the bluff to ensure its safety from bluff erosion and cliff retreat during the economic life span of 75 years. Additionally, these provisions require that the setback be a sufficient distance so as to eliminate the need for shoreline protection devices.

A geotechnical report was prepared for the site in 1995 as part of Amendment No. 1-94-113-A2 that proposed amending the location of the residence to the open coastal terrace within 30 feet of the bluff edge. The geotechnical report concluded that the bluff retreat rate would be approximately 0.33 inches per year. An updated geotechnical report was not prepared for the current amendment. However, site conditions have not appreciably changed since the time the geotechnical report was prepared.

As described above, the proposed amendment involves the construction of a new single-family residence with an attached garage in the same general vicinity as the originally approved residence. The residence as proposed to be amended would be located at the same western extent as the originally approved residence, but would be moved farther northward toward the northern property boundary. The residence as proposed to be amended would be located over 250 feet away from the edge of the bluff where, based on the erosion rates projected in the geologic report, bluff retreat would not affect the site for well over 75 years.

Notwithstanding the relative degree of insulation of the proposed project improvements in their proposed locations from geologic hazards, the applicants are proposing to construct a new residence that would be located on an approximately 90-foot-high uplifted marine terrace bluff top that is actively eroding. Consequently, the house would be located in an area of high geologic hazard. New development can only be found consistent with the above-referenced LCP provisions if the risks to life and property from the geologic hazards are minimized and if a shoreline or bluff face protective device would not be needed in the future. Geologic reports prepared for the property state that if the new development is set back even just 24.75 feet from the bluff edge, the development would be safe from erosion and would not require any devices to protect the proposed development during its useful economic life. As proposed under the amendment request, the house would be located over 250 feet from the bluff edge.

Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given bluff top site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional

geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Examples of this situation include:

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989, the Commission approved the construction of a new house on a vacant bluff top parcel (Permit 1-87-230). Based on the geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the bluff top parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Nino storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.
- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984, the Commission approved construction of a new house on a vacant bluff top lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit # 5-88-177) for a bluff top project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot bluff top setback. An emergency coastal development permit (Permit #5-93-254-G) was later issued to authorize bluff top protective works.

The Commission emphasizes that the examples above are not intended to be absolute indicators of future bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form its opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates.

The geotechnical investigation report prepared for the site by Earth Science Consultants and dated August 14, 1995 states the following:

“...it should be clearly understood that the information and recommendations developed by the soil-geotechnical engineer are only expressions of professional opinion and are based solely on information available to him at the time of the site observation and/or site investigation and/or rendering of services within the authorized scope of work and fee, and the soil-geotechnical engineer can make no warranty, wither expressed or implied, as to the findings, opinions, conclusions, recommendations or professional advice.”

This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat.

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

Based upon the geologic report prepared by the geologic evaluation of the subject property, the Commission finds that the risks of geologic hazard are minimized with the proposed 250-foot setback from the bluff edge. However, given that the risk cannot be completely eliminated, the geologic report does not assure that shoreline protection will ever be needed to protect the residence, the Commission finds that the proposed residence could be found consistent with the certified LCP only if it is established that shoreline protective works will not be constructed in the future as proposed by the applicants. Thus, the Commission further finds that due to the inherently hazardous nature of the project site lot, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because the LCP requires that in the permitting of new development the need for shoreline protective devices shall not be engendered, it is necessary to attach Special Condition Nos. 15 and 16 to ensure that no future shoreline protective device will be constructed as proposed by the applicants.

Special Condition No. 15 prohibits the construction of shoreline protective devices on the parcel, requires that the landowner provide a geotechnical investigation and remove the

residential development if bluff retreat reaches the point where the residential development is threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are necessary for compliance with Coastal Zoning Code Section 20.500.010, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with Coastal Zoning Code Section 20.500.010 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Special Condition No. 16 requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicants have chosen to implement the project despite these risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, as discussed below, the requirement of Special Condition No. 17 that a deed restriction be recorded will ensure that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

In addition, as noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, Special Condition No. 15 requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and provide a geotechnical investigation if bluff retreat reaches the point where the structure is threatened and agree to remove the house should the bluff retreat reach the point where a government agency has ordered that the structure not be occupied.

The Commission finds that Special Condition No. 15 is also required to ensure that the proposed development is consistent with the certified LCP. Special Condition No. 15 is required to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further

development indefinitely into the future, or that a protective device could be constructed to protect the approved development. Special Condition No. 17 requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property.

The Commission further notes that Section 30610(a) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, in this case because the project site is located within a highly scenic area, future improvements to the approved project will not be exempt from permit requirements pursuant to Section 30610(a). Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250(b)(1) indicates that improvements to a single-family structure in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the entire subject property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, all future improvements to the approved development will be required to obtain a coastal development permit so the County and the Commission would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact.

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

7. Public Access and Recreation

Projects located between the first public road and the sea and within the coastal development permit jurisdiction of a local government are subject to the coastal access

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

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

As described above, the subject parcel is located west of Highway One and is between the sea and the first public road. As a condition of the originally approved permit in 1977, the Commission required the property owner of the subject parcel (then Roberts) to record an offer to dedicate a public access easement for lateral and vertical access. This offer was recorded in 1978 and was subsequently accepted by the American Land Conservancy. The easement has not yet been opened for public access use. In addition, as part of the amended development, the applicants propose to install two benches within the 25-foot-wide lateral public access easement along the bluff. The benches would be installed at desirable viewpoints to provide enhanced coastal viewing opportunities to the public at such time that the public access easement is opened for public use. Special Condition No. 18 requires the applicants to install the benches as proposed.

As there is already an existing lateral and vertical public access easement on the property, the Commission finds that no requirement for additional public access area is warranted. The proposed amended project would not interfere with existing public access or increase the demand for public access above that created by the originally approved project to necessitate additional access area.

Therefore, the Commission finds that the proposed amended development does not have any significant adverse impact on existing or potential public access, and that the project as proposed, which does not include provision of additional public access, is consistent with the requirements of the Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the County's certified LCP.

8. California Environmental Quality Act

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

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

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Surrounding Area Map
4. Proposed Amended Site Plan
5. Original & Proposed House Site
6. ESHA Map
7. Elevations
8. ESHA Buffer Analysis
9. CDP No. NCR-CC-77-415 (Roberts)
10. CDP No. 1-94-113-A2
11. Amended Project Description

ATTACHMENT A

Standard Conditions:

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

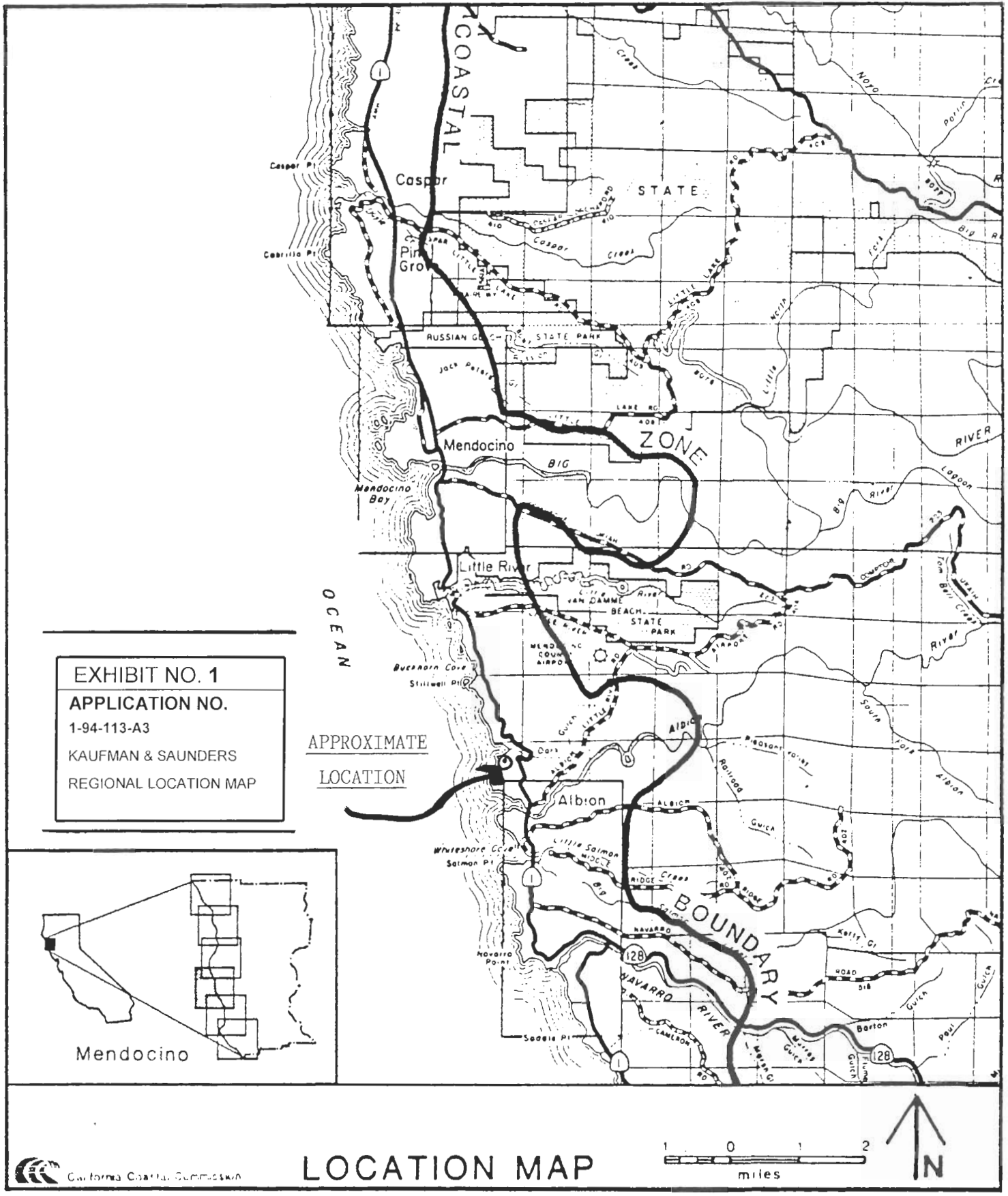
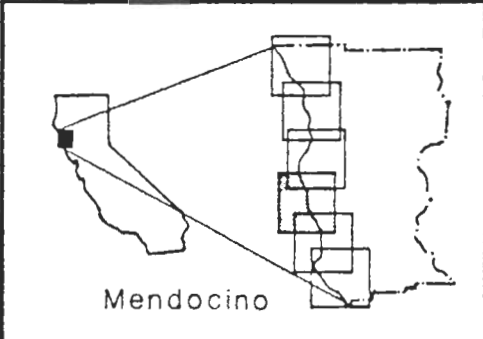
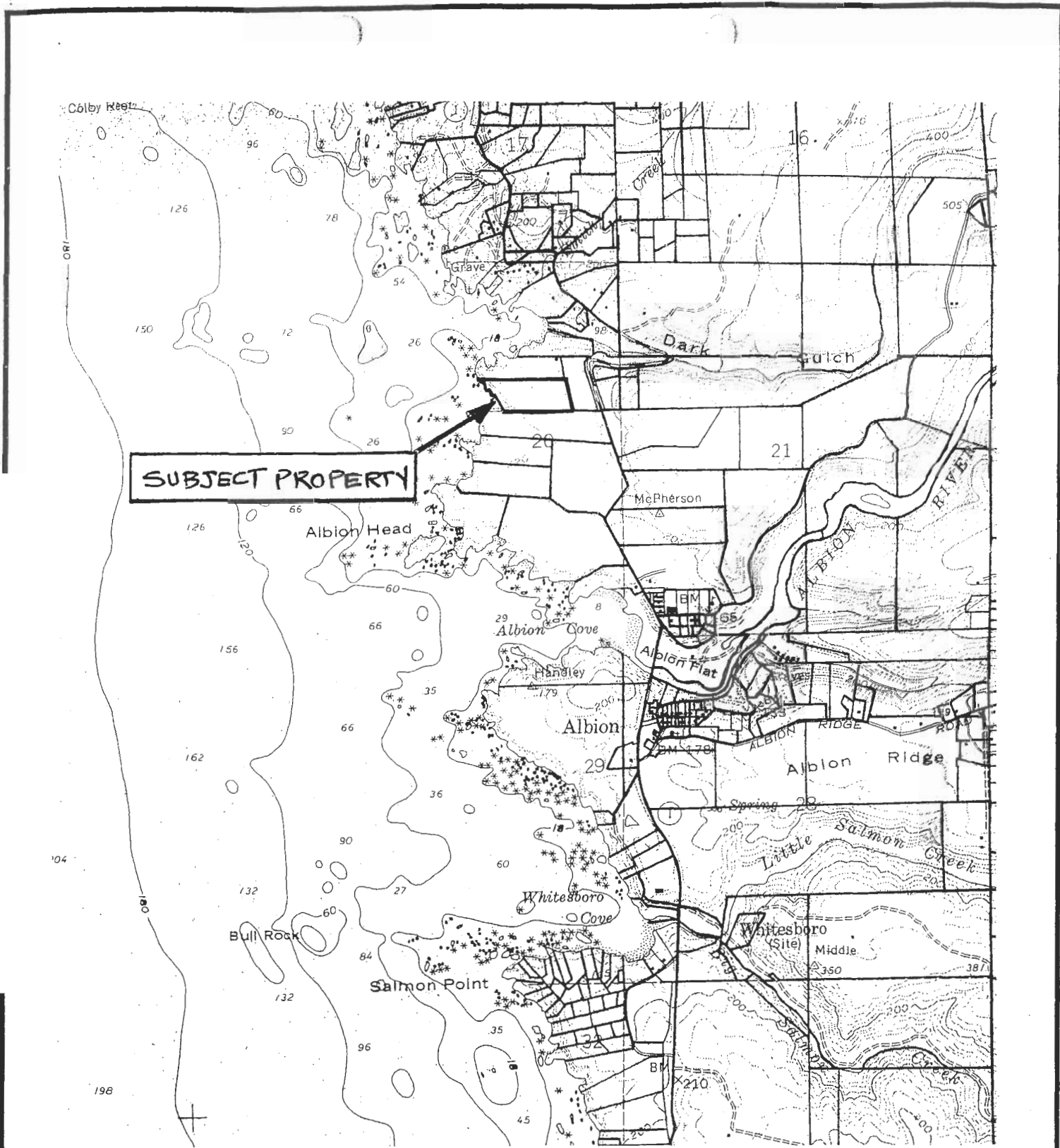


EXHIBIT NO. 1
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 REGIONAL LOCATION MAP

APPROXIMATE
 LOCATION





SUBJECT PROPERTY

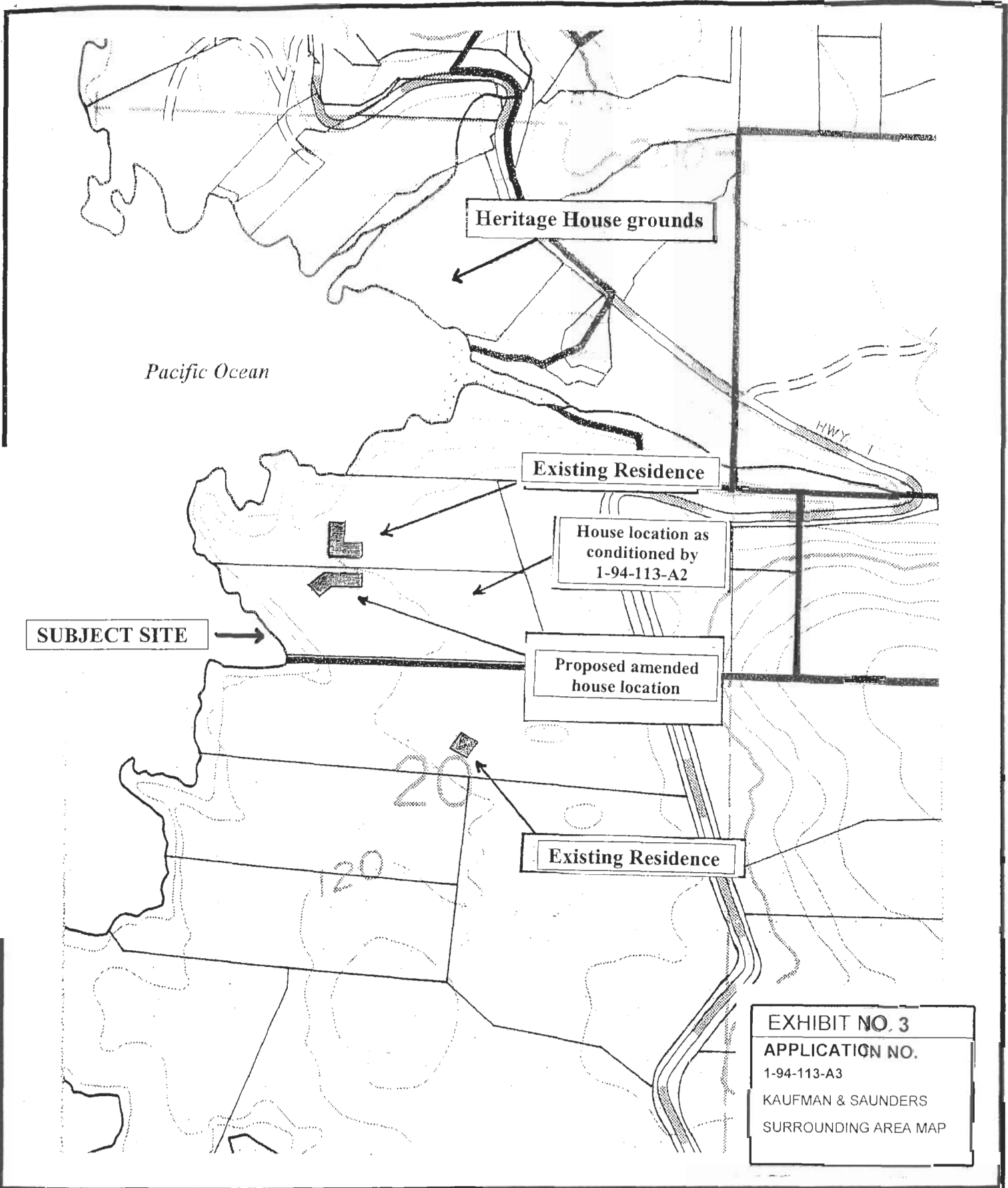
EXHIBIT NO. 2
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 VICINITY MAP

Kauffman-Saunders Residence, Albion

Location Map

NO SCALE





Kauffman-Saunders Residence, Albion

NO SCALE

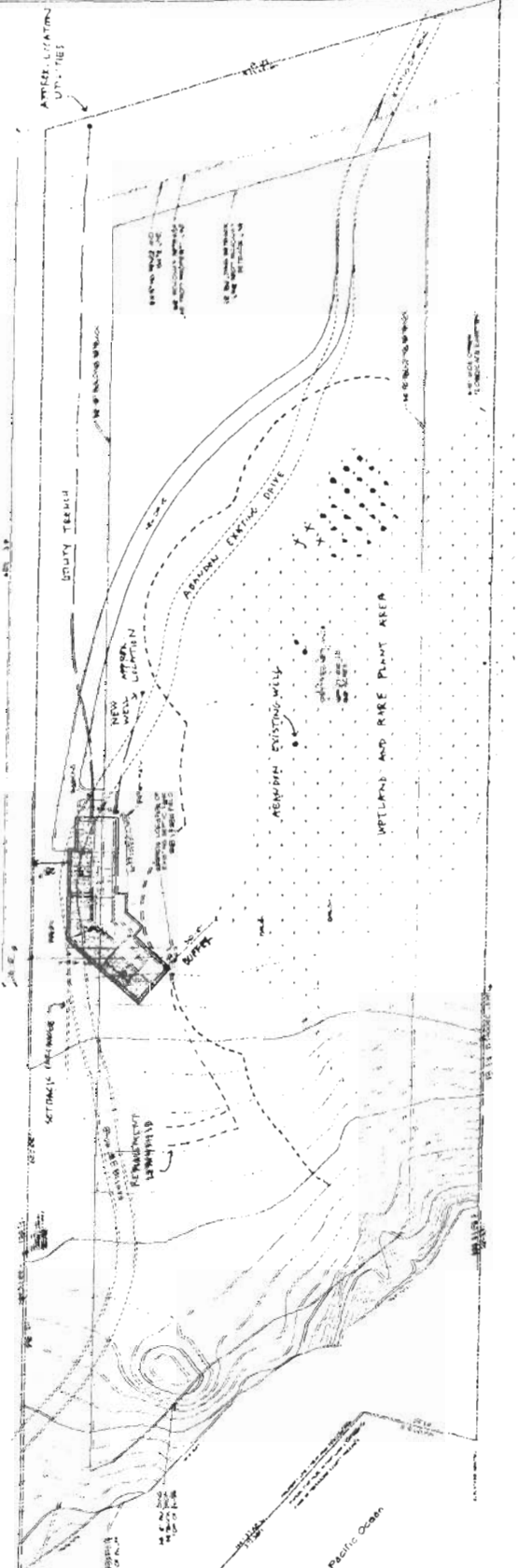




PAUL DOUGLAS, Architect
 P.O. Box 1393 Mendocino CA
 Ph 937-3729

NEW RESIDENCE FOR
 PAUL KAUFMAN & MARY SAUNDERS
 4530 NORTH HIGHWAY ONE LITTLE RIVER, CA 95456
 AP 123-010-10

DATE	
SCALE	
BY	
CHECKED BY	
APP'D	



RARE PLANTS
 • SWAMP HABITAT POPULATION
 X FRAGMENTED TRAIL POPULATION



EXHIBIT NO. 4
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 PROPOSED AMENDED SITE
 PLAN

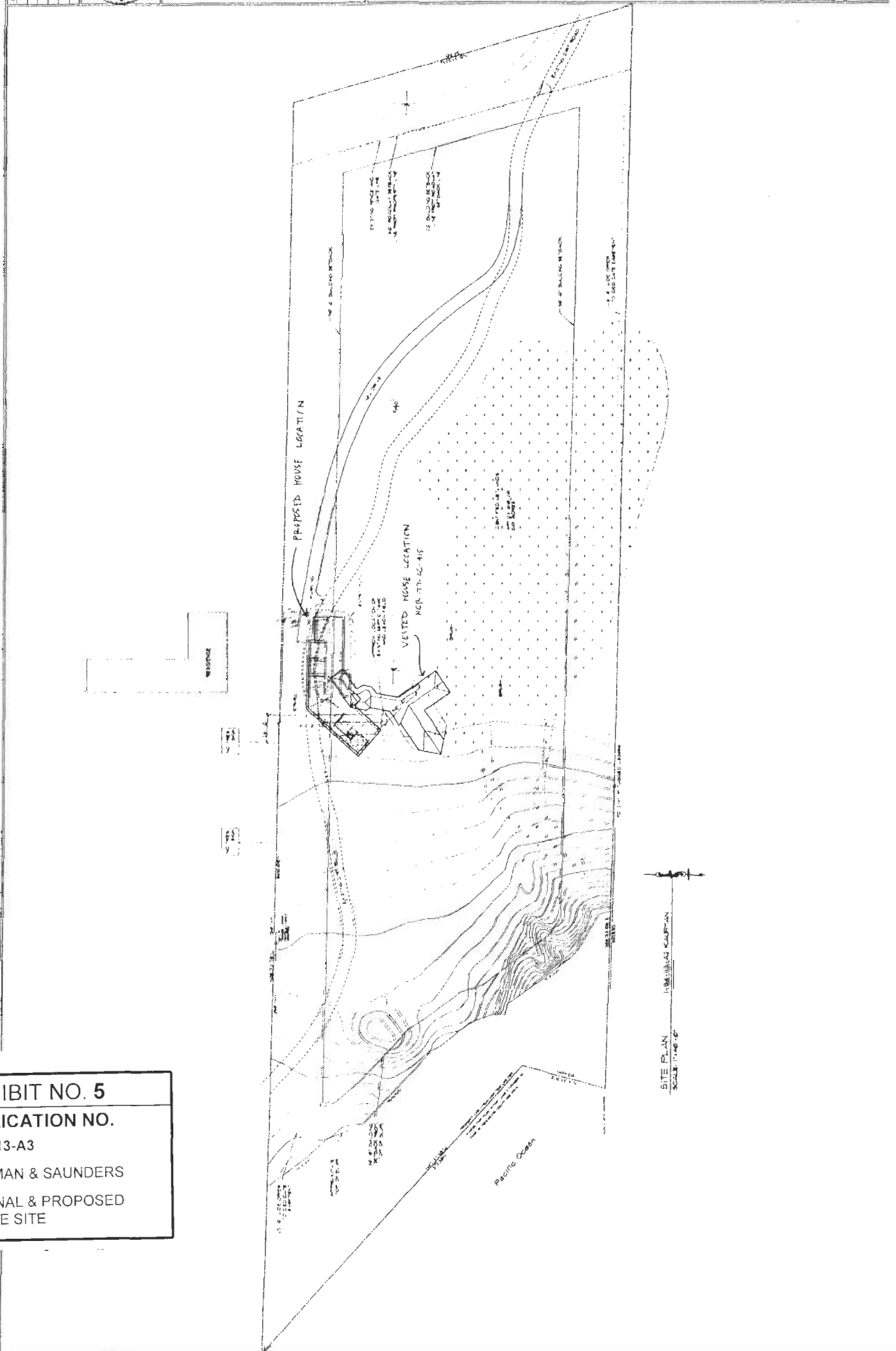


EXHIBIT NO. 5
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 ORIGINAL & PROPOSED
 HOUSE SITE

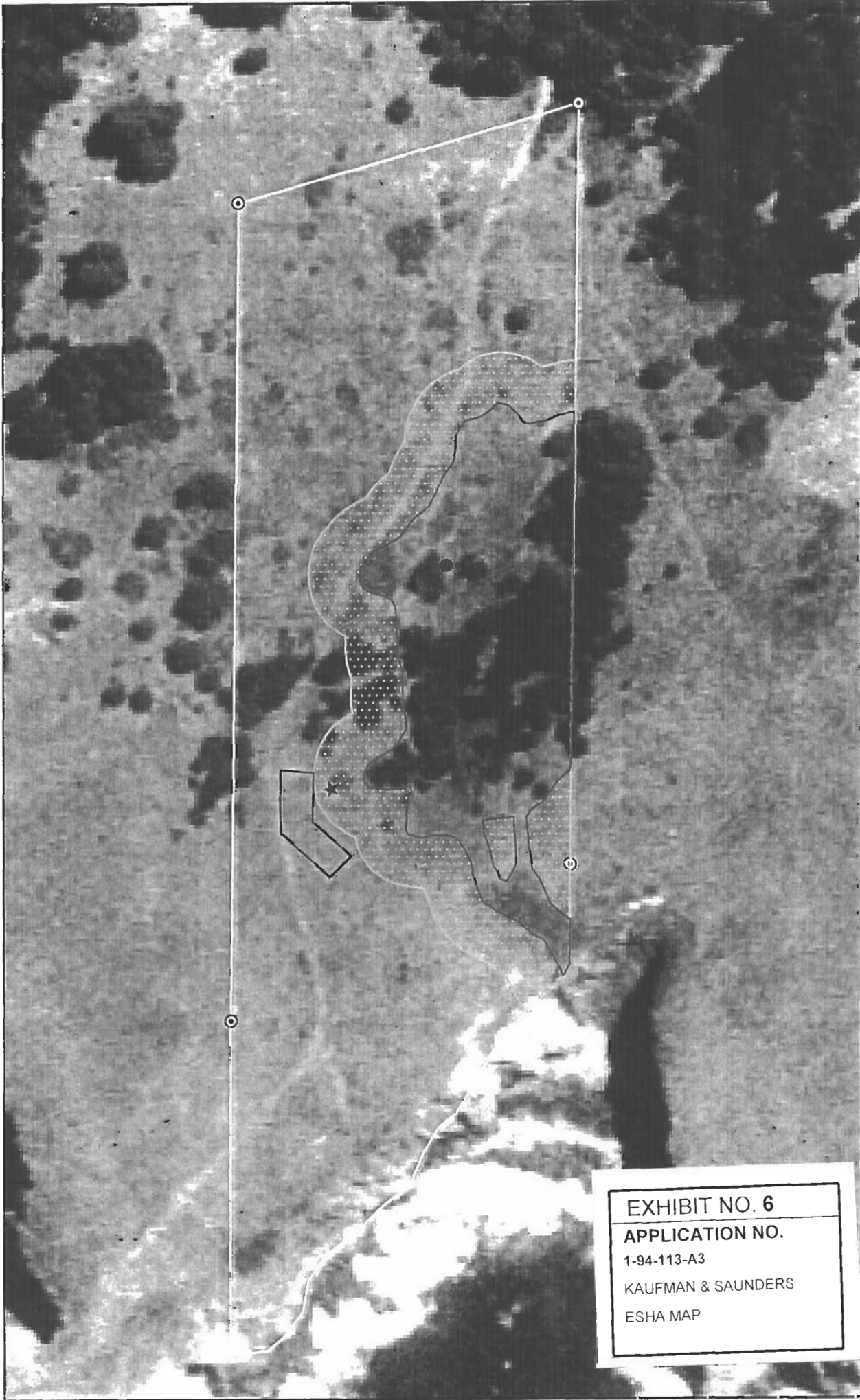


EXHIBIT NO. 6
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 ESHA MAP



- Property Boundary
- Wetland
 - Proposed Wetland Buffer
 - Proposed Homesite
 - Iron Pipe Monument
 - Septic Site
 - Well

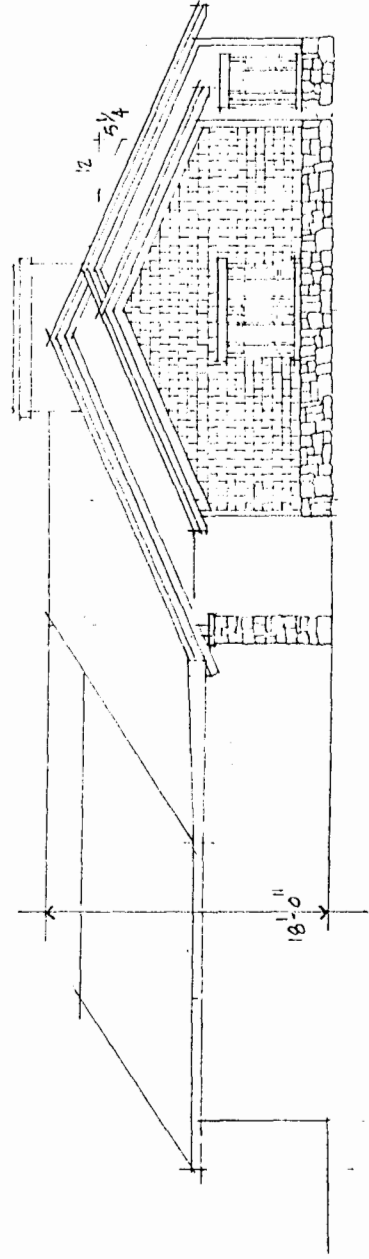
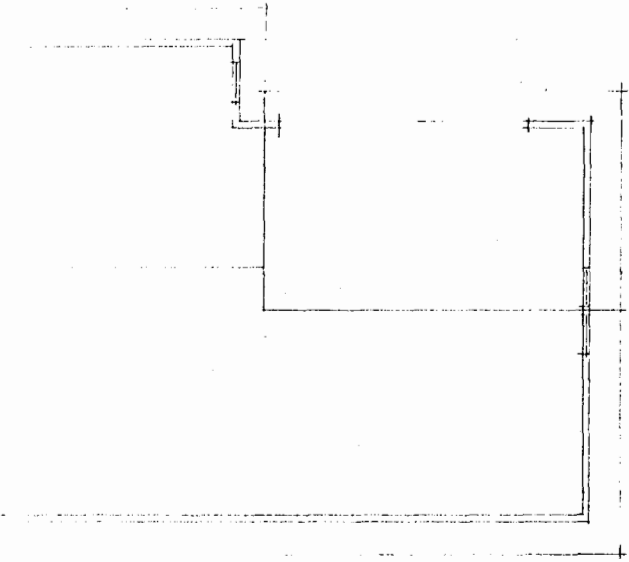


Figure 1.
 Kaufman Property, Mendocino, CA



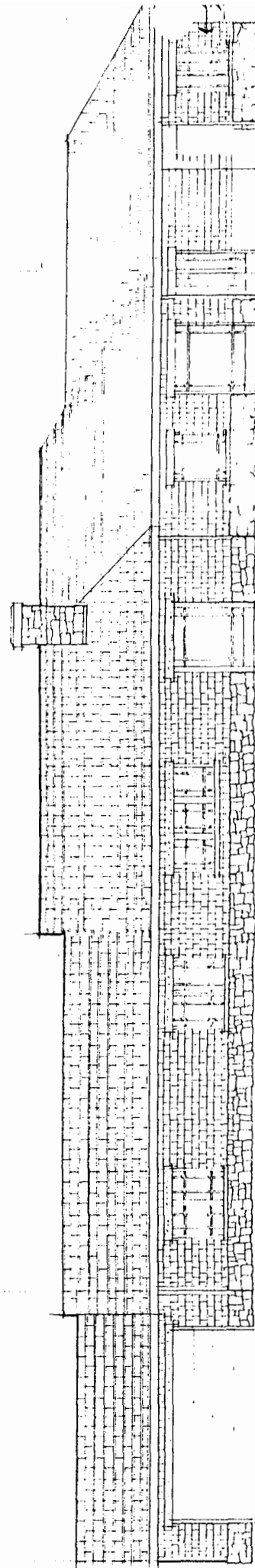
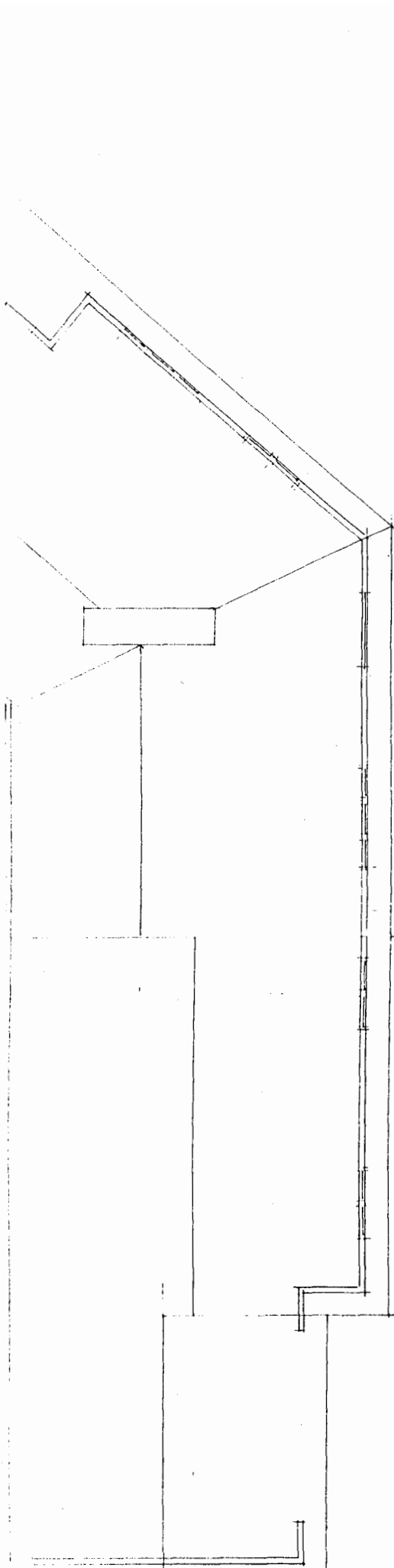
Garcia and Associates, January 2004

HARD-PINE ROOFING
2x6x4" SIDING
SPUNKWOOD



18'-0"
1/8"
EAST ELEVATION

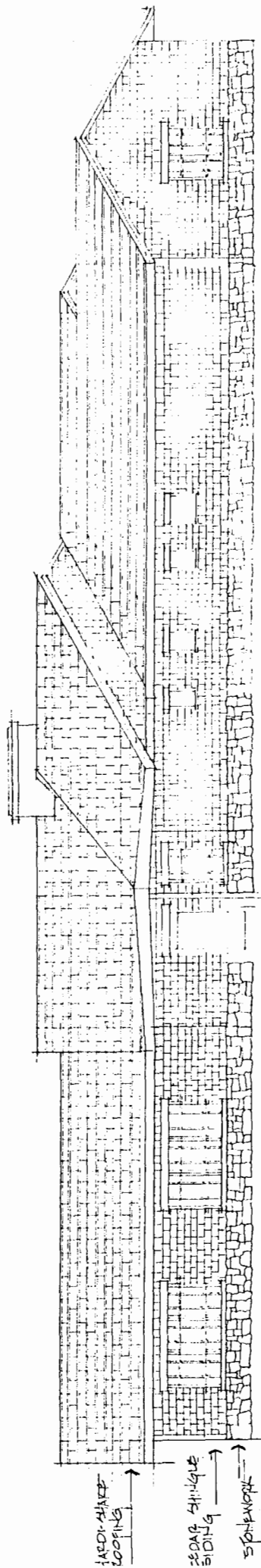
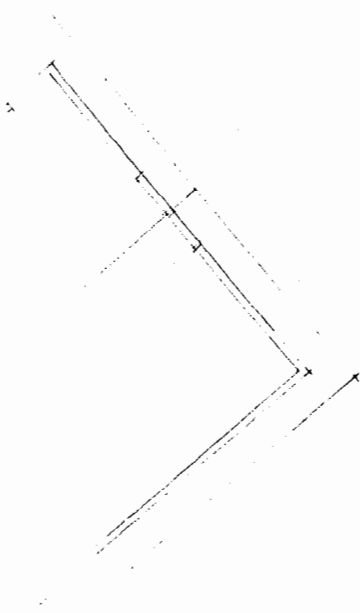
EXHIBIT NO. 7
APPLICATION NO.
1-94-113-A3
KAUFMAN & SAUNDERS
ELEVATIONS (1 of 4)



SCALE 1/8" = 1'-0"

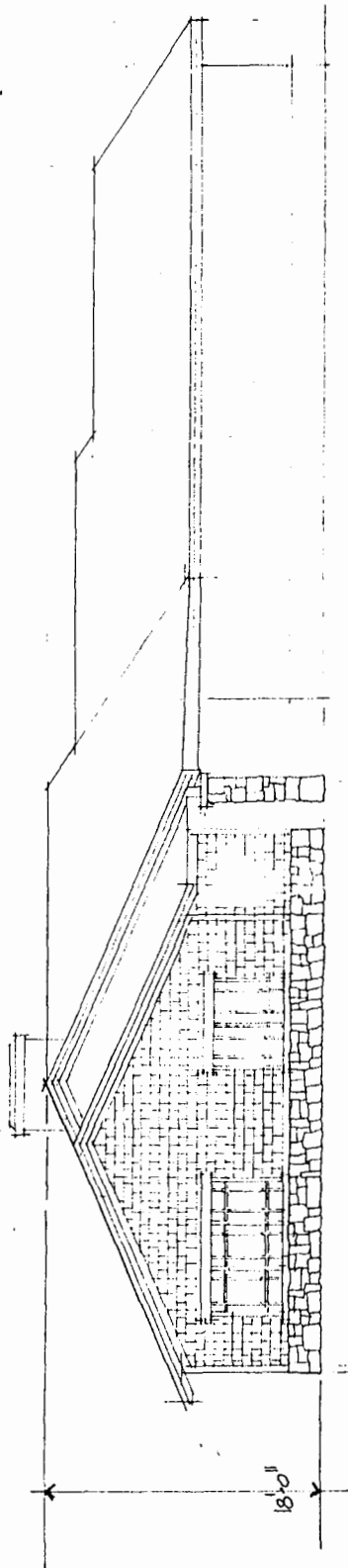
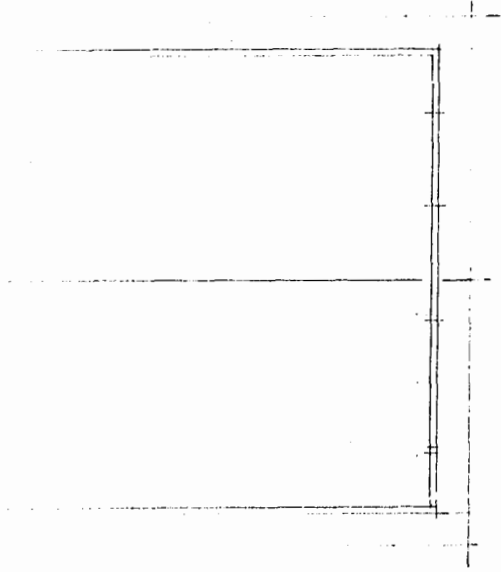
NORTH ELEVATION

294



1/8" = 1'-0"

SOUTH-EAST ELEVATION



SCALE 1/8" = 1'-0"

SOUTHWEST ELEVATION

4 of 4

EXHIBIT NO. 8
APPLICATION NO.
 1-94-113-A3
 KAUFMAN & SAUNDERS
 ESHA BUFFER
 ANALYSIS (1 of 3)

ent 1. Analysis of the Mendocino County Coastal Zoning Code [Sec. 20.496.020 (A)(1)]

Mendocino Code Sec. 20.496.020 (A)(1)	Site Findings
<p>(a) Biological Significance of Adjacent Lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).</p> <p>Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.</p>	<p>The lands adjacent to the wetland area support a coastal prairie plant community. These areas are dominated by annual and perennial grasses typical of coastal bluffs. Coastal prairie habitat integrates with beach pine forest dominated by shore pine (<i>Pinus contorta</i> ssp. <i>contorta</i>) and Bishop pine (<i>Pinus muricata</i>). These habitats provide resting, nesting, and escape cover for a variety of wildlife species; however, no functional relationship could be identified between the onsite wetland and the surrounding upland habitats. Therefore, use of the 50-foot buffer is not expected to disrupt wetland/upland functional relationships.</p> <p>The wetland area is a mix of a seasonal wetland/marsh, and a prairie community dominated by FACW plant species and including a number of small stands of shore pine. Swamp harebell (<i>Campanula californica</i>) (CNPS List 1B, Federal Species of Concern) is a perennial plant found in coastal prairie and associated wetland habitats along the coast from Mendocino to Santa Cruz counties. It was found in the 1997 wetland delineation conducted by GANDA in the central 3-parameter wetland area; however, these plants are not utilizing the rest of the parcel. It is possible that other individuals of this species could occur elsewhere on the coastal bluffs on this parcel or adjacent parcels. The 50-foot buffer is expected to provide adequate protection for this population of special status plants.</p>
<p>(b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:</p> <ul style="list-style-type: none"> (i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species; (ii) An assessment of the short-term and long-term adaptability of various species to human disturbance; (iii) An assessment of the impact and activity levels of the proposed development on the resource. 	<p>A search of the California Department of Fish and Game's Natural Diversity Database did not find any potential sensitive species of fish or wildlife for the habitat that occurs on the Kaufman parcel. During the site visit, wildlife observed included red-tailed hawks (<i>Buteo jamaicensis</i>), northern harriers (<i>Circus cyaneus</i>), a sharp-shinned hawk (<i>Accipiter striatus</i>), and a western toad (<i>Bufo boreas</i>). In addition, the site is expected to support resident and migratory wildlife typical of coastal habitats. These wildlife species are expected to be tolerant of low levels of human disturbance. The proposed 50-foot buffer would allow for the continued use of the wetland resource by local (resident and migratory) wildlife populations for nesting, feeding, breeding, and resting.</p> <p>Local populations of wildlife typical of the coastal bluffs are adaptable to low</p>

Mendocino Code
Sec. 20.496.020 (A)(1)

Site Findings

levels of human disturbance. Development of the homesite would leave most of the parcel undisturbed. Local wildlife may avoid the homesite, but would still utilize other portions of the property. Some populations of wildlife may avoid the site during the short-term construction phase of the project, but would be expected to continue long-term use of the parcel. Because the proposed project would only alter a small portion of the parcel with low levels of human disturbances, and local populations of wildlife can adapt to low levels of human disturbances, short and long term disruptions of the wildlife are not expected.

The proposed development will have impact in two phases: a relatively short phase during construction and an ongoing phase that consists of activities related to the daily life at a single-family dwelling. The construction phase will consist of daily, relatively small, disturbances, including loud noise, ground disturbance, and an altered landscape in the vicinity of the construction site. The second phase includes the activities associated with a single-family dwelling such as cars coming and going occasionally during the day, people spending some amount of recreational time outdoors, and similar activities. These levels of disturbance will probably have a low level of impact on species associated with the site.

The only sensitive plant species found in the wetland is swamp harebell. As long as development does not occur in the wetland and subsequent activity does not directly effect the wetland, then a buffer of 50 feet should be adequate to prevent significant disturbance to this species.

The site is located on a nearly level coastal bluff. The small elevation changes that occur are on the scale of feet. The wetland drains to the southwest corner of the property and there is a low rise in elevation between the wetland and the proposed homesite. Drainage from the homesite flows to the northwest side of the parcel, away from the wetland. Therefore, it is highly unlikely that any erosion into the wetland would occur.

Upgrading the existing road in close proximity to the wetland may result in erosion and sedimentation with the wetland area. To reduce these impacts, the following measures should be implemented for work on the road:

1. All ground disturbing activities should take place during the summer

(c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

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Mendocino Code
Sec. 20.496.020 (A)(1)

Site Findings

	<p>or fall when soil conditions are dry.</p> <p>2. Following grading and other ground disturbing activities, erosion control measures should be implemented to minimize erosion and stabilize disturbed soils. These include installation of silt fences on graded slopes, placement of straw bales in ditches and drains to slow water movement, and seeding disturbed areas with native species for stabilization of loose soils.</p>
<p>(d) Use of Natural Topographic Features to Locate Development. Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.</p>	<p>The topography of the parcel is relatively flat, including gently rolling terrain at the top of coastal bluffs immediately adjacent to the Pacific Ocean. The topographical relief of the site is not sufficient to buffer the wetland area.</p>
<p>(e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.</p>	<p>The only cultural feature present on the site is an overgrown dirt road which will become the driveway to the house. This roadway has no viability as a habitat buffer.</p>
<p>(f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.</p>	<p>The parcel has no above-ground structures of any kind on it at this point. The wetland area is upslope of, and hydrologically isolated from, the homestead. Additionally, the wetland area adjacent to the buffer near the proposed homestead is not expected to be affected by disturbance. Therefore, the proposed 50-foot buffer should adequately protect the wetland.</p>
<p>(g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.</p>	<p>The proposed project includes a single-family dwelling, a gravel driveway over existing dirt road, limited landscaping and a pathway adjacent to the home. The proposed homestead covers approximately one acre, leaving the majority of the 8-acre parcel undeveloped. Based on the small scale of the project relative to the parcel size and expected low levels of human disturbance, the proposed 50-foot wetland buffer is expected to adequately protect wetland functions and values.</p>

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CALIFORNIA COASTAL COMMISSION

NORTH COAST REGION

1656 UNION STREET, ROOM 158

P.O. BOX 4947

EUREKA, CALIFORNIA 95501

(707) 443-1623

STAFF REPORT

~~XXXXXX~~ PUBLIC HEARING AGENDA

Application No: NCR-77-CC-415

Date Filed: 10-20-77

A.P. No. 123-010-20

Findings:

I. APPLICATION SUMMARY

Applicant: Mr. and Mrs. David G. Roberts
24165 Summit Woods Drive
Los Gatos, CA 95030

Agent: Bud Kamb
Box 1348
Mendocino, CA 95460

Development Description: Construction of a single story, single family residence of approximately 2000 sq. ft., garage, water storage tank, a barn of approximately 950 sq. ft., a 60' x 120' tennis court, well and septic system.

Location (address and area): Located on an 8+ acre parcel west of Highway One, approximately 1 $\frac{1}{4}$ mile north of Albion.

Approvals Received: 1. Mendocino County Planning and Building Department
2. Mendocino County Health Department

II. STAFF EVALUATION

Site Characteristics: Project site is a bluff parcel with scattered pines, grasses, berries and poison oak. Parcel has a slight knoll and then slopes gently to the bluff top.

Surrounding Land Use: The parcel immediately to the south has a residence, as do two parcels east of the highway. The Heritage House and other Dark Gulch development is approximately $\frac{1}{2}$ mile to the north.

Policy Conformance (Chapter 3, Coastal Act):

Public Access (30210-30213): See below.

Recreation (30220-30224): See below.

Marine Environment (30230-30236): The placement of the septic system over 250' from the bluff meets the Water Quality Control setback guidelines and will not effect marine resources.

Land Resources (30240-30244): See below.

Development (30250-30255): See below.

Industrial Development (30260-30264): Not applicable.

EXHIBIT NO. 9

APPLICATION NO.

1-94-113-A3

KAUFMAN & SAUNDERS

CDP NCR-CC-77-415 (1 of 10)

Coastal Issues:Geologic Stability

The proposed homesite has been located 275' inland from the bluff top. Using the formula for the area of demonstration from the interpretive guidelines (height of bluff x 2.75 = setback), the development is sited to assure bluff stability and structural integrity. The bluff face is approximately 60' in height, giving a minimum setback of 165 feet.

Public Access

The project site is an 8± acre, ocean fronting parcel. The height and configuration of the bluff does not afford easy access to the ocean, and the small beach below the bluff is seasonal.

As required by Section 30212 of the Act, "Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects . . ."

Limited public access to the coast exists at the Heritage House approximately $\frac{1}{4}$ mile north, and more available access is at Albion Flats $1\frac{1}{2}$ mile south. Because of the very limited nature of access in this area, a determination can not be made that adequate access is available.

Access available at the Heritage House is limited to guests and can not be considered adequate as applied to the general public. Also, the type of access in Albion Flats affords a different type of coastal recreational and access experience, that being primarily fishing oriented.

The scenic quality of the project site, because of its physical characteristics and views south to Albion Head and north along the coast, provide a different experience potential for the coastal visitor. As such, the option for public access must be maintained through the certification process.

Lateral access along the bluff will be recommended as a condition to maintain lateral access options along this portion of the coast.

The project parcel was created by a minor division prior to the effective date of Proposition 20. An error in surveying was made, and an approximately 10 foot wide hiatus was created extending from the highway to the bluff (see Exhibit B). The legal status of this hiatus is questionable, as is its future disposal. However, it is suitable for potential access and vertical access options should be maintained. Because of this hiatus, the lack of adequate public access in the area, and the provisions in Section 30212 of access "to the shoreline and along the coast," vertical access is also being recommended as a condition to a permit. (Location of access points is shown on Exhibit C.)

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2. Conditions:

The permit is subject to the following conditions:

1. Prior to the issuance of a permit, the applicant and all persons with an interest in the applicant's parcel shall execute and record a document, the form and content of which have been approved by the Executive Director of the Regional Commission, offering to dedicate to the public, the right of access 1) a lateral easement of 25 feet as measured landward from the "break in slope at the bluff top along the westerly boundary of Parcel 3, as number and designated on Parcel Map #M.D. 276-72 filed January 24, 1973 in Map Case 2, Drawer 20, Page 35, Mendocino County Records, and, 2) a vertical easement of 6 feet in width as measured northward from the southerly boundary and extending along the entire southerly boundary of Parcel 3, as numbered and designated on Parcel Map #M.D. 276-72 filed January 24, 1973 in Map Case 2, Drawer 20, Page 35, Mendocino County Records, and 3) a vertical easement of 6 feet in width as measured northward from the southerly boundary and extending along the entire southerly boundary of the 60 foot easement for roadway and utility purposes as shown and designated on Parcel Map M.D. #276-72 filed January 24, 1973 in Map Case 2, Drawer 20, Page 35, Mendocino County Records.

That the applicant shall be required prior to issuance of permit to provide the Regional Commission with a title report and guarantee in favor of the Regional Commission listing all parties who are necessary to execute the dedication for it to be effective. The offer to dedicate shall be irrevocable for a period of 25 years and shall run with the land, binding successors and assigns of the applicant. Only a public agency or a private association agreeing to accept responsibility pursuant to Public Resources Code Section 30212 for maintenance and liability of the accessway shall the offer. The applicant shall agree to dedicate such interest in the land as required by the public agency or private association that accepts the dedication, except that the public use of the land may be limited to pedestrian travel, viewing, and coastal trail access. Access by the public shall not be permitted until the provisions of Public Resources Code Section 30212 regarding liability and maintenance are fulfilled and an access program including the possible acceptance of the area offered in dedication pursuant to this condition has been included in a certified local coastal program for the area. If upon certification, the local coastal program does not contain an access program including the possible acceptance of the applicant's offer of dedication, the Executive Director of the Regional Commission or its successor shall, pursuant to request by the applicant, execute in a form proper for recordation a document releasing applicant from any further obligation under this offer. Issuance of permit shall not take place until the applicant has submitted to the Executive Director of the Regional Commission evidence of recordation of the approved offer of dedication.

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ECP:
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- 2. The project shall not include a tennis court.
- 3. The height of the house shall be a maximum of 16 feet as measured from the present elevation of the house site designated on Exhibit D as location site A. (SEE ATTACHED)
- 4. The height of the barn shall be a maximum of 12 feet.
- 5. The area of the barn shall be a maximum of 600 sq. ft., and sited as shown on Exhibit D.
- 6. All utilities shall be undergrounded.
- 7. Prior to construction, the applicant shall submit to the Executive Director of the Regional Commission for his review and approval, amended site plans, house plans, any grading plans and landscaping plans. Construction shall not commence until the Executive Director has approved the revised plans in writing, and construction shall conform to the approved plans.

Findings and Declarations:

The Commission finds and declares as follows:

Coastal Resources

That the development will not adversely affect coastal resources or the environment in that soils, topography, and setbacks are adequate to sustain the development without adverse environmental impacts.

Public Access

That adequate access does not exist nearby, and that, as conditioned, the project is in conformity with the public access provisions of the Coastal Act.

Development

That the conditioned proposal will not have an adverse impact either individually or cumulatively, and the project is located in an area able to accommodate it.

Coastal Viewshed

That the project has been conditioned to be compatible with the character of the area, and to prevent adverse visual impacts in this scenic area.

Local Coastal Program

That the project will not prejudice the certification process. Public access planning options have been preserved, and the project will not prejudice recreational or agricultural feasibility studies for the area south of the site.

Gary Berrigan
Gary Berrigan
Permit Analyst

CONCUR: RICHARD G. RAYBURN
Executive Director

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DATED: November 30, 1977

Addendum to Condition 3

Height restriction shall not apply to Cupala.

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PROJECT PARCEL

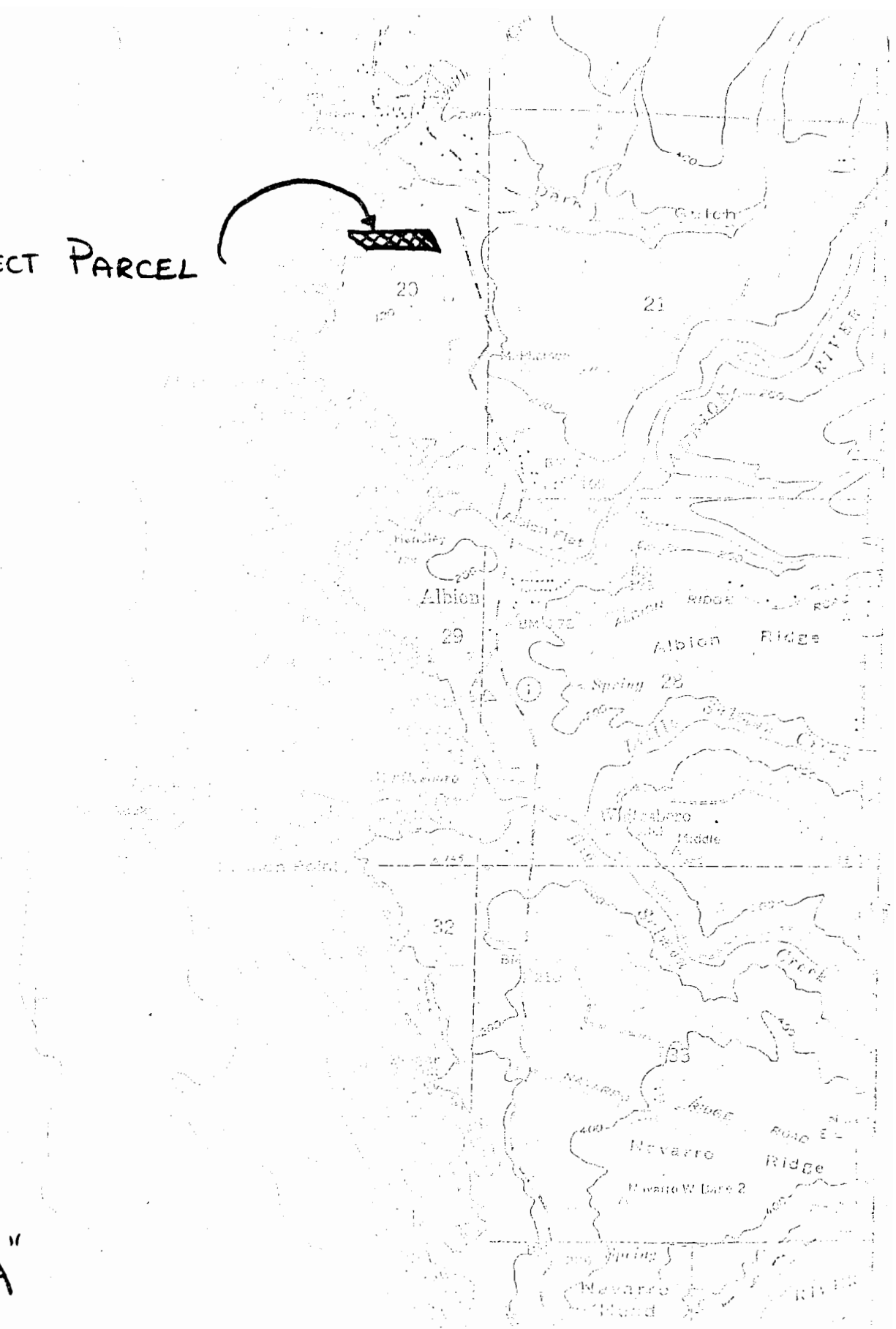
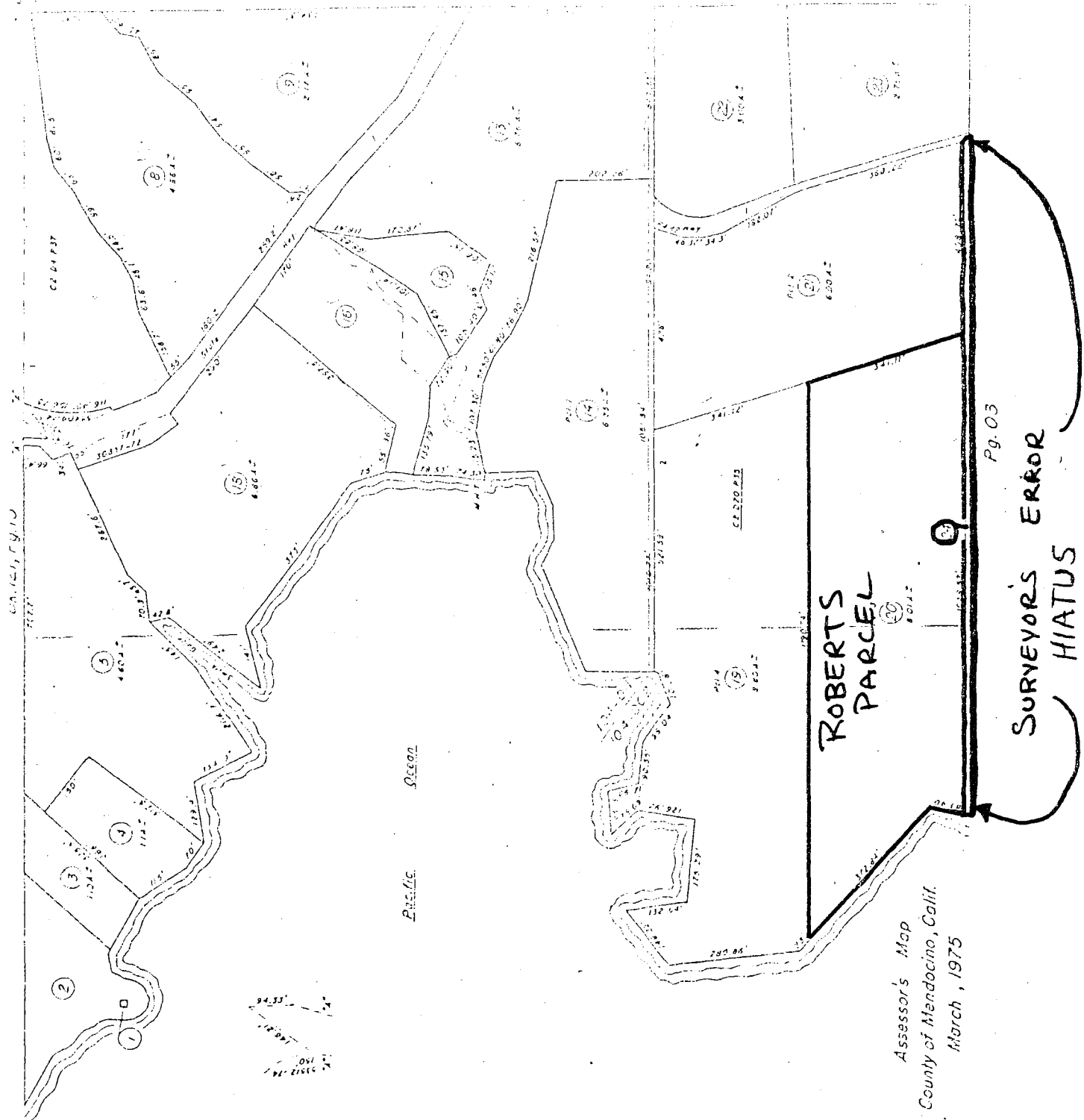


EXHIBIT "A"

ROBERTS
NCR-77-CC-415



Pg. 03

ROBERTS
PARCEL

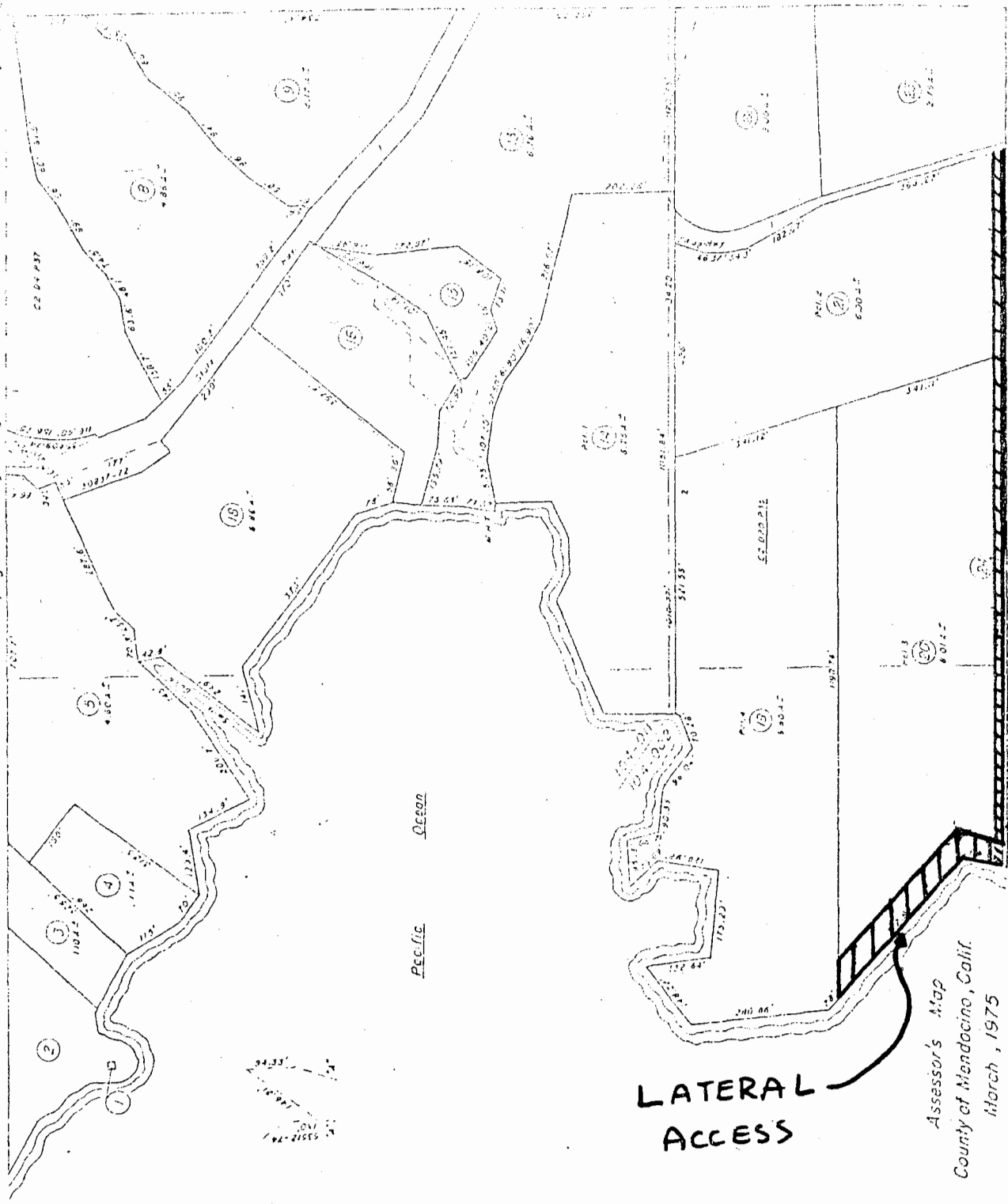
SURVEYOR'S ERROR
HIATUS

Assessor's Map
County of Mendocino, Calif.
March, 1975

EXHIBIT "B"
ROBERTS

7410

Blk. 121, Pg. 13



Pg. 03
VERTICAL ACCESS
 (ADJACENT TO & NORTH OF HINTUS)

LATERAL ACCESS

Assessor's Map
 County of Mendocino, Calif.
 March, 1975

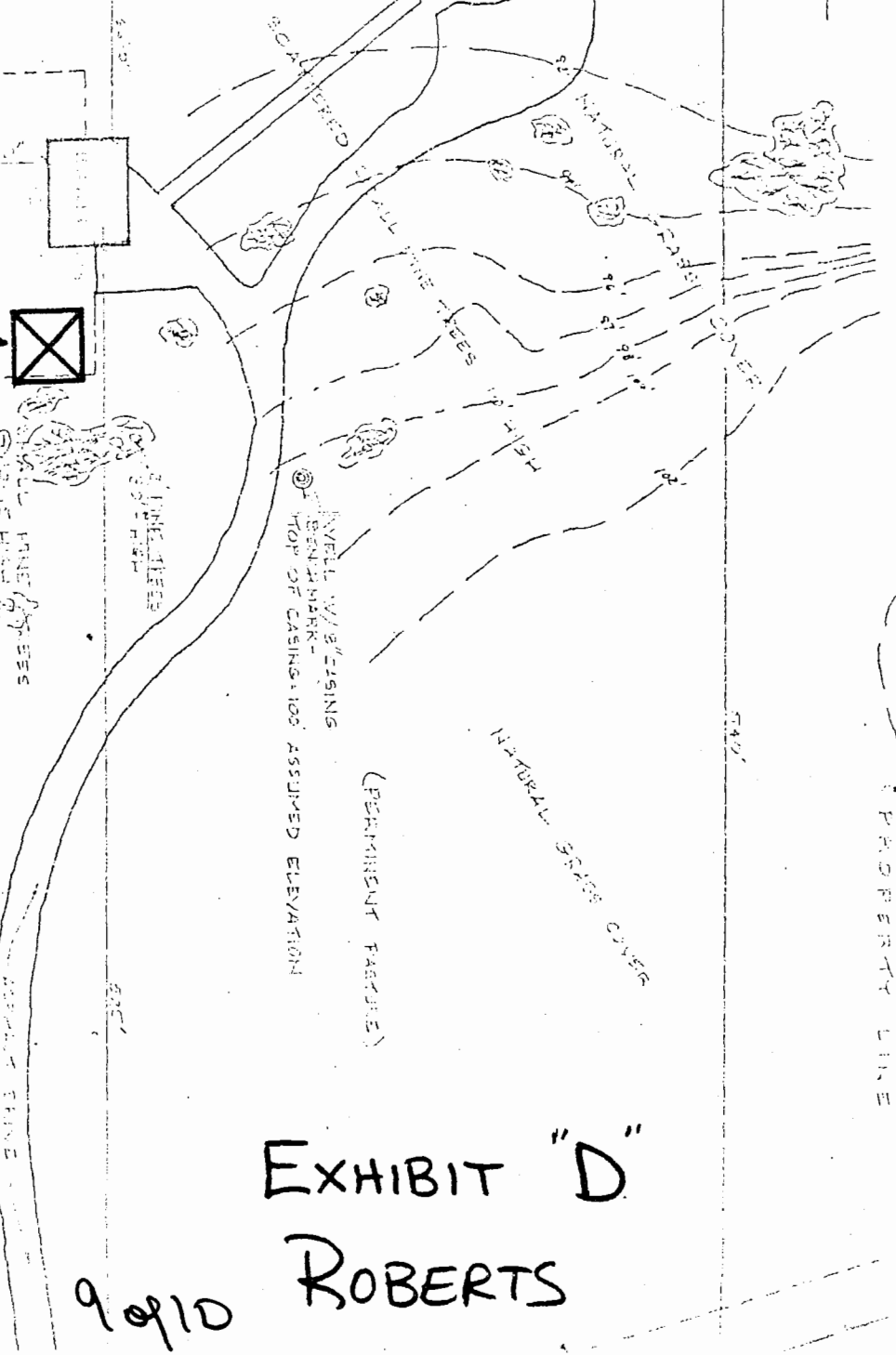
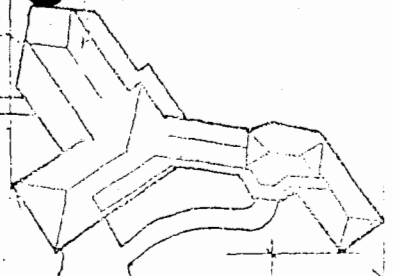
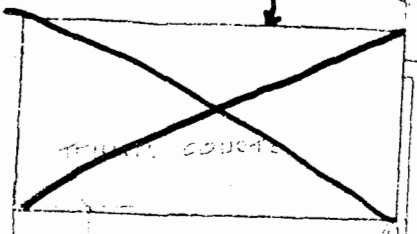
EXHIBIT C
ROBERTS

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CONDITIONED FROM PERMIT

LOCATION SITE "A"

NEW RESIDENCE



SITE PLAN SCALE 1/4" = 10'

APPROXIMATE RELOCATION SITE OF BARN



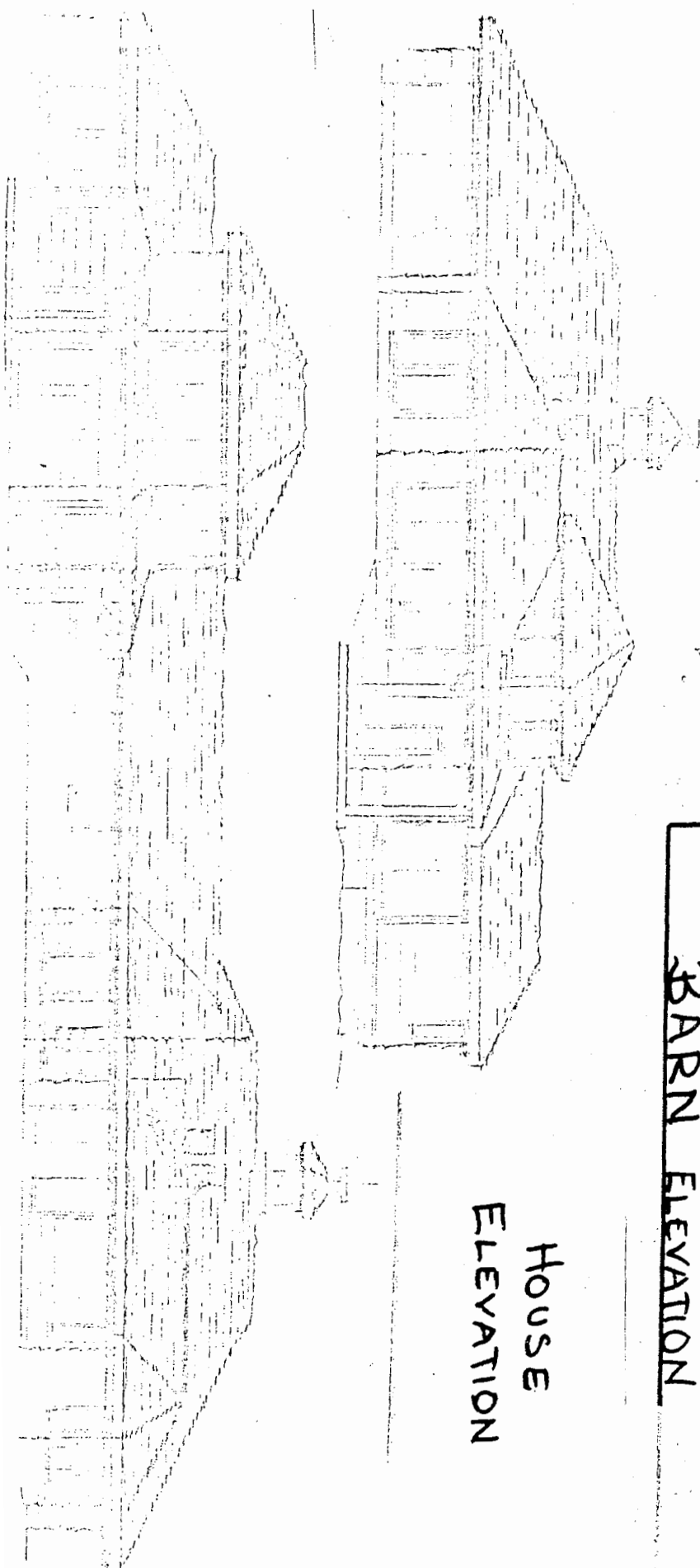
EXHIBIT "D"

ROBERTS

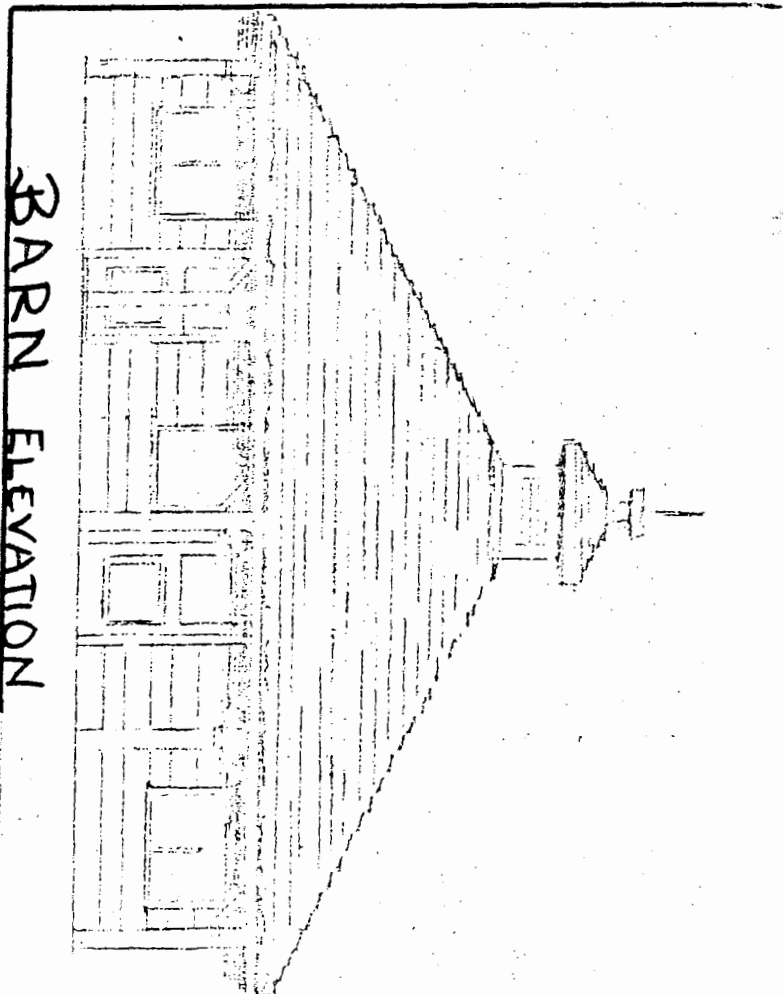
9910

EXHIBIT F
ROBERTS

(NOT TO SCALE)



HOUSE
ELEVATION



BARN ELEVATION

19910

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

Th 18a



EXHIBIT NO. 10
APPLICATION NO. 1-94-113-A3 KAUFMAN & SAUNDERS CDP NO. 1-94-113-A2 (1 of 17)

Filed: August 27, 1997
 49th Day: October 15, 1997
 180th Day: February 23, 1997
 Staff: Jo Ginsberg
 Staff Report: September 24, 1997
 Hearing Date: October 9, 1997
 Commission Action:

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-94-113-A2**

APPLICANTS: **PAUL KAUFMAN/MYRA SAUNDERS**

AGENT: Leventhal/Schlusser Architects

PROJECT LOCATION: 4330 Highway One, south of Little River, Mendocino County, APN 122-010-20

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: Construction of a 2,000-square-foot, 16-foot-high, one-story single-family residence with a garage, barn, water storage tank, well, and septic system.

DESCRIPTION OF AMENDMENT: (1) Relocate the house site approximately 450 feet to the west to a site near the bluff edge; (2) construct an enlarged and redesigned 18-foot-high house of 3,557 square feet; and (3) substitute a 625-square-foot, 23-foot-high guest cottage for the approved 600-square-foot, 12-foot-high barn and relocate it to a new site.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; NCR-77-CC-415 (Roberts).

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission approve with conditions the coastal development permit amendment application for the proposed project on the basis that, as conditioned, the proposed development with the proposed amendment is

consistent with the certified Mendocino County Local Coastal Program and the public access and recreation policies of the Coastal Act.

The main issues concerning the proposed project are visual resources; environmentally sensitive habitat; and public access. Staff has recommended attaching a number of special conditions to the permit to address these issues. In particular, staff is recommending relocation of the proposed residence from a site near the bluff edge where it would be prominently visible from viewing areas affording public views, to a site near the eastern property boundary where impacts to the public viewshed would be minimal and where the residence will not affect environmentally sensitive habitat or public access.

1. PROCEDURAL AND BACKGROUND NOTE:

Coastal Permit No. NCR-77-CC-415 (Roberts) was approved by the Commission on December 8, 1977 with a number of special conditions intended to address visual and public access concerns, and to ensure that the development would be subordinate to the visual character of the highly scenic area where it will be constructed. Special Condition No. 1 requires that prior to issuance of the coastal permit, the applicant shall record an offer to dedicate a lateral and vertical easement for public access. Special Condition No. 2 requires elimination of the proposed tennis court. Special Condition No. 3 requires that the height of the house be reduced to 16 feet. Special Condition No. 4 requires that the height of the barn be reduced to 12 feet. Special Condition No. 5 requires that the area of the barn be a maximum of 600 square feet and resited to a less conspicuous location on the site. Special Condition No. 6 requires that all utilities shall be undergrounded. Special Condition No. 7 requires that prior to construction amended site, house, grading, and landscaping plans be submitted for review and approval.

The conditions of the permit were met, and remain in effect. The coastal permit was issued in February of 1979. Site development was begun, but the house and barn were never built. The permit was assigned several times to different property owners. The current owners, Kaufman/Saunders, obtained in February of 1995 an amendment to the coastal permit for construction of a 5-1/2-foot-high, 670-foot-long periphery fence along the north and east property boundaries set back to avoid the roadway and access easements. This fence has been constructed.

The current amendment request seeks to relocate the site for the house and also the site for the accessory structure, which is to be a guest cottage rather than a barn as originally approved, and to enlarge and redesign both structures. The house is proposed to be relocated from a site 540 feet west

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of the eastern property boundary to a site approximately 30 feet from the bluff edge, where it would be prominently visible from the nearby Heritage House, a major historic visitor-serving destination, and where it would be as close as five feet from the recorded offer to dedicate a public access easement. Staff is recommending that the house site be relocated away from the bluff edge to a location near the eastern property boundary, to avoid significant adverse impacts on visual resources and public access. In addition, as there is a large wetland in the central portion of the property, staff's recommended location near the eastern property boundary will avoid the wetland area and the recommended 100-foot wetland buffer area.

Finally, staff notes that the applicants do possess a valid coastal permit for a residence in the central portion of the site, and may choose not to accept this amendment to the existing permit.

2. STANDARD OF REVIEW: The Coastal Commission effectively certified Mendocino County's LCP in October of 1992. Therefore, the LCP is the standard of review for this amended project. In addition, for any development between the nearest public road and the sea, a specific finding must be made that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby approves the proposed amendment to the coastal development permit, subject to the conditions below, on the grounds that the proposed development with the proposed amendment is consistent with the requirements of the California Coastal Act of 1976, is consistent with the provisions of the Mendocino Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

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III. Special Conditions:

Special Conditions 1, 2, and 6 of the original permit remain in effect. Special Conditions 3, 4, 5, and 7 are deleted. The following new special conditions are added.

1. Revised Final Project Plans:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicants shall submit for the review and approval of the Executive Director revised final project plans, including site, floor, foundation, grading, and drainage plans, and building elevations. The revised plans shall show the following changes. The house site shall be relocated to a location that is east of the identified wetland habitat and 100-foot buffer area (see Exhibit No. 4), at the eastern end of the property. The house may be redesigned and the guest cottage may be relocated and/or redesigned if necessary to conform to the new location, provided that (a) the house is not greater in size than the 3,557 square feet proposed, (b) the house and guest cottage are no higher than 28 feet as allowed by the Mendocino County LCP, and (c) the guest cottage is no greater in size than the 625 square feet proposed. Any redesign not consistent with these limitations shall require a further amendment to this permit.

2. Landscaping Plan.

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicants shall submit, for the Executive Director's review and approval, a landscaping plan prepared by a licensed professional with expertise in the field of landscaping. The plan shall provide for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the south and east sides of the residence and guest cottage that will minimize the visual impacts of the structures as seen from Highway One. No fewer than 10 trees shall be planted on the property. The trees to be planted shall be a minimum of five feet high when planted, and must reach a mature height of at least 20 feet. The plan shall specify the type, number, location, and mature heights of the trees to be planted.

The plan shall further include a tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted trees and a tree replacement program on a one-to-one or greater ratio for the life of the project. The new trees and shrubs shall be planted within 60 days of completion of the project. The applicants shall notify the Executive Director in writing when the trees have been planted, so that the planting can be verified via a site visit or by examining photographs submitted by the applicants.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be

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reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

3. Conformance of Final Plans to Geotechnical Report:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicants shall submit for the review and approval of the Executive Director evidence that an appropriate licensed professional has reviewed and approved all final plans and certified that the plans are consistent with the recommendations made in the Geotechnical Investigation Report prepared by Earth Science Consultants dated August 14, 1995. In particular, the plans shall be consistent with the recommendations regarding site grading, construction of the foundation and retaining walls, and site drainage. Should the licensed professional determine that some of the recommendations made in the geotechnical investigation are not necessary due to the relocation of the house away from the bluff edge, the final plans to be submitted may omit those recommendations found to be no longer necessary due to the relocation of the house site. If any recommendations of the original geotechnical investigation are to be omitted from the final plans, the applicants shall submit a letter from the licensed professional documenting that the recommended measures to be omitted are no longer necessary.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

4. Deed Restriction:

PRIOR TO ISSUANCE of the amended Coastal Development Permit, the applicants shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, stating the following:

- a. that development on the property shall be limited to that described in Coastal Permit No. 1-94-113-A2, and any future addition or improvement will require an amendment to this permit, a new coastal development permit, or a determination that neither is necessary; and
- b. any rental or lease of the guest cottage separate from rental of the main residential structure is prohibited; construction and/or use of all cooking or kitchen facilities are prohibited in the guest cottage; and any change in the use of the guest cottage shall require an amendment to

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this coastal development permit, a new permit, or a determination by the Executive Director that neither is necessary.

The document shall run with the land binding all successors and assigns and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction.

5. Tree Removal:

This permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed for construction or to meet the fire safety regulations of the California Department of Forestry and Fire Protection. Any future removal of trees for other than safety reasons shall require a new coastal permit or another amendment to Coastal Permit No. 1-94-113.

IV. Findings and Declarations.

The Commission hereby finds and declares:

1. Project and Site Description:

The original project approved by the Commission (Coastal Permit No. NCR-77-CC-415, Roberts; see Exhibit No. 11) is for the construction of a 16-foot-high, 2,000-square-foot, single-family residence with a garage, water storage tank, barn, well, and septic system on an eight-acre blufftop lot located west of Highway One north of the town of Little River. The proposed amendment request seeks to (1) relocate the house site from its currently approved location 540 feet west of the eastern property boundary to a new location approximately 30 feet from the bluff edge; (2) enlarge and redesign the house so that it is 18 feet high and 3,557 square feet in size; (3) and substitute a 625-square-foot, 23-foot-high guest cottage for the approved 600-square-foot, 12-foot-high barn and relocate it to a new site.

The subject parcel is designated in the Land Use Plan as Rural Residential-10 (RR-10), meaning that there may be one parcel for every 10 acres. The subject parcel is approximately eight acres in size, and is a legal, non-conforming lot. The parcel contains a large wetland area in the central portion of the property, and a small seasonal drainage in the extreme southwestern portion of the parcel.

2. Visual Resources:

LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to

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protect views to and along the ocean and to be visually compatible with the character of surrounding areas, and, in highly scenic areas, to be subordinate to the character of its setting. (Emphasis added.) Policy 3.5-3 states that new development west of Highway One in designated "highly scenic areas" should be subordinate to the natural setting and minimize reflective surfaces. (Emphasis added.) The subject parcel is in an area designated in the LUP as "Highly Scenic."

The Zoning Code reiterates these policies. Specifically, Section 20.376.045 of the Zoning Code requires an 18-foot height limit for parcels located west of Highway One in designated highly scenic areas in Rural Residential districts, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Section 20.504.015(C)(1) states that any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. (Emphasis added.) Section 20.504.015(C)(7) states that visual impacts of development on terraces should be minimized by avoiding development in large open areas if an alternative site exists. (Emphasis added.)

The development originally approved by the Commission in 1977, as noted above, includes the construction of a 16-foot-high, one-story single-family residence, garage, barn, water storage tank, well, and septic system on the subject parcel. The approved house site was approximately in the center of the parcel, about 500 feet from the bluff edge and 540 feet west of the eastern property boundary. Findings for the project indicate that the proposed development was sited and designed to minimize visual impacts (see Exhibit No. 11). The site chosen for the residence was selected because it was west of an existing knoll and screened by trees so that it would not be visible from Highway One. Special Conditions were attached to the permit to ensure that significant adverse impacts to visual resources were minimized. Although site development was begun, the house was never built.

The proposed amended project is for a relocation of the house site, redesign and expansion of the house, and construction of a guest cottage rather than a barn as an accessory structure in a new location. The proposed new house site is a location approximately 30 feet from the bluff edge (see Exhibit No. 5), and would provide better ocean views for the applicants.

The subject parcel does not abut Highway One, as there is an intervening parcel between the subject lot and the highway. Views of the site from Highway One are quite limited. However, the proposed new house site will be visible from the nearby Heritage House Inn, a major visitor destination and historic landmark in Mendocino County that has been in operation since 1949. Many thousands of visitors come yearly to the Heritage House for overnight

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accommodations, dining, to visit the nursery, or just to walk on the grounds and enjoy the coastal views. Staff at Heritage House estimates that on average, each month approximately 3,000 visitors lodge and dine at Heritage House, which has been also used as a location to film movies. The Heritage House and the nearby Little River Inn are the two most heavily patronized inns along the Mendocino coast.

From many vantage points on the Heritage House property one can see dramatic views of the spectacular headland on which the new house site is proposed. The western portion of this headland is undeveloped, and appears as an open flat coastal terrace that contains a grassy meadow with no trees within several hundred feet of the bluff edge. The few houses that are built on nearby parcels on the open coastal terrace are set back in trees several hundred feet back from the bluff edge where they do not interfere with coastal views across the terrace. As stated above, the subject parcel is in an area designated in the certified LUP as "Highly Scenic." Were the applicants' house to be built at the proposed coastal terrace site, the house would be the only house visible on the open headland from numerous locations on the Heritage House property, and thus have a significant adverse impact on visual resources. The house would not be visually compatible with or subordinate to the character of its setting, inconsistent with visual resource policies of 3.5-1 and 3.5-3 of the certified LCP.

In addition, although the Heritage House is privately owned, the Commission finds the views from Heritage House to be coastal views from a public area as contemplated by Section 20.504.015(C)(1), as the historic Heritage House is a heavily visited, unique visitor-serving facility that serves the public. Further, the public is permitted to visit the Heritage House even if not staying as overnight guests. Therefore, the proposed location on the coastal terrace would be inconsistent with Section 20.504.015(C)(1), which requires that any development in highly scenic areas protect the coastal views from public areas. Moreover, the proposed coastal terrace location would not minimize the visual impacts consistent with Section 20.504.015(C)(7) because, as discussed further below, an alternate site which avoids the large coastal terrace is available.

The Commission thus attaches Special Condition No. 1, requiring the applicants to submit revised final project plans, relocating the house site to a location (see Exhibit Nos. 3 and 4) at the eastern end of the property where it will not be visible from the Heritage House, thus minimizing visual impacts and protecting coastal views from public areas. The house is also required to be no higher than 28 feet, which is the maximum height allowed by the certified LCP.

Although the subject parcel is approximately eight acres in size, acceptable building sites are quite limited due to the presence of a large wetland area

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in the central, wooded portion of the property. At the time the original permit was approved in 1977, no wetland survey had been done and the approved house site is set back about 500 feet from the bluff edge in the wooded portion of the property, where visual impacts would be minimized. However, as discussed more fully in Finding 3, below, the recent wetland survey dated August 6, 1997 reveals the presence of a large wetland area on the property (see Exhibit Nos. 3, 4 and 9), and recommends a 100-foot buffer area around the wetland. The Department of Fish and Game biologist who visited the site also recommends a 100-foot wetland buffer (see Exhibit No. 10). The house site approved by the Commission in 1977 is almost entirely within the 100-foot buffer area, with a small portion being within the wetland itself. The Commission finds, however, that as conditioned in Special Condition No. 1, the house site will not have significant adverse impacts on either visual resources or environmentally sensitive habitat.

The applicant has proposed berming and landscaping of the residence in the coastal terrace near the bluff edge, with the intent of screening the house from public views. However, while such measures could screen the house from view, the berming and landscaping would still be quite visible from public viewing areas. Instead of appearing as an open, flat coastal terrace vegetated with only grasses, the view of the terrace would be dominated by a tree-covered berm, unlike any other feature within that landscape. Thus, the development would not be "subordinate to the character of its setting," inconsistent with LUP Policy 3.5-1, or "subordinate to the natural setting," inconsistent with LUP Policy 3.5-3.

The Commission notes that the applicants have also suggested the relocation of the recorded offer to dedicate a public vertical access easement from the south property line to a new, more accessible location primarily along the north property line, intersecting with the lateral access along the bluff, as mitigation for the visual impacts associated with locating the house site along the bluff. The applicants believe it would be preferable to have a vertical access easement along the north property boundary rather than the south property boundary as the easement along the south property boundary passes through a portion of the wetland and crosses the seasonal drainage. The Commission finds that a relocated accessway would not serve to mitigate the above-identified significant visual impacts posed by the proposed coastal terrace house location. Thus, while the Commission appreciates the applicants' desire to improve public access, it cannot consider such an offer to be appropriate mitigation for significant adverse impacts to visual resources resulting from the placement of the house prominently in the public viewshed.

As noted above, the subject parcel does not abut Highway One, and there is an intervening parcel between it and Highway One. As conditioned, the house and guest cottage will be only minimally visible from Highway One. To further

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minimize adverse impacts to the coastal viewshed from Highway One, the Commission attaches Special Condition No. 2, requiring the applicants to submit a landscaping plan that provides for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the south and east sides of the residence and guest cottage to minimize the visual impacts of the structures as seen from Highway One.

In addition, the Commission attaches Special Condition No. 4, requiring recordation of a deed restriction stating that all future additions or improvements on the subject parcel that might otherwise be exempt from permit requirements under the California Code of Regulations, such as fences or the addition of outbuildings, require a coastal permit. As a result, the Commission will be able to review such future development to ensure that it will not have significant adverse impacts on visual resources.

Further, the Commission attaches Special Condition No. 5, prohibiting the removal of any trees from the subject parcel, other than those required to be removed for construction or to meet the fire safety regulations of the California Department of Forestry and Fire Protection. Any future removal of trees for other than safety reasons shall require a new coastal permit or another amendment to Coastal Permit No. 1-94-113.

In addition, Special Condition No. 6 of the original permit requires that all utilities shall be undergrounded. The Commission retains this condition, which will minimize visual impacts of development by keeping unsightly utility lines underground and therefore not visible to the public.

The Commission finds, therefore, that only as conditioned can the proposed development with the proposed amendment be found to be consistent with Policies 3.5-1 and 3.5-3 of the LUP and with Section 20.504.015(C) and 20.376.045 of the Zoning Code, as the amended development will (1) be sited and designed to protect coastal views from a public area; (2) prevent impacts that would significantly degrade the area; (3) be visually compatible with the character of surrounding areas; and (4) be subordinate to the character of its setting.

3. Environmentally Sensitive Habitat Areas:

LUP Policy 3.1-2 states that development in environmentally sensitive habitat areas such as wetlands, riparian zones on streams, or sensitive plant or wildlife habitats zones shall be subject to special review to determine the current extent of the sensitive resource.

Policy 3.1-7 and Zoning Code Section 20.496.020(A) state that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to protect the environmentally sensitive habitat from significant degradation

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resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width.

Zoning Code Section 20.496.020(A)(4)(b) states that structures will be allowed within the buffer area only if there is no other feasible site on the parcel. Section 20.496.025 states that development within a wetland shall be limited to only a few specific types, such as a port facility, a new or expanded boating facility, etc., and only when there is no feasible, less environmentally damaging alternative.

A wetlands study dated August 6, 1997 was done for the subject parcel, focusing on a two-to-three acre portion of the property identified by Commission staff as potentially exhibiting wetland characteristics. The survey examined vegetation, hydrology, and soils, and determined that a large wetland exists on the site (see Exhibit Nos. 3, 4, and 9). In addition, the survey identified specimens of the rare and endangered plant swamp harebell (Campanula californica) within the central portion of the wetland area. Thus, the parcel contains an environmentally sensitive habitat area, subject to special protection under the County's LCP policies. A 100-foot buffer area was established by the wetland survey to protect the sensitive habitat. A biologist from the Department of Fish and Game has visited the site and concurs that a 100-foot buffer should be established within which no development should take place, and asserts that the buffer area should not be reduced to 50 feet, which would be allowable pursuant to LUP Policy 3.1-7 and Zoning Code Section 20.496.020 (see Exhibit No. 10). There is also a small seasonal drainage in the extreme southwestern portion of the site. No development is proposed in this portion of the property.

As noted previously, the house originally approved on the site pursuant to Coastal Permit No. NCR-77-CC-415 is located almost entirely within this 100-foot buffer, with a small portion of the house extending into the actual wetland. The applicants do possess a valid coastal permit to build a house in this location which could be exercised if the applicants do not accept the amendment. However, the applicants have applied to amend the original permit to construct a house elsewhere on the property, specifically, near the bluff edge out of the wetland and buffer area. Given that the Commission finds that locating a house in the new proposed site would result in significant adverse impacts to visual resources, the Commission is conditioning the permit to require resiting of the house to the far eastern portion of the property, where it will not have significant adverse impacts on visual resources or on environmentally sensitive habitat.

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The Commission thus attaches Special Condition No. 1, requiring that the applicants submit revised final site and project plans that relocate the proposed residence to the eastern portion of the property, which does not contain sensitive habitat, and where it will not have significant adverse impacts on any other resources. The Commission also attaches Special Condition No. 4, requiring recordation of a deed restriction stating that all future improvements or additions on the subject parcel that might otherwise be exempt from permit requirements under the California Code of Regulations, such as fences or the addition of outbuildings, require a coastal permit. As a result, the Commission will be able to review all such future development to ensure that it will not have significant adverse impacts on environmentally sensitive habitat.

As conditioned, the proposed development with the proposed amendment will be located out of the wetland area and surrounding 100-foot wetland buffer area where it will not have any significant adverse impacts on sensitive habitat, consistent with Mendocino County LUP Policies 3.1-2 and 3.1-7, and Zoning Code Sections 20.496.020(A) and 20.496.025.

4. Locating and Planning New Development/Second Structure:

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

As noted above, the subject property is zoned in the County's LCP as Rural Residential-10 acres minimum (RR:L-10), meaning that there may be one parcel for every 10 acres, and that the parcel is designated for residential use. The subject parcel, which is approximately eight acres in size, is a legal, nonconforming lot. Section 20.376.025 of the Zoning Code states that the maximum dwelling density for parcels designated RR:L-10 is one unit per 10 acres.

As described above, the proposed amended development consists of construction of a 3,557-square-foot residence with an attached garage, 625-square-foot guest cottage, a well, and a septic system. The County has not permitted more than one residential unit on most residential parcels in Mendocino County, because of a concern that the increase in density could potentially result in cumulative adverse impacts on highway capacity, groundwater resources, and scenic values, inconsistent with LUP Policies 3.9-1 and 3.8-1.

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To ensure that the guest cottage will not be used at any time as an additional residential unit, the Commission attaches Special Condition No. 4(b), requiring recordation of a deed restriction stating that the guest cottage shall not contain a kitchen or cooking facilities and shall not be separately rented, let, or leased.

The Mendocino County Department of Environmental Health has approved a well and septic system for the subject parcel. The Commission thus finds that, as conditioned, the proposed development with the proposed amendment is consistent with LUP Policies 3.9-1 and 3.8-1 to the extent that the parcel is able to accommodate the amount of development and that adequate services are available. In addition, the Commission finds that, as conditioned, the proposed development with the proposed amendment is consistent with these LUP policies and with Zoning Code Section 20.376.025 because Special Condition No. 4(b) will ensure that there will be only one residential unit on the parcel and the project will not contribute to adverse cumulative impacts on highway capacity, groundwater resources, and scenic values.

5. Public Access:

Projects located within the coastal development permit jurisdiction of a local government that are located between the nearest public road and the sea are subject to the coastal access policies of both the Coastal Act and the LCP.

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

The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. As a condition of permit approval, in 1977 the Commission required that the property owner of the subject parcel (then Roberts) record an offer to dedicate a public access easement for lateral and vertical access. This offer was recorded in 1978. LUP Policy 4.8-5 specifically states that the offer of dedication (vertical and lateral) from Roberts [subject site] shall be accepted.

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As there is already a recorded offer to dedicate a public access easement on the property, required as a condition of permit approval of NCR-77-CC-415, the Commission finds that no requirement for additional public access area is warranted. The proposed amended project would not increase the demand for public access above that created by the originally approved project to necessitate additional access area.

There are currently three active private nonprofit land trusts operating in Mendocino County which have recently been pursuing the acceptance of offers to dedicate public access easements. The Commission has every reason to believe that the offer to dedicate a public access easement on the subject property may at some point be accepted for management. However, the proposed new location of the house site is as close as five feet from the recorded accessway offer, and may result in future conflicts with users of the public access easement, should the offered accessway be accepted for management and opened for public use. The Commission thus attaches Special Condition No. 1, requiring that the proposed house site be relocated well away from the offered access easement.

The Commission thus finds that, as conditioned, the proposed development with the proposed amendment will not be located where it will result in conflicts with potential public access, consistent with the public access policies of the Coastal Act and the County's LCP. The Commission further finds that, as conditioned, the proposed development with the proposed amendment, which does not include any additional provisions for public access, is consistent with the public access policies of the Coastal Act and the County's LCP as there already exists a recorded offer to dedicate a public access easement on the subject parcel.

6. Geologic Hazards:

Mendocino County LUP Policy 3.4-7 states that new structures shall be set back a sufficient distance from the edges of bluffs to ensure their safety against bluff erosion and cliff retreat during their economic lifespans (75 years). Section 20.500.020(B) of the Zoning Code reiterates this language, and states that construction landward of the setback shall not contribute to erosion of the bluff face or to instability of the bluff.

Policy 3.4-9 states that any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself.

Zoning Code Section 20.500.010 requires that development in the coastal zone shall minimize risk to life and property in areas of high geologic, flood, and fire hazard; assure structural integrity and stability; and neither create nor

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contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas.

The subject property is located atop a steep, 90-foot-high bluff. As the originally approved location for the house is proposed to be moved to a site 30 feet from the bluff edge, a geotechnical report, dated August 14, 1995, was prepared for the site. The report states that the proposed development is feasible if performed and maintained in accordance with the recommendations of the report regarding such things as bluff setback, foundation, retaining walls, and site drainage. Special Condition No. 3. requires submittal of final project plans that are consistent with the recommendations made in the Geotechnical Investigation Report. However, the Commission is also attaching Special Condition No. 1 requiring the house to be relocated to a site many hundreds of feet from the bluff edge. Should the geologist determine that some of the recommendations made in the geotechnical investigation are not necessary due to the relocation of the house away from the bluff edge, the plans may be revised to omit those recommended measures found to be no longer necessary due to the relocation of the house site.

In addition, Special Condition No. 4(b) requires Commission review of all future additions or improvements that might otherwise not require a coastal permit to ensure that any such development will be sited and designed to avoid creation of a geologic hazard.

The Commission finds, therefore, that, as conditioned, the proposed development with the proposed amendment is consistent with LUP Policies 3.4-7 and 3.4-9 and with Zoning Code Sections 20.500.010 and 20.500.020(B), as the amended development will be located and designed in a manner that will not result in the creation of a geologic hazard.

7. California Environmental Quality Act (CEQA).

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

The proposed project has been conditioned in order to be found consistent with the policies of the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, including requirements that (1) the applicants submit revised final project plans relocating the house site to a location that is east of the identified wetland habitat and 100-foot

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PAUL KAUFMAN AND MYRA SAUNDERS

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buffer; (2) the applicants submit a landscaping plan that provides for landscape screening; (3) the applicants submit final foundation, grading, and site drainage plans that are consistent with the recommendations of the geotechnical report; (4) the applicants submit a deed restriction requiring Commission review of any future additions or improvements, and that the guest cottage shall be without kitchen or cooking facilities and shall not be separately rented, let, or leased, whether compensation be direct or indirect; and (5) a coastal permit is required for tree removal not necessary for construction or to meet the fire safety regulations of the California Department of Forestry and Fire Protection, will minimize all adverse environmental impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that, as conditioned, the proposed development with the proposed amendment is consistent with the requirements of the Coastal Act and to conform to CEQA.

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ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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Ed McKinley
Amy Wynn
Permit and Land Use Consultants
P.O. Box 488 Fort Bragg, CA 95437
Telephone/Fax: 707 964 2537
edmc@mcn.org amywynncdp@mac.com

September 27, 2006

California Coastal Commission
710 E Street
Eureka, CA 95501

RECEIVED

SEP 27 2006

ATTN: Tiffany Tauber

CALIFORNIA
COASTAL COMMISSION

RE: 1-94-113-A(?) (Kaufman/Sunders)

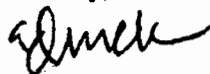
Dear Ms Tauber,

The applicants and I have discussed a potential project enhancement and are hereby requesting an amendment to the above application as follows:

Please add the following to the Project Description: Installation of two benches within the 25' lateral public access easement along the bluff. Benches to be installed at desirable viewpoints. It is intended that these benches will be available for public use when the access is developed.

Please let me know if you have questions or need additional information regarding this request. Thank you.

Sincerely,



Ed McKinley

cc: Paul Kaufman/Myra Saunders

EXHIBIT NO. 11
APPLICATION NO. 1-94-113-A3
KAUFMAN & SAUNDERS
AMENDED PROJECT DESCRIPTION