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Filed: August 28, 2006
49th Day: October 16, 2006
Staff: Robert S. Merrill
Staff Report: September 28, 2006
Hearing Date: October 13, 2006

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE

APPEAL NO.: **A-1-DNC-06-037**

APPLICANTS: **J.H.P., L.L.C.**

LOCAL GOVERNMENT: County of Del Norte

DECISION: Approval with Conditions

PROJECT LOCATION: At 2400 Lake Earl Drive, approximately two miles northeast of Crescent City, Del Norte County (APN 110-020-62).

PROJECT DESCRIPTION: Resubdivision of a 54-acre portion of a 134-acre parcel into 70 residential lots ranging in size from 0.47 acres to 3.12 acres.

APPELLANTS: Friends of Del Norte

SUBSTANTIVE FILE: 1) Del Norte County Permit Application No. UP0640C;
DOCUMENTS 2) Del Norte County Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that a **SUBSTANTIAL ISSUE** exists with respect to the grounds on which the appeal has been

filed and that the Commission hold a de novo hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The development, as approved by the County, consists of the resubdivision of the 54-acre Harbor Center Tract, a 313 lot subdivision recorded in 1931 located west of Lake Earl Drive at its intersection with Blackwell Lane, southeast of Lake Earl and northeast of the City of Crescent City. The subject property is approved to be divided into 70 residential lots ranging in size from 0.47 acres to 3.12 acres.

The appellants raise seven basic contentions in their appeal. The appellants contend that the project as approved is inconsistent with Del Norte County LCP provisions regarding development adjacent to wetlands, the protection of visual resources, and the adequacy of services. In addition, the appellants raise a number of contentions related to the adequacy of the County's environmental review under the California Environmental Quality Act.

Staff recommends that the Commission find that a contention raised in the appeal concerning the adequacy of the wetland delineation information developed for the project raises a substantial issue with regard to the development's conformance to the ESHA protection policies of the certified LCP.

The County approved the project with special conditions requiring that wetlands on the property be preserved and requiring a 100-foot buffer between future development and the wetlands. The appellants contend, however, that the wetland surveys that were performed for the site may have omitted certain wetlands, suggesting that wetland and buffer development restrictions applied by the County may not be sufficient to protect all of the wetlands and environmentally sensitive habitat areas.

Evidence in the local record suggests that the wetland delineation process was not fully completed. A preliminary map of the identified wetlands was submitted to the applicant and provided as part of the application for the project (See Exhibit 8 pg 2). A letter from the wetlands consultant indicates that further field work was to be performed before a revised wetland map was prepared and submitted, and that the author anticipated that the wetland boundaries would undergo some minor adjustments with regard to the edges and boundaries of the mapped wetlands. However, no further wetland surveys or materials prepared and submitted by the wetlands consultant appear in the local record. A subsequent wildlife evaluation report prepared by a different consultant did not report on any additional wetland delineation work being performed on the property. The local record does contain a map entitled "Resubdivision Map with Wetland and Wetland Buffer" prepared by Stover Engineering and dated May 30, 2006 (See Exhibit 8, pg 22 of 22) which the County apparently relied on when the Planning Commission approved the project. However, the wetlands depicted in this map appear to match the wetlands depicted in the preliminary wetland map prepared by the original consultant without deviation, and there is no information in the record to suggest that the map was based on

further field work performed after the original wetland consultants prepared their preliminary wetland map.

Therefore, staff believes substantial questions are raised as to (1) whether the wetland delineation work was fully completed, (2) whether at the time of approval of the project by the Planning Commission the full extent of the wetlands on the property was known, and (3) whether the areas required to be reserved as undeveloped wetland and wetland buffer cover the full extent of wetland and buffer area that should be protected.

Thus, the degree of legal and factual support for the County's decision is not sufficient to demonstrate that the development is consistent with the wetland protection policies of the LCP. Therefore, staff recommends that the Commission find that the contention raises a substantial issue of conformance with the wetland protection provisions of the certified LCP, including the provisions of Policies 1, 3, and 6 of the Marine Resources (MWR) chapter of the certified LUP.

Staff also recommends that the Commission find that the contention raised in the appeal that the required buffers between the approved home sites in the subdivision and the wetland resource of the site and adjoining wetland are inadequate to protect wetland habitat raises a substantial issue with regard to the development's conformance to the ESHA protection policies of the certified LCP. The LCP includes ESHA protection policies that are similar to Section 30240 of the Coastal Act. Policy 6 of the Section VI.C of the certified LUP states as follows:

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

The project as approved by the County, requires that 100-foot buffers be established on each approved lot by the placement of a note on the final parcel map to be recorded. Although 100 feet is often accepted as an adequate buffer for some development adjacent to ESHA, staff believes a substantial issue is raised as to whether the buffer as required to be implemented will be adequate to protect the wetland habitat in this case. The approved development includes the establishment of 44 residential lots adjacent to the identified wetlands, most approximately a half acre in size. In many cases, the required buffer will cover significant portions of the created lots, limiting the usable area for the residents, and increasing the likelihood that landscaping, patios, yard areas, and other residential uses would encroach into the required buffer area. This concern is exacerbated by the fact that the County did not require that the boundary of the buffer be fenced or physically marked on the ground to help future residents understand where the limits of the usable portion of their lots exist. Furthermore, the County did not require

that an open space deed restriction be recorded against the property which would provide more complete notice to future purchasers of the property of the limitations on the use of the property they are buying.

Staff recommends that the Commission find the contention constitutes valid grounds for an appeal, and that the contention raises a substantial issue of consistency with the LCP wetland buffer policies because the County's approval does not demonstrate that the wetland buffers as implemented will be adequate to protect the adjacent wetland habitat as required by Policy 6 of Section VI.C of the certified LUP

Staff further recommends that the Commission continue the de novo portion of the hearing because the Commission does not have sufficient information to determine what development can be approved consistent with the LCP. Continuing the hearing would enable the applicant to provide (1) a final wetland delineation report prepared to Coastal Act and LCP standards to enable the Commission to fully evaluate the consistency of the proposed project with LCP policies regarding new development adjacent to wetlands and (2) an analysis of the legality of the lots depicted in the 1931 Tract Map as separate parcels to help determine the legal development potential on the subject property. Such information is needed to enable the staff to complete its analysis of the development and its consistency with the certified LCP and develop a de novo recommendation.

The motion to adopt the staff recommendation of Substantial Issue is found on Page No. 6.

STAFF NOTES:

1. Appeal Process.

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within one hundred feet of a wetland or stream or three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments

constituting major public works or major energy facilities may be appealed whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if development is located between the first public road and the sea¹, the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to both Section 30603(a)(1) and (4) of the Coastal Act because: (a) it is located within 100 feet of a wetland or stream; (b) it is situated on a site that lies between the first public road and the sea; and (c) the development is not the principal permitted use under the certified LCP.

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

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised.

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

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

¹ Per Section 13011 of the California Code of Regulations, the “first public road paralleling the sea” means that road nearest to the sea, as defined in Section 30115 of the Public Resources Code, which: (a) Is lawfully open to uninterrupted public use and is suitable for such use; (b) Is publicly maintained; (c) Is an improved, all-weather road open to motor vehicle traffic in at least one direction; (d) Is not subject to any restrictions on use by the public except when closed due to an emergency or when closed temporarily for military purposes; and (e) Does in fact connect with other public roads providing a continuous access system, and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries, and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

2. Filing of Appeal.

One appeal was filed by the Friends of Del Norte (see Exhibit No. 11). The appeal to the Commission was filed in a timely manner on August 28, 2006, within 10 working days of receipt by the Commission on August 15, 2006 of the County's Notice of Final Local Action.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION

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

MOTION:

I move that the Commission determine that Appeal No. A-1-DNC-06-037 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

STAFF RECOMMENDATION:

Staff recommends a **NO** vote. Failure of this motion will result in a *de novo* hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

RESOLUTION TO FIND SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-1-DNC-06-037 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

II. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received one appeal of the County of Del Norte's decision to conditionally approve the development from the Friends of Del Norte. The project as approved by the County involves the resubdivision of the 54-acre Harbor Center Tract, a 313 lot subdivision recorded in 1931 located west of Lake Earl Drive at its intersection with Blackwell Lane, southeast of Lake Earl and northeast of the City of Crescent City.

The appellants raise seven basic contentions in their appeal. The appellants' contentions are summarized below; the full text of the appeal is included in Exhibit No. 11.

1. Cumulative Wetland Impacts of Future Related Development.

The appellants contend that the approved project is only a fragment of a much larger residential development encompassing adjoining lands owned by the applicant that may be proposed in the future, and thus the cumulative impacts on wetlands have not been properly considered.

2. The CEQA Review of the Project Failed to Consider the Appropriate No Project Alternative.

The appellants contend that the environmental review of the project did not adequately consider project alternatives. Specifically, the appellants contend that the legality of the original 1931 subdivision of the property is in question, and that the County should have considered the true no project alternative to the project to be retention of the land in undeveloped open space.

3. Project Approval based on Incomplete and Outdated Environmental Documents.

The appellants contend that the resubdivision is being acted upon improperly by the County without a CEQA review, as the County is improperly relying on the CEQA review conducted for an earlier development at the site approved in the late 1980's and conducted no new CEQA review for the current project.

4. Availability of Services Not Substantiated.

The appellants contend that it has not been substantiated that there is adequate municipal sewer and water service capacity to extend service to the site as approved in light of other projects that have recently been approved within the sewer and water service area.

5. Approved Density Incompatible With Character of the Surrounding Area

The appellants contend that the density of the approved development is incompatible with the density, uses, character and appearance of the lands on the south, west, and northern borders of the 135 acre property. The appellants note that the property is bordered by

forested wetlands and an arm of Lake Earl lagoon, other lagoons that were former log ponds, the Lake Earl Wildlife Area, and lower density residential lands and the approved 70-lot subdivision would be out of character with the surrounding area.

6. The ESHA Buffer between Residential Home Sites and Wetland Habitat is Inadequate to Protect the Habitat.

The appellant contend that the required buffers between the approved home sites in the subdivision and the wetland resource of the site and adjoining wetland are inadequate to protect wetland habitat for a number of specific reasons. First, the appellants raise concerns that the buffers for the 44 homes that would border the wetlands should be delineated and bound by fencing to deter residential uses from encroaching into the required buffer areas. Second, the appellants raise concerns that the buffer along the southern edge of the property should be expanded to include an area of forest because of the habitat values provided by the forest vegetation. Third, the appellants raise concerns that deed restrictions or similar measures were not required by the County to limit the number of household pets that can be kept to minimize damage to wildlife from pets. Fourth, the appellants raise concerns that some of the approved lots are so small that they will invite encroachment of residential uses such as landscaping and patios into required buffer areas.

7. All Wetland Habitat Has Not Been Identified and Protected .

The appellant contends that all of the wetlands of the site have not been adequately surveyed with the result that certain existing wetland areas have not been adequately protected consistent with the wetland protection policies of the LCP. The appellants indicate a roadside wetland ditch along Northcrest/Lake Earl Drive was omitted from the wetland delineation maps reviewed for the project.

B. LOCAL GOVERNMENT ACTION

On August 2, 2006, the Del Norte County Planning Commission conditionally approved the coastal development permit for the project with 49 special conditions. (UP0640C) (Exhibit No. 10). The conditions included, requirements, among others, that (1) the development conform with the project approved by the Planning Commission, (2) permittee shall extend water and sewer lines to the development, (3) the development on each parcel shall connect to community water and sewer, (4) lot coverage and building heights for the future homes shall be as set forth in the zoning code, (5) the final map shall show the identified wetlands and 100-foot buffers around the wetlands, and a note shall be placed on the map stating “wetland buffers are not approved for development, and no disturbance of the areas is allowed without approval from the County,” and (6) grading and sediment and erosion control plans shall be submitted to the County for the County’s review and approval.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County's Notice of Final Action was received by the Commission staff on August 15, 2006 (Exhibit No. 10). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

The County's approval of the project was appealed to the Coastal Commission in a timely manner on August 28, 2006, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

C. PROJECT AND SITE DESCRIPTION

The approved project consists of the resubdivision of a 54-acre tract of land known as the Harbor Center Tract into 70 lots (See Exhibit Nos. 1-5). The subject property is located west of Lake Earl Drive at its intersection with Blackwell Lane, northeast of the City of Crescent City. The lots will be 20,000 square feet or larger, with the majority of the lots being approximately half acre in size with 80 to 100 feet of street frontage. The approved development includes the improvement of interior roadways and the installation of utilities.

The property is approximately 2.5 miles east of the Pacific Ocean and about one mile south of Lake Earl. The site occupies an upland marine terrace between two drainage systems and is dissected by smaller drainages and has a lightly undulating topography with elevations ranging from 20 to 44 feet. The two drainage systems cross the site from south to north and are made up of several intersecting channels. Other isolated wetlands are found on site.

Most of the site was historically dominated by redwood forest before it was logged and used for grazing for many years. Redwood forest community still occurs on the eastern and western peripheries and in isolated stands on the property. A significant portion of the property is now covered with disturbed perennial grassland, and a community of coastal scrub exists in the southwest corner of the site. No special-status plants and animals have been identified on the site.

The Harbor Center Tract was first recognized in a subdivision map approved by the County in 1931(see Exhibit No. 6). The subdivision has never been developed. The 1931 map showed 313 separate lots, most of them sixty by 100 feet in size. In 1986, Standard Plywood, the owner of the Harbor Center Tract and substantial acreage in the surrounding area, received approval from the Del Norte County Planning Commission to subdivide much of the area surrounding and including the Harbor Center Tract (see Exhibit No. 7). This larger subdivision involved the establishment of parcels of 155, 44,

and 135 acres. The Harbor Center Tract is part of the 135-acre parcel. The approved tentative map was approved with a condition and the subsequent final map was recorded with a note that creates some confusion about the status of the 54-acre Harbor Center Tract. The condition of the tentative map approval required that the parcel map provide for either a reversion to acreage of the Harbor Center Tract or a resubdivision of the tract consistent with existing zoning. However, the final parcel map was recorded with a note stating the following:

It is the intention of the parties hereto that the Harbor Center Tract subdivision remain as filed and is not impaired or effected in any way by the filing of this parcel map.

The County findings indicate that the County believes the current resubdivision satisfies the condition of the tentative map approval to resubdivide the Harbor Center Tract consistent with existing zoning.

The subject property is within the urban boundary as designated in the certified LCP and the property is designated in the Land Use Plan as Suburban Residential (SR). Up to two dwelling units per acre may be developed in the SR land use classification. This land use designation is applied to residential areas within or adjacent to the urban area which have few or no community services, or where only public water is available. At the time the property was designated, those conditions existed. Currently, however, a major feeder line of the City of Crescent City water system is available along the property frontage and the approved subdivision will connect to this line. Community sewer lines are about one-half mile away on Northcrest Drive and sewer service will be extended to serve the residential subdivision. The property is zoned as Planned Community (PC).

D. SUBSTANTIAL ISSUE ANALYSIS

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

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

1. Appellant's Contentions That are Valid Grounds for Appeal.

All but two of the contentions raised in the two appeals present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP and/or with the public access policies of the Coastal Act. These contentions allege that the approved project is inconsistent with LCP provisions regarding: (1) the cumulative wetland impacts of future related development; (2) substantiation of available water and

sewer service capacity; (3) the compatibility of the development with the character of the surrounding area; (4) the adequacy of the required ESHA buffers to protect wetland habitat; and (7) the adequacy of wetland surveys to fully protect the wetland resources of the site.

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

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

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

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations concerning the adequacy of the required ESHA buffers to protect wetland habitat and the adequacy of wetland surveys to fully protect the wetland resources of the site raise a substantial issue with regard to the approved project's conformance with the certified Del Norte County LCP for the reasons discussed below.

a. Allegations Raising Substantial Issue.

1. All Wetland Habitat Has Not Been Identified and Protected.

The appellant contends that all of the wetlands of the site have not been adequately surveyed with the result that certain existing wetland areas have not been adequately protected consistent with the wetland protection policies of the LCP. The appellants indicate a roadside wetland ditch along Northcrest/Lake Earl Drive was omitted from the wetland delineation maps reviewed for the project.

Applicable LCP Policies

The Marine and Water Resources (MWR) chapter of the certified LUP states in applicable part:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.
...
3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.
...
6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Discussion

The above-referenced policies require that wetlands be maintained, that environmentally sensitive habitat such as wetlands be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

Such policies are usually implemented by the imposition of buffers between approved development and the environmentally sensitive habitat. Buffers provide separation from development and wetland areas to minimize disturbance to plants and animals inhabiting a wetland and to protect the habitat values and functions of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity, which can

disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering wetlands and receiving waters.

Pursuant to the above-referenced policies, the County approved the project with special conditions requiring that wetlands on the property be preserved by requiring a 100-foot buffer between future development and the wetlands. Special Conditions 17-21 of the resubdivision approval require that the wetlands and 100-foot wetland buffers be shown on the final parcel map with notes indicating the riparian and wetland buffers are not approved for development, and no disturbance of the area is allowed without approval from the County.

The appellants contend, however, that the wetland surveys that were performed for the site may have omitted certain wetlands, suggesting that wetland and buffer development restrictions applied by the County may not be sufficient to protect all of the wetlands and environmentally sensitive habitat areas. As an example, the appellants indicate a roadside wetland ditch along Northcrest/Lake Earl Drive was omitted from the wetland delineation maps reviewed for the project.

Wetland surveys were performed by Kelley & Associates Environmental Sciences, Inc. and North Fork Associates (See Exhibit 8). According to a letter dated April 17, 2006 from the consultants to the applicant, wetland delineations were performed to meet both the standards of the U.S. Army Corps of Engineers and the Coastal Act, and were based on extensive field work and an assessment of the hydrologic, soil, and vegetation conditions associated with possible wetland areas on the project site (See Exhibit 8, pages 7 and 8). The local record submitted by the County includes summary letters and reports concerning the wetland delineation from the consultants, but does not contain wetland survey field notes.

Evidence in the local record suggests that the wetland delineation process was not fully completed. A preliminary map of the identified wetlands was submitted to the applicant and provided as part of the application for the project (See Exhibit 8 pg 2). The consultants' letter of April 17, 2006 states the following about the preliminary map:

“The submitted map is “subject to final field and office review and the issuance of a letter of concurrence by the Corps, which will be forthcoming as soon as all supporting data have been submitted. We are in the process of obtaining that concurrence now.

This version of the map was developed to also meet the standards of the Coastal Commission and reflects that agency's greater reliance on so-called one-parameter determinations (using vegetation patterns primarily). We are reviewing

that map this season (with more intensive vegetation transects and dominance determinations) and will submit the revised map as we complete it. We anticipate that the preliminary map you have used in your site layout planning will undergo some minor adjustments (primarily with regard to edges and boundaries of mapped wetlands), but it accurately depicts the location and nature of jurisdictional wetlands as mapped to the standards of the Coastal Commission. We will submit revisions to that map, reflecting any adjustments necessary to meet the more rigorous Coastal Commission standards, later this year as we finish the botanical transects and vegetation dominance testing.” [emphasis added]

The passage quoted above indicates that further field work was to be performed before a revised wetland map is prepared and submitted, and that the author anticipates that the wetland boundaries will undergo some minor adjustments with regard to the edges and boundaries of the mapped wetlands.

The local record contains no further submittals from Kelley & Associates Environmental Sciences, Inc. and North Fork Associates. The record does include, however, a subsequent biological assessment prepared by Galea Wildlife Consultants, dated May, 2006 (See Exhibit 8, pages 9-22). The introduction of this report states that the consultant was contracted to provide a general biological assessment to determine the potential for sensitive wildlife species, including federally or state listed species, and species of special concern. With regard to wetlands, page 5 of the report (Exhibit 8 page 14 of 22) states the following:

“Wetlands: Wetlands had already been delineated by Kelly & Associates. Wetlands on the property primarily consisted of low areas where seasonal flooding occurred, and most were covered or bordered with dense brush and riparian vegetation.

Wetland habitats are also located just west of the property,. The designated wetland, SW2, in the southwest corner of the property, connects with these wetlands. Buffers of 100 feet were applied to wetlands areas.”

The statement above indicates the Galea report relied on the wetland delineation by Kelly and Associates and contains no statements that further field work on the wetland delineation anticipated by Kelly & Associates had been performed. The local record does contain a map entitled “Resubdivision Map with Wetland and Wetland Buffer” prepared by Stover Engineering and dated May 30, 2006 (See Exhibit 8, pg 22 of 22). The wetlands depicted in this map appear to match the wetlands depicted in the preliminary wetland map prepared by Kelly & Associates without deviation.

Therefore, as the Kelly and Associates letter on the wetland delineation indicated that further wetland delineation work was needed to better define the edges and boundaries of identified wetland areas, and as no further wetland surveys or materials prepared by Kelly

& Associates appear in the record and as the Galea report did not report on any additional wetland delineation work being performed on the property, substantial questions are raised as to (1) whether the wetland delineation work was fully completed, (2) whether at the time of approval of the project by the Planning Commission the full extent of the wetlands on the property was known, and (3) whether the areas required to be reserved as undeveloped wetland and wetland buffer cover the full extent of wetland and buffer area that should be protected.

Thus, the degree of legal and factual support for the County's decision is not sufficient to demonstrate that the development is consistent with the wetland protection policies of the LCP. Furthermore, as Sections 30233 and 30240 of the Coastal Act require that wetlands of the coastal zone be protected from the impacts of development and the cumulative impact of the loss of wetlands and wetland habitat over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, the Commission finds that the approved project raises a substantial issue of conformance with the wetland protection provisions of the certified LCP, including the provisions of Policies 1 and 3 of the Marine Resources (MWR) chapter of the certified LUP that wetlands be maintained and the requirements of Policy 6 of the Marine Resources (MWR) chapter that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas.

2. The ESHA Buffer between Residential Home Sites and Wetland Habitat is Inadequate to Protect the Habitat.

The appellant contend that the required buffers between the approved home sites in the subdivision and the wetland resource of the site and adjoining wetland are inadequate to protect wetland habitat.

Applicable LCP Policies

The Marine and Water Resources (MWR) chapter of the certified LUP states in applicable part:

...

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

Discussion

The above-referenced policy requires that environmentally sensitive habitat such as wetlands be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.

Such policies are usually implemented by the imposition of buffers between approved development and the environmentally sensitive habitat. Buffers provide separation from development and wetland areas to minimize disturbance to plants and animals inhabiting a wetland and to protect the habitat values and functions of the area. Buffers are typically intended to create a spatial separation between potentially disruptive activity typically associated with development such as noise, lighting, and human activity, which can disrupt feeding, nesting, and behavior patterns of wildlife. Buffer areas also provide transitional habitat between development and environmentally sensitive habitat areas. Additionally, buffers are often required to provide a vegetated area to capture and treat drainage and storm water runoff from development to minimize the amount of pollutants potentially entering wetlands and receiving waters.

Pursuant to the above-referenced policy, the County approved the project with special conditions requiring that wetlands on the property be preserved and requiring a 100-foot buffer between future development and the wetlands. Special Conditions 17-21 of the resubdivision approval require that the wetlands and 100-foot wetland buffers be shown on the final parcel map with notes indicating the riparian and wetland buffers are not approved for development, and no disturbance of the area is allowed without approval from the County.

The appellants contend, however, that these requirements are not sufficient to protect the ESHA in this case for a number of specific reasons. First, the appellants raise concerns that the buffers for the 44 homes that would border the wetlands should be delineated and bound by fencing to deter residential uses from encroaching into the required buffer areas. Second, the appellants raise concerns that the buffer along the southern edge of the property should be expanded to include an area of forest because of the habitat values provided by the forest vegetation. Third, the appellants raise concerns that deed restrictions or similar measures were not required by the County to limit the number of household pets that can be kept to minimize damage to wildlife from pets. Fourth, the appellants raise concerns that some of the approved lots are so small that they will invite encroachment of residential uses such as landscaping and patios into required buffer areas.

Although 100 feet is often accepted as an adequate buffer for some development, a substantial issue is raised as to whether the buffer as required to be implemented will be adequate to protect the wetland habitat in this case. The approved development includes the establishment of 44 residential lots adjacent to the identified wetlands, most approximately a half acre in size. In many cases, the required buffer will cover significant portions of the created lots, limiting the usable area for the residents, and

increasing the likelihood that landscaping, patios, yard areas, and other residential uses would encroach into the required buffer area. The large number of future property owners of the lots involved that would have to understand that portions of their lots are restricted from use and comply with the buffer restrictions also increases the risk that the buffer areas will be compromised. This concern is exacerbated by the fact that the County did not require that the boundary of the buffer be fenced or physically marked on the ground to help future residents understand where the limits of the usable portion of their lots exist. Furthermore, the County did not require that an open space deed restriction be recorded against the property which would provide more complete notice to future purchasers of the property of the limitations on the use of the property they are buying than just a note on the recorded final parcel map. Encroachment into the buffer would compromise the buffer's effectiveness in screening habitat areas from disturbance, providing a transitional habitat between the residential development and the environmentally sensitive habitat areas, and capturing and treating storm water runoff from the development. As a result, the habitat area itself would be degraded.

As Sections 30233 and 30240 of the Coastal Act require that wetlands of the coastal zone be protected from the impacts of development and the cumulative impact of the loss of wetlands and wetland habitat over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, the Commission finds that the approved project raises a substantial issue of conformance with the LCP ESHA buffer policies because the County's approval does not demonstrate that the wetland buffers as implemented will be adequate to protect the adjacent wetland habitat as required by Policy 6 of Section VI.C of the certified LUP.

2. Appellant's Contentions That Are Not Valid Grounds for Appeal.

The appellants raise two contentions that are not valid grounds for appeal. As discussed below, the two contentions raised regarding the adequacy of the CEQA documentation do not present potentially valid grounds for appeal in that they do not allege that the approved project is inconsistent with the LCP or the public access policies of the Coastal Act.

Discussion:

Del Norte County relied on a certified EIR prepared for a 1986 subdivision that included the subject property as the required CEQA review for the current project. The appellants make two contentions regarding the adequacy of the County's environmental review of the project under CEQA.

First, the appellants contend that the CEQA review of the project did not adequately consider project alternatives. Specifically, the appellants contend that the legality of the original 1931 subdivision of the property is in question, and that the County should have

considered the true no project alternative to the project to be retention of the land in undeveloped open space.

Second, the appellants contend that the resubdivision is being acted upon improperly by the County without a CEQA review, as the County is improperly relying on the CEQA review conducted for an earlier development at the site approved in the late 1980's and conducted no new CEQA review for the current project.

The California Environmental Quality Act provides that a Lead Agency can determine the appropriate level of environmental review for development activities that are proposed within their jurisdiction. The County determined that relying on the CEQA review conducted for the 1986 subdivision was the appropriate level of environmental review for the proposed development. The appellants do not cite a specific LCP policy that they feel the City's actions did not conform with in this regard. The concerns raised by the appellants do not allege the project's inconsistency with existing policies of the certified LCP. Thus the Commission finds that these contentions are not valid grounds for appeal.

3. Conclusion.

All of the various foregoing contentions have been evaluated against the claim that they raise a substantial issue of conformance of the local approval with the certified LCP. The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP regarding the adequacy of the required ESHA buffers to protect wetland habitat and the adequacy of wetland surveys to fully protect the wetland resources of the site

E. INFORMATION NEEDED FOR *DE NOVO* REVIEW OF APPLICATION

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

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not

previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the development.

1. Final Wetland Delineation

As discussed above in Section D(a)(1), a final wetland delineation prepared to Coastal Act and LCP standards showing the full extent of all wetlands on the subject property is not included in the local record. The policies of the Marine Resources Chapter of the certified LCP require that all wetlands and environmentally sensitive habitat be maintained and that development shall be sited and designed to avoid disruption and degradation of the habitat. Therefore, to evaluate the consistency of the proposed project with LCP policies regarding new development adjacent to wetlands and ESHA, a final wetland delineation report prepared to Coastal Act and LCP standards is required. The delineation should be prepared by a qualified wetland biologist and should include a final site map depicting the full extent of all wetlands on the property and the full extent of buffer area needed to protect the wetlands. The delineation should include all field notes taken to determine the extent of the wetlands.

2. Information Needed to Evaluate the Legality of Subject Property as Separate Parcels Under 1931 Tract Map

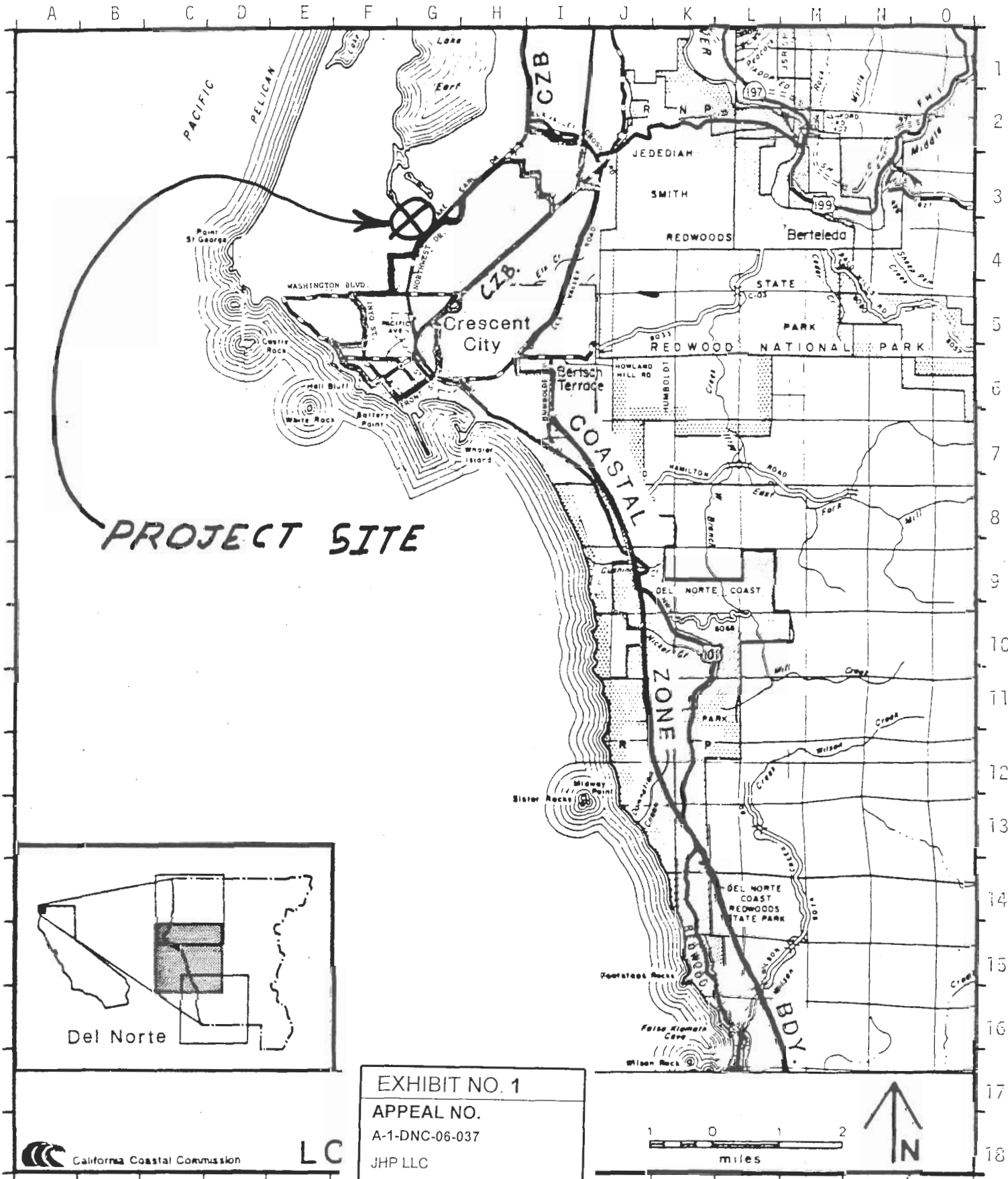
The appeal raises questions as to whether the subject property currently consists of 313 separate legal parcels as reflected in the 1931 Tract Map. The number of legal parcels that actually exist on the site affects whether the approved development increases or decreases the potential density of development of the site, the impacts of the development on visual and other coastal resources, and the degree of consistency of the development with the certified LCP policies. Therefore, an analysis of the legality of the lots depicted in the 1931 Tract Map as separate parcels is needed to help determine the legal development potential on the subject property. This analysis must include, but is not limited to, the following:

- A. The historic chain of title for the subject property;
- B. Whether the real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant.

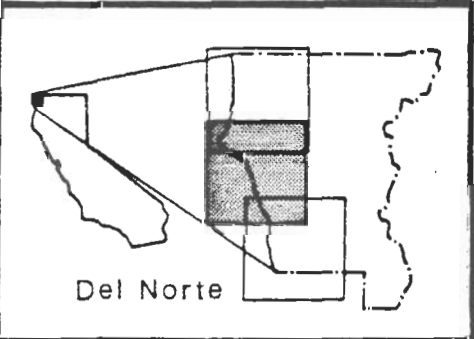
Without the above information, the Commission cannot reach a final determination concerning the project's consistency of the project with the policies of the certified LCP. Therefore, before the Commission can act on the proposed project *de novo*, the applicant must submit all of the above-identified information.

III. EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Location Map
4. Aerial Photograph
5. Proposed Resubdivision
6. 1931 Harbor Center Tract Land Division
7. 1986 Subdivision
8. Biological Surveys
9. Approved Wetland Buffer
10. Notice of Final Local Action
11. Appeal
12. Applicant's Correspondence



PROJECT SITE



Del Norte

EXHIBIT NO. 1
 APPEAL NO.
 A-1-DNC-06-037
 JHP LLC
 REGIONAL LOCATION



County of Del Norte

Sheet 2 of 3

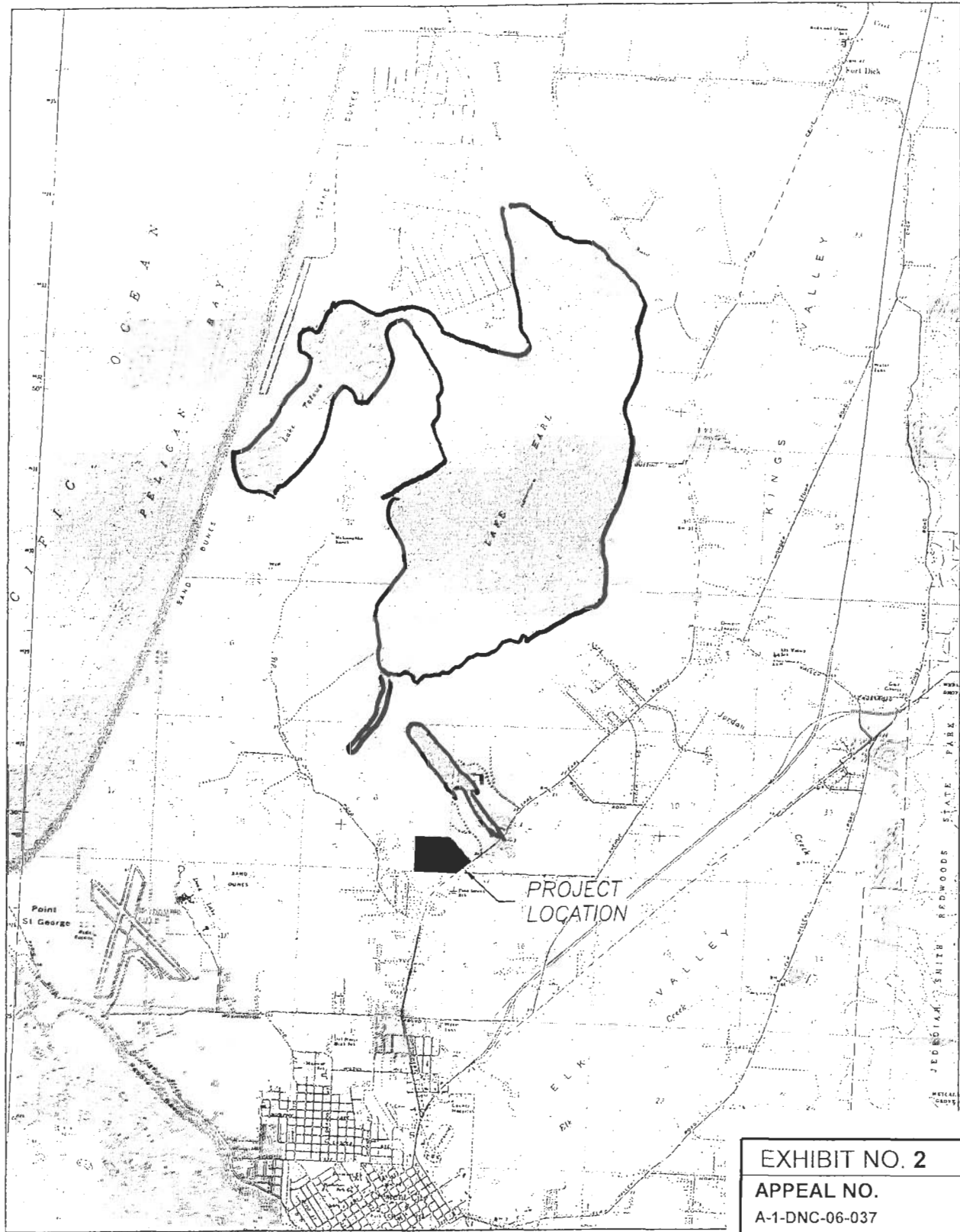


EXHIBIT NO. 2
APPEAL NO.
 A-1-DNC-06-037
 JHP LLC
 VICINITY MAP

STOVER ENGINEERING
 Civil Engineers and Consultants

BAY MEADOWS
 HW3

SITE MAP
CRESCENT CITY, CA

PO BOX 783 - 711 H STREET
 CRESCENT CITY, CA 95531 - 707-465-6742

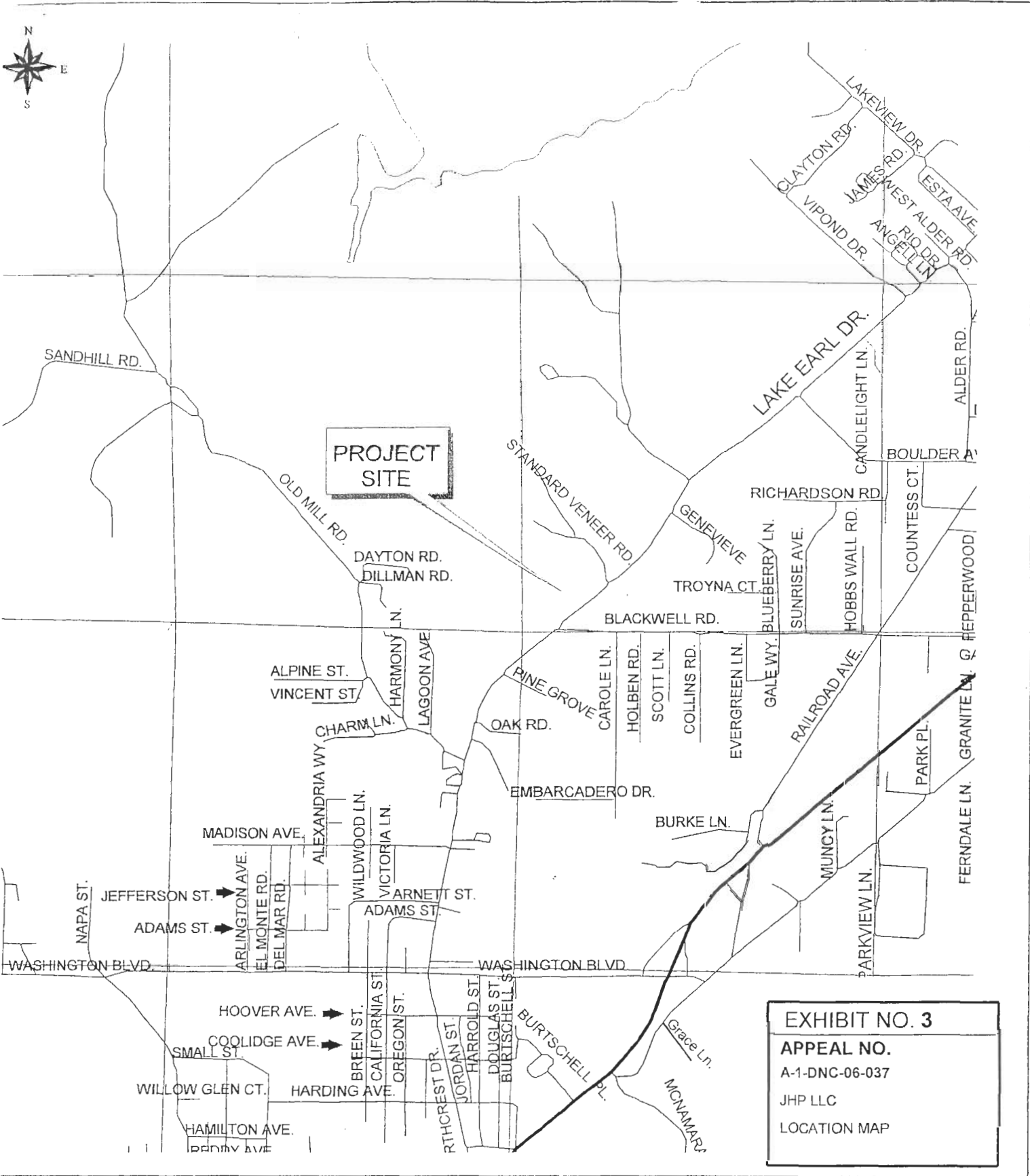
D:\Land Projects 2006\3799\dwg\SUBMISSION 033006.dwg

DATE 3/31/06

SCALE: NTS

3799

FIGURE 1.0



PROJECT SITE

EXHIBIT NO. 3
APPEAL NO.
A-1-DNC-06-037
JHP LLC
LOCATION MAP

IHP, LLC
MJ0603C
Resubdivision of Harbor Center Tract
APN 110-020-62 2400 Lake Earl Drive

LOCATION MAP

2000 0 2000 4000 Feet



000394

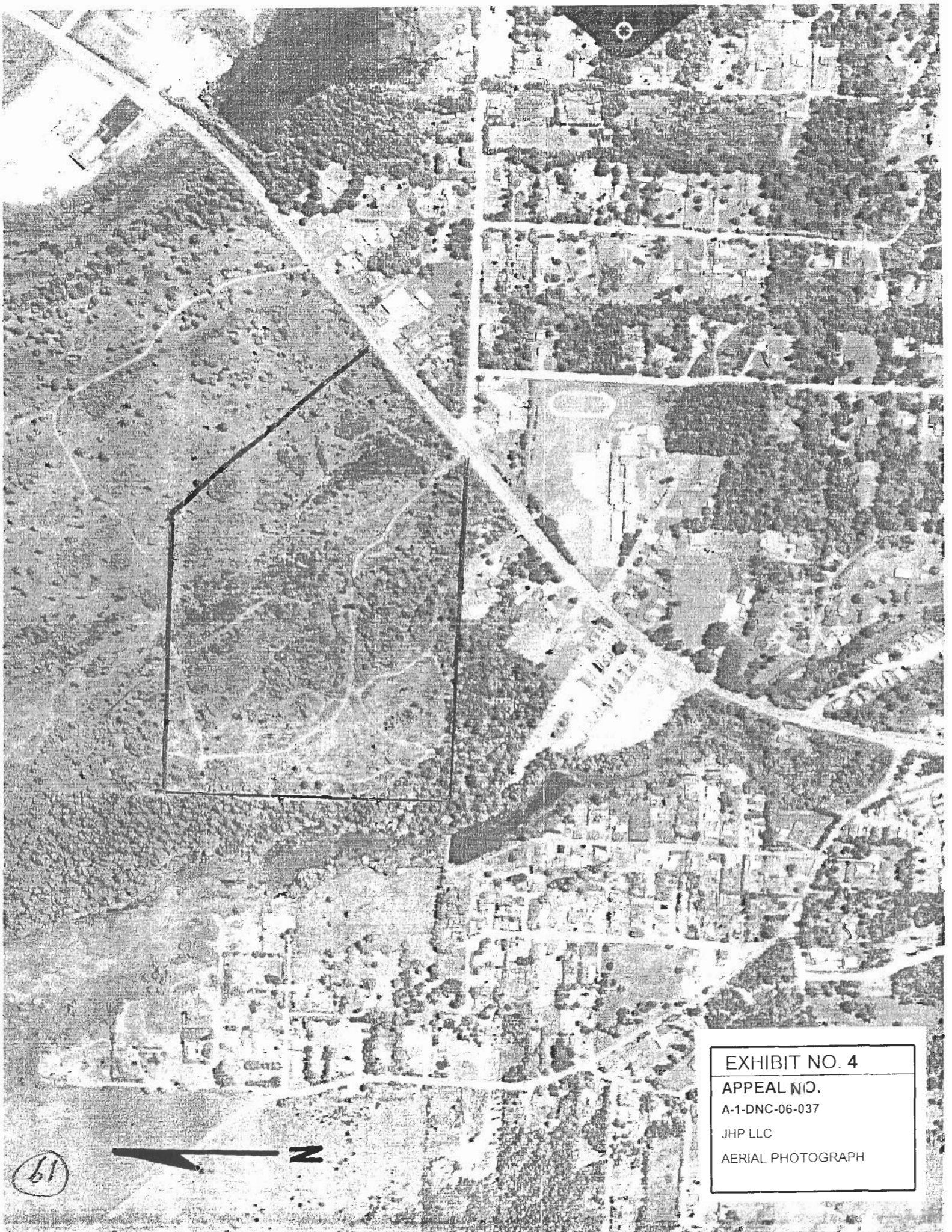


EXHIBIT NO. 4

APPEAL NO.

A-1-DNC-06-037

JHP LLC

AERIAL PHOTOGRAPH

61



PURPOSE:
 THE PURPOSE OF THIS SURVEY IS TO SHOW A RE-SUBDIVISION OF THE HARBOR CENTER TRACT AS SAID TRACT WAS FILED IN BOOK 3 OF MAPS, PAGES 2 AND 2A

REFERENCE DOCUMENTS

DOCUMENT LOCATION
 DOCUMENT DESCRIPTION
 1-PM-11, 2-M-41, 6-PM-04, 9-M-55, 37, 89 & 114, 11-M-25
 DEED RECORDS DOCUMENT #20714800; 25-04-340; 2-0-04-208; 207-04-091.

THE ABOVE DOCUMENTS CAN BE FOUND IN THE DELAWARE COUNTY RECORDER'S OFFICE AND ARE REFERENCED HEREIN AS FOLLOWS: BOOK NUMBER OR LETTER - TYPE OF BOOK NUMBER - MAP NUMBER - PARCEL MAPS, EXAMPLE: 54-1-54-140 REFERS TO BOOK 54 OF DEEDS, PAGE 480. NOT ALL TYPES OF DOCUMENTS APPEAR ON THIS MAP.

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS TRUE NORTH BASED ON THE SIGHT LINE SHOWN HEREON.

SURVEYOR'S STATEMENT

I, RICHARD B. DAVIS, A LICENSED LAND SURVEYOR, HAVE MADE A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT AT THE REQUEST OF MR. DONNA SWISS-TOBIN IN DECEMBER, 2004.

RICHARD B. DAVIS
 L.S. 1540, EXPIRATION DATE: 6/30/2004

COUNTY SURVEYOR'S STATEMENT

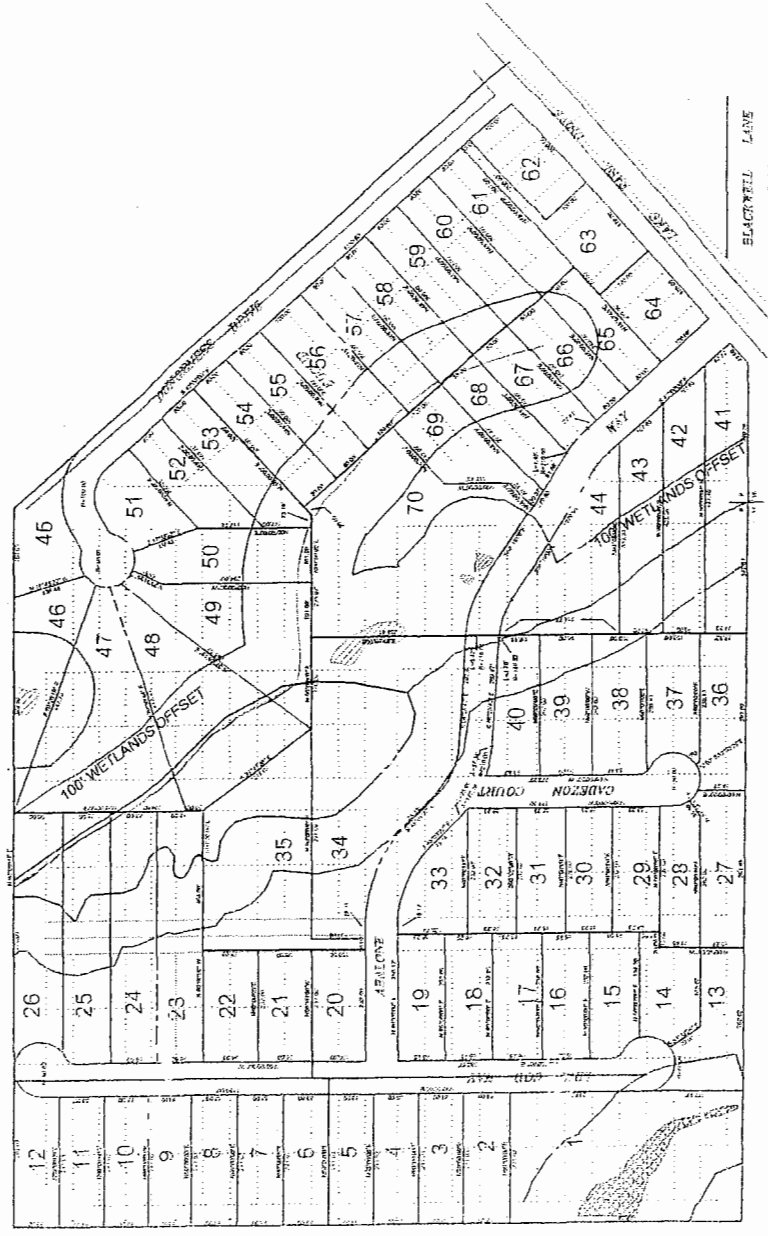
THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 8705 OF THE LAND SURVEYOR'S ACT THIS _____ DAY OF _____, 2004.

COUNTY SURVEYOR

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2004,
 AT THE REQUEST OF THE RECORD & MAPS CO.

COUNTY RECORDER



NOTE: DOTTED LINES SHOW THE ORIGINAL STREET AND LOT LINES AS SHOWN IN BOOK 3 OF MAPS, PAGES 2.

RE-SUBDIVISION SURVEY
 OF
HARBOR CENTER TRACT NO. 1

SECTION 6 AND 9, TOWNSHIP 16 NORTH,
 RANGE 1 WEST, HUMBOLDT MERIDIAN

PREPARED FOR:
 FHS, LLC
 HARBOR, OR
 PREPARED BY:
 RICHARD B. DAVIS, L.S.



EXHIBIT NO. 5
APEAL NO.
 A-1-DNC-06-037
 JHP LLC
 PROPOSED RESUBDIVISION
 (1 of 7)



000408

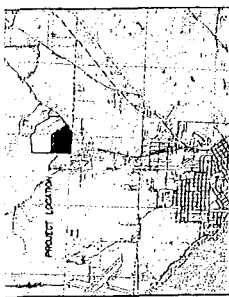
DATE	5/20/05
SCALE	AS SHOWN
JOB NO.	3799
PROJECT	BAY MEADOWS MAJOR SUBDIVISION
CITY	CRESCENT CITY, CA
CLIENT	JHP, LLC
DESIGNER	STOVER ENGINEERING
CHECKER	
APPROVER	



STOVER ENGINEERING
 Civil Engineers and Consultants
 PO BOX 709 • 7114
 CRESCENT CITY, CA 95521
 530-742

JHP, LLC
 BAY MEADOWS MAJOR SUBDIVISION
 CRESCENT CITY, CA
 TENTATIVE MAP

2 OF 2
 SHEET
 DATE: 5/20/05
 SCALE: SHOWN
 JOB NO. 3799



VICINITY MAP
 BASIS OF BEARING AND VERTICAL DATUM
 THE BASIS OF BEARING IS BASED ON SURVEY DATA PROVIDED
 HANDED CENTER TRACT 1, 10-10-00-000-000-000
 VERTICAL DATUM: UNIFORM
 ALL TOPOGRAHY WORK BY ROBERT B. DAVIS ET AL.

- GENERAL NOTES:**
1. ALL LINES SHOWN ARE PRELIMINARY AND SHOWN ONLY FOR REFERENCE PURPOSES. DESIGN TO CONFORM WITH CITY OF CRESCENT CITY STANDARDS AND DEL MONTE COUNTY STANDARDS.
 - 2.

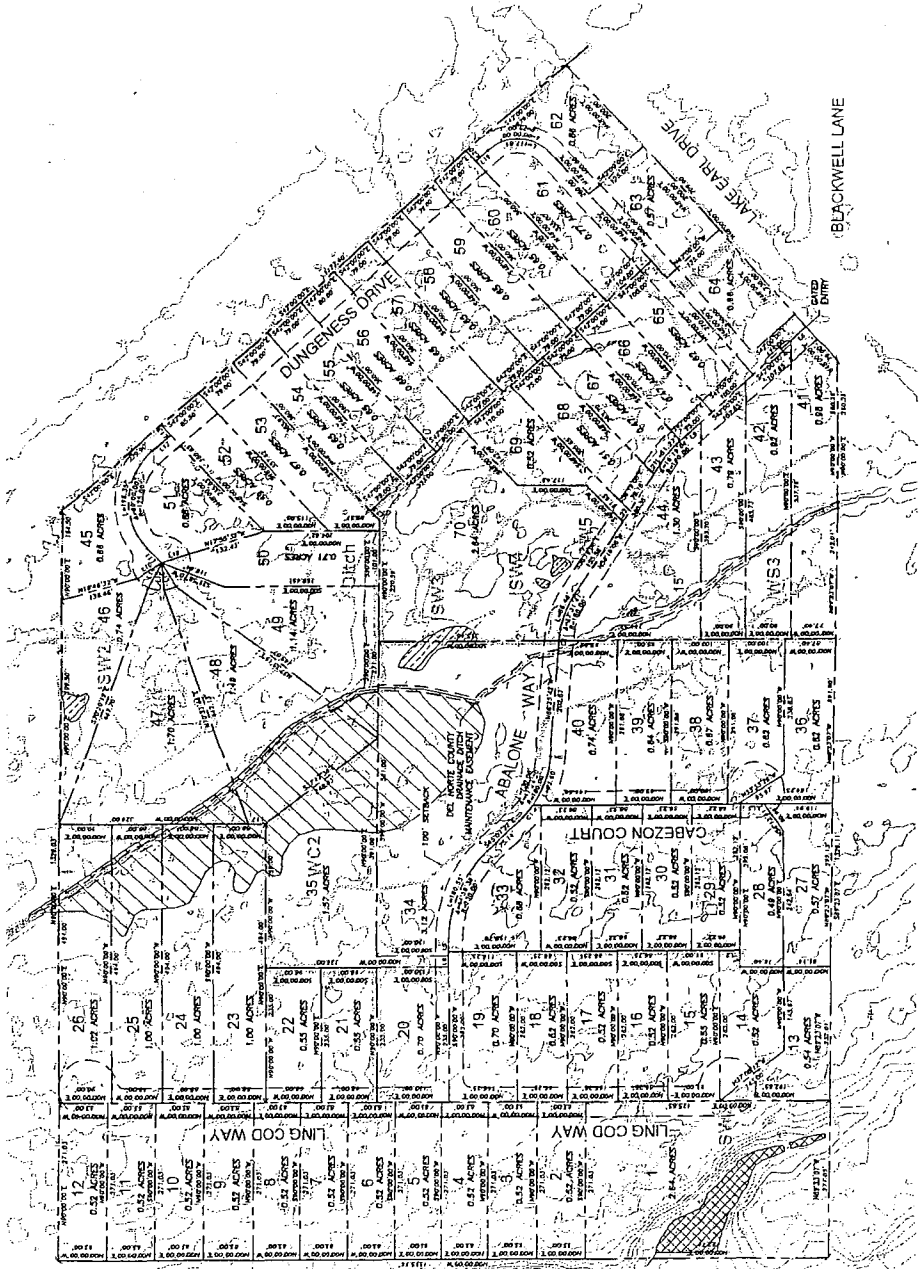
ZONING
 ZONE —

DEVELOPER
 JHP, LLC
 PO BOX 7114
 CRESCENT CITY, CA 95521

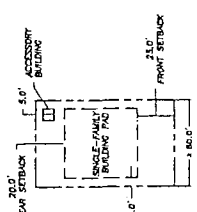
LINE	LENGTH	BEARING
L1	30.00	S00°00'00"W
L2	37.00	S00°00'00"W
L3	40.00	S00°00'00"W
L4	40.00	S00°00'00"W
L5	18.17	S00°00'00"W
L6	20.00	S00°00'00"W
L7	25.00	S00°00'00"W
L8	25.00	S00°00'00"W
L9	25.00	S00°00'00"W
L10	25.00	S00°00'00"W
L11	25.00	S00°00'00"W
L12	25.00	S00°00'00"W
L13	25.00	S00°00'00"W
L14	25.00	S00°00'00"W
L15	25.00	S00°00'00"W
L16	25.00	S00°00'00"W
L17	25.00	S00°00'00"W
L18	25.00	S00°00'00"W
L19	25.00	S00°00'00"W
L20	25.00	S00°00'00"W
L21	25.00	S00°00'00"W
L22	25.00	S00°00'00"W
L23	25.00	S00°00'00"W

PLANNER
 STOVER ENGINEERING
 7114 N. STREET
 CRESCENT CITY, CA 95521

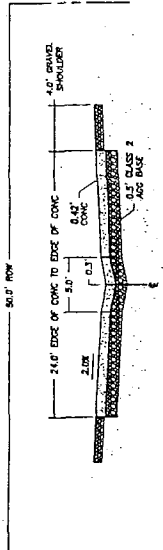
ENGINEER
 STOVER ENGINEERING
 7114 N. STREET
 CRESCENT CITY, CA 95521



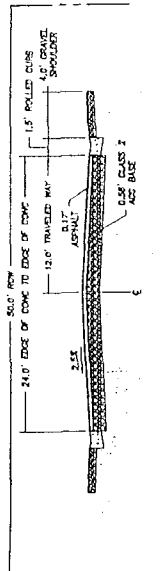
1"=100'
 BAY MEADOWS TENTATIVE MAP



1"=40'
 SINGLE LOT PLOT PLAN (TYP)



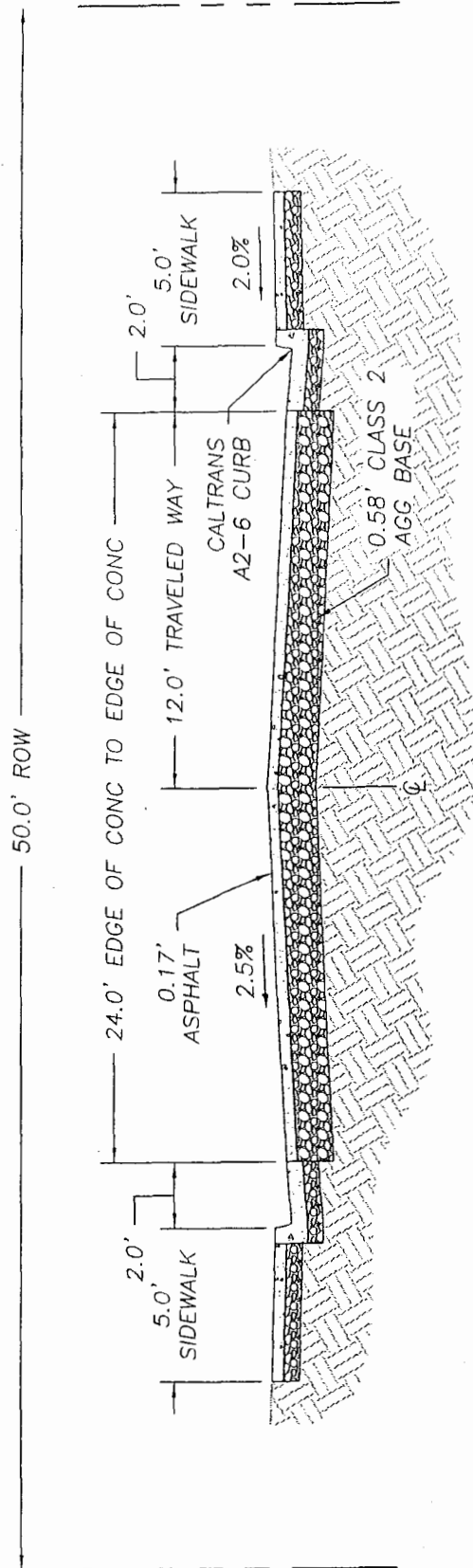
1"=3'
 ACCESS ROAD ALTERNATIVE No. 1



1"=3'
 ACCESS ROAD ALTERNATIVE No. 2

000409

2097



000411

397

STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

ACCESS ROAD ALT No. 1

CRESCENT CITY, CA

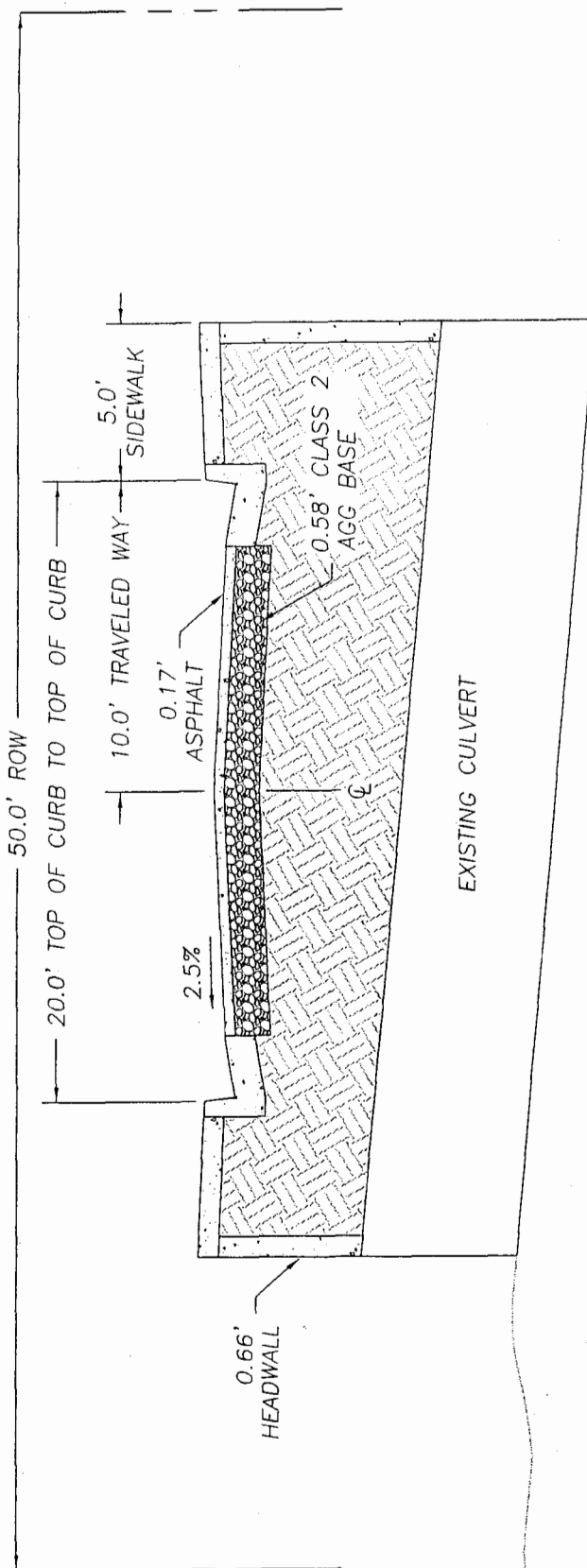
D:\Land Projects 2006\3799 - HWJ LLC - BAY MEADOWS\deg\BAYMEADOWS.dwg

6/14/06

NTS

3799

FIGURE 2.0



000410

497

STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

D:\Land Projects 2006\3789 - HWJ LLC - BAY MEADOWS\dwg\DAYMEADOWS.dwg

ACCESS ROAD ALT No. 2

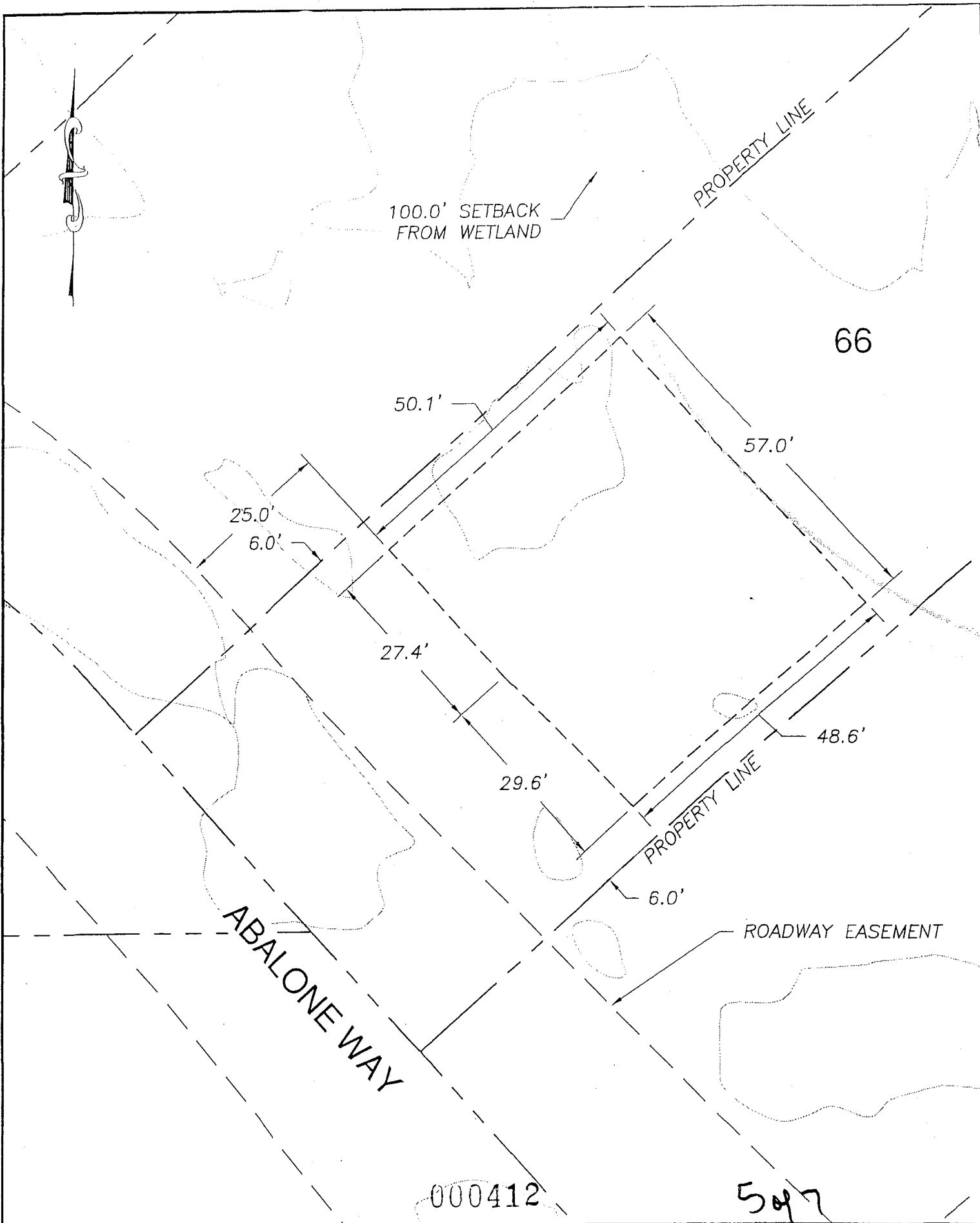
CRESCENT CITY, CA

6/26/06

NTS

3799

FIGURE 6.0



STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

D:\land Projects 2006\JHP - BAY MEADOWS\dwg\5-26-06\TENANT MAP.dwg

LOT 66 BUILDABLE AREA

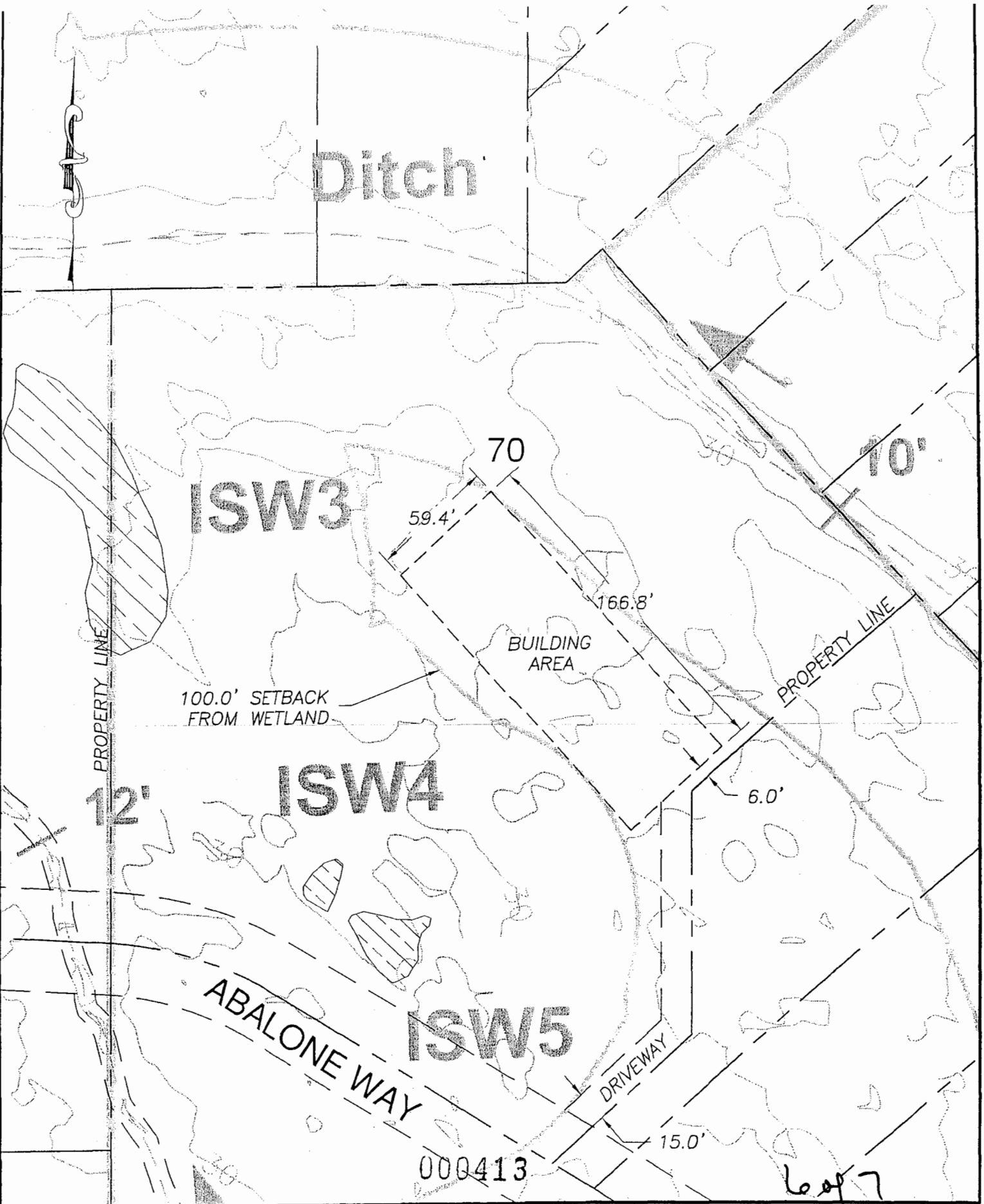
CRESCENT CITY, CA

6/14/06

1"=20'

3799

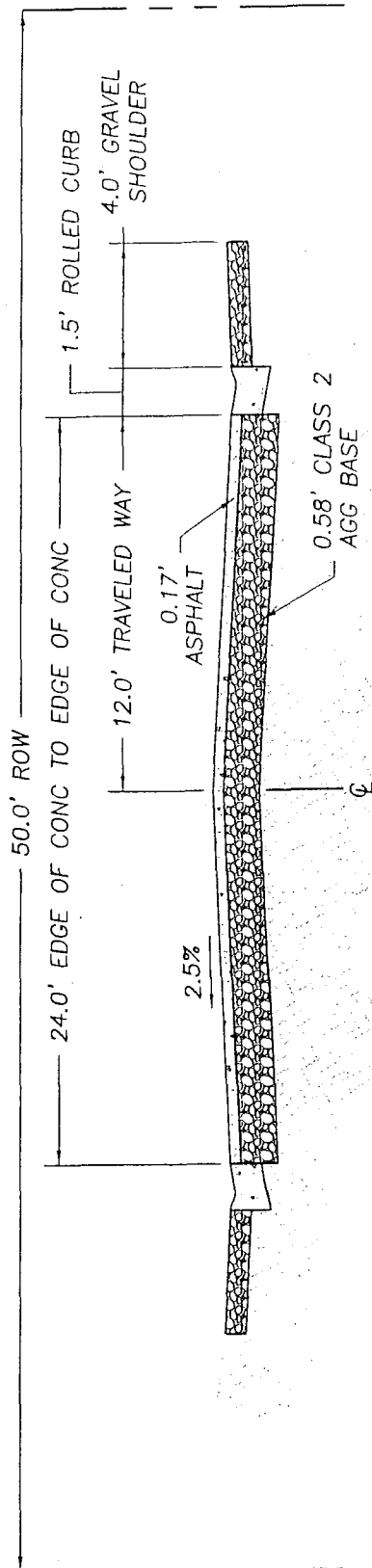
FIGURE 4.0



STOVER ENGINEERING
 Civil Engineers and Consultants
 PO BOX 783 - 711 H STREET
 CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.
BAY MEADOWS SUBDIVISION
D:\land Projects 2006\3799 - JHP LLC - BAY MEADOWS\dwg\5-26-06 TENTATIVE MAP.dwg

LOT 70 BUILDABLE AREA
CRESCENT CITY, CA
 6/14/06
 1"=60'
 3799
 FIGURE 5.0



000414

707

STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

D:\Land Projects 2008\3799 - JHP LLC - BAY MEADOWS\fig\3-26-06 TENTATIVE WAP.dwg

6/14/06

ACCESS ROAD ALT No. 2

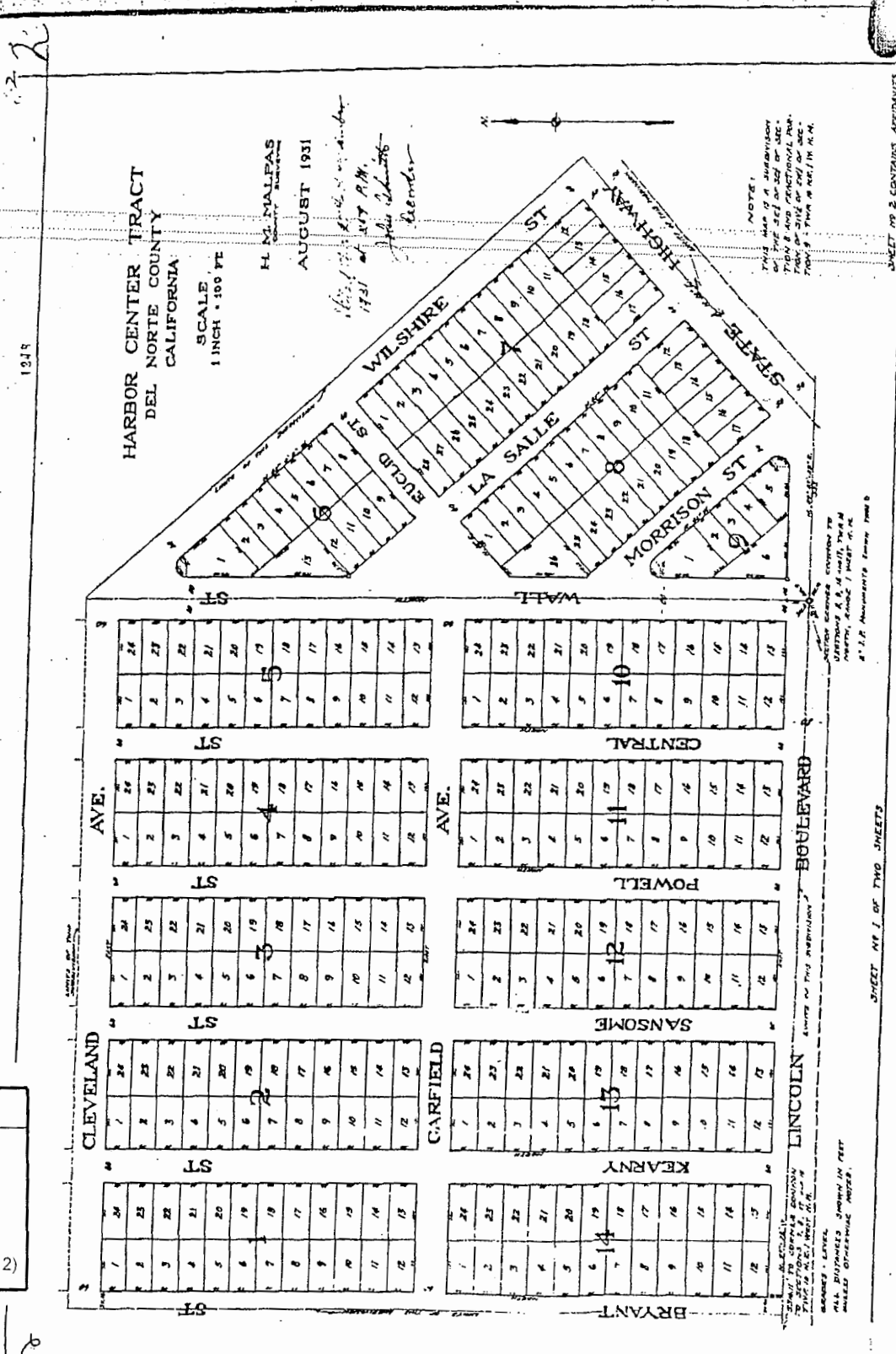
CRESCENT CITY, CA

NTS

3799

FIGURE 3.0

EXHIBIT NO. 6
 APPEAL NO.
 A-1-DNC-06-037
 JHP LLC
 1931 HARBOR CENTER
 TRACT LAND DIVISION (1 of 2)



000417

SURVEYOR'S CERTIFICATE
 THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES. I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HEREBY STATE THAT THIS MAP IS CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, IN ACCORDANCE WITH SECTION 11600 OF THE SUBDIVISION MAP ACT.

Richard B. Davis
 RICHARD B. DAVIS
 LS 3340
 COUNTY SURVEYOR R.C.E. 24182

COUNTY SURVEYOR'S CERTIFICATE
 THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES.
 DATED 08/17/1986

John D. Alexander
 JOHN D. ALEXANDER
 DEPUTY RECORDER

OWNER'S CONSENT
 I, THE UNDERSIGNED, KNOW ALL MEN BY THESE PRESENTS THAT THE ABOVE DESCRIBED REAL PROPERTY IS MY OWN AND I HEREBY DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP.
 DATED THIS 9 DAY OF Oct. 1986

Richard B. Davis
 RICHARD B. DAVIS
 PRESIDENT, STANDARD PLYWOOD INC.

NOTARY'S CERTIFICATE
 I, THE UNDERSIGNED, COUNTY CLERK OF ALameda COUNTY, CALIFORNIA, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED REAL PROPERTY IS THE PROPERTY OF RICHARD B. DAVIS, PRESIDENT OF STANDARD PLYWOOD INC., AND THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.
 DATED THIS 9 DAY OF Oct. 1986

Richard B. Davis
 RICHARD B. DAVIS
 PRESIDENT, STANDARD PLYWOOD INC.

000415

CLERK OF THE BOARD CERTIFICATE
 I HEREBY CERTIFY THAT THE CERTIFICATE AND THE SECURITY DEPOSIT PURSUANT TO SECTION 11600 OF THE SUBDIVISION MAP ACT HAVE BEEN FILED WITH THE COUNTY TREASURER.
 DATED: 08/17/1986

John D. Alexander
 JOHN D. ALEXANDER
 CLERK OF THE BOARD



RECORDER'S CERTIFICATE
 I HEREBY CERTIFY THAT THIS MAP IS IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCES. I HEREBY STATE THAT THIS MAP IS CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, IN ACCORDANCE WITH SECTION 11600 OF THE SUBDIVISION MAP ACT.
 DATED 08/17/1986

John D. Alexander
 JOHN D. ALEXANDER
 DEPUTY RECORDER

DEPUTY RECORDER
 JOHN D. ALEXANDER
 DEPUTY RECORDER

THE PURPOSE OF THIS MAP
 THE PURPOSE OF THIS MAP IS TO SHOW THE DIVISION OF THE LARGES OF STANDARD PLYWOOD CORPORATION AS SAID LARGES ARE DESCRIBED IN BOOK 187-08 PAGES 104 THRU 108 INTO TWO (2) PARCELS AND A REMAINDER PARCEL.

REFERENCE DOCUMENTS

DESCRIPTION	DOCUMENT LOCATION
DEED TO LADDOH BOB	BOOK 187-08 DEEDS PAGE 302, 303
CHARLES MOHN DEED	28-0-800
PEE & WELER DEED	71-0-388
MONMARA DEED	56-0R-155
STATE OF CALIFORNIA	124-0-101 THRU 206
"RIGHT OF WAY DEED"	167-0R-104 THRU 108
STANDARD PLYWOOD CORP. DEED	215-0R-383
MORTGAGE SALES DEED	272-0R-252 THRU 256
STATE OF CALIFORNIA DEED	34-824
CENTER TRACT	34-84
1848 HARRIS SURVEY	64-22
1871 LONG & HAMILTON SURVEY	64-22
1875 MOEN SURVEY	64-112
1875 MOEN SURVEY	394-85
1878 CALPER SURVEY	394-85
1927 HALLEY SURVEY	394-115
1927 HALLEY SURVEY	394-115
1935 HOME LOAN CORP. SURVEY	394-115
1935 HOME LOAN CORP. SURVEY	394-115

THE ABOVE DOCUMENTS CAN BE FOUND IN THE DEED NOTICE COUNTY RECORDS OFFICE AND ARE APPROPRIATED HEREON AS FOLLOWS:
 BOOK NUMBER OR LETTER - TYPE OF BOOK - PAGE NUMBER.
 TYPES OF BOOKS ARE: AD - AGREEMENTS; D - DEEDS;
 M - MORTGAGES; N - MAPS; PA - PARCEL MAPS.
 EXAMPLE: 25-0-440
 REFERS TO BOOK 25 OF DEEDS, PAGE 440. (NOT ALL TYPES OF DOCUMENTS MAY APPEAR ON THIS MAP.)

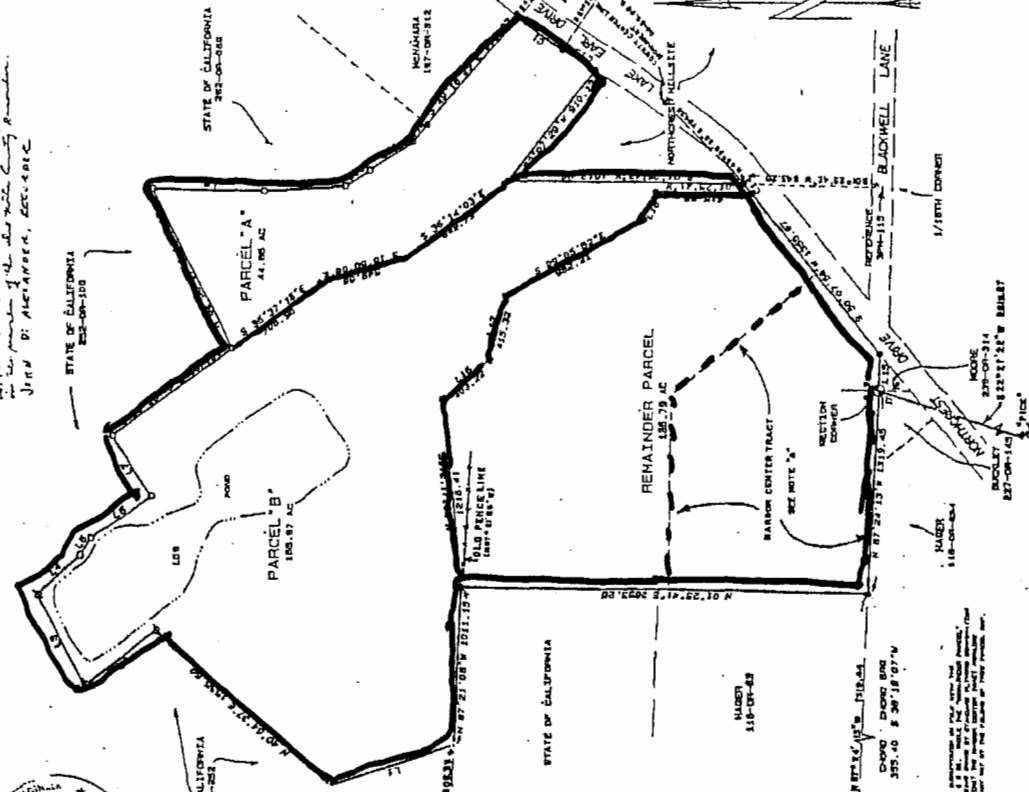
BASIS OF BEARINGS
 ALL BEARINGS ARE TRUE BEARINGS BASED ON THE SIGHT LINE BETWEEN CALTRANS CONTROL STATION 5 PAINT 6 808 PER BOOK 3 OF MAPS, PAGE 82.

MAP SYMBOLS USED HERE ON
 ■ INDICATES A 5/8" DIAMETER BY 24" LONG STEEL REBAR WITH A 2" DIAMETER ALUMINUM SURVEY CAP STAMPED "PROPERTY CORNER-DAVIS-LS 3340". WAS SET BY THE SURVEYOR IN THE POSITION INDICATED BY THIS SURVEY.
 ○ INDICATES A 3/4" PIPE WITH TEFELON PLASTIC PLUG MARKED "CALIF. CORP. SET BY THE CALIFORNIA SURVEYOR FOR THE MULTILIFE CONSERVATION BOARD IN AUGUST, 1982. REFERENCE: 275-0R-252 CALCULATED POINT DATA
 ⊙ POINTS AS ORDERED HEREON

PLANNING COMMISSION REQUIRED NOTES
 PARCEL "B" IS NOT APPROVED AS A BUILDING SITE AT THIS TIME



PARCEL MAP
 FOR
 STANDARD PLYWOOD CORPORATION
 PORTIONS OF SECTIONS 86S T16N R14W 11M
 PREPARED BY
 RICHARD B. DAVIS CO.
 711 W. STREET, DESERT CITY, CA 92031
 SHEET 1 OF 1



NOTE "A"

LINE	BEARINGS	DISTANCE
1	N 37°32'13.7"	578.28
2	N 37°35'02.7"	579.29
3	N 68°28'12.7"	651.59
4	N 55°00'27.7"	328.00
5	S 55°00'27.7"	328.00
6	S 34°18'42.7"	479.34
7	N 89°33'07.7"	175.09
8	N 89°33'07.7"	175.09
9	S 68°25'12.7"	535.17
10	S 34°06'13.7"	582.70
11	S 34°06'13.7"	582.70
12	S 48°18'00.7"	317.53
13	S 32°09'28.7"	348.18
14	N 89°33'07.7"	224.20
15	N 89°33'07.7"	224.20
16	S 40°41'29.7"	405.22
17	S 28°27'48.7"	415.32
18	S 28°27'48.7"	415.32

Book 6 PM Page 13

EXHIBIT NO. 7
 APPEAL NO.
 A-1-DNC-06-037
 JHP LLC
 1986 SUBDIVISION

DAVID B. KELLEY
Consulting Plant and Soil Scientist

25 January 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Wetlands
Crescent City, California

Dear Mr. Sirchuk:

I have performed several resource surveys on Harbor Center Tract No. 1 (known as the Bay Meadows parcel) over the last two years. As we have discussed, the biologic resources on the project site are rich but we have identified no special-status species or other species of concern on the project site. My firm has produced a delineation of U. S. Army Corps of Engineers jurisdictional wetlands and waters of the United States for use in planning the project layout and design. This delineation was undertaken to identify wetlands and other waters that might fall under the jurisdiction of the US Army Corps of Engineers, using contemporary standards for assessing wetlands features as used by the Corps, the US Fish and Wildlife Service, the State of California, and local agencies for wetland determinations. The development of the map of jurisdictional wetlands and other waters involved intensive field work and the assessment of the hydrologic, soil, and vegetation conditions associated with possible wetland areas on the project site.

A preliminary map of the identified wetlands was prepared and submitted to the Corps of Engineers for review. A representative of the Corps visited the site with me to review the work and the accuracy of the preliminary map, and has agreed that the wetlands identified in the preliminary map have been accurately determined, with some minor adjustments (which are reflected in the current map you have used in your site layout). The submitted map is subject to final field and office review and the issuance of a letter of concurrence by the Corps, which will be forthcoming as soon as all supporting data have been submitted. We are in the process of obtaining that concurrence now.

I have reviewed the Re-Subdivision Survey map your firm has produced following our discussions regarding wetland extent and location on the site. As I recommended, you have consolidated lots and developed plans for layout of roadways and lots in order to avoid wetland impacts to the extent possible. If the project is built as shown on the map, you will have minimal impacts to the jurisdictional wetlands on the site and should be able to proceed with development plans.

Please let me know if you need further information on the work I have performed and on the results of our surveys. I look forward to reviewing further plans for the project.

Sincerely yours,


David B. Kelley
Certified Professional Wetlands Scientist #000748

EXHIBIT NO. 8

APPEAL NO.

A-1-DNC-06-037

JHP LLC

BIOLOGICAL SURVEYS
(1 of 22)

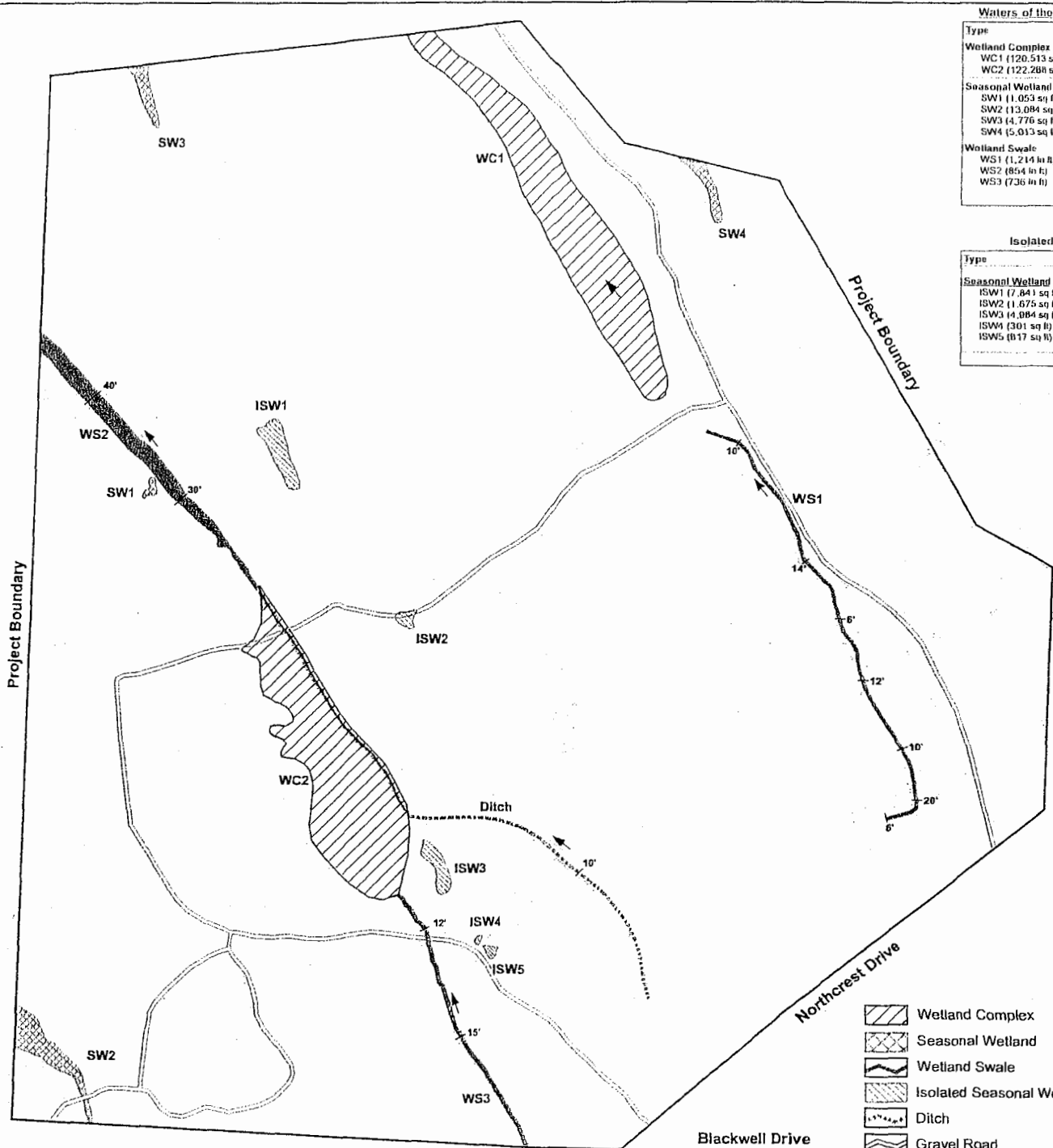
KELLEY & ASSOCIATES ENVIRONMENTAL SCIENCES, INC.

Consultation in Earth, Environmental, and Agricultural Sciences

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TEL: 530-753-1232 • FAX: 530-753-2935 • E-mail: <dbkelley@jps.net>

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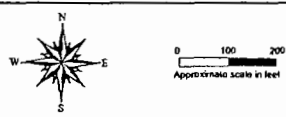


Waters of the United States	
Type	± Acres
Wetland Complex	5.57
WC1 (120,513 sq ft)	
WC2 (122,288 sq ft)	
Seasonal Wetland	0.55
SW1 (1,053 sq ft)	
SW2 (13,084 sq ft)	
SW3 (4,776 sq ft)	
SW4 (5,013 sq ft)	
Wetland Swale	1.18
WS1 (1,214 in ft)	
WS2 (854 in ft)	
WS3 (736 in ft)	
Total:	7.30

Isolated Waters	
Type	± Acres
Seasonal Wetland	0.36
ISW1 (7,641 sq ft)	
ISW2 (1,675 sq ft)	
ISW3 (4,084 sq ft)	
ISW4 (301 sq ft)	
ISW5 (817 sq ft)	
Total:	0.36

- Wetland Complex
- Seasonal Wetland
- Wetland Swale
- Isolated Seasonal Wetland
- Ditch
- Gravel Road

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PROJECT NOTES:
Project area: ±136 acres
Basemap provided by Richard B. Davis Company
Fieldwork conducted by David Kelley, Jeff Glazner, and Dan
Duncanson, July and September 2004
This map is subject to verification by the Corps of Engineers

**PRELIMINARY WETLAND
DELINEATION MAP**
Bay Meadows Tract
Near Crescent City, Del Norte County, CA
November 29, 2004

2922
000438

DAVID B. KELLEY
Consulting Plant and Soil Scientist

17 April 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Biological Survey Results
Crescent City, California

Dear Mr. Sirchuk:

As we have discussed, Kelley & Associates Environmental Sciences and North Fork Associates have surveyed the biological resources of the ±136-acre Bay Meadows Tract project site, located north of Crescent City, in Del Norte County, California, on the northwest side of Northcrest Drive, north of Blackwell Lane. This letter is a summary of the results of our work to date. Our ongoing surveys will continue through this spring and summer as we finalize the wetlands determinations and enhance our biological surveys.

Setting

The site occupies an upland marine terrace between two drainage systems and is dissected by smaller drainages. It lies about 2.5 miles east of the Pacific Ocean. Lake Earl is located one mile north of the site, and Highway 101 is located about one mile southeast of the site. This location corresponds to portions of Sections 8 and 9, Township 16 North and Range 1 West, on the Crescent City, California USGS 7.5-minute topographic quadrangle (Figure 1). The approximate coordinates for the gated entrance on Northcrest Drive are 41.7890° N and 124.1910° W.

Topography of the area is lightly undulating; elevations on site range from 44 feet at the top of a small ridge on the east side of the site to 20 feet near the northwest corner of the site. Previous land uses for the site include timber harvesting and cattle grazing. Several gravel roads in various states of use thread through the site. The site has been logged and brushed in the last five years. In some areas, vegetation has rebounded and formed dense thickets. Surrounding the site are rural residences to the south, large, open drainages to the east and west, and a wildlife refuge to the north (Figure 2).

Methodology

Reconnaissance-level resource assessments began in July 2004. The site has been surveyed on foot several times, noting potential wetlands, sensitive habitats, and the presence or potential for the occurrence of special-status species. A Trimble GeoXT sub-meter GPS unit was used to map the approximate boundaries of wetlands and other notable features.

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DEPARTMENT

KELLEY & ASSOCIATES ENVIRONMENTAL SCIENCES, INC.

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Consulting Plant and Soil Scientist

To determine potential special-status species in the region, the California Natural Diversity Data Base (CNDDDB) was queried for special-status species within the Crescent City, High Divide, Hiouchi, and Smith River, California USGS 7.5-minute quadrangles (approximately 220 square miles).

Hydrology

Two major drainage systems occur on site, generally flowing from south to north. The western drainage enters the site from two 48-inch culverts located beneath Northcrest Road. This drainage is made up of a several intersecting channels, some of which are abandoned roads. The eastern drainage runs along Northcrest Road and crosses the mid-portion of the site. Water enters a small, apparently man-made channel that parallels a currently used gravel road. Other isolated wetlands are found on site. In most cases, waters enter the site as rainfall or through the culverts beneath Northcrest Drive.

Biological Communities

Redwood. The majority of the site was at one time redwood forest dominated by coastal redwoods, Douglas fir, grand fir, and red alder. The site has been logged and used for grazing for many years and the redwood community now occurs on the eastern and western peripheries and in isolated stands on the property. Wildlife species observed in the redwoods and redwood-grassland transition areas include northern flicker, Pacific slope flycatcher, black-capped chickadee, cedar waxwing, orange-crowned warbler, white-crowned sparrow, and mule deer.

Ruderal Grassland. Disturbed perennial grassland now covers a significant portion of the site. California oatgrass, goldfields, Kentucky bluegrass, and western bracken fern are common species in this habitat. Species observed foraging in this area and in the wetland areas include killdeer, mourning dove, violet-green swallow, Bewick's wren, spotted towhee, Brewer's blackbird, and American goldfinch. Turkey vulture, red-tailed hawk, and red-shouldered hawk were observed soaring above the site, but no raptor nests were identified on site.

Coastal Scrub. In the southwest corner of the site there is a xeric community of coyote brush, scotch broom, coffeeberry, and other shrubs. Wildlife observed include California quail, Anna's hummingbird, western scrub jay, wrenit, dark-eyed junco, and house finch.

Special-Status Species: California Natural Diversity Data Base

The CNDDDB reported forty-seven special-status plants and twenty-four special-status animals in the region. No special-status species were identified on site. As noted below, some species (such as the Aleutian goose) may utilize the site on a transient basis. Previous surveys of the site (conducted in conjunction with timber harvesting activities) found that there was little potential on site for the occurrence of special-status species (California Department of Fish and Game, personal communication).

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DAVID B. KELLEY

Consulting Plant and Soil Scientist

Plants. The majority of plants listed in the CNDDDB have no potential to occur on site, due to a lack of required habitat or resources. Several species only occur on coastal dunes, including pink sand verbena (*Abronia umbellata* ssp. *breviflora*), dark-eyed gilia (*Gilia millefoliata*), sand pea (*Lathyrus japonicus*), and sand dune phacelia (*Phacelia argentea*). Others occurring in marshes, swamps, and bogs include Thurber's reed grass (*Calamagrostis crassiglumis*), Lyngbye's sedge (*Carex lyngbyei*), green sedge (*Carex viridula* var. *viridula*), Siskiyou Indian paintbrush (*Castilleja miniata* ssp. *elata*), marsh pea (*Lathyrus palustris*), western lily (*Lilium occidentale*), horned butterwort (*Pinguicula vulgaris* ssp. *macroceras*), fibrous pondweed (*Potamogeton foliosus* var. *fibrillosus*), Sanford's arrowhead (*Sagittaria sanfordii*), arctic starflower (*Trientalis arctica*), Langsdorf's violet (*Viola langsdorfii*), marsh violet (*Viola palustris*), and western bog violet (*Viola primulifolia* ssp. *occidentalis*).

Additional species listed in the CNDDDB occur only on serpentine or other specific soils, including Koehler's stipitate rock cress (*Arabis koehleri* var. *stipitata*), McDonald's rock cress (*Arabis macdonaldiana*), small groundcone (*Boschniakia hookeri*), yellow-tubered toothwort (*Cardamine nuttallii* var. *gemmata*), serpentine sedge (*Carex serpenticola*), Waldo buckwheat (*Eriogonum pendulum*), Mendocino gentian (*Gentiana setigera*), opposite-leaved lewisia (*Lewisia oppositifolia*), and Howell's jewel-flower (*Streptanthus howellii*).

The remaining plants listed occur in coniferous forest, coastal scrub, and meadow habitats, and therefore have some potential to occur on site. These include arctic spoonwort (*Cochlearia officinalis* var. *arctica*), black crowberry (*Empetrum nigrum* ssp. *hermaphroditum*), Butte County morning-glory (*Calystegia atriplicifolia* ssp. *buttensis*), coast checkerbloom (*Sidalcea oregana* ssp. *eximia*), Henderson's fawn lily (*Erythronium hendersonii*), Indian-pipe (*Monotropa uniflora*), leafy-stemmed miterwort (*Mitella caulescens*), maidenhair spleenwort (*Asplenium trichomanes* ssp. *trichomanes*), maple-leaved checkerbloom (*Sidalcea malachroides*), meadow sedge (*Carex praticola*), minute pocket-moss (*Fissidens pauperculus*), Nuttall's saxifrage (*Saxifraga nuttallii*), Oregon coast Indian paintbrush (*Castilleja affinis* ssp. *littoralis*), Pacific gilia (*Gilia capitata* ssp. *pacifica*), seacoast ragwort (*Senecio bolanderi* var. *bolanderi*), Siskiyou checkerbloom (*Sidalcea malviflora* ssp. *patula*), Tracy's Romanzoffia (*Romanzoffia tracyi*), and Wolf's evening-primrose (*Oenothera wolfii*).

Wildlife. The majority of animals listed have no potential to occur on site, due to a lack of habitat or resources. Species that only occur in the water or along the coast include rhinoceros auklet (*Cerorhinca monocerata*), tidewater goby (*Eucyclogobius newberryi*), Steller sea lion (*Eumetopias jubatus*), tufted puffin (*Fratercula cirrhata*), rocky coast Pacific sideband (*Monadenia fidelis pronotis*), fork-tailed storm-petrel (*Oceanodroma furcata*), coast cutthroat trout (*Oncorhynchus clarki clarki*), summer-run steelhead trout (*Oncorhynchus mykiss irideus*), and double-crested cormorant (*Phalacrocorax auritus*). Other species that occur near marshes and lake margins include Aleutian Canada goose (*Branta canadensis leucopareia*), great egret (*Ardea alba*), snowy egret (*Egretta thula*), and western snowy plover (*Charadrius alexandrinus nivosus*). (The site is adjacent to a Department of Fish and Game protected foraging area managed for the Aleutian goose so some utilization of the area by that species is possible.) Bank

DAVID B. KELLEY

Consulting Plant and Soil Scientist

swallow (*Riparia riparia*) and black swift (*Cypseloides niger*) nest on steep banks and cliffs near water. Pacific fisher (*Martes pennanti pacifica*) occurs in dense coniferous forests.

The remaining listed wildlife species have some potential to occur on site. Oregon silverspot butterfly (*Speyeria zerene hippolyta*) occurs in coastal meadows in Del Norte County. Del Norte salamander (*Plethodon elongatus*), foothill yellow-legged frog (*Rana boylei*), northern red-legged frog (*Rana aurora aurora*), southern torrent salamander (*Rhyacotriton variegatus*), and western tailed frog (*Ascaphus truei*) occur in forests and woodlands, generally near water. Bald eagle (*Haliaeetus leucocephalus*) and white-tailed kite (*Elanus leucurus*) nest in large trees, generally near water.

Conclusions

K&AES and North Fork Associates have conducted biological surveys over the last two years on the ±136-acre Bay Meadows Tract, located north of Crescent City in Del Norte County, California. The site supports disturbed grassland, with patches of redwood forest and a degraded coastal scrub community. Several portions of the site support wetland features. Due to the level of disturbance on site, there is low potential for a variety of special-status plants and a few special-status wildlife species. Further botanical and wildlife surveys are ongoing.

If you need further information on these findings, please let me know. Our surveys will continue this spring. A list of species identified on site and field notes from various site visits are available for your review.

Sincerely yours,

David B. Kelley
Consulting Plant and Soil Scientist
Certified Professional Wetlands Scientist #000748

DAVID B. KELLEY
Consulting Plant and Soil Scientist

17 April 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Jurisdictional Wetlands Determination
Crescent City, California

Dear Mr. Sirchuk:

As we recently discussed, K&AES and North Fork Associates have performed several resource surveys on Harbor Center Tract No. 1 (known as the Bay Meadows parcel) over the last two years. The biologic resources on the project site are rich but we have identified no special-status species or other species of concern on the project site, and discussions with federal and state resource agency personnel have confirmed that. In addition, my colleagues and I have conducted a two-phased determination of jurisdictional wetlands and other waters, one to meet the standards of the U. S. Army Corps of Engineers (using standards set forth in the 1987 manual used by the Corps and other federal agencies for their determinations), and one to meet the more rigorous standards of the California Coastal Commission, which utilizes a broader definition of wetlands, relying on fewer parameters for field wetland determinations. The results of our determination have taken into account the standards used by each of the agencies in order to identify jurisdictional wetlands and waters for use in planning the project layout and design. This delineation was undertaken to identify wetlands and other waters that might fall under the jurisdiction of either the US Army Corps of Engineers or the California Coastal Commission, using contemporary standards for assessing wetlands features as used by the Corps, the US Fish and Wildlife Service, the State of California (the Coastal Commission and the Department of Fish and Game), and local agencies for wetland determinations. In both cases, the development of the map of jurisdictional wetlands and other waters involved intensive field work and the assessment of the hydrologic, soil, and vegetation conditions associated with possible wetland areas on the project site.

A preliminary map of the identified wetlands was prepared and submitted to the Corps of Engineers for their review. A representative of the Corps visited the site with me to review the work and the accuracy of the preliminary map, and has agreed that the wetlands identified in the preliminary map have been accurately determined, with some minor adjustments (which are reflected in the current map you have used in your site layout). The submitted map is subject to final field and office review and the issuance of a letter of concurrence by the Corps, which will be forthcoming as soon as all

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DAVID B. KELLEY
Consulting Plant and Soil Scientist

supporting data have been submitted. We are in the process of obtaining that concurrence now.

This version of the map was developed to also meet the standards of the Coastal Commission and reflects that agency's greater reliance on so-called one-parameter determinations (utilizing vegetation patterns primarily). We are refining that map this season (with more intensive vegetation transects and dominance determinations) and will submit the revised map as we complete it. We anticipate that the preliminary map you have used in your site layout planning will undergo some minor adjustments (primarily with regard to edges and boundaries of mapped wetlands), but it accurately depicts the location and nature of jurisdictional wetlands as mapped to the standards of the Coastal Commission. We will submit revisions to that map, reflecting any adjustments necessary to meet the more rigorous Coastal Commission standards, later this year as we finish the botanical transects and vegetation dominance testing.

I have reviewed the Re-Subdivision Survey map your firm has produced following our discussions regarding wetland extent and location on the site. As I recommended, you have consolidated lots and developed plans for layout of roadways and lots in order to avoid jurisdictional wetland impacts to the extent possible. If the project is built as shown on the map, you will have minimal impacts to the jurisdictional wetlands on the site and should be able to proceed with development plans.

Please let me know if you need further information on the work I have performed and on the results of our surveys. I look forward to reviewing further plans for the project and to completing our vegetation surveys as the weather warms up and the rainfall drops off a bit.

Sincerely yours,

David B. Kelley
Consulting Plant and Soil Scientist
Certified Professional Wetlands Scientist #000748



GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

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E-mail: frankgalea@charter.net . Web: www.galeawildlife.com



BIOLOGICAL ASSESSMENT, BAY MEADOWS PROPERTY, DEL NORTE COUNTY

Submitted to: HW3 LLC
P.O. Box 2767
Harbor, OR, 97415

Prepared by: Frank Galea, Certified Wildlife Biologist
E-mail: frankgalea@charter.net

Galea Wildlife Consulting
200 Raccoon Court
Crescent City, CA 95531

Submitted: May, 2006

By:

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PLANNING
COUNTY OF DEL NORTE

1.0

SUMMARY

A biological assessment was conducted for the Bay Meadows property, located just west of Northcrest Drive, as part of a subdivision application within the Coastal Zone. No threatened or endangered wildlife species or their specific breeding habitats were found on the property. Wetlands are located on the property however these have been identified by a previous study. Habitats were early seral woodlots, open grassland and riparian habitats around wetlands, stream channels and ditches. Overall, this project would have no significant impacts upon any sensitive or rare wildlife species. Recommendations were made for protective buffers around wetland and riparian habitats.

2.0

INTRODUCTION

The Applicant is re-submitting a proposal for a subdivision on the same property where a subdivision with greater density was already approved. As this property is located within the coastal zone, a biological assessment was requested as part of the permit.

Galea Wildlife Consulting (GWC) Incorporated was contracted to provide a general biological assessment to determine the potential for sensitive wildlife species, including federally or state listed species, and species of special concern.

2.1 Environmental Setting

The Bay Meadows property is located at the western edge of the Crescent City flats, just east of Lake Earl. The property lies just west of Northcrest Drive. East of the property across Northcrest Drive is an elementary school and commercial buildings. South of the property are residences. Old log ponds are located just north of the property. North and east of the property is the Lake Earl Wildlife Area (LEWA), managed by the California Department of Fish and Game.

The property is not flat, but rather undulates from north to south with small uplifts and ridges. The property has been partially cleared and is now covered primarily with grass and small woodlots, having historically been used as pasture and for timber management. Roadways cross the property in several locations. Two small drainages are located within the property.

Habitat on the property consists of small, scattered stands of relatively young redwood, fir and spruce, with large open grass fields occupying much of the western half of the property. Brushy riparian habitat lines ditches and delineated wetland areas.

2.2 Physical Environment

The climate of northern California is characterized as Mediterranean, with cool, wet winters and warm, dry summers with frequent fog. Proximity to the Pacific Ocean produces high levels of humidity and results in abundant fog and fog drip precipitation. Annual precipitation in the project watershed ranges from 60 - 150 inches occurring primarily as rain during the winter months. Air temperatures measured in Crescent City area vary from 41°F to 67°F annually.

3.0

METHODS

3.1 Records Search

A records search of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (2005) was conducted to determine if any additional special-status plant or animal species had been previously reported within or near the project area. For the purposes of this report, special-status plant and animal species are defined as those listed in the California Fish and Game Code as Rare, Threatened or Endangered, those listed as Threatened or Endangered under the Federal Endangered Species Act, candidates for state or federal listing, and unlisted species that may be significantly affected and warrant consideration. Listed and sensitive wildlife species potentially occurring within the Crescent City quadrangle are presented in Table 1.

Wetlands, streams and ditches were delineated by Kelly & Associates of Davis, California, in an earlier study (Kelly 2006). Their map was used to determine where buffers to wetlands and riparian habitats should be applied.

The CDFG provided a letter to the Planning Department of Del Norte County with review materials in December of 1997.

3.2 Field Investigation

A field investigation of the project area was conducted in June of 2003 (for an earlier THP) and again in January and May of 2006. Certified Wildlife Biologist Frank Galea conducted the field review. All potential wildlife habitats within the project area and within 1/4 mile around the project area were assessed for their potential for listed wildlife species. Trees on and adjacent to the property were searched with high-power binoculars for nests, cavities or other potential nest sites for raptors or other large birds.

4.0

RESULTS AND POTENTIAL IMPACTS

4.1 Records Search

The CDFG Natural Diversity Data Base (CNDDDB, 2005) provided a summary of those federal and state-listed and sensitive wildlife species and their mapped locations, reported to have occurred at least once within the Crescent City quadrangle. No sensitive species was noted to occur within 1/4 mile of the project area.

A list of those sensitive or listed animal species potentially occurring in the vicinity of the project area is presented in Table 1, including the common and scientific names for each. The listing status of each species and if potential habitat (as determined by GWC based upon a review of habitat available within the project area) was located within the project area is also indicated in Table 1. The rationale for habitat determinations per species is provided in Appendix A, in the Habitat Analysis Review section.

Kelly and Associates (Kelly 2006) listed a number of species potentially occurring on the property. A later survey and review by GWC was able to eliminate the possibility of some species due to lack of habitat. Local fisheries biologists Jim Waldvogel and Dan Burgess were contacted for information regarding the potential for fish species to occur in local creeks.

Table 1. Sensitive Wildlife Species Occurring or with the Potential to Occur Within the Region of the Project Area (From NDDDB 2005 Quad search, USFWS Del Norte County list, and GWC sources)					
Common Name	Scientific Name	Federal Status	State Status	Breeding Habitat in Project Area?	Forage Habitat in Project Area?
BIRDS					
Northern spotted owl	<i>Strix occidentalis caurina</i>	FT	CSC	No	No
Bald eagle	<i>Haliaeetus luecocephalus</i>	FT	CE/CFP	No	No
Bank Swallow	<i>Riparia riparia</i>	None	CT	No	No
Western Snowy Plover	<i>Charadrius Alexandrinus Nivosus</i>	FT	CSC	No	No
FISH					
Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>	SC	None	No	Yes
S. OR./N. CA Coho salmon	<i>Oncorhynchus kisutch</i>	FT	T	No	No
AMPHIBIANS					
Del Norte salamander	<i>Plethodon elongatus</i>	SC	CSC	No	No
Southern torrent (=seep) salamander	<i>Rhyacotriton variegatus</i>	SC	CSC	No	No
Tailed frog	<i>Ascaphus trueii</i>	SC	CSC	No	No
Foothill yellow-legged frog	<i>Rana boylei</i>	None	CSC	No	No
Northern red-legged frog	<i>Rana aurora aurora</i>	None	CSC	Yes	Yes
INVERTEBRATES					
Oregon silverspot butterfly	<i>Speyeria zarene hippolyta</i>	FT	SC	No	No

Codes:

Federal Status

FE Federally endangered
 FT Federally threatened
 FC Federal candidate for listing
 FSC Federal species of concern
 FPE Federally proposed for endangered listing
 FPT Federally proposed for threatened listing

State Status

CE California endangered
 CT California threatened
 CCE California candidate for endangered listing
 CSC California species of concern (CDFG)
 CFP California fully protected

4.2 Habitat Analysis and Impact Assessment for Fish and Wildlife

An assessment of potential habitats and impacts for sensitive wildlife species was conducted in January and May of 2006. The project area was found to contain little potential for the wildlife species listed in Table 1, due to the lack of late seral or other specific habitat types. No occurrences of threatened, endangered or otherwise sensitive wildlife species are listed in the CNDDDB for the project site. Potential sensitive species and a discussion of their status in the area are covered in Appendix A.

Threatened or Endangered Species: Table 1 shows no potential habitat for threatened or endangered species. The project area is relatively open ground due to historic use as pasture. The early age of the trees did not provide habitat for species dependant upon mid or late seral habitats. This project, therefore, would have no potential impacts upon any threatened or endangered species.

Salmonids: Table 1 demonstrates the potential for Coastal Cutthroat trout is present on the property. A small, man-made drainage channel (WS2) enters the property from the eastern property line. The channel first runs under Northcrest Drive via a culvert before entering the property. On the south side of Northcrest Drive the watercourse is composed of a series of drainage ditches which drain residential areas. This channel flows northwest and eventually connects with Lake Earl to the north.

During field review in May, fish fry, which may have been cutthroat trout or perhaps stickleback, were observed within remnant ponding just north of a road crossing, marked E1 (triangle) on the project map. This location is just outside the project area, and the crossing (culvert) is proposed to be removed. The remainder of the drainage ditch was dry, and the small pool area likely will dry out as well with the loss of the fry. Cutthroat trout, therefore, can access onto the property via this drainage, however it is unlikely that they survive here past May. This creek should be designated as a Class I watercourse, from where it enters the property along the west property line, to where the creek runs under the primary road on the property. From there, the creek is not defined, and Kelly & Associates have determined that the creek becomes a shallow wetland complex. There is no potential for cutthroat trout or other fish species occurring east of Northcrest Drive within this watercourse.

The western edge of the property is located adjacent to a natural watercourse which, historically, was dammed to create log ponds. The watercourse and ponds are off-site and designated SW2 on maps. They can be found on USGS topographic maps, which show that it connects to the south end of Lake Earl. The damming has created wetlands which are contained within a sloping bank. As these are man-made ponds, mid-seral conifer grows up to the edge of the wetlands and riparian vegetation was completely lacking.

Amphibians: Kelly (2006) noted potential for foothill yellow-legged frogs, Del Norte salamanders, tailed frog and torrent salamander, based upon forested habitats associated with water. However, no preferred habitats for these species exists on the property. Watercourses are perennial, have warm water when water is in them and have no slope, therefore no potential exists for tailed frogs or torrent salamanders. Del Norte salamanders prefer talus slopes or rocky ground with interstitial spacing, of which none was found on the property. Foot-hill yellow-legged frogs do not occur in the coastal terrace region. Therefore, these amphibian species have no potential to occur on the property.

13422

Table 1 lists the northern red-legged frog as potentially occurring on the property. No red-legged frogs were observed during surveys, however they are likely present due to scattered wetland habitats, ponds and ditches. The nearby Lake Earl Wildlife Area (LEWA) also provides an expansive ecosystem for this species.

This species is not a protected species in Del Norte County and is locally relatively abundant. Wetland and riparian habitats within the property will remain and protective buffers will be used for additional protection. This species will likely be adversely affected in the project area, although the population at a landscape level will not be significantly affected due to the abundance of habitat within the LEWA.

Raptors and other Avian Species:

The property has limited potential as nesting habitat for raptors, herons and egrets (*Ardiidae*) due to the relatively small size of trees available on the property, which is also located relatively close to a busy road and commercial businesses. The large amount of forage habitat for both raptors and *Ardiidae* species increases the potential of their presence, and potentially of their nesting, in the area. During a survey in January (outside of the breeding season) a red-tailed hawk was detected on the property. It is unlikely this species nests on the property due to the relatively small size of most trees. Abundant nesting habitat is located in the adjacent LEWA properties.

Kelly (2006) noted potential for bald eagles. Bald eagles migrate to the area in the winter and roost around Lake Earl, to the west, however they have yet to nest near Crescent City. A few trees are sufficient in size for an eagle nest, however these are easily searched and no large nests have been located, and no bald eagles have been observed during years of survey during the breeding season.

Wetlands: Wetlands had already been delineated by Kelly & Associates. Wetlands on the property primarily consisted of low areas where seasonal flooding occurred, and most were covered or bordered with dense brush and riparian vegetation.

Wetland habitats are also located just west of the property. The designated wetland, SW2, in the southwest corner of the property, connects with these wetlands. Buffers of 100 feet were applied to wetland areas.

5.0

RECOMMENDATIONS AND MITIGATIONS

Wetland and Riparian Habitats:

Wetlands, riparian habitats and man-made ditches on the property have been previously identified and mapped. For the purpose of removing additional vegetation on the property, the following buffers will provide sufficient habitat and resource protection to these areas;

1. Wetland Complexes and Seasonal Wetland Areas: Mechanized equipment should not encroach within 100 feet of any wetland area or riparian vegetation directly associated around the perimeter of wetland areas, as shown by maps prepared by Kelly & Associates. A 100 foot buffer would be sufficient to protect resources associated with wetlands on the property.

2. Riparian Corridors: Natural drainages ("wetland swales") on the property were mapped by Kelly & Associates. These were lined with dense riparian vegetation. A 25 foot buffer from the outermost edge of riparian vegetation would be sufficient to protect resources associated with wetland complex habitats located within the swales.

3. The watercourse on the northwestern portion of the property (WS2) should be designated as a Class I watercourse, from where it enters the property along the west property line, to where the creek runs under the primary road on the property, at designated point E1. From there, the creek is not defined, and Kelly & Associates have determined that the creek becomes a shallow wetland complex.

A 100 foot buffer along that portion of the channel designated as Class I would be appropriate, as the vegetation here is very dense, providing adequate screening, considering the channel dries up completely during summer and fall months. That portion of the creek designated as Class I should have a 100 foot buffer from the top of bank. For the wetland complex south of the creek, a 25 foot buffer from the outermost edge of the riparian vegetation would be sufficient to protect resources associated with wetland habitats, as the amount of riparian habitat surrounding the wetland complex is extensive.

4. When culvert removal occurs as a part of this project the work should only occur during summer or fall when channels are completely dry. Approaches to the channel should be sloped to natural elevations. Disturbed areas along the channel should be planted with willows, alder or other natural, screening vegetation.

5. Man-made ditches: One man-made ditch was delineated on the wetland map. No riparian vegetation immediately along the ditch should be removed. No additional buffer is needed on either side of the ditch.

6.0

STAFF QUALIFICATIONS

Habitat assessment and report writing for this project was conducted by Principal Biologist, Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989 in Crescent City. Frank is Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a Master of Science Degree in Wildlife Management from Humboldt State University and a Bachelor of Science in Zoology from San Diego State University. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 16 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

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APPENDIX A - HABITAT ANALYSIS FOR POTENTIAL RARE, THREATENED OR ENDANGERED WILDLIFE SPECIES OF CONCERN

The following is an analysis of the potential for the sensitive wildlife species listed in Table 1 to occur within the project area, or the possibility of impacts to their populations by this project.

Bald Eagle (*Haliaeetus leucocephalus*)

Distribution. The bald eagle is listed as federally threatened and a California endangered and fully protected species, although they were recently proposed for federal delisting. They are found throughout California, and the population is expanding westward toward historic range. Bald eagles are not known to currently nest within Del Norte county. Bald eagles are typically seen during the winter at Lake Earl, located approximately ½ mile west of the project, however there is no preferred nesting or foraging habitat in or near the property.

Habitat Requirements. Bald eagles prefer to nest close (within one mile, usually in view) to large, fish-rich waters such as lakes and rivers. They typically utilize large conifers to build nests in, which can be standing alone or in the midst of a dense timber stand.

Occurrence within the Assessment Area. No nesting habitat for bald eagles was observed within 0.25 miles of the project area.

Management Considerations. No potential habitat for this species was found in the assessment area, therefore no management consideration is required.

Northern Spotted Owl (*Strix, occidentalis caurina*)

Distribution. This species is listed as federally threatened and a California species of concern. The spotted owl is not uncommon over most of its range, which in northern California includes most conifer forests and mixed-conifer woodlands of the coastal mountains. It occurs locally in second-growth forests.

Habitat Requirements. This species prefers large diameter trees within well-shaded stands for nest sites, where they will use old nests built by other species, cavities or shaded, broken-topped trees. They prefer an overhead canopy over nests and roost sites for thermal and predator protection and are intolerant to extreme heat, especially for nest sites. Spotted owls hunt in relatively closed canopy forests with open sub-canopies and moderate stem densities.

Occurrence within the Project Area. No potential habitat is available within the project area.

Management Considerations. As there is no potential for this species occurring in the project area, and no habitat for this species would be affected, there is no need for management consideration.

Marbled Murrelet (*Brachyramphus marmoratus*)

Distribution. The marbled murrelet is listed as federally threatened and as California endangered. Their range is closely tied to large, intact tracts of old-growth redwood and Douglas-fir forests located within 20-40 miles of the California and Oregon coasts.

Habitat Requirements. Marbled murrelets nest in old-growth stands from April to July, and spend the remainder of the year on the open ocean. They only nest in very large, shaded old-growth trees, within intact stands, with big, mossy limbs, and are intolerant of high temperatures during the breeding season. They are semi-colonial nesters, preferring to nest in stands occupied by others of their species. They then can travel back and forth to marine forage areas in groups, assumably to deter attacks by predators such as the peregrine falcon.

Occurrence within the Project Area. No potential habitat exists within the assessment area.

Management Considerations. As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

Western Snowy Plover (*Charadrius alexandrinus nivosus*)

Distribution. This species is listed as federally threatened and a California species of concern. The snowy plover is a rare bird along the California and Oregon coasts, inhabiting barren sand beaches and flats.

Habitat Requirements. The snowy plover preferably utilizes marine environments such as barren sand beaches. They will rarely utilize sandy gravel bars along major rivers, as was recently discovered in Humboldt county.

Occurrence within the Project Area. No potential nesting or foraging habitat was observed in the assessment area.

Management Considerations. As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

White-tailed kite (*Elanus leucurus*)

Distribution. This species is found throughout northern California, gradually increasing it's range and is now breeding in Del Norte county.

Habitat Requirements. This species forages in open areas such as fields. It can nest in hedgerows and can nest in relatively small stands of conifer or deciduous trees, however this property is often disturbed and offers no potential as nesting habitat for this species.

Occurrence within or near the Project Area. Potential foraging and nesting habitat is available within the project area. This non-endemic species is becoming more prevalent in Del Norte county.

Management Considerations. This project will occur outside of the nesting season. If work is to be conducted during the nesting season a raptor survey would first occur to determine if this species is breeding on the property.

Osprey (*Pandion haliaetus*)

Distribution. This species is a California species of concern. The osprey is common over most of its range, which in northern California includes fish-bearing rivers and lakes, plus bays and other productive forage areas along the ocean.

Habitat Requirements. The osprey prefers large diameter snags within conifer stands for nest sites, where they will build their own nests. Osprey specialize on foraging on fish species, however they can utilize fresh or saltwater habitats for foraging.

Occurrence within the Project Area. No preferred nesting or foraging habitat occurs within the project area, and no nests were observed during field surveys. The California NDDDB shows no osprey nest sites within 0.50 miles of the project.

Management Considerations. No preferred nesting or foraging habitat for this species is available in the project area. This project will occur outside of the nesting season. If work is to be conducted during the nesting season a raptor survey would first occur to determine if this species is breeding on the property.

Southern Torrent Salamander (*Rhyacotriton variegatus*)

Distribution. The southern torrent salamander inhabits the humid coastal forests of Washington, Oregon, and California. In California, southern torrent salamanders occur only in the extreme northwestern portion of the state in Del Norte, Humboldt, western Siskiyou, Trinity, and Mendocino Counties.

Habitat Requirements. The southern torrent salamander is found most often in the cool, moist microclimate of late seral-stage forests (Bury and Corn 1988, Welsh 1990). Transformed and larval salamanders are usually found in shallow, cool streams, or beneath rocks and organic debris. Transformed individuals are also found under surface objects, wet moss, or leaf litter adjacent to streams and seeps, usually in the splash zone and within 1 meter of free-running water (Nussbaum and Tait 1977). They are always found in or near water, have an extremely low range of temperature tolerance (Brattstrom 1963), and are the most sensitive salamander to loss of water (Ray 1958).

Occurrence within the Project Area. There was no potential habitat for southern torrent salamanders within the project area.

Management Considerations. Because southern torrent salamanders require habitat that does not occur within the project area, there is no need for management consideration.

Tailed Frog (*Ascaphus truei*)

Distribution. The range of the tailed frog extends from southwestern British Columbia south through western Washington and Oregon and into northwestern California. Disjunct populations also exist in Montana and Idaho. In California, the tailed frog is found in the northwestern corner of the state from Del Norte County south to central Sonoma County and east as far as southwest Shasta County (Bury 1968, Stebbins 1985).

Habitat Requirements. The tailed frog requires cold, perennial, swift-flowing streams, and cool, moist micro-habitat conditions (Welsh 1990). They are typically associated with redwood, Douglas-fir, and yellow pine forests (Bury 1968). Highly specialized larvae are found attached to rocky substrates in fast-flowing water. In this area tailed frogs are often found in small, moderate to high gradient fish bearing and non-fish bearing watercourses. Larval tailed frogs mature for a period of one to two years before metamorphosis occurs. Tailed frogs are vulnerable to extreme habitat changes and predation from resident trout and Pacific giant salamanders. Although the tailed frog is known to occupy cool, small headwater streams it can sometimes be located in lower gradient reaches of larger streams.

Occurrence within the Project Area. No potential tailed frog habitat was located within the assessment area.

Management Considerations. Habitat conditions within the project area were unsuitable for the tailed frog. No management considerations for this species are necessary.

Del Norte Salamander (*Plethodon elongatus*)

Distribution. The Del Norte salamander is found in coastal forests of Del Norte and other northwestern counties. Unlike other amphibian species listed, which prefer riparian or wetland habitats, the Del Norte salamander is an upland species, relatively common in preferred habitats of moist, rocky soils and rubble, slides, or under dead and down woody material. This species is designated as a Species of Special Concern by the California Department of Fish and Game.

Habitat Requirements. Del Norte salamanders are found in a variety of forest types, including redwood, valley-foothill riparian, Douglas-fir, montane riparian and montane hardwood-conifer forests to 2,500 feet. However, regardless of the forest type, this species requires rocky ground with interstitial spacing which allows for vertical movement to sub-surface refugia. They feed on a variety of invertebrates including springtails, beetles, annelid worms, spiders, flies and millipedes. Breeding occurs in moist soils, as they do not require standing water.

Occurrence within the Project Area. No potential Del Norte salamander habitat was noted.

Management Considerations. This species is very common in foothills east of the project area, especially in talus or rocky substrates. No potential habitat is available in the project area, therefore there is no need for additional management considerations for this species.

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Northern Red-legged frog (*Rana aurora*)

Distribution. The northern red legged frog was relatively common in riparian areas and ponds over most of non-desert areas of California. Loss of habitat and predation by non-native frogs has reduced or eliminated populations in southern and central California, but not the in northwest. In Del Norte county this is a very common species in a wide range of habitats. It is designated as a Species of Special Concern by the California Department of Fish and Game.

Habitat Requirements. This species breeds in moist areas, requiring standing water. It feeds on a variety of invertebrates, and can forage in wet fields, backyards, and in woodlots.

Occurrence within the Project Area. Potential red-legged frog breeding and foraging habitat was noted during field review and this species is most likely present.

Management Considerations. Resource protection buffers were recommended around wetland and riparian habitats, where this species would be expected. These buffers will help protect this species and their habitats in the project area, although overall the population will likely be adversely, but not significantly, impacted.

Coastal Cutthroat Trout (*Oncorhynchus clarki clarki*)

Distribution. Coastal cutthroat trout are found in small coastal streams from the Eel River in California North to Seward, Alaska (Moyle 1976). In California, they are limited to drainages along the western slope of the Coast Range. Coastal cutthroat trout have both anadromous and resident forms.

Habitat Requirements. Coastal cutthroat require small, low gradient coastal streams that are cool (<18°C) and well shaded. Small gravel, which can vary in size from 10 to 40 millimeters, is essential for spawning (Wydoski and Whitney 1979). When steelhead trout are found in the same stream, coastal cutthroat tend to utilize smaller tributaries and higher portions of the watershed.

During the first year of rearing, coastal cutthroat primarily inhabit the smaller tributaries and headwater streams in the system where they feed primarily on insects (Moyle et al. 1989). After the first year, coastal cutthroat may migrate out to sea or downstream into the larger river system where smaller fish may become a more important part of their diet (Wydoski and Whitney 1979). Once they reach the ocean, most will remain within their natal stream's estuary. They may spend one or several years at sea but will migrate upstream to spawn.

Occurrence within the Project Area. One creek on the property is a tributary to Lake Earl, and contains cutthroat trout fry which will not survive due to a lack of water in the system during summer.

Management Considerations. A 100 foot buffer from the edge of riparian habitat is recommended to protect fisheries resources within the Class I watercourse from the road culvert to the northwest.

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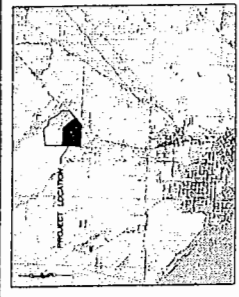
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RESUBDIVISION MAP WITH WETLAND AND WETLAND BUFFER



BASIS OF BEARING AND VERTICAL DATUM

THE BASIS OF BEARING IS BASED ON SURVEY DATA PROVIDED BY RICHARD B. SAUNDERS, CIVIL ENGINEER, STATE OF CALIFORNIA LICENSE NO. 10000. THE BASIS OF VERTICAL DATUM IS THE MEAN SEA LEVEL DATUM.

VERTICAL DATUM: MEAN SEA LEVEL DATUM
 ALL TOPOGRAPHIC WORK BY RICHARD B. SAUNDERS, CIVIL ENGINEER, STATE OF CALIFORNIA LICENSE NO. 10000.

GENERAL NOTES

1. ALL UTILITIES SHOWN ARE PRELIMINARY AND SHOULD ONLY BE USED FOR SCHEMATIC PURPOSES.
2. CHECK TO COMPARE WITH CITY OF CRESCENT CITY STANDARDS AND DEL Norte COUNTY STANDARDS.

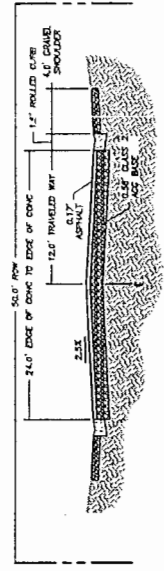
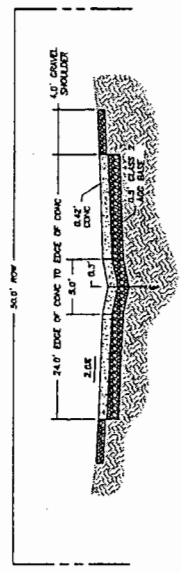
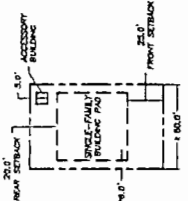
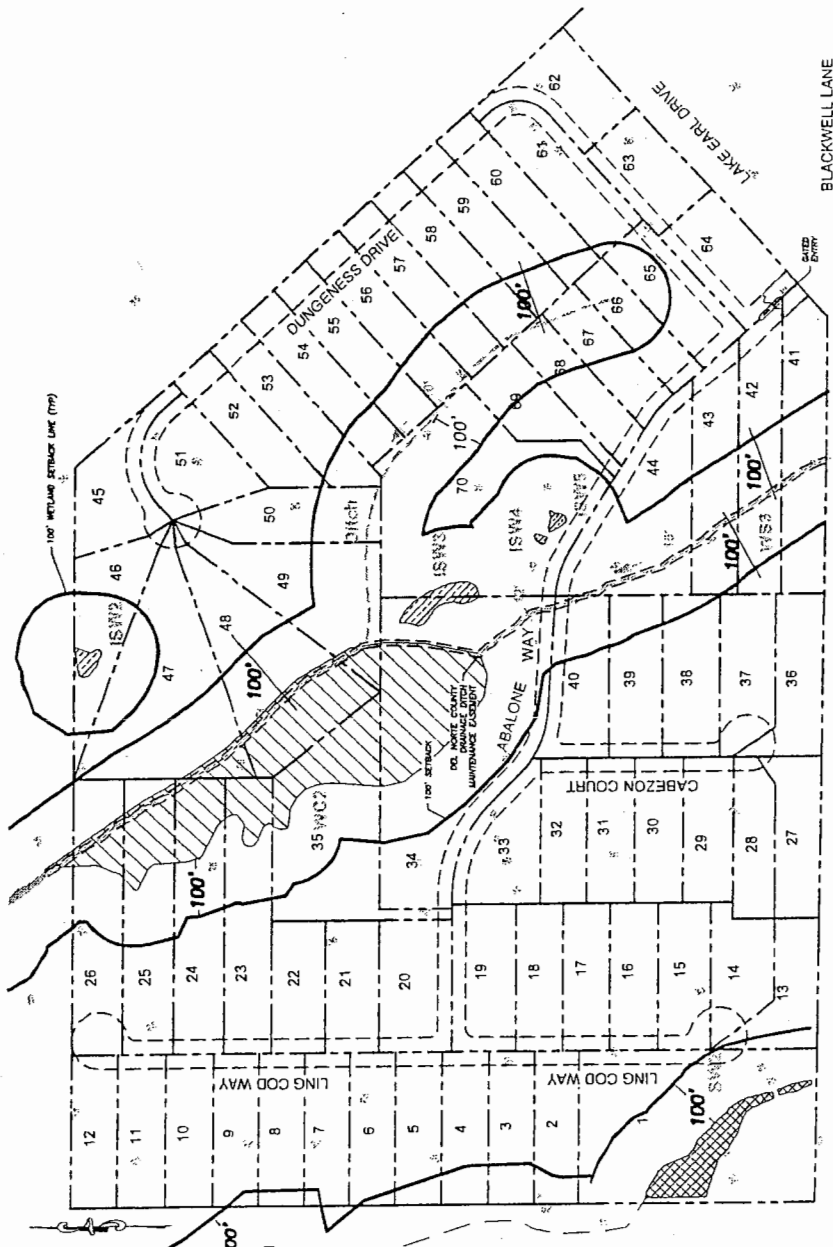
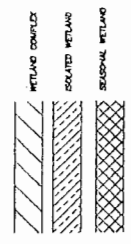
ZONING
 ZONE: _____

DEVELOPER
 JHP, LLC
 PO BOX 783
 CRESCENT CITY, CA 95531

PLANNER
 STOVER ENGINEERING
 CRESCENT CITY, CA 95531

ENGINEER
 STOVER ENGINEERING
 CRESCENT CITY, CA 95531

WETLAND AREA LEGEND



RESUBDIVISION MAP WITH WETLAND AND WETLAND BUFFER

DATE	REVISION



STOVER ENGINEERING
Civil Engineers and Consultants
PO BOX 783, 2114 STREET
CRESCENT CITY, CA 95531 - 707-465-8742

JHP, LLC
BAY MEADOWS MAJOR SUBDIVISION
RESUBDIVISION MAP

JOB NO. 3799
SCALE SHOWN
DATE: 5/20/05
SHEET
1 OF 1



VICINITY MAP
BASIS OF BEARING AND VERTICAL DATUM
THE BASIS OF BEARING IS BASED ON SURVEY DATA PROVIDED BY THE STATE OF CALIFORNIA. THE BASIS OF VERTICAL DATUM IS THE MEAN SEA LEVEL DATUM. ALL ELEVATIONS ARE IN FEET ABOVE MEAN SEA LEVEL.

- GENERAL NOTES**
- ALL UTILITIES SHOWN ARE PRELIMINARY AND SHOWN ONLY FOR SPACING PURPOSES. DECISION TO CONFORM WITH CITY OF CRESCENT CITY STANDARDS AND SOI, MUST BE MADE BY THE CITY ENGINEER.
 - CONTOUR INTERVALS ARE 2 FEET.

ZONING
ZONE: _____

DEVELOPER
JHP, LLC
PO BOX 783
CRESCENT CITY, CA 95531

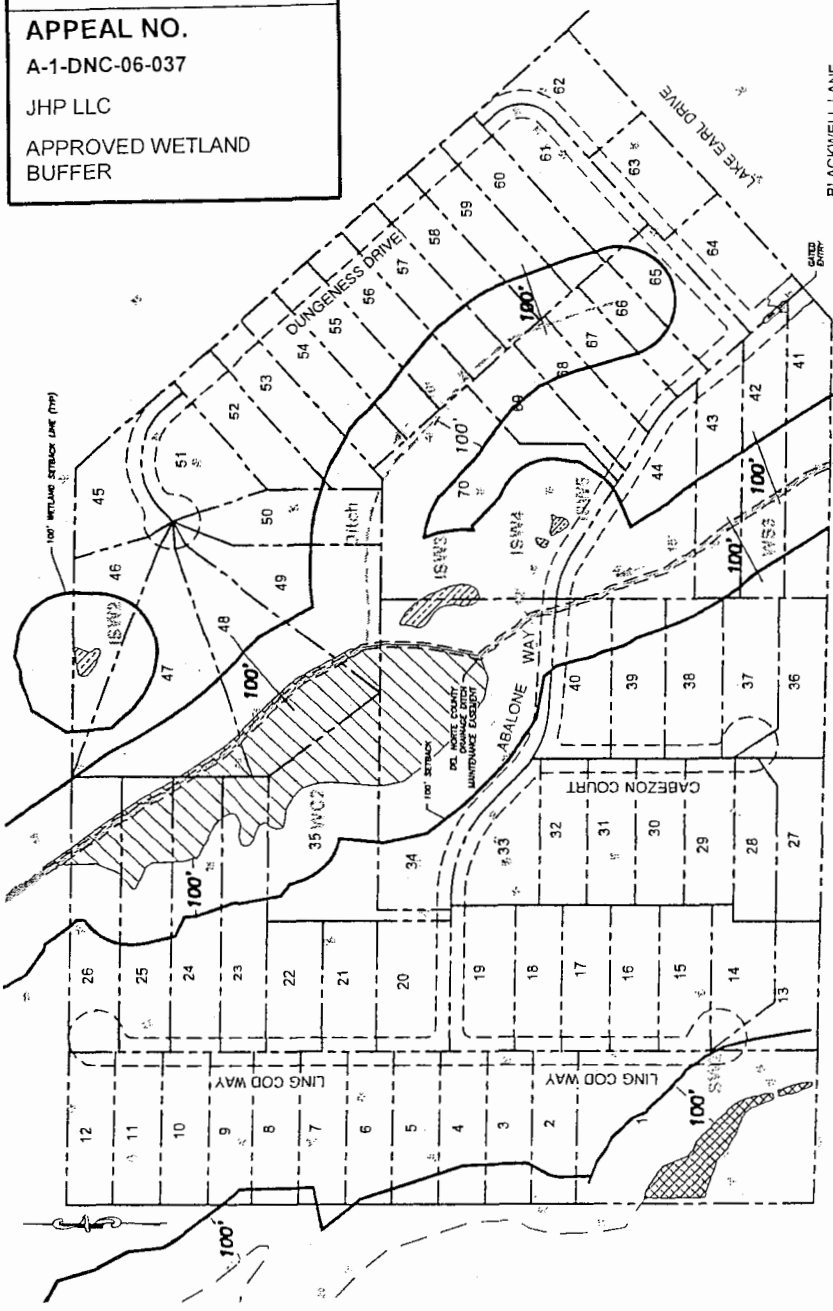
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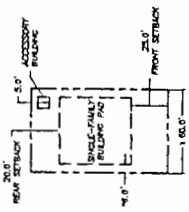
WETLAND AREA LEGEND

- WETLAND COMPLEX
- SCOURED WETLAND
- SEASONAL WETLAND

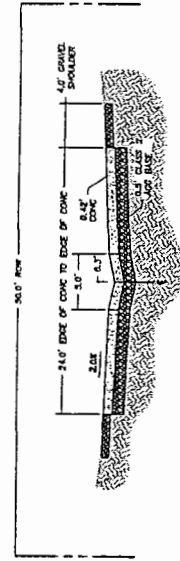
EXHIBIT NO. 9
APPEAL NO.
A-1-DNC-06-037
JHP LLC
APPROVED WETLAND BUFFER



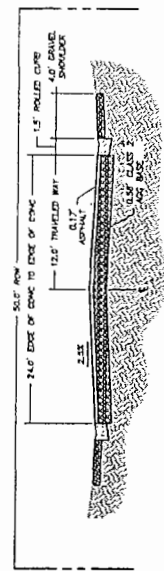
1 BAY MEADOWS TENTATIVE MAP
1"=100'



2 SINGLE LOT PLOT PLAN (TYP)
40' LOT WIDTH x 60.0' LOT DEPTH (TYP) SETBACKS - 5.0'



3 ACCESS ROAD ALTERNATIVE No. 1
1"=50'



4 ACCESS ROAD ALTERNATIVE No. 2
1"=50'

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

NOTICE OF ACTION

- I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **August 2, 2006** regarding the application for development listed below:

Action: Approved ___ Denied ___ Continued ___ Recommended EIR
 Forwarded to Board of Supervisors

Application Number: UP0640C

Project Description: Use Permit for a Planned Community

Project Location: 2400 Lake Earl Drive, Crescent City

Assessor's Parcel Number: 110-020-62

Applicant: JHP, LLC

Applicant's Mailing Address: PO Box 2767, Harbor, OR 97415

Agent's Name & Address: Stover Engineering, 711 H Street, Crescent City, CA 95531

EXHIBIT NO. 10
APPEAL NO.
A-1-DNC-06-037
JHP LLC
NOTICE OF FINAL LOCAL ACTION (1 of 85)

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

II. **If Approved:**

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

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

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

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

Is appealable to the California Coastal Commission.

Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by August 14, 2006 for consideration by the Board of Supervisors.

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

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

(Continued on the next page)

RECEIVED

AUG 07 2006

CALIFORNIA
COASTAL COMMISSION

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

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

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

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

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

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

NOTICE – SECTION 1.40.070

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

FISH AND GAME FILING FEES

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

Applicable Fee - Neg. Dec. (\$1,275) EIR (\$875) Exempt
includes minor sub.

This fee is due and payable to the County Clerk's Office. If not paid within 5 working days of the date of action of the Planning Commission, your project may be invalid by law (PRC 21089(b)) and will be referred to Fish and Game's Department of Compliance and External Audits in the Clerk's monthly deposit and report to Fish and Game.

ATTENTION APPLICANT

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

If you have any questions regarding the payment of taxes, call the Del Norte County Tax Collector's Office at (707) 464-7283. *2986*

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

NOTICE OF ACTION

- I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **August 2, 2006** regarding the application for development listed below:

Action: Approved Denied Continued Recommended EIR
 Forwarded to Board of Supervisors

Application Number: MJ0603C

Project Description: Major Subdivision

Project Location: 2400 Lake Earl Drive, Crescent City

Assessor's Parcel Number: 110-020-62

Applicant: JHP, LLC

Applicant's Mailing Address: PO Box 2767, Harbor, OR 97415

Agent's Name & Address: Stover Engineering, 711 H Street, Crescent City, CA 95531

MUST BE RECORDED BY Aug. 2, 2008

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

II. **If Approved:**

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

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

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

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

- Is appealable to the California Coastal Commission.

- Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by August 14, 2006 for consideration by the Board of Supervisors.

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

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

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(Continued on the next page)

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

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by August 14, 2006, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

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

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

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

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

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includes Use Permit.

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If you have any questions regarding the payment of taxes, call the Del Norte County Tax Collector's Office at (707) 464-7283. *4 of 86*

Agent: Jan Sirchuk and Stover Engineering

APP# MJ0603C/UP0640C

STAFF REPORT

APPLICANT: JHP, LLC

APPLYING FOR: Resubdivision of Harbor Center Tract and Use Permit for a Planned Community (PC)

AP#: 110-020-62 LOCATION: 2400 Lake Earl Drive, across from Blackwell, Crescent City

<u>PARCEL(S)</u>	<u>EXISTING</u>	<u>EXISTING</u>
<u>SIZE:</u> 135.79 acres	<u>USE:</u> Suburban Residential	<u>STRUCTURES:</u> Vacant

PLANNING AREA: 9 & 3 GENERAL PLAN: UR(2/1)

ADJ. GEN. PLAN: AgGen20, RCA, RR(1/1)

ZONING: PC, ADJ. ZONING: PC, A-20, RCA-1, RRA1, C-2

1. <u>PROCESSING CATEGORY:</u>	<u>NON-COASTAL</u>	<u>APPEALABLE COASTAL X</u>
	<u>NON-APPEALABLE COASTAL</u>	<u>PROJECT REVIEW APPEAL</u>

2. <u>FIELD REVIEW NOTES:</u> DATE: 4/7/06	HEALTH DEPT X	BUILDING INSP X
	PLANNING X	ENGINEERING/SURVEYING X

<u>ACCESS:</u> Lake Earl Dr/Northcrest Drive	<u>ADJ. USES:</u> undeveloped, residential
<u>TOPOGRAPHY:</u> relatively flat	<u>DRAINAGE:</u> northerly to Lake Earl

DATE OF COMPLETE APPLICATION: May 11, 2006

3. ERC RECOMMENDATION: Post Public Hearing Notice. Approval with findings and conditions.

4. STAFF RECOMMENDATION:

Project History and Background

On June 04, 1986, the Planning Commission acted on an application by the Standard Plywood Corporation, the owner at that time of a 321.27-acre parcel located west of Lake Earl Drive at the Blackwell Lane intersection. The Commission approved the subdivision application and a parcel map was recorded that created two parcels and a remainder parcel. Parcel "A" included 44.85 acres lying on both sides of Standard Veneer Road. Parcel "B" consisted of 155.97 acres containing a portion of the mill site and the "log pond". The remainder parcel consisted of 135.79 acres and is contained within the perimeter of the remainder parcel that is known as the "Harbor Center Tract", a subdivision of record. The attached map is a copy of the recorded map (Book 6 Page 13) prepared as a result of the approved subdivision. Also attached is a copy of the recorded (August 1931) map for the Harbor Center Tract. The existence of the Harbor Center Tract was of concern to the Planning Commission and is reflected in the minutes (copy of the minutes attached) and the conditions of approval by the Commission. The approval of the Planning Commission required the applicant to comply with six conditions, the last four

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being:

- 3) A parcel map is to be recorded for Parcels A and C. The map shall provide for either:
 - a) A reversion to acreage of any previously recorded deeds, or
 - b) A resubdivision of the Harbor Center Tract Subdivision in a configuration consistent with existing zoning (see staff suggestion);
- 4) If a resubdivision is filed a note shall be placed on the map identifying the action as a resubdivision and disclosing the fact that no guarantee of sewage disposal, domestic water or road or utility improvements has been made by the County;
- 5) A parcel map is to be filed with the County Clerk within 24 months of the date of approval; and
- 6) A Notice of Conditional Approval of this project shall be recorded at the time of filing of the parcel map at the applicant's expense.

The reference to parcel "C" in condition #3 is a typographical error. There was no parcel "C" but there was a parcel "B" with the third parcel being clearly identified as a remainder parcel. The recorded map refers to Parcels A and B with a remainder parcel.

Since the recordation of the parcel map in January of 1987, the subject parcel "A" has been further divided and Parcel B has been sold to the State including but not limited to the log pond area. The recorded map includes a note that states;

"Harbor Center Tract is a major undeveloped subdivision on file with the Del Norte Recorder in Book 3 of Maps, Page 2 and 2A. While the "Remainder Parcel" includes the Harbor Center Tract as also being owned by Standard Plywood Corporation it is the intention of the parties hereto that the Harbor Center Tract remains as filed and is not merged or affected in any way by the filing of this parcel map".

There is also a hand written note on the recorded map that states, "For a Notice of Conditional Approval see Book 317 O.R. Page 634 recorded Jan 7, 1987 in the records of the Del Norte County Recorder/s John D. Alexander, Recorder." A copy of the recorded Notice of Conditional Approval is included as an attachment to this staff report.

It is the opinion of the applicant's attorney that, while the Planning Commission had clearly conditioned the subdivision on the applicant choosing to either cause the map to contain a reversion to acreage or a resubdivision in a configuration consistent with existing zoning. The recorded map just as clearly made no election but expressed the intent to keep the Harbor Center Tract "as filed" and "not impaired or affected in any way by the filing of this parcel map". The applicant's attorney agrees that it is unclear how all of this could have occurred as it did, the applicant's attorney believes that an "election must yet be made for the project's conditions to be met".

There were at least two owners of the "remainder parcel" between the recording of the parcel map in 1987 and the ownership by the current applicant, JHP, LLC. Shortly after the recordation of the Parcel Map, Walt Miller, in 1987 as property owner submitted a Planned Community Master Plan zoning and use permit proposal for a 137 duplex (274 single-family equivalents) project; The Bay Meadow Planned Community. An environmental document was circulated for this project and it was approved with mitigative conditions. Subsequently, in 1989, Mr. Miller as owner of the remainder parcel area, changed the project to a 181 unit project with 93 single family lots and one 88 unit multi-family parcel. Another environmental document was circulated and the project was approved. In 1997 the owner at that time, Reservation Ranch, applied for a permit to reestablish the use permit for the Bay Meadow Planned

Community. The Planning Commission eventually reestablished the use permit after a lengthy review and public hearing process.

None of the approved projects were completed. The use permit for the Planned Community has expired. Had any of the projects been completed, a recorded map would have been filed with the County Recorder and an election would have been made for the original subdivision and its conditions would have been met. Since none of the subsequent projects were completed and no map recorded, the original conditions of approval (1987) still apply.

The current owner of the property wishes to resolve the above issue and comply with the original project conditions by recording a resubdivision map converting the existing substandard parcels of the Harbor Center Tract to parcels acceptable to present County standards.

Project Setting

The Harbor Center Tract consists of approximately 54.5 acres of land and is located about 1200 feet away from the former log pond, now owned by the State. The Department of Fish and Game also owns another pond lying to the west of the Harbor Center Tract. Lands lying north of the Harbor Center Tract are in private ownership and are owned by HW3. The physical area of the Harbor Center Tract is the site of a previous timber harvest plan. The majority of the site was at one time a coastal redwood forest mixed with Douglas fir, grand fir, and red alder. The site has been harvested more than one time and used for grazing in part. The site includes some scattered stands of small diameter redwood (former residual, too small for harvest) with areas interspersed by perennial grasslands. In the "...southwest corner of the site there is a xeric community of coyote brush, scotch broom, coffeeberry, and other shrubs." This is an area more commonly referred to as consisting of coastal scrub.

The property is relatively flat, slightly undulating with an approximate 10 feet variation in elevation from one side of the property to the other, a distance of 2200 feet. There is drainage, generally flowing from south to north across the property. This drainage course is a drainage ditch that provides a discharge route for storm water from the Pine Grove/Blackwell Drive area. This drainage flows in response to rainfall and is a County maintained drainage ditch with a relatively flat bottom. The drainage ditch has an improved crossing from the existing on-site road. A spur to the larger drainage course is smaller in size and area served. This drainage runs from Lake Earl Drive along an apparently man-made channel that parallels the existing gravel road. Other isolated wetlands are found on the Harbor Center Tract and on the rest of the "remainder parcel."

Project Description

The Harbor Center Tract, as recorded in 1931, consists of 313 subdivided lots ranging in size from 4,800 square feet to 5,005 square feet in area. These lots, (see attached copy of the recorded map), are laid out in a template fashion with no consideration for drainage or physical features on the land. The attached copy of the recorded map (Book 6 Page 13) shows the location of the Harbor Center Tract in relationship to the "remainder parcel."

The applicant is proposing the resubdivision of the Harbor Center Tract from the 203 lots to 70 lots. The proposed new subdivision lots will be 20,000 square feet and larger, with the largest parcels being in acreage as they will contain portions which include wetlands and wetland buffers. The bulk of the lots will be one half-acre in area with an 80 to 100 feet street/road frontage. The existing Harbor Center Tract includes 60 feet wide right-of-ways with a total length of 13,600 lineal feet. The proposed resubdivision will reduce the lineal feet to 4,000 or less than 30% of the original design. The resubdivision design would also reduce the amount of area designated for roads in wetland areas from

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between 2 and 2.5 acres of mapped wetlands under the Harbor Center Tract map to the utilization of an existing crossing of the drainage channel as proposed in the resubdivision. There is an existing road on the project site. This road is a rock and gravel surface that runs from Lake Earl Drive in a loop through the remainder parcel returning to Lake Earl Drive. The existing road on the Harbor Center Tract portion is approximately 24 feet in width and crosses the drainage channel at one location on the Harbor Center Tract. There is a large culvert (60 inches in diameter and 30 feet long) at this crossing. At each end of the existing culvert rock has been placed. This rock extends six feet on the upstream end and approximately eight to ten feet on the downstream end. The road width at the culvert crossing is 24 feet in width with a base of between 28 and 30 feet where the road crosses the drainage ditch. The crossing is not quite a 90 degree crossing, however the culvert is placed roughly in the center line of the drainage channel. This same existing road crosses the drainage channel a second time at the rear of proposed lot 26. The road bed is approximately 36 feet wide and has four, 40 feet by 24 inch culverts that pass water from the drainage channel from one side to the other.

The project site is within the urban boundary and is designated in the LCP/GP Land Use plan as Suburban Residential (up to two dwelling units per acre). This land use designation "...is intended to provide for residential areas within or adjacent to the urban area which have few or no community services, or where only public water is available". When this land use designation was imposed on the subject property City water was slightly less than one mile away. At the present time a major feeder line of the City water system is available along the property frontage. The City has provided a will serve letter for this project. Sewer lines are about one-half mile away on Northcrest Drive at Madison Avenue. The applicant is proposing to connect to the Community Services Area (CSA) sewer collection system. Treatment will be provided by the City of Crescent City. A feasibility study has been prepared, copy attached, which identifies improvements and corrections needed to the existing system in order to provide service to this site. Improvements and an impact fee will be assessed on this project. The parcels are large enough that on-site systems could be considered, however the applicants are proposing to connect to the sewer collection system and have not submitted any new on-site sewage analysis.

Zoning of the property is PC or Planned Community (copy of zoning map attached). The previous projects, which triggered the original PC zoning have expired. Therefore, the applicant has submitted an amendment request that will allow the Commission to consider the granting of a revised use permit for the PC zone district. Pursuant to the requirements of the PC zone chapter (21.23) the applicant has submitted the required topographic mapping, a proposed street system and lot design. There are no proposed public facilities or dedication and there are no plans for any commercial or multi-family uses. The project will be single-family residential development. Staff is recommending that the setbacks and development standards for the R-1 zone district (21.19) be imposed as part of the issuance of the use permit. That would mean that the following standards for building construction apply:

1. The principal permitted one-family residence use includes uses such as:
 - a. A one-family residence;
 - b. Accessory buildings and accessory uses appurtenant to a permitted use;
 - c. Home Occupations.
2. Building Height limit shall be 25 feet for the residence and accessory building shall be subject to Section 21.04.140.
3. Lot coverage maximum is 35%.
4. Yard Setbacks shall be:
 - a. Front Yard 25 feet.
 - b. Side Yard 10 feet.

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- c. Rear Yard 20 feet for the main building and 5 feet for accessory structures.
5. All properties are subject to the setbacks established as part of the wetland mapping as approved by the final action of the Planning Commission.

The side yard above has been increased from the minimum six feet to the recommended ten feet. The applicant's have not submitted construction plans for the proposed future homes, therefore any subsequent building permits for these lots should they be approved and recorded will require their own individual Coastal Development Permit (Building Permit) process. The Harbor Center Tract lies within an appeals jurisdiction of the Coastal Commission as mapped on the Post LCP Certification Permit and Appeals Jurisdiction map. This process will require a public hearing and notification process for any future building permits on all of the resubdivided lots or all of the existing lots of the Harbor Center Tract should the resubdivision not proceed.

Wetlands

The Harbor Center Tract area is bisected by a County drainage ditch. This man made ditch serves the area east of Lake Earl Drive and Northcrest Drive including the Carol Lane and Blackwell Lane areas. The ditch has been historically maintained by the County. The drainage ditch has a flat bottom, approximately ten feet wide, and relatively shallow in depth. The drainage channel carries flows that are in direct response to rainfall. The drainage channel dries up in the late spring and is periodically cleared of vegetation by the County flood control crew. Towards the center of the Harbor Center Tract the water from the drainage channel tends to spread out during intense rainfall occurrences. The drainage channel continues approximately 400 feet north of the most downstream crossing. At this point the drainage channel enters into a thicket of brush, trees, and other vegetation. A wetlands determination was requested by staff for the Harbor Center Tract. The purpose of the wetland determination was to assess which lots of the existing tract layout would be affected by wetland issues. The wetland study was also requested in order to provide guidance to any lot consolidation plan or resubdivision. The wetland determination was prepared by David B. Kelly, of Kelly and Associates Environmental Sciences Inc. (KAES) of Davis, for the Harbor Center Tract and the rest of the "remainder parcel". A copy of KAES letters and their subsequent wetland mapping are included as an attachment to the staff report. The wetland mapping identifies each of the isolated wetlands and the drainage ditches along with the wetlands associated with the drainage ditches. The attached mapping demarcates a 100 feet buffer area for each of the wetlands and drainage ditches and their associated wetlands for the Harbor Center Tract.

Included in the wetlands determination, the applicants enlisted the services of KAES and North Fork Associates who conducted biological surveys. These surveys examined both the Harbor Center Tract and the rest of the "remainder parcel". The biological surveys were conducted over a two year period. The report states that the California Natural Diversity Data Base was reviewed and though forty-seven special status-plants and twenty-four special-status animals were listed in the region, no special-status species were identified on the site, including the Harbor Center Tract (see page 2 of summary letter).

The KAES study did not address the existence of an off-site wetland that could require buffers to be placed on future development within the Harbor Center Tract area. The specific wetland at issue is owned by the State and located west of the subdivision boundary. This wetland is a stream that does show on a quad map and does eventually flow into Lake Earl. The stream is a shallow pond that was probably altered many years ago when a lumber mill existed off of Old Mill Road. There is an immediate upstream pond that was created by a dam that has been retained by the previous property owners and may have been part of the previous lumber mill. Both ponds are located in a steep ravine with spruce trees growing up to the water's edge on the east side of the pond. The west side of these ponds has

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vegetation along the edges which varies from spruce trees to grassy areas. There is a ten to fifteen feet drop in elevation from the subdivision site to the pond itself. K&AES did map a triangular shaped wetland feature in the southwest corner of the Harbor Center Tract that does flow into the downstream pond. County staff requested a follow-up on the report prepared by K&AES. Frank Galea, of Galea Wildlife Consulting, conducted additional studies in January through May of 2006. The follow up report was submitted to the County on June 15, 2006. The Galea study is attached.

Both studies looked at the entire 136-acre area owned by the applicant. (The Harbor Tract occupies 54.5 acres of land of the 135.79 acre area). Both studies recommended setbacks from the wetlands and the drainage channel. The Galea biological assessment includes a recommendation to impose a 100 foot setback from the off-site wetland located west of the subdivision property line and the drainage channel. Galea does recommend a 25 foot setback for some isolated wetlands. However, a 100 foot setback is proposed from all the mapped wetlands and the drainage channel. These wetlands and setbacks are mapped on the resubdivision. All reconfigured lots include a building site out side of the setback areas. The subdivision includes public water and sewer, therefore each lot needs only an area suitable for construction. K&AES reviewed the proposed lot resubdivision and provided a letter, dated April 17, 2006, to the applicant stating that the consolidated lots and developed plans for layout of roadways avoided wetland impacts. A similar conclusion was provided by Galea Wildlife Consulting dated May 2006.

Galea also identified a shallow puddle of water left at the lower discharge of the channel crossing on proposed resubdivided lot 26. This puddle on June 19, 2006, was approximately four to six inches in depth and covered an area approximately ten feet by twelve feet. There was no water running into or from the pool and the drainage channel was dry at least 450 feet down stream of the culverts and dry upstream of the culverts. (The thick brush prevented going any further downstream than the 450 feet from the puddle). The puddle was occupied by tadpoles and a very limited number of fish hatchlings. The fish hatchlings were not readily visible but could be seen mixed in with the tadpoles. The fish hatchlings were limited to the areas of the puddle where some scour had taken place during high water flows in the drainage channel. With no water running into the puddle and the fact that it was totally exposed to sunlight, the puddle will rapidly evaporate and the fish hatchlings will either perish from the lack of water or will be eaten by predators. (There were numerous raccoon tracks around the perimeter of the puddle on June 16, 2006). In his report, Galea speculated that the fish hatchlings may have been either cutthroat trout or stickleback. Galea further recommends that the culverts be removed in this area when this phase of the resubdivision is constructed. Studies were conducted for other species of concern and none were found on the Harbor Center Tract.

The 100 feet setback as discussed above from both on-site and off-site wetlands can be met on each of the proposed resubdivision building sites. Lots 66 and 70 are more confined in useable area than the remaining lots. The applicant's engineer has submitted plot plans for each of these two lots that demonstrate the building site envelope. Lot 66 has approximately 2850 square feet of area for construction of a residence outside of the 100 feet setback, yard setbacks, and the road right-of-way. Lot 70 has almost 10,000 square feet of useable area.

The proposed turn around on Ling Cod Way, at proposed resubdivision lots 14 and 13, shows the right of way for the turnaround to be partially within the 100 feet setback for the wetland area on parcel 1. The applicant will be required to reconfigure the turnaround to be outside of the wetland buffer. (This will require minor modification of the lot lines resulting in no change to the building sites or to the required setbacks.)

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The applicant has attempted to limit the incursion of the access road into the setback area and the crossing of the drainage channel. While the resubdivision will reduce the amount of roads from a total length of 13,600 lineal feet to 4,000 feet or less than 30% of the original design, there will still be approximately 300 feet of existing road which will lie within the 100 feet setback. Within this 300 feet section there are two very small wetlands (ISW4 and ISW5) located in close proximity to the existing road. Road widening in this area will be required to take place on the opposite side of these two wetlands thereby avoiding any direct impacts to these "pocket" wetlands. This action will result in a shift of the improvements south of the center line of the road shifting the road and resulting in the twelve feet reduction in the proposed setback from the County drainage channel. Secondly, the existing road does cross the drainage ditch as previously described. In order to provide pedestrian areas on each side and provide two 12 feet traffic lanes, the existing culvert will need to be extended four feet. This extension will be within the rock area and can take place during the dry stages of the drainage channel. Sediment controls can be placed during this limited construction.

Traffic

The applicant has submitted two designs for the on-site roads. Both designs are within a fifty feet right-of-way and both follow the same alignment. The applicants Alternative No. 1 has a road improved width of 24 feet comprised of a concrete surface with a center drainage swale. This alternative also includes a four feet gravel shoulder on each side for a total improvement width of 34 feet. The applicants Alternative No. 2 has two 12 feet travel lanes, a 1.5 feet rolled concrete curb on each side, with a 4 feet gravel shoulder on each side. The total improvement width under this alternative is 35 feet.

Neither of these two designs submitted by the applicant, does not comply with the standards of the County for development within the urban boundary. The road improvement standards for projects within the urban boundary all include the requirement for pedestrian sidewalks; one on each side of the road. Section 12.04.090 of Del Norte County Code does allow that within an urban area the County Planning Commission may approve an alternate standard road requirement and approve a private road as part of a Planned Community Development. However, the code is specific by stating that the alternate design will result in access improvements equal to or superior to the standard road requirements provided in the same chapter. The Planning Commission recently approved a project within the urban boundary (smaller lots than being proposed in this project) and required improvements for a private road in a PC zone district. The improved widths for that project were 32 feet on paved surface with four feet sidewalks and storm drains. (The top of the concrete curb adds to the sidewalk width). Standard road improvements within the urban boundary for residential development include the requirement of sidewalk installation. Gravel shoulders as initially proposed by the applicant, are not equal to or superior to improved sidewalks as required elsewhere in the road improvement standards. Additionally, these roads and the pedestrian area within the subdivision will not be maintained by the County. Gravel shoulders will grow up with vegetation if not maintained on a regular basis. The function of the gravel shoulders as a pedestrian area will cease over time. The applicant's engineer has submitted a schematic design for the access roads which includes two 12 feet lanes, curb, and sidewalk on each side. Additionally, the applicant's engineer has submitted a schematic design for the culvert crossing to determine if the crossing can be accomplished with reduced width travel lanes. The two revised schematic designs are included in this report.

The use of the existing access road for the primary access to the resubdivision places the entrance onto Northcrest Drive at the intersection of Blackwell Lane and Lake Earl Drive/Northcrest Drive. (Northcrest Drive transitions to Lake Earl Drive at Blackwell Lane). Previous traffic studies have identified this intersection as an intersection of concern. In 1986 a traffic study prepared by Michael Brandman Associates examined the intersections between the City of Crescent City and the site of Pelican Bay State

Prison. Included in the study was the Lake Earl Drive/Northcrest Drive – Blackwell Lane intersection. The subject study determined that this intersection would deteriorate in its level of service over time. The study concluded that the intersection would need signalization at a level when 50 or more homes are built in the Baymeadow area. The resubdivision project proposes to establish 70 home sites each capable of containing a single-family residence. Therefore, this project needs to financially participate in the design and installation of traffic signalization at this intersection. A fee of \$3000.00 per residential unit is being recommended as a condition of the resubdivision and each future building permit to be imposed to contribute to the cost of the signalization.

Previous traffic studies on the prior projects examined the road width for Lake Earl Drive/Northcrest Drive at that time. The conclusions were that the road needed a turn lane and sidewalks along the frontage of the projects as submitted at that time. Since those reports, the County has installed a turn lane along the entire frontage of the Harbor Center Tract as part of improvements at the Blackwell Lane intersection. Therefore, installation of turning lane has been accomplished. The County also marked the pavement allowing a bike lane which serves unofficially for pedestrian use. This project will be required as part of the approval action to place sidewalks along its frontage on Lake Earl Drive/Northcrest Drive. The sidewalks will be required to comply with current ADA standards.

Archaeology

An Archaeological Survey was conducted in 1989 by James Roscoe with Janet Eidsness, on the original Bay Meadow Subdivision. That archaeological survey included the area that was the Harbor Center Tract. The project setting has not change significantly since 1989. The field survey did not reveal any evidence of either prehistoric or historic cultural resources. Therefore, from the evidence of this study, the proposed development will not adversely affect cultural resources. The archaeological study did conduct consultation with knowledgeable members of the Tolowa community. Based on those consultations "...the project area does not contain cultural resources of significance to the Tolowa community." While no archaeological resources were determined to exist on the project area, a condition of the project will be that the applicant is on notice that if any archaeological resources be found during site excavation for the project, construction activities shall be halted until an evaluation of the find is made by either a qualified archaeologist or representative of the local Rancheria.

Alternatives

No Project Alternative -The no project alternative would retain The Harbor Center Tract, as recorded in 1931. The area would continue to consist of 203 subdivided lots ranging in size from 4,800 square feet to 5,005 square feet in area. These lots are laid out in a template fashion with no consideration for drainage or physical features on the land. The existing Harbor Center Tract includes 60 feet wide right-of-ways with a total length of 13,600 lineal feet. The existing subdivision design would continue to include 2 and 2.5 acres of area dedicated for roads in wetland areas. Each lot could be developed on an individual basis. Individual owners would be expecting a level of development that may not be possible on each lot. Road improvements would be piecemeal and the proposed public water and public sewer systems would most likely not be developed as individual owners would not be willing to bear the cost of the initial installation of the systems. Individual owners would most likely propose on-site water and sewage treatment systems. This alternative would create a lower density development thereby reducing housing opportunities. The no project alternative is not a no development alternative as the site is already subdivided. The no project alternative would heavily rely upon the permit process on an individual basis. Lot consolidation would not be as easily accomplished as that being proposed through the resubdivision process.

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Resubdivision (Applicant's Proposal) - The applicant is proposing a resubdivision of the Harbor Center Tract from the 203 lots to 70 lots. The proposed new subdivision lots will be 20,000 square feet and larger with the largest parcels being in acreage as they will contain portions which include wetlands and wetland buffers. The proposed resubdivision will reduce the lineal feet to 4,000 or less than 30% of the original design. Each lot will have a demonstrated building area outside of any wetland setbacks and in compliance with yard setbacks.

The four feet extension of the existing culvert will require some limited activities in an area technically classified as wetlands. The drainage ditch at this location is flat and has rock extending beyond the inlet and outlet of the culvert. Work can be limited to the areas within the rock portion which does not provide riparian habitat. Section 30233(a) of the Coastal Act requires a 3-part test for projects that involve wetland fill. The three tests are (a) the allowable use test; (b) the alternatives test; and (c) the mitigation test. Under the first of these tests, a project must qualify as one of the eight stated uses allowed under Section 30233(a). The applicable allowable use is item five (5), which authorizes fill for "(i)ncidental public service purposes, including but not limited to, burying cables, pipes, or inspection of piers and maintenance of existing intake and outfall lines". In order to be for an "incidental public service purpose" a proposed fill project must satisfy two tests: (1) the project must have a "public service purpose," and (2) the purpose must be "incidental" within the meaning of that term as used in Section 30233 (a)(5). The placement of the culvert additions is to provide pedestrian safety along a road to be maintained as access to the subdivision. Thus, the project satisfies the first test under Section 30233 (a)(5).

With regard to the second test, in 1981 the Coastal Commission adopted the "Statewide Interpretive Guidelines for Wetlands and Other Wet Environmentally Sensitive Habitat Areas. These guidelines analyze the allowable uses in wetlands under Section 30233 including the provision regarding "incidental public service purposes". The guidelines state that fill is allowed for incidental public service purposes which temporarily impact the resources of the area, which include, but are not limited to, burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines (roads do not qualify).

A footnote (no. 3) to the above-quoted passage further states:

When no other alternative exists, and when consistent with the other provisions of this section, limited expansion of roadbeds and bridges necessary to maintain existing traffic capacity may be permitted.

In past cases the Coastal Commission has considered the circumstances under which fill associated with the expansion of an existing "roadbed or bridge" might be allowed under Section 30233(a)(5). In such cases the Commission has determined that, consistent with the analysis in the Guidelines, the expansion of an existing road or bridge may constitute an "incidental public service purpose" when no other alternative exists and the expansion is necessary to maintain existing traffic capacity.

The discussion of "no other alternative exists" and "to maintain existing traffic capacity" are not clear and precise on this project. This project is a resubdivision of presently vacant land. Without the resubdivision, the existing lots can be sold and individual property owners dealt with on a case by case basis. Though no existing traffic exists to measure, a traffic level could be calculated on the existing lots and result in a higher demand of traffic than that proposed in the resubdivision. Therefore, to maintain existing capacity becomes argumentative regarding what is the existing capacity. The more relative

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discussion is whether or not an alternative exists to the placement of the four feet addition to the existing drainage channel culvert crossing.

An alternative that could be considered is that of reducing the travel lane width at the existing crossing. The proposed pedestrian walkway is the minimum standard applicable and involves a five foot area for a total width committed to pedestrian uses of ten feet. There are no bicycle lanes neither proposed nor anticipated. The proposed road is not a through road nor does it connect to any existing or proposed future road. The resubdivision does not front on any "shoreline" and no improved or anticipated to be improved park or parklands exists adjacent to the resubdivision. Therefore, the traffic to be using the improved existing road is limited to the resubdivision. The project resubdivision includes 40 sites beyond the existing stream crossing and 30 sites either served by a branch of this road and/or lying between the drainage crossing and Northcrest Drive/Lake Earl Drive. A reduced travel lane width could be considered for the stream crossing for the 40 homes that this crossing would serve. A reduction to two 10 foot travel lanes with the two pedestrian walkways at five feet each, equates to 30 feet total. Headwalls could be constructed on each end of the culvert thereby allowing 30 feet of improvements which would mean that the culvert extension would not have to take place. Therefore, a feasible alternative exists to the placement of the four feet addition to the existing drainage channel culvert crossing and that is to reduce the travel lanes from 12 feet to 10 feet plus the pedestrian walkways for the drainage crossing and the approaches to the crossing.

The proposed turn around on Ling Cod Way at proposed resubdivision lots 14 and 13, shows the right of way for the turnaround to be partially within the 100 feet setback for the wetland area on parcel 1 (see map attached). The applicant can be required to reconfigure the turnaround to be outside of the wetland buffer thereby maintaining the 100 feet setback. (This will require minor modification of the lot lines resulting in no change to the building sites or to the required setbacks).

Lot Consolidation – The current ownership of the subdivision by one private entity could allow the owner to consider lot consolidation. The goal of the County would be to encourage the lots to be consolidated into contiguous units approximating one-half acre if either public water or public sewer were provided. The least cost of the two choices would be to provide public water as a trunk line exits in Lake Earl Drive/Northcrest Drive. On-site sewage would have the same problems as discussed above in the no alternative section. (There would be fewer on-site systems in this alternative but the existing configuration of the lots and the consolidation along the existing lot lines would not easily accomplish the preferred setbacks from wetlands or other drainage features). Extension of the sewer line to these lots would be on a higher cost per unit as the number of units is less than in this alternative than that proposed by the applicant in the resubdivision. Lot consolidation along the existing lot lines would also involve more road construction and more crossing of wetlands and encroachment into setbacks as described above in the no alternative. Lot consolidation would involve more collective physical disturbance as each consolidated lot could be sold without any improvements. Each consolidated lot would heavily rely upon the building permit process on an individual basis.

Staff Recommended Mitigation Measures

County staff is recommending that the resubdivision proposal of the applicant be approved by the Planning Commission. Conditions will be included in the staff recommendations. The following are mitigation measures recommend by staff that will be incorporated into conditions of approval for the proposed resubdivision of Harbor Center Tract:

1. A 100 feet setback from both on-site and off-site wetlands will be imposed and shown on the recorded subdivision map;
2. The existing stream crossing on proposed Lot 26 of the resubdivision is to be removed including

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the culverts and to be shaped to conform to the adjoining topography and erosion control measures to be implemented in the location of the former crossing. The crossing is to be removed when this phase of the resubdivision is constructed;

3. A condition of the project will require that the applicant is on notice that if any archaeological resources be found during site excavation for the project, construction activities shall be halted until an evaluation of the find is made by either a qualified archaeologist or representative of the local Rancheria;
4. A fee of \$3000.00 per residential unit will be recommended as a condition of the resubdivision and each future building permit to contribute to the cost of the signalization of the intersection at Blackwell Lane and the project;
5. The applicant will be required to reconfigure the turnaround on Ling Cod Way to be outside of the wetland buffer thereby maintaining a 100 feet setback from the affected wetland area;
6. At the existing crossing of the drainage channel, a reduction of the two travel lanes from 12 feet to ten feet with the two pedestrian walkways at five feet each allows 30 feet of improvements avoiding culvert extension within the drainage channel wetland;
7. Public sewage collection and public water shall be extended to each of the resubdivided lots as per the requirements of the operating agency;
8. Fire Hydrants shall be installed per the requirements of the Crescent Fire Protection District;
9. An impact/buy in fee will be assessed on this project as part of the connection to the sewage collection system. Annual and monthly fees will be imposed as part of the rate structure which will allow the maintenance and operation of the public sewage collection and treatment system; and
10. An engineered grading and drainage plan will be required to be prepared as part of and prior to the construction of any new improvements within the resubdivision. The plan will be required to include the following:
 - (a) During construction, erosion shall be controlled to avoid adverse impacts to any wetland area;
 - (b) Temporary erosion and sedimentation control measures or the appropriate equivalent shall include straw bale barriers, silt fencing, mulching;
 - (c) A site plan shall be prepared showing the location of any temporary erosion control measures installed;
 - (d) A schedule shall be prepared by the County Engineer for removal of any temporary erosion control measures; and
 - (e) If any permanent erosion control measures are installed, a site plan shall be prepared for them and a schedule of maintenance and inspection shall also be prepared and provided to the office of the County Engineer.

Staff recommends that after consideration of the staff report and its attachments, the Commission hold the public hearing and after receipt of any public comment and the consideration of such comment, the Commission adopt the recommended findings and approve the Resubdivision and Use Permit for the Planned Community of the Harbor Center Tract with the recommended findings and conditions.

5. FINDINGS:

- A. The approval of the resubdivision of the Harbor Center Tract is in conformance with the terms and conditions of the Standard Plywood Corporation subdivision on June 04, 1986, by the Planning Commission.
- B. The Harbor Center Tract was the subject of a previous environmental document for which there have been no substantial changes proposed in the project from its approval,

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there have been no substantial changes in the circumstances in which the subdivision was approved, nor has any new information of substantial importance been documented that would change the mitigation measures imposed on this resubdivision of the residential parcels of the Harbor Center Tract.

- C. Reports prepared by professional engineers, wildlife biologist, and plant and soil scientist and wetlands scientist have been prepared for this project that have been incorporated into the project and the action of the Planning Commission. One hundred foot buffers have been applied in compliance with policies of the County's Local Coastal Program.
- D. An analysis of the residential resubdivision including alternatives, has been prepared and circulated which examined the consistency of the resubdivision with the original approval and the applicable standards of the review for projects within the urban boundary;
- E. The project parcels are to be served by public water and public sewer and thereby exceed the requirement for a minimum lot size of 20,000 square feet where only either public water or public sewer is made available to each building site.
- F. The applicants have submitted the information required as part of the granting of a use permit for the PC zone district (topographic mapping, a proposed street system and a lot design), there are no proposed public facilities and there are no plans for any commercial or multi-family uses. The project will be single-family residential development and the setbacks and development standards for the R-1 zone district (21.19) will be utilized throughout the resubdivision within the PC zone district.
- G. The project site has been inspected on-site and has been reviewed by members of the Environmental Review Committee. The project analysis including a project description and proposed mitigation measures has been circulated to interested agencies including but not limited to the California Coastal Commission and the California Department of Fish and Game.
- H. An Archaeological Survey was conducted in 1989 by James Roscoe with Janet Eidsness, on the original Bay Meadow Subdivision. That archaeological survey included the area that is the Harbor Center Tract and did not reveal any evidence of either prehistoric or historic cultural resources.
- I. As designed and conditioned, the resubdivision is consistent with standards for development adjacent to or containing wetlands and is compatible with the long-term maintenance of the County flood control drainage channel which bisects the Harbor Center Tract.
- J. The project site is the location of a previous timber harvest operation. The existing roads will be utilized thus reducing the impacts of the construction of roads within the Harbor Center Tract recorded subdivision which pass through sensitive areas.
- K. A reduction in road improvements has been proposed to reduce impacts at the existing crossing of the drainage channel and its associated wetland.
- L. The project site does not have an access overlay as part of its zone district. The project is not located within proximity to the coast and shoreline access policies are not applicable. The adjacent Lake Earl Wildlife Area includes sensitive habitat areas and is used extensively for hunting and fishing, the Department of Fish and Game maintains a limited access policy to this coastal resource for resource management and public safety concerns therefore vertical access has not been required of the subdivision as access would be inconsistent with public safety, and would have adverse impacts on environmentally sensitive habitat areas.
- M. The Planning Commission finds that based on the staff report and the consistency with the previously approved subdivision that for the issuance of this use permit that the establishment maintenance or operation of the use applied for (residential resubdivision)

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will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood, and that such use (residential) is in harmony with the general purposes of Title 21 of the Del Norte County Code.

- N. On the basis of the whole record before the Planning Commission there is no substantial evidence that the proposed resubdivision as designed and conditioned will have a significant effect on the environment. The staff report and the circulated analysis document reflect the independent judgment and analysis of the County.

6. CONDITIONS:

USE PERMIT

- 1) This use permit is for the Harbor Center Tract Development Plan of up to 70 single family residential units for the total project, including 11 residential lots in Phase 1, 14 residential lots in Phase 2, 13 residential lots in Phase 3, 13 residential lots in Phase 4, 10 residential lots in Phase 5 and 9 residential lots in Phase 6;
- 2) This permit is issued for 3 years during which recordation of all or the first phase of the project subdivision may occur;
- 3) Each phase of the subdivision must substantially conform with the configuration approved by the Planning Commission. Changes in phasing or lot configuration may require additional Planning Commission review;
- 4) Prior to recordation of any phase of the Final Map, water lines shall be extended to the project per the requirements of the City of Crescent City, operators of the public water system serving this project;
- 5) Any development on each parcel shall connect to community water per the City of Crescent City and pay any applicable fees;
- 6) Any development on each parcel shall connect to the community sewer per the City of Crescent City and CSA and pay any applicable fees;
- 7) Yard setbacks for a standard lot shall be 25 feet for the front yard, 6 feet for the side yard and 20 feet for the rear yard for a main building and 5 feet for the rear yard of an accessory building; *** Amended Per PC Mtg 8/2/06 ***
- 8) Lot coverage and building height for the single family lots shall be as set forth in Chapter 21.19 (R1 Zone). The maximum height for a residence is 25 feet and the lot coverage maximum is 35%;
- 9) Any lighting would be required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.050 which requires that all direct light be confined to the subject premises. If the applicant proposes to install lighting, prior to recordation of the final map a lighting plan shall be submitted that illustrates the location of the lights and the method in which the light will be illuminated;
- 10) Prior to recordation of a map for any portion of the project, a Homeowners Association shall be created, of which fiscal and administrative responsibilities shall include, but not be limited to: a) ownership and maintenance of the common areas identified by the Development Plan and/or Subdivision maps; b) ownership and maintenance of the private roads and drainage within the project area;
- 11) Prior to recordation of a map for any portion of the project, the Articles of Incorporation of the Homeowners Association shall be reviewed for content by the County Counsel and the County Community Development Department (Engineering, and Planning and Building Inspection Divisions);
- 12) A Notice of Conditional Approval shall be recorded at the time of acceptance (signature) of the permit for this project; and
- 13) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless

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the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense of any such legal action or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this conditions and forthwith revoke this entitlement.

RESUBDIVISION

- 1) This resubdivision approval is for 70 lots in the Harbor Center Tract planned development which shall be consistent with the approved tentative map and may recorded in six phases. The Final Map(s) shall be filed with the County Clerk within 2 years of the date of project approval;
- 2) The project is approved for six phases (phase 1 - lots 41 through 44 and lots 64 through 70, phase two - lots 27 through 40, phase 3 - lots 1 through 5 and lots 13 through 20, phase 4 -lots 7 through 12 and lots 21 through 26, phase 5 - lots 54 through 63 and phase 6 - lots 45 through 53), however each phase must conform with the configuration approved by the Planning Commission. Changes in phasing may require additional Planning Commission review;
- 3) Prior to recordation of any phase of the Final Map, water lines shall be extended to the project per the requirements of the City of Crescent City, operators of the public water system serving this project;
- 4) Any development on each parcel shall connect to community water per the City of Crescent City;
- 5) At the applicant's expense, community sewer shall be extended to the project. A capacity evaluation of the existing sewer network has been prepared and approved. This evaluation has determined several improvements that need to be made to the sewer collection and pumping system to mitigate for the construction of this project. Since the improvements will need to be made over an extended period of time and to various components of the system a mitigation fee of \$2,000 will be collected with every building permit for this project;
- 6) The project shall comply with the requirements of the Uniform Fire Code applicable at the time of complete application (6/2006) including the placement of any required fire hydrants as specified by the Crescent Fire Protection District;
- 7) Yard setbacks for a standard lot shall be 25 feet for the front yard, 6 feet for the side yard and 20 feet for the rear yard. The front yard setback for the attached garage shall be 20 feet. Building constraints (yards and heights) shall be noted on the final map with a typical interior lot illustration; ***Amended per PC Mtg 8/2/06 ***
- 8) Any lighting would be required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.040 which requires that all direct light be confined to the subject premises. Prior to recordation of the final map a lighting plan shall be submitted that illustrates the location of the lights and the method in which the light will illuminated;
- 9) Lot coverage and building height for the single family lots shall be as set forth in Chapter 21.19 (R1 Zone);
- 10) Prior to recordation of a map for any portion of the project, a Homeowners Association shall be created, of which fiscal and administrative responsibilities shall include, but not be limited to ownership and maintenance of the private roads and drainage within the project area;

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- 11) Prior to recordation of a map for any portion of the project, the Articles of Incorporation of the Homeowners Association shall be reviewed for content by the County Counsel and the County Community Development Department (Engineering, Planning and Building Inspection Divisions);
- 12) A traffic mitigation fee of \$3,000 will be collected for each building permit within this development. This fee will be used to pay for the cost of the subdivision's share of the traffic signal at Blackwell Lane and Lake Earl Drive. This fee will be collected from each residential unit;
- 13) The owner and any subsequent owners shall be on notice that if any archaeological resources are encountered during any construction activities, such construction activities shall be halted, the Planning Division notified, and a qualified archaeologist shall be hired at the owners expense to evaluate the findings;
- 14) All available utilities (sewer, phone, TV, electric, etc.) shall be extended to the proposed lots to provide for hook-ups to each lot;
- 15) Any construction shall comply with Section 14.16.027 and Section 14.16.028 of Del Norte County regarding the addressing and posting of address numbers;
- 16) All roads and/or streets within the subdivision shall comply with Section 14.16.029 of Del Norte County Code regarding naming and identification;
- 17) A seasonal County drainage ditch bisects the Harbor Center Tract. The drainage ditch and a 100-foot riparian buffer on each side of the drainage shall be shown on the final map;
- 18) A note shall be placed on the map stating "The riparian buffer is not approved for development, and no disturbance of the area is allowed other than approved drainage improvements without approval from the County of Del Norte";
- 19) An off-site wetland is located west of the subdivision boundary on lands owned by the State of California. A 100-foot wetland buffer to the off-site wetland shall be shown on the final map;
- 20) Several isolated wetlands are located on lots 23-26, 34-35, 46-49, and 70 and are shown the tentative map. The wetlands and a 100-foot wetland buffer around each wetland shall be on the final map;
- 21) A note shall be placed on the map stating "Wetland buffers are not approved for development, and no disturbance of the area is allowed without approval from the County";
- 22) At the time of recordation of the Final Map, A Notice of Conditional Approval with signature block shall be recorded at the expense of the applicant/developer;
- 23) An Encroachment Permit from the Community Development Department, Engineering and Surveying Division shall be obtained for any work in the Lake Earl Drive Right-of-Way;
- 24) Prior to Recordation of the Final Map, an engineered grading and drainage plan for on-site and off-site drainage improvements shall be submitted to the Community Development Department, Engineering and Surveying Division, for review and acceptance. The plan shall contain provisions for sediment and erosion control, during and after construction. The plan shall also demonstrate that any surface runoff shall not enter into the onsite water body, and if so shall be completed in compliance with the State Water Resources Control Board's (SWRCB) Water Quality Control Plans (Basin Plans). The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval and include all calculations for surface water runoff. Any improvements called for in the plan shall be the responsibility of the developer and shall be constructed prior to the certificate of occupancy. If grading is necessary, no grading shall be conducted on any parcel between October 30 and April 30;
- 25) A Grading Permit shall be obtained for the project prior to any grading work. If grading is necessary, no grading shall be conducted on any parcel between October 30 and April 30;
- 26) Prior to Recordation of the Phase 1 Final Map, Abalone Way, from the intersection of Lake Earl Drive to the southwest corner of Lot 70, shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb and shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete

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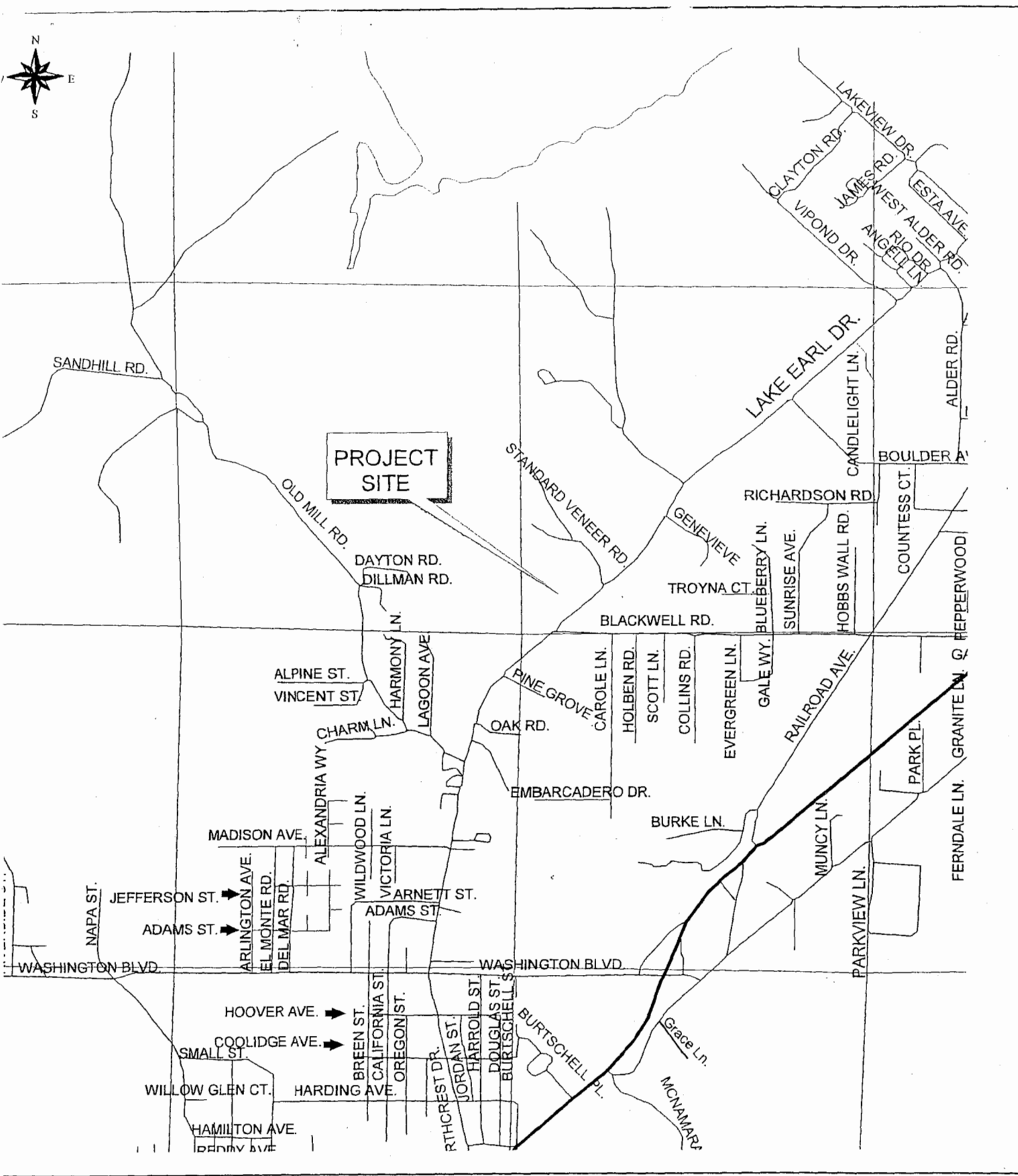
pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A temporary turnaround shall be construction at the southwestern corner of Lot 70 of 0.33 feet thick engineered base. All work shall be completed in compliance with Title 12 of the Del Norte County Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***

- 27) Prior to Recordation of the Phase 2 Final Map, Abalone Way, shall be continued from the southwest corner of Lot 70 to the southwest corner of Lot 34, shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb except at the existing crossing of the drainage channel where it reduces to 20'. The pavement shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A temporary turnaround shall be construction at the southwestern corner of Lot 34 of 0.33 feet thick engineered base. All work shall be completed in compliance with Title 12 of the Del Norte County Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***
- 28) Prior to Recordation of the Phase 3 Final Map, Abalone Way shall end at the intersection of Lingcod Way and Lingcod Way shall begin at the northwest corner of Lot 20 until the end. Both streets shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb and shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A permanent turnaround shall be constructed at the end of Lingcod Way to be outside of the wetland buffer thereby maintaining a 100 feet setback from the affected wetland area. All work shall be completed in compliance with Title 12 of the Del Norte County Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***
- 29) Prior to Recordation of the Phase 4 Final Map, Lingcod Way shall be complete to the end. The street shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb and shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A permanent turnaround shall be constructed at the end of Lingcod Way to be outside of the wetland buffer thereby maintaining a 100 feet setback from the affected wetland area. All work shall be completed in compliance with Title 12 of the Del Norte County Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***
- 30) Prior to Recordation of the Phase 5 Final Map, Dungeness Drive, from the southeast corner of Lot 61 to the northwest corner of Lot 54, shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb and shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A temporary turnaround shall be construction at the northwest corner of Lot 54 of 0.33 feet thick engineered base. All work shall be completed in compliance with Title 12 of the Del Norte County

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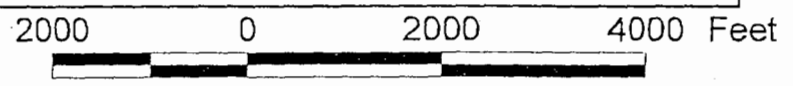
- Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***
- 31) Prior to Recordation of the Phase 6 Final Map, Dungeness Drive, from the northwest corner of Lot 54 to the end, shall be improved with improved with Cal-Trans Type E curb, gutter, 5-foot sidewalks, and storm drain. Pavement wide shall be 28' from face of curb to face of curb and shall have a structural section of a minimum 0.17 feet thick compacted asphalt concrete pavement over an engineered base of a minimum 0.57 feet thick. The pavement shall have 2.5% cross slope. All improvements have to be done within the 50 feet wide road and utility right-of-way. A permanent turnaround shall be constructed at the end of Dungeness Way to be outside of the wetland buffer thereby maintaining a 100 feet setback from the affected wetland area. All work shall be completed in compliance with Title 12 of the Del Norte County Code. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval prior construction; ***Amended per PC Mtg 8/2/06 ***
- 32) Prior to Recordation of the Phase 4 Final Map, The existing stream crossing on proposed Lot 26 shall be removed including the culverts and to be shaped to the adjoining topography and migrated to conform to the natural environment. All work shall be completed in compliance with California Fish and Game Stream Restoration Manual. A Restoration plan shall be prepared by a qualified stream restoration specialized and submitted to the County Engineer for approval prior construction;
- 33) Prior to recordation of the Phase 1 Final Map Lake Earl Drive shall be improved along the full frontage of the project with Cal-Trans Type A2-6 curb, gutter, 5-foot sidewalks, storm drain, and "fill in" pavement. Existing asphalt pavement has to be sawcut along the distance of the improvements to provide even joint between existing pavement and "fill in" pavement. "Fill in" pavement between the sawcut and the lip of the gutter shall be 3" thick asphalt over 6" thick $\frac{3}{4}$ minus aggregate base, compacted to 95% relative compaction; ***Amended per PC Mtg 8/2/06 ***
- 34) Prior to the recordation of the Phase 1 Final Map, a 100' drainage easement, 50' on both sides from the center of the drainage channel, shall be dedicated and deeded to the County of Del Norte;
- 35) This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal action challenging the issuance of the entitlement, including but not limited to the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense of any such legal action or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this conditions and forthwith revoke this entitlement; and
- 36) Prior to the recordation of the Phase 1 Final Map, a traffic study shall be required that includes recommendations as to which Project Phase would create the need for the installation of a traffic signal. The County Engineering and Surveying staff will provide any relevant information available from their department that may assist in the preparation of this study.

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JHP, LLC
 Resubdivision of Harbor Center Tract
 APN 110-020-62 2400 Lake Earl Drive

LOCATION MAP

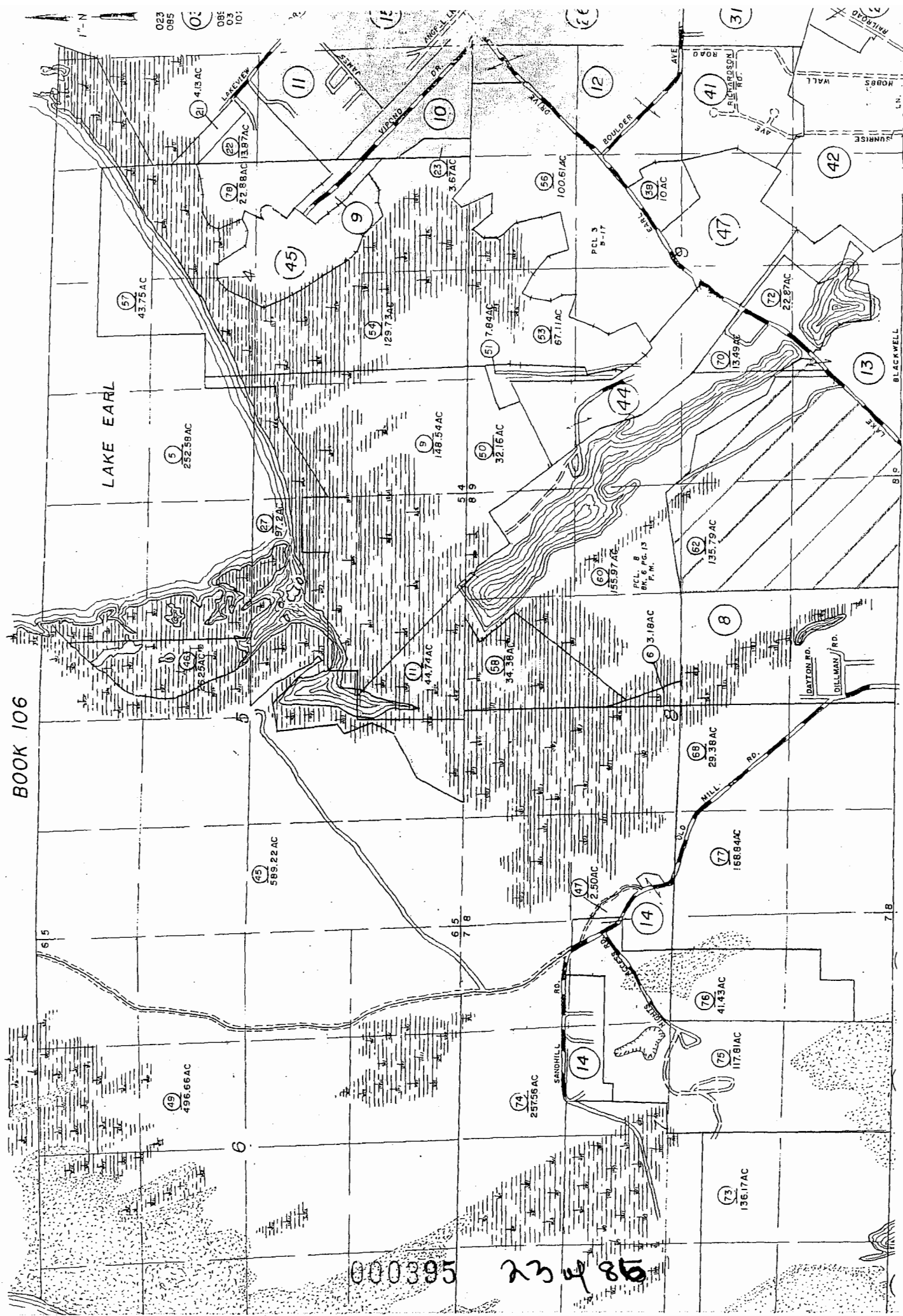


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BAY MEADOWS |**SUBDIVISION - NARRATIVE OF PROPOSED PROJECT**

The project is located at the northwest corner of Northcrest Drive (Lake Earl Drive) and Blackwell Lane. The parcel is 54.5 acres, it is the old Harbor Center Tract. The property's applicable history is that in 1931 a map was recorded at Book 3 of Maps, page 2-2A creating the Harbor Center Tract, containing 313 separate parcels. This map was duly approved by the County and fully complied with the Subdivision Map Act (SMA) as it was then in effect. This project is also a part of a previously approved project (MS8624C) which was a subdivision of a larger parcel of property that contained the Harbor Center Tract. As a part of that 1986 subdivision project the project proponent was to take one of two actions, which election has never been made. The project proponent was to have either merged this property and the adjoining property into acreage or resubdivided it to conform to present zoning. This project is to resubdivided the Harbor Center Tract to conform to present zoning.

At the present time the Harbor Center Tract is a part of APN 110-020-62 which contains about 135 acres legal but non conforming parcels and is located within the Coastal Zone. There have been several projects approved in the past for this parcel.

PROJECT DETAILS

The proposed project is a seventy (70) lot single family residential subdivision. The project is designed to provide one hundred foot buffers for all building sites from wet land areas. The project would obtain extensions of municipal water and sewer from the City of Crescent City.

PHASING

This project will be phased with Phase I consisting of constructing the roads and installing the utilities for lots 41-44 and lots 64-70. Phase 2 consisting of constructing the roads and installing the utilities for lots 27-40. Phase 3 consisting of constructing the roads and installing the utilities for lots 1-5 and lots 13-20. Phase 4 consisting of constructing the roads and installing the utilities for lots 6-12 and lots 21-26. Phase 5 consisting of constructing the roads and installing the utilities for lots 54-63. . Phase 6 consisting of constructing the roads and installing the utilities for lots 45-53.

000396 24 2 86

(Attachment to Development Application)

ARCHAEOLOGICAL ISSUES

There are no known archeological assets on this site. Further, this property has been the site of three projects that were subject to CEQA review. The first was in 1986 (MS8624C) when the project site and adjoining area was divided into several large parcels. The second was the 1991 Miller subdivision (MJ9002C - UP9024C) that included approval of 93 single - family residence lots. The third was by Reservation Ranch (MJ9803C - UP9718C) and would have been phased but yet still as large as the Miller project. All three of these projects were subject to CEQA review under negative declarations without there being any evidence of Archaeological resources being present on the site or otherwise effected by residential development.

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377 J STREET

CRESCENT CITY, CALIFORNIA 95531-4025

Administration/Finance: 707-464-7483
Utilities: 707-464-6517

Public Works/Planning: 707-464-9506
FAX: 707-465-4405

March 30, 2006

Re: Harbor Center Tract

To Whom It May Concern:

The City of Crescent City will be providing the potable and fire protection water for each and every lot within the Harbor Center Tract Subdivision. The owner of the subdivision is providing the piping system within the subdivision. The cost of the installation is to be paid entirely by the subdivider, and a bond to cover those costs will be required if the construction is not complete and accepted, by the city, before a final map is recorded.

The city system can, and will provide adequate supply and pressures to the Harbor Center Tract Subdivision for domestic flows and fire protection. The subdivider will be providing the water mains in the development and water services to each and every lot. The city will set a meter for each house in the meter box provided by the subdivider.

Sincerely,

Jim Barnts
Director of Public Works

JB:lj

000398 26 of 86

12/89

COUNTY OF DEL NORTE
981 H Street, Suite 110
Crescent City, CA 95531
707-464-7253

MS8624C
APP.#

ENVIRONMENTAL QUESTIONNAIRE

To be completed by applicant (please print or type)

APPLICANT JHP LLC PHONE 541-412-7566
ADDRESS P.O. Box 2787, Harbor, Oregon 97415
PROJECT LOCATION West side of Lake Earl Drive, north of Blackwell Ln.
ASSESSORS PARCEL NUMBER(S) 110-020-62
PROJECT DESCRIPTION Re subdivision of existing subdivision

Please indicate how the following issues apply to the proposed project. Attach a discussion of all items checked "yes", or for items checked "no" based upon mitigations designed into the project or resulting from a professional evaluation. Include copies of any professional evaluations which have been done addressing any of the below questions.

Will there be :	YES	NO
1) Grading of the soil, construction upon new or old fill, or exposure of people or property to geologic hazards (landslides, earthquakes, ground failure, etc.)?	_____	_____X
2) Air emissions such as dust or smoke, or the creation of odors or fumes?	_____	_____X
3) Use of a source of potable water for this project which may eliminate or severely limit use by existing or future development in the adjacent area?	_____	_____X
4) Any significant change in drainage patterns, flood flows or absorption rate, or any development within a flood hazard area?	_____	_____X
5) Any discharge into surface or ground waters, or alteration of water quality due to sewage discharge, soil disturbance or the introduction of chemical uses?	_____	_____X
6) Any change in or impact upon any known rare or endangered plant or animal species, or sensitive habitat area including wetlands, estuary or riparian corridor?	_____	_____X

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ATTACHMENT TO ENVIRONMENTAL QUESTIONNAIRE

13. A need for the extension of new or alteration of existing utility systems (sewer, water, etc) as a result of this project?

This project will proceed on bringing municipal water and sewer to the project.

NOTES ON EXTENT OF CEQA REVIEW

This project is a part of a previously approved project and is a part of project MS8624C which was a subdivision of a larger parcel of property that contained the Project site. As a part to that Subdivision Project the project proponent was to take one of two action, which election has never been made. This re subdivision of the property satisfies the condition of MS8624C and is a part of that Project. As is more fully explained below, this has an effect on the extent and nature of the of CEQA review for this project.

The property's applicable history is that in 1931 a map was recorded at Book 3 of Maps, page 2-2A creating the Harbor Center Tract, containing 313 separate parcels. There is no question that this map was duly approved by the County and fully complied with the Subdivision Map Act (SMA) as it was then in effect.¹

Under Gov Cd. 66451.10² the fact that all of the Harbor Center Tract parcels have been in a common ownership since they were created does not by itself result in a merger. Under CC 1093³ a merger is also not accomplished as a result of the property being subsequently conveyed in a single legal description. As a result, it is undeniable that the Harbor Center Tract subdivision continues to exist as a large number of non

¹ Under Gov Cd. 66499.30 a subdivision legally created in compliance with the SMA as it existed at the time the subdivision was established remains in compliance in spite of later changes in the SMA.

² two or more contiguous parcels or units of land which have been created under the provisions of this division, or any prior law regulating the division of land, or a local ordinance enacted pursuant thereto, or which were not subject to those provisions at the time of their creation, shall not be deemed merged by virtue of the fact that the contiguous parcels or units are held by the same owner, and no further proceeding under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of the contiguous parcels or units, or any of them.

³ Absent the express written statement of the grantor contained therein, the consolidation of separate and distinct legal descriptions of real property contained in one or more deeds, mortgages, patents, deeds of trust, contracts of sale, or other instruments of conveyance or security documents, into a subsequent single deed, mortgage, patent, deed of trust, contract of sale, or other instrument of conveyance or security document (whether by means of an individual listing of the legal descriptions in a subsequent single instrument of conveyance or security document, or by means of a consolidated legal description comprised of more than one previously separate and distinct legal description), does not operate in any manner to alter or affect the separate and distinct nature of the real property so described in the subsequent single instrument of conveyance or security document containing either the listing of or the consolidated legal description of the parcels so conveyed or secured thereby.

000401 29 of 86

conforming but yet legal lots.

On June 4, 1986 the Planning Commission heard an application by Standard Plywood, then the owner of the Harbor Center Tract and significant areas around it, to subdivide it by creating two parcels of 155 acres and 44 acres and leaving a 135 acre remainder parcel, just less than half of which was the Harbor Center Tract (the "Project"). As recorded subdivision conditions, the Planning Commission required Standard Plywood to meet six conditions, the last four of which were:

3) a parcel or final map as required is to be recorded for Parcels A and C.⁴ The map shall provide for either: a) a reversion to acreage of any previously recorded deeds and the Harbor Center Tract subdivision on the subject lands, or b) a resubdivision of the Harbor Center Tract subdivision in a configuration consistent with existing zoning (see staff suggestion); 4) If a resubdivision is filed a note shall be placed on the map identifying the action as a resubdivision and disclosing the fact that no guarantee of sewage disposal, domestic water or road or utility improvements has been made by the County; 5) A parcel map is to be filed with the County Clerk within 24 months of the date of approval; and 6) A Notice of Conditional Approval of this project shall be recorded at the time of filing of the parcel map at the applicant's expense.

What then happened is admittedly confusing. The final map was duly recorded on January 7, 1987 at Book 06, page 13 of Parcel Maps. The map contains a note that clearly states;

the Harbor Center Tract is a major undeveloped subdivision on file with the Del Norte Recorder in book 3, page 2 and 2a. While the remainder parcel contains the Harbor Center Tract as also being owned by Standard Plywood Corporation it is the intention of the parties hereto that the Harbor Center Tract subdivision remain as filed and is not impaired or effected in any way by the filing of this parcel map.

In contrast to this statement, the map also has a hand written note on it that says, "for a notice of conditional approval see book 317 or page 634 recorded January 7, 1987 in the records of the Del Norte County Recorder /s/ John Alexander Recorder."

As a result, while the Planning Commission clearly had conditioned the Project on the applicant choosing to either cause the map to contain a reversion to acreage or a resubdivision in a configuration consistent with existing zoning the recorded map just as clearly made no election but expressed the intent to keep the Harbor Center Tract "as filed" and "not impaired or effected in any way by the filing of this parcel map." While it is unclear how all of this could have occurred as it did, it is also clear that an

⁴ Presumably this is a typographical error since the map contained only new parcels A and B and a remainder parcel and there is no parcel C.

000402 30486

election must yet be made for the Project's conditions to be met.⁵

The owner of the parcel wishes to resolve this issue and comply with the Project's conditions by electing to record a resubdivision map converting the existing substandard parcels in to parcels of legal size. Under Govt C 66499.20 1/2, a new parcel map may be recorded over an existing map, merging the former parcels and resubdividing them. The owner has prepared such a map. Since this is being done as a part of the original Project the only needed further process is for the Planning Commission to review the map and determine that it complies with the conditions of the Project. In other words, all that needs to be done is what should have happened in 1986. Since the Project (of which the conditions are a part) has already been subject to public comment and full CEQA review and nothing has otherwise changed, nothing more is required than review and a determination that the proposed map complies with the Project's conditions.

In 1986 the Planning Commission took action, after adopting a mitigated negative declaration for the Project and approved its tentative map. The Project as reviewed under CEQA by law was a review of the entire Project, which included the conditional mitigation measures described above. This CEQA review became, "final and conclusive on all persons, including responsible agencies." [PRC 21080.1]. Once all final approvals occurred, there remains no authority to require any further CEQA review: "Once a project has been approved, the lead agency's role in project approval is completed." [14 CCR 15162(c)].

Under 14 CCR 15162(a) where a, "negative declaration [has been] adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence⁶ in the light of the whole record, [that] one or more" of three factors are present.

The first factor is that substantial changes are being proposed in the Project - which is not the case here. The resubdivision to legal parcels was and remains a part of the Project.

⁵ It is also clear that the conditions were clearly in the alternative, do this or that, and not in the conditional do this or that will be true. Without a default election the Project's conditions are yet to be elected and met.

⁶ 14 CCR 15384 provides:

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

000403 31286

The second factor is the, "involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects."⁷ [14 CCR 15162(a)(2)]. I am aware of no new "significant" changes⁸ in the effects or impacts of the Project that were not considered within the 1986 negative declaration process. The same wet lands and drainage issues exist today as existed then. The consolidating of the lots in the original Harbor Center Tract to meet zoning densities, all without any, "guarantee of sewage disposal, domestic water or road or utility improvements" has the same effect today as then.

The final factor is that there is:

(3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous ... Negative Declaration was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous ... negative declaration;

(B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

I am aware of no new information, especially new information that could not have been identified at the time of the 1987 negative declaration as to the Projects significant environmental effects. Again, the physical condition of the property has not changed nor has the concept of bringing existing non conforming lots to conforming size without any guarantee of, "sewage disposal, domestic water or road or utility improvements."

This same guideline's part (b) states what must happen if there are no part (a) changes:

⁷ The term "significant effect" on the environment is defined in the Guidelines as "a substantial, or potentially substantial, *adverse change* in any of the physical conditions within the area affected by the project" [14 CCR 15382].

⁸ I also do not know of any insignificant changes.

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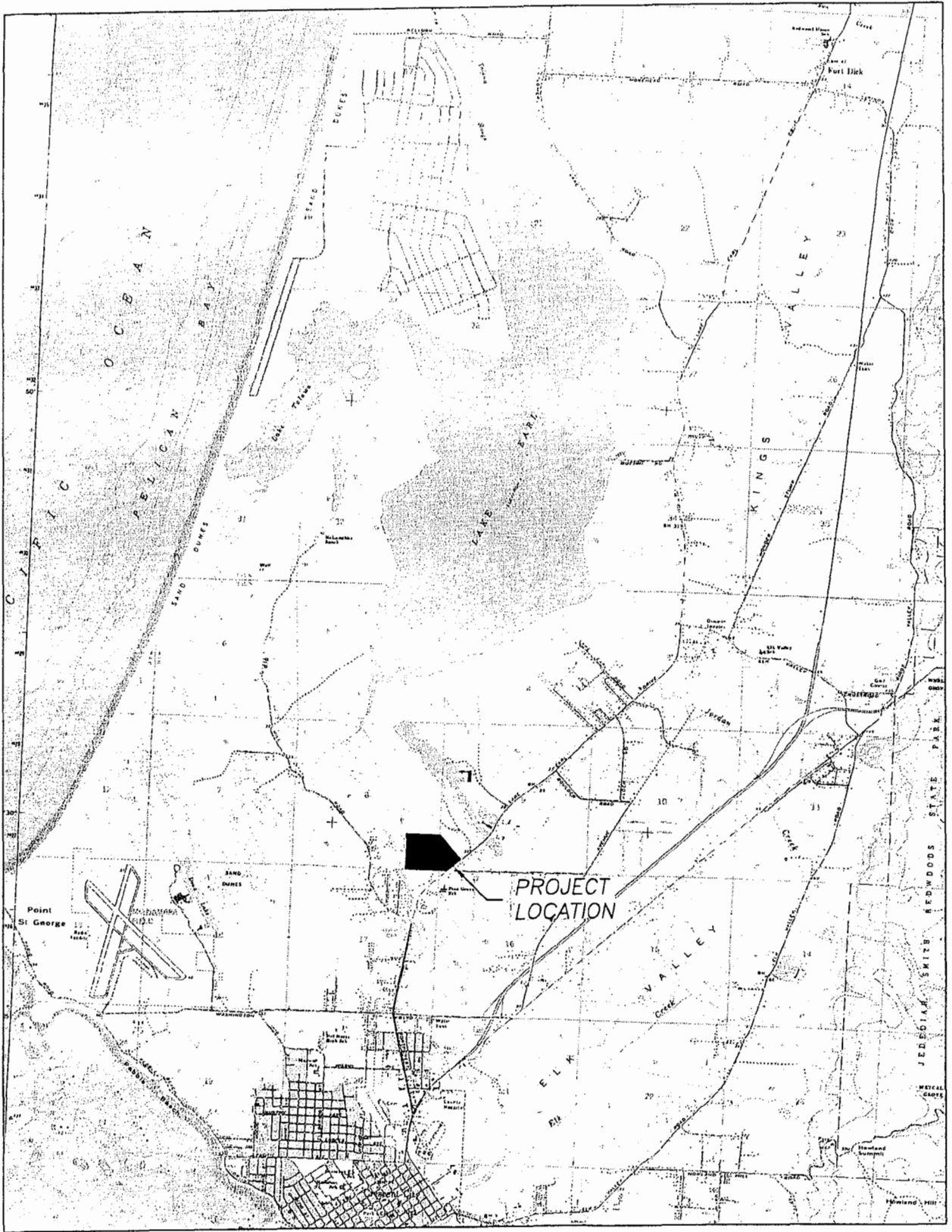
(b) If changes to a project or its circumstances occur or new information becomes available after adoption of a negative declaration, the lead agency shall prepare a subsequent EIR if required under subsection (a). Otherwise the lead agency shall determine whether to prepare a subsequent negative declaration, an addendum, or no further documentation.

As a result, unless there is such new information that may require further CEQA review, I request that the resubdivision map be placed for review on the next available Planning Commission agenda for approval as being in conformance with the original Project conditions.

In addition to the 1986 review, since then there have been two further residential projects proposed for this general site.⁹ Each was reviewed under CEQA and both were approved on mitigated negative declarations. The resubdivision would proceed on the same mitigating conditions except that this project is smaller and relies on both community water and sewer systems.

⁹ On 2-7-91 the Miller subdivision (MJ9002C - UP9024C) created over 90 single family dwellings was approved on a mitigated negative declaration. After that tentative map lapsed, on 2-4-98 Reservation Ranch (MJ9803C - UP9718C) also obtained conditional approval for a similar subdivision on a mitigated negative declaration.

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000405



34 of 86

<p>STOVER ENGINEERING Civil Engineers and Consultants PO BOX 783 - 711 H STREET CRESCENT CITY, CA 95531 - 707-465-6742</p>	<p>BAY MEADOWS HW3</p>	<p>SITE MAP CRESCENT CITY, CA</p>		
<p>D:\Land Projects 2006\3799\dwg\SUBDIVISION 033006.dwg</p>	<p>DATE 3/31/06</p>	<p>SCALE: NTS</p>	<p>3799</p>	<p>FIGURE 1.0</p>

PURPOSE:
 THE PURPOSE OF THIS SURVEY IS TO SHOW A RE-SUBDIVISION OF THE HARBOR CENTER TRACT AS SAID TRACT WAS FILED IN BOOK 3 OF MAPS, PAGES 2 AND 24

REFERENCE DOCUMENTS

DOCUMENT DESCRIPTION DOCUMENT LOCATION
 1-PAV. 2-4-43 6-PAV. 54-9-44-36 37 38 39 40 41 42 43 44 45
 DEED RECORDS DOCUMENT #20714223 20-OR-342 24-OR-208 26-OR-501

THE ABOVE DOCUMENTS CAN BE FOUND IN THE DEL Norte COUNTY RECORDER'S OFFICE AND ARE ABSTRACTED HEREIN AS FOLLOWS: BOOK NUMBER OR LETTER - TYPE OF BOOK AND ARE ABSTRACTED IN PARAGRAPHS OF THIS STATEMENT. DEEDS OR DEEDS OF RECORDS IN MAPS, PARCELS, PLATS, ETC. WHICH ARE REFERRED TO IN THIS STATEMENT, PAGE 450. NOT ALL TYPES OF DOCUMENTS APPEAR ON THIS MAP.

BASIS OF BEARINGS

THE BASIS OF BEARINGS IS TRUE NORTH, BASED ON THE SHORT LINE SHOWN HEREIN.

SURVEYOR'S STATEMENT

THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE LAND SURVEYOR'S ACT AT THE REQUEST OF MS. DONNA SWANSON-JOHN IN DECEMBER, 2004.

RICHARD B. DAHS
 L.S. 3340, EXPIRATION DATE 6/30/2004

COUNTY SURVEYOR'S STATEMENT

THIS MAP HAS BEEN EXAMINED IN ACCORDANCE WITH SECTION 6706 OF THE LAND SURVEYOR'S ACT THIS _____ DAY OF _____, 2004.

COUNTY SURVEYOR

RECORDER'S STATEMENT

FILED THIS _____ DAY OF _____, 2004,
 AT THE REQUEST OF THE RICHARD B. DAHS CO.

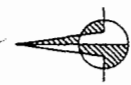
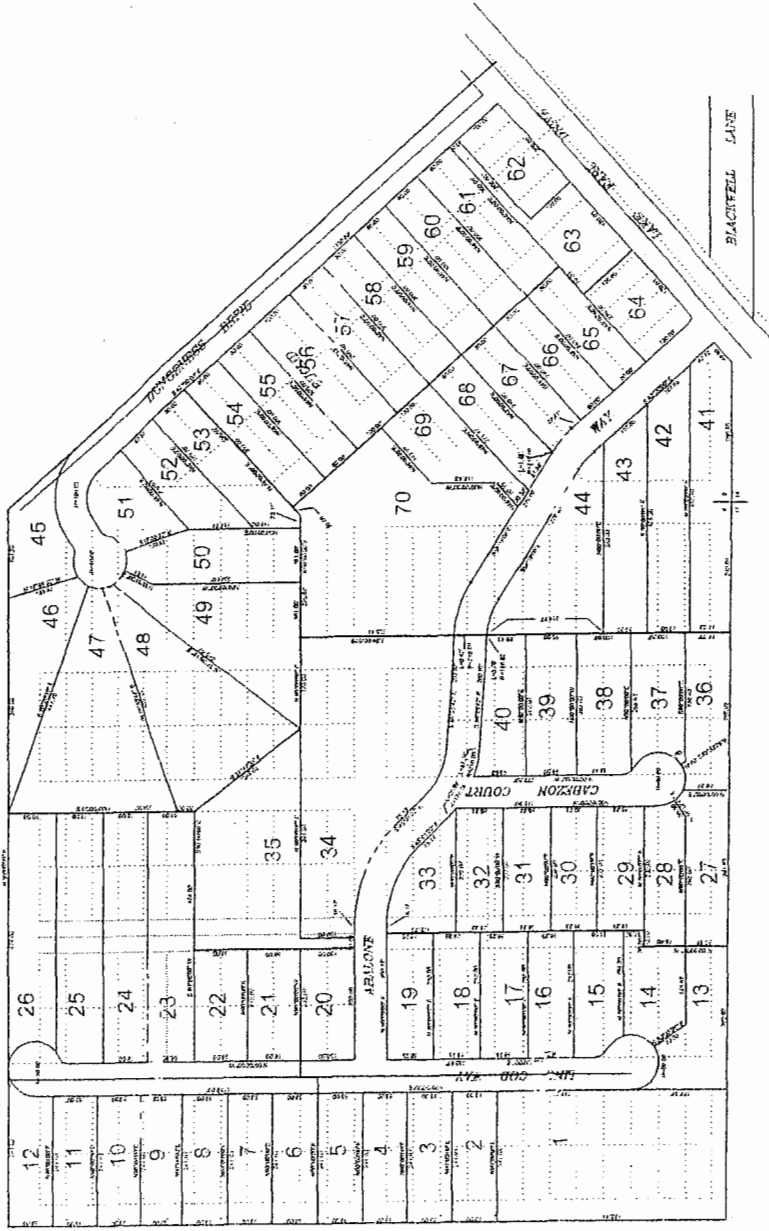
COUNTY RECORDER

RE-SUBDIVISION SURVEY
 OF
 HARBOR CENTER TRACT NO. 1

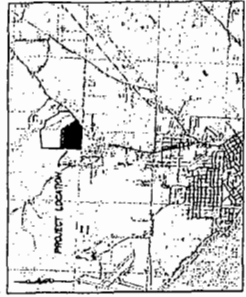
SECTION 8 AND 9, TOWNSHIP 16 NORTH,
 RANGE 1 WEST, HUMBOLDT MERIDIAN

PREPARED FOR:
 RTVS, LLC
 HARBOR, OR
 PREPARED BY:
 RICHARD B. DAHS CO.

NOTE: DOTTED LINES SHOW THE ORIGINAL STREET AND LOT LINES AS SHOWN IN BOOK 3 OF MAPS, PAGES 2.



35986
 000407



VICINITY MAP
 THE BASIS OF BEARING AND VERTICAL DATUM
 FOR THIS MAP IS THE 1983 NAD 83 DATUM
 BY RICHARD B. DAVIS CO. INC. CRESCENT CITY, CA
 HARBOR CENTER TRACT 1
 VERTICAL DATUM: UNKNOW
 ALL TOPOGRAPHY WORK BY RICHARD B. DAVIS CO.

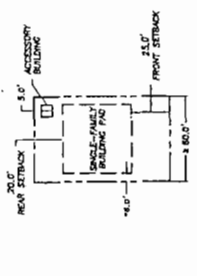
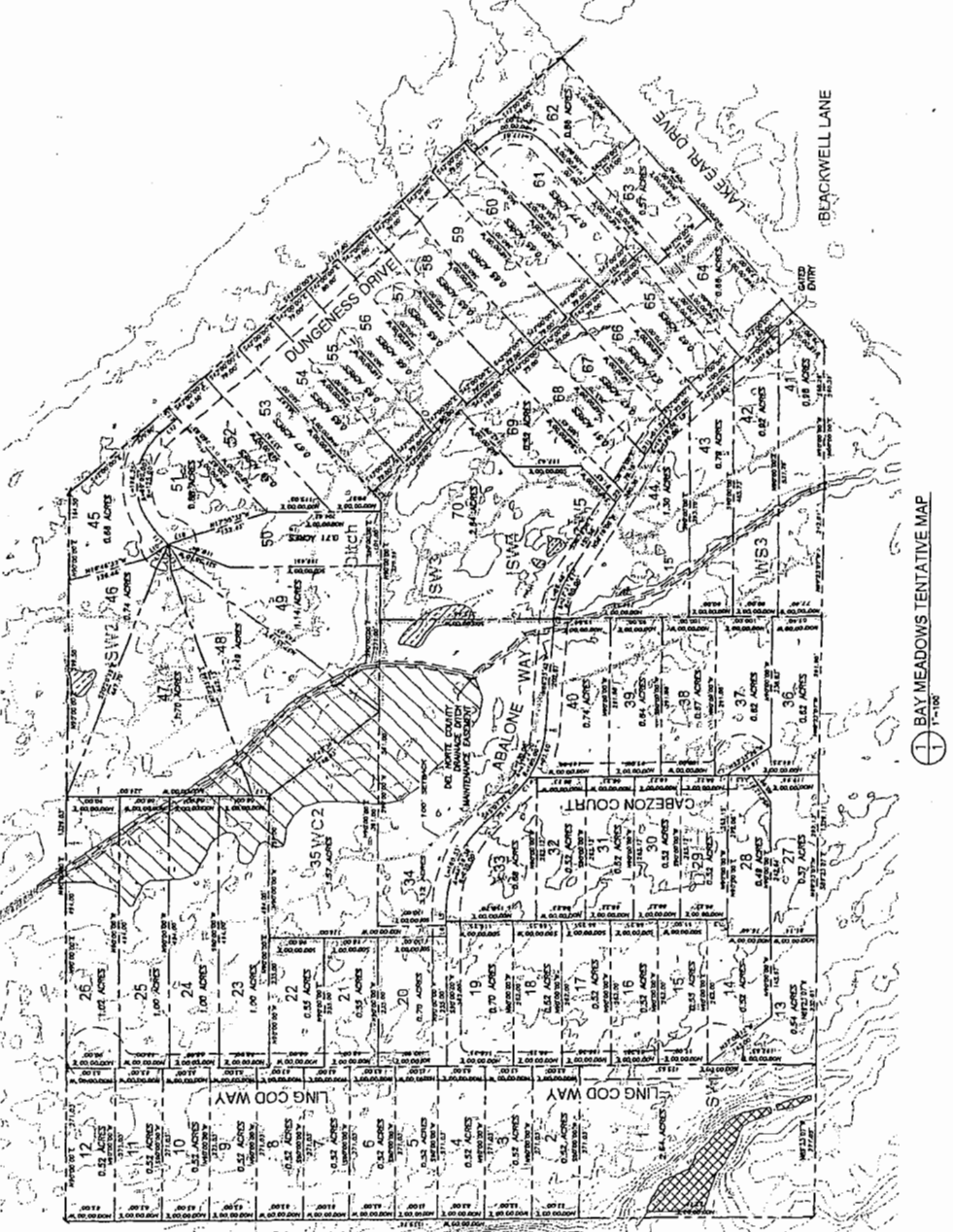
GENERAL NOTES
 1. ALL UTILITIES SHOWN ARE PRELIMINARY AND SHOWN ONLY FOR REFERENCE PURPOSES.
 2. CONTOUR INTERVALS WITH CITY OF CRESCENT CITY STANDARDS AND SEE NOTE
 3. DOWN SLOUNDS

ZONING
 ZONE —
DEVELOPER
 JHP, LLC
 2011 N. STREET
 HARBOR CENTER TRACT 1
 CRESCENT CITY, CA 95515

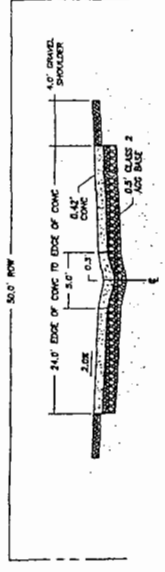
PLANNER
 STOVER ENGINEERING
 2111 N. STREET
 CRESCENT CITY, CA 95515

ENGINEER
 STOVER ENGINEERING
 2111 N. STREET
 CRESCENT CITY, CA 95515

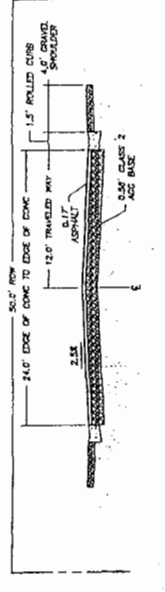
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L4	18.75'	M002.00.00' W
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L6	20.00'	M002.00.00' W
L7	20.00'	M002.00.00' W
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L86	20.00'	M002.00.00' W
L87	20.00'	M002.00.00' W
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L95	20.00'	M002.00.00' W
L96	20.00'	M002.00.00' W
L97	20.00'	M002.00.00' W
L98	20.00'	M002.00.00' W
L99	20.00'	M002.00.00' W
L100	20.00'	M002.00.00' W



① SINGLE LOT PLOT PLAN (TYP)
 1"=40'
 *IF LOT WIDTH 4.00', THEN SIDE YARD SETBACK = 5.0'

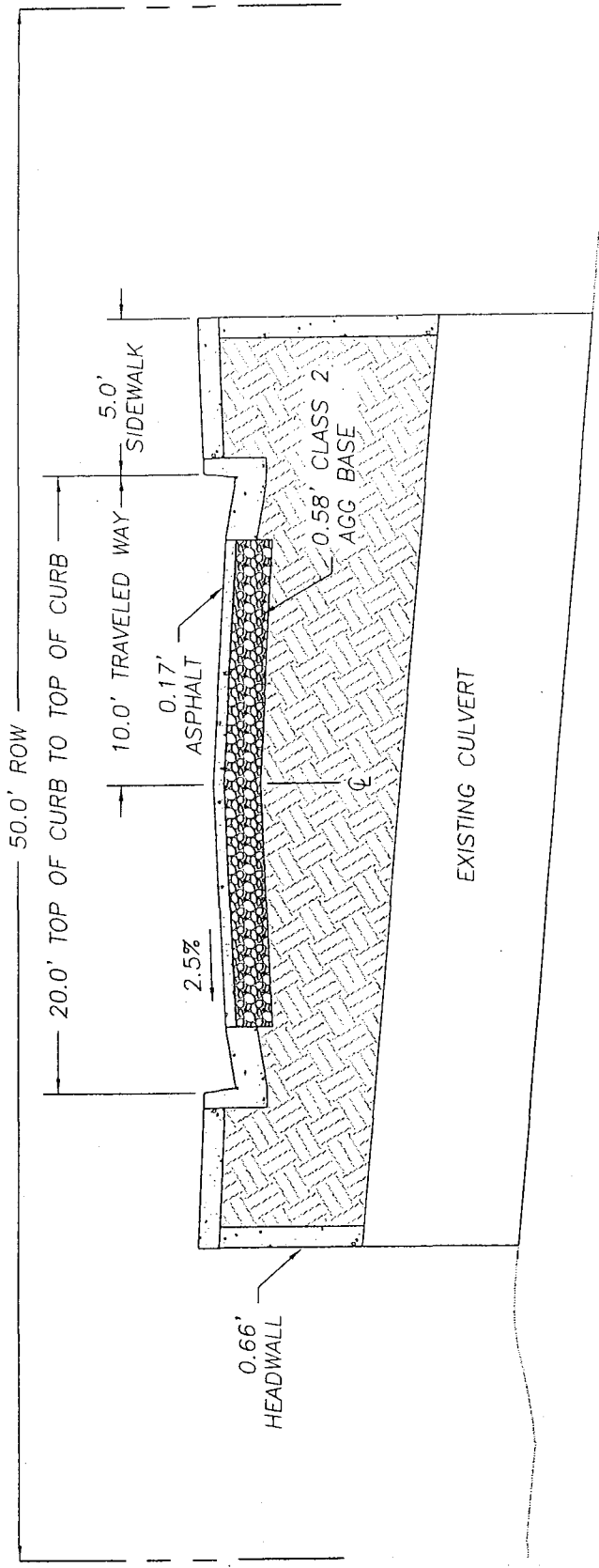


③ ACCESS ROAD ALTERNATIVE No. 1
 1"=3'



④ ACCESS ROAD ALTERNATIVE No. 2
 1"=3'

000409 37286



00041038 up 86

STOVER ENGINEERING

Civil Engineers and Consultants

JHP, LLC.

BAY MEADOWS SUBDIVISION

ACCESS ROAD ALT No. 2

CRESCENT CITY, CA

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

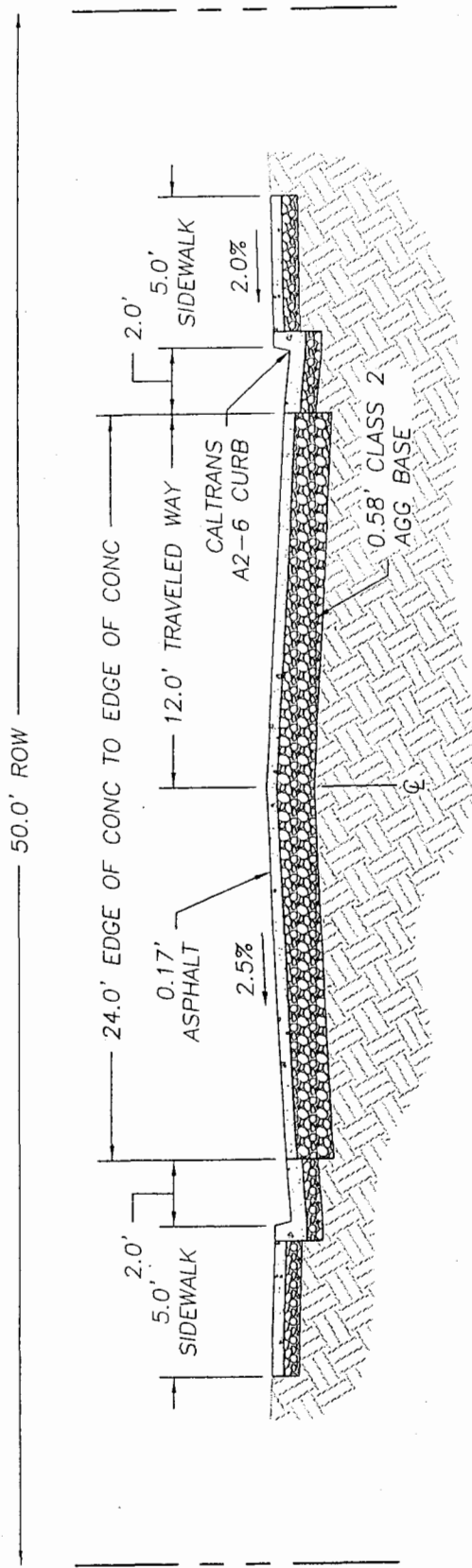
D:\Land Projects 2006\3799 - HWJ LLC - BAY MEADOWS\dwg\DAYMEADOWS.dwg

6/26/06

NTS

3799

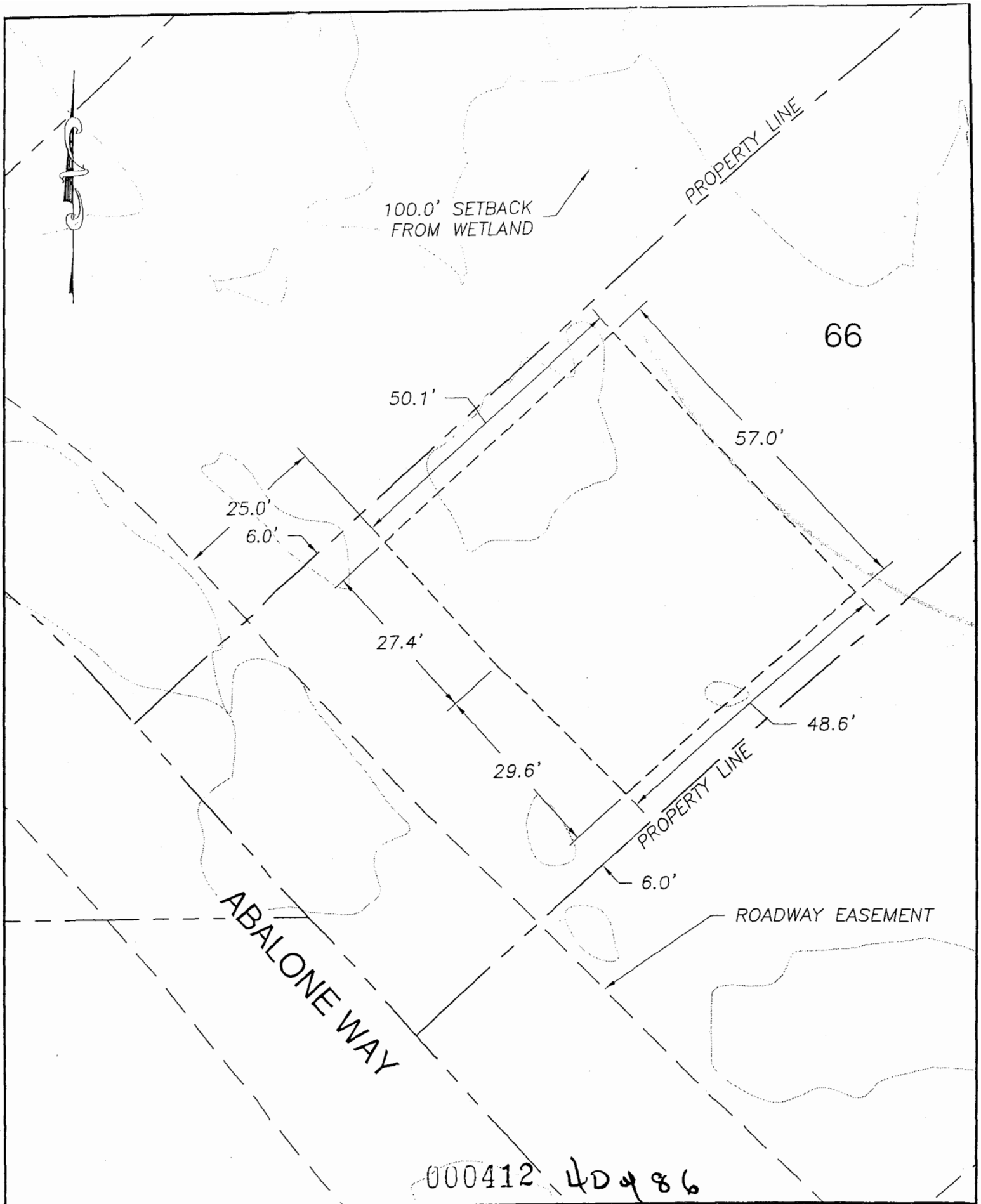
FIGURE 6.0



000411

39 of 86

STOVER ENGINEERING Civil Engineers and Consultants	JHP, LLC. BAY MEADOWS SUBDIVISION	ACCESS ROAD ALT No. 1 CRESCENT CITY, CA		
PO BOX 783 - 711 H STREET CRESCENT CITY, CA 95531 - 707-465-6742	<small>D:\Land Projects 2006\3799 - HWJ LLC - BAY MEADOWS\dwg\BAYMEADOWS.dwg</small>	6/14/06	NTS	3799 FIGURE 2.0



STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

D:\land Projects 2006\J299 - M23 LLC - BAY MEADOWS\fig13-24-06 TENTATIVE MAP.dwg

6/14/06

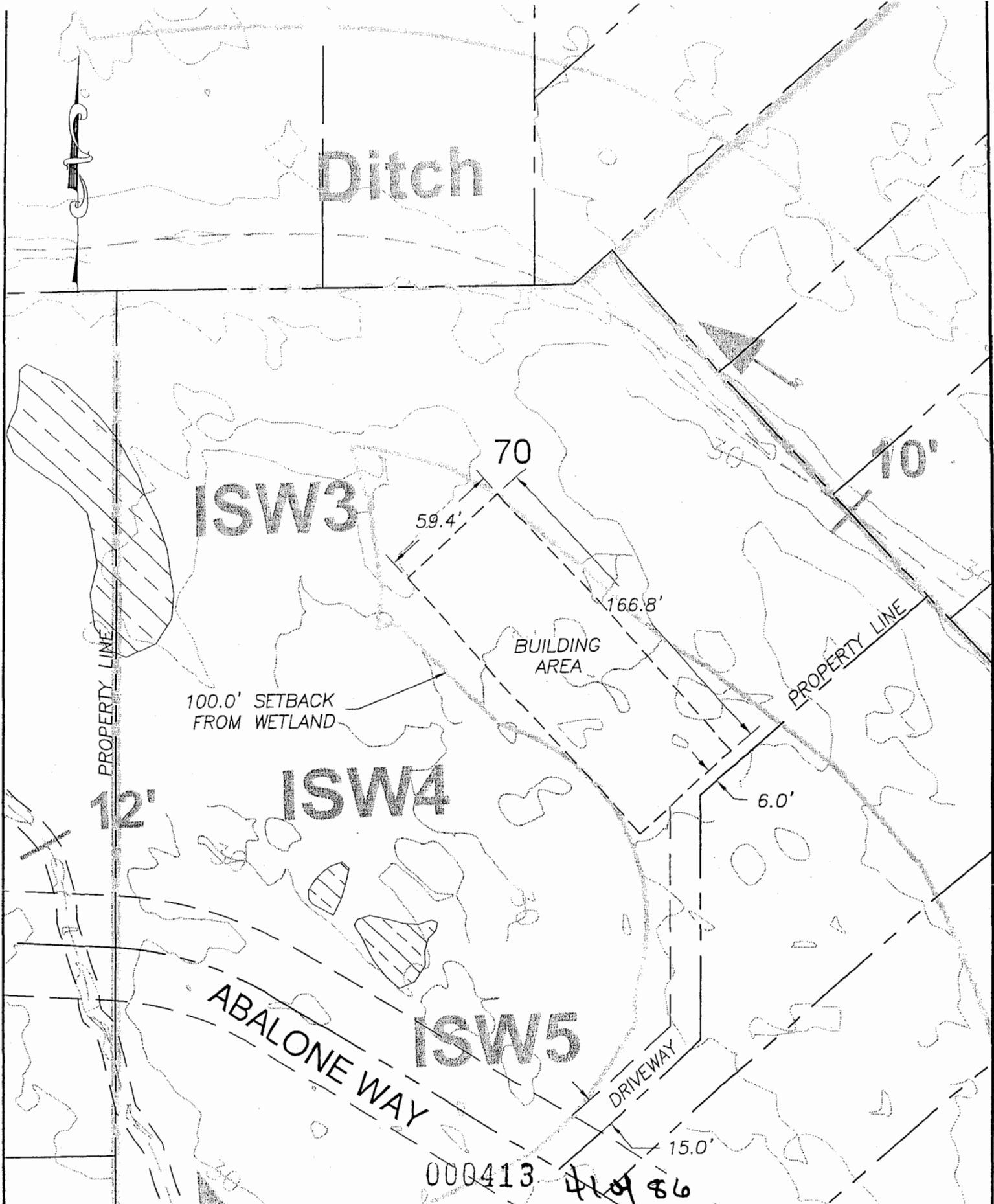
LOT 66 BUILDABLE AREA

CRESCENT CITY, CA

1"=20'

3799

FIGURE 4.0



STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

LOT 70 BUILDABLE AREA

CRESCENT CITY, CA

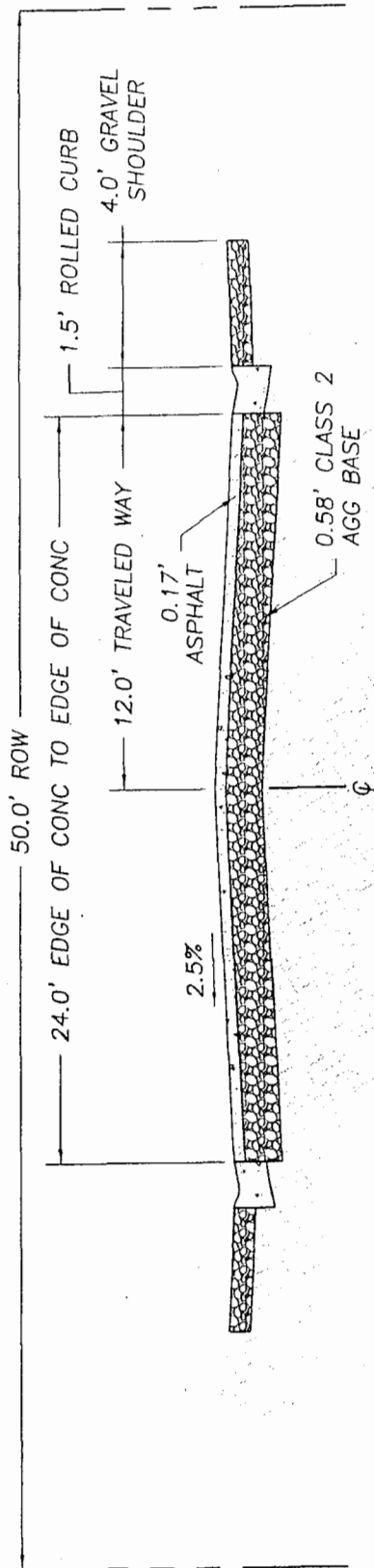
D:\Land Projects 2006\3799 - 1893 LLC - BAY MEADOWS\dwg\5-26-06 TENAINE MAP.dwg

6/14/06

1"=60'

3799

FIGURE 5.0



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STOVER ENGINEERING

Civil Engineers and Consultants

PO BOX 783 - 711 H STREET
CRESCENT CITY, CA 95531 - 707-465-6742

JHP, LLC.

BAY MEADOWS SUBDIVISION

D:\land Projects 2008\3799 - HMC LLC - BAY MEADOWS\dwg\3-26-06\HMA\WP.dwg

6/14/06

ACCESS ROAD ALT No. 2

CRESCENT CITY, CA

NTS

3799

FIGURE 3.0

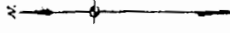
1249

HARBOR CENTER TRACT
DEL NORTE COUNTY
CALIFORNIA

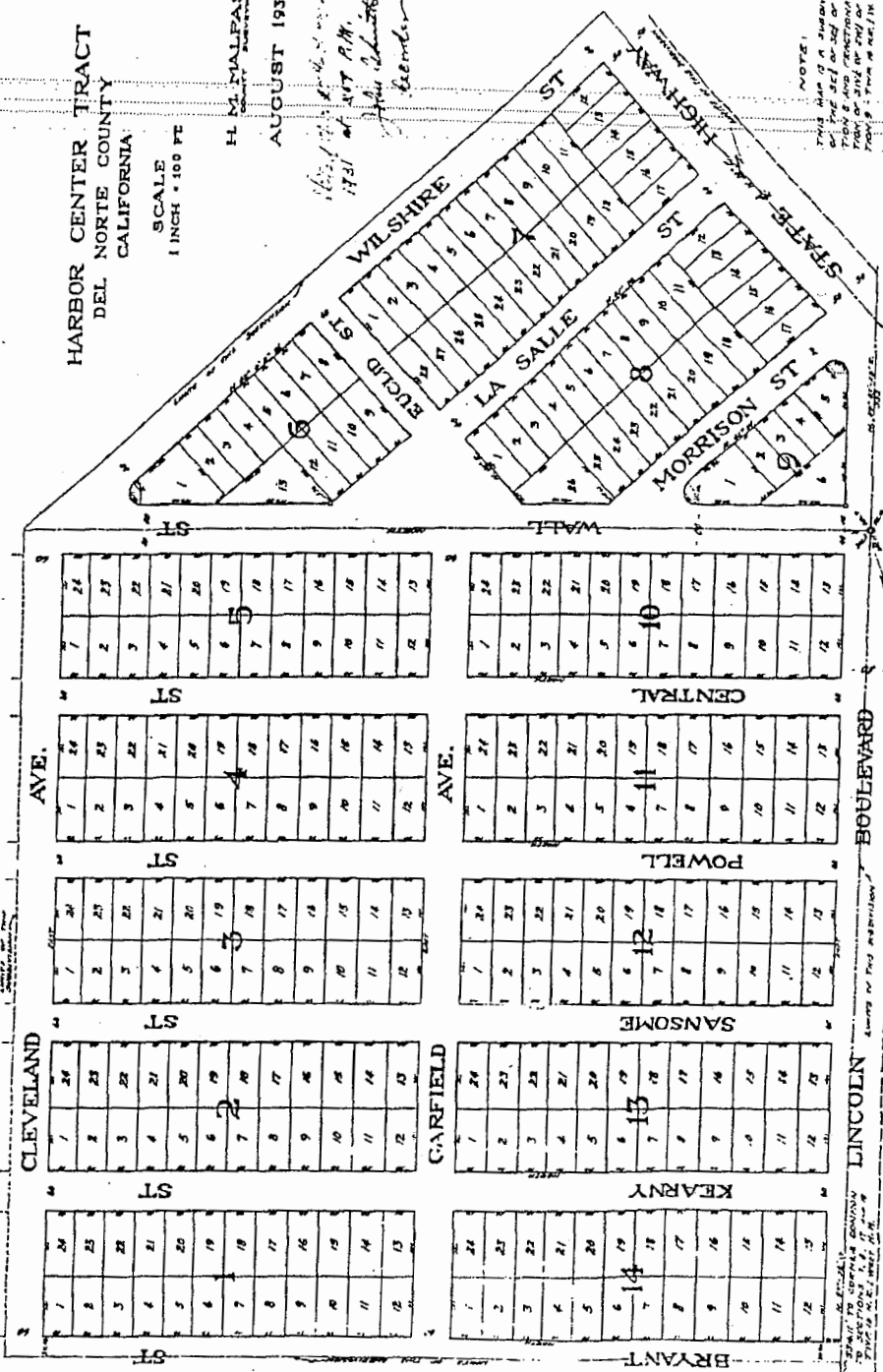
SCALE
1 INCH = 100 FT

H. M. MALEPAS
COUNTY SURVEYOR
AUGUST 1931

*Map of Harbor Center Tract
1931 at 4:47 P.M.
John J. ...
Member*



NOTE:
This plan is a preliminary
map and is not intended to
show any other property lines
than those shown on this map.



SECTION CORNER CONTAINS THE
SECTION 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14
SECTION 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

SECTION CORNER CONTAINS THE
SECTION 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24

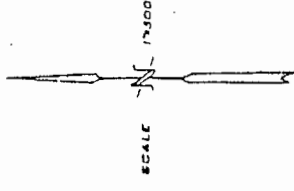
SHEET NO 2 CONTAINS AFFIDAVIT

SHEET NO 1 OF TWO SHEETS

ALL DISTANCES SHOWN IN FEET
UNLESS OTHERWISE NOTED.

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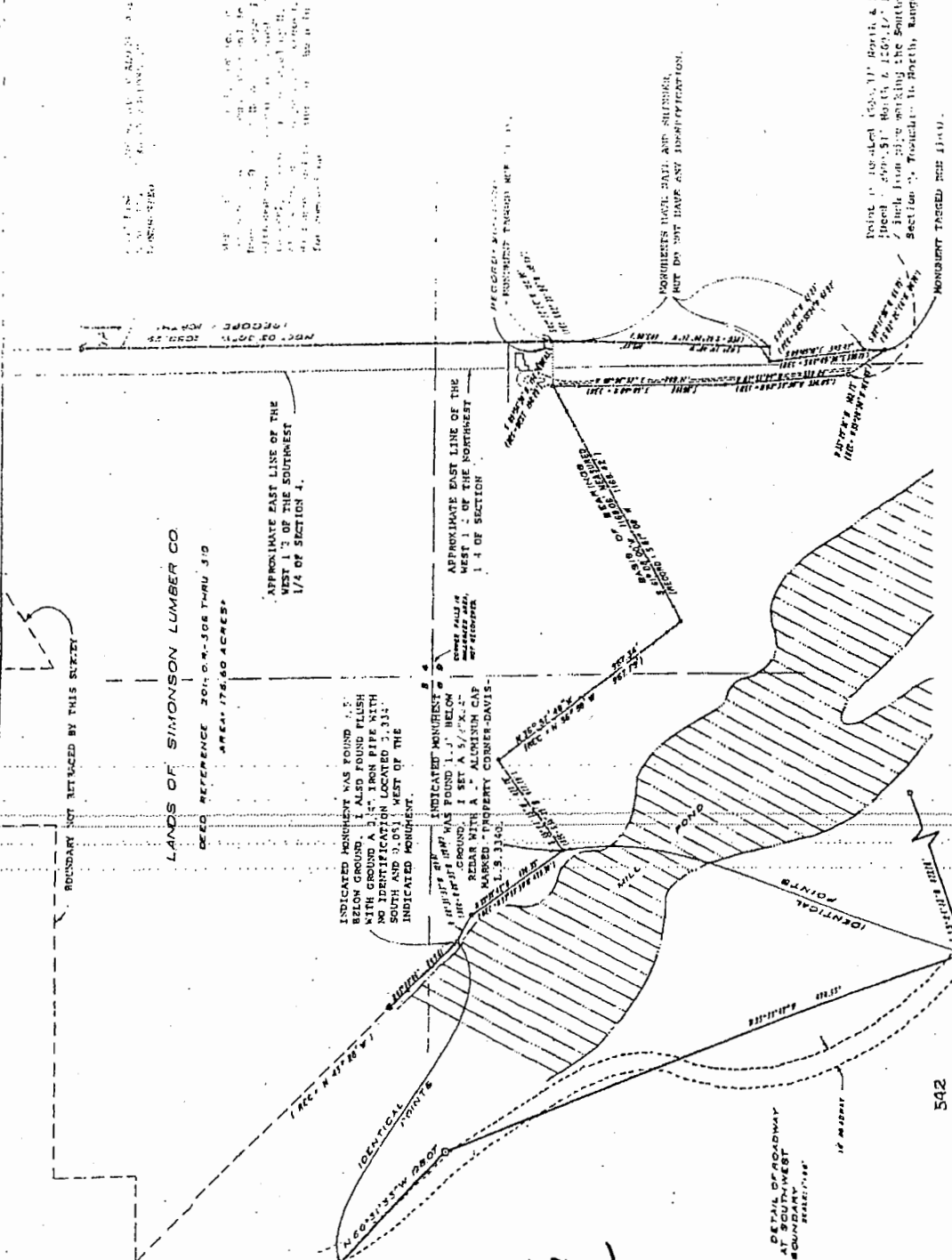
MAP LEGEND

- THIS MAP SHOWS A RETRACEMENT OF A PORTION OF THE BOUNDARY OF THE LANDS DESCRIBED IN BOOK 231, OF OFFICIAL RECORDS, PAGES 204-310, DEL. NORFOLK COUNTY RECORDS.
- INDICATES A 1" IRON PIPE NOT OF RECORD WAS FOUND AT THE INDICATED POSITION. REFER TO MAP FOR FURTHER DESCRIPTION OF MONUMENT.
 - INDICATES A 1 1/4" IRON PIPE WITH IDENTIFICATION AND NOT OF RECORD FOUND AT THE INDICATED POSITION. NOW TAGGED DAVIS-L.S. 3340 BY THIS SURVEY.
 - INDICATES EXISTING FENCELINE.
- BASIS OF BEARINGS IS TRUE NORTH BASED ON MONUMENTS RECOVERED AS INDICATED ON THIS MAP.
- INDICATES 1/4" X 1/4" ALUMINUM CAP MARKED "PROPERTY CORNER-DAVIS-L.S. 3340-W.C." SET AS A WITNESS CORNER BY THIS SURVEY.

THE LANDS DESCRIBED IN BOOK 231, OF OFFICIAL RECORDS, PAGES 204-310, DEL. NORFOLK COUNTY RECORDS, ARE HEREBY RE-TRACED AND THE BOUNDARY THEREOF IS SHOWN ON THIS MAP. THE MONUMENTS RECOVERED AND IDENTIFIED BY THIS SURVEY ARE SHOWN ON THIS MAP. THE MONUMENTS RECOVERED AND IDENTIFIED BY THIS SURVEY ARE SHOWN ON THIS MAP.

RECORD OF SURVEY
SIMONSON LUMBER COMPANY

SECTIONS 4, 5, 8 & 9, T. 15 N., R. 1 W., H. M.
RICHARD B. DAVIS
SURVEYING & MAPPING
211 W. STREET
CRENSHAW CITY, CALIFORNIA



SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT THE ABOVE DESCRIBED SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF CALIFORNIA.
RICHARD B. DAVIS
SURVEYOR GENERAL
APRIL 25 1940



COUNTY RECORDER'S CERTIFICATE
I HEREBY CERTIFY THAT THE ABOVE DESCRIBED SURVEY WAS MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION AND IN ACCORDANCE WITH THE REQUIREMENTS OF THE STATUTES OF THE STATE OF CALIFORNIA.
SEPTEMBER 11 1940

PLAT NO. 946
FILED FOR RECORD IN BOOK 231, OF OFFICIAL RECORDS, PAGES 204-310, DEL. NORFOLK COUNTY RECORDS, THIS 11th DAY OF SEPTEMBER, 1940.
RICHARD B. DAVIS
SURVEYOR GENERAL

000419 47786

Minutes/Del Norte County Planning Commission

June 4, 1986

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ordinance; and C) Placement of an off-site sign at this location could prevent the placement of a sign by the Harbor District informing the travelling public of the services and activities available in the harbor area.

PUBLIC HEARING - STANDARD PLYWOOD CORPORATION - Minor Subdivision

STANDARD PLYWOOD
CORPORATION

Staff next presented the application of STANDARD PLYWOOD CORPORATION, AP# 110-020-16 & 59 for a minor subdivision of 321.27 acres into 3 parcels located on the west side of Lake Earl Drive at the Blackwell Lane intersection in the Manufacturing, Agricultural - 20 acre minimum, Rural Residential Agriculture - 1 acre minimum and General Resource Conservation Area. Chairman Restad opened the public hearing. Jack Kuhns, agent stated that they had no objection to staff's recommendation and the state will require a report through the Department of Real Estate to be written prior to the sale of any portion of the parcels. The public hearing was closed and discussion was opened to the Commissioners. Staff informed the Commissioners that the resubdivision would be approximately 52 one acre parcels. The Commissioners having no comments. A motion was made, seconded and unanimously passed by Roll Call vote to adopt the Negative Declaration and the findings: A) The area designated as Parcel B is intended to be transferred to the State of California therefore the requirements for a soils analysis and parcel map have been waived; B) As conditioned the project is consistent with the County's General Plan and Title 21 Coastal Zoning ordinance; C) The project is consistent with Coastal Zone Rural Land Division Criteria since parcel A is within the urban area, parcel B is a boundary adjustment to the State of California and parcel C does not

000420

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June 4, 1986

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create any new parcels within the rural area; and D) A Negative Declaration has been prepared pursuant to the California Environmental Quality Act which the Commission has considered in reviewing the project and in making its decision and approving the project with the revised and added conditions: 1) The requirement for the soil analysis is waived as the parcel are developed and the undeveloped parcel will be used for non-development purposes; 2) Parcel B is to be identified on the parcel map as not approved as a building site; 3) A parcel map is to be recorded for Parcels A and C. The map shall provide for either: a) A reversion to acreage of any previously recorded deeds and the Harbor Center Tract Subdivision on the subject lands, or b) A resubdivision of the Harbor Center Tract Subdivision in a configuration consistent with existing zoning (see staff suggestion); 4) If a resubdivision is filed a note shall be placed on the map identifying the action as a resubdivision and disclosing the fact that no guarantee of sewage disposal, domestic water or road or utility improvements has been made by the County; 5) A parcel map is to be filed with the County Clerk within 24 months of the date of approval; and 6) A Notice of Conditional Approval of this project shall be recorded at the time of filing of the parcel map at the applicant's expense.

PUBLIC HEARING - LARRY HARTWICK - Minor Subdivision

HARTWICK

Staff next presented the application of LARRY HARTWICK, AP#110-410-09 for a minor subdivision of his 2 .03 acre parcel into two one acre parcels located on the west side of Sunrise Avenue near the Richardson Road intersection in the Residential-Agriculture 1 unit per 1 acre zoning district. Chairman Restad opened the public hearing. Receiving no comments from the audience, the hearing was closed and discussion

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MS 86240 C

87 53



COUNTY OF DEL NORTE

PUBLIC WORKS BUILDING
700 FIFTH ST.

CRESCENT CITY, CALIFORNIA 95531

Robert E. Perry
Planning Dept.
13 JUN 1986
AREA CODE 10
46-57-53


PLANNING DEPARTMENT

NOTICE
OF
CONDITIONAL APPROVAL

OWNER(S): Standard Plywood Corporation
DESCRIPTION: Minor Subdivision of a 321.27 acre parcel
OFFICIAL RECORDS REFERENCE:

Notice is hereby given by the Del Norte County Planning Dept., on behalf of the Planning Commission, that on the 4th day of June, 1986 the Planning Commission of the County of Del Norte conditionally approved the above described project. The conditions applicable to the subject project are as listed below and are derived from the action of the Commission. These conditions may include actions required to be fulfilled prior to establishment of the use or filing of the applicable map and/or may include conditions which run with the project and which shall also be the obligation of subsequent owners.

Interested parties should contact the County Dept. of Building and Planning for further information.


Ernest Perry,
Planner
Del Norte County Planning Dept.

PROJECT APPLICATION NUMBER(S): MS8624C
ASSESSORS PARCEL NUMBER(S) AT TIME OF APPLICATION: 110-020-16 & 59
CONDITIONS: 1) The requirement for the soil analysis is waived as the parcels are developed and the undeveloped parcel will be used for non-development purposes; 2) Parcel B is to be identified on the parcel map as not approved as a building site; 3) A parcel or final map as required is to be recorded for Parcels A and C. The map shall provide for either: a) a reversion to acreage of any previously recorded deeds and the Harbor Center Tract subdivision on the subject lands, or b) a resubdivision of the Harbor Center Tract subdivision in a configuration consistent with existing zoning (see staff suggestion); 4) If a resubdivision is filed a note shall be placed on the map identifying the action as a resubdivision and disclosing the fact that no guarantee of sewage disposal, domestic water or road or utility improvements has been made by the County; 5) A parcel map is to be filed with the County Clerk within 24 months of the date of approval; and 6) A Notice of Conditional Approval of this project shall be recorded at the time of filing of the parcel map at the applicant's expense.

See Attached Exhibits A, B & C

317 634

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000422

PRELIMINARY SEWER EVALUATION
FOR

THE POINTE SUBDIVISION
and
BAY MEADOWS SUBDIVISION

Crescent City, California

29 March 2006

Prepared for:

RBS Washington Blvd/Summer Lane LLC
and
HW3 LLC

Prepared by:

STOVER ENGINEERING
711 H Street
Crescent City CA 95531
707-465-6742

JN 3788
JN 3799



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000423

DEFINITION OF TERMS

In this report, the following terms will be used to describe the various conditions evaluated:

- ESFD – equivalent single family dwellings
- Existing – existing users on the system today (2689± ESFD)
- Ultimate – ultimate buildout studied by OLA (2763 ESFD)
- Post Development – ultimate plus Bay Meadows and The Pointe (3107 ESFD)

SCOPE OF REPORT

This report includes a sewer hydraulic analysis for all impacted sewers for existing conditions, ultimate conditions, and post development conditions under peak dry weather conditions within the County Service Area (CSA). Impacts to the CSA lift stations are also evaluated under assumed peak wet weather conditions.

BACKGROUND

Bay Meadows Subdivision is planned to be constructed along Lake Earl Drive in Crescent City, California and includes a proposed 220 lots comprising approximately 70 units in the first development application and possibly 150 more units in subsequent development applications. The Pointe Subdivision is planned to be constructed near Wal-Mart north of Summer Lane in Crescent City and includes 124 proposed lots.

Bay Meadows is currently within the CSA boundaries and The Pointe has applied for annexation so the development can conform to the current Land Use Designation. This report presents an evaluation of the impacts and proposed mitigations to the collection system to accommodate Bay Meadows and The Pointe concurrent with anticipated growth identified by previous sewer improvement studies.

The nearest connection point in CSA #1, Administrative District (AD) #2 to Bay Meadows is manhole 14-14 located at the intersection of Madison and Northcrest Drive. The nearest connection point in CSA#1 AD#2 to The Pointe site is the 8-inch sanitary sewer in Summer Lane feeding to the Wal-Mart Lift Station. The CSA#1 AD#2 collection system eventually connects to the City's collection system at manhole EXMH01 located at the intersection of Pacific Ave and El Dorado St. A hydraulic analysis was performed for the sewers, and lift stations were evaluated to determine any capacity issues arising from the additional wastewater generated by Bay Meadows and The Pointe.

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EXECUTIVE SUMMARY

A Preliminary Sewer Evaluation for The Pointe Subdivision (124 units) was prepared by Stover Engineering dated 8 March 2006. Assumptions were used based on assumptions and findings in a previous Oscar Larson and Associates study and a Montgomery/Watson study. The County Services Area (County) has been collecting additional data since those studies were prepared. The County Engineer determined that the assumptions used in the 8 March Study may be conservative and requested that new assumptions be used in a preliminary evaluation such as this. The County also requested that another anticipated project, the old Bay Meadows Subdivision (70 units plus 150 units), be included in the evaluation. This report supersedes the 8 March report.

The County will continue to reduce infiltration and inflow on the existing sewer collection system. Therefore, the following general assumptions were used in the analysis for this Preliminary Sewer Evaluation:

- Sewer Collection system be evaluated based on peak dry weather unit flows observed during 2005. Allowable depth of pipe to not exceed 2/3 full which will permit additional capacity during wet weather events.
- Lift stations shall be evaluated based on peak wet weather flows assumed in the Oscar Larson study which still may be conservative but is a worse case for ultimate development. Improvements to the lift stations will likely be phased over time as development progresses.

The following conclusions can be made using the assumptions presented above:

1. The sewer collection system is adequate to accommodate the future development anticipated for dry weather flows.
2. Wet weather flows have been identified in previous studies indicating a need to make improvements to the sewer system to accommodate future growth. No sewer overflows were identified in the previous studies as they relate to the collection system.
3. The Wal-Mart Lift Station is adequate for full development of The Pointe Subdivision.
4. The Burtshell Lift Station is not adequate for the anticipated development designed in the Oscar Larson study. Improvements can be made to the Lift Station to accommodate anticipated development within the CSA plus The Pointe Subdivision using pumps from the Elk Valley Road Lift Station. Motors and electrical will also need to be upgraded but the 6-inch discharge line and wet well are adequate.
5. The Oregon Lift Station is not adequate for the anticipated development designed in the Oscar Larson study. Improvements can be made to the Lift Station to accommodate anticipated development within the CSA plus The Pointe Subdivision and Bay Meadows. The pump is adequate but motors and electrical will need to be upgraded. The 10-inch discharge line and wet well are adequate.
6. Detail design will be provided at the time the projects are phased in.

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EXISTING & FUTURE CONDITIONS

Lift Stations

The Pointe wastewater would flow through three lift stations, listed in Table 1 below. Bay Meadows wastewater would flow through one the Oregon Lift Station only. Table 1 outlines the current wet weather design flows to the lift stations, their respective capacities, and any deficiencies.

TABLE 1 - LIFT STATION FLOWS AND CAPACITIES				
Lift Station	Ultimate Peak Wet Weather Flow	Post Development Peak Wet Weather Flow	Published Capacity	Comments
Wal-Mart	83 GPM	176 GPM	180 GPM	Pumps and wet well adequately sized
Burtschell	362 GPM	455 GPM	210 GPM	Pumps are undersized, wet well adequately sized
Oregon	969 GPM	1176 GPM	745 GPM	Pumps are undersized, wet well adequately sized

Table 1 - Lift Station Flows and Capacities

To evaluate the adequacy of these lift stations, peak wet weather flows were generated based upon Del Norte County assumptions and compared to design criteria which appear below:

- Del Norte County assumption of 3.1 persons per ESFD.
- Del Norte County assumption of 80 gallons per day per ESFD.
- Del Norte Peaking Factor assumption of 3.
- Inflow and Infiltration (I/I) data from the 1993 OLA study.
- I/I assumption of 15% of the base sanitary flow for new sewers.
- I/I assumption of 1000 gallons per day per Inch-mile of improved areas (PVC, CIPP, HDPE).
- I/I assumption of 2000 gallons per day per Inch-mile of grouted sewer.

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- Assumption of 10% increase in I/I at ultimate condition due to deterioration of infrastructure.
- Del Norte County design criteria that a lift station's discharge should be as large as the wet weather peak flow.

Comparing peak wet weather flows to lift station discharge capacities shows that both the Burtshell and Oregon Lift Stations are in need of rehabilitation regardless of Bay Meadows and The Pointe connecting in to the system. The Wal-Mart Lift Station is of sufficient size.

System curves were developed for the Burtshell and Oregon Lift Stations. These appear in Appendix A. In order to meet County design criteria, the Burtshell Lift Station must increase capacity to 455 GPM. Following the system curve, the discharge capacity results in a total dynamic head of 69 feet. The existing pumps are not capable of this capacity at any speed or horsepower, and therefore it is recommended larger pumps be installed.

The Burtshell Lift Station may be rehabilitated by installing the pumps presently in the Elk Valley Lift Station (priority lift station for upsizing due to potential development in that area), installing new 20 HP (possibly 15 HP) motors, circuit breakers, and bringing in 460 V power. The pump would then be re-sheaved to a speed of 1650 RPM. The Burtshell system curve super-imposed over the Elk Valley pump curves is also included in Appendix A. 15 HP motors will be required to accommodate just the Ultimate flows.

The Oregon Lift Station may be rehabilitated by installing new 40 HP motors, circuit breakers, and bringing in 460 V power. The pump would then be re-sheaved to a speed of approximately 1500 RPM. 25 HP motors are needed for just Ultimate development.

Increasing the capacity of the lift stations requires an evaluation of the wet well volume. From Del Norte County design criteria published in the 1993 OLA report, the required wet well volume (between on and off switches) for a lift station of this capacity is

$$v = \frac{\theta \times Q}{4}$$

where v is the required wet well volume in cubic feet, θ is the minimum pump cycle time in minutes, and Q is the flow in cubic feet per minute. All wet well volumes exceed the required volume, based upon a 10 minute minimum pump cycle time.

The discharge velocities due to post development flows in the pressure lines from the Burtshell Lift Station and Oregon Lift Station are approximately 5 feet per second (fps) in the respective 6-inch and 10-inch lines. These velocities are below industry acceptable limits of 7-8 fps.

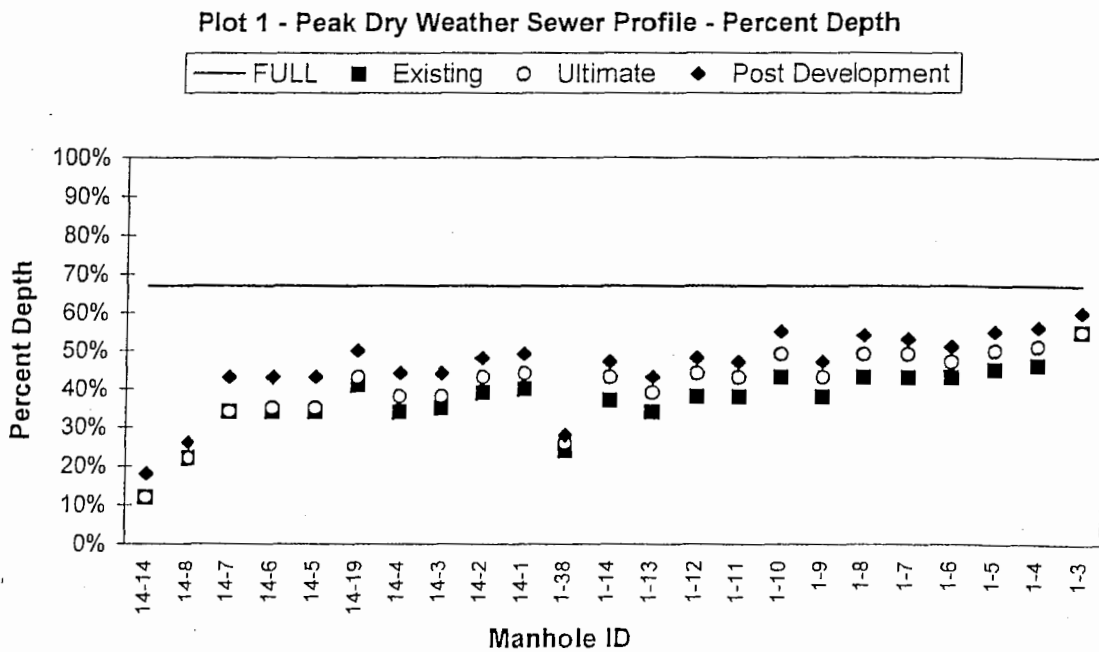
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4

000427

Sewers

Peak wet weather flows assumed from the Oscar Larson study do not conform to the peak wet weather flows monitored by the CSA. Current flow data indicates that the existing sewer collection line in El Dorado is adequate and no sewer overflows have been observed. Del Norte County sewer flow data for Jan 2005 through Feb 2006 is attached in Appendix B. It was found that the peak dry weather flows had a peaking factor of 1.8 rather than the assumed 3.0. Dry weather peaks would then be approximately 0.31 gpm per ESFD. The two developments would add approximately 107 gpm (0.154 MGD) at the discharge of the CSA. Adding the dry weather flow to measured peak flows would amount to approximately 1.5-1.6 MGD. The County Engineer indicated that the high flows measured in December 2005 and January 2006 is an anomaly created by surcharge induced by the City Treatment Plant. A free tail water at times does not exist to accurately measure flows.

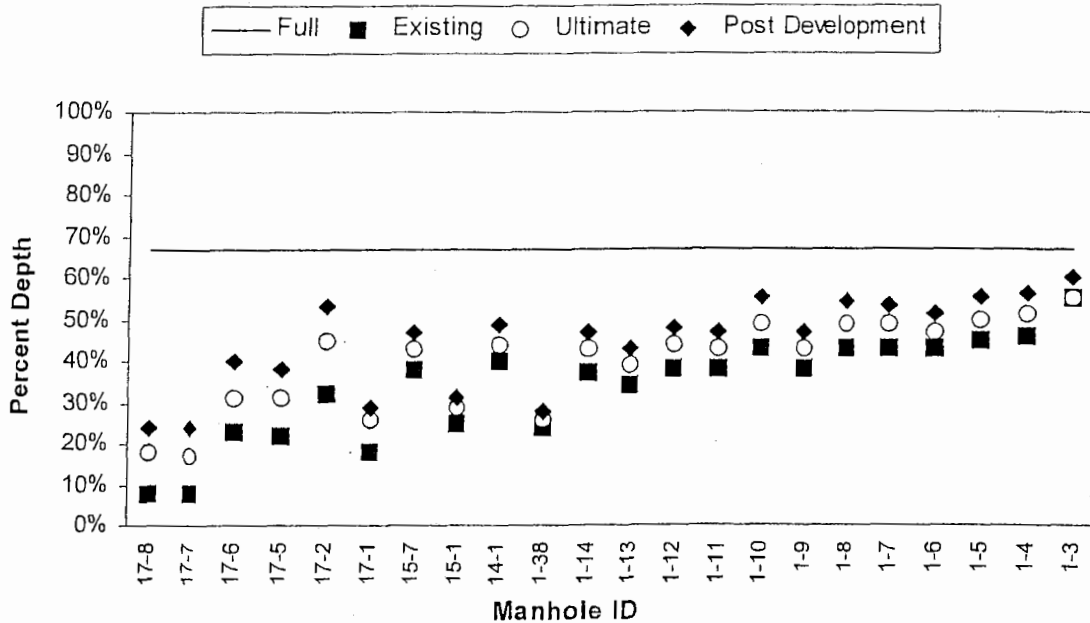
The gravity sewer system that would transport Bay Meadows and The Pointe wastewater to the City's collection system was profiled under various conditions. Plot 1 below illustrates peak dry weather sewer profiles (as percent full) at each manhole along the route the Bay Meadows wastewater would follow to the City's collection system. Profiles below Manhole 14-1 include flows from The Pointe. Plot 2 below illustrates peak dry weather sewer profiles at each manhole along the route The Pointe wastewater would follow to the City's collection system again accounting for Bay Meadows below manhole 14-1.



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Plot 2 - Peak Dry Weather Sewer Profile - Percent Depth



It should be noted that manhole ID 1-3 represents the point in the sewer just upstream of manhole 1-3. At manhole 1-3, all flows from all basins in CSA#1, AD#2 are collected and transported to the City's collection system at manhole EXMH01.

The sizes and slopes of the sewers are adequate for dry weather peak flows. Current data and field observations by County staff indicate that the sewer collection system is adequate for current peak wet weather flows. The anticipated peak dry weather flows from the proposed developments do not substantially increase the measured peak wet weather flows.

CONCLUSIONS

The Burtshell and Oregon Lift Stations are not adequate for the assumed peak wet weather flows for development already contemplated in previous design studies. That is, both of these Lift Stations would have to be improved to accommodate future anticipated (Ultimate) development within the CSA regardless if Bay Meadows or The Pointe is developed. However, improvements to accommodate Post Development flows have been identified and deemed feasible. The developers of Bay Meadows and The Pointe will participate in the costs of making the necessary improvements as needed by the phasing of the improvements.

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Printed in U.S.A.

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U. S. GALLONS PER MINUTE

Consult the factory on special applications or applications exceeding priming or other performance limitations indicated. For Pump Performance Certification Apply to the Company.

CURRENT CAPACITY 210 GPM ULTIMATE PEAK 362 GPM POST DEVELOPMENT 455 GPM (N.G.)

BURTSCHHELL LIFT STATION

Model T3A-B Size 3" x 3"

Imp. Dia. B3/4" BURTSCHHELL

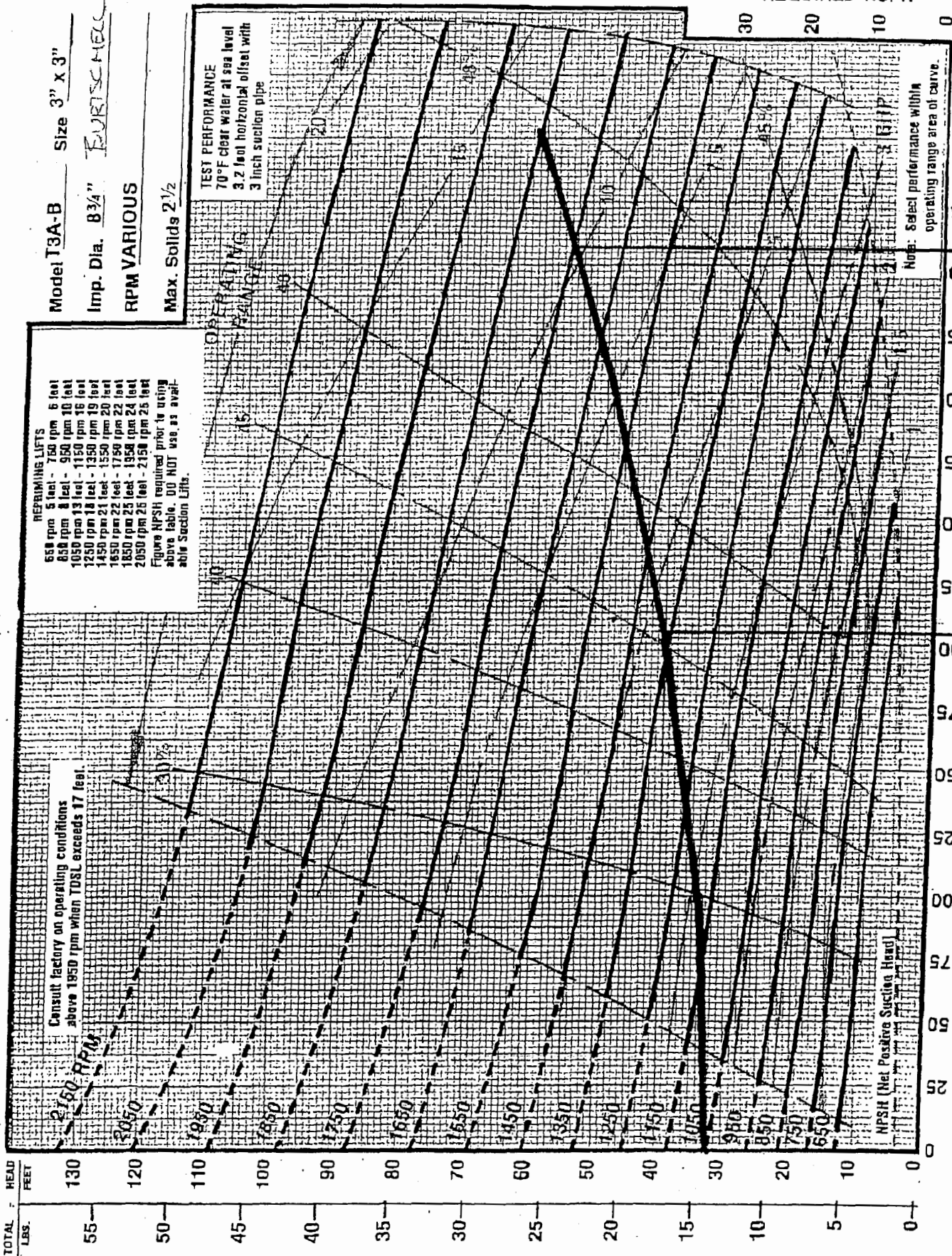
RPM VARIOUS

Max. Solids 2 1/2"

TEST PERFORMANCE
70°F clear water at sea level
3.2 foot horizontal offset with
3 inch suction pipe

PRIMING LIFTS
650 rpm 5 feet - 750 rpm 6 feet
850 rpm 8 feet - 950 rpm 10 feet
1050 rpm 13 feet - 1150 rpm 16 feet
1250 rpm 18 feet - 1350 rpm 19 feet
1450 rpm 21 feet - 1550 rpm 20 feet
1650 rpm 22 feet - 1750 rpm 22 feet
1850 rpm 25 feet - 1950 rpm 24 feet
2050 rpm 26 feet - 2150 rpm 25 feet
Figure NSPH required prior to using above table. DO NOT use as available Section Lifts.

Consult factory on operating conditions above 1950 rpm when TDSL exceeds 17 feet.



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APPENDIX A

Pump and System Curves

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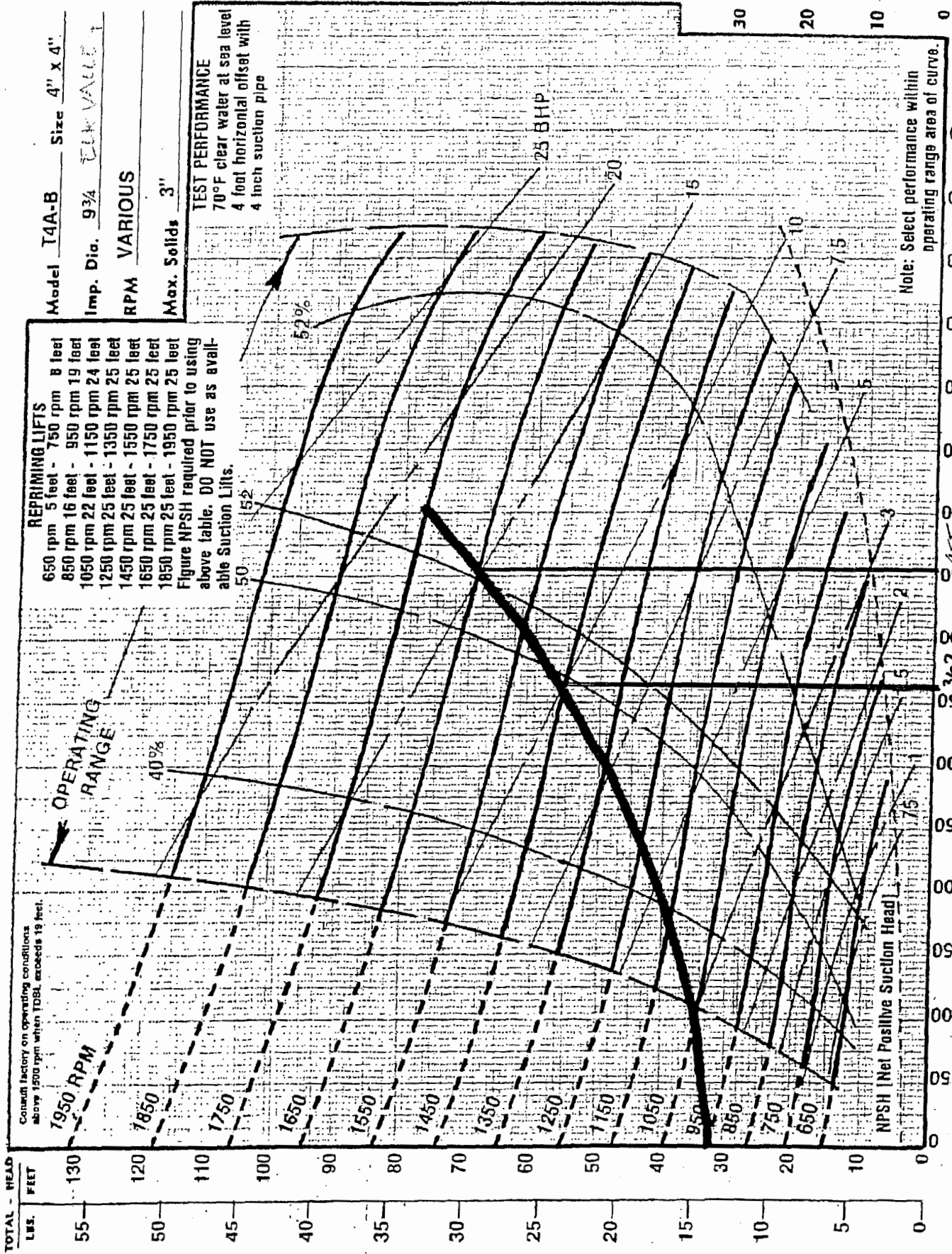
Contact the factory on special applications or applications exceeding printing or other performance limitations indicated. For Prime Performance Certification Apply to the Company.

EIK VALLEY PUMPS 3 BURTSCHELL SYSTEM CURVE

Model T4A-B Size 4" x 4"
Imp. Dia. 9 3/4" EIK VALLEY
RPM VARIOUS
Max. Solids 3"

TEST PERFORMANCE
70°F clear water at sea level
4 foot horizontal offset with
4 inch suction pipe

REPRIMING LIFTS
650 rpm 5 feet - 750 rpm 8 feet
850 rpm 16 feet - 950 rpm 19 feet
1050 rpm 22 feet - 1150 rpm 24 feet
1250 rpm 25 feet - 1350 rpm 25 feet
1450 rpm 25 feet - 1550 rpm 25 feet
1650 rpm 25 feet - 1750 rpm 25 feet
1850 rpm 25 feet - 1950 rpm 25 feet
Figure NPSH required prior to using
above table. DO NOT use as avail-
able Suction Lifts.



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OREGON LIFT STATION

Model **T6A-B** Size **6" x 6"**
 Imp. Dia. **1 1/2"**
 RPM **VARIOUS**
 Max. Solids **3"**

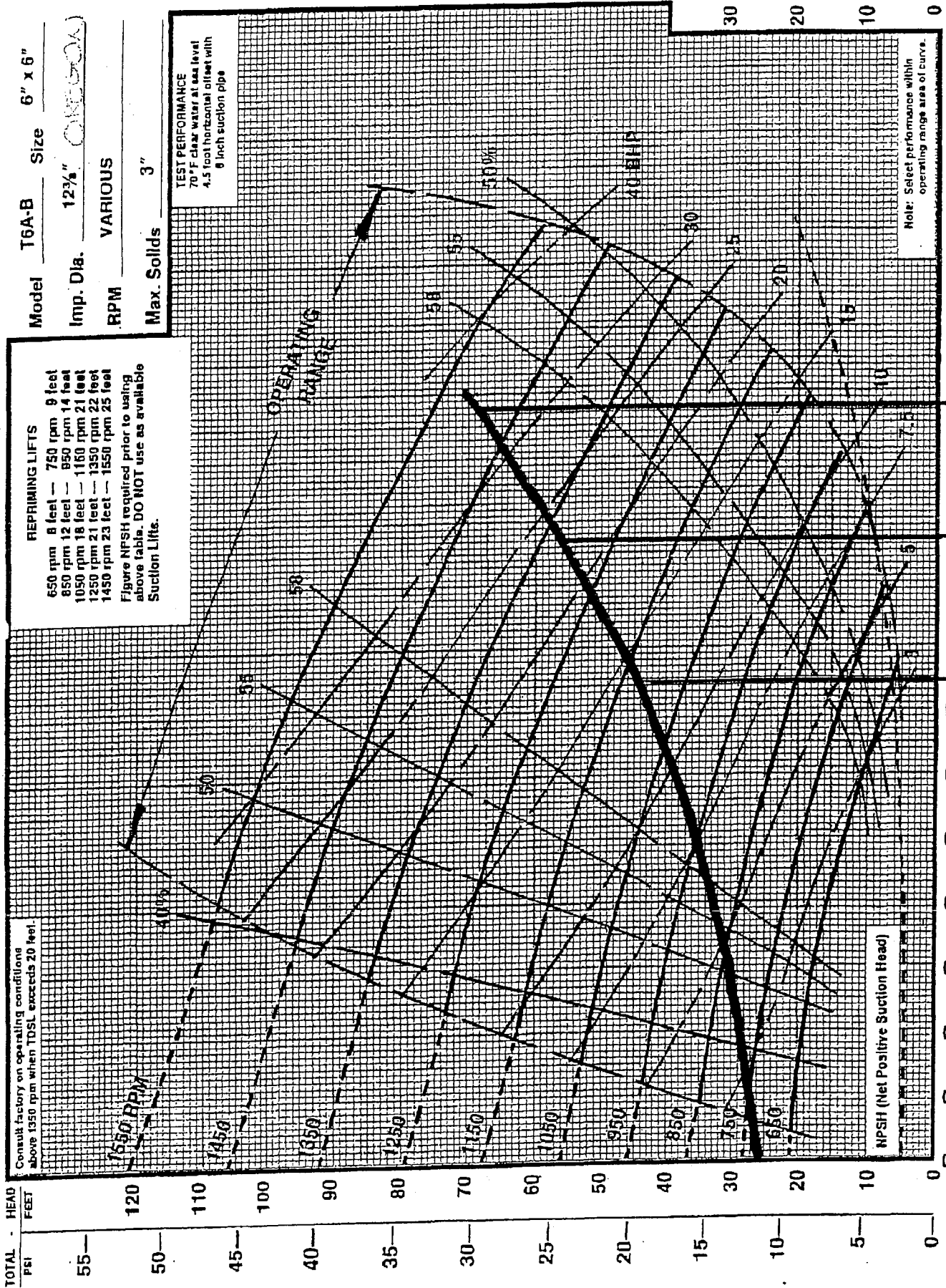
REPRIMING LIFTS

- 650 rpm 8 feet — 750 rpm 9 feet
- 850 rpm 12 feet — 950 rpm 14 feet
- 1050 rpm 18 feet — 1160 rpm 21 feet
- 1250 rpm 21 feet — 1350 rpm 22 feet
- 1450 rpm 23 feet — 1550 rpm 25 feet

Figure NSPH required prior to using above table. DO NOT use as available Suction Lifts.

TEST PERFORMANCE
 70'-F. clear water at sea level
 4.5 foot horizontal offset with
 6 inch suction pipe

Note: Select performance within operating range area of curve.



Contact the factory on special applications or applications exceeding priming or other performance limitations indicated. For Pump Performance Certification Apply to the Company.

U.S. GALLONS PER MINUTE

© COPYRIGHT 1987 THE GORMAN-RUPP COMPANY Firm in U.S.A.



CURRENT CAPACITY 745 GPM
ULTIMATE 969 GPM
DEBIT DEVEL. POINT 1176 LPM

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000433

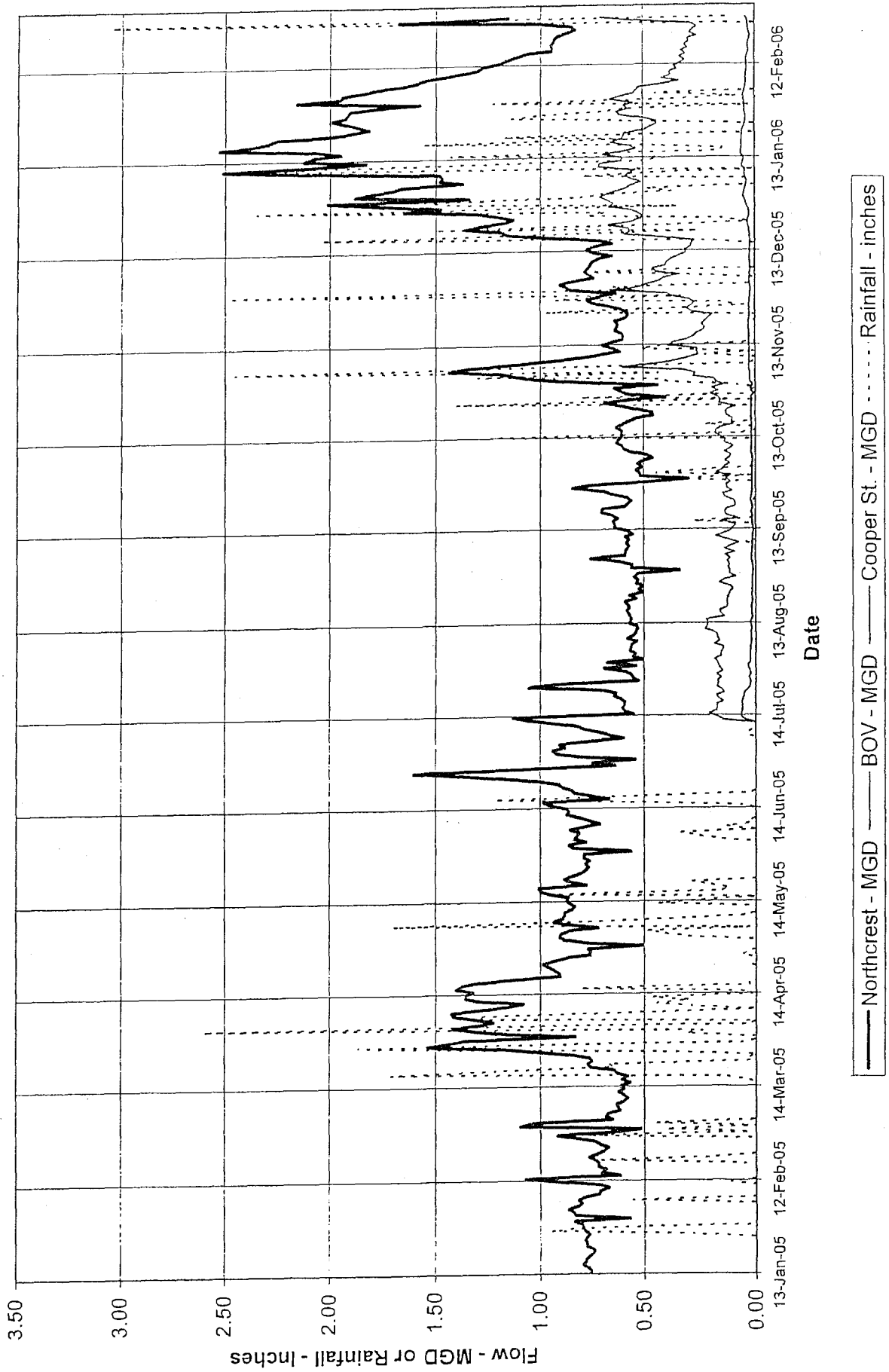
APPENDIX B

Del Norte County Sewer Flows

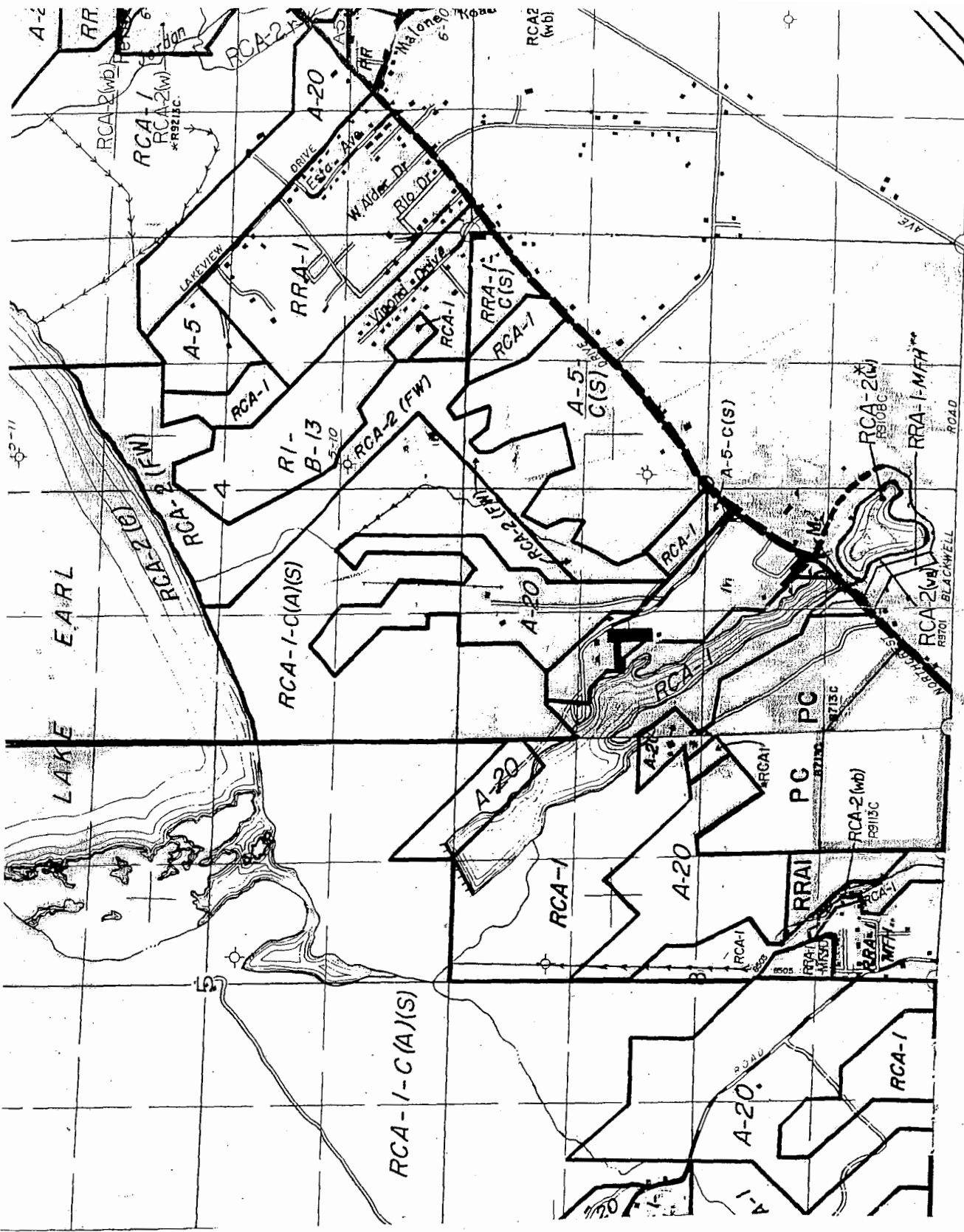
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Figure 1 - Del Norte County Sewer Flows



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DAVID B. KELLEY
Consulting Plant and Soil Scientist

25 January 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Wetlands
Crescent City, California

Dear Mr. Sirchuk:

I have performed several resource surveys on Harbor Center Tract No. 1 (known as the Bay Meadows parcel) over the last two years. As we have discussed, the biologic resources on the project site are rich but we have identified no special-status species or other species of concern on the project site. My firm has produced a delineation of U. S. Army Corps of Engineers jurisdictional wetlands and waters of the United States for use in planning the project layout and design. This delineation was undertaken to identify wetlands and other waters that might fall under the jurisdiction of the US Army Corps of Engineers, using contemporary standards for assessing wetlands features as used by the Corps, the US Fish and Wildlife Service, the State of California, and local agencies for wetland determinations. The development of the map of jurisdictional wetlands and other waters involved intensive field work and the assessment of the hydrologic, soil, and vegetation conditions associated with possible wetland areas on the project site.

A preliminary map of the identified wetlands was prepared and submitted to the Corps of Engineers for review. A representative of the Corps visited the site with me to review the work and the accuracy of the preliminary map, and has agreed that the wetlands identified in the preliminary map have been accurately determined, with some minor adjustments (which are reflected in the current map you have used in your site layout). The submitted map is subject to final field and office review and the issuance of a letter of concurrence by the Corps, which will be forthcoming as soon as all supporting data have been submitted. We are in the process of obtaining that concurrence now.

I have reviewed the Re-Subdivision Survey map your firm has produced following our discussions regarding wetland extent and location on the site. As I recommended, you have consolidated lots and developed plans for layout of roadways and lots in order to avoid wetland impacts to the extent possible. If the project is built as shown on the map, you will have minimal impacts to the jurisdictional wetlands on the site and should be able to proceed with development plans.

Please let me know if you need further information on the work I have performed and on the results of our surveys. I look forward to reviewing further plans for the project.

Sincerely yours,


David B. Kelley
Certified Professional Wetlands Scientist #000748

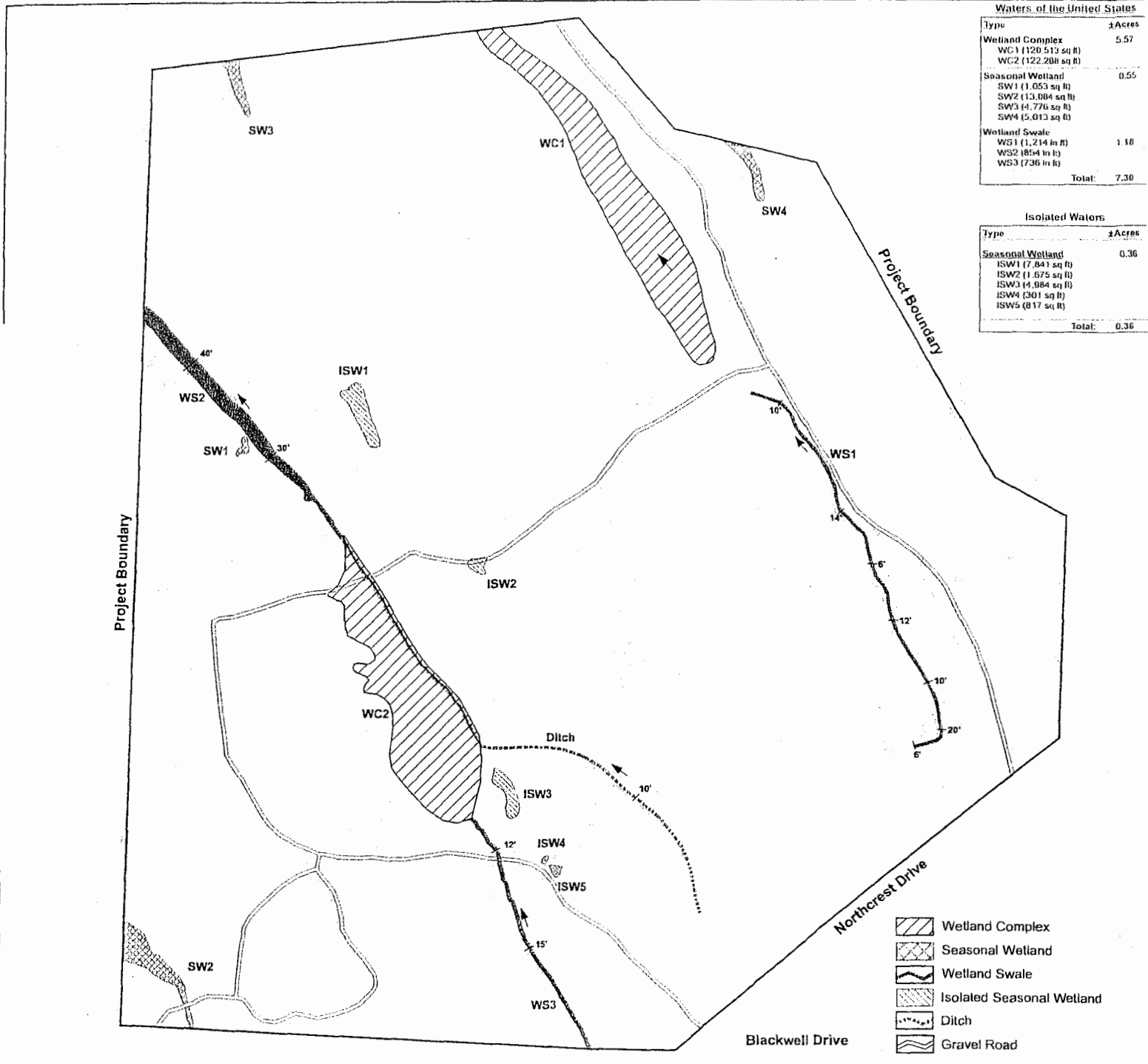
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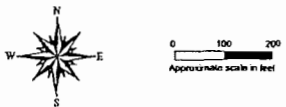


Waters of the United States	
Type	±Acres
Wetland Complex	5.57
WC1 (126,513 sq ft)	
WC2 (122,208 sq ft)	
Seasonal Wetland	0.55
SW1 (1,053 sq ft)	
SW2 (13,084 sq ft)	
SW3 (4,776 sq ft)	
SW4 (5,013 sq ft)	
Wetland Swale	1.10
WS1 (1,214 in ft)	
WS2 (854 in ft)	
WS3 (736 in ft)	
Total:	7.30

Isolated Waters	
Type	±Acres
Seasonal Wetland	0.36
ISW1 (7,841 sq ft)	
ISW2 (1,675 sq ft)	
ISW3 (4,984 sq ft)	
ISW4 (301 sq ft)	
ISW5 (817 sq ft)	
Total:	0.36

- Wetland Complex
- Seasonal Wetland
- Wetland Swale
- Isolated Seasonal Wetland
- Ditch
- Gravel Road

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PROJECT NOTES:
Project area: ±136 acres
Basemap provided by Richard B. Davis Company
Fieldwork conducted by David Kelley, Jeff Glazner, and Dan
Duncanson, July and September, 2004
This map is subject to verification by the Corps of Engineers

**PRELIMINARY WETLAND
DELINEATION MAP**
Bay Meadows Tract
Near Crescent City, Del Norte County, CA
November 28, 2004

66 of 86
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DAVID B. KELLEY

Consulting Plant and Soil Scientist

17 April 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Biological Survey Results
Crescent City, California

Dear Mr. Sirchuk:

As we have discussed, Kelley & Associates Environmental Sciences and North Fork Associates have surveyed the biological resources of the ±136-acre Bay Meadows Tract project site, located north of Crescent City, in Del Norte County, California, on the northwest side of Northcrest Drive, north of Blackwell Lane. This letter is a summary of the results of our work to date. Our ongoing surveys will continue through this spring and summer as we finalize the wetlands determinations and enhance our biological surveys.

Setting

The site occupies an upland marine terrace between two drainage systems and is dissected by smaller drainages. It lies about 2.5 miles east of the Pacific Ocean. Lake Earl is located one mile north of the site, and Highway 101 is located about one mile southeast of the site. This location corresponds to portions of Sections 8 and 9, Township 16 North and Range 1 West, on the Crescent City, California USGS 7.5-minute topographic quadrangle (Figure 1). The approximate coordinates for the gated entrance on Northcrest Drive are 41.7890° N and 124.1910° W.

Topography of the area is lightly undulating; elevations on site range from 44 feet at the top of a small ridge on the east side of the site to 20 feet near the northwest corner of the site. Previous land uses for the site include timber harvesting and cattle grazing. Several gravel roads in various states of use thread through the site. The site has been logged and brushed in the last five years. In some areas, vegetation has rebounded and formed dense thickets. Surrounding the site are rural residences to the south, large, open drainages to the east and west, and a wildlife refuge to the north (Figure 2).

Methodology

Reconnaissance-level resource assessments began in July 2004. The site has been surveyed on foot several times, noting potential wetlands, sensitive habitats, and the presence or potential for the occurrence of special-status species. A Trimble GeoXT sub-meter GPS unit was used to map the approximate boundaries of wetlands and other notable features.

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Consulting Plant and Soil Scientist

To determine potential special-status species in the region, the California Natural Diversity Data Base (CNDDDB) was queried for special-status species within the Crescent City, High Divide, Hiouchi, and Smith River, California USGS 7.5-minute quadrangles (approximately 220 square miles).

Hydrology

Two major drainage systems occur on site, generally flowing from south to north. The western drainage enters the site from two 48-inch culverts located beneath Northcrest Road. This drainage is made up of a several intersecting channels, some of which are abandoned roads. The eastern drainage runs along Northcrest Road and crosses the mid-portion of the site. Water enters a small, apparently man-made channel that parallels a currently used gravel road. Other isolated wetlands are found on site. In most cases, waters enter the site as rainfall or through the culverts beneath Northcrest Drive.

Biological Communities

Redwood. The majority of the site was at one time redwood forest dominated by coastal redwoods, Douglas fir, grand fir, and red alder. The site has been logged and used for grazing for many years and the redwood community now occurs on the eastern and western peripheries and in isolated stands on the property. Wildlife species observed in the redwoods and redwood-grassland transition areas include northern flicker, Pacific slope flycatcher, black-capped chickadee, cedar waxwing, orange-crowned warbler, white-crowned sparrow, and mule deer.

Ruderal Grassland. Disturbed perennial grassland now covers a significant portion of the site. California oatgrass, goldfields, Kentucky bluegrass, and western bracken fern are common species in this habitat. Species observed foraging in this area and in the wetland areas include killdeer, mourning dove, violet-green swallow, Bewick's wren, spotted towhee, Brewer's blackbird, and American goldfinch. Turkey vulture, red-tailed hawk, and red-shouldered hawk were observed soaring above the site, but no raptor nests were identified on site.

Coastal Scrub. In the southwest corner of the site there is a xeric community of coyote brush, scotch broom, coffeeberry, and other shrubs. Wildlife observed include California quail, Anna's hummingbird, western scrub jay, wren, dark-eyed junco, and house finch.

Special-Status Species: California Natural Diversity Data Base

The CNDDDB reported forty-seven special-status plants and twenty-four special-status animals in the region. No special-status species were identified on site. As noted below, some species (such as the Aleutian goose) may utilize the site on a transient basis. Previous surveys of the site (conducted in conjunction with timber harvesting activities) found that there was little potential on site for the occurrence of special-status species (California Department of Fish and Game, personal communication).

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Plants. The majority of plants listed in the CNDDDB have no potential to occur on site, due to a lack of required habitat or resources. Several species only occur on coastal dunes, including pink sand verbena (*Abronia umbellata* ssp. *breviflora*), dark-eyed gilia (*Gilia millefoliata*), sand pea (*Lathyrus japonicus*), and sand dune phacelia (*Phacelia argentea*). Others occurring in marshes, swamps, and bogs include Thurber's reed grass (*Calamagrostis crassiglumis*), Lyngbye's sedge (*Carex lyngbyei*), green sedge (*Carex viridula* var. *viridula*), Siskiyou Indian paintbrush (*Castilleja miniata* ssp. *elata*), marsh pea (*Lathyrus palustris*), western lily (*Lilium occidentale*), horned butterwort (*Pinguicula vulgaris* ssp. *macroceras*), fibrous pondweed (*Potamogeton foliosus* var. *fibrillosus*), Sanford's arrowhead (*Sagittaria sanfordii*), arctic starflower (*Trientalis arctica*), Langsdorf's violet (*Viola langsdorfii*), marsh violet (*Viola palustris*), and western bog violet (*Viola primulifolia* ssp. *occidentalis*).

Additional species listed in the CNDDDB occur only on serpentine or other specific soils, including Koehler's stipitate rock cress (*Arabis koehleri* var. *stipitata*), McDonald's rock cress (*Arabis macdonaldiana*), small groundcone (*Boschniakia hookeri*), yellow-tubered toothwort (*Cardamine nuttallii* var. *gemmata*), serpentine sedge (*Carex serpenticola*), Waldo buckwheat (*Eriogonum pendulum*), Mendocino gentian (*Gentiana setigera*), opposite-leaved lewisia (*Lewisia oppositifolia*), and Howell's jewel-flower (*Streptanthus howellii*).

The remaining plants listed occur in coniferous forest, coastal scrub, and meadow habitats, and therefore have some potential to occur on site. These include arctic spoonwort (*Cochlearia officinalis* var. *arctica*), black crowberry (*Empetrum nigrum* ssp. *hermaphroditum*), Butte County morning-glory (*Calystegia atriplicifolia* ssp. *buttensis*), coast checkerbloom (*Sidalcea oregana* ssp. *eximia*), Henderson's fawn lily (*Erythronium hendersonii*), Indian-pipe (*Monotropa uniflora*), leafy-stemmed miterwort (*Mitella caulescens*), maidenhair spleenwort (*Asplenium trichomanes* ssp. *trichomanes*), maple-leaved checkerbloom (*Sidalcea malachroides*), meadow sedge (*Carex praticola*), minute pocket-moss (*Fissidens pauperculus*), Nuttall's saxifrage (*Saxifraga nuttallii*), Oregon coast Indian paintbrush (*Castilleja affinis* ssp. *littoralis*), Pacific gilia (*Gilia capitata* ssp. *pacifica*), seacoast ragwort (*Senecio bolanderi* var. *bolanderi*), Siskiyou checkerbloom (*Sidalcea malviflora* ssp. *patula*), Tracy's Romanzoffia (*Romanzoffia tracyi*), and Wolf's evening-primrose (*Oenothera wolfii*).

Wildlife. The majority of animals listed have no potential to occur on site, due to a lack of habitat or resources. Species that only occur in the water or along the coast include rhinoceros auklet (*Cerorhinca monocerata*), tidewater goby (*Eucyclogobius newberryi*), Steller sea lion (*Eumetopias jubatus*), tufted puffin (*Fratercula cirrhata*), rocky coast Pacific sideband (*Monadenia fidelis pronotis*), fork-tailed storm-petrel (*Oceanodroma furcata*), coast cutthroat trout (*Oncorhynchus clarki clarki*), summer-run steelhead trout (*Oncorhynchus mykiss indeus*), and double-crested cormorant (*Phalacrocorax auritus*). Other species that occur near marshes and lake margins include Aleutian Canada goose (*Branta canadensis leucopareia*), great egret (*Ardea alba*), snowy egret (*Egretta thula*), and western snowy plover (*Charadrius alexandrinus nivosus*). (The site is adjacent to a Department of Fish and Game protected foraging area managed for the Aleutian goose so some utilization of the area by that species is possible.) Bank

DAVID B. KELLEY

Consulting Plant and Soil Scientist

swallow (*Riparia riparia*) and black swift (*Cypseloides niger*) nest on steep banks and cliffs near water. Pacific fisher (*Martes pennanti pacifica*) occurs in dense coniferous forests.

The remaining listed wildlife species have some potential to occur on site. Oregon silverspot butterfly (*Speyeria zerene hippolyta*) occurs in coastal meadows in Del Norte County. Del Norte salamander (*Plethodon elongatus*), foothill yellow-legged frog (*Rana boylei*), northern red-legged frog (*Rana aurora aurora*), southern torrent salamander (*Rhyacotriton variegatus*), and western tailed frog (*Ascaphus truei*) occur in forests and woodlands, generally near water. Bald eagle (*Haliaeetus leucocephalus*) and white-tailed kite (*Elanus leucurus*) nest in large trees, generally near water.

Conclusions

K&AES and North Fork Associates have conducted biological surveys over the last two years on the ±136-acre Bay Meadows Tract, located north of Crescent City in Del Norte County, California. The site supports disturbed grassland, with patches of redwood forest and a degraded coastal scrub community. Several portions of the site support wetland features. Due to the level of disturbance on site, there is low potential for a variety of special-status plants and a few special-status wildlife species. Further botanical and wildlife surveys are ongoing.

If you need further information on these findings, please let me know. Our surveys will continue this spring. A list of species identified on site and field notes from various site visits are available for your review.

Sincerely yours,

David B. Kelley
Consulting Plant and Soil Scientist
Certified Professional Wetlands Scientist #000748

DAVID B. KELLEY
Consulting Plant and Soil Scientist

17 April 2006

Jan Sirchuk, Project Manager
HWB, LLC
P. O. Box 2767
Harbor, OR 97415

RE: Bay Meadows Resource Surveys: Jurisdictional Wetlands Determination
Crescent City, California

Dear Mr. Sirchuk:

As we recently discussed, K&AES and North Fork Associates have performed several resource surveys on Harbor Center Tract No. 1 (known as the Bay Meadows parcel) over the last two years. The biologic resources on the project site are rich but we have identified no special-status species or other species of concern on the project site, and discussions with federal and state resource agency personnel have confirmed that. In addition, my colleagues and I have conducted a two-phased determination of jurisdictional wetlands and other waters, one to meet the standards of the U. S. Army Corps of Engineers (using standards set forth in the 1987 manual used by the Corps and other federal agencies for their determinations), and one to meet the more rigorous standards of the California Coastal Commission, which utilizes a broader definition of wetlands, relying on fewer parameters for field wetland determinations. The results of our determination have taken into account the standards used by each of the agencies in order to identify jurisdictional wetlands and waters for use in planning the project layout and design. This delineation was undertaken to identify wetlands and other waters that might fall under the jurisdiction of either the US Army Corps of Engineers or the California Coastal Commission, using contemporary standards for assessing wetlands features as used by the Corps, the US Fish and Wildlife Service, the State of California (the Coastal Commission and the Department of Fish and Game), and local agencies for wetland determinations. In both cases, the development of the map of jurisdictional wetlands and other waters involved intensive field work and the assessment of the hydrologic, soil, and vegetation conditions associated with possible wetland areas on the project site.

A preliminary map of the identified wetlands was prepared and submitted to the Corps of Engineers for their review. A representative of the Corps visited the site with me to review the work and the accuracy of the preliminary map, and has agreed that the wetlands identified in the preliminary map have been accurately determined, with some minor adjustments (which are reflected in the current map you have used in your site layout). The submitted map is subject to final field and office review and the issuance of a letter of concurrence by the Corps, which will be forthcoming as soon as all

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Consulting Plant and Soil Scientist

supporting data have been submitted. We are in the process of obtaining that concurrence now.

This version of the map was developed to also meet the standards of the Coastal Commission and reflects that agency's greater reliance on so-called one-parameter determinations (utilizing vegetation patterns primarily). We are refining that map this season (with more intensive vegetation transects and dominance determinations) and will submit the revised map as we complete it. We anticipate that the preliminary map you have used in your site layout planning will undergo some minor adjustments (primarily with regard to edges and boundaries of mapped wetlands), but it accurately depicts the location and nature of jurisdictional wetlands as mapped to the standards of the Coastal Commission. We will submit revisions to that map, reflecting any adjustments necessary to meet the more rigorous Coastal Commission standards, later this year as we finish the botanical transects and vegetation dominance testing.

I have reviewed the Re-Subdivision Survey map your firm has produced following our discussions regarding wetland extent and location on the site. As I recommended, you have consolidated lots and developed plans for layout of roadways and lots in order to avoid jurisdictional wetland impacts to the extent possible. If the project is built as shown on the map, you will have minimal impacts to the jurisdictional wetlands on the site and should be able to proceed with development plans.

Please let me know if you need further information on the work I have performed and on the results of our surveys. I look forward to reviewing further plans for the project and to completing our vegetation surveys as the weather warms up and the rainfall drops off a bit.

Sincerely yours,

David B. Kelley
Consulting Plant and Soil Scientist
Certified Professional Wetlands Scientist #000748

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BIOLOGICAL ASSESSMENT, BAY MEADOWS PROPERTY, DEL NORTE COUNTY

Submitted to: HW3 LLC
P.O. Box 2767
Harbor, OR, 97415

Prepared by: Frank Galea, Certified Wildlife Biologist
E-mail: frankgalea@charter.net

Galea Wildlife Consulting
200 Raccoon Court
Crescent City, CA 95531

Submitted: May, 2006

By:

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SUMMARY

A biological assessment was conducted for the Bay Meadows property, located just west of Northcrest Drive, as part of an subdivision application within the Coastal Zone. No threatened or endangered wildlife species or their specific breeding habitats were found on the property. Wetlands are located on the property however these have been identified by a previous study. Habitats were early seral woodlots, open grassland and riparian habitats around wetlands, stream channels and ditches. Overall, this project would have no significant impacts upon any sensitive or rare wildlife species. Recommendations were made for protective buffers around wetland and riparian habitats.

2.0

INTRODUCTION

The Applicant is re-submitting a proposal for a subdivision on the same property where a subdivision with greater density was already approved. As this property is located within the coastal zone, a biological assessment was requested as part of the permit.

Galea Wildlife Consulting (GWC) Incorporated was contracted to provide a general biological assessment to determine the potential for sensitive wildlife species, including federally or state listed species, and species of special concern.

2.1 Environmental Setting

The Bay Meadows property is located at the western edge of the Crescent City flats, just east of Lake Earl. The property lies just west of Northcrest Drive. East of the property across Northcrest Drive is an elementary school and commercial buildings. South of the property are residences. Old log ponds are located just north of the property. North and east of the property is the Lake Earl Wildlife Area (LEWA), managed by the California Department of Fish and Game.

The property is not flat, but rather undulates from north to south with small uplifts and ridges. The property has been partially cleared and is now covered primarily with grass and small woodlots, having historically been used as pasture and for timber management. Roadways cross the property in several locations. Two small drainages are located within the property.

Habitat on the property consists of small, scattered stands of relatively young redwood, fir and spruce, with large open grass fields occupying much of the western half of the property. Brushy riparian habitat lines ditches and delineated wetland areas.

2.2 Physical Environment

The climate of northern California is characterized as Mediterranean, with cool, wet winters and warm, dry summers with frequent fog. Proximity to the Pacific Ocean produces high levels of humidity and results in abundant fog and fog drip precipitation. Annual precipitation in the project watershed ranges from 60 - 150 inches occurring primarily as rain during the winter months. Air temperatures measured in Crescent City area vary from 41°F to 67°F annually.

3.0

METHODS

3.1 Records Search

A records search of the California Department of Fish and Game's (CDFG) Natural Diversity Data Base (2005) was conducted to determine if any additional special-status plant or animal species had been previously reported within or near the project area. For the purposes of this report, special-status plant and animal species are defined as those listed in the California Fish and Game Code as Rare, Threatened or Endangered, those listed as Threatened or Endangered under the Federal Endangered Species Act, candidates for state or federal listing, and unlisted species that may be significantly affected and warrant consideration. Listed and sensitive wildlife species potentially occurring within the Crescent City quadrangle are presented in Table 1.

Wetlands, streams and ditches were delineated by Kelly & Associates of Davis, California, in an earlier study (Kelly 2006). Their map was used to determine where buffers to wetlands and riparian habitats should be applied.

The CDFG provided a letter to the Planning Department of Del Norte County with review materials in December of 1997.

3.2 Field Investigation

A field investigation of the project area was conducted in June of 2003 (for an earlier THP) and again in January and May of 2006. Certified Wildlife Biologist Frank Galea conducted the field review. All potential wildlife habitats within the project area and within 1/4 mile around the project area were assessed for their potential for listed wildlife species. Trees on and adjacent to the property were searched with high-power binoculars for nests, cavities or other potential nest sites for raptors or other large birds.

4.0

RESULTS AND POTENTIAL IMPACTS

4.1 Records Search

The CDFG Natural Diversity Data Base (CNDDDB, 2005) provided a summary of those federal and state-listed and sensitive wildlife species and their mapped locations, reported to have occurred at least once within the Crescent City quadrangle. No sensitive species was noted to occur within 1/4 mile of the project area.

A list of those sensitive or listed animal species potentially occurring in the vicinity of the project area is presented in Table 1, including the common and scientific names for each. The listing status of each species and if potential habitat (as determined by GWC based upon a review of habitat available within the project area) was located within the project area is also indicated in Table 1. The rationale for habitat determinations per species is provided in Appendix A, in the Habitat Analysis Review section.

Kelly and Associates (Kelly 2006) listed a number of species potentially occurring on the property. A later survey and review by GWC was able to eliminate the possibility of some species due to lack of habitat. Local fisheries biologists Jim Waldvogel and Dan Burgess were contacted for information regarding the potential for fish species to occur in local creeks.

Table 1. Sensitive Wildlife Species Occurring or with the Potential to Occur Within the Region of the Project Area (From NDDB 2005 Quad search, USFWS Del Norte County list, and GWC sources)					
Common Name	Scientific Name	Federal Status	State Status	Breeding Habitat in Project Area?	Forage Habitat in Project Area?
BIRDS					
Northern spotted owl	<i>Strix occidentalis caurina</i>	FT	CSC	No	No
Bald eagle	<i>Haliaeetus leucocephalus</i>	FT	CE/CFP	No	No
Bank Swallow	<i>Riparia riparia</i>	None	CT	No	No
Western Snowy Plover	<i>Charadrius Alexandrinus Nivosus</i>	FT	CSC	No	No
FISH					
Coastal cutthroat trout	<i>Oncorhynchus clarki clarki</i>	SC	None	No	Yes
S. OR./N. CA Coho salmon	<i>Oncorhynchus kisutch</i>	FT	T	No	No
AMPHIBIANS					
Del Norte salamander	<i>Plethodon elongatus</i>	SC	CSC	No	No
Southern torrent (=seep) salamander	<i>Rhyacotriton variegatus</i>	SC	CSC	No	No
Tailed frog	<i>Ascaphus trueii</i>	SC	CSC	No	No
Foothill yellow-legged frog	<i>Rana boylei</i>	None	CSC	No	No
Northern red-legged frog	<i>Rana aurora aurora</i>	None	CSC	Yes	Yes
INVERTEBRATES					
Oregon silverspot butterfly	<i>Speyeria zarene hippolyta</i>	FT	SC	No	No

Codes:

Federal Status

FE Federally endangered
 FT Federally threatened
 FC Federal candidate for listing
 FSC Federal species of concern
 FPE Federally proposed for endangered listing
 FPT Federally proposed for threatened listing

State Status

CE California endangered
 CT California threatened
 CCE California candidate for endangered listing
 CSC California species of concern (CDFG)
 CFP California fully protected

4.2 Habitat Analysis and Impact Assessment for Fish and Wildlife

An assessment of potential habitats and impacts for sensitive wildlife species was conducted in January and May of 2006. The project area was found to contain little potential for the wildlife species listed in Table 1, due to the lack of late seral or other specific habitat types. No occurrences of threatened, endangered or otherwise sensitive wildlife species are listed in the CNDDDB for the project site. Potential sensitive species and a discussion of their status in the area are covered in Appendix A.

Threatened or Endangered Species: Table 1 shows no potential habitat for threatened or endangered species. The project area is relatively open ground due to historic use as pasture. The early age of the trees did not provide habitat for species dependant upon mid or late seral habitats. This project, therefore, would have no potential impacts upon any threatened or endangered species.

Salmonids: Table 1 demonstrates the potential for Coastal Cutthroat trout is present on the property. A small, man-made drainage channel (WS2) enters the property from the eastern property line. The channel first runs under Northcrest Drive via a culvert before entering the property. On the south side of Northcrest Drive the watercourse is composed of a series of drainage ditches which drain residential areas. This channel flows northwest and eventually connects with Lake Earl to the north.

During field review in May, fish fry, which may have been cutthroat trout or perhaps stickleback, were observed within remnant ponding just north of a road crossing, marked E1 (triangle) on the project map. This location is just outside the project area, and the crossing (culvert) is proposed to be removed. The remainder of the drainage ditch was dry, and the small pool area likely will dry out as well with the loss of the fry. Cutthroat trout, therefore, can access onto the property via this drainage, however it is unlikely that they survive here past May. This creek should be designated as a Class I watercourse, from where it enters the property along the west property line, to where the creek runs under the primary road on the property. From there, the creek is not defined, and Kelly & Associates have determined that the creek becomes a shallow wetland complex. There is no potential for cutthroat trout or other fish species occurring east of Northcrest Drive within this watercourse.

The western edge of the property is located adjacent to a natural watercourse which, historically, was dammed to create log ponds. The watercourse and ponds are off-site and designated SW2 on maps. They can be found on USGS topographic maps, which show that it connects to the south end of Lake Earl. The damming has created wetlands which are contained within a sloping bank. As these are man-made ponds, mid-seral conifer grows up to the edge of the wetlands and riparian vegetation was completely lacking.

Amphibians: Kelly (2006) noted potential for foothill yellow-legged frogs, Del Norte salamanders, tailed frog and torrent salamander, based upon forested habitats associated with water. However, no preferred habitats for these species exists on the property. Watercourses are perennial, have warm water when water is in them and have no slope, therefore no potential exists for tailed frogs or torrent salamanders. Del Norte salamanders prefer talus slopes or rocky ground with interstitial spacing, of which none was found on the property. Foot-hill yellow-legged frogs do not occur in the coastal terrace region. Therefore, these amphibian species have no potential to occur on the property.

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Table 1 lists the northern red-legged frog as potentially occurring on the property. No red-legged frogs were observed during surveys, however they are likely present due to scattered wetland habitats, ponds and ditches. The nearby Lake Earl Wildlife Area (LEWA) also provides an expansive ecosystem for this species.

This species is not a protected species in Del Norte County and is locally relatively abundant. Wetland and riparian habitats within the property will remain and protective buffers will be used for additional protection. This species will likely be adversely affected in the project area, although the population at a landscape level will not be significantly affected due to the abundance of habitat within the LEWA.

Raptors and other Avian Species:

The property has limited potential as nesting habitat for raptors, herons and egrets (*Ardiidae*) due to the relatively small size of trees available on the property, which is also located relatively close to a busy road and commercial businesses. The large amount of forage habitat for both raptors and *Ardiidae* species increases the potential of their presence, and potentially of their nesting, in the area. During a survey in January (outside of the breeding season) a red-tailed hawk was detected on the property. It is unlikely this species nests on the property due to the relatively small size of most trees. Abundant nesting habitat is located in the adjacent LEWA properties.

Kelly (2006) noted potential for bald eagles. Bald eagles migrate to the area in the winter and roost around Lake Earl, to the west, however they have yet to nest near Crescent City. A few trees are sufficient in size for an eagle nest, however these are easily searched and no large nests have been located, and no bald eagles have been observed during years of survey during the breeding season.

Wetlands: Wetlands had already been delineated by Kelly & Associates. Wetlands on the property primarily consisted of low areas where seasonal flooding occurred, and most were covered or bordered with dense brush and riparian vegetation.

Wetland habitats are also located just west of the property. The designated wetland, SW2, in the southwest corner of the property, connects with these wetlands. Buffers of 100 feet were applied to wetland areas.

5.0

RECOMMENDATIONS AND MITIGATIONS

Wetland and Riparian Habitats:

Wetlands, riparian habitats and man-made ditches on the property have been previously identified and mapped. For the purpose of removing additional vegetation on the property, the following buffers will provide sufficient habitat and resource protection to these areas;

1. Wetland Complexes and Seasonal Wetland Areas: Mechanized equipment should not encroach within 100 feet of any wetland area or riparian vegetation directly associated around the perimeter of wetland areas, as shown by maps prepared by Kelly & Associates. A 100 foot buffer would be sufficient to protect resources associated with wetlands on the property.

2. Riparian Corridors: Natural drainages ("wetland swales") on the property were mapped by Kelly & Associates. These were lined with dense riparian vegetation. A 25 foot buffer from the outermost edge of riparian vegetation would be sufficient to protect resources associated with wetland complex habitats located within the swales.

3. The watercourse on the northwestern portion of the property (WS2) should be designated as a Class I watercourse, from where it enters the property along the west property line, to where the creek runs under the primary road on the property, at designated point E1. From there, the creek is not defined, and Kelly & Associates have determined that the creek becomes a shallow wetland complex.

A 100 foot buffer along that portion of the channel designated as Class I would be appropriate, as the vegetation here is very dense, providing adequate screening, considering the channel dries up completely during summer and fall months. That portion of the creek designated as Class I should have a 100 foot buffer from the top of bank. For the wetland complex south of the creek, a 25 foot buffer from the outermost edge of the riparian vegetation would be sufficient to protect resources associated with wetland habitats, as the amount of riparian habitat surrounding the wetland complex is extensive.

4. When culvert removal occurs as a part of this project the work should only occur during summer or fall when channels are completely dry. Approaches to the channel should be sloped to natural elevations. Disturbed areas along the channel should be planted with willows, alder or other natural, screening vegetation.

5. Man-made ditches: One man-made ditch was delineated on the wetland map. No riparian vegetation immediately along the ditch should be removed. No additional buffer is needed on either side of the ditch.

6.0

STAFF QUALIFICATIONS

Habitat assessment and report writing for this project was conducted by Principal Biologist, Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989 in Crescent City. Frank is Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a Master of Science Degree in Wildlife Management from Humboldt State University and a Bachelor of Science in Zoology from San Diego State University. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 16 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

APPENDIX A - HABITAT ANALYSIS FOR POTENTIAL RARE, THREATENED OR ENDANGERED WILDLIFE SPECIES OF CONCERN

The following is an analysis of the potential for the sensitive wildlife species listed in Table 1 to occur within the project area, or the possibility of impacts to their populations by this project.

Bald Eagle (*Haliaeetus leucocephalus*)

Distribution. The bald eagle is listed as federally threatened and a California endangered and fully protected species, although they were recently proposed for federal delisting. They are found throughout California, and the population is expanding westward toward historic range. Bald eagles are not known to currently nest within Del Norte county. Bald eagles are typically seen during the winter at Lake Earl, located approximately ½ mile west of the project, however there is no preferred nesting or foraging habitat in or near the property.

Habitat Requirements. Bald eagles prefer to nest close (within one mile, usually in view) to large, fish-rich waters such as lakes and rivers. They typically utilize large conifers to build nests in, which can be standing alone or in the midst of a dense timber stand.

Occurrence within the Assessment Area. No nesting habitat for bald eagles was observed within 0.25 miles of the project area.

Management Considerations. No potential habitat for this species was found in the assessment area, therefore no management consideration is required.

Northern Spotted Owl (*Strix, occidentalis caurina*)

Distribution. This species is listed as federally threatened and a California species of concern. The spotted owl is not uncommon over most of its range, which in northern California includes most conifer forests and mixed-conifer woodlands of the coastal mountains. It occurs locally in second-growth forests.

Habitat Requirements. This species prefers large diameter trees within well-shaded stands for nest sites, where they will use old nests built by other species, cavities or shaded, broken-topped trees. They prefer an overhead canopy over nests and roost sites for thermal and predator protection and are intolerant to extreme heat, especially for nest sites. Spotted owls hunt in relatively closed canopy forests with open sub-canopies and moderate stem densities.

Occurrence within the Project Area. No potential habitat is available within the project area.

Management Considerations. As there is no potential for this species occurring in the project area, and no habitat for this species would be affected, there is no need for management consideration.

Marbled Murrelet (*Brachyramphus marmoratus*)

Distribution. The marbled murrelet is listed as federally threatened and as California endangered. Their range is closely tied to large, intact tracts of old-growth redwood and Douglas-fir forests located within 20-40 miles of the California and Oregon coasts.

Habitat Requirements. Marbled murrelets nest in old-growth stands from April to July, and spend the remainder of the year on the open ocean. They only nest in very large, shaded old-growth trees, within intact stands, with big, mossy limbs, and are intolerant of high temperatures during the breeding season. They are semi-colonial nesters, preferring to nest in stands occupied by others of their species. They then can travel back and forth to marine forage areas in groups, assumably to deter attacks by predators such as the peregrine falcon.

Occurrence within the Project Area. No potential habitat exists within the assessment area.

Management Considerations. As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

Western Snowy Plover (*Charadrius alexandrinus nivosus*)

Distribution. This species is listed as federally threatened and a California species of concern. The snowy plover is a rare bird along the California and Oregon coasts, inhabiting barren sand beaches and flats.

Habitat Requirements. The snowy plover preferably utilizes marine environments such as barren sand beaches. They will rarely utilize sandy gravel bars along major rivers, as was recently discovered in Humboldt county.

Occurrence within the Project Area. No potential nesting or foraging habitat was observed in the assessment area.

Management Considerations. As there is no potential for this species occurring in the assessment area, there is no need for management consideration.

White-tailed kite (*Elanus leucurus*)

Distribution. This species is found throughout northern California, gradually increasing its range and is now breeding in Del Norte county.

Habitat Requirements. This species forages in open areas such as fields. It can nest in hedgerows and can nest in relatively small stands of conifer or deciduous trees, however this property is often disturbed and offers no potential as nesting habitat for this species.

Occurrence within or near the Project Area. Potential foraging and nesting habitat is available within the project area. This non-endemic species is becoming more prevalent in Del Norte county.

Management Considerations. This project will occur outside of the nesting season. If work is to be conducted during the nesting season a raptor survey would first occur to determine if this species is breeding on the property.

Osprey (*Pandion haliaetus*)

Distribution. This species is a California species of concern. The osprey is common over most of its range, which in northern California includes fish-bearing rivers and lakes, plus bays and other productive forage areas along the ocean.

Habitat Requirements. The osprey prefers large diameter snags within conifer stands for nest sites, where they will build their own nests. Osprey specialize on foraging on fish species, however they can utilize fresh or saltwater habitats for foraging.

Occurrence within the Project Area. No preferred nesting or foraging habitat occurs within the project area, and no nests were observed during field surveys. The California NDDB shows no osprey nest sites within 0.50 miles of the project.

Management Considerations. No preferred nesting or foraging habitat for this species is available in the project area. This project will occur outside of the nesting season. If work is to be conducted during the nesting season a raptor survey would first occur to determine if this species is breeding on the property.

Southern Torrent Salamander (*Rhyacotriton variegatus*)

Distribution. The southern torrent salamander inhabits the humid coastal forests of Washington, Oregon, and California. In California, southern torrent salamanders occur only in the extreme northwestern portion of the state in Del Norte, Humboldt, western Siskiyou, Trinity, and Mendocino Counties.

Habitat Requirements. The southern torrent salamander is found most often in the cool, moist microclimate of late seral-stage forests (Bury and Corn 1988, Welsh 1990). Transformed and larval salamanders are usually found in shallow, cool streams, or beneath rocks and organic debris. Transformed individuals are also found under surface objects, wet moss, or leaf litter adjacent to streams and seeps, usually in the splash zone and within 1 meter of free-running water (Nussbaum and Tait 1977). They are always found in or near water, have an extremely low range of temperature tolerance (Brattstrom 1963), and are the most sensitive salamander to loss of water (Ray 1958).

Occurrence within the Project Area. There was no potential habitat for southern torrent salamanders within the project area.

Management Considerations. Because southern torrent salamanders require habitat that does not occur within the project area, there is no need for management consideration.

Tailed Frog (*Ascaphus truei*)

Distribution. The range of the tailed frog extends from southwestern British Columbia south through western Washington and Oregon and into northwestern California. Disjunct populations also exist in Montana and Idaho. In California, the tailed frog is found in the northwestern corner of the state from Del Norte County south to central Sonoma County and east as far as southwest Shasta County (Bury 1968, Stebbins 1985).

Habitat Requirements. The tailed frog requires cold, perennial, swift-flowing streams, and cool, moist micro-habitat conditions (Welsh 1990). They are typically associated with redwood, Douglas-fir, and yellow pine forests (Bury 1968). Highly specialized larvae are found attached to rocky substrates in fast-flowing water. In this area tailed frogs are often found in small, moderate to high gradient fish bearing and non-fish bearing watercourses. Larval tailed frogs mature for a period of one to two years before metamorphosis occurs. Tailed frogs are vulnerable to extreme habitat changes and predation from resident trout and Pacific giant salamanders. Although the tailed frog is known to occupy cool, small headwater streams it can sometimes be located in lower gradient reaches of larger streams.

Occurrence within the Project Area. No potential tailed frog habitat was located within the assessment area.

Management Considerations. Habitat conditions within the project area were unsuitable for the tailed frog. No management considerations for this species are necessary.

Del Norte Salamander (*Plethodon elongatus*)

Distribution. The Del Norte salamander is found in coastal forests of Del Norte and other northwestern counties. Unlike other amphibian species listed, which prefer riparian or wetland habitats, the Del Norte salamander is an upland species, relatively common in preferred habitats of moist, rocky soils and rubble, slides, or under dead and down woody material. This species is designated as a Species of Special Concern by the California Department of Fish and Game.

Habitat Requirements. Del Norte salamanders are found in a variety of forest types, including redwood, valley-foothill riparian, Douglas-fir, montane riparian and montane hardwood-conifer forests to 2,500 feet. However, regardless of the forest type, this species requires rocky ground with interstitial spacing which allows for vertical movement to sub-surface refugia. They feed on a variety of invertebrates including springtails, beetles, annelid worms, spiders, flies and millipedes. Breeding occurs in moist soils, as they do not require standing water.

Occurrence within the Project Area. No potential Del Norte salamander habitat was noted.

Management Considerations. This species is very common in foothills east of the project area, especially in talus or rocky substrates. No potential habitat is available in the project area, therefore there is no need for additional management considerations for this species.

Northern Red-legged frog (*Rana aurora*)

Distribution. The northern red legged frog was relatively common in riparian areas and ponds over most of non-desert areas of California. Loss of habitat and predation by non-native frogs has reduced or eliminated populations in southern and central California, but not the in northwest. In Del Norte county this is a very common species in a wide range of habitats. It is designated as a Species of Special Concern by the California Department of Fish and Game.

Habitat Requirements. This species breeds in moist areas, requiring standing water. It feeds on a variety of invertebrates, and can forage in wet fields, backyards, and in woodlots.

Occurrence within the Project Area. Potential red-legged frog breeding and foraging habitat was noted during field review and this species is most likely present.

Management Considerations. Resource protection buffers were recommended around wetland and riparian habitats, where this species would be expected. These buffers will help protect this species and their habitats in the project area, although overall the population will likely be adversely, but not significantly, impacted.

Coastal Cutthroat Trout (*Oncorhynchus clarki clarki*)

Distribution. Coastal cutthroat trout are found in small coastal streams from the Eel River in California North to Seward, Alaska (Moyle 1976). In California, they are limited to drainages along the western slope of the Coast Range. Coastal cutthroat trout have both anadromous and resident forms.

Habitat Requirements. Coastal cutthroat require small, low gradient coastal streams that are cool (<18° C) and well shaded. Small gravel, which can vary in size from 10 to 40 millimeters, is essential for spawning (Wydoski and Whitney 1979). When steelhead trout are found in the same stream, coastal cutthroat tend to utilize smaller tributaries and higher portions of the watershed.

During the first year of rearing, coastal cutthroat primarily inhabit the smaller tributaries and headwater streams in the system where they feed primarily on insects (Moyle et al. 1989). After the first year, coastal cutthroat may migrate out to sea or downstream into the larger river system where smaller fish may become a more important part of their diet (Wydoski and Whitney 1979). Once they reach the ocean, most will remain within their natal stream's estuary. They may spend one or several years at sea but will migrate upstream to spawn.

Occurrence within the Project Area. One creek on the property is a tributary to Lake Earl, and contains cutthroat trout fry which will not survive due to a lack of water in the system during summer.

Management Considerations. A 100 foot buffer from the edge of riparian habitat is recommended to protect fisheries resources within the Class I watercourse from the road culvert to the northwest.

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12

000457

RESUBDIVISION MAP WITH WETLAND AND WETLAND BUFFER

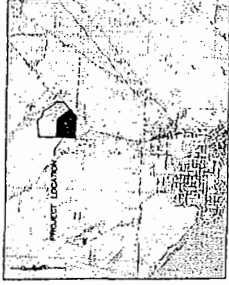
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STOVER ENGINEERING
 CIVIL ENGINEERS AND CONSULTANTS
 PO BOX 203 - 2114 STREET
 CRESCENT CITY, CA 95531 - 707-465-8742

JHP, LLC
 BAY MEADOWS MAJOR SUBDIVISION
 CRESCENT CITY, CA
 RESUBDIVISION MAP

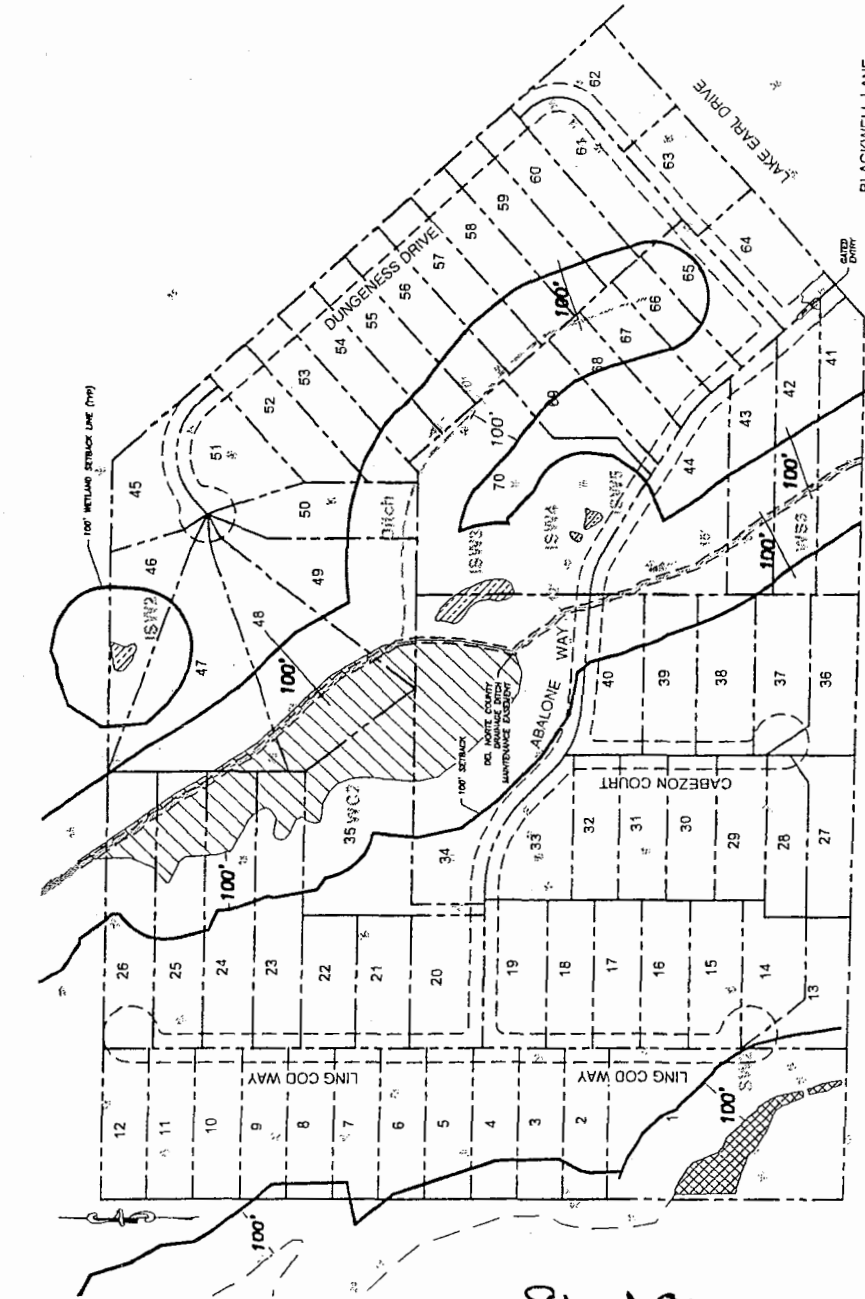
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 DATE: 5/20/06
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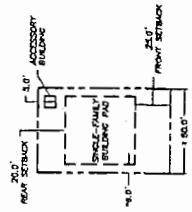
VICINITY MAP
 BASIS OF BEARING AND VERTICAL DATUM
 THE BASIS OF BEARING IS BASED ON SURVEY DATA PROVIDED BY RECORD & SURVEY CO. THE VERTICAL DATUM IS NAVD83.

- GENERAL NOTES
1. ALL UTILITIES SHOWN ARE PRELIMINARY AND SHOWN ONLY FOR SCHEDULING PURPOSES.
 2. ALL UTILITIES SHOWN ARE TO BE DELETED BY THE CITY ENGINEER AND DEL. WORK COUNTY ENGINEER.

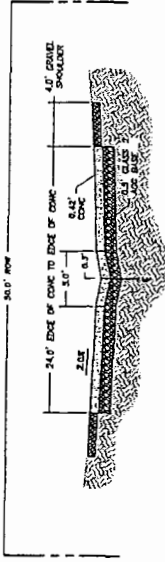
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- DEVELOPER
 JHP, LLC
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- ENGINEER
 STOVER ENGINEERING
 2114 STREET
 CRESCENT CITY, CA 95531



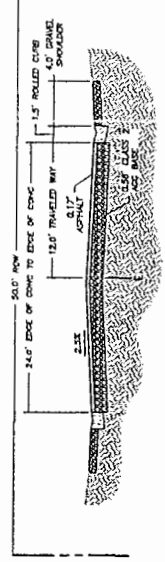
1 BAY MEADOWS TENTATIVE MAP
 11-1108



2 SINGLE LOT PLOT PLAN (TYP)
 11-1108



3 ACCESS ROAD ALTERNATIVE No. 1
 11-1108



4 ACCESS ROAD ALTERNATIVE No. 2
 11-1108

86486

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, GOVERNOR

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1885
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

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



RECEIVED

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

AUG 28 2006

CALIFORNIA
COASTAL COMMISSION

Please Review Attached Appeal Information Sheet Prior To Completion of This Form.

SECTION I. Appellant(s)

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

Friends of Del Norte

PO Box 229

Gasquet CA 95543 707-465-8904

Zip

Area Code

Phone No.

SECTION II. Decision Being Appealed

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

2. Brief description of development being appealed: "Harbor Center Tract"
Major subdivision/use permit
Phase I of a large subdivision - "Bay Meadows"
MJ0603C / UPO640C APN 110-020-62

3. Development's location (street address, assessor's parcel no., cross-street, etc.): 2400 Lake Earl Dr.
Crescent City

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: _____

c. Denial: _____

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-DNC-06-037

DATE FILED: 8/28/06

DISTRICT: North Coast

EXHIBIT NO. 11
APPEAL NO. A-1-DNC-06-037
JHP LLC
APPEAL (1 of 20)

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

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

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

6. Date of local government's decision: Vote hearing - Aug 2 2006

7. Local government's file number (if any): MJ0603e/UP0640C

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

JHP / HW3 LLC
PO Box 2767
Harbor, OR 97415

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

- (1) Eileen Cooper
1093 HWY 101 N
Crescent City CA 95531
- (2) _____
- (3) _____
- (4) _____

SECTION IV. Reasons Supporting This Appeal

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

2 of 20

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

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

Please see attachment
for LCP inconsistency &
#3) development is not (consistent) compatible
with the established physical scale of
the area

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

SECTION V. Certification

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

Eileen Cooper
Signature of Appellant(s) or
Authorized Agent

Date Aug 28, 2006

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

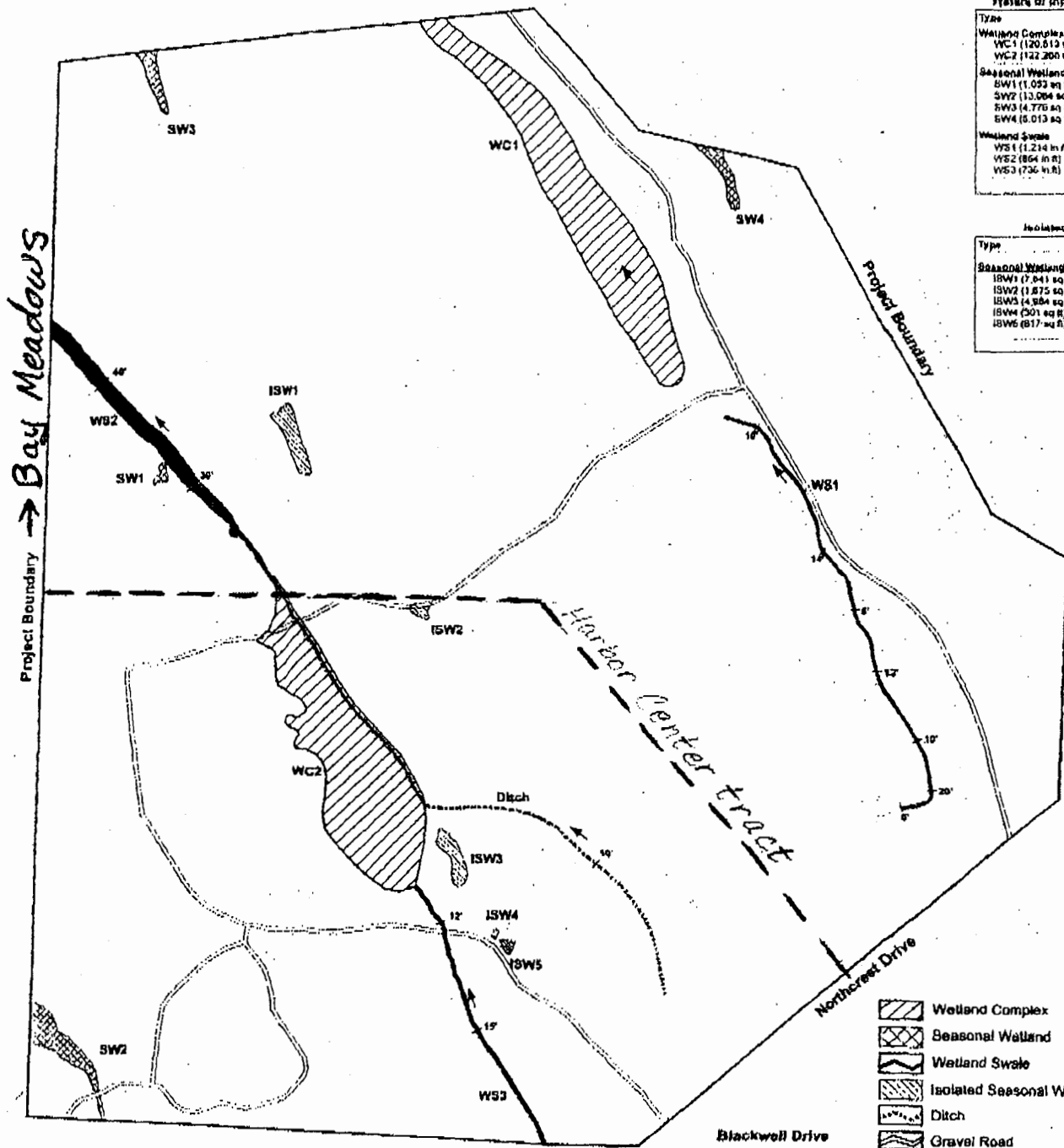
SECTION VI. Agent Authorization

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

Signature of Appellant(s)

Date _____

3920

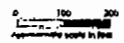


Wetlands of the United States	
Type	± Acres
Wetland Complex	2.57
WC1 (120,812 sq ft)	
WC2 (122,200 sq ft)	
Seasonal Wetland	0.00
SW1 (1,023 sq ft)	
SW2 (13,084 sq ft)	
SW3 (4,775 sq ft)	
SW4 (8,013 sq ft)	
Wetland Swale	1.16
WS1 (1,214 sq ft)	
WS2 (854 sq ft)	
WS3 (736 sq ft)	
Total:	7.30

Isolated Wetlands	
Type	± Acres
Seasonal Wetland	0.30
ISW1 (7,841 sq ft)	
ISW2 (1,875 sq ft)	
ISW3 (4,884 sq ft)	
ISW4 (501 sq ft)	
ISW5 (817 sq ft)	
Total:	0.36

- Wetland Complex
- Seasonal Wetland
- Wetland Swale
- Isolated Seasonal Wetland
- Ditch
- Gravel Road

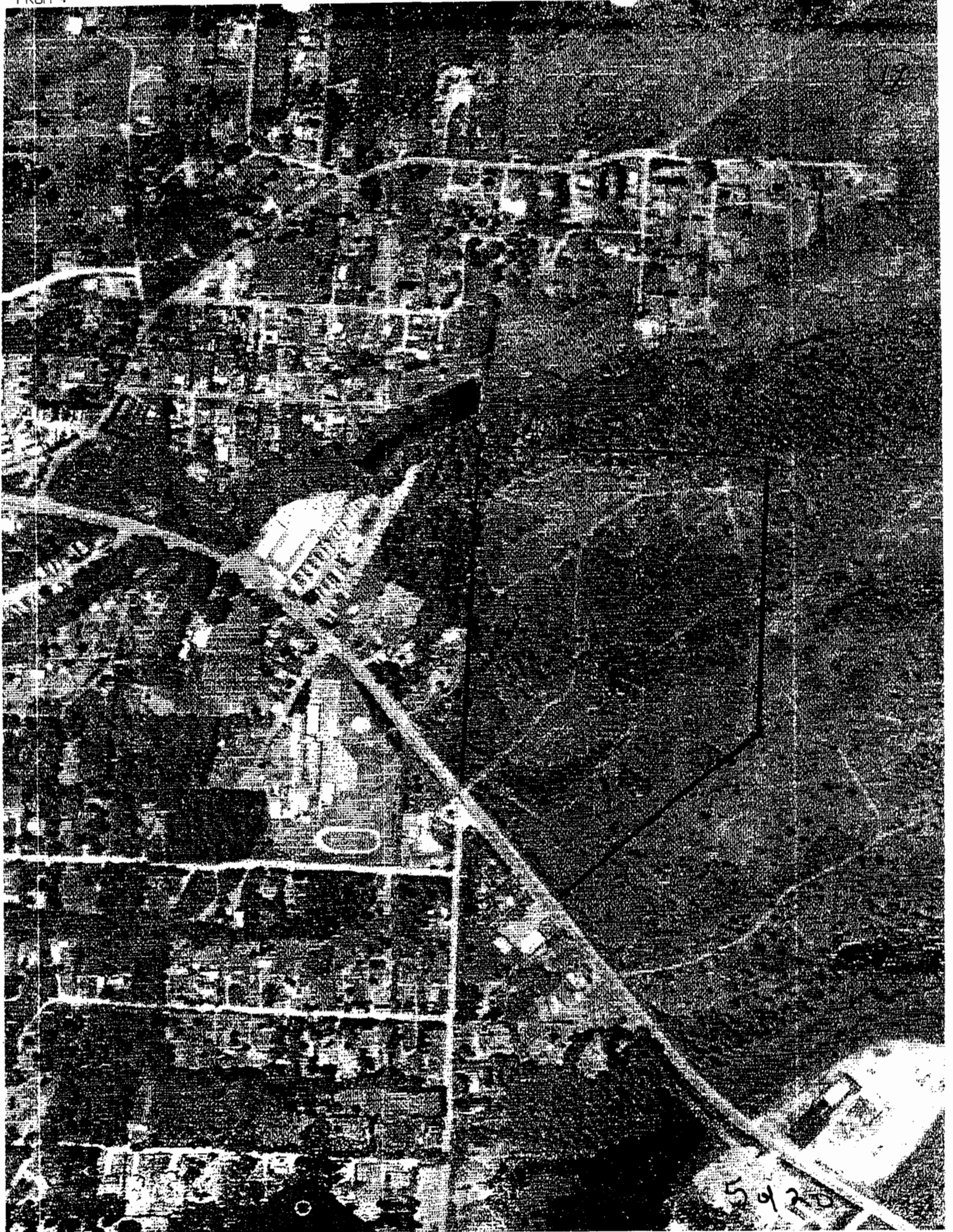
KELLEY & ASSOCIATES
ENVIRONMENTAL SCIENCES, INC.
 316 F Street SE, Davis, CA 95618-4514
 (916) 752-1839 Fax (916) 752-1934 Email info@kellysci.com



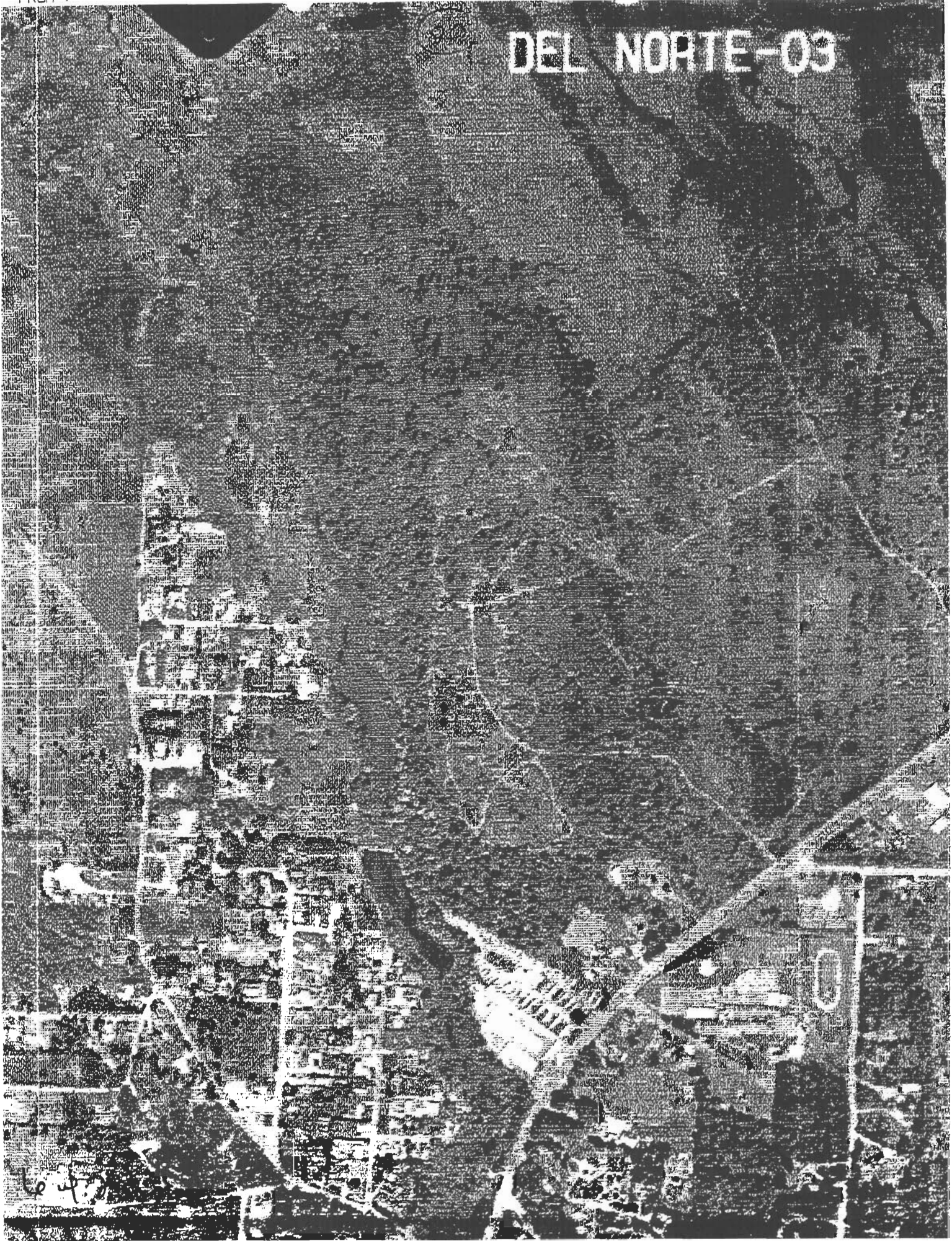
PROJECT NOTES:
 Project area: ±130 acres
 Base map provided by Richard B. Davis Company
 Fieldwork conducted by David Kelley, Jeff Gasner, and Dan Duncanson, July and September 2004
 This map is subject to verification by the Corps of Engineers

PRELIMINARY WETLAND
DELINEATION MAP
Bay Meadows Tract
 Near Crescent City, Del Norte County, CA
 November 28, 2004

Added — Boundary — Harbor Center Tract
 4 of 20
 000438



DEL NORTE-03



Friends of Del Norte, *Committed to our environment since 1973*
*A nonprofit, membership based conservation group advocating sound
environmental policies for our region.*

PO Box 229, Gasquet, CA 95543 e-mail: friendsdelnorte@yahoo.com



FAXED Aug 28, 2006

TOTAL PGS. FAXED, including this one: 20

ATT: James Baskin, Analyst, California Coastal Commission

FRM: Joe Gillespie, President, Friends of Del Norte;
Eileen Cooper, Board Member, Friends of Del Norte, 707 465-8904

RE: APPEAL of Del Norte County Planning Commission action regarding
MJ0603C/UP0640, Harbor Center Tract, APP# 110-020-62

There are several substantive and unresolved LCP and Coastal Act issues related to this project "Harbor Center Tract", which is a major subdivision of 70 home sites on 54 acres (part of a larger parcel of 135 acres total) containing sensitive wetland habitat that is contiguous with and drains directly into Lake Earl Coastal Lagoon. Lake Earl Coastal Lagoon is cited by State Agencies as one of the 19 most important California Coastal Wetlands, with priority for restoration, that is habitat for numerous Endangered/threatened species and species of special concern. It is also the largest coastal lagoon in California. This major subdivision is being processed without even the minimum CEQA requirement of a negative declaration.

Furthermore, this "Harbor Center Tract" is really only the first phase of a much larger subdivision called "Bay Meadows" that includes a second phase of 150 lots that will fill the entire remainder parcel of 135 acres. (Please see recent sewer system evaluation page 000425 of the Del Norte County Commission Report (DNR 000425) that references both phases, and parcel map on page DNR 000415.) The second phase of 150 lots will wrap around this first phase. Both phases were described and planned for within previous

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environmental reviews during 1986 and 1989; however these environmental reviews were never acted upon and are currently outdated. The County PC zoning for this area has expired.

Significant and Avoidable ESHA wetland impacts, and cumulative impacts, may result from the fragmentation of the review process.

- The review process is fragmented, and neglects to inform reviewers about how the two phases of Bay Meadows relate, and therefore may fail to consider reasonable alternatives that avoid wetland impacts. This fragmentation fails to consider the cumulative effects for both phases combined. Please review the two phases as a whole.
- In particular, and for example, the review process fails to consider that a triangular piece of land within the planned second phase and adjacent to the northwest corner of the Harbor Center Tract (Please see our attachment, mapping the triangle at the northwest corner in question) appears to be cut off from access at the northern Ling Cod Way turnaround at parcels 12/26, and is otherwise surrounded by Wetland WS2 (page DNR 000438). This most probably would result in the necessity for a later wetland crossing to access this triangle of land for development during the second phase of Bay Meadows. There is no information about the subdivision layout within this Northwest triangle of land or road layout for the second phase of the project. Therefore, there is a failure to consider reasonable alternatives that provide access to this triangle of land or other areas, without necessitating future stream/wetland crossings during phase II. Will there be development in this triangle? If so, is a turnabout may not be appropriate here.
- It is at least prudent to include this Northwest triangle of land within the current review and phase of development, in order to provide a parcel layout that avoids wetland crossings of WS2 and SW1, thus minimizing wetland impacts. Please consider a comprehensive treatment of wetland issues at least in this sensitive Northwest triangular corner.

There may be other relevant wetland crossing/access issues that become apparent only when the two phases are considered together. Reviewers should have both phases before them to discover and evaluate reasonable alternatives that avoid wetland impacts and cumulative effects.

The No Project Alternative is Open Space

A 1931 subdivision is being lifted from a graveyard of paper subdivisions, and is presented as the no project alternative. We do not think this to be the true no project alternative because, it is not a likely or reasonable scenario. This project area is currently shown on Del Norte County Assessor Maps as being part of one and only one undivided parcel of 135 acres, and is assessed as such. The current environmental setting is an undeveloped parcel of open space, within a rural area, and adjacent to open space wildlife habitat owned by the State of California and private individuals with large acreages. The 135 acre parcel has ample native vegetation, with evidence of bear, deer and other wildlife. There are no completed Coastal Development permits for this paper subdivision. This area has ESHAs and great wildlife habitat value. The 1931 subdivision is irrelevant; there was no coastal act, or required wetland buffers, or even water quality standards met. There was probably no general plan at the time. It would be unethical and impractical to stick individual lot owners with such an untenable development. There is no trace of this subdivision on the Assessor's books. Why? How can parcels be sold if they are not even registered with the assessor?

This review is based on outdated and incomplete environmental documents.

A new subdivision is being presented as a "re-subdivision" of a 1931 paper subdivision that has no Coastal approval or County Assessor recognition, and looks nothing like the 1931 subdivision. This new subdivision is being reviewed without a CEQA process, without the usual Del Norte County minimum requirement of a negative declaration, on the basis that it is similar to an incomplete and unrealized subdivision from the late 1980s, and that there is no substantial difference from the late 1980s; that environmental documents produced in the late 1980s are somehow still relevant; that the environmental setting has not changed, or that somehow the changes have no bearing on this project. If that were true, the County and the developer would not be so busy redesigning the project, getting sewer studies, taking out unnecessary stream crossings, asking for traffic studies etc. Furthermore, and most importantly, the 1986/1989 environmental documents for Bay Meadows are not being presented to you as a whole; you are only seeing the smaller phase of a two phased project, and you are only seeing selected pieces of that outdated CEQA environmental review. You are being asked to rely on this piecemeal outdated information to avoid any further CEQA review.

Everyone else who has brought forth such a large project has gone through at least a negative declaration or even a full EIR process. And we ask, is this abbreviated review process legal and fair to new (since 1989) adjacent property owners, that should have been properly noticed to address their concerns? There are several adjacent private land owners. The County fails to mention them. You can see their properties on our aerial photos. To our knowledge, no notice has been provided to them. Is the Coastal Commission legally secure in proceeding with review thusly?

It is unreasonable to assert that current conditions have not changed since 1931, or 1986, or 1989, or that they have no bearing on this project. Regulations have changed. The current development of surroundings has changed. Traffic flow has changed. The capacity and design of our water supply and our sewer system have changed. They have changed so much so that a full report on current sewer system improvements for capacity was thought necessary. What about water supply? It appears that our water delivery system was not evaluated.

We would like to note that we have no option at present other than this appeal to the Coastal Commission. The "clock" for legal action under CEQA does not start until after the Coastal Commission completes its process.

Water Supply/Delivery System and Sewer Extention Impacts- Cumulative Impacts

The County and City should be called upon to substantiate and demonstrate their water delivery capability and sewer system capacity to the satisfaction of the Coastal Commission, and they are required by our LCP to do so within a valid CEQA process. There is no certified CEQA process whatsoever that demonstrates that there is delivery capability for water and sewer regarding this project's density in combination with massive downtown Crescent City density changes and other current projects recently approved. Our current LCP requires us to have such CEQA review for extensions of urban services.

This is the first time in Del Norte County that the sewer system is being extended into the open lands surrounding Lake Earl, and beyond urban type development.

LCP Housing/New Development II. C. Development within the Urban Boundary

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In general small lots, less than one acre in size, are associated with urban development in this area. Reciprocally centralized sewage systems and curb and gutter streets are associated with urban development.

The following LCP policies shall guide the development within and the extension of urban areas

2. Proposed development within the urban boundary may be approved only after it has been adequately proven that the location of the proposed development will accommodate the development. These factors include but are not limited to sewage disposal, water supply and street system.

3. Extensions of the urban boundary may not be approved without the amendment process involving CEQA review and the public hearing process. Exceptions to this rule are minor adjustments of the line of less than or equal to 100', where existing line bisects parcels

4. Extension of the urban boundary into adjacent rural lands may not be approved by the County unless the following findings are made:

- a.) Necessary urban services and capacity are available.*
- b.) The extension of services will not jeopardize the provision of services to areas within the existing urban boundary.*
- c.) The extension will not adversely impact agricultural or timberlands adjacent to the extension.*

d.) The proposed extension as approved does not pose any adverse effects on any identified resource values as reflected in the area Land Use Plan.

This extension of sewer will put development pressure on the agricultural lands to the north, and will probably trigger the development of the large agricultural holdings of McNamara to the north. This relatively high density development will affect the resource values of the surrounding Lake Earl Wildlife Area (please see discussion under next section about compatibility.) This extension of sewer may jeopardize the capacity to supply services to the central urban area of Crescent City, which is currently targeted for significantly increased density downtown.

Crescent City Council has recently applied for a substantial loan to expand their sewage treatment plant, and there has been a rush of building and rezoning. Many new subdivisions are coming on line at the same time- a new approved subdivision on Washington Blvd., The Point of 124 lots; plus a second phase for the Bay Meadows with another 150 units adjacent to Harbor Center Tract of 70 units, and a recent newly approved subdivision adjacent to the water collection system in Smith River. The County

will argue that impacts and water and sewer needs for all of these projects were considered within a recent update of Del Norte County General Plan. However, they are incorrect; they fail to consider the very recently approved changes to the downtown zoning of Crescent City that increases densities downtown, and allows high-rise condos in Crescent City. And in combination with all these recent additions, will the water storage/delivery system and emergency water storage supply for the county be adequate for this subdivision? This is a question that was answered with a simple letter from City staffer Jim Barnts saying they will provide water. There is absolutely no evidence presented that demonstrates that they will be able to do so for all of these new developments plus the City's planned change in downtown density. This situation was not evaluated in our City and County General Plan Updates.

Our current governing LCPs for the County and the City are very outdated. Within the Coastal Zone there is no certified CEQA document for our LCP that demonstrates that Del Norte County and Crescent City can handle all this demand on water and sewer. And not even the New Sewer Evaluation presented to you takes into consideration the new density changes approved within the last two months for Crescent City downtown.

Please note that the City General Plan and LCP give priority to the City for services and infilling central to services. There is not even the briefest analysis provided by the City for water supply. We can only wonder if the Regional Water Quality Control Board even bothered to notice this non-CEQA paperwork incongruent to any formal review process. Crescent City Council's recent vote to substantially increase downtown density was **not included** in the evaluation of our County's General Plan as a whole including the Coastal Zone. In fact, within the County General Plan, Crescent City was given a low percentage of new growth burden.

We are glad to see the City taking on more density to preserve rural areas. However, this project essentially is a development of a rural area. The cumulative impact of all these planned developments along with the new plan for downtown high rise condos, to our water delivery system and sewer system should be carefully assessed by the City and County engineers and oversight agencies. The water delivery review should be circulated within a formal CEQA process, as seems to be recommended in our LCP. Has the County's urban development potential already been usurped by the City's priority status and condo plan with regards to supply/delivery? The general public should not have to suddenly find themselves with low water pressure, and be picking up the expensive tab

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on unaccounted for water delivery and supply improvements. We should not have the unpleasant surprise of finding our ocean polluted by our new sewage treatment system because it cannot handle the downtown condos in combination with all of these newly approved subdivisions.

This project should require water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters), consistent with our LCP, for new development to lessen cumulative impacts on existing water systems and supplies.

Density of proposed development is inconsistent with adjacent areas

Coastal Act 3. Development is not compatible with the established physical scale of the area.

We ask the Coastal Commission to determine that the density of development proposed is inconsistent with the density, uses, character and appearance of the lands on the south, west and northern borders of the 135 acre parcel. Please evaluate the impacts on visual resources of the surrounding Lake Earl Wildlife ESHAs, and consistency with LCP visual resource compatibility issues. On the immediate south, the parcel is bordered by forested wetlands and an arm of the Lake Earl lagoon, beyond which there is private development but generally of less density than that proposed immediately adjacent to the lagoon. On the west, the parcel appears to be bordered by the California Dept. of Fish & Game lands, i.e. Lake Earl Wildlife Area, a wildlife refuge. The Wildlife area on this western border is being maintained by Fish and Game as feeding habitat for Aleutian Geese, which are recently delisted as endangered, and are currently under close observation. The agricultural community strongly advocates that the Lake Earl Area be used for geese, to preserve their limited private grazing lands. They require undisturbed open space. On the northern boundary of the 135 acre parcel is a large lagoon, a former log pond, now also owned by Cal Fish & Game and home to large numbers of birds, breeding wood ducks, etc. Please reference aerial photographs.

Although we advocate a little later on for intensive fencing to protect the wetlands and wildlife refuge, no amount of fencing will keep out all of the domestic animals and human intrusions that come with a development of this proposed size. The only effective solution is less density. A partial solution might be have fewer lots (see discussion about wetlands and re-configuring some of the lots, below), and to make the lots on the subdivision perimeter on the south, west and north significantly larger, providing transitional open

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space with less density.

Granted, the east side of the Lake Earl lagoon is developed, but on the west side of Lake Earl Drive its character is still to a large extent rural and agricultural, with some notable exceptions. Large private acreages, even a few with conservation easements, buffer the edges of the lagoon and Wildlife Area. Intensive development of this 135 acre parcel will change the character of the area along the west side of Lake Earl Drive significantly.

Fencing is needed to prevent negative ESHA wetland impacts

Although there are wetlands mapped with 100 foot wetland buffers indicated on paper, **there is no provision to prevent wetland disturbances in reality.** If the intention is for wetland buffers to be undisturbed, as it says in condition 21, there should be a Condition for fencing and field monuments along the outer limit of all wetland buffers to prevent human and domestic animal disturbance of the wetlands and buffers. There are 44 homes bordering the wetlands directly within this first phase. There should be field monuments provided for each lot that would indicate to owners where the protected wetland buffers are. And there should be fencing, to prevent intrusive impacts from: bikes, dirt bikes and ATVs, cats, dogs etc. The County, CCC and the public do not have the time or resources to police numerous unauthorized disturbances of the wetland buffer that might occur from 70 plus 150 homes (both phases) with 3 persons each, which equals at least 660 persons including children, with perhaps 600 outdoor pets. Maintaining fencing should be the responsibility of the property owners and homeowners association. Without fences and field monuments (to facilitate replacement of destroyed fencing) you are inviting wetland degradation from human disturbances. The homeowner's association rules should clearly state that there shall be no disturbance of buffers and provide fencing and a description of the wetland buffer monuments. Currently there is an open invitation and misimpression from condition #7, that property owners will do as they please up to a few feet from their boundary (as stated, only 5 feet for the rear yard of an accessory building).

Along the southern boundary of the property, there is an extraordinarily rich, high quality wetland that is actually a reach of the Lake Earl Coastal Lagoon. It is a broad expanse of skunk cabbage and lush wetland vegetation. This area should have very substantial fencing that is difficult for small domestic animals to penetrate, such as a high chain link barrier. We argue below that all ESHAs within the subdivision need fencing that will be

an effective barrier.

An important point underlining the need for fencing: The proposed development is, as we have said, adjacent to public and private lands providing high quality wildlife habitat, including habitat for many sensitive species. Unless the ESHAs or wetland corridors within the development are adequately protected, they will effectively become corridors for large numbers of intrusions reaching eventually public trust lands and wildlife habitat. To put 600 persons and perhaps 600 domestic animals adjacent to wildlife habitat and provide them with corridors from their backyards into that habitat, is a major change for the area and brings with it significant impacts to ecology and wildlife that must be carefully mitigated.

The Wetland Buffer along the Southern Boundary should include all the large trees at the edge of the forest.

The Wetland Buffer along the southern edge of the property should include all of the large trees (mostly hemlock and spruce) that are part of a forest adjacent to the sensitive wetland to the south. These trees have great wildlife habitat value. There is a distinct cut-off or forest line that is approximately at the southern property line. However, without specific surveys overlaid to aerial photos, it is difficult to determine if all of these trees will be included in the buffer or fall outside of the property boundary. It appears from our aerial photo study that they are included. We would like to see the project conditioned so that all these trees are included in the wetland buffer and fenced. Our LCP states that wetland ESHAs such as the biologically productive wetlands to the south should be buffered and protected from disruption.

Animals and pets should be contained and restricted to prevent impacts to Wetland ESHAs.

To prevent damages to wildlife from roaming pets with wetland ESHAs, the project should be conditioned and the Homeowners association should have restrictions, such as:

3. Dogs, cats, or other household pets may be kept provided that they are not kept for breeding or maintained for any commercial purposes or in unreasonable numbers. All pets must be kept within the dwelling, garage or fenced areas that are outside of wetland buffers, unless on a leash and accompanied by the owner. No animals are to be

allowed to run free at any time. No habitually noisy animals will be permitted. No livestock, poultry or other farm animals shall be kept, raised or bred on the Said Property for personal or other purposes. No animals shall be permitted to cause a nuisance to any adjoining owner or the neighborhood due to noise, odor or being unleashed.

Even with this condition, however, we recommend fencing to protect ESHAs and the areas beyond them, i.e. the Lake Earl marshes. We have observed that throughout Del Norte County the enforcement of leash laws and containment of domestic animals are very low priorities.

Furthermore, most people do not contain domestic cats, which studies show cause serious harm to birds and other wildlife. For that matter, fences will not contain most cats, only perhaps discourage them in the case of high chain link, i.e. something slick and relatively impenetrable.

Small Lots will invite wetland disturbances

Some of the lots seem too small, and will invite wetland disturbances. Lot 66 is particularly problematic, where only approximately 25% of the ½ acre lot is available for the owner's use. This area is for large upscale homes, and there will be little to no room for a backyard outside of the wetland buffer. There will surely be wetland buffer variances applied for, and liberally approved by the County, as CEQA exempted ministerial actions such as landscaping (or some other innocuous category of wetland disturbance). The usage area of lots 65, 66, 67, 68 and probably 41, 42, 43, 44, 56, 57, 58, 26 seems impractically small as well, and will also invite wetland buffer impacts and buffer variance requests. Some of these lots should be eliminated, and re-configured.

Roadside Wetland Ditch along Lake Earl Drive is omitted

We have observed a roadside wetland ditch with wetland vegetation characteristics along Northcrest/Lake Earl Drive, and on parcels 64, 63, and 62. This is not indicated on maps or accounted for in text.

Miscellaneous

The subdivision layout also does not use space well in lots 41 and 42 where the rear upland

yard is completely blocked by the wetland, and useless to the owners. These lots should be re-configured, and perhaps some eliminated.

Controls on Lighting and Run-off are also needed to prevent ESHA impacts

At minimum the lots adjacent to the ESHAs should have prescribed controls on lighting and run-off of lawn/garden chemicals. Streetlights, if any, should be low and downcast.

The LCP requires that wetlands, of such great resource value as Lake Earl ESHA, are to receive buffers of 100 feet, and measures taken as necessary to maintain biological productivity.

LCP Policy, Marine and Water Resources,

LCP IV: Sensitive Coastal Habitats:

Under Table 1: Sensitive Habitat Types and Their Principle Locations:

Wetlands: Lake Earl and the ponds and sloughs in the Lake Earl and coastal dune region are designated as principle location of ESHA.

LCP Policy, Marine and Water Resources,

LCP VII.D: Wetlands, 4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

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

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

LCP Policy, Marine and Water Resources, VI. C:

- 1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*
- 3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.*
- 4. Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.*
- 5. Water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.*
- 6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible*

with the continuance of such habitat areas.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

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

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

LCP Housing/New Development II. C. Development within the Urban Boundary

In general small lots, less than one acre in size, are associated with urban development in this area. Reciprocally centralized sewage systems and curb and gutter streets are associated with urban development.

The following LCP policies shall guide the development within and the extension of urban areas

2. Proposed development within the urban boundary may be approved only after it has been adequately proven that the location of the proposed development will accommodate the development. These factors include but are not limited to sewage disposal, water supply and street system.

3. Extensions of the urban boundary may not be approved without the amendment process involving CEQA review and the public hearing process. Exceptions to this rule are minor adjustments of the line of less than or equal to 100', where existing line bisects parcels

4. Extension of the urban boundary into adjacent rural lands may not be approved by the County unless the following findings are made:

- a.) Necessary urban services and capacity are available.*

b.) *The extension of services will not jeopardize the provision of services to areas within the existing urban boundary.*

c.) *The extension will not adversely impact agricultural or timberlands adjacent to the extension.*

d.) *The proposed extension as approved does not pose any adverse effects on any identified resource values as reflected in the area Land Use Plan.*

Aesthetics V. C. LCP Policies: *The visual resources of Del Norte County are important to the County's tourist economy and are a continuing source of enjoyment to its residents. Policies designed to maintain the scenic resources in the Coastal Zone of Del Norte County are stated here:*

- 1. The County encourages the continuation of existing land uses, where appropriate, to maintain open views in highly scenic areas.*
- 2. Proposed development within established highly scenic areas shall be visually compatible with their scenic surroundings, by being reflective of the character of the existing land uses while conforming to the land use criteria. As set forth in the land use component and subsequent zoning ordinance.*

The Del Norte County LCP criteria, for designating highly scenic areas are as follows:

- 1. Views of special interest to the general public (e.g., Pacific Ocean, lighthouses, old growth forest).*
- 2. Visually distinctive scenes resulting from unique contrasts or diversity in landscape patterns (e.g., offshore rocks, forested uplands).*
- 3. Views with special integrity or unimpaired conditions (e.g. open space, nature preserves).*

Thank you.



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SEP 05 2006

CALIFORNIA
COASTAL COMMISSION

September 1, 2006

California Coastal Commission
Attention: Jim Baskin
710 E Street, Suite 200
Eureka, California 95501

Re: Appeal A-1-DNC-06-037
Applicant: JHP LLC - Appellant: Friends of Del Norte
Project: Harbor Center Tract (Bay Meadows)
My file No. 7859x

EXHIBIT NO. 12
APPEAL NO. A-1-DNC-06-037
JHP LLC
APPLICANT'S CORRESPONDENCE (1 of 6)

Dear Mr. Baskin:

I am writing on behalf of JHP LLC, the applicant, to present its position on the merits of the above appeal. The factual background of the Harbor Center Tract (Bay Meadows) project (the "Project") is unique and has not been fully appreciated or described by the appellant. By the time that you receive this letter you should have received the file from the County and its staff report for the Project describes the Project's factual background in detail.

The brief history is that in 1931 a subdivision map was duly approved by the Del Norte County Board of Supervisors and recorded, creating the "Harbor Center Tract." It was composed of 313 separate lots, most sixty by one hundred feet in size. There is no question that this map fully complied with the Subdivision Map Act (SMA) as it was then in effect. A subdivision legally created in compliance with the SMA as it existed at the time the subdivision was established remains in compliance in spite of later changes in the SMA.¹ All of the parcels having been in a common ownership since their creation does not by itself result in a merger² nor is a merger accomplished as a

¹ Gov Cd. 66499.30 . It is also important to distinguish this government approved map from "paper subdivisions" recorded in the 19th century before there was a SMA which, under *Gardner et al. v. County of Sonoma*, 29 C4th 990 (2003) are not valid and existing subdivisions.

² Gov Cd. 66451.10

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result of the property being subsequently conveyed in a single legal description.³ As a result, it is undeniable that the Harbor Center Tract subdivision continues to exist as a legally existing collection of 313 non conforming, small lots. Initially, the appeal fails to acknowledge that this is the point of beginning, not a project to initially subdivide raw land. Further, the appellant's assertion that the failure of the assessor to show these parcels on its assessment maps may possibly demonstrates otherwise is also not correct.⁴

On June 4, 1986 the Del Norte Planning Commission heard an application by Standard Plywood, then the owner of the Harbor Center Tract and significant areas around it, to subdivide the property into parcels of 155, 44 and 135 acres⁵ (the "Project"). The Planning commission approved a negative declaration and then conditionally approved the Project. The Planning Commission required Standard Plywood to meet six conditions, the third of which was:

The [parcel] map shall provide for either: a) a reversion to acreage of any previously recorded deeds and the Harbor Center Tract subdivision on the subject lands, or b) a resubdivision of the Harbor Center Tract subdivision in a configuration consistent with existing zoning (see staff suggestion)

What then happened is admittedly confusing. The final map was duly recorded on January 7, 1987 and contained the following note:

the Harbor Center Tract is a major undeveloped subdivision ... While the remainder parcel contains the Harbor Center Tract as also being owned by Standard Plywood Corporation it is the intention of the parties hereto that the Harbor Center Tract subdivision remain as filed and is not impaired or effected in any way by the filing of this parcel map.

In contrast to this statement, the map also has a hand written note on it that says, "for a notice of conditional approval see book 317 or page 634 recorded January 7, 1987 in the records of the Del Norte County Recorder /s/ John Alexander Recorder."

³ CC 1093

⁴ "The function and purpose of the County Assessor is to raise revenue and not to regulate the division of land. See Revenue and Taxation Code sections 128, 401 and 1361 et seq. A County Assessor will quite often combine or renumber parcels for valid reasons entirely separate from the purposes of the Subdivision Map Act. See section 327 of the Revenue and Taxation Code." 59 Ops Cal Atty Gen 581 (1976). The Assessor's division of land for tax assessment purposes has nothing to do with the status of land as legal parcels.

⁵ The Harbor Center Tract was a part of the 135 acre parcel.

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As a result, while the Planning Commission clearly had conditioned and made a part of the Project the applicant choosing to either cause the map to contain a reversion to acreage or a resubdivision in a configuration consistent with existing zoning, the recorded map just as clearly made no election but expressed the intent to keep the Harbor Center Tract "as filed" and "not impaired or effected in any way by the filing of this parcel map." While it is unclear how all of this could have occurred as it did, it is also clear that an election must yet be made for the conditions of the Project to be met.⁶ As a result, the recent Planning Commission decision was to act on a proposed zoning compliant resubdivision that would conform to the Project's conditions.⁷

This appeal is taken from a decision of the Planning Commission approving a resubdivision map, "in a configuration consistent with existing zoning." Since this is a part of the original 1986 Project, the CEQA a review process was finally completed⁸ prior to the conditional approval of the Project, which included its conditions, and by law any further CEQA review could only occur if the County determined, "on the basis of substantial evidence⁹ in the light of the whole record, [that] one or more" of three factors were present.¹⁰

The first factor is that substantial changes are being proposed in the Project.¹¹ The second factor is the, "involvement of new significant environmental effects or a

⁶ It is also clear that the conditions were clearly in the alternative, do this or that, and not in the conditional do this or that will be true. Without a default election the Project's conditions are yet to be elected and met.

⁷ There was no Coastal Commission appeal or review of the 1986 conditioned subdivision.

⁸ "Once a project has been approved, the lead agency's role in project approval is completed." [14 CCR 15162(c)].

⁹ 14 CCR 15384 provides:

(a) "Substantial evidence" as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

(b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.

¹⁰ 14 CCR 15162(a)

¹¹ The resubdivision to parcels conforming to existing zoning remains as the Project.

substantial increase in the severity of previously identified significant effects.”¹² The third factor is that there is new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous Negative Declaration was adopted, that shows more severe impacts.

Therefore, the CEQA issue to be addressed recently by the Planning Commission was to determine if there was substantial evidence of any such new issues, not known nor discoverable when the 1986 negative declaration was adopted. As a part of this review, the Project was recirculated on this basis and no agency, including the Coastal Commission identified any new “significant” changes in the effects or impacts of the Project. As the result of the hearing, including the presentation of the appellant,¹³ no substantial evidence of such “significant” changes in the effects or impacts of the Project were identified. In spite of the passage of time, the same wetlands and drainage issues that exist today existed then.

The Allegations of the Appeal

A. Compliance with the California Environmental Quality Act (CEQA). About half of the appeal document concerns claims that the CEQA process was either inadequate or did not exist. From the discussion above and that contained within the staff report, it is apparent that the appellant has failed to recognize that what was occurring was determining if there would be a subsequent CEQA review, not an initial CEQA review, and that there is a substantial difference between the procedures, standards and findings required for each. The appellant mistakenly calls for application of first instance procedure, standards and findings when the issue is the need for a subsequent CEQA review.

However, none of this makes much difference because the CEQA issues are independently enforced and have nothing to do with the LCP standards. If the appellant wishes to have the Project’s compliance with CEQA determined it must proceed other than through the limited grounds of review available under a Coastal

¹² 14 CCR 15162(a)(2). The term “significant effect” on the environment is defined in the Guidelines as “a substantial, or potentially substantial, *adverse change* in any of the physical conditions within the area affected by the project” [14 CCR 15382].

¹³ The appellant submitted a two page letter to the Planning Commission. While the letter asked questions and offered supposition, similar to those contained within the appeal, it offered no new substantial evidence of anything new in the project or its impacts on the environment. Asking a question like “will there be enough water?” is not substantial evidence. Substantial evidence is defined as including fact, a reasonable assumption predicated upon fact, or expert opinion supported by fact. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment. [PRC 21080 (e) (1)].

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Commission appeal. There is simply no jurisdiction nor even good reason to use the Coastal Commission as a substitute vehicle to review CEQA decisions.

B. Density and Urban Boundary issues. The appellant makes various claims about the Project's density and at least implies that the Project involves the expansion of the Crescent City urban boundary. None of these claims shows a failure to comply with the LCP. There is no change in either the LCP zoning requirements or urban boundaries. The Project location under the LCP is already within the Crescent City urban boundary for land division and the Project is proceeding under the existing LCP zoning.

C. Wetland Buffers. The Project is proceeding on mapped wetlands and the imposition of the LCP required one hundred foot wetland buffers. The buffers are shown on the final map with the following map note restriction, "The riparian buffer is not approved for development, and no disturbance of the area is allowed other than approved drainage improvements without approval from the County of Del Norte." It is the applicant's understanding that this is the standard that the County has consistently used in other projects under its LCP to protect established one hundred foot wetland buffers.

The appellant claims that this restriction is inconsistent with the LCP unless the buffers are fenced. It is the applicant's understanding that the only time that under its LCP that the County has required fencing the buffer is in mitigation for projects with less than a one hundred foot buffer is established. While the appellant says that fencing is needed to "prevent negative ESHA wetland impacts" it does not further identify why this would be needed in this case to be consistent with the LCP.

The appellant also claims that if they happen to be on the Project site,¹⁴ "The wetland buffer along the Southern Boundary should include all the large trees at the edge of the forest." There is no forest, the Project site has in the past been subject to logging under a THP and Lake Earl Drive is on the south end of the Project site. However, there are some individual trees located to the west of the Project site but they are clearly located off the Project site. Because they are east of a mapped wetland, even though not on the Project site, they are located within the 100 foot buffer from the off site wetland.

The appellant also claims that, "Animals and pets should be contained and restricted to prevent impacts to Wetland ESHA." While the applicant has already agreed to have the language proposed by the appellant placed into the Project's CC&Rs, it is nevertheless uncertain how not conditioning the Project in this way is

¹⁴ The appeal raises this issue stating that it is not known if certain trees are on the Project site. While the location is not correctly described, the trees probably being referred to are located off of the Project site and are not on property owned by the applicant.

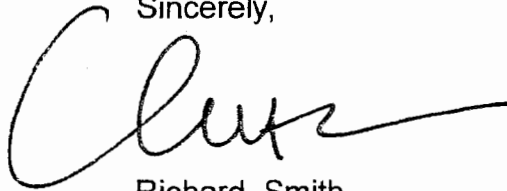
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inconsistent with the LCP. The appellant does not dispute the staff report that states, "The biological surveys were conducted over a two year period. The report states that the California Natural Diversity Data Base was reviewed and though forty-seven special status-plants and twenty-four special-status animals were listed in the region, no special-status species were identified on the site, including the Harbor Center Tract"

Appeal Standards

Since the Project is located within one hundred feet of a wetland, the applicant acknowledges that the Project is subject to appeal. However, as discussed above, there is no factual basis stated to support the claim that the Project does not conform to the standards set forth in the County's LCP. In addition and if it ever were to be done, this appeal is so factually deficient that it should be subject to a filing fee as a frivolous appeal.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Smith", with a long horizontal flourish extending to the right.

Richard Smith

RAS/ds
cc: Client