

CALIFORNIA COASTAL COMMISSION

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Filed: May 8, 2000
Staff: YinLan Zhang – SF
Staff Report: March 24, 2006
Hearing Date: April 13, 2006

**STAFF REPORT – APPEAL
DE NOVO**

APPEAL NO.: A-2-SON-00-16

APPLICANT: Ronald Aloise

AGENTS: Allan Cohen
Scot Stegeman
Peter Simon

LOCAL GOVERNMENT: Sonoma County

ACTION: Approval with Conditions

SUBSTANTIAL ISSUE: The Commission found that the appeal of the local government action on this project raised a substantial issue of consistency with the County of Sonoma's LCP on October 12, 2000.

PROJECT LOCATION: 1695 Bay Flat Road, Bodega Bay, Sonoma County.
APN 100-060-09

PROJECT DESCRIPTION: Construction of a 2,600-square-foot, 3-bedroom, 4-bath single-family residence with detached garage and guesthouse.

APPELLANTS: Linda Kepner
Californians Organized to Acquire Access to State
Tidelands

1.0 EXECUTIVE SUMMARY

The proposed development, approved by Sonoma County in May 2000, is a 2,556-square-foot, 16-foot tall single-family residence with a detached garage and guesthouse on a vacant 0.25-acre

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hillside parcel. The County permit was appealed by Linda Kepner and Californians Organized to Acquire Access to State Tidelands to the Commission (COAAST). At issue is the presence of wetlands on the lower portion of the property and impacts of the proposed development to these wetlands. The County found that no wetlands existed on the property. However, evidence in the County records demonstrates that the lower portion of the site contains an area that meets the LCP definition of wetlands. The Commission therefore found that the development raised a substantial issue of conformity with the wetland policies of the certified Sonoma County LCP in October 2000. The Substantial Issue staff report also identified that a complete wetland delineation, alternatives analysis, and takings information were necessary for the Commission to proceed with its de novo review.

During the interim five years, after repeated efforts by staff to contact the applicant and obtain the wetland delineation, alternatives analysis, and takings information, the applicant has failed to submit the information necessary for the Commission's de novo review. Thus, the extent of the wetlands on site remains uncertain and it is unknown whether a feasible alternative that would avoid the potential wetland area exists. Furthermore, the applicant has not provided the requested information necessary to evaluate if approval of the proposed development or a revised proposal would be necessary to avoid a taking of private property as required by Section 30010 of the Coastal Act.

The available evidence demonstrates that the proposed driveway, guesthouse, and garage would fill wetlands and that the proposed house would also be located within 100 feet of wetlands, which would be inconsistent with the wetland protection policies of Sonoma County's certified LCP. Therefore, staff recommends the Commission find the proposed development inconsistent with the wetland protection policies of the certified LCP and deny the project.

The Commission's action does not constitute a final decision regarding the application of the LCP to this development proposal. Denial of the permit application would not prevent the applicant from re-applying for a permit to develop the property in the future at a time when he is prepared to supply the information necessary to support his permit application.

2.0 STAFF RECOMMENDATION

Denial

The staff recommends that the Commission deny Coastal Development Permit Application A-2-00-16:

Motion

I move that the Commission approve Coastal Development Permit A-2-00-16 for the development proposed by the applicant.

Staff Recommendation of Denial

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Deny the Permit

The Commission hereby denies a coastal development permit for the proposed development on the grounds that the development will not conform to the policies of the County of Sonoma Local Coastal Program. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

3.0 FINDINGS AND DECLARATION

3.1 Project Location and Site Description

The proposed development is located on an 11,092-square-foot lot located at 1695 Bay Flat Road, in the unincorporated Bodega Bay area of Sonoma County. The property is zoned RR (Rural Residential), CC (Coastal Combining), and B7 (Frozen Lot Size). The site is located approximately 250 feet north of Bodega Bay in an existing residential neighborhood (Exhibits 1). The lots north, west and east of the site are developed with single-family residences.

The elevation of the southern portion of the lot adjacent to Bay Flat Road is 76.5 feet Mean Sea Level (MSL). This portion of the site is relatively flat for approximately 60 feet to the north. The rear approximately 2/3 of the site slopes steeply (30 percent) to an elevation of 106 MSL at the rear (northern) property boundary (Exhibit 2). Groundwater seeps and runoff drain from the hillside to the lower portion of the site. According to a letter from a County planner (Exhibit 14), the lower portion of the site had been cleared of vegetation and filled in 1998, and some channels had been cut across the fill to enhance the drainage. Bay Flat Road separates the project site from a brackish tidal flat wetland immediately to the south known as the Rail Ponds. Water from the lower portion of the site drains into this wetland through a culvert beneath Bay Flat Road.

3.2 Project Description

The proposed development consists of a 2,556-square-foot, 16-foot-high single-family residence with three bedrooms and four bathrooms (Exhibit 3). The house steps up the slope in three flat-roofed tiers (Exhibit 3). The proposed development also includes construction of a driveway entering on Bay Flat Road running to the detached guesthouse and garage on the lower portion of the site as well as north along the eastern property boundary to an uncovered parking area at the base of the slope. (Exhibit 17).

3.3 Appeal Process

On April 28, 2000, the Commission received notice of the County's final action approving a coastal development permit for the project. The Commission's appeal period commenced the following working day and ran for ten working days thereafter (May 1 through May 12, 2000). On May 8, 2000, the Commission received an appeal from Linda Kepner¹, and on May 12, 2000, the Commission received a second appeal from appellant COAST.

¹ This appeal is presented as from Linda Kepner and neighbors and includes a list of six other "interested parties" besides Ms. Kepner. However, only Linda Kepner signed the appeal and there is no documentation included with this appeal establishing that Ms. Kepner has been authorized to represent the other listed parties concerning this matter or that these parties wish to join in the appeal.

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At its October 2000 meeting, the Commission found that the proposed development raised a substantial issue of conformity with the of Sonoma County's certified LCP. As discussed in more details below, while the County found that there were no wetlands present on site, a reconnaissance survey undertaken by County staff identified 16 wetland indicator plant species in the lower portion of the site along the drainage channels and County records showed that there was evidence of water at or above the surface. As such, the Commission determined that the County's conclusion that wetlands were not present on the lower portion of the site was not well supported by factual evidence or the applicable legal standards in the LCP. The Commission also found that because the lower portions of the site exhibited wetland characteristics, the development approved by the County raised a substantial issue of conformity with the wetland protection policies of the LCP.

The Substantial Issue staff report further identified that additional information was necessary to proceed with the Commission's de novo review, including:

- A wetland delineation that meets the definition of wetlands in the LCP;
- An alternatives analysis; and
- A takings analysis.

The above information was requested from the applicant to ascertain the extent of wetlands on the property, to evaluate whether an alternative that would avoid potential wetland impacts and be consistent with the LCP may be possible, or that if such an alternative were not feasible, if some form of development with a minimum of wetland impacts may be necessary to avoid a takings. The Substantial Issue staff report and subsequent staff correspondence have provided clear directions to the applicant on the information needed to support the applicant's request for a coastal development permit.

3.4 Interim History since Substantial Issue Determination

Since the Commission found substantial issue and identified that additional information was necessary for its de novo review in October 2000, the applicant has failed to provide any of the requested information during the interim five years despite repeated efforts by Commission staff to obtain such information. Below is a summary of the correspondence between Commission staff, the applicant, and his agents since the October 2000 Commission hearing:

- In November 2000, Commission staff Chris Kern received an email from Scot Stegeman, the applicant's agent, contending that a wetland delineation is not necessary since there are no wetlands on site. (Exhibit 4)
- In December 2000, Mr. Kern wrote a letter to Ronald Aloise, the applicant, to inform him that until all information requested in Section 6.0 of the Substantial Issue staff report is received, the Commission cannot proceed with its de novo review. Copies of the letter were mailed to Mr. Stegeman and Allen Cohen, the applicant's other agent. (Exhibit 5)
- Between December 2000 and late 2004, staff received no response from the applicant.
- In late 2004, Mr. Kern received a phone call from Mr. Stegeman asking whether Mr. Kern had received any of the material that was mailed to the Commission's office. Mr. Kern replied that Commission staff has not received any items in the mail from Mr. Stegeman and asked that he send the information again.

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- In July 2005, Commission staff YinLan Zhang sent a letter to Mr. Stegeman reiterating that all of the information requested in the 2000 staff report was still outstanding. Also in this letter, Commission staff informed Mr. Stegeman of the need for three additional items needed for its takings analysis. This letter was copied to the applicant. (Exhibit 6)
- On September 8, 2005, Ms. Zhang wrote a letter to Mr. Aloise, providing him a copy of the letter that was sent to Mr. Stegeman in July 2005, the Commission staff report from October 2000 and the letter from Mr. Kern to Mr. Stegeman from December 2000. (Exhibit 7)
- On September 29, 2005, Ms. Zhang wrote another letter to Mr. Aloise, copying Mr. Stegeman. In this letter, Commission staff gave the applicant the deadline of October 31, 2005 to supply the outstanding information. (Exhibit 8)
- On October 31, 2005, Commission staff received a letter from Mr. Stegeman stating that all of the outstanding information except the wetland delineation was ready to be submitted to the Commission. Commission staff advised Mr. Stegeman to contact the staff ecologist regarding the wetland delineation. Commission staff also asked that he submit the alternatives analysis and takings information so that the review process could begin. (Exhibit 9)
- In two subsequent emails between Commission staff and Mr. Stegeman, Mr. Stegeman stated that all the information except the wetland delineation was ready and that he was working with staff ecologist, John Dixon, on resolving some questions he had regarding the wetland delineation. While Commission staff requested that Mr. Stegeman submit all other available information aside from the wetland delineation, no information was received by Commission staff. (Exhibit 10)
- On January 10, 2006, Commission staff YinLan Zhang sent another letter to the applicant stating that no information had been received by Commission staff. The letter extended the deadline for the applicant to submit the outstanding information to February 3, 2006, and stated that if no information is received by that date, staff would agendize the permit application for the March 2006 Commission hearing without the supporting information. (Exhibit 11)
- On February 3, 2006, Commission staff received a letter from Peter Simon, the applicant's attorney, stating that Mr. Stegeman was working on the wetland delineation and requested an extension of the deadline. Mr. Simon also states in the letter that he was prepared to send to Ms. Zhang a copy of all the documents related to the project but that Ms. Zhang asked him not to. Notwithstanding this assertion, Commission staff clarifies that in a telephone conversation between Mr. Simon and Ms. Zhang, Mr. Simon offered to provide staff with the project plans and related correspondence, but not the alternatives analysis and takings information requested in the Commission's Substantial Issue staff report. Ms. Zhang informed Mr. Simon that all of the materials he had offered were already in the Commission's files and therefore declined the offer. (Exhibit 12)
- On February 13, 2006, Mr. Simon emailed copies of the applicant's property tax from 2003 to 2005. Among the items the Commission requested for the takings analysis are the costs associated with ownership of the property on an annualized basis for the last five calendar years. The applicant has provided the cost for three fiscal years, 2003-2004, 2004-2005, and 2005-2006. (Exhibit 13)

3.5 Applicable LCP Policies

Chapter III, Definition of Habitat Categories

“Wetlands” are defined in the LCP as:

Areas where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grow in water or wet ground. Wetlands are here defined to include marshes, ponds, seeps, and reservoirs, but not the Bodega Harbor tideflats. The upland limits of a wetland is designated as 1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; 2) the boundary between soil that is predominantly hydric and soil that is predominantly non-hydric. Typical wetland vegetation: pickleweed, cordgrass, Jaumea, salt grass, rushes, bulrushes, sedges, cattails, tule, marsh rosemary, marsh grindelia.

Chapter III, Environmental Resource Management Recommendations

18. Prohibit filling, grading, diking, dredging, and construction in wetlands, except under special conditions delineated in the Coastal Act Section 30233. All projects must maintain or enhance the functional capacity of the wetland or estuary. Dredging, when consistent with the provisions of the Coastal Act and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, should be subject to the following conditions:
...
22. Prohibit the diking or filling of seasonal wetlands for the purpose of conversion to agriculture or to accommodate development of any kind.
24. Prohibit the removal of vegetation from wetlands unless it is shown to be essential to the habitat viability.
25. Prohibit construction of agricultural, commercial, industrial and residential structures within 100 feet of wetlands.
26. Between 100 and 300 feet of wetlands, prohibit construction of agricultural, commercial, industrial, and residential structures unless an environmental assessment finds the wetland would not be affected by such construction.

3.6 Presence of Wetlands on Property and Potential Impacts

The record for the County’s approval of the project contains evidence that wetlands as defined under the LCP are present on the lower portion of the project site between the base of the slope and Bay Flat Road. This evidence includes presence of water at or above the surface and wetland vegetation.

On December 9, 1999, the County Zoning Board determined that this area does not qualify as a wetland under the LCP on the basis that:

- Wetland species are not the predominant plant cover in the area because only one type of wetland plant (sedges) are present and these occupy only approximately 10 square feet.
- Based on the soil analysis from the applicant, hydric soils were not observed on the site.

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- The water table on the lower portion of the site is subject to seasonal variation.

The Commission finds that contrary to the County's determination, there is strong evidence in the records to demonstrate that the lower portion of the site contains wetlands as defined in the LCP. A Commission staff ecologist has reviewed the available information and opined that wetlands are present on site. The staff ecologist noted after reviewing an exhibit in the applicant's soils report of the configuration of the drainage channels in the lower portion of the site that the shape of the drainage channels are characteristic of channels typically excavated to drain wetland areas in preparing a site for development.

Under the LCP, wetlands are defined as "areas where the water table is at, near, or above the land surface long enough to bring about the formation of hydric soils or to support the growth of plants which normally are found to grown in water or wet ground." Thus, the criteria for wetlands are if an area is wet enough long enough to support wetland vegetation *or* the formation hydric soils. The evidence in the County records shows that the lower portion of the subject property contains wetland plants and wetland hydrology. Evidence regarding the presence of hydric soils is inconclusive, although one field indicator of hydric soils is observation of inundation for seven consecutive days, and the lower portion of the site was observed as "very wet" at the end of the dry season in 1998, two weeks after an insignificant rainfall event. Regardless, under the LCP wetlands definition, the presence of hydric soils is not necessary to indicate wetlands if wetland vegetation is present.

There is also evidence in the record that shows that County staff had suspected this area to be a wetland. A letter from Andy Gustavson, County planning staff, to Alan Cohen, the applicant's architect, dated November 30, 1998 (Exhibit 14), states:

On September 23, 1998, I visited the property and observed it had been cleared of vegetation and that the flat area at the base of the slope was very wet. It appears that fill had been recently placed on the flat area and that one or more drainage ditches had been cut across it.

...

In light of the parcel's proximity to and similarity to adjacent wetland areas, and the amount of water draining from the parcel at the end of the dry season, I have to assume there is a reasonable possibility that a wetland exists on the property. Therefore, I must require that you prepare and submit wetland delineation study to determine if a wetland is present and, if so, delineate its extent.

It appears that despite this request from County staff, the applicant never provided a wetland delineation, but instead only a soils report to evaluate the presence of hydric soils on the site.

Vegetation

According to the 1987 Army Corps of Engineers Wetland Delineation Manual (Corps Manual)², the wetland vegetation parameter is met if more than 50 percent of the dominant plant species are

² Although the definition of "wetlands" contained in the Coastal Act and the Sonoma County LCP differs from the definition used by the Corps under the Clean Water Act, the Commission accepts the standard data collection protocols described in the Corps Manual for Coastal Act/LCP wetland delineation purposes, so long as the data are interpreted in accordance with the applicable wetland definition.

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wetland indicator plants (OBL, FACW, FAC)³ on the lists of plant that occur in the potential wetland area. In accordance with standard wetland delineation field survey protocols, to determine the presence of wetland vegetation, a wetland delineation would include a plant list and the percentage of wetland species relative to upland plant species as well as a map of the site showing the location of the survey points. The applicant has not provided a wetland delineation for the site and has not conducted a vegetation survey in accordance with the above-described method.

Although the applicant has not provided a wetland delineation or vegetation survey, on February 14, 2000, County staff performed a reconnaissance survey of the site, identifying a total of 22 plant species, with 17 wetland indicator species, 4 upland species and 1 unclassified species (see Exhibit 15). This survey does not indicate the ratio of dominant wetland plants to dominant upland plants and does not estimate percent cover. However, the survey does characterize the locations of the plants listed as: (1) “along trench”, (2) “in trench and margin”, or (3) “raised sandy soil”, and indicates in which of these three areas each of the listed plant species was found (Table 1). Notably, all eight of the plants found in Area 1 (along trench) are wetland indicators, seven of the eight plants listed in Area 2 (in trench and margin) are wetland indicators (the eighth is unclassified), and all four of the upland plants listed were found in Area 3 (raised sandy soil). Thus, except for the one unclassified species, 100 percent of the plants observed in and adjacent to the trenches are wetland indicators. Though not a proper vegetation survey in accordance with the methods described in the Corps Manual, this survey nevertheless demonstrates that all the species and therefore more than 50 percent of the dominant plant species associated with the trenches on the lower portion of the site are wetland indicator species in satisfaction of the Corps Manual wetland vegetation parameter. Based on this evidence, the Commission finds that the lower portion of the site contains wetlands because it supports vegetation normally found to grow in water or wet ground.

Table 1. Location of Plants in the February 14, 2000 Reconnaissance Survey

	Along Trench	In Trench and Margin	Raised Sandy Soil
Obligate (OBL)	3		
Unknown Species: Possible OBL	1		
Unknown Species: Possible OBL FACW, FAC	2		
FAC	2	7	2
Upland			4
Not listed		1	

³ OBL (Obligate) wetland plants are found in wetlands 99% of the time. FACW (Facultative wet) wetland plants are found in wetlands 67-99% of the time. FAC (Facultative) wetland plants are found in wetlands 33-66% of the time.

Hydrology

The Corps Manual states “indicators of wetland hydrology may include, but are not necessarily limited to: drainage patterns, drift lines, sediment deposition, watermarks, stream gage data and flood predictions, historic records, visual observation of saturated soils, and visual observation of inundation. Any of these indicators may be evidence of wetland hydrologic characteristics.” Although the applicant has not provided a wetland delineation, there is evidence to show that the lower portion of the site contains wetland hydrology.

The County’s February 14, 2000 reconnaissance report records an observation of standing water in the trenches containing wetland vegetation. Because significant rainfall had occurred immediately prior to the February 14, 2000 survey, the ponding observed on this date alone is not conclusive evidence of wetland hydrology. However, in the letter from Andy Gustavson to Allen Cohen, County staff notes that the area was very wet on September 23, 1998, at the end of the dry season. The most recent rainfall event prior to Mr. Gustavson’s site visit on September 23, 1998 occurred on September 9, 1998, when according to weather data collected in Santa Rosa, the precipitation was not significant enough to accumulate as the amount of precipitation recorded for that day was 0.0 inches. This observation is evidence that the lower portion of the site is subject to inundation or saturation for long or very long duration in satisfaction of the Corps Manual wetland hydrology parameter.

Although the data regarding inundation, saturation, and the amount of water supply available in area are incomplete, the abundance of wetland plants serve as a strong indicator of wetland hydrology. According the Corps Manual “hydrologic factors exert an overriding influence on species that can occur in wetlands. Plants lacking morphological, physiological, and/or reproductive adaptations cannot grow, effectively compete, reproduce, and/or persist in areas that are subject to prolonged inundation or saturated soil conditions.” Thus, the presence of wetland vegetation is considered to be presumptive evidence of wetland hydrology. Based on the observations of inundation and saturation and the presence of wetland vegetation, the Commission finds that the lower portion of the site contains wetland hydrology.

Soils

The applicant provided a geotechnical soils analysis in January of 1999, which examined the conditions of soils from four shallow pits dug on the lower portion of the property. Using the Corps Manual’s indicators of sandy hydric soils, which include high organic matter content in the surface horizon, streaking of subsurface horizon by organic matter, and organic pans⁴, the report concludes that no hydric soil was present on the project site because none of the indicators were found. (Exhibit 16) However, the soils analysis does not appear to examine the soils in the trenches where the County observed wetland vegetation and standing water. A map attached to the report shows that of the four shallow pits excavated in the lower portion of the project site, only one pit (test pit #2) was within ten feet from the identified trenches, where wetland vegetation and standing water exist. (Exhibit 16, last page) The other three test pits were between 10 to 40 feet away from the trenches. The analysis also relies on borings from a 1993 report conducted by another geotechnical consultant. However, the 1993 soils report was not prepared

⁴ Organic pans are explained in the Corps Delineation Manual as a thin layer of hardened soil formed when organic matter become slightly cemented with aluminum at the depth where the water table most common occurs.

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to evaluate the presence of hydric soil but rather the stability of the soil for construction. Again, none of the borings taken for the 1993 geotechnical analysis were located within the trenches where wetland vegetation and hydrology were observed. These borings were excavated to a depth of 11 feet whereas the Corps Manual's procedure for digging soil pits recommends excavating pits to a depth of no more than 16 inches. Thus, it appears that the soils in areas of the site with evidence of wetland vegetation and hydrology were not sampled and that some of the soils information presented was not collected for or intended to be used for purposes of delineating wetlands on the site.

While the soils report proves to be inconclusive, a field indicator of hydric soils is the observation of inundation for seven consecutive days, which is long enough to promote the formation of hydric soils. This indicator is not considered in the soils report. As noted in the Hydrology section above, the area in question was observed as "very wet" on September 23, 1998 by County staff. A prior minor precipitation event occurred two weeks before the date of the observation, and thus, the area was inundated for a period of more than seven consecutive days at the time of the observation, which would be long enough to promote the formation of hydric soils on-site. However, without a more detailed analysis, the presence of hydric soils is difficult to conclude based on the indicator of inundation alone. Thus, the Commission finds that there is an unresolved question concerning the presence of hydric soils on the project site.

Regardless, the presence of hydric soils is not necessary to indicate wetlands under the LCP definition, which includes areas that are wet long enough to support growth of plants that normally grow in water *or* wet soils. Even if there was conclusive evidence that hydric soils are not present, the definition of wetlands in the LCP only requires the presence of hydric soils *or* hydrophytic plants, and thus, the presence of hydrophytic plants without hydric soils is sufficient to indicate wetland presence.

Drainage Ditch Exception

In its February 29, 2000 action on the appeal of the Zoning Board approval of the project, the County Board of Supervisors found that the area potentially containing wetlands on the site is exempt from the LCP definition of wetlands. This determination was based on a footnote contained in the Coastal Commission's "Interpretive Guidelines on Wetlands and Other Wet Environmentally Sensitive Habitat Areas." Part of these Guidelines are included in an appendix to the County's Coastal Administrative Manual, which is a part of the certified LCP. The exception cited in the LCP states:

For the purposes of identifying wetlands using the technical criteria contained in this guideline, one limited exception will be made. That is, drainage ditches as defined herein will not be considered wetlands under the Coastal Act. A drainage ditch shall be defined as a narrow (usually less than 5-feet wide), manmade nontidal ditch excavated from dry land.

The drainage ditch exception defines "drainage ditch" as a narrow man-made ditch *excavated from dry land*. The Commission interprets this description of drainage ditches to apply to narrow ditches constructed for the purpose of conveying water from an artificial source, such as an irrigated area or runoff from impervious surfaces across what would otherwise be a dry area. The drainage ditch exception does not apply to ditches or trenches excavated in wet areas for the purpose of draining wetlands. The Commission also interprets "dry land", as used in this

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definition, as areas lacking natural wetland hydrology, such as areas where the water table is near or at the surface, or are wet due to seeps, springs, and natural drainage, and where no evidence exists of filled or drained wetlands. In this case, the drainage ditch exception is not applicable because the trenches on the site appear to have been excavated in a low lying area of the site with natural wetland hydrology for the purpose of draining wetlands and because this area appears to be a remnant of filled historic wetlands. The lower portion of the project site likely consists of filled wetlands that was historically a part of the Rail Pond wetlands located on the opposite side of Bay Flat Road. The Rail Pond wetlands are a tidally influenced, brackish marsh providing important habitat to a variety of shorebirds and are specifically identified in the LCP. The ponds are named for the abundance of rails that use the marsh. Springs, seeps, and surface runoff on the project site and adjacent properties supply the Rail Ponds with fresh water via culverts beneath Bay Flat Road. The ponds are hydrologically connected with Bodega Bay via culverts beneath Westshore Road. These connections were previously noted by the North Central Coast Regional Commission in a 1975 report entitled Natural Resources of the North Central Coast Region and in its 1979 approval of Coastal Development Permit 94-79 (Funk), a two-lot subdivision of the property abutting the applicant's property to the west (NCCRC 1975; NCCRC 1979). In its findings for CDP 94-79 authorizing the two-lot subdivision abutting the applicant's property, the Regional Commission found that the strong possibility existed that the filled area of the two-lot subdivision property may be in hydrologic continuity with the Rail Ponds, that historically it was continuous, and that the filled area itself may consist of historic wetlands. Moreover, in its final action on the development that is the subject of this application (A-2-SON-00-16), the County determined that the site remains hydrologically connected to the Rail Ponds. Because there is evidence demonstrating that the lower portion of the site contains fill of historic wetlands and natural wetland hydrology, the drainage ditch exception is not applicable to the subject property.

Conclusion

It appears that the County had originally suspected the lower portion of the project site to be wetlands and requested a wetland delineation from the applicant, but subsequently determined that the site did not contain wetlands without the previously requested wetland delineation. In its action on the substantial issue portion of the appeal, the Commission identified the need for a wetland delineation for its de novo review of the permit application. Because the applicant has not provided the requested wetland delineation in the five years since the Commission's substantial issue determination, the Commission has elected to proceed with de novo review based on the wetland information contained in the record for the County's action on the permit application. Based on the available evidence in the record, the Commission finds that the lower portion of the site contains wetlands as defined under the LCP. In the absence of a complete wetland delineation, the Commission cannot determine the precise location or extent of wetlands on the site. The subject parcel is long and narrow, approximately 60 feet wide and 200 feet in length. The wetland area is located in the front, lower portion of the property, within approximately 60 feet of Bay Flat Road. Based on project plans in the record, the proposed driveway, guesthouse, and garage would fill the wetland area on the lower portion of the site close to Bay Flat Road. The proposed house, located towards the back of the subject parcel would be sited approximately 30-40 feet away from the lower portion of the site containing the wetlands. (Exhibit 17). Thus, the Commission finds that the proposed development would fill wetlands and locate development, specifically the house, within 100 feet of wetlands in conflict with the wetland protection policies of the LCP.

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Policies 18 and 22 in Chapter III of the County LCP prohibit filling of wetland for residential use. Policy 24 prohibits the removal of vegetation from wetlands unless it is shown to be essential for habitat viability. Policy 25 prohibits the construction of residential structures within 100 feet of wetlands. Policy 26 prohibits construction of residential structures between 100 and 300 feet of wetlands unless an environmental assessment finds the wetland would not be affected by such construction. The proposed development would fill wetlands, remove wetland vegetation, and result in residential development within 100 feet of wetlands in conflict with these policies. Therefore, the Commission finds that the proposed development is inconsistent with Policies 18, 22, 24, 25 and 26 in Chapter III of the Sonoma County certified LCP and must be denied

3.7 Viable Economic Use of the Parcel

The Commission's action does not constitute a final decision regarding the application of the LCP to this development proposal. Denial of the permit application would not preclude the applicant from obtaining necessary approvals to develop the project site in the future. Approval of a coastal development permit for development of the site would be allowable based on a showing that either: (1) the proposed development is consistent with the LCP, or (2) development of the site in a manner that does not fully conform to the requirements of the LCP is necessary to avoid a regulatory taking pursuant to Section 30010 of the Coastal Act. However, the applicant has not provided the information and analysis necessary to support either of these alternatives.

Alternatives Analysis

As discussed above, the proposed development is inconsistent with the LCP because the proposed driveway, guesthouse, and garage would fill wetlands and because the proposed residence would be located within 100 feet of wetlands (Exhibit 17). It is possible that the applicant could eliminate the guesthouse and garage and use an alternative access to the site that would not affect the wetlands on the lower portion of the parcel may be feasible. For example, an existing access road provides access to three properties east of the subject parcel is immediately adjacent to the property (Exhibit 3). At this point, it is unknown whether the applicant could use this road to access his property and avoid the wetland fill. The applicant asserts that this alternative is infeasible because the owners of the road have refused to grant the applicant permission to use the road, however, he has not provided any documentary evidence, such as letters from these property owners, in support of this assertion.

Another potential alternative that would avoid wetland fill for the proposed driveway, assuming that the proposed guest house and garage have been eliminated from the proposed development, would involve locating parking on Bay Flat Road instead of on-site. The LCP requires on-site parking for a minimum of two vehicles within the RR zoning district, but the applicant could apply for a variance to this requirement. According to Section 26C-333 of the LCP Zoning Code, a variance may be granted if the applicant demonstrates that given the special circumstances of his property, a strict application of the zoning requirements would deprive his property the privileges enjoyed by other properties in the vicinity and under identical zoning classifications. Thus, if necessary to allow a viable economic use of the property while avoiding wetland fill, the County or the Commission on appeal may approve a variance to the on-site parking restrictions.

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The proposed residence is within approximately 30-40 feet of the wetland area within the lower portion of the site, inconsistent with Policies 25 and 26 in Chapter III of the LUP. The subject parcel is long and narrow, approximately 60 feet wide and 200 feet in length. The wetland area is located in the front, lower portion of the property, within approximately 60 feet of Bay Flat Road. Thus, it appears that a redesigned house could be set back 100 feet from the wetland area. However, this alternative cannot be fully evaluated without a wetland delineation.

Without an alternatives analysis to conclude that no feasible alternatives are available, the Commission cannot establish that a development must be approved to avoid taking of private property. Furthermore, even if the Commission must approve a development as required by Section 30010 of the Coastal Act, a wetland delineation would be necessary to determine the location and extent of an approvable development. The Commission must approve only the minimum development necessary with the least impacts to coastal resources to provide viable economic use of the property. If there is no feasible alternative that can avoid or eliminate all significant impacts to resources, then the alternative that results in the fewest or least significant impacts must be selected. Any impacts that cannot be avoided through the implementation of siting or design alternatives must be mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to mitigate impacts on the project site. However, mitigation cannot be substituted for implementation of the project alternative that would avoid impacts to the resources, to the maximum extent feasible in this case. Therefore, facts regarding the alternatives and the wetlands are integral in the Commission's decision over whether a development must be approved to avoid a taking and the kind of development that would be approvable.

Takings

Depending on the outcome of the requested alternatives analysis, application of the wetland protection policies of the LCP in this case may be in conflict with Coastal Act Section 30010, which provides that the policies of Local Coastal Programs "shall not be construed as authorizing the commission . . . to exercise [its] power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation." If strict implementation of the restrictions in the LCP would cause a taking of property, these policies must not be so applied and instead must be implemented in a manner that will avoid this result.

While the applicant is entitled under Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the LCP altogether. Instead, the Commission is only directed to avoid construing these policies in a way that would take property. Aside from this instruction, the Commission is still otherwise directed to apply the requirements of the LCP. Therefore, in this situation, the Commission must still comply with the LCP wetland protection policies, by avoiding impacts that would disrupt and/or degrade wetlands, to the maximum extent that this can be achieved without taking the property.

If the proposed development must be approved within the 100-foot wetland buffer in order to provide an economically viable use, siting and design alternatives must be considered in order to identify the alternative that can avoid and minimize impacts to the wetland to the greatest extent feasible.

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Recent court decisions demonstrate that to answer the question whether implementation of a given regulation to a specific project will cause a taking requires an ad hoc factual inquiry into several factors. Specifically, the courts have consistently indicated that this inquiry must include consideration of the economic impact that application of a regulation would have on the property. A land use regulation or decision may cause a taking if it denies an owner all economically viable use of his or her land. (*Lucas v. South Carolina Coastal Council* (1992) 505 U.S. 1003, 112 S. Ct. 2886; also see *Keystone Bituminous Coal Assn. v. DeBenedictis* (1987) 480 U.S. 470, 495, citing *Agins v. Tiburon* (1980) 447 U.S. 255, 260.) Another factor that must be considered is the extent to which a regulation or regulatory decision "interferes with reasonable investment backed expectations." (*Keystone Bituminous Coal Assn. v. DeBenedictis*, supra, 480 U.S. 470, 495, citing *Kaiser Aetna v. United States* (1979) 444 U.S. 164, 175.) In addition, in order to avoid allegations of a taking, certain types of mitigation measures, such as exactions requiring the dedication of a fee interest in property, must be "roughly proportional" to the impact remediated. (*Dolan v. City of Tigard* (1994) 114 S. Ct. 2309.) Other factors that may be reviewed in conducting a takings analysis include whether the land use regulation substantially advances a legitimate state interest. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825.) This latter factor is not a significant limitation in analyzing this permit application because the state's interest in protecting wetlands is well recognized. Finally, it is necessary to consider whether the property proposed for development by the applicant is subject to existing limitations on the owner's title, such as prescriptive rights, that might preclude the proposed development. It is also necessary to ensure that the proposed development would not constitute a nuisance.

The information necessary for this ad hoc inquiry is specific and incumbent upon the applicant to provide. In its findings for substantial issue, the Substantial Issue staff report identified that a takings analysis would be necessary for the de novo review of the permit application and directed the applicant to provide specific information necessary for this analysis. Staff reiterated this request in its July 21, 2005 letter in which staff requested the applicant respond to eleven specific questions for purposes of the takings analysis (Exhibit 6). Thus far, the applicant has provided only a partial response to the Commission's requests for information necessary to assess the reasonable economic use of the property. Specifically, on February 13, 2006, the applicant provided property tax information for fiscal years 2003-2004, 2004-2005, and 2005-2006. This is only a partial response to one of the eleven items necessary for the "takings analysis" that the Commission has requested from the applicant. Without a complete response that provides all of the information requested as well as the alternatives analysis discussed above, the Commission cannot suspend the implementation of LCP Chapter III Policies 18, 22, 24, 25, and 26 to comply with Section 30010 of the Coastal Act, and thus, must deny the development as proposed.

3.8 California Environmental Quality Act (CEQA)

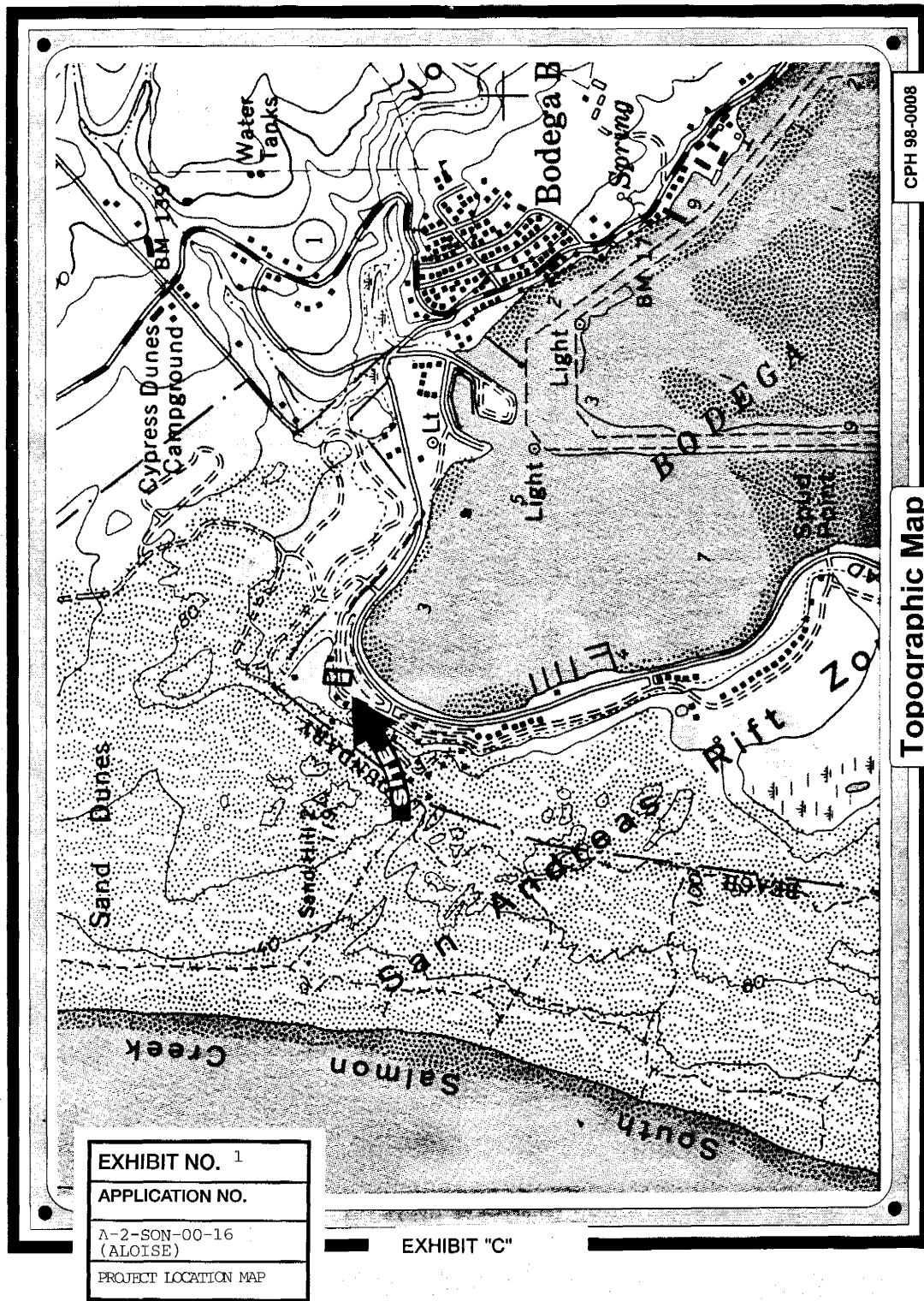
Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental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

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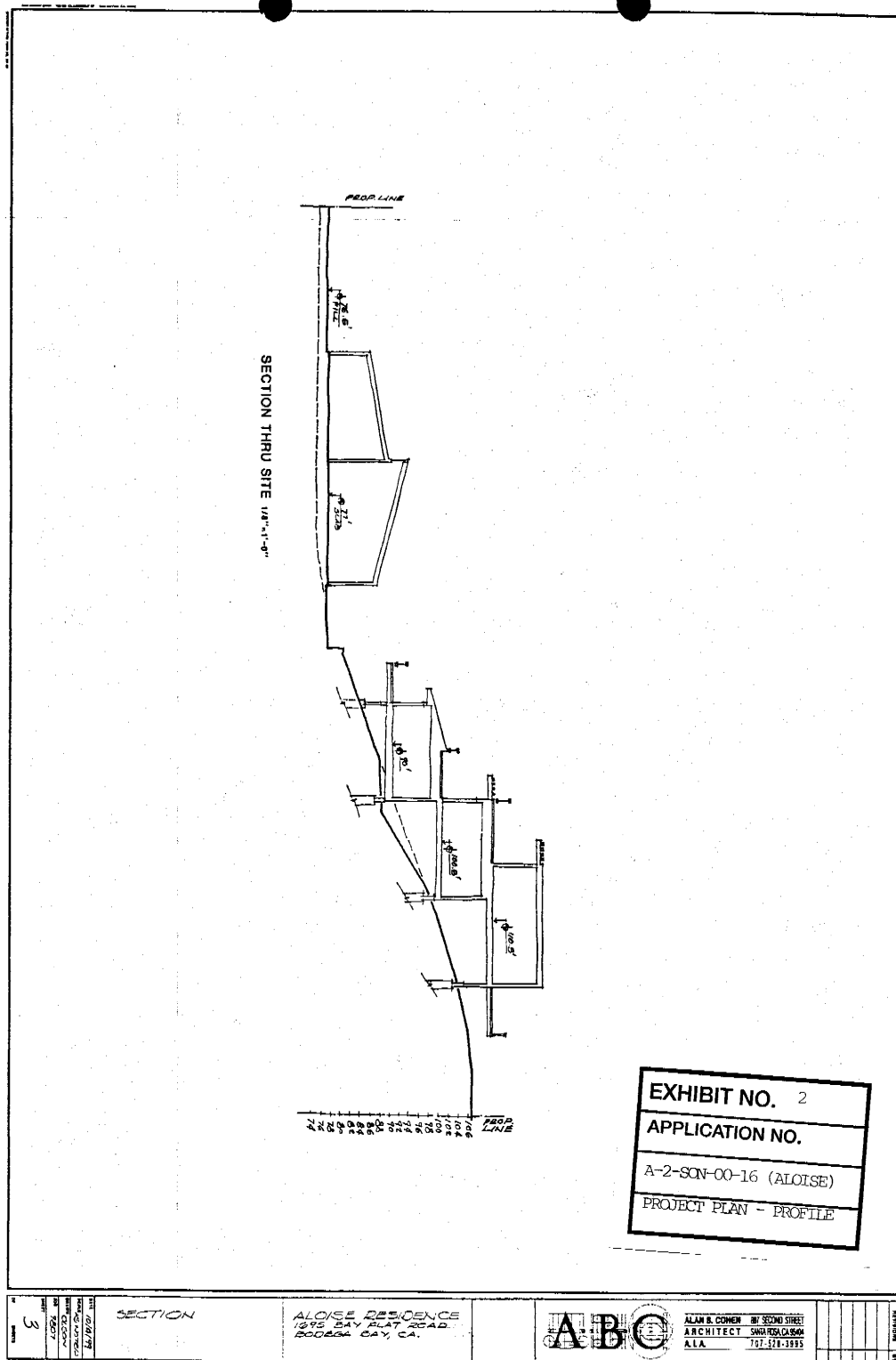
on LCP policies at this point as if set forth in full. For the reasons described in the Commission findings above, the Commission finds that there are feasible mitigation measures and alternatives that would substantially lessen the significant adverse impacts of the development on the environment. The Commission thus finds that the proposed project cannot be found to be consistent with the requirements of the Coastal Act and does not conform to the requirements of CEQA.

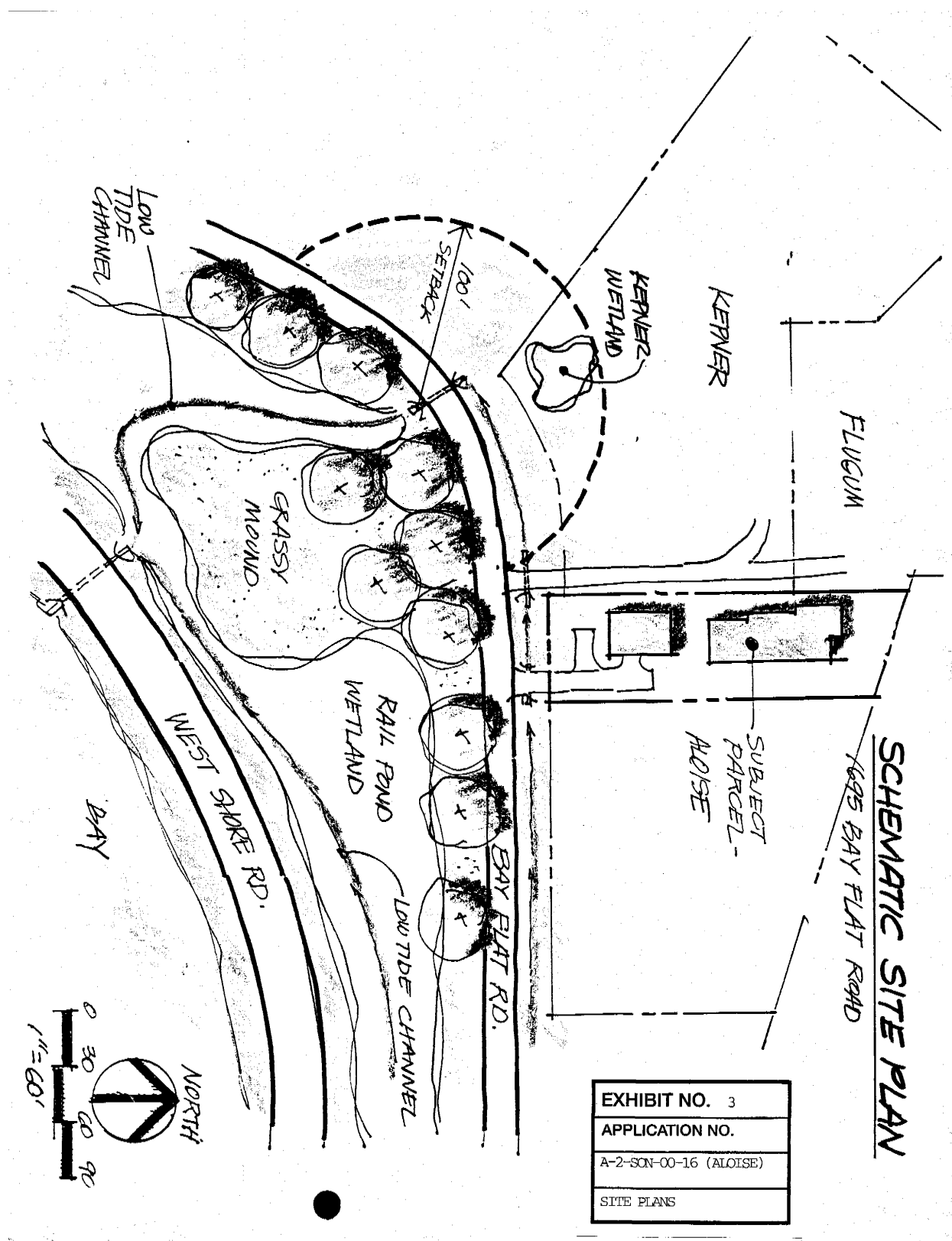
Exhibits

1. Project Location Map
2. Project Plan—Profile
3. Site Plans
4. November 6, 2000 Email from Scot Stegeman to Chris Kern
5. December 6, 2000 Letter from Chris Kern to Ronald Aloise
6. July 21, 2005 Letter from YinLan Zhang to Scot Stegeman
7. September 8, 2005 Letter from YinLan Zhang to Ronald Aloise
8. September 29, 2005 Letter from YinLan Zhang to Ronald Aloise
9. October 31, 2005 Letter from Scot Stegeman to YinLan Zhang
10. Emails to Scot Stegeman from YinLan Zhang, November 22, 2005 and December 5, 2005
11. January 10, 2006 Letter from YinLan Zhang to Ronald Aloise
12. February 3, 2006 Letter from Peter Simon to YinLan Zhang
13. February 13, 2006 Email from Sarah Hernandez to YinLan Zhang with property tax records as attachments.
14. November 30, 1998 Letter from Andy Gustavson to Alan Cohen
15. February 14, 2000 Reconnaissance Survey
16. January 1999 Soils Report by Giblin Associates
17. General Area on Site Containing Wetlands and Potential Wetland Impacts

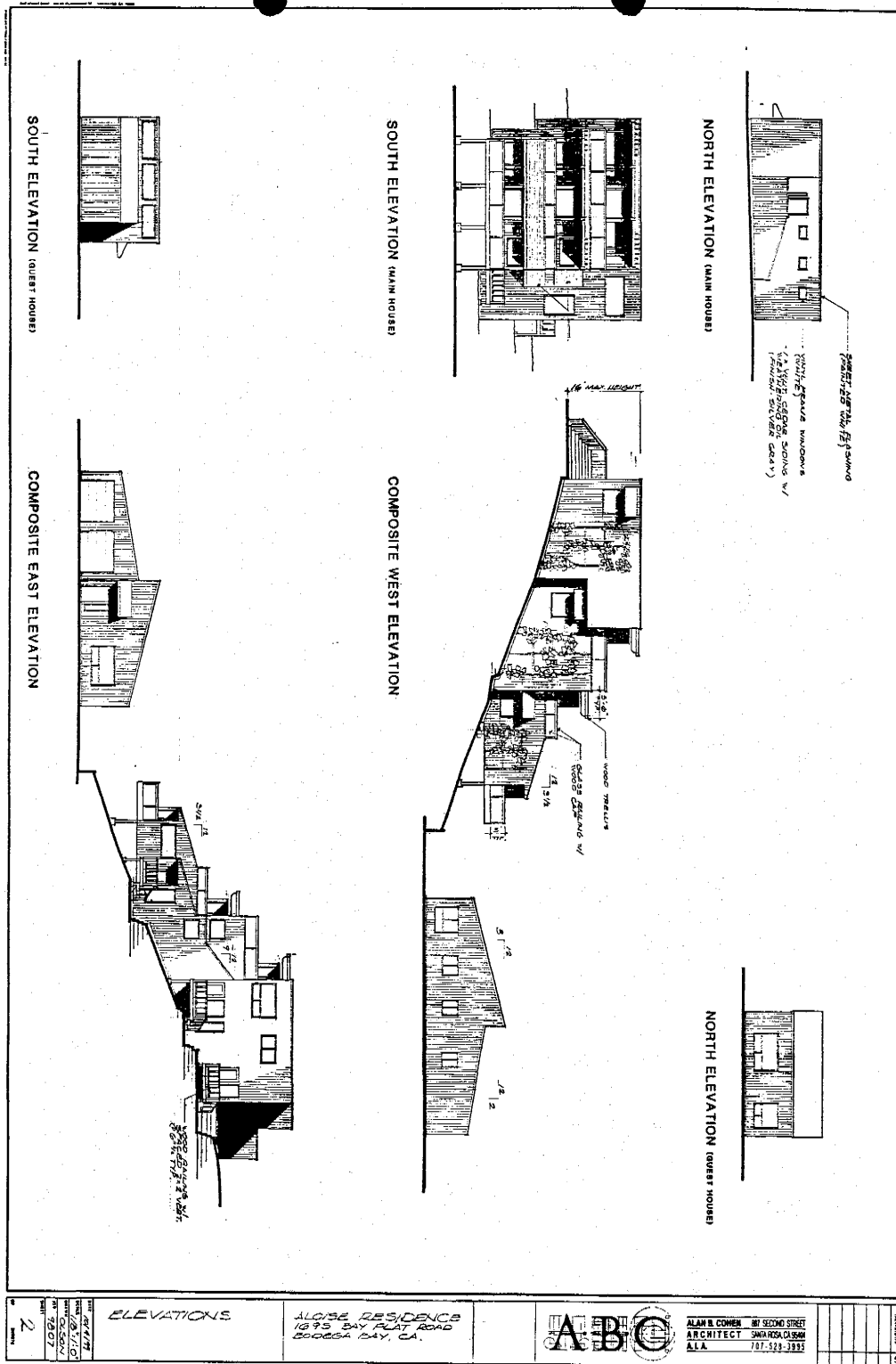


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A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

Chris Kern

From: Rue [pqrst@monitor.net]
Sent: Monday, November 06, 2000 1:00 PM
To: Chris Kern
Subject: Bay Flat Rd appeal, next steps

Dear Mr. Kern,

As you are no doubt aware, we elected to accept the finding that substantial issues exist in the appeal. This was based upon an assessment of the likelihood of having the Commission overturn your recommendation in your absence, since the item was placed for hearing while you were on vacation. This followed discussions with both Commissioner Reilly and Steve Scholl to find the most efficient way to proceed. As noted in my memo of October 6, our withdrawal was qualified to the extent that we do not agree that the items requested by you are incomplete, but merely that we accept that their role in the administrative record may not have been immediately apparent.

The need for such clarification regarding the existing information and its role in the local decision-making process was reinforced in my discussions with Steve Scholl in the week before the item was scheduled for hearing. In an effort to move the discussion along, I am offering the following responses to the issues cited in your staff report.

1. Presence of wetland on lower lot

A wetland delineation has been conducted, submitted, and accepted for this site. The delineation was carried out at the request of the Local Coastal Planner following questions regarding the possible presence of a wetlands. Since no wetland plants were present at the time the request was made, and since the applicable delineation procedure (USFWS) requires the presence of wetland hydrology, the Local Coastal Planner and the applicant agreed to preparing a delineation addressing the issues of s. No contention was made nor evidence submitted that wetland plants existed or had previously existed on the site.

The delineation was completed according to procedures of the US ACE Delineation Manual, and determined that neither hydric soils nor wetland hydrology were present. This information was submitted to the Local Coastal Planner, who requested direct confirmation from the Coastal Commission staff to determine the adequacy of the delineation, prior to proceeding to local hearing. Commission staff responded by providing a sample CCC staff report and wetland delineation for a project that was also on Bay Flat Road. The delineation submitted for this project met or exceeded the thresholds provided by the model project.

For comparison, the model project provided by CCC staff was required to determine whether a willow grove on a project site was a riparian area, and hence subject to protection and setback. The question thus became one of whether a wetland was present, which would be categorized as a riparian area given the presence of the willows. The delineation was completed and concluded no wetland was present based upon two borings placed over 80 feet apart, and then sampled only once in the "mid-spring". No hydric soils were found and saturated soils were not found until two feet in depth.

I emphasize only two borings were used and only one set of observations from those holes were made in one season. And this report was offered by CCC as a model against which to test the thoroughness of this applicant's delineation. Based upon the delineation prepared for that

EXHIBIT NO. 4
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
11/6/00 Email from Scott Stegeman to Chris Kern

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other Bay Flat project, the CCC staff concurred that no wetland was present on that site and recommended approval of the project.

On its own, this earlier project provides a clear indication of the level of detail necessary for an acceptable delineation. Its significance increases when you consider that it was specifically offered up by CCC staff as a yardstick against which to measure our own delineation.

In the case of our project, four test holes were made within an 80 foot diameter area, with none of them showing water table saturation in the upper 12 inches. The sampling was conducted in February of 1999. An additional set of data was provided from 4 different sample sites in the same area, all of which showed saturation not occurring in the upper foot in February of 1993. This represents a total of eight samples, taken from a comparable sized area for which two samples in one season were previously considered acceptable for a CCC wetland delineation. We are prepared to offer historical data for those years demonstrating the hydrological consistency of the rain fall in those years, but I note that this is a degree of detail that has never before been asked of an applicant in Sonoma County by either the Corps of Engineers or the Coastal Commission. Certainly it was not requested of the project offered up as a model.

Our effort to ensure acceptability by the Commission did not stop there. The Local Coastal Planner subsequently contacted a CCC biologist following submittal of the plant list noted in your staff report. The local staff person was advised that the plants would not be definitive, given the other historic and physical data on the site.

Given the current reliance on CFG procedures on the part of the CCC, I also conferred with the chief biologist at the CFG Yountville office, which has jurisdiction over this area. He indicated that the presence of plants in the absence of hydric soils or wetland hydrology was unusual, but not unprecedented. He referred me to the Fish and Game Commission website to verify their current delineation policy. We provided that policy to local planning staff, who concurred that the site also did not meet those criteria either.

Based upon these multiple consultations and confirmations (including with Commission staff), the project proceeded forward with a recommendation of local staff that no wetland was present on the site.

Your conclusions seem inconsistent with guidance received from various agencies, including your own. I am unaware of any interpretations of "wetland hydrology" or means of delineating it that would require multiple assessments or any qualifying of the fairly specific criteria provided in the universally used delineation procedures. The ACE Wetland Delineation Guidelines do call for an evaluation of the "normality" of a weather cycle, but only when relying exclusively on surface features relative to inundation (such as water lines, presence of debris, flood level, etc.) The decision to rely upon subsurface hydrologic features is not qualified in that same way, and is considered conclusive when surface evidence is unclear.

We have exceeded the standard previously accepted in this very area by the Commission in terms of number of and frequency of samples. We have evaluated the situation against the criteria of other agencies not even called for in our Local Coastal Plan. The existence of these delineations and comparisons are referenced by both the applicant and the local planning staff in the administrative record.

I have requested County staff to submit a memo confirming the earlier contacts with Coastal Commission staff regarding the significance of the

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vegetation on site. I have also retained the original Coastal Commission staff report and associated delineation that were provided by Coastal Commission staff as a model, complete with hand written notations as to important items and aspects. I also have a copy of a memorandum confirming prior receipt of the delineation and project description by Coastal Commission staff over 18 months ago.

2. Drainage ditch exemption

Your discussion of the drainage ditch application relies upon the existence of a hydrologic connection between the site and the nearby wetland area on the other side of Bay Flat Road. We have never denied the existence of such a connection, and the studies you reference specifically cite maintenance of that flow as important to the continued function of the wetland area. However, the more limited definition of "ditch" that you cite is specifically so limited by Coastal Commission interpretation, which was made after adoption of the Sonoma County LCP. The Sonoma County LCP does not contain the same specific qualifying language you mention regarding agricultural functions.

As for the "dry land" question, that relies upon the two soils engineering studies cited above, specifying that the front part of the parcel is not a wetland as defined in the LCP. Since there is no evidence that the top foot of soil is naturally saturated due to water table, there is no substantive evidence to say the shallow ditch was not dug in dry land.

Considering that the plant list you reference indicated that the only questionable area is in the ditch itself, this also suggests that the site is not naturally saturated to the upper surface, or the bulk of the site would have been similarly vegetated. The ditch had only existed for a one season at the time the list was completed. As referenced in my previous letter, there is substantial evidence in the record to support the conclusion that no observable wetland plants were present on the site in the recent past.

The wetland area on the adjacent parcel was factored into the consideration. That site had a very specifically mapped spring and wet area on its western boundary. In addition, the mapped presence of fill supported the possibility of an historic wetland extension from the area beyond Bay Flat Road. However, that filled area was not classified as a wetland by the Coastal Commission, nor was the protected area along the frontage ditch extended to the property line of the parcel currently in question. The only restriction imposed relative to the theoretical "historic wetland" was a offer to provide the designated fill area for the purposes of wetland restoration for a period of ten years. The offer was never acted upon and has now lapsed.

By way of comparison, this project site has also had aerial cartography evaluation specifically to determine earthquake safety relative to potential faults and/or fill. While an analysis of historic photos did confirm the presence of fill on the adjacent parcel, a similar analysis provided no evidence of fill on the parcel for this project.

In summary, we believe the ditch was dug in "dry" ground, as supported by two separate soil studies providing more data points than historically required in this area. The LCP does not qualify its ditch exemption, and the ditch in question was only dug after submittal of the application. The comparison with the adjacent parcel and project is not conclusive, since that project was not restricted across its entire frontage to its boundary with our parcel, nor is there comparable evidence of fill on top of historic topography. County staff has been requested to submit a statement confirming their previous communications with the Coastal Commission staff regarding the significance of the vegetation and that allowing the project to proceed through local

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approvals was based on information provided by Coastal Commission staff regarding standards for acceptable delineations.

3. Regarding the bisected jurisdiction
I think part of the problem is due to confusion as to the extent of activity that would occur within the area of retained jurisdiction by the Commission. The driveway in question already exists, and is referenced in material that is in the administrative record. All that will be required is upgrading the surface to a permeable material that meets fire access standards. I did not realize that resurfacing and improving an existing driveway would trigger a permit.

This level of activity was previously found to be acceptable on the adjacent property, when the division into new lots necessitated regrading and improving portions of an existing private driveway within the 100 foot wetland setback area. The culvert under that driveway is of a comparable age and design to the one that provides access to the project under appeal.

Aside from that, the Local Coastal Planner did contact Commission staff when the dual jurisdiction was noted. He was told that it would be acceptable to solely process the project on a local basis, given the nature of activity in the retained jurisdiction area. Again, staff was not prepared to move the project forward on a local level until assurance had been given on this question, and that assurance was provided by your agency's staff who have handled projects in this area in the past. County staff is prepared to submit a signed statement confirming this.

Commissioner Reilly indicated that fairly simple applications, such as resurfacing or improvement of an existing driveway, can be handled as an administrative approval. He suggested the option of starting concurrent processing of such a request, so that resolution of the wetland issues and issuance of such a permit could be proceeding forward simultaneously, rather than leaving one to follow the other. We are willing to proceed with that approach, provided that it does not reopen the entire wetlands issue to reexamination under different standards than previously applied or cited by Commission staff.

Conclusion
I appreciate that you are having to come rather late into a project that has had a rather tortured history. I believe the above items provide a context for how and why the project was approved as conditioned. I believe it also demonstrates that applicant and County went to great lengths, beyond that required by either the LCP or the Coastal Act, to ensure compatibility with CCC expectations for projects processed under local jurisdiction.

We believe that the conclusion that no wetlands are present upon the site as defined in the LCP is well supported by the administrative record, and by the information previously provided by the Coastal Commission. As regards the question of divided jurisdiction, it appears your conclusion may have been based upon an understanding that no crossing of the ditch presently exists. The expectation that it could be addressed exclusively as a local permit was a result of conferring with Commission staff. As indicated above, the driveway has existed for some time, predates the present application and owner, and will only be altered to the degree necessary to meet safe fire access requirements.

In my discussion with Steve Scholl prior to the item coming before the Commission, he indicated that a conclusion that a substantial issue might exist is typically based on a more cursory review than would occur for the actual hearing on the project in question. As such, it would be appropriate for a more detailed scrutiny to occur at this point. I can

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appreciate your need to balance multiple projects competing for your time (particularly given the pending review of the Sonoma County LCP), but believe it would now be timely for us to meet, review the entire administrative record and any associated consultations, and determine how much of what was cited in your previous staff report has already been met by the applicant over the last 18 months.

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

STATE OF CALIFORNIA—THE RESOURCES AGENCY

GRAY DAVIS, GOVERNOR

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



December 6, 2000

Ronald Aloise
1320 Hearn Avenue
Santa Rosa, CA 95407

EXHIBIT NO. 5
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
12/6/00 Letter from Chris Kern to Ronald Aloise

SUBJECT: Information necessary for Coastal Commission Review of Coastal Development Permit Application A-2-00-16

Dear Mr. Aloise:

On October 12, 2000, the California Coastal Commission determined that a substantial issue is raised under the Sonoma County Local Coastal Program by two appeals of your Sonoma County coastal development permit for construction of a single-family residence at 1695 Bay Flat Road. Consequently, the Coastal Commission will conduct a de novo review of your coastal development permit application. The staff report mailed to you and your representatives in September included a list of additional information needed for the Commission's de novo review of your permit application (staff report Section 6.0 Information Needed for De Novo Review). I have enclosed this section of the staff report for your convenience. The Commission cannot proceed with its review of your permit application until you have provided the required information. As of the date of this letter, none of the items described have been received.

In a November 6, 2000 email message to me, Scot Stegman contends that no additional information is necessary to support a conclusion that no wetlands are present on the project site. As discussed in the staff report, the Commission disagrees. The Sonoma County LCP definition of wetlands is the same as that contained in Section 13577 of the Coastal Commission's Regulations. The Commission interprets this definition to mean that an area is a wetland if it is wet enough long enough to promote the formation of hydric soils or to support the growth of hydrophytes. The latter means a preponderance of hydrophitic vegetation. The vegetation list prepared by County staff strongly suggests that wetlands as defined under the Coastal Commission's regulations may be present. However, this plant list does not satisfy the requirement to provide a vegetation survey as part of the wetland delineation. In order for the Commission to determine whether the project will affect wetlands, you must provide a survey that maps the vegetation types on the project site.

The vegetation survey should be prepared by a qualified botanist and should indicate the locations and percent coverage of all vegetation types in the area in question. Staff accepts the field protocols in the Army Corps of Engineers 1987 Delineation Manual, but is not restricted to them. We are happy to consider all information that you wish to provide. We encourage you document all plants present in a sample plot and visually estimate their percent covers. Should you believe that there is reason not to delineate an area that qualifies as wetland based on vegetation alone (e.g., an elevated, well drained area dominated by *Lolium perenne*), please draw

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

Letter to Ronald Aloise
December 6, 2000

a polygon for the whole area and a second polygon for the questionable area, both with a narrative description. This information will allow staff and the Commission to make an independent judgement.

In addition, as indicated in the staff report, the lower portion of the project site adjacent to Bay Flat Road is within the Commission's retained coastal permitting jurisdiction. As proposed, your driveway requires a coastal development permit directly from the Commission. Accordingly, you must submit a separate application for a coastal development permit for the construction of the proposed driveway.

If the proposed driveway is located in or adjacent to a wetland, the Commission must evaluate whether any feasible alternative exists that would avoid or minimize impacts to the wetlands. Please provide the information specified in Section 6.3 of the staff report necessary to support this alternatives analysis. If the project will result in impacts to wetlands and no feasible alternative exists that would avoid those impacts, you will need to provide the information described in Section 6.2 of the report to allow the Commission to evaluate the project pursuant to Coastal Act Section 30010.

Until we have received the required information discussed in this letter and as further described in Section 6.0 of the staff report, the staff cannot complete its analysis of your permit application and set this matter for final Commission action. Please call me at (415) 904-5266 if you have any questions concerning these requirements.

Sincerely,



Chris Kern
North Central Coast District Supervisor

cc: Scot Stegman
Allan Cohen
Richard Jimerson
Andy Gustavson, Sonoma County

enclosure

A-2-SON-00-16 (Aloise)
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STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
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FAX (415) 904-5400



July 21, 2005

Scot Stegeman
Stegeman and Associates
1430 High School Road
Sebastopol, CA 95472

EXHIBIT NO. 6
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
7/21/05 Letter from Yinken to Scot Stegeman

SUBJECT: CDP Application A-2-SON-00-016 (Aloise)

Dear Mr. Stegeman:

This letter is to follow up on our telephone conversation yesterday. As discussed, in order for the California Coastal Commission's de novo hearing to proceed on coastal development permit application A-2-SON-00-016 the following materials, as indicated in the adopted Commission staff report from the October 2000 and also referenced in the December 2000 letter from Chris Kern to Ronald Aloise, must be submitted to Commission staff:

Wetland Delineation

Please provide a wetland delineation of any wetlands present on the site of the proposed development. The following directions from Commission staff ecologist can be used as guidance to perform the wetland delineation:

1. Use the Army Corps of Engineers 1987 Delineation Manual but instead of the three parameter method, use the one parameter method.
2. Perform a comprehensive vegetation survey.
3. Create a polygon on the map for any location that has a preponderance (greater than 50%) of hydrophytic vegetation.

Please also refer to the attached December 2000 letter from Chris Kern to Ronald Aloise for further guidance on how to perform a delineation that would meet the requirement of the Sonoma County LCP and Commission Regulations.

Alternative Vehicular Access

Please provide an analysis of all feasible alternative vehicular access to the project site and include the following information:

1. Analysis of ability to eliminate the proposed driveway through the wetlands, including ability to park adjacent to the site.
2. Analysis of ability to access the project site through neighboring parcels, including any easements now or previously existing on all adjacent parcels.
3. Copies of any public or private access easements currently or previously existing on all adjacent parcels.

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Letter to Stegeman
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4. Subdivision history of the subject parcel including identification of any contiguous parcels that were in common ownership with the subject parcel at any point in time.

Takings Analysis

If the alternative analysis shows that there is no other feasible alternative for vehicular access of the project site except for the access road through the wetland, then the Commission must conduct a takings analysis pursuant to constitutional principles and Coastal Act Section 30010. The following information is required for the takings analysis:

1. When the property was acquired, and from whom;
2. The purchase price paid for the property;
3. The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived;
4. Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s).
5. At the time the property was purchased, or at any subsequent time, whether the project been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question;
6. Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of the change, the circumstances and the relative date(s);
7. Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion or interest sold or leased;
8. A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.);
9. The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property;
10. The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include, but not necessarily be limited to, the following:
 - property taxes
 - property assessments
 - debt service, including mortgage and interest costs; and

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- operation and management costs; and

11. Whether apart from any rent received from leasing all or a portion of the property (see question #7 above), current or past use of the property generates any income. If the answer is yes, the amount of generated income on an annualized basis for the past five calendar years and a description of the use(s) that generates or has generated such income.

The Commission's requirements for takings analysis has changed since the project's Substantial Issue hearing in October 2000, and therefore, the information we are requesting is slightly different from that listed in the 2000 staff report. Should you decide to modify the project description to avoid all wetland impacts, then the alternatives and takings analysis would not be necessary. Perhaps alternative vehicular access to the site can be secured on an existing road by obtaining permission from neighboring property owners.

As you are aware, this permit application has been pending action by the Coastal Commission since 2000, and therefore, we would like to receive the requested information, or any changes to the proposed project description that would render some of the above information unnecessary, as soon as possible so that Commission staff can process this application for Commission action. Alternatively, should the property owners are not prepared to provide the information and analysis necessary to complete the permitting process at this time, they may wish to withdraw the current permit application from consideration. Please indicate in writing whether or not your clients wish to continue to pursue approval of CDP Application A-2-SON-00-016 at this time. I look forward to hearing from you at your earliest convenience.

Sincerely,



YinLan Zhang
Coastal Program Analyst
North Central District

Cc: Ronald Aloise

Enclosure: December 6, 2000 Letter from Chris Kern to Ronald Aloise

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400



September 8, 2005

Ronald Aloise
P.O. Box 7777
Santa Rosa, CA 95407

RE: CDP Application No. A-2-SON-00-016

Dear Mr. Aloise:

Per our telephone conversation today, I am enclosing the letter I sent to Scott Stegeman on July 21, 2005, as well as the letter from Chris Kern to you dated December 6, 2000 and the Commission staff report. I am sorry that you did not receive the July letter to Mr. Stegeman as I did not have your most current address. If you have any questions, please contact me at (415) 904-5260.

Sincerely,

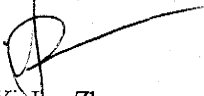

Yinlan Zhang
Coastal Program Analyst
North Central Coast District

EXHIBIT NO. 7
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
9/8/05 Letter from Yinlan Zhang to Ronald Aloise

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400



September 29, 2005

Ronald Aloise
P.O. Box 7777
Santa Rosa, CA 95407

RE: CDP Application No. A-2-SON-00-016

EXHIBIT NO. 8
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
9/29/05 Letter from YinLan Zhang to Ronald Aloise

Dear Mr. Aloise:

As you are aware, the California Coastal Commission found substantial issue with your proposed development in Bodega Bay in October 2000. As a part of finding for substantial issue, the Commission determined that additional information was needed before the de novo part of the review could proceed. (The appeal process usually entails two steps, first is the hearing on whether the local government's approval of a development raises substantial Local Coastal Program/Coastal Act policy issues. And if the Commission finds substantial issue, then a de novo hearing, which means a completely new review of the proposed development by the Commission, is scheduled. Often, the Substantial Issue and de novo hearings are scheduled at the same time, however, in this instance, since there was insufficient information to proceed with the de novo hearing, it was scheduled for a later time.)

Since the October 2000 hearing, Commission staff have been in contact with you and your agent, Scot Stegeman, regarding the outstanding material required for de novo review. In November 2000, Mr. Stegeman emailed Commission staff, Chris Kern, contending that additional information to support the conclusion that no wetlands existed on the property was not necessary. Mr. Kern responded to the email in a letter addressed to you on December 6, 2000, and stated that a vegetation survey and mapping of the project site is essential in determining the occurrence or lack of wetlands, as defined in the Coastal Act and the Commission's regulations. Our files indicate that no subsequent written response was provided by you or Mr. Stegeman, nor was any information requested in the Commission staff report for the Substantial Issue hearing ever submitted. In July of this year, I wrote a letter to Mr. Stegeman regarding the status of this permit, which, along with the October 2000 staff report and Mr. Kern's December 6, 2000 letter, was forwarded to you earlier this month, but have not received any response. We hope to bring this permit that has been pending Commission action for five years to a conclusion this year, and would like to include it in the agenda for the December Commission hearing in San Francisco. The deadline for submitting the outstanding materials described in my July 21, 2005 letter to Mr. Stegeman is October 31, 2005. If you feel that you cannot provide all of the material by October 31, 2005, please indicate another reasonable date on which the material can be supplied, and we will then schedule the project for the next Commission hearing. However, if we do not receive the materials by October 31 and we are not provided with a firm date on which to expect the materials, then we are likely to proceed with a denial recommendation for the proposed development for the December Commission hearing due to potential wetland impacts and that

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

substantial evidence of no significant adverse impacts to coastal wetlands has not been provided. Alternatively, should you feel that you are not prepared to provide the information and analysis necessary to complete the permitting process, you may withdraw the current permit application from consideration. Please indicate in writing how you wish to proceed with this permit. I look forward to hearing from you at your earliest convenience.

If you have any questions, please contact me at (415) 904-5260.

Sincerely,



Yin Lan Zhang
Coastal Program Analyst
North Central Coast District

Cc: Scot Stegeman, Stegeman and Associates

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

10/31/2005 17:21 7078236661

RUE FURCH & FRIENDS

Stegeman and Associates

Land Use Planning - Neighborhood Mediation - Environmental Compliance

FAX

EXHIBIT NO. 9
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
10/31/05 Letter from Scott Stegeman to YinLan

Zhang

2005
CALIFORNIA
COASTAL COMMISSION

To: YinLan Zhang
North Coastal District
California Coastal Commission

Fax#: (415) 904-5400

Date: October 27, 2005

Number of pages: 2
Hard copy w. attachment under separate cover

Re.: CDP application A-2-SON-00-016

In response to your letter of September 29, 2005, I have gathered all the materials you requested regarding the Alternative Vehicular Analysis. I believe I also have all the information specified for the Takings Analysis. As we discussed on the phone previously, I have been gathering such information as is available to determine the age of the current driveway entry into the project. Aerial photography from the early 1970s suggest the entryway has been in place for some decades now. I was doing all this in response to your letter of July 21, which did not specify a date-specific deadline.

In addition, I have made tentative contact with several individuals who prepare wetland delineations, but several questions have arisen about the standard to use. Since the inception of the project file at your end, we have received three different directives as to the standard to use for a wetland delineation proper for this area. The first guidance was received from Bill Van Beckum, and this was relied upon by both the applicant and the County in preparing and reviewing the wetland delineation provided to the County.

Subsequent to the appeal, CCC staff then provided very specific direction as to what would constitute an adequate delineation, and the requested standards and procedures far exceeded those provided for in the 1987 Delineation Manual. This included not only multiple surveying re. hydrologic data within a season, but the possible need for sampling over multiple seasons.

Then your letter of July 21 of 2005 simply specified using the 1987 Delineation Manual, but apply the one parameter method.

My concern is that we could complete another delineation, but given the above, still have it found unsatisfactory. In addition, the approach recommended is something of a frying pan or fire scenario. If we supply the delineation based upon the one parameter method, we are proceeding contrary to the Local Coastal Program, which sets very specific procedures for conducting wetland delineations for previously unmapped ESHAs consistent with US Fish and Wildlife Service standards.

What I would request, if you are willing, is to supply me with a way to directly contact one of the CCC wetland biologists, so as to have clarity from the source. I am not questioning the intentions of any Commission staff, but you can understand our unease when, having requested and received direction from Commission staff prior to County approval of the local coastal permit, we are then directed to a different standard after County approval and filing of an appeal by a neighbor.

At the time of the local approval, I was advised that the Bolsa Chica ruling had made wetland impacts much more complicated to address. But part of that decision also noted the importance of relying upon,

1430 High School Road - Sebastopol - California - 95472

Vc: (707)-823-1925

Fx: (707)-823-8661

scotsteg@monitor.net

10/31/2005 17:21 7078236661

RUE FURCH & FRIENDS

PAGE 02

Stegeman and Associates

Land Use Planning - Neighborhood Mediation - Environmental Compliance

and deferring to, the Interpretative Guidelines, which have been incorporated into the Sonoma County Local Coastal Program as certified. For that reason, we went to specific effort to ensure compliance with the specific delineation process provided in the local Administrative Manual. I was also specifically advised that the standard for reviewing an appeal was based upon consistency with the Local Coastal Program, if a certified one existed. Hence my continued uncertainty as to why the Sonoma County LCP procedures are not being considered in this process.

With a confirmed standard to be applied, we could then proceed with a delineation as requested. I can also send you the other information in advance of such a meeting (this week if you wish), or hold it for submittal as one packet. I would be more than willing to come down, meet with both you and a biologist together immediately for this clarification.

With a procedurally acceptable delineation in hand, the only issue is the applicability of the one parameter standard vs. the specific procedure provided for in our Local Coastal Plan, and perhaps that discussion can just be passed to a discussion between my client's attorney and the Commission legal counsel.

In closing, my client does very much want closure on this. Clearly you do as well. However, he wants some certainty as to a course of action that will actually get him there, and in a manner that would withstand any subsequent legal challenge by neighbors. Given the previous consultations with Commission staff, the overlapping or conflicting directives really need to be resolved. As mentioned above, I can get the wetland information turned around quickly, which will simply leave as a last step, how best to proceed. With the information in hand, based upon mutually accepted evidence, my client is more than willing to discuss mitigation of any wetland impacts that are identified, and produce an uncontested hearing before the Commission.

I am not sure what the noticing window is for a Coastal Commission hearing, but I am sure with an acceptable delineation as the last step, that we can be before the Commission very early next year. I know there is a preference for scheduling items at a Commission hearing in rough geographic proximity to the item in question. From reviewing your calendar, the next Northern California hearing would not be until June in Santa Rosa. I am not sure you would want to wait that long, but I don't want to deprive the appellants of a constructive chance to participate. Certainly we can get the information, with clarification, into your hands much sooner than that.

Scot Stegeman

cc: Ron Aloise
Peter Simon, Beyers Costin and Case

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

YinLan Zhang

From: YinLan Zhang
Sent: Tuesday, November 22, 2005 10:56 AM
To: 'Scot Stegeman'
Subject: RE: Submittal of outstanding material

Hi Scot, were you ever able to mail out the materials on the said date below? If not, can you let me know when I could expect this? Thanks!

-----Original Message-----

From: Scot Stegeman [mailto:scotsteg@monitor.net]
Sent: Thursday, November 10, 2005 11:33 AM
To: YinLan Zhang
Subject: Re: Submittal of outstanding material

Dixon is out of the office until next week, and we will talk then. I can either go up and meet with him, or send him additional info as appropriate, whatever makes the best use of his time.

Packet will be mailed on Monday or Tuesday. I wanted to double check any deed issues to make sure the data was current.

Scot

YinLan Zhang wrote:

>Scot,
>
>I hope you've had a chance to discuss wetland delineations with John Dixon.
>Please let me know when I should expect the other outstanding materials
>besides the wetland delineation. Thanks.
>
>YinLan Zhang
>Coastal Program Analyst
>California Coastal Commission
>45 Fremont Street, Suite 2000
>San Francisco, California 94105
>phone 415.904.5267
>fax 415.904.5400
>
>
>
>

EXHIBIT NO. 10
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
Mails to Scot Stegeman from YinLan Zhang, 11/22/05 and 12/5/05

YinLan Zhang

From: YinLan Zhang
Sent: Monday, December 05, 2005 3:10 PM
To: 'Scot Stegeman'
Subject: RE: Submittal of outstanding material/wetland delineation clarification

When do you expect that we would receive all of the outstanding materials including the wetland delineation?

-----Original Message-----

From: Scot Stegeman [mailto:scotsteg@monitor.net]
Sent: Tuesday, November 29, 2005 2:12 PM
To: YinLan Zhang
Subject: Re: Submittal of outstanding material/wetland delineation clarification

I actually had a long discussion with John Dixon that did clarify most of the delineation characteristics. He also cleared up why there were different directions from different folks at CCC. The complication is I need to review average rainfall data for that area (or as geographically close as feasible) to determine the point to complete the wetland hydrology component of the delineation. I also am tracking down a previous geologic/soils study for that site and vicinity to determine how deep the unconsolidated sands are. There is a possibility that the primary water table influence will be the water elevation in Bodega Bay as opposed to upslope surface or subsurface flows. He also did acknowledge that is a site like this, it is possible to have some wetland plant populations without the hydrology threshold, which may affect how any "gray" areas get assessed. But we will cross that bridge when we get to it.

I am contacting 2-3 wetland delineation folks with experience in coastal environments, but will then be watching the weather. Which suddenly shifted into a wetter cycle this weekend. The packet for you is waiting on the County providing copies of aerial photographs of the north end of Bodega Bay to try to establish when the cutoff road was built, and at what point the existing access driveway was installed.

Scot

YinLan Zhang wrote:

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

STATE OF CALIFORNIA—THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT
45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5260
FAX (415) 904-5400



January 10, 2006

Ronald Aloise
P.O. Box 7777
Santa Rosa, CA 95407

RE: CDP Application No. A-2-SON-00-016

Dear Mr. Aloise:

Since my letter to you in September 2005, I have yet to receive any of the outstanding information necessary to move forward with the de novo review of the above CDP application. On October 31, 2005, your agent, Scot Stegeman indicated to us in a letter that he was prepared to provide us with all of the information we requested with the exception of the wetland delineation. I have repeatedly asked Mr. Stegeman to send us the information that he already has so I can begin to prepare the staff report. However, as of today, I have yet to receive any of the information that was deemed outstanding in the 2000 Commission staff report and my July 2005 letter to Mr. Stegeman.

In my September 29, 2005 letter, I set a deadline of October 31, 2005 to provide us with all of the necessary information or a firm date on which we can expect all of the materials, and while I did receive a letter from Mr. Stegeman on October 31, 2005, neither the outstanding information nor a firm date to expect the outstanding information has been provided. As indicated in that letter, Commission staff would like to bring this permit that has been pending Commission action for over five years to a conclusion. We would like to include this permit application in the agenda for the March 2006 Commission hearing. The deadline for submitting *all* the outstanding materials described in my July 21, 2005 letter to Mr. Stegeman is February 3, 2006. If we do not receive the materials by this date, then we are likely to proceed with a denial recommendation for the proposed development due to potential wetland impacts and that substantial evidence of no significant adverse impacts to coastal wetlands has not been provided. Alternatively, should you feel that you are not prepared to provide the information and analysis necessary to complete the permitting process, you may withdraw the current permit application from consideration. Please indicate in writing how you wish to proceed with this permit. I look forward to hearing from you at your earliest convenience.

If you have any questions, please contact me at (415) 904-5260.

EXHIBIT NO. 11
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
1/10/06 Letter from Yinlan Zhang to Ronald Aloise

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

Page 2 of 2

Sincerely,



Yin Lan Zhang
Coastal Program Analyst
North Central Coast District

Cc: Scot Stegeman, Stegeman and Associates
Peter Simon, Beyers Costin



200 FOURTH ST. SUITE 400 P.O. BOX 878 SANTA ROSA, CA 95402-0878
PHONE 707.547.2000 FAX 707.526.2746 WEB BEYERSCOSTIN.COM

A PROFESSIONAL CORPORATION

RECEIVED

FEB 03 2006

February 2, 2006

CALIFORNIA
COASTAL COMMISSION

Via Facsimile and U.S. Mail
(415) 904-5400

YinLan Zhang
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105

Re: 1695 Bay Flat Road, Bodega, CA
CDP Application No. A-2-SON-00-016

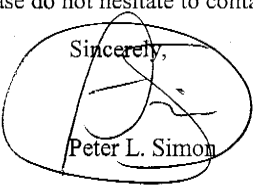
Dear Ms. Zhang:

As you know, Mr. Stegeman is the consultant on this project. He has indicated that he has been in communication with you and with John Dixon regarding the wetlands delineation issues. Per my understanding, the only information that you have not yet received is a new and improved delineation and the takings analysis. In addition to the work that was already completed, we are attempting to coordinate a subsequent determination and delineation of wetlands. To make certain that you are not missing any other documents, I am prepared to provide you a copy of all documents related to the project but you asked me not to do that at this time. I am hopeful that this will provide you all of the information you need, save for the final wetland delineation. Rather than try to pick out and determine the documents that you may want, I am providing you every document contained in my client's files related to this process.

I am hopeful that we will have the wetlands delineation completed shortly. I would request that you put over the hearing currently set for February 3, 2006 until April, at the earliest. This should allow the delineation and takings analysis to be completed, and the information to be put into a digestible form for you.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Peter L. Simon

PLS/sh
cc: Clients

EXHIBIT NO.	12
APPLICATION NO.	
A-2-SON-00-16 (ALOISE)	
2/3/06 Letter from Peter Simon to YinLan Zhang	

303\G:\4430-03\LTRS\COASTAL COMMISSION 02-02-06.DOC

YinLan Zhang

From: Sarah Hernandez [shernandez@beyerscostin.com]
Sent: Monday, February 13, 2006 11:43 AM
To: YinLan Zhang
Cc: Scotssteg@monitor.net
Subject: 1695 Bay Flat Road, Bodega Bay, CA

Attached please find copies of the tax statements for 1695 Bay Flat Road. Please contact Peter Simon with any questions.

Sarah Hernandez
Assistant to Peter L. Simon

Beyers | Costin
200 Fourth Street, Ste. 400
Santa Rosa, CA 95401
(707) 547-2000
(707) 526-3672 Fax
e-mail: shernandez@beyerscostin.com

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3/21/2006

EXHIBIT NO. 13
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
2/13/06 Email from Sarah Hernandez to YinLan Zhang

w/ property tax records

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

FROM :

PHONE NO. : 1

Feb. 02 2006 05:20PM P2

SECURED PROPERTY TAX BILL 2005-2006
 FOR FISCAL YEAR BEGINNING JULY 1, 2005 - JUNE 30, 2006

COUNTY OF SONOMA
TAX STATEMENT
TOM FORD - TAX COLLECTOR

685 FISCAL DR. ROOM 100F SANTA ROSA, CA 95403

-OFFICE HOURS-
 8:00 A.M. - 5:00 P.M.
 MONDAY - FRIDAY

SAIT 007506

PROPERTY INFORMATION		IMPORTANT MESSAGES
ASSESSMENT #:	100-060-009-000	SEE REVERSE OF THIS STATEMENT FOR IMPORTANT INFORMATION Original bill date 09/07/2005
FEE NUMBER	100-060-009-000	
LOCATION:	1695 BAY FLAT RD	
LIEN DATE OWNER:	ALOISE RONALD TR & ALOISE SALLY TR	
100-060-009-000 ALOISE RONALD TR & ALOISE SALLY TR PO BOX 7777 SANTA ROSA CA 95407		View & Pay Your Taxes On-line: www.sonoma-county.org/tax For Credit Card Payments Phone 1 (866) 875-3327

COUNTY VALUES, EXEMPTIONS AND TAXES				
PHONE NUMBERS	VALUE DESCRIPTION	ASSESSED VALUES	TAX RATE/100	COUNTY TAXES
TAX COLLECTOR (707) 565-2281	LAND	95,080		
PAYMENTS (707) 565-2281				
24 HOUR INFO (707) 565-3010				
CREDIT CARD 1-866-875-3327				
ASSESSOR				
VALUATION (707) 565-1888				
EXEMPTIONS (707) 565-1888				
BUSINESS EQUIP (707) 565-1330				
	NET TAXABLE VALUE	95,080	1.000000	950.80

VOTER APPROVED TAXES, TAXING AGENCY DIRECT CHARGES AND SPECIAL ASSESSMENTS				
PHONE NUMBERS	TAX CODE	DESCRIPTION	ASSESSED VALUES	AGENCY TAXES
(707) 521-1806	06700	WS DAM-RUSSIAN RIVER PRO	95.080	6.66
(707) 829-4000	07200	PALM DRIVE HLTH CARE DIST	95.080	4.94
(707) 565-3277	39900	SO CO JUNIOR COLLEGE BON	95.080	23.76
(707) 878-2226	40400	SHORELINE JT UNIF BONDS	95.080	13.70
(707) 878-2226	40402	SHORELINE JT UNIF BOND 02	95.080	15.02
(707) 875-3700	52301	BODEGA BAY FIRE 2004 SPEC	DIRECT CHARGE	262.20
(800) 273-5167	74201	MSMA & VCD-ANNEXED AREA	DIRECT CHARGE	4.74
(707) 829-4000	74600	PALM DRIVE HEALTH CARE	DIRECT CHARGE	155.00
(707) 829-4000	74601	PALM DRIVE 2004-05 SUPPL	DIRECT CHARGE	95.00
(707) 876-2226	76000	SHORELINE UNIFIED GENERA	DIRECT CHARGE	140.36

PAID ck #1445 \$836.09

PAID ck #1457 \$836.09

TOTAL OF VOTER APPROVED TAXES, DIRECT CHARGES, AND SPECIAL ASSESSMENTS -			721.38
1ST INSTALLMENT DUE 11/1/2005 DELINQUENT AFTER 12/1/2005	2ND INSTALLMENT DUE 2/1/2006 DELINQUENT AFTER 4/10/2006	TOTAL TAXES	
\$836.09	\$836.09		\$1,672.18

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

FROM :

PHONE NO. : 1

Feb. 02 2006 05:20PM P3

SECURED PROPERTY TAX BILL 2004-2005
 FOR FISCAL YEAR BEGINNING JULY 1, 2004 - JUNE 30, 2005

COUNTY OF SONOMA
TAX STATEMENT

TOM FORD - TAX COLLECTOR

585 FISCAL DR. ROOM 100F SANTA ROSA, CA 95403

-OFFICE HOURS-
 8:00 A.M. - 5:00 P.M.
 MONDAY - FRIDAY

PROPERTY INFORMATION		IMPORTANT MESSAGES
ASSESSMENT #:	100-060-009-000	SEE REVERSE OF THIS STATEMENT FOR IMPORTANT INFORMATION Original bill date 09/08/2004 Correc Number: A1541 For Credit Card Payment Phone 1-877-603-6051
FEE NUMBER	100-060-009-000	
LOCATION:	1695 BAY FLAT RD	
LIEN DATE OWNED:	ALOISE RONALD TR & ALOISE SALLY TR	
100-060-009-000 ALOISE RONALD TR & ALOISE SALLY TR PO BOX 7777 SANTA ROSA CA 95407		

COUNTY VALUES, EXEMPTIONS AND TAXES						
PHONE NUMBERS	VALUE DESCRIPTION	ASSESSED VALUES	TAX RATE/100	COUNTY TAXES		
TAX COLLECTOR (707) 565-2281	LAND	93,216				
PAYMENTS (707) 565-2281						
24 HOUR INFO (707) 565-3010						
CREDIT CARD 1-877-603-6051						
ASSESSOR						
VALUATIONS (707) 565-1888						
EXEMPTIONS (707) 565-1888						
BUSINESS EQUIP (707) 565-1330						
	NET TAXABLE VALUE	93,216	1.000000	932.16		
VOTER APPROVED TAXES, TAXING AGENCY DIRECT CHARGES AND SPECIAL ASSESSMENTS						
PHONE NUMBERS	TAX CODE	DESCRIPTION	ASSESSED VALUES	TAX RATE/100	AGENCY TAXES	
(707) 521-1806	08700	WS DAM/BUSS R PROJ	93,216	0.007000	6.52	
(707) 829-4000	07200	PALM DRIVE HCD	93,216	0.008700	8.24	
(707) 585-3277	39900	SO CO JUNIOR COLLEGE BON	93,216	0.025000	23.30	
(707) 878-2226	40400	SHORELINE JT UN BONDS	93,216	0.022000	20.50	
(707) 878-2226	40402	SHORELINE JT UN BOND 02	93,216	0.018000	16.78	
(707) 875-3700	52301	BODEGA BAY FIRE 2004 SPEC			262.20	
(707) 829-4000	74600	PALM DRIVE HEALTH CARE			60.00	
(707) 878-2226	76000	SHORELINE UNIF-GENERL			134.96	
			DIRECT CHARGE			
			DIRECT CHARGE			
			DIRECT CHARGE			
TOTAL OF VOTER APPROVED TAXES, DIRECT CHARGES AND SPECIAL ASSESSMENTS					530.50	
1ST INSTALLMENT DUE 11/1/2004		2ND INSTALLMENT DUE 2/1/2005		TOTAL TAXES		
DELINQUENT AFTER 12/10/2004		DELINQUENT AFTER 4/10/2005				
AR \$731.33		\$731.33		\$1,462.66		

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

FROM :

PHONE NO. : 1

Feb. 02 2006 05:21PM P4

TBUN2-79
 1.0.847

SONOMA COUNTY 2003 - 2004 PROPERTY TAX BILL
Tom Ford

11/20/2003
 10:10:03AM

Sonoma County Treasurer/Tax Collector 585 Fiscal Drive, Room 100F Santa Rosa, CA 95403
SECURED TAX ROLL FOR FISCAL YEAR JULY 1, 2003 - JUNE 30, 2004

PROPERTY INFORMATION		IMPORTANT MESSAGES
ASMT NUMBER: 100-060-009-000	TAX RATE AREA: 057-009	Original bill date 09/05/2003 Contact Number: A0079 The Tax Office will be CLOSED from noon Dec 24, 2003 through Jan 2, 2004
FEE NUMBER: 100-060-009-000	ACRES: .26	
LOCATION: 1695 BAY FLAT RD		
ASSESSED OWNER: ALOISE RONALD TR & ALOISE SALLY TR		
ALOISE RONALD TR & ALOISE SALLY TR PO BOX 7777 SANTA ROSA CA 95407		

SONOMA COUNTY VALUES, EXEMPTIONS AND TAXES				
PHONE #S	VALUE DESCRIPTION	PRIOR	CURRENT	THIS BILL
TAX COLLECTOR (707) 565-2281	LAND		91,505	91,505
PAYMENTS (707) 565-2281	NET TAXABLE VALUE			91,505
24 HOUR INFO (707) 565-3010				
CREDIT CARD 1-877-803-6061				
ASSESSOR				
VALUATIONS (707) 565-1888				
EXEMPTIONS (707) 565-1888				
BUSINESS EQUIPMENT (707) 565-7980				

VALUES X TAX RATE PER \$100 1.000000 915.04

VOTER APPROVED TAXES, TAXING AGENCY DIRECT CHARGES AND SPECIAL ASSESSMENTS									
PHONE #S	CODE	DESCRIPTION	ASSESSED VALUES	X	TAX RATE PER \$100	=	AGENCY TAXES		
(707) 521-1806	087000	WIS DAM/RUSS R PROJ	91,505		.007000		6.40		
(707) 829-4000	077000	PALM DRIVE HCD	91,505		.005100		4.66		
(707) 565-3277	399000	SO CO JUNIOR COLLEGE BOND	91,505		.025000		22.88		
(707) 878-2226	404000	SHORELINE JT UN BONDS	91,505		.013000		11.90		
(707) 878-2226	404000	SHORELINE JT UN BOND 02	91,505		.021000		19.22		
PHONE #S	DESCRIPTION	DIR CHRG	PHONE #S	DESCRIPTION	DIR CHRG	PHONE #S	DESCRIPTION	DIR CHRG	
(707) 875-3700	BODEGA BAY FIRE	40.00	(707) 875-3700	BODEGA BAY FIRE B	188.00	(707) 829-4000	PALM DRIVE HEALTH	60.00	
(707) 878-2226	SHORELINE UNIF-G	129.78							

2-25-04 *ck # 1189*
\$698.94

AGENCY TAXES 65.06
 DIRECT CHARGES 417.78
 482.84

AGENCY TAXES + DIRECT CHARGES + FEES + PENALTY + COST + DELINQUENT PENALTIES

1ST INSTALLMENT \$698.94 PAID ON 11/13/2003	2ND INSTALLMENT \$698.94 DELINQUENT AFTER 4/12/2004	TOTAL TAXES \$1,397.88
--	--	-------------------------------

A-2-SON-00-16 (Aloise)
Staff Recommendation on de novo

FROM :

PHONE NO. : 1

Feb. 02 2006 05:22PM P5

SECURED PROPERTY TAX BILL 2003-2004

FOR FISCAL YEAR BEGINNING JULY 1, 2003 AND ENDING JUNE 30, 2004

Office will be closed
Dec. 24, 2003, at noon
ough Jan. 2, 2004

COUNTY OF SONOMA
TAX STATEMENT
TOM FORD - TAX COLLECTOR

685 FISCAL DR. ROOM 100F SANTA ROSA, CA 95403

OFFICE HOURS
8:00 A.M. - 5:00 P.M.
MONDAY - FRIDAY

PROPERTY INFORMATION	IMPORTANT MESSAGES
<p>SMT NUMBER: 100-060-009-000 TAX RATE AREA: 057-009 EE NUMBER: 100-060-009-000 LOCATION: 1695 BAY FLAT RD TEN DATE OWNER: ALOISE RONALD TR & ALOISE SALLY TR</p>	<p>SEE REVERSE OF THIS STATEMENT FOR IMPORTANT INFORMATION</p> <p>Original bill date 09/05/2003 Contact Number: A0078</p>
<p>100-060-009-000 ALOISE RONALD TR & ALOISE SALLY TR 1320 HEARN AVE SANTA ROSA CA 95407</p>	<p>For Credit Card Payment Phone 1-877-803-6051</p>

COUNTY VALUES, EXEMPTIONS AND TAXES		
<p>PHONE NO. TAX COLLECTOR (707) 565-2281 PAYMENTS (707) 565-2281 HOUR INFO (707) 565-3010 CREDIT CARD 1-877-803-6051</p> <p>ASSESSOR VALUATIONS (707) 565-1888 EXEMPTIONS (707) 565-1888 BUSINESS EQUIPMENT (707) 565-7380</p>	<p>VALUE DESCRIPTION LAND</p>	<p>ASSESSED VALUE 91,505</p>
ONE PERCENT OF THE NET TAXABLE VALUE OF ->		91,505 = 915.04

VOTER APPROVED TAXES, TAXING AGENCY DIRECT CHARGES AND SPECIAL ASSESSMENTS			
AGENCY	DESCRIPTION	ASSESSED VALUE X TAX RATE PER \$100	= AGENCY TAX
707) 521-1806	HS DAH/RUSS R PROJ	91,505 .007000	6.40
707) 829-4000	PALM DRIVE HCD	91,505 .005100	4.66
707) 565-3277	SO CO JUNIOR COLLEGE BOND	91,505 .028000	22.88
707) 878-2226	SHORELINE JT UN BONDS	91,505 .013000	11.90
707) 878-2226	SHORELINE JT UN BOND 02	91,505 .021000	19.22
707) 875-3700	BODEGA BAY FIRE	DIRECT CHARGE	40.00
707) 875-3700	BODEGA BAY FIRE BA	DIRECT CHARGE	188.00
707) 829-4000	PALM DRIVE HEALTH CARE	DIRECT CHARGE	60.00
707) 878-2226	SHORELINE UNIF-GENEAL	DIRECT CHARGE	129.78

11-8-03 CR# 11184
\$698.94 w/c/a to P.O. Box

TOTAL OF VOTER APPROVED TAXES, DIRECT CHARGES, AND SPECIAL ASSESSMENTS ->			482.84
1ST INSTALLMENT DUE 11/1/2003 DELINQUENT AFTER 2/1/2004	2ND INSTALLMENT DUE 2/1/2004 DELINQUENT AFTER 5/1/2004	TOTAL TAXES	
\$698.94	\$698.94	\$1,397.88	



COUNTY OF SONOMA
PERMIT AND RESOURCE MANAGEMENT DEPARTMENT

2550 Ventura Avenue, Santa Rosa, CA 95403-2829

(707) 527-1900 FAX (707) 527-1103

Field Operations • Code Enforcement • Permits • Environmental & Comprehensive

Planning

November 30, 1998

Alan Cohen
887 Second Street
Santa Rosa, CA 95404

Dear Alan

Subject: Proposed New Single Family Dwelling at 1695 Bay Flat Road,
Bodega Bay (APN 100-060-009)

Permit No. CPH 98-0008

I am responding to a memo prepared by Stegeman and Associates, dated October 26, 1998, regarding the application of wetland regulations to the proposed single family dwelling at 1695 Bay Flat Road, Bodega Bay. My comments focus on the Local Coastal Plan (LCP) wetland regulations. Since they are more restrictive than State and federal wetland regulations, it is appropriate to first determine if the proposed project would comply with LCP policy and regulations before considering State Fish and Game, US Army Corp of Engineers and, possibly, US Fish and Wildlife Service regulations.

Background

On September 23, 1998, I visited the property and observed it had been cleared of vegetation and that the flat area at the base of the slope was very wet. It appeared that fill had been recently placed on the flat area and that one or more drainage ditches had

EXHIBIT NO. 14
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
11/30/98 Letter from Andy Gustavson to Alan Cohen

Page 2
Alan Cohen
November 25, 1998

been cut across it.

The LCP map indicates the area across the street from the subject parcel is designated a Brackish Tidal Flat. Also, the California Coastal Commission determined when it considered an appeal of a subdivision to create the adjacent parcel (APN 100-060-009) that the flat area, opposite the bay, along Bay Flat Road, is a wetland and that a protective easement over that area was required as a condition of the subdivision approval.

LCP Wetland Regulations

Development within the Coastal Zone, including the proposed project, is subject to the Local Coastal Plan (LCP) and the Coastal Zoning regulations. The LCP's Environmental Resource policies establish specific controls intended to protect the coastal zone's wetland resources. Specifically, LCP Wetlands Policies (starting on page III-13) prohibit construction of residential structures within 100 feet of a wetland, require a wetland impact assessment for any construction between 100 and 300 feet of a wetland, prohibit vegetation removal from a wetland, prohibit diking or filling any wetland to accommodate development of any kind, and minimize construction on land adjacent to wetland during maximum seasons of breeding bird activity (March 1 to July 1).

LCP Wetland Definition

The LCP defines wetland as any land within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, or fens. Also included are areas that include the hydrology, hydric soils, and hydrophytic vegetation characteristic of wetlands. These additional wetland areas are usually recognized by the presence of saturated soil during some time of the year and their location adjacent to vegetated wetlands.

Page 3
Alan Cohen
November 25, 1998

These criteria were used to designate many of the County's coastal zone wetland areas shown on the County's LCP map. However, the County's development review process continues to identify unmapped wetlands which appear to match the above criteria. When this occurs, we require the project applicant to prepare a study to confirm that a wetland exists and to map or delineate its boundary.

Application of LCP Wetland Policy to Proposed Project

In light of the parcel's proximity to and similarity to adjacent wetland areas, and the amount of water draining from the parcel at the end of the dry season, I have to assume there is a reasonable possibility that a wetland exists on the property. Therefore, I must require that you prepare and submit wetland delineation study to determine if a wetland is present and, if so, delineate its extent.

If the study determines that a wetland does exist on the flat area, the above LCP policies would apply and would be treated in a similar fashion to the parcels next door.

Please give me a call at 707/527-2138 if you have any questions.

Thank you,

Andy Gustavson
Project Coordinator

interoffice
M E M O R A N D U M

to: Andy Gustavson
from: Richard Stabler
subject: 1695 Bayflat Rd
date: February 18, 2000

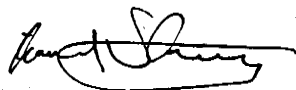
Dear Andy:

This memorandum is in response to your request to have a plant list made for the lower portion of the property at 1695 Bay Flat Rd. I visited the site in the morning of Feb 14th, 2000, after heavy rains in the area. I found there to be relatively little standing water, even in the lowest portions of the trenches there was but a few inches.

Principally, my identification of plants was isolated to the proximity of the trenches that run through the property. I found 22 species in a short search at the site, of which, 3-5 are listed as obligate wetland hydrophytes. Three species, that were found growing higher above the trenches are known to be upland species. The other thirteen species that I identified, are facultative wetland species, in some manner. This means that they can be found in wetlands in some cases, or upland in others. There is some finer adjustment of this in the list that I have attached.

If you have any questions about this list, or my visit to the site, feel free to come by or call me at 3647.

Sincerely



Richard Stabler
Environmental Specialist

EXHIBIT NO. 15
APPLICATION NO.
A-2-SON-00-16 (ALOISE)
2/14/00 Reconnaissance Survey

Plant List for Site at 1695 Bayflat Rd. in Bogega Bay

Feb 14th, 2000

Spp. #	Binomial	Common Name	Corps Status	Habitat found
1	<i>Lilium longiflorum</i>	Easter Lily	Not listed	In trench and margin
2	<i>Juncus effusus</i>	Soft Rush	Obl	Along trench
3	<i>Carex sp.</i>	Sedge	Fac-Obl	Along trench
4	<i>Lactuca scariola</i>	Prickly lettuce	Fac	Along trench
5	<i>Ammophila arenaria</i>	Beach grass	Upland	Raised sandy soil
6	<i>Juncus bufonius</i>	Toad rush	Fac W+	In trench and margin
7	<i>Rubus discolor</i>	Himalayan Black berry	Fac W	In trench and margin
8	<i>Heracleum lanatum</i>	Cow Parsnip	Fac U	In trench and margin
9	<i>Equisetum arvense</i>	Horsetail	Fac	Along trench
10	<i>Polygonum persicaria</i>	Ladies thumb	Fac W	In trench and margin
11	<i>Galium sp.</i>	Bedstraw	Possibly obl sp	Along trench
12	<i>Plantago lanceolata</i>	English plantain	Fac -	Raised sandy soil
13	<i>Enneapogon desvauxii</i>	Pappus grass	Upland	Raised sandy soil
14	<i>Iris sp.</i>	Cultivated Iris	Fac-Obl	Along trench
15	<i>Rosa californica</i>	Cal Rose	Fac +	In trench and margin
16	<i>Ludwigia peploides</i>	Water primrose	Obl	Along trench
17	<i>Scrophularia californica</i>	Figwort	Fac	In trench and margin
18	<i>Veronica perigrum</i>	speedwell	Obl	Along trench
19	<i>Oxalis laxa</i>	Sour grass	Upland	Raised sandy soil
20	<i>Vulpia bromoides</i>	Six flags	Fac w	In trench and margin
21	<i>Hordeum hystrix</i>	Barley	Fac	Raised sandy soil
22	<i>Geranium dissectum</i>	Dissectum	Upland	Raised sandy soil

Key

Obl = Obligate hydrophyte
Fac w = Facultative Wetland
Fac = Facultative
Fac U = Facultative upland
Upland = Upland
Plus and minus symbols give more weight in either direction.

GIBLIN ASSOCIATES
POST OFFICE BOX 6172 SANTA ROSA, CA 95401
TELEPHONE (707) 528-3078 **CONSULTING GEOTECHNICAL ENGINEERS** FACSIMILE (707) 528-2837

February 26, 1999

Job No. 2123.1.1

Mr. Dick Jimerson
P.O. Box 281
Bodega Bay, CA 94923

Dear Mr. Jimerson:

Report
Soil Engineering Consultation
Soil Classification
1695 Bay Flat Road
Bodega Bay, California

As you requested, this report presents the results of our soil engineering consultation regarding classification of soils in the southerly, relatively level area of the property located at 1695 Bay Flat Road in Bodega Bay, California, as shown on Plate 1. During our discussion with Mr. Scott Stegeman, your environmental consultant, he indicated that a classification of the upper soils at the site is required by the County of Sonoma Building Department to address the Coastal Plan Administrative Manual.

We have reviewed a portion of the Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1) dated January 1987 that was provided by Mr. Stegeman. Section 45, page 32 of that report states that "three soil features may be used as indicators of sandy hydric soils, including:

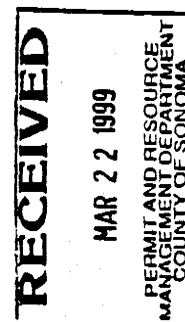
1. High organic matter content in the surface horizon. Organic matter tends to accumulate above or in the surface horizon of sandy soils that are inundated or saturated to the surface for a significant portion of the growing season. Prolonged inundation or saturation creates anaerobic conditions that greatly reduce oxidation of organic matter.

EXHIBIT NO. 16

APPLICATION NO.

A-2-SON-00-16 (ALOISE)

January 1999 Soils Report
by Giblin Associates



**GIBLIN
ASSOCIATES**

CONSULTING
GEOTECHNICAL
ENGINEERS

Mr. Dick Jimerson
February 26, 1999
Page Two

2. Streaking of subsurface horizons by organic matter.
Organic matter is moved downward through sand as the water table fluctuates. This often occurs more rapidly and to a greater degree in some vertical sections of a sandy soil containing high content of organic matter than in others. Thus, the sandy soil appears vertically streaked with darker areas. When soil from a darker area is rubbed between the fingers, the organic matter stains the fingers.
3. Organic pans. As organic matter is moved downward through sandy soils, it tends to accumulate at the point representing the most commonly occurring depth to the water table. This organic matter tends to become slightly cemented with aluminum, forming a thin layer of hardened soil (spodic horizon). These horizons often occur at depths of 12 to 30 inches below the mineral surface. Wet spodic soils usually have thick dark surface horizons that are high in organic matter with dull, gray horizons above the spodic horizon."

On January 15, 1999, we were at the site to observe surface and near-surface conditions exposed in the southerly, relatively level area. The area explored was devoid of vegetation except in the northeast portion where a low growth of grass was present. Two shallow trenches about 18 inches deep extend in an east/west direction across the area explored and drain to an existing swale at the south side of the site adjacent to the north side of Bay Flat Road.

We excavated four shallow pits to depths ranging from about 18 to 30 inches below the adjacent ground surface at the approximate locations shown on Plate 1. Logs of our test pits are presented on Plate 2. Our test pits indicate that the area explored is underlain by fine-grained sand to the maximum exploration depth. An approximately 6- to 7-inch-thick layer of apparent manmade material consisting of dark brown fine-grained

Mr. Dick Jimerson
February 26, 1999
Page Three

sand with abundant wood chips, leaves and small tree limbs was encountered in Pits 2 through 4. The upper natural soils consist of a layer of dark brown fine-grained sand with very minor amounts of clay and silt with abundant small roots that was about 5 to 7 inches thick, where explored. A soil sample was obtained in Pit 1 in this upper layer. The sand became brown at a depth of about 6 to 12 inches and contained minor amounts of small roots. Small roots were not observed below depths of about 18 to 20 inches. The sands were wet to saturated; however, no groundwater was encountered in the pits to the maximum depth explored. Seepage was present in Pit 4 at a depth of about 24 inches. We did not observe streaking of underlying soils by organic matter and an organic pan, as described above, was not encountered in any of the test pits.

The soils sampled were classified in accordance with the Unified Soil Classification System (USCS) as shown on Plate 3. The soil sample was tested in our laboratory to determine the classification (particle size analysis, including hydrometer analysis and Atterberg Limits). The laboratory tests are presented on Plate 4 and the particle size analysis is presented on Plate 5. The particle size analysis results indicate that the upper soil is classified as sand with minor amounts of silt and clay fines (SP-SM). The Atterberg Limits test indicates that the soil is nonplastic.

Bauer Associates performed a soil investigation for a proposed residence in the southerly area of the parcel and the results were presented in their report dated March 31, 1993. Two borings were performed in the area of our recent exploration. We have reviewed boring logs from that report which indicate that loose to medium dense sand was encountered to a depth of about 11 feet. The upper soils were described as "brown sand, loose, moist saturated below 3½ feet, with occasional organics." Water was encountered at a depth of about 3 feet in both borings and heaving sands were present at a depth of about 10 to 11 feet.

GIBLIN ASSOCIATES

CONSULTING
GEOTECHNICAL
ENGINEERS

Mr. Dick Jimerson
February 26, 1999
Page Four

Based on the results of our recent field work and review of prior subsurface exploration data, we believe that the indicators of a hydric soil under inorganic circumstances do not appear to be present. As stated above, we did not observe evidence of soil streaking or the presence of an organic pan or concretion layer. Organic matter, as described in the soil engineering profession, typically refers to materials such as grass, weeds, tree roots and detrital materials such as leaves, nuts, berries or small fallen tree limbs. At this location, organic material generally consists of undecomposed or decomposing organic debris. This would be consistent with the recent site clearing to remove tree stumps and debris.

We trust this provides the information needed at this time. If you have questions or wish to discuss this in more detail, please do not hesitate to contact us. The following plates are attached and complete this report:

Plate 1

Shallow Test Pit Location Plan
and Site Location Map

Plate 2

Log of Test Pits 1 through 4

Plate 3

Soil Classification Chart
and Key to Test Data

Plate 4

Laboratory Test Data

Plate 5

Grain Size Distribution

Yours very truly,

GIBLIN ASSOCIATES

Dale Radford

Dale Radford
Civil Engineer No. 42818

Jere A. Giblin

Jere A. Giblin *CE*
Geotechnical Engineer No. 339



DER/JAG:nay.106/c:der/c:sec
Copies submitted: 3

