

## CALIFORNIA COASTAL COMMISSION

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Staff: Tiffany S. Tauber  
Staff Report: May 26, 2006  
Hearing Date: June 16, 2006  
Commission Action:

## STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: **1-97-077-A3**

APPLICANT: **Joe Nanya**

APPLICANT'S AGENT: Roger Collin

PROJECT LOCATION: Albion River Campground at 33800 North Albion River Road, Albion, Mendocino County (APN 123-170-01)

DESCRIPTION OF ORIGINALLY APPROVED PROJECT: Conversion of Albion River Campground from a mobile home park to an 18-space recreational vehicle park; including removal of ten dilapidated mobile homes, and improvement of water, electrical and septic capacity.

DESCRIPTION OF AMENDMENT NO. 1: Demolition of existing shower and restroom buildings; relocation of 10 existing campsites; modification of the septic system; installation of landscaping; construction of a new 15-foot-high tractor

shed/garage; and construction of a two-story 3,840-square-foot multipurpose building with a maximum height of 25 feet to house offices, a relocated laundry facility, meeting and recreation hall, a reception and interpretive lobby, storage rooms, and shower and restroom facilities.

**DESCRIPTION OF  
AMENDMENT NO. 2  
(WITHDRAWN):**

(1) Allow two spaces in the campground to be used for employee housing; (2) replace existing unshielded lights with shielded, downcast fixtures, and install new shielded and downcast 20' parking lot pole lights at eight locations and 4' post lights along all campground roadways; and (3) provide boat and travel trailer/RV storage spaces along the eastern border of the property adjacent to the Albion River to customers.

**DESCRIPTION OF CURRENT  
AMENDMENT REQUEST:**

(1) Allow two spaces in the campground to be used for employee housing; and (2) replace existing unshielded lights with shielded, downcast fixtures, and install new lighting at five locations, and install lights on existing and new 4' posts along campground roadways.

**GENERAL PLAN DESIGNATION:**

FV (Fishing Village)

**ZONING DESIGNATION:**

FV (Fishing Village), FP (Flood Plain)

**SUBSTANTIVE FILE DOCUMENTS:**

CDP No. 1-97-077 (Seto); CDP No. 1-97-077-A1 (Nanya); CDP 1-97-077-A2 (withdrawn); Mendocino County LCP

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**SUMMARY OF STAFF RECOMMENDATION:**

This amendment request seeks “after the fact” approval for unpermitted activities as well as approval for proposed new development at the Albion River Campground and Marina, located on Albion Flats in a “highly scenic area,” immediately east of Highway One in Albion. The main issues raised by the proposed amendment are impacts to visual resources associated with a proposed lighting plan and the proposed use of camping sites at the low-cost visitor serving facility for employee housing.

The original project approved by the Commission in 1998 (1-97-077, Seto) involved the conversion of Albion River Campground from a mobile home park to an 18-space recreational vehicle park; including removal of ten dilapidated mobile homes, and improvement of water, electrical and septic capacity. The Commission subsequently amended the permit in 2004 (1-97-077-A1) to allow the demolition of existing shower and restroom buildings; relocation of 10 existing campsites; modification of the septic system; installation of landscaping; construction of a new 15-foot-high tractor shed/garage; and construction of a two-story 3,840-square-foot multipurpose building with a maximum height of 25 feet to house offices, a relocated laundry facility, meeting and recreation hall, a reception and interpretive lobby, storage rooms, and shower and restroom facilities. This permit amendment has not yet been issued.

The applicant submitted CDP Amendment Application No. 1-97-077-A2 in June, 2004 to correct on-going violations at the site that included a request for authorization of (1) two spaces in the campground to be exempt from the six-month stay limitation so that the spaces can be utilized for year-round employee housing; (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground; and (3) the provision of boat and travel trailer/RV storage spaces to customers, with or without fees. Staff prepared a recommendation for the Commission and scheduled the item for the Commission’s October 15, 2005 meeting. In its staff recommendation dated September 30, 2005, staff recommended that the Commission approve with conditions, the two RV spaces for employee housing, and replacement of existing lighting and installation of new lighting. Staff further recommended that the Commission deny the request for boat and travel trailer/RV storage based on inconsistencies with the visual resource protection, flood hazards, and water quality policies of the Coastal Act. On October 7, 2005, prior to the October 15, 2005 Commission hearing, the applicant withdrew the application. Therefore, the Commission never acted on CDP Amendment Application No. 1-97-077-A2.

In March 2006, the applicant resubmitted the current CDP amendment application (1-97-077-A3) to resolve on-going violation issues at the site. The proposed amendment seeks approval of two of the three items in the previous amendment application including (1) allowance of two spaces in the campground to be exempt from the six-month stay

limitation so that the spaces can be utilized for year-round employee housing; and (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground. The provision of on-site boat and travel trailer/RV storage spaces is not a part of this permit amendment application. The applicant is separately pursuing a claim of vested rights for the boat and travel trailer/RV storage.

Staff is recommending that the Commission find that the proposed use of two fully-plumbed R.V. spaces in the campground for year-round employee housing is consistent with Section 30213 of the Coastal Act, which requires the protection and encouragement of lower-cost visitor accommodation facilities. The campground contains 18 fully plumbed R.V. sites (with sewer hook-ups, water, and electricity) and 82 dry R.V. campsites, with water and power only (ten of which are to be re-located to the northeastern portion of the property on the “spit” under CDP No. 1-97-077-A1). The campground typically has one employee stationed near the entry gate to provide “on call” check-in service during normal business hours and after hours, and to provide security at the gate, store, and café locations. A second employee is responsible for unloading commercial fishing boats at the docks during daytime hours and after dark, and oversees logistics at the docks and launch ramps, such as boat trailer parking and site maintenance during heavy launch schedules on peak weekends. The applicant has demonstrated that the proposed use of two RV spaces to house two employees with these specific duties is necessary to facilitate the effective operation of the campground/marina facility. As (a) the proposed housing use would enable the Albion River Campground and Marina to continue to provide low-cost visitor accommodations in the coastal zone, consistent with Coastal Act Section 30213; and (b) the conversion of two of the 100 existing RV sites at the campground to employee housing would not significantly reduce the amount of RV spaces available for low-cost overnight public use of the site, staff recommends that the Commission find that the conversion of two fully-plumbed R.V. spaces to employee housing is consistent with Section 30213 of the Coastal Act. Therefore, staff recommends that the Commission impose Special Condition No. 11, which replaces Special Condition No. 1 of the original and amended permit and exempts the two R.V. spaces from the six-month stay limitation affecting the other RV spaces.

In addition, staff is recommending that the Commission approve with special conditions the replacement of existing unshielded lights with shielded, downcast fixtures, and the installation of new, shielded and downcast lighting around the campground. The lighting plan, as proposed, would include lighting improvements at five locations for safety and security purposes, including the main entrance, store/café, bathhouse, gangways to floating docks, and launch ramps (see Exhibit No. 3), and new shielded and downcast lights on new and existing 4-foot posts, 40-feet apart, lining campground roadways, including the roadway to the new dry campsites in the “old storage yard” location.

The applicant claims that some of the proposed lighting is necessary, in part, to provide Department of Housing and Community Development (HCD) minimum illumination

standards for RV parks (Section 2108, Chapter 2.2, Title 25 of California Code of Regulations). The applicant proposes to install the lighting according to specifications provided by a qualified lighting engineer and acceptable to the Coastal Commission and HCD. Although the lighting is proposed to be shielded and downcast and developed by a lighting engineer, if not properly designed these lights could significantly impact visual resources in the area by causing glare, lighting up the RV park and drawing attention to the site from public vantage points (e.g. Albion River Bridge), causing the development to be insubordinate to the character of its setting, and depriving the public of nighttime views in the area, inconsistent with Section 30251 of the Coastal Act.

To ensure that the proposed lighting is designed and installed in a manner that provides for high quality illumination for safety and security that both meet HCD standards and protects nighttime views and visual resources, consistent with the visual resource protection policies of the Coastal Act, staff recommends that the Commission impose Special Condition No 10. This condition would require that prior to issuance of the coastal development permit amendment, the applicant provide a revised lighting plan that employs (1) the use of safety and security lighting that is no more than 2 feet in height and the minimum amount necessary for the safe ingress and egress of the areas; and (2) the use of lamps that are low voltage and low lumens, such as red colored incandescent lamps of low wattage or low-lumen white lights, and the use of full-cut off fixtures, to reduce glare and light trespass.

As conditioned, the staff believes the proposed conversion of two RV spaces to the proposed employee housing and the proposed lighting plan would be consistent with the Chapter 3 policies of the Coastal Act.

**The motion to adopt the staff recommendation is found on page 8.**

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**STAFF NOTES:**

1. Procedure and Background:

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

Coastal Development Permit No. 1-97-077 (Seto) was approved for conversion of a mobile home park to a recreational vehicle park with various improvements to the Albion River Campground including installation of new electrical and water supply lines to replace and repair existing utilities to the 18 new recreational vehicle spaces; repairing the sewage disposal system; and demolishing ten dilapidated mobile homes. The

Commission granted this permit on March 11, 1998 with one special condition imposed to assure that the site would remain a lower-cost visitor-serving recreational facility, consistent with Sections 30213, 30221, and 30222 of the Coastal Act. The special condition limits the use of the recreational vehicle spaces to transient visitor use and requires additional permit authorization for any future development on the site, including conversion of the recreational vehicle spaces to residential use.

An amendment to the CDP (1-97-077 A1) was approved on January 14, 2004 to demolish existing shower and restroom buildings; relocate 10 existing campsites; modify the septic system; install landscaping; construct a new 15-foot-high tractor shed/garage; and construct a two-story 3,840-square-foot multipurpose building with a maximum height of 25 feet to house offices, a relocated laundry facility, meeting and recreation hall, a reception and interpretive lobby, storage rooms, and shower and restroom facilities. The Commission granted this permit with conditions to insure consistency with the visual resource policies of the Coastal Act, including that non-reflective, dark, earth tone colors be used for exterior sidings and other exterior components to ensure that the development will be visually compatible with the surrounding area, and that outdoor lighting be the minimum necessary for the safe ingress and egress of the structures, and that they be low-wattage, non-reflective, shielded, and directionally cast downward such that no light would shine beyond the boundaries of the subject parcel. Additionally, a special condition was imposed to ensure the removal and proper disposal of demolition debris, the conformance to an approved landscaping plan, the submittal of a revised runoff control plan, the submittal of a Flood Hazard Development Permit approved by Mendocino County, and that the permittee shall assume the risks of flooding hazards to the property and indemnify the Commission for all liability and waive any claim of liability against the Commission. This permit has not yet been issued.

The applicant submitted CDP Amendment Application No. 1-97-077-A2 in June, 2004 to correct on-going violations at the site that requested after-the-fact authorization of (1) two spaces in the campground to be exempt from the six-month stay limitation so that the spaces can be utilized for year-round employee housing; (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground; and (3) the provision of boat and travel trailer/RV storage spaces to customers, with or without fees. Staff prepared a recommendation for the Commission and scheduled the item for the Commission's October 15, 2005 meeting. In its staff recommendation dated September 30, 2005, staff recommended that the Commission approve with conditions, the two RV spaces for employee housing, and replacement of existing lighting and installation of new lighting. Staff further recommended that the Commission deny the request for boat and travel trailer/RV storage based on inconsistencies with the visual resource protection, flood hazards, and water quality policies of the Coastal Act. On October 7, 2005, prior to the October 15, 2005 Commission hearing, the applicant withdrew the application. Therefore, the Commission never acted on CDP Amendment Application No. 1-97-077-A2.

The applicant resubmitted the current CDP amendment application (1-97-077-A3) to resolve on-going violation issues at the site. The proposed amendment seeks approval of two of the three items in the previous amendment application including (1) allowance of two spaces in the campground to be exempt from the six-month stay limitation so that the spaces can be utilized for year-round employee housing; and (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground. The provision of on-site boat and travel trailer/RV storage spaces is not a part of this permit amendment application. The applicant is separately pursuing a claim of vested rights for the boat and travel trailer/RV storage.

Upon receipt of the amendment request, the Executive Director accepted the amendment request for filing on the basis that with conditions, the proposed modifications to the project could be made consistent with the applicable Coastal Act policies and would not lessen or avoid the intent of the Commission's prior action on the original permit and the first permit amendment (CDP Nos.1-97-077 and 1-97-077-A1). The proposed use of the two RV spaces for employee housing would be consistent with the policies in the Coastal Act regarding the protection of visitor serving accommodations because (a) the proposed housing use would enable the Albion River Campground and Marina to continue to provide low-cost visitor accommodations in the coastal zone, consistent with Coastal Act Section 30213; and (b) the conversion of two of the 100 existing RV sites at the campground to employee housing would not significantly reduce the amount of RV spaces available for public use at the site. With respect to the proposed lighting plan, the recommended Special Condition No. 10 would render the impacts on visual resources below levels of significance, as the amount of ambient light cast by the light bulbs installed would be limited and designed to minimize their intrusiveness on the landscape.

2. Standard of Review

The proposed project is located in the County of Mendocino. The County has a certified LCP, but the project that is the subject of Coastal Development Permit Amendment Application No. 1-97-077-A3 is located within an area shown on State Lands Commission maps over which the State retains a public trust interest and is within the Commission's area of retained permit jurisdiction. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

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**I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:**

The staff recommends that the Commission adopt the following resolution:

**Motion:**

I move that the Commission approve Coastal Development Permit Amendment No. 1-97-077-A3 pursuant to the staff recommendation.

**Staff Recommendation of Approval:**

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

**Resolution to Approve the Permit Amendment:**

The Commission hereby approves the coastal development permit amendment and adopts the findings set forth below on grounds that the development as amended and subject to conditions will be in conformity with the policies of the certified Mendocino County Local Coastal Program, is located between the sea and the nearest public road to the sea, and is in conformance with the public access and recreation policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment.

**II. STANDARD CONDITIONS:** (See attached Appendix A)

**III. SPECIAL CONDITIONS:**

**Note:** Special Condition No. 1 of the original permit and Special Condition No. 7 of Permit Amendment No. 1-97-077-A1 are modified and imposed as a condition of this permit amendment. Special Condition Nos. 4, 5, 6, 8, and 9 of Permit Amendment No. 1-97-077-A1 are re-imposed as conditions of the permit amendment without any changes and remain in full force and effect. Special Condition Nos. 2 and 3 of Permit Amendment No. 1-97-077-A1 are replaced by Special Condition Nos. 11 and 12 respectively. Special Condition Nos. 10 and 13 are additional new conditions attached to the permit amendment.

Deleted wording within the modified special conditions is shown in ~~striketrough~~ text, new condition language appears as **bold underlined** text. For comparison, the text of the permit conditions of the original permit and Permit Amendment No. 1-97-077-A1 are included in Exhibit Nos. 4 and 5.



1. **Conversion to Public Recreation Use:**

This coastal development permit **as amended** authorizes the conversion of a mobile home park to a recreational vehicle park for exclusive short-term transient use, with a six-month **maximum** stay limitation within each 12-month period, **excepting (1) the fenced RV space nearest the entrance gate which may be utilized for housing an employee whose duties are to provide "on call" after hours check-in service and security at the gate, store, and cafe locations and (2) the furthest west RV space adjacent to the new tractor garage which may be utilized for housing an employee whose duties are to unload commercial fishing boats at night, and oversee logistics, boat trailer parking and site maintenance during heavy launch schedules on peak weekends. This coastal development permit as amended also authorizes** the removal of 10 mobile homes and the improvement of 18 R.V. sites with water, electricity, and septic capacity. Any development other than the development described in Coastal Development Permit No. 1-97-77 **as amended**, including but not limited to (a) conversion of any **other** portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public; (b) extending the stay limitations for R.V. usage; and (c) creating additional mobile home sites; **and (d) renting or leasing the property for storage** is specifically not authorized by this permit and would require an amendment to this permit. ~~or a new permit from the Commission or its successor agency.~~

7. **Revised Runoff/Erosion Control Plan**

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION of the Multipurpose Building, PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT,** the applicant shall submit, for review and written approval of the Executive Director, a final revised Runoff/Erosion Control Plan that substantially conforms with the plan submitted to the Commission on October 31, 2003, and received November 12, 2003, entitled "*Albion River Campground Rainwater Drainage Plan For Proposed Multipurpose Building*" except that it shall be revised to include the following provisions addressing runoff and erosion impacts from construction of the development:

1. A physical barrier consisting of bales of straw placed end to end shall be placed between any construction and the banks of the Albion River. The bales shall be composed of weed-free, rice straw, and shall be maintained in place throughout the construction period.
2. Vegetation at the site shall be maintained to the maximum extent possible and any disturbed areas shall be replanted or seeded with native vegetation immediately following project completion.

3. All on-site demolition and construction debris stockpiles shall be covered and contained at all times.
- B. The permittee shall undertake development in accordance with the approved Runoff/Erosion Control Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. **Revised Final Lighting Plan**

**A. PRIOR TO COMMENCEMENT OF CONSTRUCTION of the lighting authorized by PERMIT AMENDMENT No. 1-97-077-A3, the applicant shall submit, for the review and written approval of the Executive Director, a final revised lighting plan prepared by a qualified lighting engineer for the new path, roadway, bathroom/shower entrance, and security lighting that substantially conforms with the lighting plan submitted with the application entitled "Proposed Lighting Impr. CDP 1-97-77," prepared by Roger Collin, except that the plan shall be revised to include the following provisions:**

1. **No more than the minimum Department of Housing and Community Development (HCD) required park lighting is achieved for roadway, pathway, and bathroom/shower entrances, and safety and security lighting shall occur only at gangways, launch ramps, and docks and are the minimum amount necessary for the safe ingress and egress.**
2. **Roadway lighting shall be no more than 2 feet in height and the minimum amount necessary to achieve HCD R.V. park lighting standards;**
3. **Bathroom and shower entrance lighting shall be the minimum height necessary to achieve HCD park lighting standards; and**
4. **Dock and gangway security lighting shall be no more than 2 feet in height; and**
5. **Lamps shall be low voltage and low lumens, such as red colored incandescent lamps of low wattage or low-lumen white lights, such as monochromatic LPS lights used at low levels; and**
6. **Fixtures shall be full cut off, shielded, and downcast.**

**The revised lighting plan shall include a full analysis and explanation of the calculations used to determine that the proposed roadway and bath and**

shower entrance lighting is the minimum amount needed to ensure consistency with no more than the minimum HCD standard for special occupancy park lighting, and a full analysis and explanation of how the security lighting at docks and gangways is the minimum amount necessary for their safe ingress and egress.

- B. The permittee shall undertake development in accordance with the approved Final Revised Lighting plan. Any proposed changes to the approved plan shall be reported to the Executive Director. No changes to the approved plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

11. State Lands Commission Review

PRIOR TO COMMENCEMENT OF CONSTRUCTION of the Multipurpose Building, and WITHIN 60 DAYS OF COMMISSION APPROVAL OF PERMIT AMENDMENT No. 1-97-077-A3 or within such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director, for review and approval, a written determination from the State Lands Commission that:

- A. No State or public trust lands are involved in the amended development; or
- B. State or public trust lands are involved in the amended development and all permits required by the State Lands Commission for the approved project as conditioned by the Commission have been obtained; or
- C. State or public trust lands may be involved in the amended development, but pending a final determination, an agreement has been made with the State Lands Commission for the approved project as conditioned by the Commission to proceed without prejudice to that determination.

12. Deed Restriction

PRIOR TO COMMENCEMENT OF CONSTRUCTION of the Multipurpose Building, and WITHIN 60 DAYS OF COMMISSION APPROVAL OF PERMIT AMENDMENT No. 1-97-077-A3 or within such additional time as the Executive Director may grant for good cause, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded

against the parcel(s) governed by this permit amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit amendment, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit amendment as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit amendment. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit amendment shall continue to restrict the use and enjoyment of the subject property so long as either this permit amendment or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**13. Permit Amendment Expiration and Condition Compliance**

Because some of the proposed development has already commenced, this coastal development permit amendment shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

**IV. FINDINGS AND DECLARATIONS FOR APPROVAL**

The Commission hereby finds and declares:

**1. Site Description & Project Description and History**

**A. Site Description**

The subject site is an approximately 9 <sup>3</sup>/<sub>4</sub> -acre parcel containing the Albion River Campground and Marina, located at Albion Flat on the north and west sides of the Albion River, just east of the Albion River Bridge on Highway One at 33800 North Albion River Road, Albion, Mendocino County (Exhibit Nos. 1 & 2). The site is used as a privately owned campground and marina facility that accommodates both commercial fishermen and recreational boaters. Albion Flat is on the lower Albion River estuary floodplain. The site originally consisted of wetlands filled approximately a century ago to support a lumber mill, and then a mobile home park, before being converted to the existing campground and marina complex. The site is in an area designated as “highly scenic” by the Mendocino County Land Use Plan, and is primarily visible from the Albion River

Bridge, from public roads within the Albion community atop and along the bluff on the south and east side of the river, and from the river itself. Although the river contains environmentally sensitive eelgrass and supports threatened salmonid species, there is no sensitive habitat on the upland portions of the site where the campground is located.

## **B. Project Description**

First, the amendment request seeks “after the fact” approval to authorize an RV space in the campground to be exempt from the six-month stay limitation imposed in Special Condition No. 1 of the original and amended permit, for employee housing. This aspect of the application is seeking to correct a prior violation of a long-term stay limitation by an employee of the RV Park. Since the 18 full hookup RV spaces and dry sites are filled to capacity only two weekends per year, according to the applicant, management made RV spaces available to employees during the search for permanent local housing. The RV space nearest the entry gate was provided to the employee as a convenience and security measure to provide “on call” after hours check-in service and security at the gate, store, and café locations. The applicant is seeking authorization to continue to use this space as employee housing, exempt from the six-month stay limitation. Additionally, the applicant is seeking new authorization to convert one “dry” camping site to employee housing to be utilized as a “rotating” employee site, or to convert a second plumbed RV space for the employee. The applicant states that a “floating” dry site would be convenient to position an employee responsible for unloading commercial fishing boats, near the dock, since boats often require unloading after dark, and with the conversion of the “old storage yard” to dry sites, an employee staying in a trailer near the launch ramp and new dry sites could oversee logistics, boat trailer parking, and site maintenance during heavy launch schedules on peak weekends. As stated above, if this floating site cannot be approved because it would deprive the public of the less costly camping space, the applicant is instead requesting that a second fully plumbed RV site be made available for the second employee, exceeding the six-month stay limitation.

Second, the applicant is seeking approval to (1) install lighting improvements in consultation with a qualified lighting engineer, the Coastal Commission, and HCD at five locations including the main entrance, store/café, bathhouse, gangways to floating docks, and launch ramps for safety and security, and (2) install shielded, downcast lights at a height to be agreed upon according to plans and specifications to be provided by a qualified lighting engineer on new and existing 4-foot posts 40-feet apart, lining campground roadways, including the roadway to the new dry campsites in the “old storage yard” to meet Department of Housing and Community Development (HCD) minimum illumination standards for RV parks (Section 1108 of HCD standards). (See Exhibit No. 3.)

### **C. Project History**

In 1978, Mendocino County approved a use permit (#U 84-77) to convert an existing mobile home park and campground (previously allowed by the Planning Commission's approval of use permit # 54-71 in 1972) to an 86-space recreational vehicle park with a convenience store, snack bar, laundry facility, restrooms, and office. The use permit was approved exclusively for transient recreational vehicles, and no permanent mobile homes were allowed; the previously existing mobile homes were to be phased out and replaced by recreational vehicle spaces. At that time there were 19 mobile home spaces and 82 recreational vehicle spaces. The applicant did not convert the mobile home sites to recreational vehicle sites, and also did not obtain a coastal development permit from the Coastal Commission for the conversion.

A number of coastal development permits obtained through the years by the applicant for the site were not exercised and subsequently expired, including CDP 80-A-43 for the construction of a temporary storage shed, and CDP 1-83-49 for construction of a recreation building. In 1990 the applicant obtained an exemption to replace a 975-square-foot bathhouse destroyed by fire with a new 960-square-foot bathhouse building.

In 1994 the Commission granted CDP 1-93-35 for dredging at the site, and CDP 1-93-36 for the construction of a concrete seawall to protect the site from bank erosion. In 1997, the Commission approved an amendment to this permit to allow for installation of rock rip-rap revetment along the existing riverbank instead of constructing the concrete seawall two to three feet inshore of the existing riverbank. In 1998, the Executive Director approved Coastal Permit Waiver No. 1-98-004-W to demolish and reconstruct an existing store/office building that had been in existence since 1970, and replace the existing failed septic system with a new septic system.

Also in 1998, the Commission approved CDP No. 1-97-77 (see Exhibit No. 5) authorizing a change in use from a mobile home park to a recreational vehicle park for short-term, transient use only, as well as various improvements including the installation of new electrical and water supply lines, and demolition of ten dilapidated mobile homes. In January of 2004, the Commission approved 1-97-77-A1, which authorized the demolition of shower and restroom buildings, relocation of campsites, modification to the septic system, landscaping, and construction of shed/garage and multipurpose buildings. Within this same period of time, Commission staff were made aware of three alleged violations at the subject site: (1) permanent occupancy of RV campsites for over 6 months where permit condition allows only short-term transient use with a 6-month stay limitation; (2) new un-shielded outdoor lighting on the south side of the store/café and at the entrance to the old bathhouse; and (3) unpermitted provision of boat and travel trailers/RV storage spaces to customers. CDP No. 1-97-077-A1 has not yet been issued.

The applicant submitted CDP Amendment Application No. 1-97-077-A2 in June, 2004 to correct on-going violations at the site and included a request for authorization for (1)

allowance of two spaces in the campground to be exempt from the six-month stay limitation so that the spaces can be utilized for year-round employee housing; (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground; and (3) the provision of boat and travel trailer/RV storage spaces to customers, with or without fees. Staff prepared a recommendation for the Commission and scheduled the item for the Commission's October 15, 2005 meeting. In its staff recommendation dated September 30, 2005, staff recommended that the Commission approve with conditions, the two RV spaces for employee housing, and replacement of existing lighting and installation of new lighting. Staff further recommended that the Commission deny the request for boat and travel trailer/RV storage based on inconsistencies with the visual resource protection, flood hazards, and water quality policies of the Coastal Act. On October 7, 2005, prior to the October 15, 2005 Commission hearing, the applicant withdrew the application. Therefore, the Commission never acted on CDP Amendment Application No. 1-97-077-A2.

The applicant resubmitted the current CDP amendment application (1-97-077-A3) to resolve on-going violation issues at the site on March 6, 2006. The applicant has since removed the un-shielded lighting and replaced it with shielded, downcast fixtures, consistent with the condition imposed by CDP No. 1-97-77-A1. The current amendment application seeks authorization of two of the three items in the previous amendment application including (1) allowance of two spaces in the campground to be exempt from the six-month stay limitation so that the spaces can be utilized for year-round employee housing; and (2) replacement of existing unshielded lights with shielded, downcast fixtures, and installation of new shielded and downcast lighting around the campground. The applicant eliminated the request for authorization of the 20-foot pole lights proposed in the previous amendment application. Additionally, the provision of on-site boat and travel trailer/RV storage spaces are not a part of this permit amendment application. The applicant is separately pursuing a claim of vested rights for the on-site boat and travel trailer/RV storage.

## **2. Visual Resources**

Coastal Act Policy 30251 states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

According to the applicant, some unshielded outdoor lighting was installed at the campground during the initial conversion process (from mobile home park to RV park) in 1997, and some unshielded lighting was in existence at the dock and fish-cleaning areas prior to that time. Subsequent to the Commission's approval 1-97-077-A1, which included a condition requiring all lighting to be shielded and cast downward, unshielded lighting was installed on the south side of the store/café and at the entrance to the old bathhouse. When notified by Commission enforcement staff of their violation of the permit condition, these lights were replaced by shielded, downcast lights. However, the applicant states that some of the older unshielded lighting remains on the property.

The current application includes a lighting proposal to (1) install lighting improvements in consultation with a qualified lighting engineer, the Coastal Commission, and HCD at five locations including the main entrance, store/café, bathhouse, gangways to floating docks, and launch ramps for safety and security, and (2) install shielded, downcast lights at a height to be agreed upon according to plans and specifications to be provided by a qualified lighting engineer on new and existing 4-foot posts 40-feet apart, lining campground roadways, including the roadway to the new dry campsites in the "old storage yard" to meet Department of Housing and Community Development (HCD) minimum illumination standards for RV parks (Section 1108 of HCD standards). (See Exhibit No. 3.)

The campground is located on Albion Flats, on a 9 ¾-acre parcel on the east side of Highway One's Albion Bridge in an area designated as highly scenic in the Mendocino County LUP. Thus, in addition to being sited and designed to protect views to and along the coast and being visually compatible with the surrounding areas, the fact that the site is part of a highly scenic area means all permitted development at the site, including the proposed lighting, must be subordinate to the character of its setting. The immediate setting includes the Albion Bridge to the west and above the subject site, Albion Cove, the beach, the Albion River, and the steep forested hills across the river to the east and south.

The campground is visible from the Albion River Bridge, Albion Ridge Road, the Albion River itself (from the vantage point of boaters, kayakers, etc.), and the Albion Cove Beach, just west of Albion Flats. The view from the Albion River Bridge looks directly down onto the entire development. Furthermore, the views of members of the public using the publicly available campground itself would be affected by the proposed development. The installation of additional lighting in this area, as proposed, would have significant adverse impacts on nighttime visual resources. The proposed lighting would serve to light up the campground and marina, draw one's attention toward the development, and detract from other nighttime views in its immediate setting, including moonlit coastal views, the outline of the hills to the east, and the star-filled sky.



The impacts of night lighting and light pollution (or urban sky glow) on the visual environment has been well documented by scholars and organizations such as the International Dark-Sky Association (IDA) and the Illuminating Engineering Society of North America (IESNA), who have developed techniques to improve the quality of lighting to improve nighttime visibility, as well as public safety, energy and money savings, and reducing air pollution and green house gas emissions. Many types of outdoor lighting designed for security and visibility are wasteful, a source of disabling glare, and cause “light trespass,” the poor control of outdoor lighting which crosses property lines, detracts from quality of life, and confuses the instinctive daily and seasonal cycles of animals and plants (darksky.org).

These issues become even more salient at a coastal campground, where the public is often escaping the city to experience views of the coast and the night sky. According to John Gilkison of IDA, the public can be deprived of these experiences in RV parks because of excessive outdoor lighting, and that in reality using less light allows people to see more of their surroundings and of the night sky. The human eye adapts better to lower light levels, and therefore the excessive use of lighting in camping areas is counterproductive. Gilkison suggests that if RV parking areas need to be lighted, that only full cut off fixtures<sup>1</sup> with lamps of the lowest lumens<sup>2</sup> output should be used, and recommends footpath lighting that is only a few feet off the ground and is low voltage, such as red colored incandescent lamps of low wattage (7 watt, 15 watt, or 25 watt at the most) (Gilkison 2000). Low voltage, low lumen lights have been shown to preserve dark adaptation, hence reducing visual impacts (Gilkison 2000). In addition, low-mounted lighting eliminates glare, as the light bulbs are below eye level, hence increasing the quality of the visual experience, and full-cut-off fixtures allow no light emissions above the fixture, hence preserving the dark sky and mitigating the negative impacts of unshielded lighting on views.

The applicant proposes to install lighting improvements for safety and security purposes at five locations including:

- (1) The entrance gate near the store/café;
- (2) The gangways to the sport docks;
- (3) The east and west ends of the existing bath and shower building;
- (4) The gangway to the commercial floating docks; and
- (5) The launch-ramp and pond-mooring basin.

The applicant proposes to consult with a qualified lighting engineer, the Coastal Commission, and HCD to develop mutually acceptable lighting improvements in these areas to provide minimum standards for public safety and security. These lights could significantly impact visual resources in the area if they were of a height, lumen, and voltage that would cause glare, light up the RV park and draw attention to it from public

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<sup>1</sup> A fixture that allows no emission above a horizontal plane through the fixture

<sup>2</sup> A unit measurement of the amount of light cast by a lamp

vantage points (e.g. Albion River Bridge), causing the development to be insubordinate to the character of its setting, and depriving the public of nighttime views in the area, inconsistent with Section 30251 of the Coastal Act. Further, there is evidence to suggest that bright “safety” and “security” lighting does little to achieve its purpose. For example, public hazards can be created by the use of glaring, high wattage floodlighting along roadways and parking lots, shining directly into the driver’s line of site (darksky.org). Studies by the U.S. Department of Justice and the National Institute of Justice have shown no conclusive evidence that lighting prevents crime (US DOJ 1977) (Nat’l Institute of Justice). The Institute of Justice report stated that lighting can be ineffective and counterproductive in some places, and that criminals often need lighting to detect potential targets and low-risk situations. According to a 2003 handbook on security and lighting by the Illumination Engineering Society of North America (IESNA), property owners should take caution in over-lighting, and be careful about glare, because it “causes annoyance, discomfort, or loss of visual performance or visibility, and usually reduces the benefits of security lighting” (IESNA 2003). As the applicant has not specified height, lumen, or voltage details of the proposed safety and security lighting improvements, it is not clear that the lighting plan as proposed is consistent with Section 30251 of the Coastal Act.

The applicant also proposes to install new shielded and downcast lights at a height to be agreed upon on new and existing 4-foot posts located 40 feet apart (or every 2 campsites) along campground roadways to meet Housing and Community Development minimum standards for special occupancy (i.e. RV park) park lighting (Section 2108, Title 25 of HCD regulations). These standards are: (a) an average of five horizontal foot candles of light at the floor level at entrances to toilet and shower buildings; (b) an average of ten horizontal foot candles of light at the floor level within toilet and shower buildings; and (c) an average of two-tenths (0.2) horizontal foot candles of light the full length of all roadways and walkways within the mobile home park.

A footcandle is the illuminance produced on a surface one foot from a uniform point source of one candela (darksky.org 1996). One footcandle is roughly equal to one lumen per square foot. Hence, with regard to the standard for roadways and walkways, two-tenths (0.2) of a footcandle is equal to two tenths of a lumen per square foot. In consultations with HCD staff, Commission staff has learned that HCD personnel often rely on applicants and/or their lighting engineers to calculate whether the lighting proposed meets the mandated lighting standards (HCD, pers. com. 9/19/05). The applicant did not submit information explaining how the proposed lights on the 4-foot posts would be installed at the minimum and produce the least amount of ambient light necessary, consistent with the minimum HCD standard and not over and above the standard. Although the lighting is proposed to be shielded and downcast, these lights could significantly impact visual resources in the area by causing glare, lighting up the RV park and drawing attention to it from public vantage points (e.g. Albion River Bridge), causing the development to be insubordinate to the character of its setting, and depriving the public of nighttime views in the area, inconsistent with Section 30251 of

the Coastal Act. As the applicant has not specified height, lumen, or voltage details of the proposed post lights, it is not clear that the lighting plan as proposed is consistent with Section 30251 of the Coastal Act.

However, if the proposed lighting was revised to provide for high quality illumination that provides safety and security and does not deprive the public of nighttime views or impact visual resources, through (1) the use of park lighting for roadway, pathway, and bathroom/shower entrances that achieve no more than the minimum HCD required park lighting standards, and where safety and security lighting occur only at the entrance, gangways, launch ramps and docks and are the minimum amount necessary for their safe ingress and egress; (2) the use of roadway, dock, and security lighting that is no more than 2-feet-high; (3) the use of bathroom and shower entrance lighting that is the minimum height necessary to achieve HCD park lighting standards; (4) the use of lamps that are low voltage and low lumens, such as red colored incandescent lamps of low wattage; and (5) the use of fixtures that are full cut off, shielded, and downcast, then the lighting would be subordinate to the character of its setting and would be consistent with Section 30251 of the Coastal Act. Installing the lights on posts at the minimum height necessary and requiring full cut-off fixtures and lamps with low lumens would reduce the amount of light and glare cast by each lamp, thereby making them less intrusive. Further, the lighting requirements discussed above should be implemented in consultation with a qualified lighting engineer who can ensure that the lighting plan for the site provides the minimum amount of lighting necessary to meet HCD standards and that excessive lighting is avoided, minimizing its impacts on visual resources, and making it subordinate to the character of its setting.

Therefore, the Commission imposes Special Condition No. 10, which requires that prior to commencement of construction of the lighting authorized by this permit amendment, the applicant provide a revised lighting plan prepared by a qualified lighting engineer for review and approval of the Executive Director. This special condition requires that the submitted plan provide for design criteria (1)-(5) discussed above, and adequately explains (a) how the revised plan provides for safety and security lighting that is the minimum amount necessary for the safe ingress and egress of docks, gangways, and launch ramps; and (b) how the roadway, bath and bathroom/shower entrance lighting was calculated to be the minimum amount of lighting necessary to meet the HCD minimum lighting requirements. Only as conditioned can the Commission find that the project is consistent with Coastal Act Section 30251.

Therefore, the Commission finds that the proposed amended development, as conditioned, is consistent with Section 30251 of the Coastal Act, as the lighting will not impact public views and will be subordinate to the character of its setting.

3. **Low Cost Visitor Serving Facilities**

Coastal Act Section 30213 states in applicable part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...*

The Albion River Campground and Marina currently provides low cost fully plumbed transient-use RV camping sites, and cheaper “dry” transient-use camping sites, consistent with the goals of Section 30213. The campground contains 18 fully plumbed R.V. sites (with sewer hook-ups, water, and electricity) that cost \$30.00 per night, and 82 dry R.V. campsites, with water and power only (ten of which are to be re-located to the northeastern portion of the property on the “spit”), which are the lowest cost at the facility, at \$27.00 per night for RVs using the water and power and \$22.00 per night for tent camping. The facility also contains commercial fishing docks and launch ramps for recreational boating.

The original and amended permit for the R.V. park conversion (1-97-077) was approved with a condition requiring a six-month stay limitation within any 12-month period, to insure that the park is utilized for short-term transient use only. The current permit application includes an “after the fact” proposal to allow two spaces in the campground to be exempt from the six-month stay limitation for employee housing. The variety of job duties that occur on the site, including entrance check in, store/café duty, security, and dock detail (e.g. unloading commercial fishing boats) necessitate more than one employee living at the site, due to the fact that many of these activities occur at night. More specifically, the applicant is requesting that one fully plumbed RV site located near the entry gate be exempt for an employee as a “convenience and security measure” to provide “on call” after hours check-in service and security at the gate, store, and café locations. In addition, the applicant is requesting that one “rotating” dry camping site be exempted, to be utilized by a second employee. This second employee would be responsible for unloading commercial fishing boats near the dock, since boats often require unloading after dark. In addition, with the conversion of the northeastern spit to dry camping sites (1-97-77-A1), this employee would oversee logistics, boat trailer parking, and site maintenance during heavy launch schedules on peak weekends. The applicant has stated that the RV or trailer for this second employee would ideally be located near the launch ramp and new dry sites. However, if this “floating” site cannot be approved because it would deprive the public of the less costly camping space, the applicant would instead request that a second fully plumbed RV site in the western portion of the RV park be made available housing for the second employee (Exhibit No. 3).

The Commission finds that there is a reasonable need for two employee housing units at the site due to the variety of job activities on different parts of the site occurring at daytime and nighttime hours, and due to the cost of living in the area it is reasonable to offer these employees housing on site. Further, the elimination of two R.V. sites would not significantly affect the availability of lower-cost visitor serving accommodations because these two spaces would represent only 2% of the total available R.V. camping spaces in the campground. The exemption of two R.V. spaces from the six-month stay limitation is consistent with Section 30213 of the Coastal Act because (a) the Albion River Campground and Marina provides low-cost visitor accommodations in the coastal zone, consistent with Coastal Act Section 30213; (b) the proposed use of the camping spaces for the proposed employee housing would facilitate the continued provision of this accommodation to the public; and (c) the conversion of only two RV spaces to employee housing would not significantly affect the availability of RV spaces for the public.

However, if one of the exempt spaces were a dry campsite, the lowest cost accommodation on the site, the exemption would unnecessarily eliminate a lower-cost coastal accommodation opportunity because an alternate site for employee housing exists at the campground. As described above, the applicant has alternatively proposed that a second fully plumbed RV site be made available for a second employee instead of the dry site, exempt from the six-month stay limitation (Exhibit No. 3). Therefore, to protect and maintain the lower cost visitor serving accommodation consistent with Coastal Act Section 30213, the Commission imposes Special Condition No. 1, which exempts the RV spaces from the six month stay limitation that applies to the other 98 RV spaces at the campground and requires that the employee housing be limited to the two higher cost fully plumbed R.V. sites depicted on Exhibit No. 3. Only as conditioned can the Commission find that the proposed development is consistent with Coastal Act Section 30213.

#### **4. Violation: Unpermitted Development**

Without benefit of a coastal development permit, development has been undertaken consisting of the use of one R.V. space for employee housing beyond the six-month stay limitation stipulated in Special Condition No. 1 of CDP No. 1-97-077. Consideration of the application by the Commission has been based solely upon policies of the Coastal Act. Action on this permit request does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

#### **5. California Environmental Quality Act (CEQA)**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable 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 which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

**Exhibits:**

1. Regional Location Map
2. Vicinity Map
3. Project Plan
4. CDP 1-97-77-A1 Staff Report
5. CDP 1-97-77 Staff Report

References:

Tien, James N./US DOJ. 1977. Study of Streetlighting and Crime.” Cited on [www.darksky.org](http://www.darksky.org)

The National Institute of Justice.\_\_\_\_. “Preventing Crime, What Works, What Doesn’t, What’s Promising.” A Report to the U.S. Congress. Cited on [www.darksky.org](http://www.darksky.org) and can be found at [www.ncjrs.org/works/wholedoc.htm](http://www.ncjrs.org/works/wholedoc.htm)

Hanslep, Derek.\_\_\_\_. “Lighting and Crime: Most still in the dark about *real* security lighting.” Issue 59: Newsletter of the International Dark-Sky Association. [www.darksky.org](http://www.darksky.org).

IESNA. 2003. “G-1: Security Lighting for People, Property, and Public Spaces.” Cited in Hanslep \_\_\_\_.

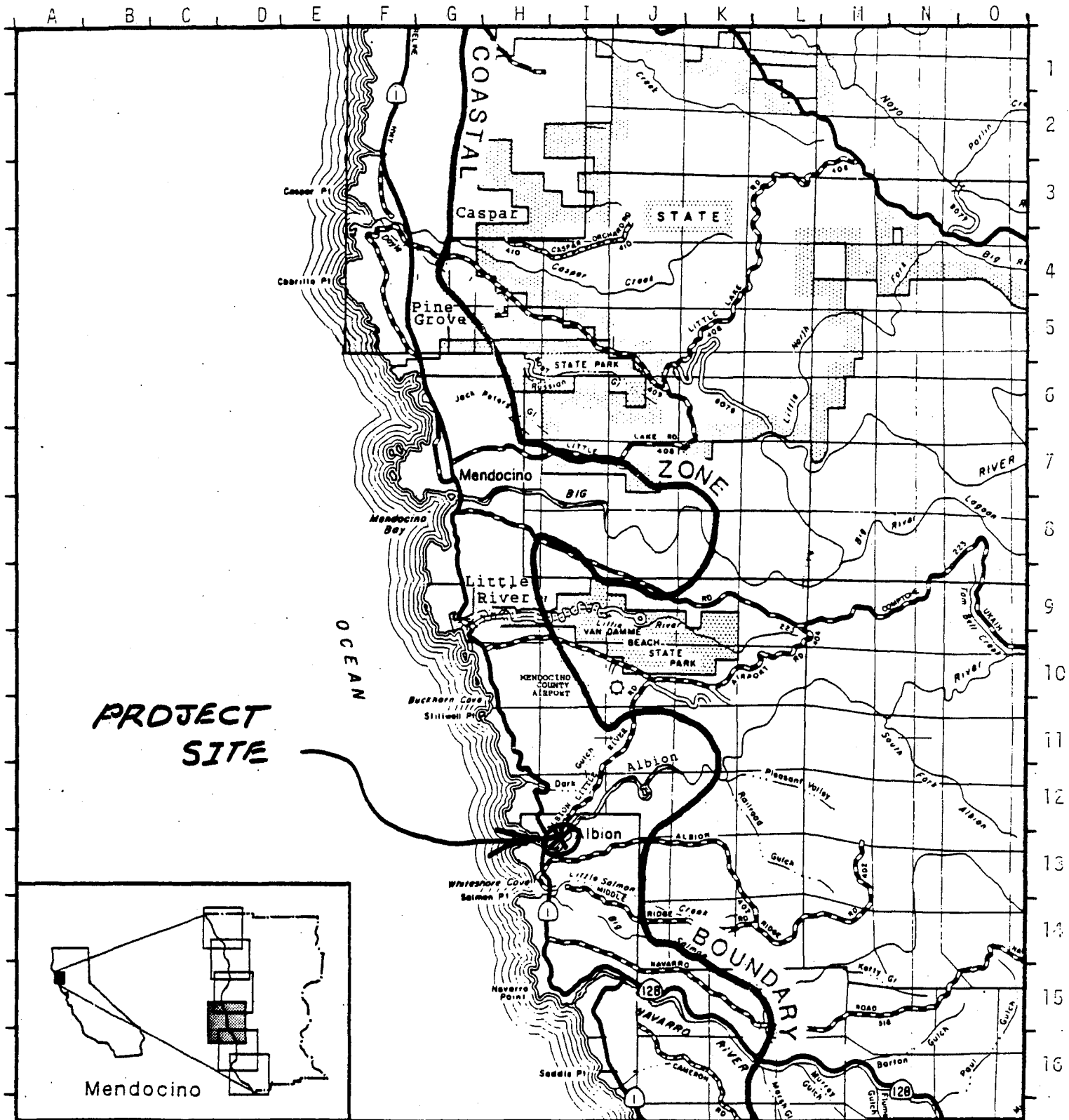
Darksky. 1996. “Glossary of Basic Terms and Definitions.” [www.darksky.org](http://www.darksky.org)

**ATTACHMENT A**

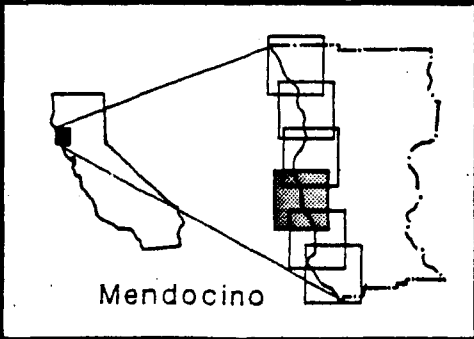
Standard Conditions:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
3. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
4. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



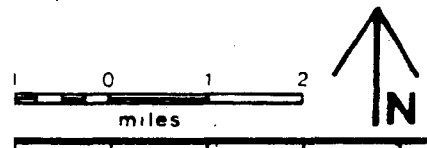


**PROJECT SITE**



Mendocino

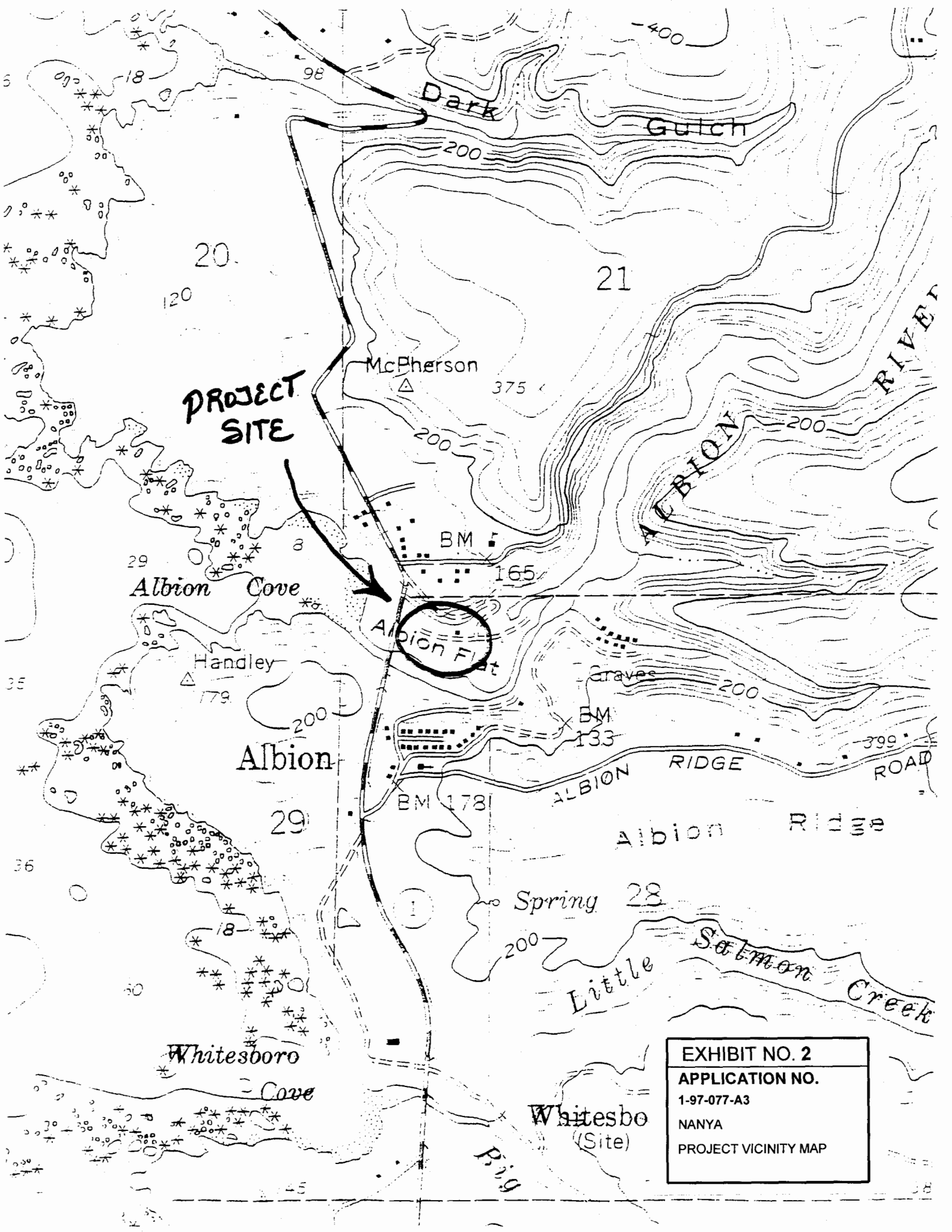
**EXHIBIT NO. 1**  
**APPLICATION NO.**  
 1-97-077-A3  
 NANYA  
 REGIONAL LOCATION MAP



California Coastal Commission

County of Mendocino

Sheet 4 of 6



**PROJECT SITE**

EXHIBIT NO. 2  
 APPLICATION NO.  
 1-97-077-A3  
 NANYA  
 PROJECT VICINITY MAP

**PROPOSED LIGHTING IMPR. Proposed Storage and Parking Layout**  
 CDP 1-97-77 CDP 1-97-77

Proposed Exempt  
 Employee Spaces  
 CDP 1-97-77

Albion River  
 Campground and Marina

New  
 Tractor  
 Garage  
 Existing  
 Manager  
 Residence  
 Possible 2nd space  
 A. RV SITES Proposed exempt  
 space

Existing Sites

Existing Post Lighting this Roadway

NEW  
 MULTIPURPOSE  
 BUILDING

DRY SITES

LEACH PITS

Existing parking

C. DRY SITES

ALBION RIVER

Sport Docks

RELOCATED DRY SITES  
 R 21 THRU #6  
 D. 21 THRU #4

New Post lights  
 40 ft. apart

(Historic)  
 parking and storage

(Historic)  
 Storage and parking

COMM.  
 DOCKS

NEW POSTS → ●

EXISTING POSTS NEEDING LIGHTS\* ○

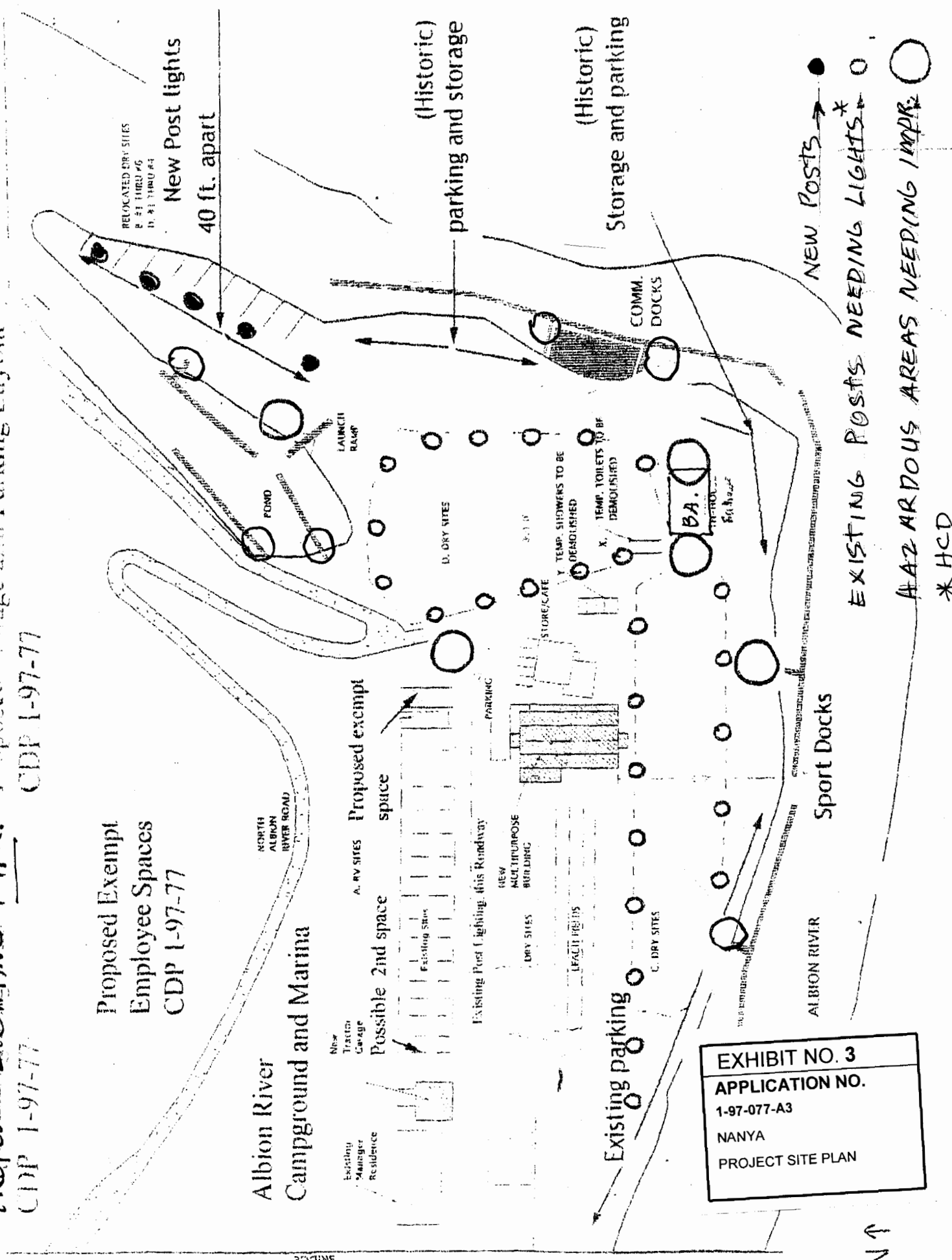
#A2 ARDOUS AREAS NEEDING IMPR. ○

\*HCD

EXHIBIT NO. 3  
 APPLICATION NO.  
 1-97-077-A3  
 NANYA  
 PROJECT SITE PLAN

N ↑

BRIDGE



## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
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# W22a

Date Filed: May 14, 2003  
49th Day: July 2, 2003  
180<sup>th</sup> Day: November 10, 2003  
90-Day Extension Submitted: October 22, 2003  
Final Date for Commission Action: January 20, 2004  
Staff: Randall Stemler  
Staff Report: December 30, 2003  
Hearing Date: January 14, 2004  
Commission Action:

## STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO.: 1-97-077-A1

APPLICANT: K. JOE NANYA

APPLICANT'S AGENT: Roger Collin

PROJECT LOCATION: Albion River Campground at 33800 North Albion River Road, Albion, Mendocino County (APN 123-170-01).

### DESCRIPTION OF PROJECT PREVIOUSLY APPROVED:

Conversion of Albion River Campground from a mobile home park to an 18-space recreational vehicle park; including removal of ten dilapidated mobile homes, and improvement of water, electrical and septic capacity.

### DESCRIPTION OF AMENDMENT REQUEST:

Demolish existing shower and restroom buildings; relocate 10 existing campsites; modify the septic system; install landscaping; construct a new 15-foot-high tractor shed/garage; and construct a two-story 3,840-square-foot multipurpose building with a maximum height of 25 feet to house offices, a relocated laundry facility, meeting and recreation

<b>EXHIBIT NO. 4</b>
<b>APPLICATION NO.</b>
1-97-077-A3
NANYA
CDP 1-97-077-A1 STAFF REPORT (1 of 20)

hall, a reception and interpretive lobby, storage rooms, and shower and restroom facilities

GENERAL PLAN DESIGNATION: FV (Fishing Village)  
ZONING DESIGNATION: FV (Fishing Village), FP (Flood Plain)  
LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency Review  
SUBSTANTIVE FILE DOCUMENTS: CDP No. 1-97-077 (Seto);  
Mendocino County LCP

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**SUMMARY OF STAFF RECOMMENDATION:**

The staff recommends that the Commission approve with conditions, the requested amendment to the coastal development permit, granted originally for the conversion of the Albion Campground from a mobile home park to an 18-space recreational vehicle park with improvements to water, electrical and septic capacity. The amendment request seeks authorization for construction of a two-story, 3,840-square-foot, landscaped multipurpose building not to exceed 25 feet in height. The multipurpose structure would accommodate the relocation of existing temporary toilet, shower, and laundry facilities, create new offices and storage rooms, and provide a meeting hall with a reception and interpretive lobby for the use of guests of the existing campground. The multipurpose building would be served by installation of a new 3,000 gallon concrete septic tank, a new 1,500 gallon concrete pump chamber, and an existing leach field. Ten existing campsites that would be displaced by construction of the new multipurpose building would be relocated. A new 784-square-foot, 15-foot-tall tractor-shed/garage would be constructed. The proposed development is located at the existing Albion River Campground at 33800 North Albion River Road, Albion, Mendocino County.

Staff is recommending eight new special conditions (in addition to the one special condition still in full force and effect from the original permit) to ensure that the project is consistent with the Chapter 3 policies of the Coastal Act. Special Condition No. 2 requires, prior to the issuance of the permit, that the applicants provide the Executive Director a copy of any permit required by the State Lands Commission. Special Condition No. 3 requires that, prior to issuance of the permit, a deed restriction be recorded imposing all of the special conditions as covenants, conditions and restrictions on the use and enjoyment of the subject property. Special Condition No. 4 requires use of specific non-reflective, dark, earthtone natural-appearing colors and materials for exterior siding and visible exterior components to ensure that the development will be visually compatible with the surrounding area, and that outdoor lighting be the minimum necessary for the safe ingress and egress of the structures, low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel. Special Condition No. 5 requires conformance to the approved landscaping plan. Special Condition No. 6 requires removal and proper disposal of demolition debris. Special Condition No. 7 requires submittal of a revised runoff control plan. Special Condition No. 8

requires submittal of a Flood Hazard Zone Development Permit approved by Mendocino County prior to the commencement of construction. Finally, Special Condition No. 9 requires the permittee to assume the risks of flooding hazards to the property, indemnify the Commission for all liability and waive any claim of liability against the Commission.

As conditioned, staff has determined that the development as amended would be consistent with Chapter 3 policies of the Coastal Act.

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**STAFF NOTES:**

**1. Procedure and Background:**

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

Coastal Development Permit (CDP) No. 1-97-077 (Seto) was approved for conversion of a mobile home park to a recreational vehicle park with various improvements to the Albion River Campground including installation of new electrical and water supply lines to replace and repair existing utilities to the 18 new recreational vehicle spaces; repairing the sewage disposal system; and demolishing ten dilapidated mobile homes. The Commission granted this permit on March 11, 1998 with one special condition imposed to assure that the site would remain a lower-cost, visitor-serving recreational facility, consistent with Sections 30213, 30221, and 30222 of the Coastal Act. The special condition limits the use of the recreational vehicle spaces to transient visitor use and requires additional permit authorization for any future development on the site including conversion of the recreational vehicle spaces to residential use.

The current amendment requests approval for construction of a two-story, 3,840-square-foot, landscaped multipurpose building not to exceed 25 feet in height. The multipurpose building would be served by installation of a new 3,000 gallon concrete septic tank, a new 1,500 gallon concrete pump chamber, and an existing leach field. The multipurpose structure would accommodate the relocation of existing temporary toilet, shower, and laundry facilities, create new offices and storage rooms, and provide a meeting hall with a reception and interpretive lobby for the use of guests of the existing campground. The multipurpose building would be served by an existing alternate septic system. Ten existing campsites that would be displaced by construction of the new multipurpose building would be relocated. A new 784-square-foot, 15-foot-tall tractor-shed/garage would be constructed. The proposed development would be located at the existing Albion River Campground at 33800 North Albion River Road, Albion, Mendocino County. The building exteriors are proposed to have a wood appearance siding painted in dark earthtone colors to blend with natural surroundings. Roofing and window frames would be non-reflective, and be painted in earthtone colors.

The Executive Director has determined that the proposed amendment would not lessen or avoid the intent of the original conditionally approved permit. As described above, the original permit issued by the Commission authorized a change in use from a mobile home park to a recreational vehicle park, and included a special condition to require only short-term, transient use limited to a six-month stay within each twelve-month period. The recreational park development as amended would conform with these requirements since (1) construction of the proposed multipurpose structure would accommodate the relocation of existing temporary toilet, shower, and laundry facilities, create new offices and storage rooms, and provide a meeting hall with a reception and interpretive lobby for the use of guests of the existing campground; and (2) ten existing campsites that would be displaced by construction of the multipurpose structure would be relocated. Consistent with the new development findings contained in the original permit, the new development as amended would be served by adequate water and septic facilities, and be located in the recreational vehicle park near existing developed areas able to accommodate it without causing significant adverse effects. Consistent with the public access findings contained in the original permit, the new development as amended would not increase the demand for public access to the shoreline, and would have no significant adverse impacts on existing or potential public access. Consistent with the visual resources findings contained in the original permit, the new development as amended would be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize alteration of natural landforms, and be visually compatible and subordinate with the character of surrounding areas. The changes proposed by the amendment would not involve any significant grading that would alter any natural landforms. In addition, the structures would be subordinate to the character of their setting as they would (1) be located adjacent to existing structures, (2) utilize building materials and colors that would blend with the surrounding landscape, (3) include landscaping to soften the appearance of the new structures, (4) be built to heights compatible with the existing development, and (5) be of a style consistent with surrounding development. Therefore, as this amendment request would not result in a lessening or avoidance of the intent of the originally approved permit, the Executive Director accepted the amendment request for processing.

## 2. Standard of Review

The proposed project is located on the Albion River Flats within the Commission's area of original jurisdiction, and is subject to the Commission's permit authority. Therefore, the standard of review that the Commission must apply to the project is the Chapter 3 policies of the Coastal Act.

## 3. Commission Action Necessary

The Commission must act on the application at the January 14, 2003 meeting to meet the requirements of the Permit Streamlining Act.

## I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

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**Motion:**

I move that the Commission approve the proposed amendment to Coastal Development Permit No. 1-97-077 pursuant to the staff recommendation.

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. STANDARD CONDITIONS: (See attached)**

**III. SPECIAL CONDITIONS:**

Special Condition No. 1 of the original permit (Seto CDP No. 1-97-077) remains in full force and effect (see Exhibit No. 5). Special Conditions Nos. 2-8 are new conditions attached to the permit amendment.

**2. State Lands Commission Review**

**PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director a written determination from the State Lands Commission that:

- a. No State lands are involved in the development; or
- b. State lands are involved in the development and all permits required by the State Lands Commission have been obtained; or



- c. State lands may be involved in the development, but pending a final determination an agreement has been made with the State Lands Commission for the project to proceed without prejudice to that determination.

3. **Deed Restriction**

**PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. **Design Restrictions**

- A. All exterior siding, trim, and roofing of the proposed structures shall be consistent with the following limitations on materials and colors: (1) The siding of the multipurpose building and tractor shed/garage shall simulate a wood appearance similar to the siding of the existing store/café; (2) The bodies of the multipurpose building, tractor shed/garage, and existing manager's residence structures shall be medium gray "Eucalyptus Tree" color (Glidden paint chip #10GY 30/104); (3) The trim of the multipurpose building, tractor shed/garage, and existing manager's residence structures shall be dark gray "Campground" color (Glidden paint chip #30GY 14/071); (4) The standing seam steel roofs of the new multipurpose building and new tractor shed/garage structures shall be medium gray "Dolphin Gray" color (BASF Industrial Coating); (5) The vinyl windows shall be black-colored; and (6) The doors shall be natural wood or "Eucalyptus Tree" color (Glidden paint chip #10GY 30/104). The approved structures shall not be repainted or stained with products that will lighten the color of the structures as approved without an amendment to this permit. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare, and;
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

5. **Landscaping and Maintenance Requirement**

The permittee shall undertake development in accordance with the approved landscaping plan as proposed. No invasive exotic plants shall be planted. If any of the approved landscape plantings die or are removed for any reason, they shall be immediately replaced in-kind. Any proposed changes to the approved landscaping plan shall be reported to the Executive Director. No changes to the approved landscaping plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

6. **Removal of Demolition Debris**

All debris from the demolition of the existing structures on the project site shall be removed from the site, and disposed at a location where such material may be lawfully disposed at an approved disposal site.

7. **Revised Runoff/Erosion Control Plan**

A. PRIOR TO ISSUANCE OF THE AMENDED COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written approval of the Executive Director, a final revised Runoff/Erosion Control Plan that substantially conforms with the plan submitted to the Commission on October 31, 2003, and received November 12, 2003, entitled "*Albion River Campground Rainwater Drainage Plan For Proposed Multipurpose Building*" except that it shall be revised to include the following provisions addressing runoff and erosion impacts from construction of the development:

1. A physical barrier consisting of bales of straw placed end to end shall be placed between any construction and the banks of the Albion River. The bales shall be composed of weed-free, rice straw, and shall be maintained in place throughout the construction period.
2. Vegetation at the site shall be maintained to the maximum extent possible and any disturbed areas shall be replanted or seeded with native vegetation immediately following project completion.
3. All on-site demolition and construction debris stockpiles shall be covered and contained at all times.

- B. The permittee shall undertake development in accordance with the approved Runoff/Erosion Control Plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

8. **Flood Hazard Zone Development Permit**

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall provide to the Executive Director a copy of a Flood Hazard Zone Development Permit approved by the Mendocino County Planning and Building Department demonstrating that the finished foundation of the structures would be elevated to or above the base flood elevation or designed to be flood-proofed and capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. The applicant shall inform the Executive Director of any changes to the project required by the Mendocino County Planning and Building Department. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

9. **Assumption of Risk**

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

IV. **FINDINGS AND DECLARATIONS FOR APPROVAL**

The Commission hereby finds and declares:

1. **Site Description & Project Description**

A. **Site Description**

The subject site is an approximately 9 3/4-acre parcel containing the Albion River Campground and Marina, located at Albion Flat on the north side of the Albion River, just east of the Highway One Bridge, at 33800 North Albion River Road, Albion, Mendocino County (Exhibit Nos. 1 and 2). The site is used as a private campground and marina facility

that accommodates both commercial fishermen and recreational boaters. Albion Flat is on the lower Albion River estuary floodplain. The site originally supported a lumber mill before being converted to the existing campground and marina complex. The site is in an area designated as "highly scenic" by the Mendocino County Land Use Plan, and is primarily visible from the Highway One Bridge, and from public roads within the Albion community atop and along the bluff on the south side of the river. Although the river contains environmentally sensitive eelgrass and supports threatened salmonid species, there is no sensitive habitat on the upland portions of the site where the campground is located.

### **B. Project Description**

The amendment request seeks approval for construction of a two-story, 3,840-square-foot, landscaped multipurpose building not to exceed 25 feet in height (page 7 of Exhibit 3). The multipurpose structure would accommodate the relocation of existing temporary toilet, shower, and laundry facilities, create new offices and storage rooms, and provide a meeting hall with a reception and interpretive lobby for the use of guests of the existing campground. The multipurpose building would be served by installation of a new 3,000-gallon concrete septic tank, a new 1,500-gallon concrete pump chamber, and an existing leach field. Ten existing campsites that would be displaced by construction of the new multipurpose building would be relocated. A new 784-square-foot, 28-foot-wide by 28-foot-wide, 15-foot-tall tractor-shed/garage would be constructed. The applicant has proposed landscaping to plant eleven 15-gallon-sized shore pine trees; seven 5-gallon-sized wax myrtle trees; and two 5-gallon-sized silk tassel bushes around the southeastern sides of the multipurpose building and store/café-clustered buildings (page 5 of Exhibit No. 3). The applicant has also provided a runoff/erosion control plan to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment. Additionally, the applicant has proposed a selection of colors with which to paint the proposed new structures as well as the existing manager's residence and existing store/café. The applicant's selected colors include "Dolphin Gray" for the roofs; "Eucalyptus Tree" for the bodies of the structures; and "Chatham Green," "Campground," or "Cape May" for the trim; natural wood or the body color for the doors; and black for the vinyl trimmed windows.

### **C. Project History**

In 1978, Mendocino County approved a use permit (#U 84-77) to convert an existing mobile home park and campground (previously allowed by the Planning Commission's approval of use permit #U 54-71 in 1972) to an 86-space recreational vehicle park with a convenience store, snack bar, laundry facility, restrooms, and office. The use permit was approved exclusively for recreational vehicles, and no permanent mobile homes were allowed; the previously existing mobile homes were to be phased out and replaced by recreational vehicle spaces. At that time there were 19 mobile home spaces and 82 recreational vehicle spaces. The applicant did not convert the mobile home sites to recreational vehicle sites, and also did not obtain a coastal development permit from the Coastal Commission for the conversion.

A number of coastal development permits obtained through the years by the applicant for the site were not exercised and subsequently expired, including CDP 80-A-43 for construction of a temporary storage shed, and CDP 1-83-49 for construction of a recreation building. In 1990 the applicant obtained an exemption to replace a 975-square-foot bathhouse destroyed by fire with a new 960-square-foot bathhouse building.

In 1994 the Commission granted CDP 1-93-35 for dredging at the site, and CDP 1-93-36 for the construction of a concrete seawall to protect the site from bank erosion. In 1997, the Commission approved an amendment to this permit to allow for installation of rock rip-rap revetment along the existing riverbank instead of constructing the concrete seawall two to three feet inshore of the existing riverbank. In 1998, the Executive Director approved Coastal Permit Waiver No. 1-98-004-W to demolish and reconstruct an existing store/office building that had been in existence since 1970, and replace the existing failed septic system with a new septic system. Also in 1998, the Commission approved CDP No. 1-97-77 (see Exhibit No. 5) authorizing a change in use from a mobile home park to a recreational vehicle park for short-term, transient use only, and various improvements including the installation of new electrical and water supply lines, and demolition of ten dilapidated mobile homes.

## 2. Locating New Development

Section 30250(a) of the Coastal Act states that:

*New residential, commercial, or industrial development...shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources...*

The proposed project would construct a multipurpose building to house: (1) the relocation of existing temporary toilet and shower facilities (four showers and seven toilets relocated from existing structures to be demolished); (2) a new office and operations room on the ground floor, and a private office and full bath on the second story; 3) a relocated laundry facility; 4) a meeting and recreation hall; 5) a reception and interpretive lobby; and 6) operations storage rooms. Ten existing campsites that would be displaced by construction of the new multipurpose building would be relocated. Also, a new tractor-shed/garage would be constructed in a location near the existing manager's residence. The project is designed to better serve the current volume of campground visitors and would not add dwelling units or increase the capacity of campground use. The existing recreational development is not connected to any public water system or public sewage treatment facility. Instead, water is provided by on-site wells located across the river. The Mendocino County Division of Environmental Health has determined the well water to be adequate to serve the facility. The development as amended includes construction of a multipurpose building to house relocated restrooms and showers that would be served by installation of a new 3,000 gallon concrete septic tank, a new 1,500 gallon concrete pump chamber, and an existing leach field. The Mendocino County Division of Environmental Health has approved the proposed modification to the septic system, finding that the system is sufficient

to meet the needs of the proposed development (Exhibit No. 4). Since the development as amended would not increase the number of campground spaces or the demand for septic capacity, and the campground is served by an adequate supply of well water and an approved septic system, the development as amended would be located where it can be accommodated.

The development as amended would not result in an increase in traffic demand on Highway One, since the new facilities would not result in a change in intensity of use at the site or surrounding area. Furthermore, as discussed in the findings below, the development as amended has been conditioned to be consistent with the Coastal Act.

The Commission finds, therefore, that as conditioned, the development as amended is consistent with Coastal Act Section 30250(a) because there are adequate services on the site to serve the development as amended, and the project would not contribute to adverse cumulative impacts on highway capacity, scenic values, or other coastal resources.

### 3. Flood Hazards

Section 30253 states in applicable part:

*New development shall:*

*(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*

Coastal Act Section 30253 requires in applicable part that new development minimize risks to life and property in areas of high geologic, flood, and fire hazard and neither create nor contribute significantly to erosion or geologic instability.

The subject 9 <sup>3</sup>/<sub>4</sub>-acre property is located along the Albion River, and the primary natural hazard affecting development of the subject property is flooding. As depicted on the applicable 7 <sup>1</sup>/<sub>2</sub>' series Flood Hazard Map, the subject site is located within the 100-year flood plain, but not within the floodway zone. Property located in a 100-year flood plain has a 1-in-100 chance in any given year of flooding. Property located in the actual floodway is within those portions of the flood plain, in or adjoining the channel, that are reasonably required to carry or store regional flood discharge. The floodway and the 100-year flood plain are within an area of Special Flood Hazard.

As described above, the project site is presently developed as a recreational vehicle park with a convenience store, café, laundry facility, restrooms, and office. Historically, the site supported a lumber mill before being converted to the existing recreational vehicle park. There is no record of any structures on the property ever being adversely affected by flooding. However, the Local Coastal Program Consistency Review performed for the proposed project by the County of Mendocino noted that the project site is designated in the LCP as being within a flood combining zone and that prior to issuance of a building permit from the County, a Flood Hazard Zone Development Permit would be required. This permit is a ministerial, non-discretionary, County permit that is required for development within areas of Special Flood Hazard to insure

compliance with County flood hazard zoning regulations contained in Chapter 20.420 of the Mendocino County certified Coastal Zoning Code. For the proposed development at the subject site, (1) new construction and substantial improvements of any structure(s) shall have the lowest floor, including basement (if any), elevated to or above the base flood elevation, or (2) the structure(s) together with attendant utility and sanitary facilities must:

- A. Be flood-proofed so that below the base flood level the structure(s) is/are watertight with walls substantially impermeable to the passage of water;
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects on buoyancy; and
- C. Be certified by a registered professional engineer or architect that the required standards are satisfied. Such certification shall be provided to the Mendocino County Department of Planning and Building Services.

To ensure that the proposed residence is designed to minimize risks to life and property from flood hazards as required by Coastal Act Section 30253, the Commission attaches Special Condition No. 8 that requires the applicant to provide evidence that a Flood Hazard Zone Development Permit has been approved by the Mendocino County Planning and Building Department prior to the commencement of construction.

Additionally, Special Condition No. 9 requires the landowner to assume the risks of flooding hazards to the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite flooding risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards.

Furthermore, to ensure that all future owners of the property are aware of the flood hazard present at the site, the Commission's immunity from liability, and the indemnity afforded the Commission, Special Condition No. 3 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

Therefore, as conditioned, the project would minimize risks to life and property from flood hazards and is consistent with Section 30253 of the Coastal Act.

#### 4. Visual Resources

Section 30251 of the Coastal Act states:

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



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

The subject site is on a 9 ¼-acre parcel located on the east side of Highway One in an area designated as highly scenic in the Mendocino County LUP. The existing public views of the project site are east from the Highway One Bridge, south from North Albion River Road, and north from Albion Ridge. None of these views are toward the ocean. Therefore, the development as amended would not adversely affect views of the ocean.

The changes proposed by the amendment would not involve any significant grading or excavation. Therefore, the project would not alter any natural landforms.

The view of the subject site east from Highway One is mainly from the bridge over the Albion River. This view looks down on the Albion Flats where the existing 86-space recreational vehicle park with a convenience store/café, laundry facility, restrooms, and office are located. The existing development dominates the site. The tallest structure currently on the property is the existing manager's residence, which is a 16-foot-tall, mobile home unit. The existing store/café is a 15-foot-tall, 1,008-square-foot building. The design height of the proposed multipurpose building is 23 ½ feet, which may need to be raised to a maximum of 25 feet to meet the standards required for issuance of the Mendocino County Flood Hazard Zone Development Permit. The proposed height of the tractor shed/garage is 15 feet. The existing store/café is also 15 feet high. Because the public views of the site are predominantly from vantage points high above the development, the fact that the proposed multipurpose building would be 7½ to 10 feet taller than the existing structures on the site would not have a significant adverse effect on the visual character of the site as the additional height would not block views and would appear very small. Therefore, the maximum 25-foot height of the new multipurpose building and the 15-foot height of the tractor shed/garage would be compatible and subordinate to the character of the area.

The basic architectural style of the proposed new structures, the bulk, shape, and size of the building, and the use of natural appearing materials and colors, would be consistent with other development in the vicinity. The style of the architecture selected for the multipurpose building very closely resembles that of the old lumber mill that for decades occupied roughly the same site. It is a typical barn appearance common in rural areas (see Exhibit 3 for an artist's rendering of the structure as it would appear on the site). The architectural style of the tractor shed/garage is also a typical design, one common for small storage structures. The size and bulk of the new buildings would not be uncharacteristic for the area. The 15-foot-tall tractor shed/garage is a very small, square building, measuring 28 feet on a side, and would be constructed adjacent to the larger existing 16-foot-tall manager's residence. Even though the multipurpose building would rise to as high as 25 feet, that structural height would not look out of place for buildings east of the highway where structures are allowed to be as high as 28 feet. The applicant has proposed to utilize exterior building materials and colors that blend with the natural



surroundings. The new tractor-shed/garage and multipurpose structure would use siding and batten that simulates a wood appearance similar to the existing store/café.

The existing store/café building, as well as the existing manager's residence, would then be painted the same color as the new proposed multipurpose structure making all of the buildings a consistent color that would blend more fully into the surrounding landscape. The applicant has proposed two color-choices for the trim: "Campground" and "Chatham Green." The Commission finds that use of "Chatham Green" for the trim, which is a light-colored ivory color, would be too light, and would not blend with the surroundings as well as the use of "Campground" would. Use of the light "Chatham Green" color for the trim would negate some of the value of painting the siding material the "Eucalyptus" color as the light colored trim would outline the buildings in a manner that would make them stand out from their surroundings. If the applicant uses the dark gray "Campground" color (Glidden paint chip #30GY 14/071) for the trim, the medium gray "Eucalyptus Tree" color (Glidden paint chip #10GY 30/104) for the bodies of the structures; the medium gray "Dolphin Gray" color (BASF Industrial Coating) for the standing seam steel roofs of the new multipurpose building and new tractor shed/garage, black-colored vinyl windows, and doors that would be natural wood or "Eucalyptus Tree" (the same color as the body of the buildings), the development as amended would remain subordinate to the character of its setting. The view from Highway One of the development as modified by the proposed amendment would not cause additional view blockage.

Because the development is located in a designated highly scenic area, the proposed exterior building materials and colors must be subordinate to the natural setting, minimize reflective surfaces, and blend in hue and brightness with their surroundings consistent with Section 30251 of the Coastal Act. With the exception of the proposed "Chatham Green" trim, the building colors and materials proposed would, in fact, blend with the colors of the development's surroundings, which include the wooded riparian area along Albion River. To ensure that the exterior building materials and colors used in the construction of the proposed development with the proposed amendment are compatible with natural-appearing earth tone colors that blend in hue and brightness with their surroundings, the Commission attaches Special Condition No. 4, which requires that all exterior siding and visible exterior components be made of natural-appearing materials of dark earth tone colors that conform to the proposed color scheme with the exception that the trim be limited to the "Campground" color. Additionally, Special Condition No. 4 requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel. Special Condition No. 3 requires that a deed restriction be recorded informing future buyers of the property of the special conditions of the permit, including the color limitations. Such notice to future buyers will better ensure that in the future, the development is painted with colors consistent in brightness and hue with its surroundings. These requirements will ensure the project is consistent with Section 30251 of the Coastal Act.

The development as amended would incorporate landscaping to further blend the appearance of the development as amended with its surroundings. Eleven 15-gallon-sized shore pine trees; seven 5-gallon-sized wax myrtle trees; and two 5-gallon-sized silk tassel bushes would be planted around the south-eastern sides of the multipurpose building and store/café-clustered buildings to soften the view of the structures, provide visual screening of the buildings from both

high and low vantage points, and help them better blend with the character of the surrounding area. The sizes of the plants are substantial enough to provide some immediate screening, yet not so large that they will be difficult to establish in the harsh, coastal winds. A note is included on the proposed landscape plan that “[a]ll plants included in [the] plan are indigenous to this area and are able to withstand coastal conditions. No plants on this plan are exotic or invasive.” To ensure that the landscaping is installed and maintained as proposed, the Commission attaches Special Condition No. 5. This special condition requires that the permittee undertake development in conformance with the landscaping plan as proposed and that any plantings that die or are removed for any reason shall be immediately replaced in-kind. The condition specifically prohibits the use of invasive exotic plants.

In summary, the development as amended and conditioned would be subordinate to the character of its setting as (1) the maximum height of the new structures would not have a significant effect on visual character as the predominant public views of the site are from vantage points high above the site, (2) the architectural style of the proposed new structures would be similar to the style of other buildings in the area, (3) the building materials and exterior colors required would blend with the surroundings of the development and (4) the landscaping as proposed and conditioned would soften the appearance of the development as amended.

Therefore, the Commission finds that as conditioned, the proposed development as amended would be fully consistent with the visual resource protection requirements of Section 30251 of the Coastal Act, as (1) the development as amended would not block any additional view of the ocean and would be sited and designed to protect views to and along the ocean, (2) the development as amended includes no significant grading or excavation and therefore would minimize the alteration of landforms, and (3) the amended development, would be visually compatible with and subordinate to the character of surrounding areas.

#### **5. Protection of Aquatic Resources and Water Quality.**

Section 30240 of the Coastal Act provides protection to environmentally sensitive habitat areas from adjacent developments. As applicable, Section 30240(b) states:

*Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

Section 30231 of the Coastal Act addresses the protection of coastal water quality in conjunction with development and other land use activities. Section 30231 states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of wastewater discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and*

*substantially interference with the surface water flow, encouraging, wastewater reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams [emphasis added].*

As discussed above, the upland portions of the subject property do not contain any ESHA. However, the Albion River runs along the southeast boundary of the property. The river provides habitat for threatened salmonid species and sensitive eelgrass and is considered to be ESHA. Furthermore, the opposite bank of the river contains significant riparian ESHA. No new development is proposed within 100 feet of the Albion River. However, consistent with the requirements of Section 30240(b) of the Coastal Act, the development as amended must be sited and designed to prevent impacts that would degrade the Albion River ESHA and would be compatible with the continuance of the habitat.

Storm water runoff from new development can adversely affect the biological productivity of coastal waters by degrading water quality. The proposed development, however, would not significantly adversely affect the water quality of the Albion River, estuary, or nearby ocean. As discussed above, the development as amended would be located on a low gradient flat where there is minimal fall between the main campground elevation and the Albion River. The nearest portion of the proposed multipurpose building would be approximately 140 feet from the Albion River. The total drop between the adjacent store/café and parking area, and the high tide mark is approximately 6.5 feet. Pursuant to the runoff plan submitted as part of the amendment request, the water runoff from the metal roof of the new proposed multipurpose building would be piped approximately 40 feet south across a road from the structure to a dispersal point where it would then flow out onto drain rock for energy dissipation before dissipating into a grassy swale located in campground "C". Campground "C" is unoccupied during the rainy season. The new proposed tractor-shed would be located approximately 160 feet from the Albion River, and would be located at a slightly higher elevation on the property in an area with very permeable sandy soil. No gutter would be provided for water runoff from this north-facing, metal roof, since the water would percolate into the ground and/or grassy swale.

Once implemented, the proposed runoff plan would be adequate for mitigating runoff concerns from the development after completion. However, during construction of the project, there is an increased risk of erosion and sedimentation, particularly if construction occurs in the wet season. To address potential erosion and sedimentation problems that may occur during the construction period, the Commission finds it necessary to require measures be taken to place straw bales between any construction and the banks of the river, replant or reseed disturbed areas, and cover and contain debris stockpiles. Therefore, the Commission attaches Special Condition No. 7 requiring the applicant to revise the runoff plan to incorporate these additional measures. Therefore, consistent with Section 30231 of the Coastal Act, development as amended and conditioned would not have significant adverse effects on water quality, and consequently the biological productivity of nearby coastal waters, because storm water runoff from the proposed development would be controlled on-site by infiltration into vegetated areas with ample opportunity to deposit any entrained sediment before leaving the property.

The Commission also finds that the ESHA located adjacent to the site could be adversely affected if non-native, invasive plant species were introduced in landscaping at the site. Introduced invasive exotic plant species could physically spread into the ESHA and displace native riparian and wetland vegetation thereby disrupting the values and functions of the ESHAs. The seeds of exotic invasive plants could also be spread to nearby ESHA by wind dispersal or by birds and other wildlife. The applicant is not proposing to plant any invasive exotic vegetation as part of the landscaping plan proposed as part of the project. However, to ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species, the Commission attaches Special Condition No. 5 that requires only native and/or non-invasive plant species be planted at the site. In addition, Special Condition No. 3 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property, which would ensure that all future owners of the property are aware of the landscaping restriction.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area and the water quality of the Albion River, the development as amended and conditioned will not significantly degrade adjacent ESHA, will be compatible with the continuance of the habitat area, and will maintain the biological productivity and the quality of coastal waters. Therefore, the Commission finds that the development as amended and conditioned is consistent with Section 30240(b) and Section 30231 of the Coastal Act.

#### 6. Public Access

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or adequate access exists nearby. Section 30211 requires that development not interfere with the public's right to access gained by use or legislative authorization. In applying Sections 30210, 30211 and 30212, the Commission is also limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential access.

The original coastal development permit for the development, CDP No. 1-97-077, did not require new public access. The applicant has a lease from the State Lands Commission for a portion of the subject property that is on tide and submerged lands. The lease stipulates that access shall be provided to and through the leased area for the general public, including non-paying visitors, from both the river and across the Lessee's upland to assure public access from the first public road to the river and from the river to the first public road. The existing improvements do not block or otherwise interfere with this access. The proposed improvements would be located no closer than approximately 140 feet from the Albion River, would not block or interfere with public access to or from the river or beach, or increase the capacity of the campground. Since the proposed additions would not be appreciably closer than the existing structures to either the

river or beach, or increase capacity of the campground, the development as amended would have no additional impact on public access. Therefore, the Commission finds that the development as amended does not have any significant adverse effect on public access, and that the development as amended without new public access is consistent with the coastal access requirements of Coastal Act Sections 30210, 30211, and 30212.

**7. State Lands Commission Jurisdiction**

The California State Lands Commission (State Lands) has jurisdiction over State-owned lands in the beds of tidal and navigable waterways within the State's boundaries and over lands subject to the public trust. The subject property owners currently have a lease from State Lands to use some tide and submerged lands on which there are floating docks. The lease expires on December 28, 2013.

The dry land area where the specific development proposed under Permit Application No. 1-97-077-A1 is located is not covered by the lease, and the extent of the State's ownership interest is uncertain. State Lands previously indicated in comments regarding the original permit that the subject property may include lands the State acquired and disposed of as Tideland Survey 21 (Mendocino County). The extent and location of the State's ownership in the bed of the Albion River at this location, however, is undetermined. State Lands further indicated that the Albion River is a navigable waterway subject to a public navigational easement that provides that members of the public have the right to navigate and to exercise the incidents of navigation in a lawful manner on State waters that are capable of being physically navigated either by oar or by motor propelled small craft. Such uses may include but are not limited to boating, rafting, rowing, fishing, fowling, skiing, and other water-related public uses. The uses of the land must not restrict or impede these rights of the public. State Lands has not commented on the current coastal development permit amendment request. Thus it is unknown whether State Lands will require additional authorization for the project or not. Therefore, to ensure that the applicant has the necessary property interest to undertake all aspects of the project on these trust lands, the Commission attaches Special Condition No. 2, which requires that the project be reviewed and, if necessary, approved by the State Lands Commission prior to the issuance of a permit.

**8. Alleged Violation**

The Commission has received a report alleging that one or two of the recreational vehicle spaces of the approved facility are being used as residences. Such use would be in violation of Special Condition No.1 of the original permit for the development, Coastal Development Permit No. 1-97-077, which prohibits use of recreational vehicle spaces for private, exclusive, use or occupancy by an individual, with extended stay exceeding six months within a twelve-month period. In addition, the report alleges that new, un-shielded, outdoor lighting has been installed on the subject property without benefit of a coastal development permit. The proposed new structure sites and other development requested in the coastal development permit amendment are not in the same location

on the property, and are unaffected by, the recreational vehicle spaces and un-permitted lighting referred to in the report of alleged violation.

Consideration by the Commission for this amendment has been based solely upon Chapter 3 policies of the Coastal Act. Review of this permit application does not constitute a waiver of any legal action with regard to the cited alleged violation, nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

9. **California Environmental Quality Act (CEQA)**

Section 13096 of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable 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 which would substantially lessen any significant adverse effect which the activity may have on the environment.

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

**Exhibits:**

1. Regional Location Map
2. Vicinity Map
3. Site Plans
4. Septic Approval
5. CDP No. 1-97-077 Staff Report

ATTACHMENT

Standard Conditions:

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

## CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA  
 45 FREMONT, SUITE 2000  
 SAN FRANCISCO, CA 94105-2219  
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Filed: January 22, 1998  
 49th Day: March 12, 1998  
 180th Day: July 21, 1998  
 Staff: Jo Ginsberg  
 Staff Report: February 20, 1998  
 Commission Hearing: March 11, 1998  
 Commission Action:

STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-97-77**

APPLICANT: **SETO FAMILY TRUST**

AGENT: Roger Collin

PROJECT LOCATION: 33800 North Albion River Road, Albion Flat, Mendocino County, APN 123-170-01.

PROJECT DESCRIPTION: Authorize a change in use from a mobile home park to an R.V. park for short-term, transient use only, and make various improvements at the Albion River Campground, including installing new electrical and water supply lines to replace and repair existing utilities to the 18 new R.V. spaces; repairing the sewage disposal system; and demolishing ten dilapidated mobile homes.

Lot area: 9.75 acres  
 LCP designation: Fishing Village (FV)  
 Zoning: FV

LOCAL APPROVALS RECEIVED: Mendocino County LCP Consistency Review; Mendocino County Department of Environmental Health approval.

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino County Use Permit #U 84-77; Coastal Permit No. 1-98-004-W (Seto).

**EXHIBIT NO. 5****APPLICATION NO.**

1-97-077-A3

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CDP 1-97-077 STAFF REPORT  
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SUMMARY OF STAFF RECOMMENDATION:

The proposed project seeks to authorize a change in use at the Albion River Campground from a mobile home park to a recreational vehicle (R.V.) park. This change of use is a change from a residential, non-priority use to a low-cost visitor serving and recreational facility, a high-priority use under Coastal Act Sections 30213, 30221, and 30222. The staff thus recommends that the Commission approve with conditions the coastal development permit application for the proposed project on the basis that it is consistent with the policies of the Coastal Act.

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STAFF NOTE

Mendocino County has a certified Local Coastal Program, and therefore has coastal permit authority within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review.

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STAFF RECOMMENDATION:

I. Motion, Staff Recommendation, and Resolution

Motion:

I move that the Commission approve Coastal Development Permit No. 1-97-77 subject to conditions.

Staff Recommendation of Approval:

Staff recommends a **YES** vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve Permit with Conditions

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will be in conformity with the provisions of the

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Mendocino County Local Coastal Program, is located between the sea and the first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Conversion from Public Recreation Use:

This coastal development permit authorizes the conversion of a mobile home park to a recreational vehicle park for short-term transient use, with a six-month stay limitation within each 12-month period, and includes the removal of 10 mobile homes and the improvement of 18 R.V. sites with water, electricity, and septic capacity. Any development other than the development described in Coastal Development Permit No. 1-97-77, including but not limited to (a) conversion of any portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public; (b) extending the stay limitations for R.V. usage; and (c) creating additional mobile home sites, is specifically not authorized by this permit and would require an amendment to this permit or a new permit from the Commission or its successor agency.

IV. Findings and Declarations.

The Commission finds and declares the following:

1. Project and Site Description:

a. Site Description.

The subject site is the Albion River Campground and Marina, located at Albion Flat on the north side of the Albion River, just east of the Highway One bridge. The site is used as a private campground and marina facility that accommodates both commercial fishermen and recreational boaters. The site is currently developed with 82 dry campsites (water and power only); 18 mobile home sites of which 17 are currently vacant and one is occupied by a mobile home for the manager; a small store/office building that is being reconstructed; restrooms and showers; a small marina including a pier, docks, and boat launch; and a small fish house.

Albion Flat is on the lower Albion River estuary floodplain. The site originally supported a lumber mill before being converted to the existing campground and marina complex. The flat encompasses an approximately 9.75-acre area in a boot-shaped configuration at a bend in the river and

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includes a narrow mooring basin that extends into and alongside the flat from the "toe" end of the boot.

The site is in an area designated as "highly scenic" by the Mendocino County Land Use Plan. The site is primarily visible from the Highway One bridge and from public roads within the Albion community atop and along the bluff on the south side of the river. There is no sensitive habitat on the site.

b. Project Description.

The proposed project consists of various improvements at the Albion River Campground and Marina, including the conversion of the mobile home park containing 18 mobile home sites to a recreational vehicle park with 18 R.V. sites with sewer hook-ups for short-term, transient use only, and a manager's mobile home site; repair and upgrade of water, septic, and electrical services, pursuant to requirements by the California Department of Housing and Community Development; and the demolition and removal of ten dilapidated mobile homes, which has already taken place without benefit of a coastal permit.

c. Project History.

In 1978, Mendocino County approved a use permit (#U 84-77) to convert an existing mobile home park and campground (previously allowed by the Planning Commission's approval of use permit #U 54-71 in 1972) to an 86-space recreational vehicle park with a convenience store, snack bar, laundry facility, restrooms, and office. The use permit was approved exclusively for recreational vehicles, and no permanent mobile homes were allowed; the previously existing mobile homes were to be phased out and replaced by recreational vehicle spaces. At that time there were 19 mobile home spaces and 82 R.V. spaces. The applicant did not convert the mobile home sites to R.V. sites, and also did not obtain a coastal development permit from the Coastal Commission for the conversion.

A number of coastal permits obtained through the years by the applicant for the site were not exercised and subsequently expired, including CDP 80-A-43 for construction of a temporary storage shed, and CDP 1-83-49 for construction of a recreation building. In 1990 the applicant obtained an exemption to replace a 975-square-foot bath house destroyed by fire with a new 960-square-foot bath house building.

In 1994 the Commission granted to the applicant CDP 1-93-35 for dredging at the site. In 1994 the Commission also approved CDP 1-93-36 for the construction of a concrete seawall to protect the site from bank erosion, and in 1997 approved an amendment to this permit to allow for installation of rock rip-rap revetment along the existing riverbank instead of constructing the concrete seawall two to three feet inshore of the existing riverbank.

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The current coastal permit application initially also included demolition and reconstruction of an existing store/office building in existence since approximately 1970, and replacement of the existing failed septic system with a new septic system; this development was recently approved pursuant to Coastal Permit Waiver No. 1-98-004-W and is not now part of Coastal Permit 1-97-77.

d. State Lands Commission Jurisdiction.

The California State Lands Commission (State Lands) has jurisdiction over State-owned lands in the beds of tidal and navigable waterways within the State's boundaries and over lands subject to the public trust. The subject property owners currently have a lease from State Lands for some tide and submerged lands on which there are floating docks.

The dry land area where the specific developments proposed under Permit Application No. 1-97-77 are located is not covered by the lease, and the extent of the State's ownership interest is uncertain. State Lands indicates that the subject property may include lands the State acquired and disposed of as Tideland Survey 21 (Mendocino County). The extent and location of the State's ownership in the bed of the Albion River at this location, however, is undetermined. State Lands further indicates that the Albion River is a navigable waterway subject to a public navigational easement that provides that members of the public have the right to navigate and to exercise the incidents of navigation in a lawful manner on State waters that are capable of being physically navigated either by oar or by motor propelled small craft. Such uses may include but are not limited to boating, rafting, rowing, fishing, fowling, skiing, and other water-related public uses. The uses of the land must not restrict or impede these rights of the public. However, in light of the uncertainty of the exact location of the State's sovereign interest in the area, State Lands is currently not requiring an amendment to the Setos' lease with State Lands for the proposed development.

2. New Development:

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

The proposed project consists of a change in use from a mobile home park to an R.V. park, and various improvements at the Albion River Campground including repair of the existing sewage collection system and on-site sewage disposal system for the proposed new R.V. sites. The project is located within an existing recreational development that is not connected to any public water system or sewage treatment facility. Water for the site is pumped from on-site wells across the river, and there will be two septic systems on-site,

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one to serve the store and shower facility, and one to serve the proposed R.V. sites. The Mendocino County Department of Environmental Health has indicated that the design of the repair septic systems has been done in accordance with Mendocino County and State Water Quality Control Board guidelines and is acceptable.

The Commission thus finds that the proposed project is consistent with Coastal Act Section 30250(a) to the extent that services will be provided and the project will not have significant adverse effects on coastal resources such as groundwater.

3. Recreational Use:

Coastal Act Section 30213 states in part that lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided, and that developments providing public recreational opportunities are preferred.

Section 30221 states that oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 states:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

The proposed project involves the conversion of 18 mobile home sites to R.V. sites for short-term, transient use only. Apart from the residential use associated with mobile homes, the site is currently a visitor-serving recreational facility that provides 82 "dry" campsites and river access. The proposed new R.V. sites will cost approximately \$350-\$375/month, and the fee for the dry campsites is approximately \$16-\$20 a night, which qualifies the campground/marina as a "lower-cost" recreational facility. The applicant has indicated that the proposed new R.V. sites are for short-term, transient use only, with a six-month stay limitation within each 12-month period, consistent with the provisions of the certified LCP.

Since use at the site will be limited to short-term, transient recreational use only, pursuant to Special Condition No. 1, the Commission finds that the proposed conversion of the existing mobile home sites to R.V. sites with sewer hookups for short-term use only will provide additional lower cost visitor serving recreational facilities for public use. As the proposed development

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will feasibly provide a lower cost visitor and recreational facility, the Commission finds that the proposed project is consistent with Section 30213 of the Coastal Act. In addition, as the development will provide for a recreational use on waterfront lands suitable for such use, the Commission finds that the proposed project is consistent with Section 30221. Furthermore, as the proposed project will convert a residential use to a visitor-serving commercial recreational facility, the Commission finds that the development is consistent with the priority established by Section 30222 for visitor-serving commercial recreational facilities over private residential use.

To assure that the site will remain a lower-cost visitor-serving recreational facility, consistent with the Sections 30213, 30221, and 30222 of the Coastal Act, the Commission attaches Special Condition No. 1 to the permit. This condition states that this coastal development permit authorizes the conversion of a mobile home park to a recreational vehicle park for short-term transient use only, with a six-month stay limitation within each 12-month period. The condition further states that any development other than the development described in Coastal Development Permit No. 1-97-77, including (a) conversion of any portion of the approved facilities to a private or member only use or the implementation of any program to allow extended or exclusive use or occupancy of the facilities by an individual or limited group or segment of the public, (b) extending the stay limitations for R.V. usage, and (c) creation of additional mobile home sites, is specifically not authorized by this permit and would require an amendment to this permit or a new permit from the Commission or its successor agency.

The Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Sections 30213, 30221, and 30222.

4. Public Access:

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

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

The proposed project consists of conversion of 18 mobile home sites to R.V. sites and various improvements to the Albion River Campground, which is located between the first public road and the Albion River, considered to be an arm of the sea. The applicants have obtained a lease from the State Lands Commission for a portion of the site that is on tide and submerged lands, and it is stipulated in the lease that access shall be provided to and through the leased area for the general public, including non-paying visitors, from both the river and across the Lessee's upland to assure public access from the first public road to the river and from the river to the first public road. The proposed improvements will not be located where they would block or otherwise interfere with this access use.

Since there is existing public access, and since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include provision of additional public access, is consistent with the public access policies of the Coastal Act.

7. Visual Resources.

Section 30251 protects the scenic and visual qualities of coastal areas, requiring that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas must be subordinate to the character of its setting.

As noted previously, the site is in an area designated as "highly scenic" by the Mendocino County Land Use Plan (LUP). The site is primarily visible from the Highway One Bridge and from public roads within the Albion community atop and along the bluff on the south side of the river.

As the project site is in a designated highly scenic area, new development must be visually subordinate to the character of its setting to be consistent with Section 30251.

As proposed, the project includes the conversion of 18 mobile home sites to R.V. sites, the demolition and removal of 10 dilapidated mobile homes, and various utility improvements. The permitted development is sited and designed to protect coastal views as (1) virtually all of the proposed utility

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improvements will be buried underground, and (2) by locating the R.V. sites in the same location as the mobile home sites, the proposed development will not affect views to and along the Albion River and the ocean coast any more than the mobile home park has in the past. In addition, the proposed development involves no alteration of natural land forms. Furthermore, the proposed development will be subordinate to the character of the area as the development will not increase the amount, intensity, mass, or height of development at the site because the development is limited to replacing an 18-site mobile home park with a similar size R.V. park in the same location. Moreover, the removal of the dilapidated mobile homes will improve visual resources on the site, and there will be no significant adverse impacts to visual resources resulting from the proposed project. Therefore, the Commission finds that the proposed development is consistent with Section 30251 of the Coastal Act.

8. Mendocino County LCP:

As noted above, Mendocino County has a certified Local Coastal Program, and therefore issues its own coastal permits for those areas within its coastal zone jurisdiction. However, the proposed project is located within the Commission's area of original jurisdiction, so the project is subject to the Coastal Commission's permit authority, and the Coastal Act is the standard of review. The certified LCP is merely advisory. Nonetheless, the Commission finds the proposed project to be consistent with the policies of the LCP, as described below.

The subject site is designated Fishing Village (FV) in the Mendocino County LCP. The minimum lot area for Fishing Village districts is 40,000 square feet for lots not in a water or sewer service area. The subject site, which is 9.75 acres, is thus a legal conforming lot.

The proposed project is for a public recreational use, which is a principal permitted use in the Fishing Village designation, pursuant to Zoning Code Section 20.392.010(C).

Policy 3.9-1 of the LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized. As noted above, water and septic capacity will be provided for the site. The Commission thus finds that the proposed project is consistent with LUP Policy 3.9-1, 3.8-1, and 3.8-9, as it will be located where services are available and it will have no adverse impacts on coastal resources such as surface or ground water supplies.

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The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval.

As noted above, the project will not adversely affect public access, and the State Lands lease stipulates that access shall be provided to and through the leased area for the general public, including non-paying visitors, from both the river and across the Lessee's upland to assure public access from the first public road to the river and from the river to the first public road. Since the proposed development will not increase the demand for public access to the shoreline and will have no other impacts on existing or potential public access, the Commission finds that the proposed project, which does not include additional provision of public access, is consistent with the public access policies of the LCP.

Zoning Code Section 20.468.015 states that no persons or group of persons other than the owner or operator thereof shall permanently occupy any of the spaces in a recreational vehicle park, campground, or camping site for family or group residential use. Length of temporary occupancy in a recreational vehicle park is limited to a period of six months in any 12 month period for persons occupying vehicles with total hook-up capacity. As proposed, the 18 improved R.V. sites will be for short-term, transient use only, with a six-month stay limitation within each 12-month period. Special Condition No. 1 requires a permit amendment for any change to the project as proposed, including changes to the six-month stay limitation. Thus, as conditioned, the proposed project is consistent with Zoning Code Section 20.468.015 as the recreational vehicle park is proposed and authorized for temporary occupancy only.

The Commission thus finds that the proposed project, as conditioned, is consistent with the Mendocino County LCP.

9. Alleged Violation:

The ten dilapidated mobile homes have been demolished without benefit of a coastal development permit. Although unauthorized development has taken place

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prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of the permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

10. California Environmental Quality Act (CEQA):

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

The project does not have a significant adverse effect on the environment, within the meaning of CEQA, as it is located in an area able to accommodate it, and as there will be no significant adverse impacts on coastal resources. Therefore, the proposed development is consistent with the requirements of CEQA.

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ATTACHMENT A

Standard Conditions

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

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