

## CALIFORNIA COASTAL COMMISSION

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

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



# F 11a

Filed: August 24, 2007  
49<sup>th</sup> Day: October 12, 2007  
Staff: Melissa B. Kraemer  
Staff Report: September 27, 2007  
Hearing Date: October 12, 2006

## STAFF REPORT: APPEAL

### SUBSTANTIAL ISSUE

APPEAL NO.: **A-1-DNC-07-036**

APPLICANTS: **Aadam & Tami Trask**

AGENTS: Lee Tromble Engineering  
Galea Wildlife Consulting, Attn: Frank Galea

LOCAL GOVERNMENT: County of Del Norte

DECISION: Approval with Conditions

PROJECT LOCATION: At 700 Berry Street, near Crescent City, Del Norte County (APN 120-035-02).

PROJECT DESCRIPTION: Construction of a 3,424-square-foot (1,696-square-foot footprint), maximum 25-foot-high, two-story single-family residence, including attached garage, and a 400-square-foot, 12-foot-high detached accessory building (storage shed).

APPELLANTS: Friends of Del Norte & James Snow

SUBSTANTIVE FILE:  
DOCUMENTS

- 1) Del Norte County Permit No.B28832C
- 2) Del Norte County Local Coastal Program

### **SUMMARY OF STAFF RECOMMENDATION:**

The staff recommends that the Commission, after public hearing, determine that a **SUBSTANTIAL ISSUE** exists with respect to the grounds on which the appeal has been filed and that the Commission hold a *de novo* hearing, because the appeal has raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

The development, as approved by the County, consists of construction of (1) a two-story, L-shaped, 3,424-square-foot (with a footprint of 1,696 square feet), maximum 25-foot-high single family residence including an attached garage, which would be accessed off Berry Street, and (2) a 400-square-foot, 12-foot-high detached accessory building (storage shed), which would be located six feet east of the residence and accessed from Keller Avenue. The project site is separated by intervening parcels and streets from the shoreline and from the coastal bluffs along Pebble Beach Drive, on the northwest outskirts of Crescent City. The subject property is located at the southwest corner of Keller Avenue and Berry Street, which is currently a paper street. The approved development also includes the improvement of both Keller Avenue and Berry Street, including road widening and rocking. Existing sewer and water lines are in place and would provide services to the approved development.

The appeal raises five basic contentions. The appeal contends that the project, as approved by the County, is inconsistent with Del Norte County LCP provisions regarding (1) establishing ESHA buffers and maintaining natural buffers along Marhoffer Creek specifically, (2) development within ESHA and minimizing disturbance to Marhoffer Creek, (3) California Department of Fish and Game (CDFG) guidelines for establishing a 50-foot-wide no disturbance area between development and streams; (4) accurately delineating the extent of a wetland ESHA, and (5) permissible density within a residential zone.

Staff recommends that the Commission find that the first two contentions alleged in the appeal concerning the adequacy of the ESHA buffer and allowable development within ESHA raise a substantial issue with regard to the approved project's consistency with the ESHA protection and Marhoffer Creek policies of the certified LCP.

The County approved the proposed size and siting of the residence and accessory structure with special conditions requiring that ESHA on the property be protected by requiring a minimum 66-foot buffer between the approved development and the class II creek and wetlands, prohibiting future development in the ESHA or ESHA buffer, and various other conditions. The appeal contends, however, that the conditions do not fully protect the ESHA, and that the approved development, as sited and designed, is inconsistent with the LCP in that it allows vegetation removal within the ESHA-buffer for the purpose of California Department of Forestry and Fire Protection (CDF) fire safety defensible space requirements, does not ensure water quality and ESHA protection, and does not maintain riparian vegetation for habitat, buffer, and stabilization qualities, as required by the LCP.

Staff believes that neither the biological assessment nor the County findings considered all feasible siting and structure size alternatives and the potential impacts to the buffer area and ESHA that would result from vegetation removal per CDF defensible space requirements. The biological assessment's recommendation of planting trees and shrubs within the property's fire-safe zone conflicts directly with CDF defensible space requirements, which the County included as a condition of approval for the development. Furthermore, the biological assessment did not analyze the effects of implementing the CDF defensible space requirements within the ESHA buffer zone or within the ESHA itself. As the removal of vegetation for CDF defensible space requirements is not an allowable use within 100-foot buffer areas, the County's approval of this development raises a substantial issue of consistency with the certified LCP. As CDF defensible space requirements would include vegetation removal within the ESHA itself, which is considered to be part of the Marhoffer Creek wetland complex, the County's approval of this development raises a substantial issue of consistency with the certified LCP, as vegetation removal for residential defensible space requirements clearly is not a resource-dependent use, which is the only allowable use within ESHA per Marine and Water Resources (MWR) Section VI.C.6 of the certified LUP. The approved project also raises a substantial issue of consistency with the Marhoffer Creek Wetland Special Study (MCW) chapter Section V.C.9 of the LUP, which limits vegetation removal within Marhoffer Creek wetlands to that necessary to maintain the free flow of the drainage courses.

Thus, staff believes that the degree of legal and factual support for the County's decision is not sufficient to demonstrate that the development is consistent with the ESHA protection policies of the LCP. Furthermore, as Sections 30233 and 30240 of the Coastal Act require that wetlands of the coastal zone be protected from the impacts of development, and the cumulative impact of the loss of wetlands and wetland habitat over time throughout the coastal zone has been significant, staff believes that the appeal raises issues of statewide significance rather than just a local issue.

Therefore, staff recommends that the Commission find that the contentions discussed above constitute valid grounds for an appeal, and that the approved project, as sited and designed, raises a substantial issue of conformance with the wetland and ESHA protection provisions of the certified LCP, including the provisions of Policies 1 and 3 of Section VI.C of the Marine and Water Resources (MWR) chapter of the certified LUP that wetlands be maintained; the requirements of Policies 6 and 4.f of MWR chapters VI.C and VII.D, respectively, that ESHA shall be protected against any significant disruption of habitat values, and development in areas adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade such areas; the requirements of Policy 4.a of MWR Section VII.E that riparian vegetation shall be maintained for its qualities as wildlife habitat, stream buffer zones, and bank stabilization; and the provisions of Policies 2, 3, 6, and 9 of Section V.C of the Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP that Marhoffer Creek and its associated wetlands be protected and maintained for water quality, wildlife habitat, stream buffer, and riparian vegetation qualities.

Staff believes that the contentions regarding accurately delineating the extent of a wetland ESHA and permissible density within a residential zone are valid grounds for appeal but raise no substantial issue of conformance with the certified LCP. Staff believes that the contention regarding CDFG guidelines for establishing a 50-foot-wide no-disturbance area between development and streams does not present potentially valid grounds for appeal in that it does not allege that the approved project is inconsistent with the LCP.

Staff further recommends that the Commission continue the *de novo* portion of the hearing because the Commission does not have sufficient information to determine what development can be approved consistent with the LCP. Continuing the hearing would enable the applicants to provide (1) an analysis of existing vegetation and the effects of implementation of CDF defensible space requirements on vegetation and wetland and creek ESHAs, taking into account all feasible siting and structure size alternatives; (2) an alternatives analysis for the residence and accessory structure; (3) information needed to evaluate the project's consistency with Coastal Act Section 30010; and (4) information needed to evaluate the legality of the subject property as separate parcels under the 1926 Pebble Beach Tract, and whether or not the applicants propose to merge all paper lots on APN 120-035-002 into a single legal parcel. Such information is needed to enable the staff to complete its analysis of the development and its consistency with the certified LCP and develop a *de novo* recommendation.

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

---

## **STAFF NOTES**

### **1. Appeal Process**

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

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

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments constituting major public works or major energy facilities may be appealed whether

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

The approved development is appealable to the Commission pursuant to Section 30603(a)(2) of the Coastal Act because it is located within 100 feet of a wetland or stream.

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

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

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

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

## **2. Filing of Appeal**

One appeal was filed jointly by the Friends of Del Norte and James Snow (see Exhibit No. 13). The appeal to the Commission was filed in a timely manner on August 24, 2007, within 10 working days of receipt by the Commission on August 13, 2007 of the County's Notice of Final Local Action (Exhibit No. 12).

---

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

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

### **MOTION:**

I move that the Commission determine that Appeal No. A-1-DNC-07-036 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

### **STAFF RECOMMENDATION:**

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

### **RESOLUTION TO FIND SUBSTANTIAL ISSUE:**

The Commission hereby finds that Appeal No. A-1-DNC-07-036 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

## **II. FINDINGS & DECLARATIONS**

The Commission hereby finds and declares the following:

### **A. APPELLANTS' CONTENTIONS**

The Commission received one appeal of the County of Del Norte's decision to conditionally approve the development from the Friends of Del Norte and James Snow. The project, as approved by the County, involves the development of a single family residence and detached accessory building on a 0.8-acre parcel.

The appellants raise five basic contentions in their appeal. The appellants' contentions are summarized below; the full text of the appeal is included as Exhibit No. 13.

1. The project is inconsistent with the policies in the LCP for establishing ESHA buffers and maintaining natural buffers along Marhoffer Creek.

The appeal contends that the approved development, as sited and designed, is inconsistent with policies in the County's certified Land Use Plan (LUP) regarding the establishment of a buffer around environmentally sensitive habitat areas (ESHA), and particularly around Marhoffer Creek. Specifically, Appellant 1, Friends of Del Norte, contends the following: (a) due to the approved structures extending over the sloped terrain (versus being above the break in slope, as incorrectly mapped on the plot plan), there is insufficient room for the reduced minimum stream buffer recommended by the California Department of Fish and Game (CDFG); (b) the approved development will necessitate the removal of vegetation within the buffer area – specifically along and below the slope break – which will decrease the stability of the slope and increase erosion and sediment runoff that could impact the ESHA; (c) the approved development will necessitate the removal and permanent suppression of native (as well as nonnative) vegetation in the buffer area for compliance with the California Department of Forestry and Fire Protection's (CDF) defensible space requirements; (d) the value of the buffer in terms of biological and water quality values will be degraded by the CDF defensible space requirements for vegetation removal in the area. Furthermore, Appellant 2, James Snow, raises similar contentions with respect to (a) the approved structures being erroneously described as located on a terraced flat when in actuality they are sited partially on the sloped bank above the ESHA; and (b) clearing of vegetation on portions of the slope for CDF defensible space requirements will destabilize site stability.

2. Vegetation removal for compliance with the CDF defensible space requirements, in addition to having cumulative impacts on the ESHA, is inconsistent with policies regarding development within ESHA and for minimizing disturbance to Marhoffer Creek.

Appellant 1 contends that the approved development, as sited and designed, will result in vegetation removal within the wetland and Class II streambed itself, as the CDF defensible space requirements include vegetation removal for a distance of up to 100 feet from the approved structures, and the wetland and streambed are located as close as 66 to 85 feet to the approved structures. The appeal contends that these aspects of the approved development conflict with the LCP policies that limit development within ESHA only to resource-dependent uses and require particular protection for Marhoffer Creek.

3. The project is inconsistent with the CDFG guidelines for establishing a minimum 50-foot-wide no-disturbance area between development and streams as measured from the top-of-bank or slope break.

Appellant 1 contends that the approved development is inconsistent with CDFG guidelines for establishing stream and riparian buffers, which indicate that a minimum no-disturbance buffer should be measured at 50 feet from the top of the bank or slope break. According to the appellant, As the approved structures would be located at or slightly beyond the slope break, meaning the structures would essentially be 50 feet closer to the ESHA than they should be.

4. The biological assessment did not accurately delineate the extent of the ESHA relative to extent of wetland hydrology that existed prior to the County's alleged "illegal" removal of a beaver dam downstream.

Appellant 2 contends that the biological assessment did not accurately delineate the extent of the ESHA relative to extent of wetland hydrology that existed prior to the County's alleged "illegal" removal of a beaver dam downstream. The appellant contends that the water level of the ESHA has been permanently lowered 18 to 24 inches as a result of the dam's removal "several years ago." The appeal contends that this inaccurate delineation is in conflict with LCP policies regarding the siting of development adjacent to ESHA and the policy that addresses specific boundary limits of identified ESHA.

5. The County misrepresented permissible development density as four dwelling units on the subject property, ignoring consideration that the majority of the site comprises ESHA.

Appellant 2 contends that the County misrepresented permissible development density as four dwelling units on the subject property, ignoring consideration that the majority of the site comprises ESHA. This contention relates to policies in the coastal zoning regulations on density and permissible use in the single family residential district.

## **B. LOCAL GOVERNMENT ACTION**

On August 2, 2007, the Del Norte County Planning Commission conditionally approved the coastal development permit for the project with 12 special conditions (Exhibit No. 12). The conditions include requirements, among others, that (1) the development conform to plot plan and elevation plans as submitted; (2) the development comply with the requirements of the California Fire Code applicable at the time of complete application (7/2007); (3) the applicants submit, for the County's review and approval, grading, drainage, and erosion control plans addressing the approved development and road improvements of Keller Avenue and Berry Street; (4) exterior lighting comply with requirements of the coastal zoning regulations; (5) no invasive plant species or noxious weeds be planted on the property or allowed to naturalize or persist at the development site; (6) no development, other than vegetation removal and maintenance for CDF defensible space requirements and English ivy removal, occur on the property in "Area A" (the area 30 feet around the approved structures) and Area B" (the area 30 to 100 feet from the approved structures); and (7) the applicants execute and record a deed restriction with a legal description and graphic depiction of the portion of the property affected by the above condition.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County's Notice of Final Action was received by the Commission staff on August 13, 2007 (Exhibit No. 12). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the

Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

The County's approval of the project was appealed to the Coastal Commission in a timely manner on August 24, 2006, within 10-working days after receipt by the Commission of the Notice of Final Local Action.

### **C. PROJECT & SITE DESCRIPTION**

The approved development consists of construction of (1) a two-story, L-shaped, 3,424-square-foot (with a footprint of 1,696 square feet), maximum of 25-foot-high, single family residence including an attached garage, which would be accessed off Berry Street, and (2) a 400-square-foot, 12-foot-high detached accessory building (storage shed), which would be located six feet east of the residence and accessed from Keller Avenue (see Exhibit Nos. 6 and 7). The project site is separated by intervening parcels and streets from the shoreline and from the coastal bluffs along Pebble Beach Drive, on the northwest outskirts of Crescent City (see Exhibit Nos. 1, 2, and 3). The subject property is located at the southwest corner of Keller Avenue and Berry Street, which is currently a paper street. The approved development also includes the improvement of both Keller Avenue and Berry Street, including road widening and rocking. Existing sewer and water lines are in place and would provide services to the approved development.

According to a parcel map, the subject property is comprised of six lots approximately 40 feet wide by 158 feet long (lots 104 through 109), which were purportedly created as part of the Pebble Beach Tract in October of 1926. The parcels and the access road alignments predate the Coastal Act. The combined acreage of the lots depicted on the parcel map is 0.87-acre (37,920 square feet). The General Plan Land Use designation for the subject property is Urban Residential with up to six dwelling units per acre. The zoning designation for the subject parcel is R1-B6 (Single Family Residence – B Combining District – 6,000 square feet minimum lot size) (see Exhibit No. 5). The building height maximum is 25 feet for the zone. The subject property is located at an elevation of approximately 40 feet above mean sea level and outside of any flood hazard area or tsunami run-up zone. Due to intervening residences to the south of the subject property, the approved development is approximately 500 feet from the ocean and would not be visible from Pebble Beach Drive (see Exhibit No. 3).

The subject property lies at the periphery of existing residential development, with the Marhoffer Creek wetland complex located to the north (see Exhibit Nos. 2 and 3). The County conducted a Special Study for the Marhoffer Creek area in 1979 as part of the County's preparation of the LCP. In 1993, Karen Theiss and Associates prepared a more detailed mapping of the lower watershed of the Marhoffer Creek area, and the subject property was included in the study area. The mapping in the Theiss report shows the southwestern corner of the parcel where the approved structures would be located as being previously disturbed (see Exhibit No. 10). The topography of the building site is mostly flat to gently sloping before the area drops steeply to the creek below (see Exhibit No. 7). The center of the parcel is shown as a mixed spruce/alder/cascara vegetation type,

and the northern quarter of the parcel is mapped as being part of the freshwater marsh of Marhoffer Creek (see Exhibit No. 10).

This characterization is generally consistent with the description of the property in the biological assessment prepared specifically for the approved project (Exhibit No. 9), which describes the upland portion of the property as consisting of young pine, spruce (*Picea sitchensis*), and cascara (*Rhamnus purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubus discolor*), and swordfern (*Polystichum munitum*). To the north of the building site the vegetation is dense with mostly invasive English ivy (*Hedera helix*). The ivy, which extends down into the delineated wetland, covers the understory, herbaceous, and shrub layers and is invading the canopy above. A class II drainage crosses the center of the property, connects with the delineated wetland, and flows into Marhoffer Creek to the north (see map in Exhibit No. 9).

#### **D. SUBSTANTIAL ISSUE ANALYSIS**

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

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

##### **1. Appellants' Contentions That are Valid Grounds for Appeal**

All but one of the contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. These four contentions allege that the project, as approved by the County, is inconsistent with Del Norte County LCP provisions regarding (1) establishing ESHA buffers and maintaining natural buffers along Marhoffer Creek specifically, (2) development within ESHA and minimizing disturbance to Marhoffer Creek, (3) accurately delineating the extent of a wetland ESHA, and (4) permissible density within a residential zone. The Commission finds that the contention regarding lack of conformance with California Department of Fish and Game (CDFG) guidelines for establishing a 50-foot-wide no disturbance area between development and streams is not based on valid grounds for appeal.

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

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

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

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations concerning (1) the adequacy of the required ESHA buffers to protect wetland habitat around Marhoffer Creek wetlands, and (2) development within ESHA and minimizing disturbance to Marhoffer Creek raise a substantial issue with regard to the approved project's conformance with the certified Del Norte County LCP for the reasons discussed below.

**a. Allegations Raising Substantial Issue**

**1. The project is inconsistent with the policies in the LCP for establishing ESHA buffers and the specific policies in the LCP for Marhoffer Creek for maintaining natural buffers and minimizing disturbance.**

The appeal contends that the approved development, as sited and designed, is inconsistent with policies in the County's certified Land Use Plan (LUP) with regard to buffer establishment around environmentally sensitive habitat areas (ESHA). Specifically, the appeal contends that removal of vegetation within the buffer area (for compliance with the California Department of Forestry and Fire Protection's (CDF) defensible space requirements) will (a) decrease the stability of the slope and increase erosion and sediment runoff that could impact the wetland ESHA; (b) necessitate the removal and permanent suppression of native (as well as nonnative) vegetation in the buffer area; and (c) degrade the value of the buffer in terms of biological and water quality values. The appeal also contends that the approved development is inconsistent with the specific

policies in the LUP for Marhoffer Creek and its branch streams with respect to maintaining natural buffers and minimizing disturbance.

### Applicable LCP Policies

The Marine and Water Resources (MWR) chapter of the certified LUP, Section VI (General Policies), Subsection C (LCP Policies) states in applicable part (emphasis added):

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

MWR Section VII (Specific Area Policies and Recommendations), Subsection D (Wetlands), No. 4 (Policies and Recommendations) states in applicable part (emphasis added):

- f. *Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*

MWR Section VII (Specific Area Policies and Recommendations), Subsection E (Riparian Vegetation), No. 4 (Policies and Recommendations) states in applicable part:

- a. *Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.*

...

The Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP, Section V (Policies and Recommendations), Subsection C (LCP Policies), states in applicable part:

...

2. *A buffer strip shall be maintained in natural conditions around the Marhoffer Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.*
3. *New development adjacent to the Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.*

...

6. *Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.*

...

9. *Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.*

...

### Discussion

The above-referenced policies require, among other things, that the quality and biological productivity of wetlands and water resources be maintained, that environmentally sensitive habitat areas (ESHA) such as wetlands and creeks be protected against any significant disruption of habitat values, and that development adjacent to ESHA be sited and designed appropriately to avoid habitat degradation. The policies also specifically require that Marhoffer Creek and its associated wetlands be protected and maintained for water quality, wildlife habitat, stream buffer, and riparian vegetation qualities.

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

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

Pursuant to the above-referenced policies, the County approved the proposed siting and design of the 3,424-square-foot single family residence and 400-square-foot accessory structure with special conditions requiring that ESHA on the property be protected by requiring a minimum 66-foot buffer between the approved development and the class II creek and wetlands. Many of the 12 special conditions of the approved project provide for protection of the ESHA and buffer area, such as, among others, Condition No. 3 (the applicants shall submit, for the County's review and approval, grading, drainage, and erosion control plans addressing the approved development and road improvements of Keller Avenue and Berry Street); Condition No. 5 (exterior lighting shall comply with requirements of the coastal zoning regulations); Condition No. 6 (no invasive plant species or noxious weeds shall be planted on the property or allowed to naturalize or persist at the development site); Condition No. 7 [no development, other than vegetation removal and maintenance for CDF defensible space requirements and English ivy removal, shall occur on the property in "Area A" (the area 30 feet around the approved structures) and Area B" (the area 30 to 100 feet from the approved structures)]; and Condition No. 8 (the applicants shall execute and record a deed restriction with a legal description and graphic depiction of the portion of the property affected by the above condition) (see Exhibit Nos. 6 and 12).

The appeal contends, however, that Condition No. 7 does not protect the ESHA and is inconsistent with the above-referenced LCP policies in that the condition (1) allows vegetation removal within the ESHA-buffer for the purpose of CDF defensible space requirements, which is not one of the allowable uses in buffer areas stated in MWR Section VII.D.4.f or MCW Section V.C.9; (2) does not ensure water quality and ESHA protection as required by MWR Section VI.C and MCW Section V.C.3; and (3) does not maintain riparian vegetation for habitat, buffer, and stabilization qualities as required by MWR Section VII.E.4.a and MCW Section V.C.2 and 6. The appellants contend that such disturbance in the buffer area could lead to slope instability, increased erosion and sedimentation into the ESHA, and a decrease in water quality and habitat value of the ESHA and buffer area.

The subject property is mapped by CDF as being within a moderate fire hazard zone. CDF defensible space requirements call for establishment of two different fire-safe zones for structures in fire hazard areas: (1) the "lean, clean, and green zone" in the area 30 feet immediately surrounding the structures (referenced as "Area A" in County Condition No. 7), and (2) the "reduced fuel zone" in the area 30 to 100 feet around the structures (referenced as "Area B" in County Condition No. 7) (see Exhibit Nos. 6, 11, and 12). General guidelines for maintaining defensible space in Area A include "...removing and clearing all flammable vegetation and other combustible growth... Single specimens of

trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure...”. General guidelines for maintaining defensible space in Area B include removal of “dead and dying woody surface fuels and aerials fuels” including vegetation with “substantial amounts of dead branches or leaves/needles that would readily burn” and downed logs or stumps that are not embedded in the soil. Minimum horizontal and vertical clearance between “fuels” (trees and shrubs) in Area B is recommended to be between 4 and 40 feet, depending on slope (the greater the percent slope, the greater the clearance), vegetation size, vegetation type, fuel compaction, and other fuel characteristics. CDF guidelines specify that “properties on steep slopes having large sized vegetation will require greater spacing between individual trees and bushes.” The guidelines further specify that “Groups of vegetation (numerous plants growing together less than 10 feet in total foliage width) may be treated as a single plant.” Given that (1) vegetation clearance on the subject property required by CDF defensible space requirements would extend from the approved structures through the ESHA buffer all the way to and beyond the wetland and creek ESHA in some areas (see Exhibit No. 6); (2) the defensible space area is heavily wooded with numerous large trees and shrubs (see Exhibit No. 3); and (3) much of the area has slopes exceeding 20 to 30 percent (see Exhibit Nos. 6 and 7), vegetation removal within the ESHA buffer could potentially be considerable (not to mention within the ESHA itself – see discussion in Section II.D.1.a.2 below).

The County, in its findings for approval of a reduced (*i.e.*, less than 100 feet) ESHA buffer, included a discussion of the adequacy of the reduced buffer with respect to the Coastal Commission’s recommended standards for determining appropriate buffer width. The applicant’s consultant, Galea Wildlife Consulting, completed a buffer adequacy analysis, which addressed the seven standards including (1) biological significance of adjacent lands; (2) sensitivity of species to disturbance; (3) susceptibility of parcel to erosion; (4) use of natural topographic features to locate development; (5) use of existing cultural features to locate buffer zones; (6) lot configuration and location of existing development; and (7) type and scale of development proposed (see Exhibit No. 9). The biological assessment concluded that due to the relatively low habitat value of the buffer, among other reasons, a buffer of less than 100 feet would not adversely affect the wetland ESHA.

Neither the biological assessment nor the County findings, however, considered the potential impacts to the buffer area and ESHA that would result from vegetation removal per CDF defensible space requirements. In fact, the biological assessment recommends the following, which is in direct contrast to CDF requirements:

“A mitigation condition for the reduced buffer should be that no vegetation can be removed between the homesite and the wetland area unless it is in association with the removal of English ivy.” [Emphasis added.] [Exhibit No. 9]

Furthermore, the March 2006 addendum to the biological assessment recommends mitigating for the reduced buffer through English ivy removal and planting of “native

replacement vegetation such as red alder and huckleberry.” Additionally, the April 2007 addendum to the biological assessment refers multiple times to the “vegetative barrier” or “natural vegetation” buffering the wetland ESHA from the approved structures, providing visual and sound screening, biofiltration, erosion control, and slope stability functions. This addendum too recommends removing English ivy and planting native replacement trees and shrubs in the buffer area. It also assumes that no riparian vegetation or “natural vegetation” between the building site and the marsh would be removed as part of the development, and “Except for clearing of the building site, which is upland vegetation, no other vegetation would be removed.

The biological assessment’s recommendation of planting trees and shrubs within the property’s fire-safe zone directly conflicts with CDF defensible space requirements, which the County included as a condition of approval for the development. Furthermore, the biological assessment did not even analyze the effects of implementing the CDF defensible space requirements within the ESHA buffer zone (not to mention within the ESHA itself – see Section II.D.1.a.2 below). Nor do the County’s findings in the staff report for the development (Exhibit No. 12) address the potential impacts of this type of development (vegetation removal) within the ESHA buffer. The only mention of vegetation removal in the staff report is the following justification:

“Marine and Water Resources Policy VII.D.4f does specifically permit firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer area...The degree of vegetation management proposed by CDF is less intrusive than a timber harvest plan.” [Exhibit No. 12]

As the removal of vegetation for CDF defensible space requirements is not one of the listed allowable uses with 100-foot buffer areas per MWR Policy VII.D.4f, the County’s approval of this single family residence, as sited and designed, raises a substantial issue of consistency with the certified LCP. Furthermore, per MCW Policy V.C.9, vegetation removal in the Marhoffer Creek wetland *shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.* As CDF defensible space requirements potentially would include vegetation removal within the ESHA itself (see discussion under Section II.D.1.a.2 below), which is considered to be part of the Marhoffer Creek wetland complex (see Exhibit No. 10), the County’s approval of this single family residence, as sited and designed, raises a substantial issue of consistency with the certified LCP.

Furthermore, the County staff report states in its findings that CDFG was consulted on the reduced buffer width of 66 feet and had no objections. The agency’s concurrence that the reduced wetland buffer would be adequate, however, was based on review of the plot plan and biological assessment – not the understanding that the buffer area would be subject to CDF defensible space requirements for vegetation removal.

Thus, the degree of legal and factual support for the County’s decision is not sufficient to demonstrate that the approved development is consistent with the ESHA protection

policies of the LCP. Furthermore, as Sections 30233 and 30240 of the Coastal Act require that wetlands of the coastal zone be protected from the impacts of development, and the cumulative impact of the loss of wetlands and wetland habitat over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved project with the wetland and ESHA protection provisions of the certified LCP, including the provisions of Policies 1 and 3 of Section VI.C of the Marine and Water Resources (MWR) chapter of the certified LUP that wetlands be maintained; the requirements of Policies 6 and 4.f of MWR chapters VI.C and VII.D, respectively, that ESHA shall be protected against any significant disruption of habitat values, and development in areas adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade such areas; the requirements of Policy 4.a of MWR Section VII.E that riparian vegetation shall be maintained for its qualities as wildlife habitat, stream buffer zones, and bank stabilization; and the provisions of Policies 2, 3, 6, and 9 of Section V.C of the Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP that Marhoffer Creek and its associated wetlands be protected and maintained for water quality, wildlife habitat, stream buffer, and riparian vegetation qualities.

2. **Vegetation removal for compliance with the CDF defensible space requirements, in addition to having cumulative impacts on the ESHA, is inconsistent with policies regarding development within ESHA and minimizing disturbance to Marhoffer Creek.**

The appeal contends that the approved development, as sited and designed, will result in vegetation removal within the wetland and class II streambed itself, as the CDF defensible space requirements include vegetation removal for a distance of up to 100 feet from the approved structures, and the wetland and streambed are located as close as 66 to 85 feet to the approved structures. The appeal contends that this vegetation removal conflicts with the LCP policies that limit development within ESHA to only resource-dependent uses.

Applicable LCP Policies

The Marine and Water Resources (MWR) chapter of the certified LUP, Section VI (General Policies), Subsection C (LCP Policies) states in applicable part (emphasis added):

- ...
6. *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas...*
- ...

The Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP, Section V (Policies and Recommendations), Subsection C (LCP Policies), states in applicable part (emphasis added):

...

9. *Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.*

...

### Discussion

The above-referenced policies require, among other things, that environmentally sensitive habitat areas be protected against significant disruption of habitat values, and only development that is dependent on the resource shall be allowed to occur within the ESHA. The policies also specifically limit vegetation removal within Marhoffer Creek wetlands to that necessary to maintain the free flow of the drainage courses.

Pursuant to the above-referenced policies, the County approved the project with special conditions restricting development within the ESHA. These include Condition No. 7 (no development, other than vegetation removal and maintenance for CDF defensible space requirements and English ivy removal, shall occur on the property in “Area A” (the area 30 feet around the approved structures) and Area B” (the area 30 to 100 feet from the approved structures)] and Condition No. 8 (the applicants shall execute and record a deed restriction with a legal description and graphic depiction of the portion of the property affected by the above condition).

The appeal contends, however, that Condition No. 7 does not protect the ESHA and is inconsistent with the above-referenced LCP policies in that, among other things, it allows vegetation removal within the wetland and creek themselves for the purpose of CDF defensible space requirements, which is not an allowable use within ESHA per MWR Section VI.C.6 or MCW Section V.C.9. The appeal contends that such disturbance within ESHA could lead to a decrease in water quality, habitat values, and other functions and values.

As discussed above, CDF defensible space requirements call for establishment of two different fire-safe zones for structures in fire hazard areas, including a “reduced fuel zone” in the area 30 to 100 feet around the structures (referenced as “Area B” in County Condition No. 7) (see Exhibit Nos. 6, 11, and 12). The ESHA on the property extends into Area B, at a minimum of 66 to 85 feet from the approved structures as shown on the map in the biological report (Exhibit No. 9). As discussed above, general guidelines for maintaining defensible space in Area B include removal of “dead and dying woody surface fuels and aerials fuels” including vegetation with “substantial amounts of dead branches or leaves/needles that would readily burn” and downed logs or stumps that are not embedded in the soil. Minimum horizontal and vertical clearance between “fuels” (trees and shrubs) in Area B is recommended to between 4 and 40 feet, depending on

slope (the greater the percent slope, the greater the clearance), vegetation size, vegetation type, fuel compaction, and other fuel characteristics. CDF guidelines specify that “properties on steep slopes having large sized vegetation will require greater spacing between individual trees and bushes.” The guidelines further specify that “Groups of vegetation (numerous plants growing together less than 10 feet in total foliage width) may be treated as a single plant.” As discussed above, vegetation removal within Area B, including the ESHA proper, could potentially be considerable since the defensible space area is heavily wooded with numerous large trees and shrubs, and much of the area has slopes exceeding 20 to 30 percent.

No special guidelines or exceptions are given for defensible space requirements that span sensitive habitats, such as creeks and wetlands. The CDF recommendations for the subject property in a letter to the County (Exhibit No. 11) note the following:

2. Within the 30-100 foot zone, limbing of trees and removal of some surface shrubs will be necessary to affect a fire safe condition. This zone should remain well-shaded and protection of riparian habitat can be done through proper landscape management.
3. Consultation with a landscape architect, Fish & Game and the Coastal Commission should be done prior to treatment of the reduced fuel zone.

The County, in its conditions of approval for the project (Condition No. 7.B), specified only that “The area of the property labeled as “Area B” within 100 feet of the permitted structures can conduct the limbing of trees and removal of surface shrubs pursuant [to] the fuel treatment guidelines of CDF including the removal of English Ivy” (CDF guidelines are attached as Exhibit No. 11). The County’s conditions did not include a requirement to consult with the resource agencies and landscape architect prior to vegetation removal in Area B, as recommended by CDF presumably to minimize impacts to the ESHA. The County’s approval did not consider any other measures to prohibit vegetation removal within ESHA or limit the amount of vegetation removed within ESHA, such as resizing or resiting the approved residential development. The County attempted to “balance” its allowance of vegetation removal in Area B by requiring a deed restriction to be placed upon the property to restrict Area B to “open space except to permit within 100 feet of the structures limbing of trees and removal of surface shrubs pursuant [to] the fuel treatment guidelines of CDF.”

The County’s approval of vegetation removal within ESHA raises a substantial issue of conformance with LCP policies. Vegetation removal for defensible space requirements clearly is not a resource-dependent use, which is the only allowable use within ESHA per MWR Section VI.C.6. Nor is it allowable per MCW Section V.C.9, which limits vegetation removal within Marhoffer Creek wetlands to that necessary to maintain the free flow of the drainage courses.

Thus, the degree of legal and factual support for the County’s decision is not sufficient to demonstrate that the development is consistent with the ESHA protection policies of the

LCP. Furthermore, as Sections 30233 and 30240 of the Coastal Act require that wetlands of the coastal zone be protected from the impacts of development, and the cumulative impact of the loss of wetlands and wetland habitat over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved residential development with the wetland and ESHA protection provisions of the certified LCP, including the provisions of Policy 6 of MWR chapters VI.C, that ESHA shall be protected against any significant disruption of habitat values, and only development that is dependent on the resource shall be allowed to occur within the ESHA; and the provisions of Policy 9 of Section V.C of the Marhoffer Creek Wetland Special Study (MCW) chapter of the certified LUP that limit vegetation removal within Marhoffer Creek wetlands to that necessary to maintain the free flow of the drainage courses.

**b. Allegations Raising No Substantial Issue**

Two of the contentions raised on the appeal do not raise a substantial issue with regard to the approved project's conformance with the certified Del Norte County LCP for the reasons discussed below.

**1. The biological assessment did not accurately delineate the extent of the ESHA relative to extent of wetland hydrology that existed prior to the County's alleged "illegal" removal of a beaver dam downstream.**

The appeal contends that the biological assessment did not accurately delineate the extent of the ESHA relative to extent of wetland hydrology that existed prior to the County's alleged "illegal" removal of a beaver dam downstream. A letter from appellant James Snow dated July 24, 2007 that was attached to the appeal alleges that Del Norte County employees used "county equipment on private property to remove a beaver dam that was constructed to block Marhoffer Creek/wetlands." The letter goes on to state that "Although it's been several years ago the effect has been to permanently lower the water level in the wetlands between 18"-24" consequently shrinking the area covered." The appeal contends that the wetland delineation used the lower rather than the higher water level from which to measure the buffer setback.

Applicable LCP Policies

MWR Section VII (Specific Area Policies and Recommendations), Subsection D (Wetlands), No. 4 (Policies and Recommendations) states in applicable part:

- ...
- g. *Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:*

- i.) *A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.*
- ii.) *Vegetation map.*
- iii.) *Soils map.*

*Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.*

### Discussion

The above-referenced policy requires, among other things, that questions as to the specific boundary limits of environmentally sensitive habitat areas be determined in consultation with various mapping resources and CDFG. The policy refers to the County constraints maps, which are outdated and provide only general, coarse-scale mapping of ESHA. In development areas that appear to correspond with ESHA on these constraints maps, further investigation in the form of more detailed mapping and consultation with CDFG may be necessary to determine at a finer scale precisely where ESHA boundaries lie.

Pursuant to the above-referenced policies, the applicants completed an on-site wetland delineation and biological assessment, the Galea Wildlife Consulting study (Exhibit No. 9). The County's conditions for project approval included adherence to the wetland delineation map completed by the project biologist. Condition No. 1 states "The project shall be developed in substantial accord with the submitted plot plan and elevation plans as submitted." The referenced plans include the mapped wetland, class II drainage, and ESHA buffer. The appeal however, contends that the ESHA was under-delineated relative to its previous hydrologic level when the beaver dam was in place. It is unclear when the alleged removal of the beaver dam occurred. The appellant implies that the ESHA buffer was erroneously measured from the current lower hydrologic level rather than the historic higher hydrologic level, and therefore the buffer area is, in actuality, shorter than stated on the plot plan.

There is a high degree of factual support for the County's action, and the appeal's contention that the ESHA delineation is erroneous is not factually substantiated. A good reference for understanding past wetland conditions on the subject property is a 1993 report by Karen Theiss and Associates entitled *Marhoffer Creek Study Area Biological Study Del Norte County January 1993*. The study, which was commissioned by the County Planning Department, was conducted to determine the biological sensitivities and constraints to be considered in planning for the future of the lower Marhoffer Creek

watershed, which includes the subject property. The study included an inventory of aquatic resources, locating rare, endangered, and sensitive species, evaluation of the study area for migratory birds, inventory of nocturnal bird species, identification and location of wildlife corridors, identification and location of vegetation types, delineation of both U.S. Army Corps of Engineers-jurisdictional and Coastal Commission-jurisdictional wetlands, and a summary of management needs and enhancement opportunities for the study area. The report and a series of maps from the study were included with the local record.

The Theiss study, conducted prior to the alleged removal of the beaver dam on Marhoffer Creek, shows that habitat conditions on the subject property appear to have been similar to current conditions, with the southwestern corner of the parcel (the approved building site) mapped as disturbed, the bulk of the parcel as “spruce/alder/ cascara” forest, and the northern end of the parcel as wetland. The 100-foot setback line from the delineated wetlands in Theiss’s study appears to generally correspond with the 100-foot setback line from the delineated wetlands in the applicant’s Galea Wildlife Consulting’s (GWC) study (see Exhibit Nos. 9 and 10). There is no evidence to suggest that the wetland boundary is significantly different (lower) now than it was 15 years ago. Despite the appeal’s contention, the wetland boundary appears to have been appropriately sited, based on the delineation by GWC and the corresponding past delineation by Theiss.

There is a high degree of factual support for the County’s action. In contrast, the appeal’s contention that the biological assessment did not accurately delineate the extent of ESHA is neither factually nor legally substantiated. The appeal did not contend that the applicants themselves or their proposed development had anything to do with the alleged illegal beaver dam removal. Instead the contention is that County employees removed the dam at some point in the past, and that site conditions on the subject property are presently different because of it. As is customary, the County’s findings of approval of the project were based on an evaluation of the conditions of the property at the time of the application. Furthermore, the County’s findings of project approval did not rely on outdated, coarse-scale constraints maps for ESHA boundary limits and setback measurements. Instead, the County considered the results of GWC’s current wetland delineation, an analysis of the adequacy of the reduced buffer, consultation with CDFG for the reduced buffer adequacy, and consideration of Theiss’s past study results.

Therefore, the Commission finds that the appeal raises no substantial issue of conformance of the approved development with the policies of MWR Section VII.D.4.g of the certified LCP, which specify, among other things, that questions as to the specific boundary limits of ESHA be determined in consultation with various mapping resources and CDFG rather than reliance solely on outdated, coarse-scale County constraints maps.

- 2. The County misrepresented permissible development density as four dwelling units on the subject property, ignoring consideration that the majority of the site comprises ESHA.**

The appeal contends that the County misrepresented permissible development density as four dwelling units on the subject property, ignoring consideration that the majority of the site comprises ESHA, and that the project as approved is inconsistent with the density limitations that apply to the property.

Applicable LCP Policies

The Land Use chapter of the certified LUP, Section I.B – Urban Land Use Categories states in applicable part:

*B. Urban Land Use Categories:*

*1. Residential*

<i>Low Density Residential</i>	<i>.0-2.0 Dwelling Units (du) per acre</i>
<i>Residential</i>	<i>.0-6.0 du/acre</i>
<i>Medium Density Residential</i>	<i>.0-15.0 du/acre</i>
<i>High Density Residential</i>	<i>12.0-30.0 du/acre</i>

Section 21.19 of the certified Coastal Zoning Regulations, for the R-1 One-Family Residence District, states in applicable part:

- 21.19.20 The principal permitted use.  
The principal permitted one-family residence use includes uses such as:*
- A. A one-family residence;*
  - B. Accessory buildings and accessory uses appurtenant to a permitted use.*
- 21.19.040 Building height.  
Building height limit shall be as follows:  
Main buildings, twenty-five feet.  
Accessory buildings are subject to Section 21.04.140.*
- 21.19.050 Minimum lot area.  
Minimum lot area shall be seven thousand two hundred square feet.*
- 21.19.060 Minimum lot width.  
Minimum lot width shall be sixty feet.*
- 21.19.70 Lot coverage.  
Percentage of lot coverage permitted shall be thirty-five percent.*
- 21.19.80 Front yard.  
Front yards shall be twenty-five feet.*
- 21.19.90 Side yard.*

*Side yards shall be six feet, unless building site is less than sixty feet in width, in which case side yards not less than five feet shall be required.*

*21.19.100 Rear yard.*

*Rear yards shall be twenty feet for main buildings, five feet for accessory buildings.*

Discussion

The above-referenced policies dictate land use and density requirements for lands designated and zoned single-family residential, such as the subject parcel. Pursuant to the above-referenced policies, the County evaluated the approved development for conformance with these LCP policies, including with respect to allowable uses and density. As discussed in the County staff report, the approved development is for a principally permitted single family residential use, and the accessory building is appurtenant to the single family home and therefore also considered a principal permitted use. At least three of the 12 special conditions of the approved project provide for ensuring that the project complies with the land use and zoning density regulations including Condition No. 4 (which prohibits the accessory building from any rental or lease separate from rental of the main residential structure, from having cooking or kitchen facilities, and from being converted into a residence or second unit); Condition No. 7 [no development, other than vegetation removal and maintenance for CDF defensible space requirements and English ivy removal, shall occur on the property in “Area A” (the area 30 feet around the approved structures) and Area B” (the area 30 to 100 feet from the approved structures)]; and Condition No. 8 (the applicants shall execute and record a deed restriction with a legal description and graphic depiction of the portion of the property affected by the above condition).

The General Plan Land Use designation for the subject property is Urban Residential with up to six dwelling units per acre. The subject property is zoned R1-B6, which allows for one single family home per each 6,000 square feet (see Exhibit No. 5). The subject property (consisting of six paper lots) is approximately 37,920 square feet, or 0.87-acre in size. Exhibit No. 8 shows that the approved building structures span two of the paper lots depicted on the parcel map, and ESHA and ESHA-buffer areas span the remainder of the four lots. The County limited its approval to the development of only one dwelling unit.

Therefore, there is a high degree of factual support for the County’s action. In contrast, the appeal’s contention that the County misrepresented permissible development density as four dwelling units on the subject property and that the approved project is inconsistent with allowable density on the site is neither factually nor legally substantiated.

Therefore, the Commission finds that the appeal raises no substantial issue of conformance of the approved development with the land use and zoning policies of the certified LCP, including Section I.B of the Land Use chapter of the LUP and Section

21.19 of the certified Coastal Zoning Regulations, which specify, among other things, provisions for land use and density in County lands zoned single-family residential.

## **2. Appellants' Contentions That Are Not Valid Grounds for Appeal**

The appeal raises one contention that is not valid grounds for appeal. The contention raised regarding the project's inconsistency with the CDFG guidelines for establishing a minimum 50-foot-wide no-disturbance area between development and streams as measured from top-of-bank or slope break does not present potentially valid grounds for appeal in that it does not allege that the approved project is inconsistent with the LCP.

The applicable buffer policies of the LCP are cited above in Section II.D.1.a, and none of the policies specify the use of CDFG guidelines for establishing ESHA buffers. Although MWR Policy VII.D.4.f mentions consulting CDFG for determining the adequacy of buffers less than 100 feet in size, and MWR Policy VI.C.6 specifies that development in areas adjacent to ESHA must be sited to prevent impacts which would significantly degrade the ESHA and shall be compatible with the continuance of the ESHA, neither policy specifies the use of CDFG guidelines for establishing ESHA buffers. Therefore, the appeal does not allege the project's inconsistency with existing policies of the certified LCP. Thus the Commission finds that these contentions are not valid grounds for appeal.

## **3. Conclusion**

All of the various foregoing contentions have been evaluated against the claim that they raise a substantial issue of conformance of the local approval with the certified LCP. The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to the conformance of the approved project with the policies of the LCP regarding (1) the adequacy of the required ESHA buffers to protect wetland and creek habitat and maintaining natural buffers along Marhoffer Creek, and (2) development within ESHA and minimizing disturbance to Marhoffer Creek.

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

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

Given that the project the Commission will be considering *de novo* has come to the Commission after an appeal of a local government action, the Commission has not previously been in the position to request information from the applicant needed to determine if the project can be found to be consistent with the certified LCP. Following is a discussion of the information needed to evaluate the development.

1. **Analysis of Existing Vegetation and the Effects of Implementation of CDF Defensible Space Requirements on Vegetation and Wetland and Creek ESHAs**

As discussed above, the subject property is located in a moderate fire hazard zone, and CDF has commented that vegetation removal is necessary in the area up to 100 feet from the structures to achieve a fire-safe condition. It is unclear from the materials available in the local record just how much vegetation will need to be removed to comply with CDF defensible space guidelines in both Areas A and B (Exhibit No. 6), since clearance between “fuels” depends on slope, type of vegetation, and various other factors, as discussed above in Section II.D.1.a. It is also unclear how the necessary vegetation removal will affect the ESHA on the property since Area B encompasses both ESHA and ESHA buffer areas. Therefore, to determine whether development of the site, including implementation of CDF defensible space requirements, would be consistent with the ESHA buffer policies of the LCP (see Section II.D.1.a above), the Commission will need to receive a vegetation analysis, including detailed vegetation maps of the portion of the property affected by the CDF defensible space requirements, which documents the site’s existing vegetative conditions in relation to the proposed structures and ESHA on the property, and future vegetative conditions following implementation of CDF defensible space requirements. The analysis must also include a biological assessment of the effects of the proposed vegetation removal on the wetland and creek ESHA on the property and Marhoffer Creek to the north, since the original biological assessment did not include this aspect of the development.

The detailed vegetation analysis and maps should include, but should not be limited to, the following:

1. All existing vegetation on the property should be mapped and described in terms of species, size, aquatic and wildlife habitat values, and priority for removal or limbing per CDF defensible space requirements. All individual trees and shrubs should be depicted on the vegetation map. Herbaceous plants need not be mapped individually but should be mapped and described generally by vegetation type for specific areas of the property (*e.g.*, English ivy and salal along slope, skunk cabbage within wetland ESHA, etc.). An overall list of all woody and herbaceous plants on the property should be included.
2. All existing snags, downed logs, leaf litter, and other features, if any, that may be impacted (removed) by CDF defensible space requirements should be mapped and described in terms of aquatic and wildlife habitat values.

3. All existing vegetation within the wetland and creek ESHAs should be mapped and described in terms of species, size, and aquatic and wildlife habitat values.
4. Proposed vegetation removal per CDF defensible space requirements should be depicted for both “Area A” and “Area B” (see Exhibit No. 6). The map should depict precisely which of the mapped existing individual trees and shrubs (and herbaceous plants as generally mapped) will be affected, as well as snags, downed logs, leaf litter, and other features. The map should discern which vegetation is proposed for limbing, and to what extent, and which is proposed for complete removal. No limbing or vegetation removal within ESHA shall be proposed.
5. The analysis should include an assessment of existing canopy cover on the property and future canopy cover following implementation of site development and proposed CDF fire-safe vegetation removal per No. 4 above. The difference in canopy cover should be analyzed in terms of its effects on vegetation composition and wildlife and aquatic habitat values.
6. The analysis should include a discussion of methods to be employed for the proposed fire-safe vegetation removal, including proposed equipment (*e.g.*, hand tools, chainsaws, heavy equipment, etc.), access, removal and disposal methods, and other details. The biological assessment should also include discussion of the potential effects of these proposed methods on ESHA on the property as well as in nearby Marhoffer Creek (*e.g.*, the effects of chain saw noise on sensitive avian species). Any proposed best management practices (“BMPs”) to be employed to minimize the effects of vegetation removal implementation on sensitive species and habitats should also be discussed.
7. The analysis should include a discussion of vegetative cover on the parcel both before and after implementation of the proposed fire-safe vegetation removal, and to what degree the proposed vegetation removal will (1) change the potential for erosion; and (2) affect the “visual and sound screening” (as described in the original biological assessment, Exhibit No. 9) currently provided by the vegetation as a buffer between the development and the Marhoffer Creek marsh complex.
8. The analysis should include a discussion of the effects of English ivy removal and replacement planting with native trees and shrubs within the ESHA buffer, as recommended in the original biological assessment (Exhibit No. 9), and how this may be possible to achieve while still complying with CDF defensible space requirements. The vegetation maps should depict English ivy removal areas and the locations of individual replacement plants.
9. The vegetation map(s) should be dimensioned and drawn-to-scale and should include a graphic scale bar and accurate north arrow.

## **2. Alternatives Analysis for the Residence and Accessory Structure**

It is possible that alternative sitings, configurations, and/or sizes of the residence and accessory structure would result in a reduction in the amount of vegetation removal necessary for compliance with CDF defensible space requirements, which, in turn, could reduce the potential impacts of the vegetation removal on ESHA in the area. Therefore, the Commission needs to receive an alternatives analysis for the residence and accessory structure that addresses all feasible alternative configurations, sizes, and sitings available on the property for the residence and accessory building. The alternatives analysis should consider how the proposed residence size relates to the range of residence sizes in the surrounding residential vicinity. A discussion of the “no project” alternative for the accessory structure should also be included. For each alternative, proposed vegetation removal per CDF defensible space requirements should be depicted for both “Area A” and “Area B” (see Exhibit No. 6) as described above for the Vegetation Analysis. The map should depict precisely which of the mapped existing individual trees and shrubs (and herbaceous plants as generally mapped) will be affected, as well as snags, downed logs, leaf litter, and other features. The map should discern which vegetation is proposed for limbing, and to what extent, and which is proposed for complete removal.

**3. Information Needed to Evaluate Project Consistency with Coastal Act Section 30010**

If the project cannot be found consistent with the wetland and ESHA policies of the certified Del Norte County LCP, the Commission will need to evaluate whether an alternative proposal could be approved, and if not, whether denial of the project would result in an unconstitutional taking of private property for public use. In order to make that evaluation, the Commission will need to request additional information from the applicant concerning the applicant’s reasonable investment-backed expectations to make such determinations prior to holding a *de novo* hearing on the project. Specifically, in addition to providing the Commission with an analysis of alternatives to the proposed project that would be less environmentally damaging to wetlands as required by the certified LCP, the landowner of the property that is the subject of A-1-DNC-07-036 must provide the following information for the property that is subject to A-1-DNC-07-036 as well as all property in common contiguous ownership, *i.e.* any immediately adjacent property also owned by the applicant:

1. When the property was acquired, and from whom;
2. The purchase price paid for the property;
3. The fair market value of the property at the time it was acquired and the basis upon which fair market value was derived;
4. Whether a general plan, zoning, or similar land use designations applicable to the property changed since the time the property was purchased. If so, identify the particular designation(s) and applicable change(s).
5. At the time the property was purchased, or at any subsequent time, whether the project been subject to any development restriction(s) (e.g., restrictive covenants, open space easements, etc.), other than the land use designations referred to in the preceding question;

6. Whether the size or use of the property changed in any way since it was purchased. If so, identify the nature of the change, the circumstances and the relative date(s);
7. Whether a portion of, or interest in, the property was sold or leased since the time the applicants purchased it, and the relevant date(s), sales price(s), rent assessed, and the nature of the portion or interest sold or leased;
8. A copy of any title report, litigation guarantee or similar document that might have been prepared in connection with all or a portion of the property, together with a statement of when the document was prepared and for what purpose (e.g., refinancing, sale, purchase, etc.);
9. The approximate date and offered price of any offers to buy all or a portion of the property since the time the applicants purchased the property;
10. The costs associated with ownership of the property on an annualized basis for the last five calendar years. These costs should include, but not necessarily be limited to, the following:
  - property taxes
  - property assessments
  - debt service, including mortgage and interest costs
  - operation and management costs;
11. Whether apart from any rent received from leasing all or a portion of the property (see question #7 above), current or past use of the property generates any income. If the answer is yes, the amount of generated income on an annualized basis for the past five calendar years and a description of the use(s) that generates or has generated such income.

**4. Information Needed to Evaluate the Legality of Subject Property as Separate Parcels Under 1926 Pebble Beach Tract**

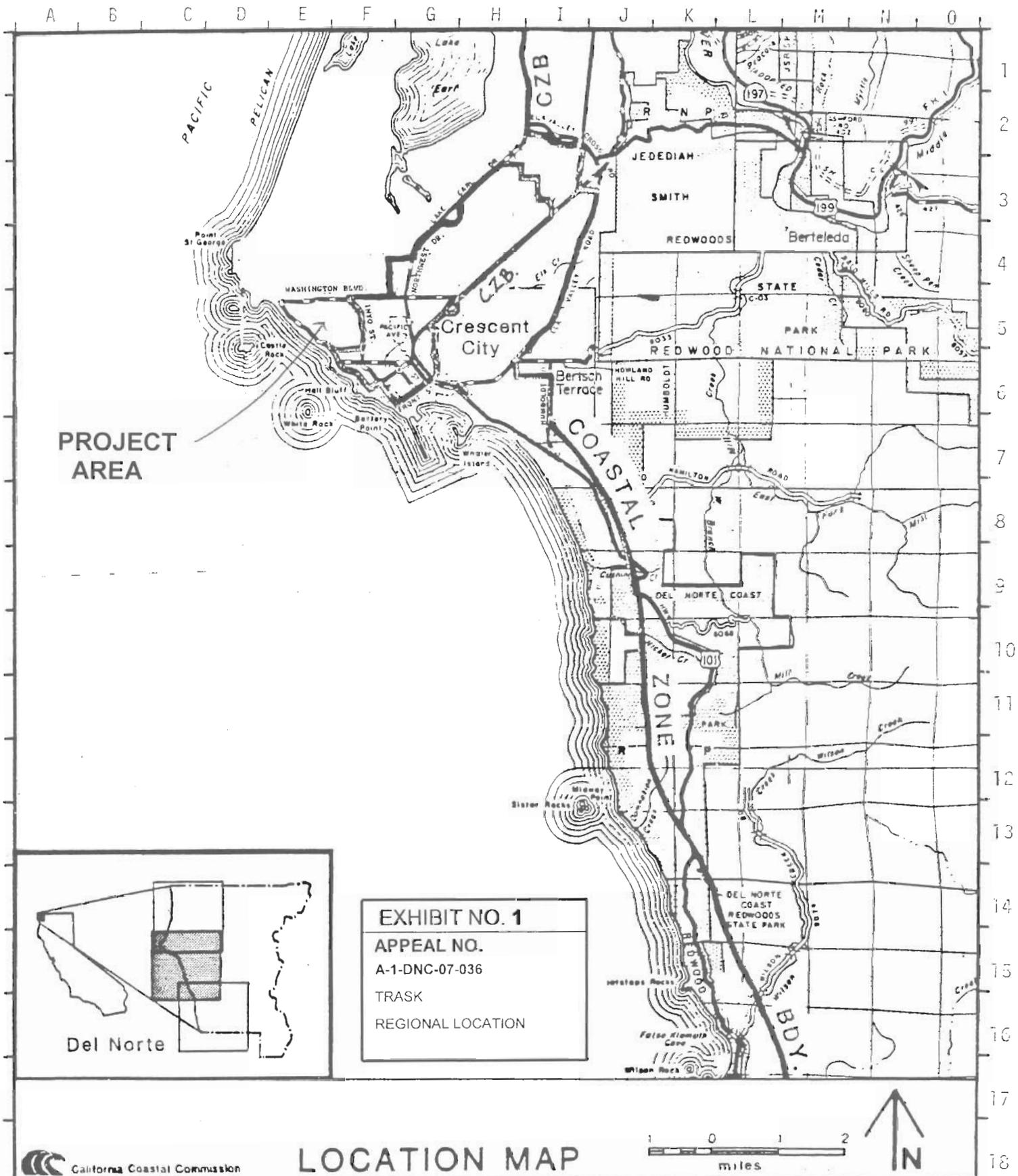
The appeal raises questions as to whether the subject property (APN 120-035-002) currently consists of six separate legal parcels as reflected in the 1926 Tract Map (Exhibit No. 4). Therefore an analysis of the legality of the lots depicted in the 1926 Tract Map as separate parcels is needed to help determine the legal development potential on the subject property. This analysis must include, but is not limited to, the following:

1. The historic chain of title for the subject property;
2. Whether the real property in question complies with the provisions of the Subdivision Map Act and County Ordinances enacted pursuant; and
3. Whether the applicant proposes to merge all lots on APN 120-035-002 into a single legal parcel.

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

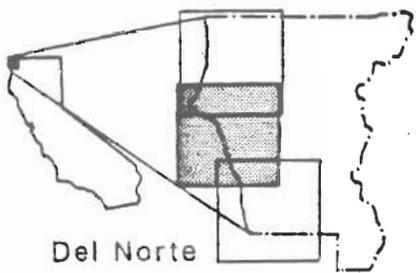
### **III. EXHIBITS**

1. Regional Location Map
2. Vicinity Map
3. Aerial Photograph
4. Assessors Parcel Map
5. Zoning Map
6. Approved Plot Plan
7. Site Topography & Slopes
8. Site Plan Sketch Map with Paper Parcels
9. Biological Assessment by Galea Wildlife Consulting
10. Maps from 1993 Biological Assessment by Karen Theiss & Associates
11. CDF Recommendations & Fire-Safe Guidelines
12. Notice of Final Local Action & County Staff Report
13. Appeal
14. Appellant's Correspondence



PROJECT  
AREA

**EXHIBIT NO. 1**  
**APEAL NO.**  
 A-1-DNC-07-036  
 TRASK  
 REGIONAL LOCATION

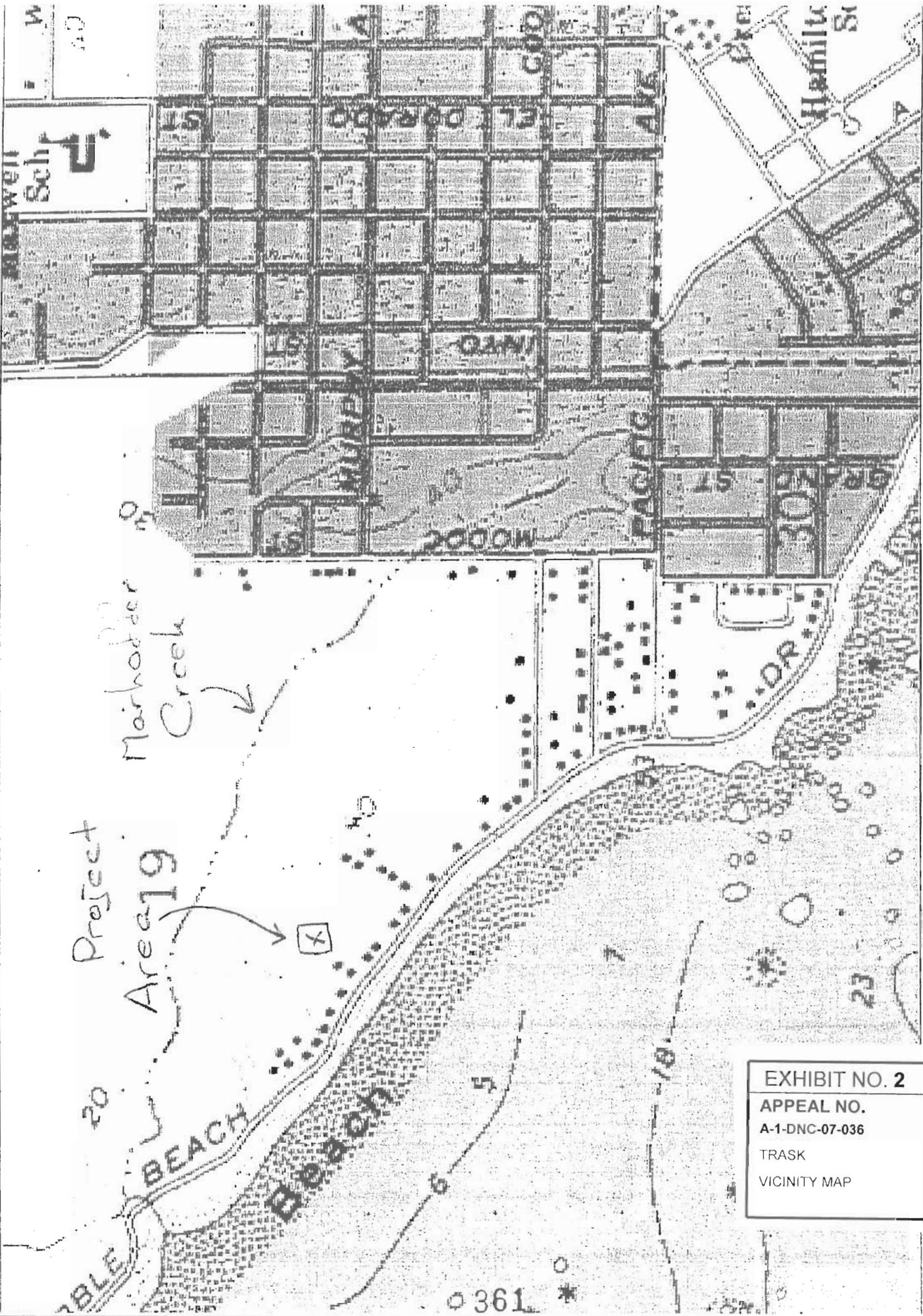


Del Norte



**LOCATION MAP**

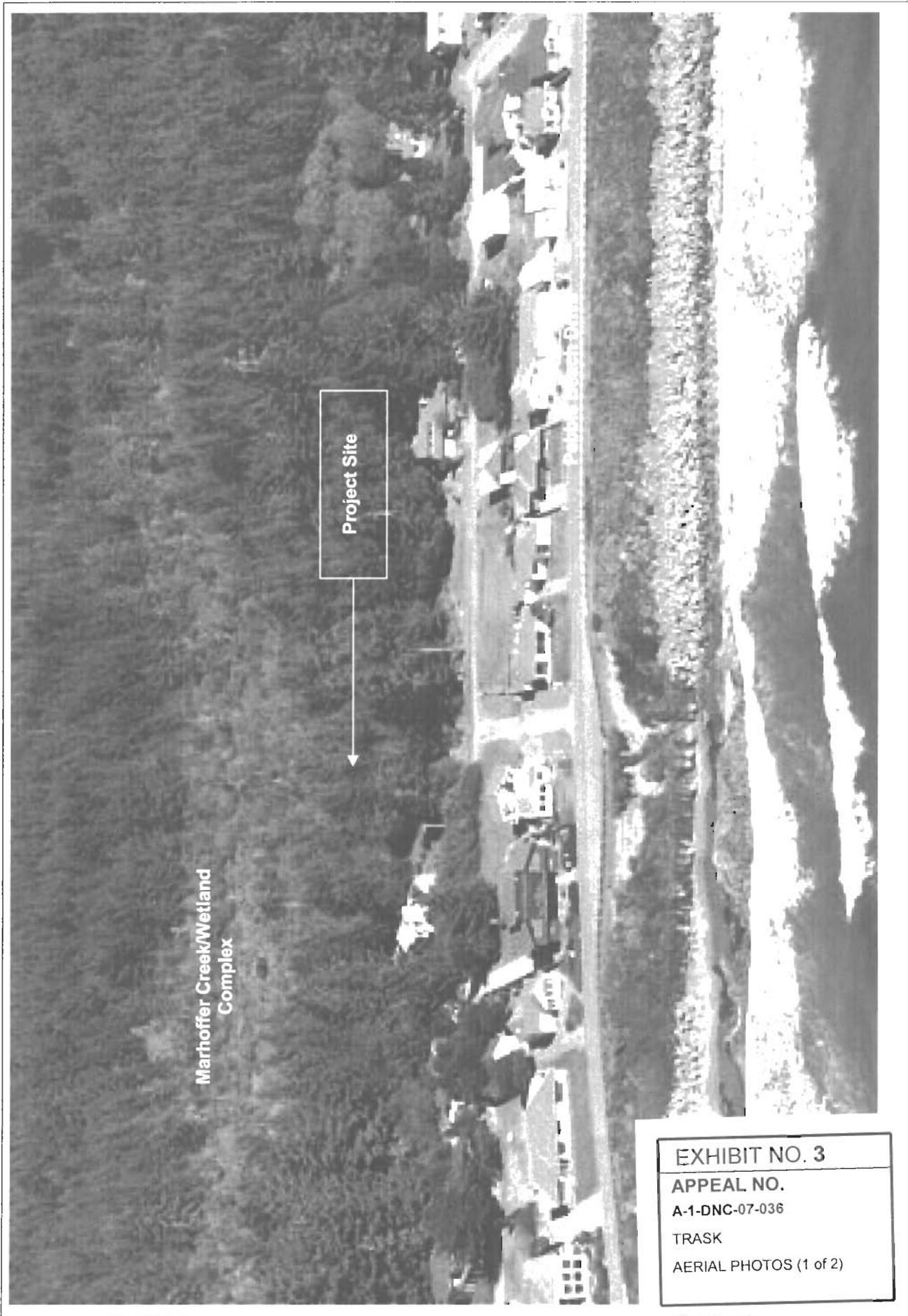




**EXHIBIT NO. 2**  
**APPEAL NO.**  
**A-1-DNC-07-036**  
**TRASK**  
**VICINITY MAP**

Location: 041° 45' 40.4" N 124° 13' 07.8" W  
 Caption: Location of Trask property relative to Marhofer Creek drainage.

Name: CR  
 Date: 4/30  
 Scale: 1 inch equals 500 feet



Marhoffer Creek/Wetland  
Complex

Project Site

**EXHIBIT NO. 3**

**APPEAL NO.**

**A-1-DNC-07-036**

**TRASK**

**AERIAL PHOTOS (1 of 2)**



© 2007 Google™

Image © 2007 DigitalGlobe  
Streaming | 100%

Pointer 41°45'47.71" N 124°13'30.90" W elev 47 ft

Eye alt 1531 ft

292

EA. 4 P. 3. 93  
(POR. SW 1/4 SEC. 19, T. 16 N., R. 1 W., H.B. 8 M.)

14

12  
13  
14  
15  
16  
17  
18



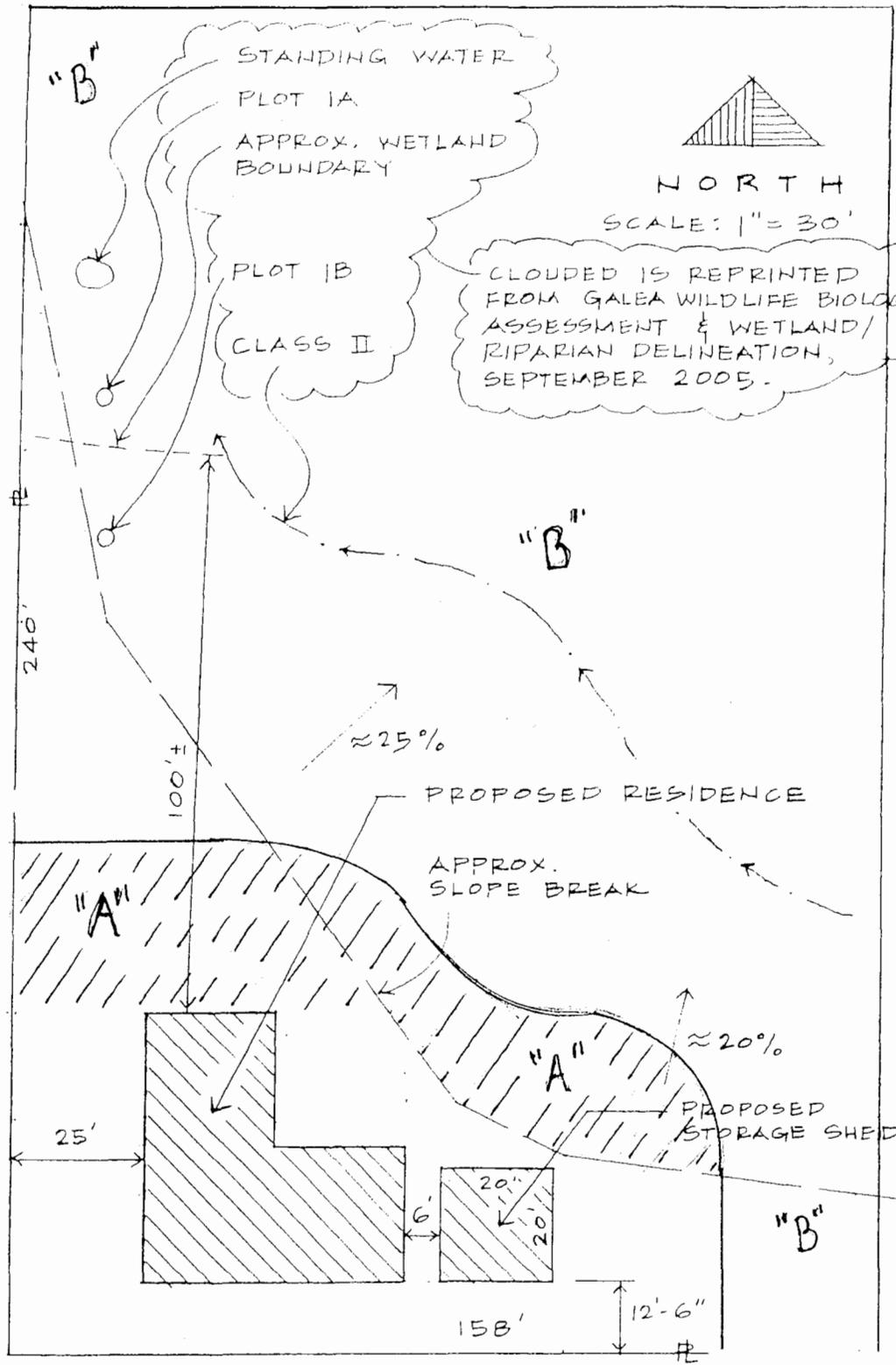
# EXHIBIT A

**EXHIBIT NO. 4**  
**APPEAL NO.**  
 A-1-DNC-07-036  
 TRASK  
 ASSESSOR'S MAP

IS NOT AN OFFICIAL MAP  
ASSESSMENT PURPOSES ONLY



BERRY ST.



NORTH  
SCALE: 1" = 30'

CLOUDED IS REPRINTED FROM GALEA WILDLIFE BIOLOGICAL ASSESSMENT & WETLAND/RIPARIAN DELINEATION, SEPTEMBER 2005.

KELLER AVE

**EXHIBIT NO. 6**  
**APPEAL NO.**  
 A-1-DNC-07-036  
 TRASK  
 APPROVED PLOT PLAN

NOTE:  
 WATER SERVICE IS FROM  
 CRESCENT CITY WATER  
 SYSTEM.  
 SEWER SERVICE FROM  
 D.H. CO.

353 PLOT PLAN  
 APRIL 12, 2007

N



SCALE: 1"=20'

VERIFY SCALES

BAR IS ONE INCH ON ORIGINAL DRAWING.

IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.

0 1"

# EXHIBIT "N"

Contour interval 1'

10' offset line

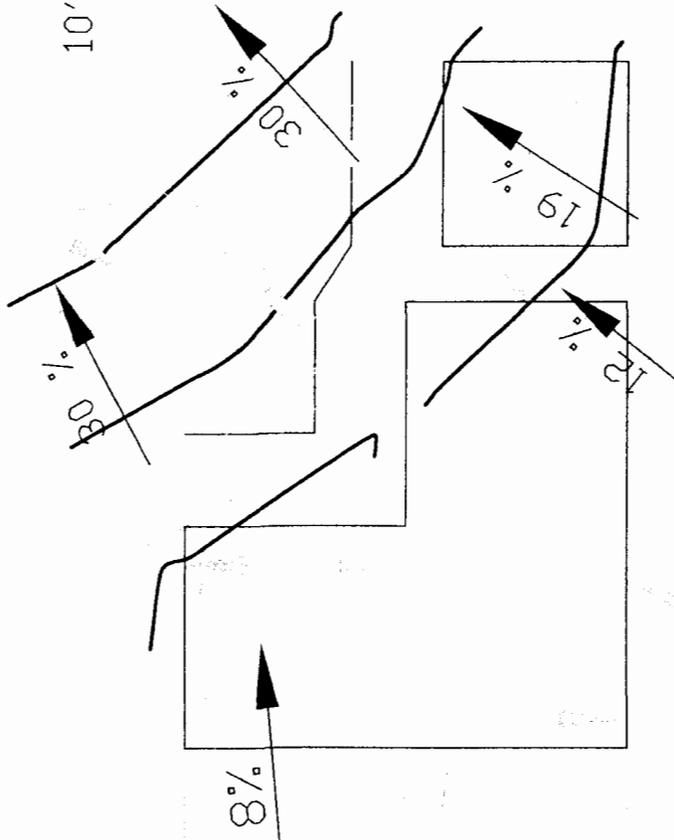


EXHIBIT NO. 7
APPEAL NO. A-1-DNC-07-036
TRASK
SITE TOPOGRAPHY AND SLOPES

Surveyed and drawn by Engineering Division of  
 Community Development Department of  
 Del Norte County on 08/01/2007





# GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

E-mail: frankgalca@charter.net . Web: www.g

**EXHIBIT NO. 9**

**APPEAL NO.**

**A-1-DNC-07-036**

**TRASK**

**BIOLOGICAL ASSESSMENT**

**BY GALEA WILDLIFE**

**CONSULTING (1 of 24)**

BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION, PARCEL # 120-035-02, KELLER AVENUE. SEPTEMBER, 2005.

## INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

The east fork of the Marhoffer Creek drainage is best described as a swamp. Dense vegetation, large rootwads and flooded areas all contribute to this assessment.

Marhoffer Creek: This is a coastal creek which flows directly into the ocean at Pebble Beach. The creek forks just inland from the Pebble Beach Drive, with one form heading north and the other due east. It is the east fork which this property is associated with. Although Marhoffer may potentially have anadromous fish runs, this property is associated with the wetlands and riparian areas south of the primary watercourse.

## METHODS

I visited the site several times in March of 2005. The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's visual hydrology. To validate the extent of wetland habitats, sample plots ten feet in diameter were assessed using the routine wetland delineation method. Sample plots were set on either side of the apparent line between wetland and upland habitats along an axis perpendicular to the watercourse, and sampling continued until definitive results demonstrated one sample in wetland and an adjacent sample in upland along the axis. Plots were also used to determine if wetland conditions existed adjacent to the watercourse.

Each sample plot was assessed for wetland and upland plants and soils. A soil test pit was dug to determine soil type, water and moisture depth, and if soil reduction was occurring at the location, as determined by gleyed soils or other hydric indicators. Soil color was determined using Munsell soil color charts. All data collected was recorded on Routine Wetland Determination forms as provided in the U.S. Army Corp of

Engineers 1987 Manual. Once a delineation between upland and wetland habitats was determined, the delineation line was marked with red flagging hung on vegetation along the line.

The project site was also reviewed for its potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as recommended by the California Coastal Commission. This information is valuable in making a determination as to the size of buffers which may be applicable surrounding any wetland habitats found on the property.

The vascular plants associated with each of the four wetland sampling sites were assigned an indicator from the U.S. Fish and Wildlife Service *1996 National List of Plant Species that Occur in Wetlands for California*. The indicator assigned to a species designates the probability of that species occurring in a wetland, as follows:

<b>OBL</b>	- obligate wetland plants with > 99% occurrence in wetlands
<b>FACW</b>	- facultative wetland plants with 67-99% occurrence in wetlands
<b>FAC</b>	- facultative plants with 34-66% occurrence in wetlands
<b>FACU</b>	- facultative upland plants with 1-33% occurrence in wetlands
<b>UPL</b>	- obligate upland plants with <1% occurrence in wetlands
<b>NI</b>	- no indicator (insufficient information) for the region
<b>NL</b>	- not listed (rated as upland)
<b>plus sign(+)</b>	- frequency toward higher end of a category
<b>minus sign(-)</b>	- frequency toward lower end of a category
<b>asterisk(*)</b>	- indicates tentative assignment based on limited information.

The predominance of hydrophytic vegetation, and subsequent determination of a wetland, is calculated using one of two methods, the 50/20 Rule and the Prevalence Index. The 50/20 Rule (Federal Interagency Committee for Wetland Delineation 1989) is a dominance ratio. When using the 50/20 Rule, greater than 50 percent of the plants must be facultative, facultative wet, or obligate wet species for a site to be considered wetland.

## RESULTS

The upland portion of the property consists of very young pine, spruce (*Picea sitchensis*) and chitum (*Rhamnus purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubis discolor*) and swordfern (*Polystichum munitum*). Below the upper area, to the north, the vegetation becomes far more dense and almost all of it is covered with an infestation of English Ivy (*Hedera helix*), which covers the understory, herbaceous and shrub layers and is invading the hardwood canopy above. The ivy grows down to and partially into the delineated wetland area.

### Wetland and Riparian Delineation

Three transects were used to determine the extent of wetlands or creeks within or adjacent to the property.

Transect 1. Farthest west on the parcel.

Standing water was located some distance north of the obvious break in slope, just east of the western property line. on the property. No indicators of hydrology higher than the standing water was evident. Vegetation at the standing water was alder, chitum and spruce overstory. Few wetland plants were evident near the water, but more in greater density and diversity were visible farther to the north (40-50 feet) into the swamp area.

Sample plots were place above the standing water, then additional plots were used farther distances from the wet area until a delineation between apparent wetland and definite upland could be determined.

Plot 1A. Plot 1A was located approximately 25 feet up (south) of the standing water and 89 feet from the NW corner of the proposed house. Gleyed soils (hydric indicators), mildly damp, were located 12 inches down, above an "A" horizon of dense root mass and a "B" horizon of dark, damp sandy loam. Vegetation consisted of relatively dense salal (an upland species) which was covered with English ivy. The ivy had covered the herbaceous layer and excluded other plants. Ground cover was almost 100% ivy.

Although not reflected in the vegetation, this plot was deemed wetland due to the gleyed condition of the soil at 12 inches and the proximity of standing water at an elevation just below the plot. Appendix A contains data forms for all plots.

Plot 1B. This plot was located eight feet farther upslope (south) and away from the standing water. This site was approximately 2 feet higher in elevation than Plot 1A. A soil test pit was dry at 12 inches. Soils consisted of sandy loam with a lot of woody debris. Vegetation at this site was identical to Plot 1A, only more ivy. This plot was determined non-wetland due to lack of indicators in the soil, increased elevation from 1A with no hydrologic indicators, and a total lack of wetland vegetation. A delineation point between wetland and upland was therefore placed four feet north and just above the drop in elevation toward Plot 1A, 85 feet north of the NW corner of the proposed house.

Transect 2. Mid - parcel.

Sixty-six feet northeast of the staked northeast corner of the proposed house I located a very small Class II watercourse, a tributary of Marhoffer Creek, with a minimal amount of flow inside a small but defined channel. Normally such a channel would be defined as a Class III, however as it is located just south of Marhoffer Swamp is contains potential habitat for aquatic species and is therefore classified as a Class II.

The watercourse was slightly muddy and ran from southeast to northwest. Vegetation along the creek was upland herbaceous with a chitum overstory, much of which was covered in ivy. No wetland plants were evident near the watercourse.

Plot 2A. This plot was located six feet south of the watercourse with an increased elevation of approximately 18 inches. Vegetation here consisted of a spruce overstory with chitum below covered with English ivy. Ground cover consisted of 30 percent swordfern and 70 percent English ivy. A soils test resulted in dark, dry soil down to 18 inches. At the 18 inch line soils began to include a yellow-brown sandy clay layer, but was still dry. This was just after a period of relatively good rainfall. As this was determined to not have wetland attributes, I determined that this was a Class II watercourse without adjacent wetlands. I determined that a riparian buffer placed 50 feet from the top of bank of the Class II would provide adequate buffers to the watercourse and potential wetland areas beyond it.

Transect 3. East line of property.

Beginning at the southeast corner of the property, I measured 70 feet north to the same Class II noted in Transect 2. The channel was not defined at this location and there was no indications of wetland conditions. There was no water visible in the channel. I determined that a riparian buffer placed 50 feet from the top of bank of the Class II would exceed recommended buffers, but would provide adequate buffers to the watercourse and potential wetland areas beyond it.

Summary of Wetland and riparian delineations.

A Class II watercourse comes into this parcel from the east. This watercourse feeds into the swamp area located in the northwest corner of this parcel, although it's exact delineation is not possible due to excessive brush. Riparian vegetation is not evident; the entire area is primarily upland vegetation or brush. Riparian buffers of 50 feet from top of bank are recommended for this watercourse.

Three transects were used to determine the extent of wetlands and watercourses on this narrow lot. Wetlands were located in the northwest corner. Additional wetlands are likely located farther to the north of the creek, however their delineations behind the watercourse are not necessary for resource protection as the 50 foot buffer from the creek exceeds potential wetland buffers.

Demonstrable use of the area by wetland-associated fish and wildlife resources - This parcel is located in a residential area and a home with outbuildings and development exists immediately to the west. All of this parcel is covered in dense brush and young trees. English ivy has invaded and covers a large portion of the property.

After several visits to the property there was no visible use of wetland associated wildlife. Trees were not large enough for large raptors such as osprey, and no snags were evident. The lack of standing water in the area greatly decreased the potential for wetland-associated sensitive species or fish. The building site is at least 18 feet higher in elevation than the swam area to the north.

Related biological activity - The Marhoffer Creek swamp is located along the north edge of the property, at an elevation 18 feet lower than the south end of the parcel. East of the parcel are undeveloped lots in early seral stages of re-growth. West and south of the parcel are previously developed homesites. Any related biological activity would come from the north only, and this would be addressed by providing buffers to the resource.

Wetland habitat values - The Marhoffer Creek area adjacent to the parcel is a dense swamp. Vegetation is thick and impenetrable. No standing water in the form of deep ponds, perennial creeks or other aquatic resources, which may attract fish, waterfowl, shorebirds or other sensitive wetland-dependant species was evident on or near the property.

### **Agency Recommendations**

In September, 2003 the California Department of Fish and Game released "Biological Protection Recommendations" which included definitions and recommendations for wetland and riparian protection and buffers. These guidelines were created for the entire Northern California area, including inland areas.

Riparian habitat was defined as "an association of plant species growing adjacent to fresh-water courses, including perennial and intermittent streams, lakes and other bodies of fresh water...in most cases the plants are here only because the water is there" (page 4). The document also lists a number of reasons why riparian habitats are important to biological resources (Page 2).

Recommended buffers to watercourses and /or riparian habitats were based upon those used for the Sacramento River, the largest river system in California. As an example, the agency recommended a 150 foot buffer from top of bank for large rivers or 75 feet of buffer from the outside edge of existing riparian. Lesser buffers are recommended for main and secondary tributaries (Page 4), using increments of 50 feet less buffer per order of stream size. These are recommendations for the most pristine conditions, in situations where sensitive resources require protection from development and disturbance.

The Marine and Water Resources Policy VII.D.4f of the Del Norte County Land Use Plan calls for a default 100-foot-wide buffer between development and the edge of a wetland. Buffers of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland.

#### Reduced Wetland Buffer

The wetland area located in the northwest corner of the property is a dense tangle of vegetation and brush which continues a good distance into the Marhoffer Creek drainage. Vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy. A drop-off of approximately 18 feet occurs between the proposed home site and the wetland area. The wetland edge was delineated at 85 feet north of the proposed house site.

Building a house as proposed on the parcel map would result in a wetland buffer of 85 feet instead of 100 feet. This would not have an adverse impact on the wetland as 1) there is already a home directly adjacent with development closer to the existing wetland 2) the amount of brush between the proposed home and the wetland is excessive and provides an adequate barrier and 3) the conditions at the wetland are shallow swamp which extends well to the north, therefore sensitive wildlife species have adequate habitats for nesting and movement well away from the proposed homesite.

A mitigation condition for the reduced buffer should be that no vegetation can be removed between the homesite and the wetland area unless it is in association with the removal of English ivy. The ivy is currently very invasive at this site and will eventually choke out the existing native plants, including some overstory trees such as chitum, resulting in a lowered buffer of vegetation than currently exists.

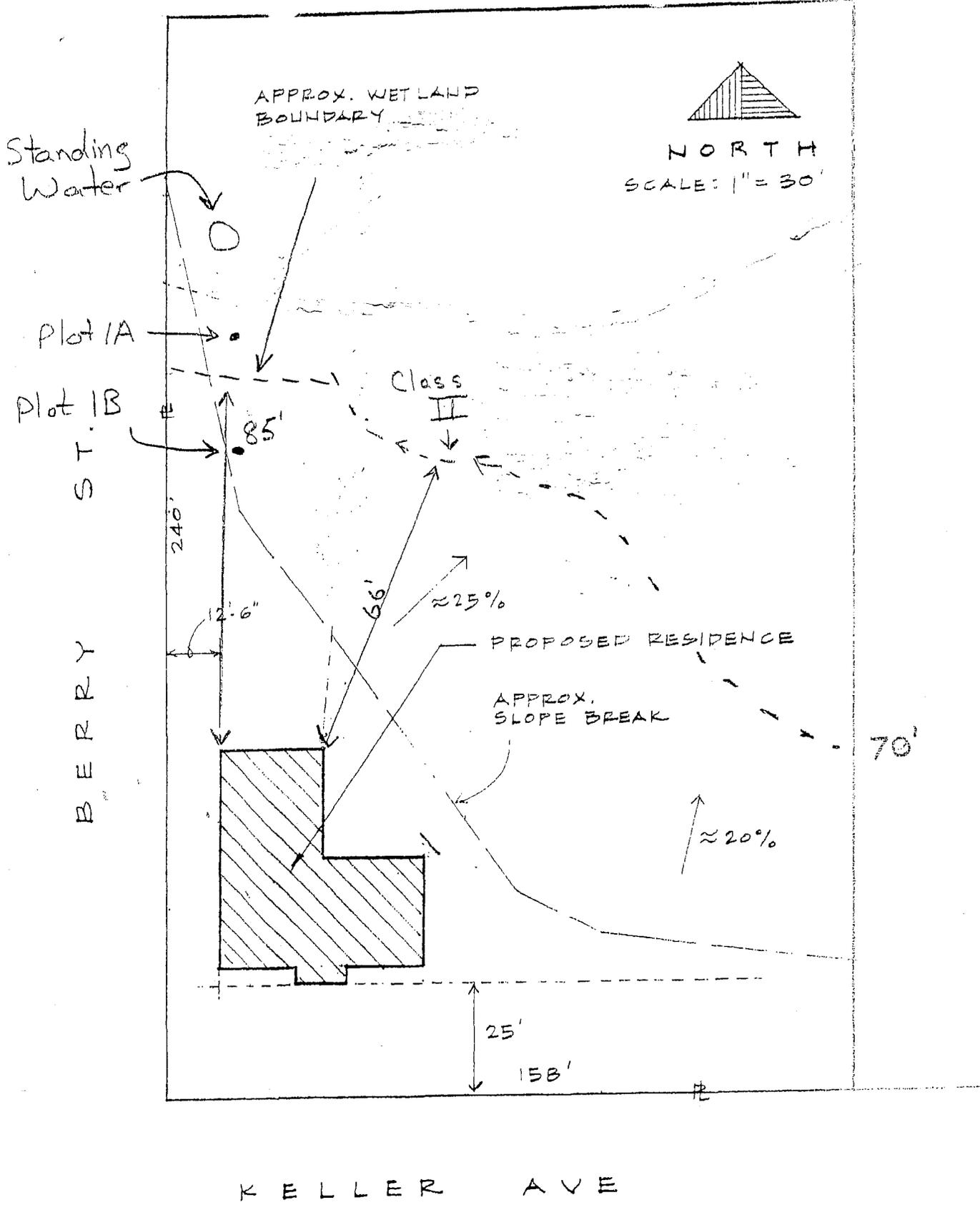
## STAFF QUALIFICATIONS

Habitat assessment and report writing for this project was conducted by Principal Biologist, Frank Galea. Frank is the primary Biological Consultant and owner of Galea Wildlife Consulting, established in 1989. Frank is Certified as a Wildlife Biologist through the Wildlife Society. Frank's qualifications include a Master of Science Degree in Wildlife Management from Humboldt State University and a Bachelor of Science in Zoology from San Diego State University. Frank has been assessing habitat and conducting field surveys for Threatened and Endangered species for over 12 years. Frank has taken an accredited class on wetland delineation through the Wetland Training Institute, and has successfully completed a Watershed Assessment and Erosion Treatment course through the Salmonid Restoration Federation.

Botanical and wetland assessment was conducted by consulting botanist Lindsay Herrera. Lindsay has a B.S. in Environmental Science with a minor in Botany from Humboldt State University. She has five years of experience conducting rare plant surveys, habitat assessments, collecting botanical field data and preparing species lists. She has successfully completed the 38-hour Army Corps of Engineers Wetland Delineation Training as taught by Richard Chinn Environmental Training.

## LIST OF REFERENCES

- California Department of Fish and Game, 2003. *Biological Protection Recommendations*.
- Guard, J.B. 1995. *Wetland Plants of Oregon & Washington*. Lone Pine Publishing, Redmond, Washington.
- Munsell, 1992. *Munsell Soil Color Chart*. Macbeth Publishing, Newburgh, New York
- Richardson, J.L., and M.J. Vepraskas, Eds. 2001. *Wetland Soils, Genesis, Hydrology, Landscapes and Classification*. Lewis Publishers, Boca Raton, Florida.
- Tiner, R.W., 1999. *Wetland Indicators, A guide to Wetland Identification, Delineation, Classification and Mapping*. Lewis Publishers, Boca Raton, Florida.
- Wetland Training Institute, Inc., 1991. *Field Guide for Wetland Delineation: 1987 Corp of Engineers Manual*. WTI 91-2. 133 pp.



PLOT PLAN  
APN 120-035-02

APPENDIX A

WETLAND DELINEATION DATA FORMS

DATA FORM  
 ROUTINE WETLAND DETERMINATION  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Keller Parcel APN 120-035-02</u> Applicant/Owner: _____ Investigator: <u>Frank Galea</u>	Date: <u>3-01-05</u> County: <u>Del Norte</u> State: <u>CA</u>
Do Normal Circumstances exist on the site? <input checked="" type="radio"/> Yes <input type="radio"/> No Is the site significantly disturbed (Atypical Situation)? Yes <input type="radio"/> No <input checked="" type="radio"/> Is the area a potential Problem Area? Yes <input type="radio"/> No <input checked="" type="radio"/> (If needed, explain on reverse.)	Community ID: _____ Transect ID: _____ Plot ID: <u>1A</u>

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Spruce</u>	<u>over</u>		9. _____		
2. <u>Chitum</u>	<u>"</u>		10. _____		
3. _____			11. _____		
4. <u>Sisal</u>	<u>Shrub</u>		12. _____		
5. <u>English Ivy</u>	<u>"</u>		13. _____		
6. <u>"</u>	<u>Ground</u>		14. _____		
7. _____			15. _____		
8. _____			16. _____		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): none

Remarks: English Ivy has smothered the lower substrate  
May be excluding Hydric Species

HYDROLOGY

<p>___ Recorded Data (Describe in Remarks):</p> <p style="padding-left: 20px;">___ Stream, Lake, or Tide Gauge</p> <p style="padding-left: 20px;">___ Aerial Photographs</p> <p style="padding-left: 20px;">___ Other</p> <p>___ No Recorded Data Available</p> <hr/> <p>Field Observations:</p> <p>Depth of Surface Water: <u>NR</u> (in.)</p> <p>Depth to Free Water in Pit: <u>NR</u> (in.)</p> <p>Depth to Saturated Soil: <u>over 12'</u> (in.)  <u>lab analysis</u></p>	<p>Wetland Hydrology Indicators:</p> <p>Primary Indicators:</p> <p>___ Inundated</p> <p>___ Saturated in Upper 12 inches</p> <p>___ Water Marks</p> <p>___ Drift Lines</p> <p>___ Sediment Deposits</p> <p><input checked="" type="checkbox"/> Drainage Patterns in Wetlands</p> <p>Secondary Indicators (2 or more required):</p> <p>___ Oxidized Root Channels in Upper 12 inches</p> <p>___ Water-Stained Leaves</p> <p>___ Local Soil Survey Data</p> <p>___ FAC-Neutral Test</p> <p>___ Other (Explain in Remarks)</p>
Remarks: _____	

SOILS

Map Unit Name (Series and Phase): <u>Plot 1A</u>		Drainage Class: _____	
Taxonomy (Subgroup): _____		Field Observations Confirm Mapped Type? Yes No	
<b>Profile Description:</b>			
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)
			Mottle Abundance/Contrast
			Texture, Concretions, Structure, etc.
<u>6"</u>	<u>A</u>	<u>Root mess</u>	
	<u>B</u>		<u>dark sandy loam, clump</u>
<u>12</u>	<u>C</u>	<u>n/4</u>	<u>gleyed</u>
<b>Hydric Soil Indicators:</b>			
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input checked="" type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input checked="" type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)	
Remarks: <u>Appx 25' south of standing pool of water</u>			

WETLAND DETERMINATION

Hydrophytic Vegetation Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	Is this Sampling Point Within a Wetland? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Wetland Hydrology Present?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	
Hydric Soils Present?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Remarks: <u>Although not reflected in vegetation, proximity to standing water, relative elevation + gleyed soils indicate saturation, wetland conditions.</u>		

Approved by HQUSACE 3/92

DATA FORM  
 ROUTINE WETLAND DETERMINATION  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Keller Parcel APN 120-035-02</u> Applicant/Owner: _____ Investigator: <u>Frank Galea</u>	Date: <u>3-01-05</u> County: <u>Del Norte</u> State: <u>CA</u>
Do Normal Circumstances exist on the site? <input checked="" type="radio"/> Yes <input type="radio"/> No Is the site significantly disturbed (Atypical Situation)? Yes <input type="radio"/> No <input checked="" type="radio"/> Is the area a potential Problem Area? Yes <input type="radio"/> No <input checked="" type="radio"/> (If needed, explain on reverse.)	Community ID: _____ Transect ID: _____ Plot ID: <u>1B</u>

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Spruce</u>	<u>over</u>		9. _____		
2. <u>Chitum</u>	<u>"</u>		10. _____		
3. _____			11. _____		
4. <u>Satal Bush</u>			12. _____		
5. <u>English Ivy</u>			13. _____		
6. _____			14. _____		
7. _____			15. _____		
8. _____			16. _____		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): \_\_\_\_\_

Remarks: No Indicators

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available	<b>Wetland Hydrology Indicators:</b> <b>Primary Indicators:</b> <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands <b>Secondary Indicators (2 or more required):</b> <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
<b>Field Observations:</b>  Depth of Surface Water: <u>nc</u> (in.) Depth to Free Water in Pit: <u>nc</u> (in.) Depth to Saturated Soil: <u>dry</u> (in.) <u>lab analysis</u>	Remarks: <u>This plot is 2 feet higher than 1A and 8 feet to the south.</u>

SOILS

Map Unit Name (Series and Phase): <u>1B</u>		Drainage Class: _____	
Taxonomy (Subgroup): _____		Field Observations Confirm Mapped Type? Yes No	
<b>Profile Description:</b>			
Depth (Inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)
4	A	Root Mass	
12	B	6/10YR	sandy, begin to see clays minor gleyings(?) Dry
<b>Hydric Soil Indicators:</b>			
<input type="checkbox"/> Histosol	<input type="checkbox"/> Histic Epipedon	<input type="checkbox"/> Sulfidic Odor	<input type="checkbox"/> Aquic Moisture Regime
<input type="checkbox"/> Reducing Conditions	<input type="checkbox"/> Gleyed or Low-Chroma Colors	<input type="checkbox"/> Concretions	<input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils
<input type="checkbox"/> Organic Streaking in Sandy Soils	<input type="checkbox"/> Listed on Local Hydric Soils List	<input type="checkbox"/> Listed on National Hydric Soils List	<input type="checkbox"/> Other (Explain in Remarks)
Remarks: <u>Dry at 12", after good rains. 2 Foot higher elevation than 1A - Contour greatest 7 feet to N</u>			

WETLAND DETERMINATION

Hydrophytic Vegetation Present?	Yes	No (Circle)	(Circle)
Wetland Hydrology Present?	Yes	No (Circle)	(Circle)
Hydric Soils Present?	Yes	No (Circle)	(Circle)
Is this Sampling Point Within a Wetland?		Yes	No (Circle)
Remarks: <u>As this plot is upland, placed wetland delineation 4 feet to N, toward 1A, in midst of 2 foot elevation drop.</u>			

Approved by HQUSACE 3/92

DATA FORM  
 ROUTINE WETLAND DETERMINATION  
 (1987 COE Wetlands Delineation Manual)

Project/Site: <u>Keller Parcel APN 120-035-02</u> Applicant/Owner: _____ Investigator: <u>Frank Gates</u>	Date: <u>3-01-05</u> County: <u>Del Norte</u> State: <u>CA</u>
Do Normal Circumstances exist on the site? <input checked="" type="radio"/> Yes <input type="radio"/> No Is the site significantly disturbed (Atypical Situation)? <input type="radio"/> Yes <input checked="" type="radio"/> No Is the area a potential Problem Area? <input type="radio"/> Yes <input checked="" type="radio"/> No (If needed, explain on reverse.)	Community ID: _____ Transect ID: _____ Plot ID: <u>ZA</u>

VEGETATION

Dominant Plant Species	Stratum	Indicator	Dominant Plant Species	Stratum	Indicator
1. <u>Spruce</u>	<u>over</u>		9. _____		
2. <u>Chitum</u>	<u>"</u>	<u>up</u>	10. _____		
3. _____			11. _____		
4. <u>English Ivy Shrub</u>			12. _____		
5. <u>Sword Fern</u>	<u>"</u>	<u>up</u>	13. _____		
6. _____			14. _____		
7. _____			15. _____		
8. _____			16. _____		

Percent of Dominant Species that are OBL, FACW or FAC (excluding FAC-): none

Remarks: This plot is 6 feet south + 18 inches higher than small, class II (barely) watercourse.

HYDROLOGY

<input type="checkbox"/> Recorded Data (Describe in Remarks): <input type="checkbox"/> Stream, Lake, or Tide Gauge <input type="checkbox"/> Aerial Photographs <input type="checkbox"/> Other <input type="checkbox"/> No Recorded Data Available	<b>Wetland Hydrology Indicators:</b> <b>Primary Indicators:</b> <input type="checkbox"/> Inundated <input type="checkbox"/> Saturated in Upper 12 Inches <input type="checkbox"/> Water Marks <input type="checkbox"/> Drift Lines <input type="checkbox"/> Sediment Deposits <input type="checkbox"/> Drainage Patterns in Wetlands <b>Secondary Indicators (2 or more required):</b> <input type="checkbox"/> Oxidized Root Channels in Upper 12 Inches <input type="checkbox"/> Water-Stained Leaves <input type="checkbox"/> Local Soil Survey Data <input type="checkbox"/> FAC-Neutral Test <input type="checkbox"/> Other (Explain in Remarks)
<b>Field Observations:</b> Depth of Surface Water: _____ (in.) Depth to Free Water in Pit: <u>none</u> (in.) Depth to Saturated Soil: <u>none</u> (in.) <u>lab analysis</u>	Remarks: <u>18" deep, dry, after good rain event</u>

SOILS

Map Unit Name (Series and Phase):		2A		Drainage Class:	
Taxonomy (Subgroup):				Field Observations	Confirm Mapped Type? Yes No
<b>Profile Description:</b>					
Depth (inches)	Horizon	Matrix Color (Munsell Moist)	Mottle Colors (Munsell Moist)	Mottle Abundance/Contrast	Texture, Concretions, Structure, etc.
6"	A		Root mass		
12"	B	2.5/15Y	dark, granular,		Sandy loam
18"	C	5/6/10YR	dark, begin yellow		sandy soils
			- brown		
<b>Hydric Soil Indicators:</b>					
<input type="checkbox"/> Histosol <input type="checkbox"/> Histic Epipedon <input type="checkbox"/> Sulfidic Odor <input type="checkbox"/> Aquic Moisture Regime <input type="checkbox"/> Reducing Conditions <input type="checkbox"/> Gleyed or Low-Chroma Colors		<input type="checkbox"/> Concretions <input type="checkbox"/> High Organic Content in Surface Layer in Sandy Soils <input type="checkbox"/> Organic Streaking in Sandy Soils <input type="checkbox"/> Listed on Local Hydric Soils List <input type="checkbox"/> Listed on National Hydric Soils List <input type="checkbox"/> Other (Explain in Remarks)			
Remarks: Dry at 18" even after good rain event.					

WETLAND DETERMINATION

Hydrophytic Vegetation Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle) Wetland Hydrology Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle) Hydric Soils Present? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)	Is this Sampling Point Within a Wetland? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> (Circle)
Remarks: Plot is 6' from a small watercourse. This plot done to insure that wetland conditions do not exist next to watercourse.	

Approved by HQUSACE 3/92



# GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

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

**RECEIVED**

MAR - 7 2007

PLANNING  
COUNTY OF DEL NORTE

ADDENDUM TO BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION,  
PARCEL # 120-035-02, KELLER AVENUE. MARCH 2006

## INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

Galea Wildlife Consulting (GWC) conducted a wetland delineations and biological assessment of the property in 2005. Normally, a 100 foot buffer to wetlands is required to protect wetland resources. However, the Applicant seeks a reduced buffer of 85 feet between construction of a new home and the wetland edge. In their initial report, GWC provided justification for a reduced buffer.

As this property is within the coastal zone, there are criteria outlined in the County Local Coastal Plan which need to be considered when determining buffer widths. The following is a response to these criteria.

1). Biological significance of adjacent lands: The subject property is located south of the Marhoffer Creek swamp. Immediately to the west of the property is a home site already occupied. To the east are vacant properties. A drop-off of approximately 18 feet on the property occurs between the proposed home site and the wetland area. This acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy.

No functional relationships between the property and species from the wetland area likely exist. There is no preferred habitat on the property which would cause wetland species to "spend a significant portion of their life cycle on adjacent lands". A topographic and vegetative barrier exists between the house site and the wetland area. An 85 foot buffer is adequate considering there is no functional relationship between species and the property.

2). Sensitivity of species to disturbance: The most likely species which could be disturbed in this area would be avian species, including osprey, egrets, wood ducks and other birds. A historic osprey nest existed in the wetland area at one time however the nest apparently blew out some years ago and no new nests are known of. As this wetland is relatively small, avian species using habitat in the wetland area are likely tolerant of human disturbance or they would not be using this area for breeding.

As homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred.

3 - 5. These are non-biological issues.

6. Lot Configuration: This section notes that vegetative planting could be used as a mitigation where less than a 100 foot buffer is proposed. In this case, vegetation is currently dense and provides a buffer, however the English Ivy which is encroaching there is a destructive pest plant and should be removed. A mitigation here could be ivy control and the planting of native replacement vegetation, such as red alder and huckleberry.

7. This is a non-biological issues.

#### Summary:

The proposed development of this parcel would not have any significant impacts on local wildlife species. This parcel is located directly adjacent to an existing home. Applicants have designed development to remain as far from biological resources as possible.

## VII. STANDARDS FOR SITING DEVELOPMENT ADJACENT TO ENVIRONMENTALLY SENSITIVE HABITAT AREAS

The general policies for development adjacent<sup>18</sup> to environmentally sensitive habitat areas appear in Section 30240(b) of the Coastal Act:

"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 such areas, and shall be compatible with the continuance of such habitat areas."  
(emphasis added)

### A. Criteria for Reviewing Proposed Development Adjacent to Environmentally Sensitive Habitat Areas

As with development located in environmentally sensitive habitat areas, the key standard for evaluating development adjacent to such areas is the extent to which the proposed development maintains the functional capacity of such areas (the standards to evaluate whether the functional capacity is being maintained are located on page 17). A development which does not significantly degrade an environmentally sensitive habitat area will maintain the functional capacity of that area. The type of proposed development, the particulars of its design, location in relation to the habitat area, and other relevant factors all affect the determination of functional capacity.

Accordingly, the Commission may set limits and conditions to development adjacent to environmentally sensitive habitat areas based upon any or all of the following sections of the Coastal Act: 30230, 30231, 30233, 30236, and 30240. The Commission has required the following types of mitigation measures: setbacks; buffer strips; noise barriers; landscape plans; pervious surfacing with drainage control measures to direct storm run-off away from environmentally sensitive habitat areas; buffer areas in permanent open space; land dedication for erosion control; and wetland restoration, including off-site drainage improvements. This section only discusses the requirements for establishing the width of buffer areas. It does not discuss any other measures as noted above which may also be necessary and more appropriate to ensure that the development is compatible with the continuance of the habitat area.

### B. Criteria for Establishing Buffer Areas

A buffer area provides essential open space between the development and the environmentally sensitive habitat area. The existence of this open space ensures that the type and scale of development proposed will not significantly degrade the habitat area (as required by Section 30240). Therefore, development allowed in a buffer area is limited to access paths, fences necessary to protect the habitat area, and similar users which have either beneficial effects or at least no significant adverse effects on the environmentally sensitive habitat area. A buffer area is not itself a part of the environmentally sensitive

---

<sup>18</sup> Adjacent means situated near or next to, adjoining, abutting or juxtaposed to an environmentally sensitive habitat area. This will usually mean that any development proposed in an undeveloped area within a distance of up to 500 feet from an environmentally sensitive habitat area will be considered to be adjacent to that habitat area. In developed areas factors such as the nature, location and extent of existing development will be taken into consideration.

habitat area, but a "buffer" or "screen" that protects the habitat area from adverse environmental impacts caused by the development.

A buffer area should be established for each development adjacent to environmentally sensitive habitat areas based on the standards enumerated below. The width of a buffer area will vary depending upon the analysis. The buffer area should be a minimum of 100 feet for small projects on existing Lots (such as one single family home or one commercial office building) unless the applicant can demonstrate that 100 feet is unnecessary to protect the resources of the habitat area. If the project involves substantial improvements or increased human impacts, such as a subdivision, a much wider buffer area should be required. For this reason the guideline does not recommend a uniform width. The appropriate width will vary with the analysis based upon the standards.

For a wetland, the buffer area should be measured from the landward edge of the wetland (Appendix D). For a stream or river, the buffer area should be measured landward from the landward edge of riparian vegetation or from the top edge of the bank (e.g., in channelized streams). Maps and supplemental information may be required to determine these boundaries. Standards for determining the appropriate width of the buffer area are as follows:

1. Biological significance of adjacent lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they're functionally related to these habitat areas. That is, functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance would depend upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding or resting). This determination requires the expertise of an ecologist, wildlife biologist, ornithologist or botanist who is familiar with the particular type of habitat involved. Where a significant functional relationship exists, the land supporting this relationship should also be considered to be part of the environmentally sensitive habitat area, and the buffer area should be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer should be extended from the edge of the wetland, stream or riparian habitat (for example) which is adjacent to the proposed development (as opposed to the adjacent area which is significantly related ecologically).

2. Sensitivity of species to disturbance. The width of the buffer area should be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination should be based on the following:

- a. Nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species.
- b. An assessment of the short-term and long-term adaptability of various species to human disturbance.

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

4. Use of natural topographic features to locate development. Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces should not be developed, but should be included in the buffer area.

5. Use of existing cultural features to locate buffer zones. Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area.

6. Lot configuration and location of existing development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures (e.g., planting of native vegetation which grows locally) should be provided to ensure additional protection. Where development is proposed in an area which is largely undeveloped, the widest and most protective buffer area feasible should be required.

7. Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by case basis depending upon the resources involved, and the type and density of development on adjacent lands.

Adopted February 4, 1981

#### VIII. RESTORATION AND MAINTENANCE OF WETLAND HABITAT AREAS

THIS SECTION WAS RESCINDED ON 6/13/00



# GALEA WILDLIFE CONSULTING

200 Raccoon Court . Crescent City . California 95531

Tel: 707-464-3777

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



## ADDENDUM TO BIOLOGICAL ASSESSMENT AND WETLAND / RIPARIAN DELINEATION, PARCEL # 120-035-02, KELLER AVENUE. APRIL 2007

### INTRODUCTION

This parcel lies on the corner between Keller Avenue (existing) and Berry Street (non-existing). The property is approximately 158 feet wide (along Keller) and 240 feet long (to the north). The southwest corner of the property is at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent.

Galea Wildlife Consulting (GWC) conducted a wetland delineations and biological assessment of the property in 2005. A distance of 100 feet (the buffer) between the proposed house site and wetlands was established by placing the house as far southwest into the property as possible.

A very small, Class II drainage creek flows through the property from southeast to northwest. In March of 2005 this watercourse was dry at the east side of the property, where no defined channel was found and there were no indications of wetlands. Farther west a minimal channel was found which carried a minimal amount of flow. This watercourse feeds into the swamp area located toward the northwest corner of this parcel, although it's exact delineation is not possible due to excessive brush. Riparian vegetation is not evident; the entire area is primarily upland vegetation or brush.

The proposed home site location is limited by restraints caused by wetlands and county building codes. The house is proposed in the southwest corner of the property, 100 feet from the wetland to the north. This location, however, places the house within 100 feet of the Class II watercourse. At one point the distance between the proposed house site and the watercourse is 60 feet, however this distance gradually increases to 100 feet as the watercourse flows toward the northwest corner of the property, into the wetland.

The California Coastal Commission (CCC) considers the Class II watercourse to be an *Environmentally Sensitive Habitat Area* (ESHA), as it is a watercourse and a part of the Marhoffer marsh. The CCC suggests an ESHA's should also be provided with 100 foot buffers from development,

*... unless it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource (Section VII.D.4. of the Del Norte County Land Use Plan, section f.).*

As this property is within the coastal zone, criteria are outlined in the County Local Coastal Plan which need to be considered when determining buffer widths. The following is an analysis and justification for a reduced buffer to the ESHA, using these criteria:

1). Biological significance of adjacent lands: The subject property is located south of the Marhoffer Creek swamp. Immediately to the west of the property is a home site already occupied. The proposed homesite will be located farther back from wetlands than the existing home. To the east are vacant properties, most of which are located in the Marhoffer Creek drainage. Most of these properties were previously harvested for conifers, therefore vegetation is primarily second-growth spruce and alder forest. Wetland habitats are also found on adjacent parcels east of this subject property.

The ESHA is a very small watercourse flowing through conifer forest located along the southern edge of the Marhoffer Creek swamp. A drop-off of approximately 18 feet on the property occurs between the proposed home site and the ESHA. This acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the ESHA is also dense brush, most of it covered in invasive English Ivy. This natural vegetation (although the English Ivy is not preferable) acts as visual and sound screening between the development and the marsh.

No functional relationships between the proposed building site and species from the ESHA likely exist. There is no preferred habitat on the property which would cause watercourse-dependant species (such as amphibians) to “spend a significant portion of their life cycle on adjacent lands”. A topographic and vegetative barrier exists between the house site and the wetland area. A minimum 60-100 foot buffer is adequate considering there is no functional relationship between species and the property.

2). Sensitivity of species to disturbance: The most likely species which could be disturbed in the Marhoffer Creek marsh would be avian species, including osprey, egrets, wood ducks and other birds, however the primary marsh area is over 100 feet away. A historic osprey nest, located well north of this property, existed in the marsh area at one time however the nest apparently blew out some years ago and no new nests are known of. The intermittent Class II watercourse on this subject property is not large enough to provide habitat for wildlife species other than amphibians.

As homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred.

3). Susceptibility of parcel to erosion: The proposed building site is located on a flat in the southwest corner of the parcel. North of the building site, the ground drops relatively quickly, with an 18 foot drop. This slope is covered with dense vegetation, typical of second-growth coastal spruce forest. At the bottom of the slope there is very dense vegetation before a small Class II is reached, approximately 60 feet from the edge of the proposed building.

No adjacent properties drain onto this property, therefore, the only runoff would be the limited amount from this parcel. Run-off from the house and outbuildings would be drained into the city storm drainage system. The house would be on the city water and sewer system, therefore no leach field or well is required.

Erosion would be controlled using best management practices (BMP's) during building. Included would be a) a flagged, no heavy-equipment zone located on the north edge of the building site, where equipment

would not be allowed to operate near the slope. b). A silt-retention fence along the slope between the ESHA and the building site, to be erected during any and all construction activities. c) natural vegetation would be retained on and below the slope to the fullest extent possible. d) no washing of equipment would be allowed on the north side of the building site, including wash-outs for concrete materials and e) all exposed soils would be seeded with a native grass mixture post-construction.

4). Use of natural topographic features to located development. The building site is located as far to the southwest of the parcel as possible, in order to maximize the distance between the ESHA and the building site. The building site is on the higher ground of the property, while the ESHA is at least 18 feet lower in elevation. No other building sites are possible on this parcel.

5). Use of existing cultural features to locate buffer zones: No cultural features are available to buffer the ESHA. The development is located as close to the access road and pre-existing buildings as possible.

6). Lot Configuration: This section notes that vegetative planting could be used as a mitigation where less than a 100 foot buffer is proposed. In this case, vegetation is currently dense and provides a buffer, however the English Ivy which is encroaching there is a destructive pest plant and should be removed. A mitigation here could be ivy control and the planting of native replacement vegetation, such as red alder and huckleberry, between the ESHA and the homesite.

7). Type and scale of development proposed: The owners are proposing a modest home with one small outbuilding, located in the extreme southwest corner of the property. The closest this building would be to the ESHA would be 60 feet, however this distance increases immediately as the Class II watercourse runs to the northwest. The siting of the proposed house is over 100 feet from wetlands other than the Class II watercourse.

The Marhoffer Creek drainage was specifically sited as an area of concern in the Del Norte County LCP. The following ten provisions in the LCP were provided to increase resource protection. A response to each concern is included under each numbered provision.

### **Marhoffer Creek Special Study Area (MCSSA)**

1. Performance standards shall be developed and implemented which will guide development adjacent to upland marsh areas identified in the Marhoffer Creek study so as to permit utilization of land areas compatible with other policies while providing adequate maintenance of the subject marsh area.

For this application, the building site is located as far into the southwest corner of the property, where only upland habitat occurs, and the building site is as far from the marsh area as possible, thereby providing adequate maintenance of the marsh area.

2. A buffer strip shall be maintained in natural conditions around the Marhoffer Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.

For this application, a buffer strip of 60 to 100 feet is applied. The minimal 60 feet is the least distance between the building and the marsh; the distance increases to over 100 feet for most of the building.

3. New development adjacent to the Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.

This new development is a single family residence, which would not result in adverse levels of sediment, runoff, noise, or other disturbances. The house would be on the city water and sewer system, therefore no leach field or well is required, therefore no wastewater. See notes on sediment control in #3 of discussion above.

4. Snags shall be maintained with the Marhoffer Creek wetland for their value to wildlife.

No snags would be removed during construction of this project. No snags are in the immediate area of the building site.

5. No motorized vehicle traffic shall be permitted within the Marhoffer Creek wetlands except for agriculture and forestry.

No new roads would be created by this project. A road and access road to the property are pre-existing. An equipment exclusion zone would be used around the building site during construction.

6. Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.

No riparian vegetation would be removed by this project. Natural vegetation between the building site and the marsh would be retained on the property.

7. In areas where the boundary of the Marhoffer Creek wetland is in doubt a detailed survey of a parcel and the location of the wetland shall be required to determine the suitability of said parcel for dwelling or other building site and sewage disposal system before a permit is issued.

A wetland delineation has been conducted to determine the extent of the marsh, which are over 100 feet away, and the location of watercourses, a small Class II is 60 feet away.

8. The pasturelands in the Marhoffer Creek area provide valuable habitat for wildlife and therefore should be maintained in their existing use as agricultural grazing.

No pasture is on this property or any nearby. Pastureland is located over .5 miles from this project.

9. Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.

Except for clearing of the building site, which is upland vegetation, no other vegetation would be removed.

10. The County should encourage and support educational programs in schools, park programs and community organizations which seek to increase public awareness and understanding of sensitive habitats and the need for their protection.

The Applicant is willing to enter into a program whereby non-native, invasive vegetation, such as English ivy, is removed to maintain and restore native vegetation on the property.

Summary:

The proposed development of this parcel will have no significant impacts on local wildlife species, nor would there be any significant impacts to the Marhoffer Creek marsh. This parcel is located directly adjacent to an existing home, which will be closer to the Marhoffer Creek marsh complex than this proposed home. Applicants have designed development to remain as far from biological resources as possible.

BLACK-CAPPED CHICKADEE

FWM

S/A/C

APPROX.  
PROPERTY  
BOUNDARY

S/A/C = spruce, alder, cascara habitat

TOPOGRAPHIC MAP  
of  
MARHOFFER CREEK WETLANDS  
LOWER WATERSHED

LOCATED IN  
SECTIONS 19, 20, 31&N 31W T44N

AT THE REQUEST OF  
COUNTY OF DEL NORTE

CALIFORNIA COASTAL CONSERVANCY

EXHIBIT NO. 10  
APPEAL NO.  
A-1-DNC-07-036  
TRASK  
MAPS FROM 1993 BIOLOGICAL  
ASSESSMENT BY KAREN  
THEISS & ASSOCIATES (1 of 3)





**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

118 S. Fortuna Blvd.  
Fortuna, CA 95540-2705  
Website: [www.fire.ca.gov](http://www.fire.ca.gov)  
(707) 726-1270



June 10, 2006

To: Heidi Kunstal  
Senior Planner

**RE: Adam and Tami Trask (B28832C)**

The Department of Forestry and Fire Protection (CAL FIRE), reviewed the property for specific recommendations of meeting minimum defensible space requirements.

1. Necessary vegetation removal to accommodate the footprint of the home and storage shed will provide the minimum 30 foot fuel break around the home.
2. Within in the 30-100 foot zone, limbing of trees and removal of some surface shrubs will be necessary to affect a fire safe condition. This zone should remain well-shaded and protection of riparian habitat can be done through proper landscape management.
3. Consultation with a landscape architect, Fish & Game and the Coastal Commission should be done prior treatment of the reduced fuel zone.
4. See attached Guidelines for vegetation treatment requirements.

Thomas P. Osipowich  
Unit Chief

B: Signature on File

 Jim Smith  
Battalion Chief  
Crescent City Battalion

**RECEIVED**  
JUN 18 2007  
PLANNING  
COUNTY OF DEL NORTE

EXHIBIT NO. 11
APPEAL NO. A-1-DNC-07-036 TRASK CDF RECOMMENDATIONS & DEFENSIBLE SPACE GUIDELINES (1 of 3)

## **Fuel Treatment Guidelines**

The following fuel treatment guidelines comply with the requirements of 14 CCR 1299 and PRC 4291. **All persons using these guidelines to comply with CCR 1299 and PRC 4291 shall implement General Guidelines 1., 2., 3., and either 4a or 4b., as described below.**

### **General Guidelines:**

1. Maintain a firebreak by removing and clearing away all flammable vegetation and other combustible growth within 30 feet of each building or structure, with certain exceptions pursuant to PRC §4291(a). Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure. No tree limbs within 10 feet of the roof line.
2. Dead and dying woody surface fuels and aerial fuels within the Reduced Fuel Zone (Reduced Fuel Zone: The area that extends out from 30 to 100 feet away from the building or structure or to the property line, whichever is nearer to the building or structure). shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a depth of 3 inches. This guideline is primarily intended to eliminate trees, bushes, shrubs and surface debris that are completely dead or with substantial amounts of dead branches or leaves/needles that would readily burn.
3. Down logs or stumps anywhere within 100 feet from the building or structure, when embedded in the soil, may be retained when isolated from other vegetation. Occasional (approximately one per acre) standing dead trees (snags) that are well-space from other vegetation and which will not fall on buildings or structures or on roadways/driveways may be retained.
4. Within the Reduced Fuel Zone, one of the following fuel treatments (4a. or 4b.) shall be implemented. Properties with greater fire hazards will require greater clearing treatments. Combinations of the methods may be acceptable under §1299(c) as long as the intent of these guidelines is met.

#### **4a. Reduced Fuel Zone: Fuel Separation**

In conjunction with General Guidelines 1., 2., and 3., above, minimum clearance between fuels surrounding each building or structure will range from 4 feet to 40 feet in all directions, both horizontally and vertically. (General Guidelines for Creating Defensible Space 4 February 8, 2006 )

Clearance distances between vegetation will depend on the slope, vegetation size, vegetation type (brush, grass, trees), and other fuel characteristics (fuel compaction, chemical content etc.). Properties with greater fire hazards will require greater separation between fuels. For example, properties on steep slopes having large sized vegetation will require greater spacing between individual trees and bushes. Groups of vegetation (numerous plants growing together less than 10 feet in total foliage width) may be treated as a single plant. For example, three individual manzanita plants growing together with a total foliage width of eight feet can be "grouped" and considered as one plant and spaced according to the Plant Spacing Guidelines in this document.

**Defensible Space: Reduced Fuel Zone** 30 ft. *Reduced Fuel Zone: 30 ft. to 100 ft.*

Grass generally should not exceed 4 inches in height. However, homeowners may keep grass and other forbs less than 18 inches in height above the ground when these grasses are isolated from other fuels or where necessary to stabilize the soil and prevent erosion. Clearance requirements include:

- Horizontal clearance between aerial fuels, such as the outside edge of the tree crowns or high brush. Horizontal clearance helps stop the spread of fire from one fuel to the next.

393

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

<b>EXHIBIT NO. 12</b>
<b>APPEAL NO.</b> A-1-DNC-07-036 TRASK NOTICE OF FINAL LOCAL ACTION & COUNTY STAFF REPORT (1 of 17)

NOTICE OF ACTION

I. Notice is hereby given that the **Planning Commission** of Del Norte County took the following action on **August 1, 2007** regarding the application for development listed below:

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

Application Number: B28832C  
Project Description: Coastal Development Permit for a New Residence  
Project Location: 700 Berry Street, Crescent City  
Assessor's Parcel Number: 120-035-02  
Applicant: Adam and Tami Trask  
Applicant's Mailing Address: 915 Murphy Ave, Crescent City, CA 95531  
Agent's Name & Address: , ,

**RECEIVED**

AUG 03 2007

CALIFORNIA  
COASTAL COMMISSION

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

II. **If Approved:**

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

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

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

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

Is appealable to the California Coastal Commission.

Any appeal of the above decision must be filed with the Clerk of the Board of Supervisors by August 13, 2007 for consideration by the Board of Supervisors.

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

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

(Continued on the next page)

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

Requests for deferment of road improvement standards or for modification of road improvement standards must be filed in writing with the Clerk of the Board of Supervisors by August 13, 2007, with a copy provided to the Secretary of the Planning Commission. Consideration will be by the Board of Supervisors.

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

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

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

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

#### NOTICE – SECTION 1.40.070

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

#### FISH AND GAME FILING FEES

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

Applicable Fee - \_\_\_ Neg. Dec. (\$1,850) \_\_\_ EIR (\$2,550) \_\_\_ Exempt

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

#### ATTENTION APPLICANT

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

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

Agent: None

APP# B28832C

**STAFF REPORT**

APPLICANT: Aadam and Tami Trask

APPLYING FOR: Coastal Development Permit for a New Residence

AP#: 120-035-02

LOCATION: 700 Berry Street, Crescent City

PARCEL(S)

EXISTING

EXISTING

SIZE: .80 acre

USE: Vacant

STRUCTURES: None

PLANNING AREA: 7

GENERAL PLAN: UR (6/1)

ADJ. GEN. PLAN: Same

ZONING: R1B6 Zone 2

ADJ. ZONING: Same

1. PROCESSING CATEGORY: NON-COASTAL APPEALABLE COASTAL X  
NON-APPEALABLE COASTAL PROJECT REVIEW APPEAL

2. FIELD REVIEW NOTES: DATE: 1/6/06 HEALTH DEPT X BUILDING INSP X  
PLANNING X ENGINEERING/SURVEYING X

ACCESS: Keller Avenue

ADJ. USES: Residential and Marhoffer Creek Drainage

TOPOGRAPHY: Generally Flat with Steep Drop-off DRAINAGE: Surface

DATE OF COMPLETE APPLICATION: July 11, 2007

3. ERC RECOMMENDATION: CEQA Class 3 Exempt. Approval with conditions.

4. STAFF RECOMMENDATION:

**Project Description**

Aadam and Tami Trask have submitted a Coastal Development Permit to construct a single-family residence and detached accessory building on their undeveloped parcel. The subject parcel is located at the southwest corner of Keller Avenue and Berry Street, which is currently a paper street. Primary access to the parcel will be from Keller Avenue, off of Pebble Beach Drive. The parcel is comprised of six lots approximately 40 feet wide by 158 feet long (lots 104 through 109) which were created as part of the Pebble Beach Tract in October 11, 1926 (Book 2 of Record of Surveys Page 43). A copy of the Assessor's Parcel Map for the project area is attached (EXHIBIT A). The parcels and the access road alignments predate the Coastal Act. The combined acreage of the parcels is 37,920 square feet or .87 acre. The project site is approximately 500 feet from the shoreline and from the coastal bluffs along Pebble Beach Drive.

There are intervening residences between the proposed building site and Pebble Beach Drive. The project site is at 40 feet (msl) and is located outside of any flood hazard area, or tsunami run-up. The proposed building site portion of the parcel is relatively flat, less than 10% slope. The parcel breaks, as shown on the plot plan (Exhibit B) prepared by Lee Tromble Engineering, beyond the building site toward the north with slopes of 20 to 25%.

The project site is at the periphery of existing residential development. Existing sewer collection lines and public water lines are in place and will provide services to the proposed residence. The area north of the project site is wooded and contains Marhoffer Creek and its associated wetlands. There is an intervening parcel between this project site and the larger privately owned parcel containing Marhoffer Creek. The building height maximum for this zone district is twenty-five feet; therefore the proposed residence will not be visible from Pebble Beach Drive due to the intervening residences. The project site is not located in a designated highly scenic area.

The applicants have submitted construction drawings for a two story L-shaped residence. The height of the residence is shown as 23 feet but could be constructed up to the 25 feet maximum height allowed in the R1 Zone District. The submitted elevation drawings show the proposed residence from the south and east and are included as Exhibits C and D. The lower level of the residence has a footprint of approximately 1,696 square feet. An attached two-car garage with storage area accounts for 576 square feet of the area. Access to the garage will be from Berry Street. The remaining 1,120 square feet is set aside for two bedrooms, a bathroom, utility room, entry/living area, and stairway to upper level. The upper level is approximately 1,728 square feet and has a master bedroom/bath, living area and kitchen/dining area. The floor plans are found on Exhibits E and F. The applicants also proposed to construct a 20 feet wide by 20 feet long by approximately 12 high detached accessory building which would be located six feet east of the residence. The applicant has identified the structure as being a storage shed. The structure would have 8 feet high walls, a hip roof to match the residence and a 10 feet wide door entrance. Access to the storage shed will be Keller Avenue. See Exhibits B and C for an illustration and proposed location of structure.

### **Zoning R1B6 Zone 2**

The zone designation for the subject parcel and all parcels which immediately border the parcel is R1-B6 (Single Family Residence – B Combining District – 6,000 square feet minimum lot size). The General Plan Land Use designation for the subject parcel and surrounding area is Urban Residential with up to six dwelling units allowed per acre. The zoning and land use are consistent. The R1-B6 zone district is found in Chapter 21.19 of the implementing zoning of the Local Coastal Plan (LCP). A single-family residence is the principal permitted use in this zone district. Accessory buildings and accessory uses appurtenant to the single-family residence and home occupations are also included in conjunction with the one-family residence. Building height maximum is twenty-five feet and the minimum lot area is to be not less than 6,000 square feet. The proposed residence is a permitted use under Chapter 21.19 of the Del Norte County Code. Attached is Exhibit G that identifies the approximate location of the parcel on the applicable zoning map.

### **Background/History**

As mentioned above, the six lots approximately 40 feet wide by 158 feet long (lots 104 through 109) of the listed Assessor's Parcel Number 120-035-02 were created as part of the Pebble Beach Tract in October 11, 1926 (Book 2 of Record of Surveys Page 43). The lots have set undeveloped and have been through multiple ownerships since their creation.

In 1979 as part of the Local Coastal Program (LCP) preparation, the County conducted a Special Study for the Marhoffer Creek area. This study was based on existing information and was spot checked in the field. Maps of the approximate location of Marhoffer Creek and its wetlands were included in the LCP. Policies of the Special Study recognize that the mapping included in the LCP is approximate at best and were based on limited information. The Findings section of the study state that "...the boundaries shown are not precise delimiters of the wetland, but indicate zones of transition. Specific findings on a parcel by parcel basis will be required for the determination of a building site or septic tank leach fields in or near the wetland boundary zone". Furthermore, the Special Study further recommends that "(I)n areas where the boundary of the Marhoffer Creek wetland is in doubt a detailed survey of a parcel and the location of the wetland shall be required to determine the suitability of said parcel for dwelling or other building site and sewage disposal system before the permit is issued."

In January of 1993, Karen Theiss and Associates prepared a more detailed mapping of the lower watershed of the Marhoffer Creek area. The mapping effort was sponsored by the Coastal Conservancy. The mapping was approximated on topographic maps prepared by Richard B. Davis surveying. The topography maps are based on two foot contours and are a reasonable representation of the area, although the dense trees and brush obscure the aerial photography making elevation modeling more difficult and subject to some error. Spot elevations in cleared areas (at that time) are fairly accurate. Attached is Exhibit H which is the applicable area of the Theiss mapping for the project site. This map shows the parcel to have an elevation range of approximately 40 feet in the southwest corner and somewhere between ten and twelve feet in the very north of the parcel. The mapping also indicates that the southwest corner had been previously disturbed at that time and that the bulk of the center of the parcel contains a mixed thicket of spruce, alder, and cascara. The northern quarter of the parcel is mapped in the Theiss report as being part of the freshwater marsh of Marhoffer Creek.

In 2004 the owner at that time, Richard Anderson, applied for a building permit to construct a single-family residence. The plot plan (which is the same as the plot plan initially submitted by the current applicants and is Exhibit I) for the building permit shows the wetland mapping from the Theiss study (referred to as the Conservancy mapping, the funding agency). The building permit was not issued as the application was held incomplete until such time as a biological assessment for the parcel was prepared as recommended in the two reports mentioned above. The Anderson permit application was never issued.

In December of 2005, the current owners (Adam and Tamara Trask) applied for a similar building permit using the same plot plan as submitted by Mr. Anderson. The Trask submittal included a Biological Assessment and Wetland/Riparian Delineation, Parcel #120-035-02, Keller Avenue dated September 2005 prepared by Galea Wildlife Consulting (GWC) for the subject parcel. Frank Galea is the primary Biological Consultant and owner of GWC, established in 1989. GWC's Assessment included mapping shows the proposed building site to be 85 feet from the wetland. Therefore the project was held incomplete awaiting a further analysis prepared by a qualified biologist to address the seven standards applicable to a proposed buffer area of less than 100 feet. That analysis has been submitted and is included as part of the staff report and is summarized in the next section.

### **Biological Assessment**

In the September 2005 Assessment, GWC described the southwest portion of the parcel as being at the same elevation as Keller Avenue, however most of the remainder of the property drops into the Marhoffer Creek drainage. The drop-off is relatively steep, at 20 to 25 percent, thus drainage toward the north is excellent. Mr. Galea's report concluded that the upland portion of the property consists of very young pine, spruce (*Picea sitchensis*) and chitum (*Rhamnus purshiana*) trees, with an understory of huckleberry (*Vaccinium ovatum*), Himalayan blackberry (*Rubis discolor*) and swordfern (*Polystichum munitum*). Below the upper area, to the north, the vegetation becomes far more dense and almost all of it is covered with an infestation of English Ivy (*Hedera helix*), which covers the understory, herbaceous and shrub layers and is invading the hardwood canopy above. The ivy grows down to and partially into the area delineated as wetland by Mr. Galea.

The biologist states in his report that he visited the site several times in March of 2005 to complete a wetland delineation. The delineation between wetland and non-wetland habitats was somewhat discernable based upon vegetation and the site's visual hydrology. To validate the extent of wetland habitats, sample plots ten feet in diameter were assessed using the routine wetland delineation method. Sample plots were set on either side of the apparent line between wetland and upland habitats along an axis perpendicular to the watercourse, and sampling continued until definitive results demonstrated one sample in wetland and an adjacent sample in upland along the axis. Plots were also used to determine if wetland conditions existed adjacent to the watercourse. Mr. Galea conducted three transects to determine the extent of wetlands or creeks within or adjacent to the property. The project site was also reviewed for its potential for: (a) demonstrable use of the area by wetland-associated fish and wildlife resources; (b) related biological activity; and (c) wetland habitat values, as recommended by the California Coastal Commission.

According to GWC, a Class II watercourse comes into the project parcel from the east. This watercourse feeds into the freshwater marsh area located in the northwest corner of this parcel. The watercourse does not extend beyond the adjacent parcel and is not visible on the Keller Avenue right of way. The general topography shown on Exhibit H was confirmed in the field. The watercourse appears to be seepage out of the slope and has no defined channel or course beyond the adjacent parcel. Riparian vegetation is not evident; the entire area is primarily

upland vegetation or brush. The biologist in his report recommends a 50 feet buffer for this watercourse.

The following comments are directly from the biologist report of September 2005:

*Demonstrable use of the area by wetland-associated fish and wildlife resources - This parcel is located in a residential area and a home with outbuildings and development exists immediately to the west. All of this parcel is covered in dense brush and young trees. English ivy has invaded and covers a large portion of the property.*

*After several visits to the property there was no visible use of wetland associated wildlife. Trees were not large enough for large raptors such as osprey, and no snags were evident. The lack of standing water in the area greatly decreased the potential for wetland-associated sensitive species or fish. The building site is at least 18 feet higher in elevation than the swamp area to the north.*

*Related biological activity - The Marhoffer Creek swamp is located along the north edge of the property, at an elevation 18 feet lower than the south end of the parcel. East of the parcel are undeveloped lots in early seral stages of re-growth. West and south of the parcel are previously developed homesites. Any related biological activity would come from the north only, and this would be addressed by providing buffers to the resource.*

*Wetland habitat values - The Marhoffer Creek area adjacent to the parcel is a dense swamp. Vegetation is thick and impenetrable. No standing water in the form of deep ponds, perennial creeks or other aquatic resources, which may attract fish, waterfowl, shorebirds or other sensitive wetland-dependant species was evident on or near the property.*

*The wetland area located in the northwest corner of the property is a dense tangle of vegetation and brush which continues a good distance into the Marhoffer Creek drainage. Vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy. A drop-off of approximately 18 feet occurs between the proposed home site and the wetland area. The wetland edge was delineated at 85 feet north of the proposed house site.*

*Building a house as proposed on the parcel map would result in a wetland buffer of 85 feet instead of 100 feet. This would not have an adverse impact on the wetland as 1) there is already a home directly adjacent with development closer to the existing wetland 2) the amount of brush between the proposed home and the wetland is excessive and provides an adequate barrier and 3) the conditions at the wetland are shallow swamp which extends well to the north, therefore sensitive wildlife species have adequate habitats for nesting and movement well away from the proposed homesite.*

*A mitigation condition for the reduced buffer should be that no vegetation can be removed between the homesite and the wetland area unless it is in association with the removal of*

*English ivy. The ivy is currently very invasive at this site and will eventually choke out the existing native plants, including some overstory trees such as chitum, resulting in a lowered buffer of vegetation than currently exists.*

Also attached is Exhibit J which is a photo of the area taken from Google Earth that approximates very closely the location of the applicant's parcel(s). This aerial photo shows the adjacent residence and the area that has been cleared for that residence and its yards. The rear area of the adjacent parcel has been cleared for a distance of 40 to 70 feet from the building. The photo demonstrates that the adjacent residence may actually be placed closer to the wetland areas than the proposed residence of the applicants and that the cleared area behind the adjacent residence extends some 40 to 70 feet from the building toward the wetlands.

The recommended setback from wetlands is 100 feet within the standards of the County Local Coastal Plan. This project would not comply with the recommended setback of 100 feet. The LCP also provides that a buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. The Coastal Commission has provided guidance on the criteria for reviewing proposed development adjacent to wetland and other environmentally sensitive habitats (ESHA) and a standard of review for reduced buffers. The applicable LCP policies regarding reduced buffers are as follows:

The Marine and Water Resources Policy VII.D.4f

*f. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.*

On January 13, 2005, County staff referred the September 2005 report of GWC to the Department of Fish and Game. A copy of the transmittal letter to Fish and Game is included as Exhibit K. The Department responded February 6, 2006, stating that the Department had not object to a reduced buffer of 66-feet in this particular instance. (That written response is also included as Exhibit L.) Upon receipt of the response from Fish and Game, the project was referred to ERC for their review and comment. The ERC meeting of February 09, 2006, resulted in a request to the applicant that included the directive that a qualified biologist responds to the seven standards of review by the Coastal Commission included in their interpretive guidelines for buffers of less than 100 feet.

In response, the County has received two addendums and a letter from GWC. The first addendum was submitted on March 7, 2007 and is titled Addendum to Biological Assessment and Wetland/Riparian Delineation Parcel #120-035-02, Keller Avenue, March 2006 (sic). The second addendum was received in April 2007 and is titled Addendum to Biological Assessment and Wetland/Riparian Delineation Parcel #120-035-02, Keller Avenue, April 2007. A letter was submitted on May 1, 2007 addressed to staff member Heidi Kunstal which describes communication between Mr. Galea and staff from the DFG and California Coastal Commission with regard to the project. Copies of these documents are included in their entirety as part of this staff report.

A discussion of the standards for a reduced width of a buffer is as follows:

1. Biological significance of adjacent lands: Lands adjacent to a wetland, stream, or riparian habitat vary in the degree to which they're functionally related to these habitats. The degree of significance would depend upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding or resting). In this particular instance the subject property is located south of the Marhoffer Creek freshwater marsh. To the west and south is existing residential development located on city lots and served with both public water and sewer. To the east are vacant previously subdivided lands similar to the subject property. The terrain elevation change from the Marhoffer wetland to the residential site "... acts as a natural barrier between the home site and the swamp. Additionally, upland vegetation between the highest upland portion in the southwest corner of the property and the wetland area is also dense brush, most of it covered in invasive English Ivy." The consulting biologist concludes that "(n)o function relationships between the property and species from the wetland are likely (to) exist. There is no preferred habitat on the property which would cause wetland species to 'spend a significant portion of their life cycle on adjacent lands.' A topographic and vegetative buffer exists between the house site and the wetland area." Furthermore, the biologist concludes that the 85 foot buffer is adequate for the buffer for the wetland and the 60 foot buffer is adequate for the watercourse considering there is no functional relationship between species and the property.
2. Sensitivity of species to disturbance: The width of the buffer area should be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination should be based on the following;
  - a. Nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species.
  - b. An assessment of the short-term and long-term adaptability of various species to human disturbance.

In this particular instance GWC determined that the most likely species which could be disturbed in the ESHA would be avian species, including osprey, egrets, wood ducks and other birds. A historic osprey nest existed in the wetland area, well north of the property, at

one time. However, the nest apparently blew out some years ago and no new nests are known of. As homes are already built in the immediate area, including the adjacent lot, the biologist concludes that there would be no significant increase in disturbance. Therefore, short-term and long-term, those species which are adaptable to human presence and disturbance would not be affected. Species which do not tolerate human encroachment would not be in the immediate area as encroachment has already occurred. The watercourse is insufficient to directly support fish or fish habitat. Marhoffer Creek was surveyed for aquatic species by electro shocking as part of the Theiss Report. Two species of fish and one amphibian (pacific giant salamander) were found. The two fish species were three spine stickleback and staghorn sculpin (only found near the mouth of the creek proper). None were mapped in or near the project site.

3. Susceptibility of parcel to erosion. The width of the buffer area should be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetation cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided. As previously described, the proposed building site is relatively flat and appears to be relatively stable with no signs of erosion or other soil movement. Activities during construction could create the potential for sediment control during and for a period of time after construction. Conditions are recommended to be imposed to ensure that erosion control measures are implemented are included in the staff recommendation.
4. Use of natural topographic features to locate development. Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. The building envelope has been shifted to the southwest corner of the parcel. This is the relatively flat portion of the property and beyond the natural break in the terrain. The ESHA areas are located below the break in slope. This natural topographic feature is being utilized in locating the proposed building site.
5. Use of existing cultural features to locate buffer zones. Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area. Placement of the residential structure and the accessory building in the southwest corner puts these items in close proximity to other existing development. This placement also limits offsite improvements to areas that are relatively already disturbed by grading and access improvements. This placement limits potential impacts on the ESHA and their buffer areas.
6. Lot configuration and location of existing development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures

(e.g., plant of native vegetation which grows locally) should be provided to ensure additional protection. The existing residential development on the lot next door is approximately the same distance, or slightly less from the freshwater marsh wetland as the proposed project. The rear yard for the adjacent residence extends some 40 to 70 feet beyond the building toward the freshwater marsh. The biological consultant states that the vegetation within the buffer area is being encroached upon by English Ivy. The consultant recommends that mitigation be considered that would require removal of the ivy and replacement with native vegetation such as red alder and huckleberry between the ESHA and the homesite.

Staff is recommending that as a condition of approval of the building permit/CDP, that the property owners consent to and sign a Notice of Merger for the old subdivision lots, lots 104 through 105. This merger along with other measures will significantly reduce the expectations of any future owner to attempt to develop the other lots within this ownership. Staff is also recommending that the existing front yard remain facing to the west and the frontage along Keller remain a side yard thereby allowing the consideration of an altered building layout which moves the proposed residence closer to Keller Avenue and therefore farther away from the ESHA (see Exhibit B). The residence and outbuilding are now to be 12 feet six inches from Keller Avenue as opposed to the original design placing the residence 25 feet from Keller Avenue. This places the proposed building 100 feet from the wetland as mapped by Galea. The residence at its closest point is now 80 feet from the thread of the watercourse and the outbuilding at its closest point is not 65 feet from the thread of the watercourse.

7. Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential development may not be as compatible as light industrial development adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by-case basis depending upon the resources involved, and the type and density of development on adjacent lands. As previously noted there is an existing residence next door that is the same distance or slightly less than the proposed residence location from the wetland. Also as previously discussed above, there is existing development to the west of this project site that is much closer to the Marhoffer Creek wetland (see Exhibits H and J). The lot configuration, actually several old subdivision lots combined into one assessors parcel, combined with the actual location of the wetlands and the watercourse confine the proposed building site to the southwest corner area. Due to the lot configuration, the break in slope, it would not be possible to locate the development 100 feet from ESHA which spans the entire width of the parcel. The type and scale of the proposed development is consistent with that of the adjacent residential development.

#### Wildland Fire – Urban Interface

The California Department of Forestry and Fire Protection submitted a letter on June 18, 2007, making recommendations on the proposed residence. The subject property is mapped by CDF as being a moderate fire hazard zone. The CDF comments address the minimum defensible

space requirements. Their letter is attached and incorporated into this staff report. The letter recommends that the residence have a "30 foot fuel break around the home" and that "(w)ithin in (sic) the 30-100 foot zone, limbing of trees and removal of some surface shrubs will be necessary to affect a fire safe condition. This zone should remain well-shaded and protection of riparian habitat can be done through proper landscape management." These recommendations, in part will affect the buffer areas discussed above.

Marine and Water Resources Policy VII.D.4f does specifically permit firewood removal by owner for on site use and commercial timber harvest pursuant to the CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas. In this particular instance CDF is specifying that a 30 feet clear zone be established around the residence and beyond the 30 feet clear zone that vegetation be managed to affect a fire safe condition through limbing of trees and removal of some surface shrubs. The degree of vegetation management proposed by CDF is less intrusive than a timber harvest plan.

Staff is recommending that the buffer area between the proposed buildings be modified to allow these defensible space requirements within portions of the buffer area. To mitigate in part for these activities staff is recommending the merger of the subdivision lots into one site and that the buffer area apply to all of the remaining merged parcel on the north side of the watercourse and beyond the wetland boundary.

To ensure that (1) the buffer areas are established and applied to the subject property, and (2) to protect the ESHA from significant degradation resulting from the proposed development, and (3) that the defensible space requirements of CDF are applied only within the area around the residence and outbuilding staff is recommending that a deed restriction be placed upon the property. This deed restriction would restrict the property labeled as "Area B" within the ESHA and the included portion of the buffer area to open space except to permit within 100 feet of the structures limbing of trees and removal of surface shrubs pursuant the fuel treatment guidelines of CDF (attached to the letter from CDF). The portion of the open space area labeled "Area A", 30 feet from the residence and outbuilding toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure. A fuel treatment plan is to be reviewed by CDF prior to final issuance of the building permit. (See Exhibit M identified "Area A" and "Area B").

The buffer and the ESHA could be adversely affected by the development if non-native, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA, disrupting the value and function of the adjacent ESHA. The applicant has not proposed a specific landscaping plan as part of the proposed project. As additional mitigation to reduce the potential that the ESHA is not adversely impacted by any future landscaping of the site, a condition has been recommended that no plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall

be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

### **Environmental Review**

Pursuant to State California Environmental Quality Act (CEQA) Guidelines Section 15303 (a) One-single family residence and (e) an appurtenant structures, the project qualifies as categorically exempt from the provisions of CEQA. As described above, the project has been located and conditioned so as to not have a significant effect on the environment.

### **Archeology**

Due to the required excavation for utilities and foundation footings, a cultural resources survey was required. A background search, a records search, and a field survey were conducted by James Roscoe, a cultural resources consultant. The pre-field search and field survey conducted on the property did not uncover any significant cultural resources within the proposed project area. The project was been discussed with a representative of the Smith River Rancheria. The Rancheria recommended that cultural monitor be present during ground disturbing activities associated with the building of residence and the out building. A condition is being recommended that the applicant contact the Smith River Rancheria two weeks prior to excavation of footings. The applicant will also be responsible to have a cultural monitor on site during excavations and is responsible for any time and expenses (if any) of the observer. The County will also apply the standard condition regarding inadvertent find of cultural resources in the event that any resources are uncovered during construction. Should the Rancheria determine that they do not wish to have an observer present; a written statement to that effect will meet the proposed condition.

### **Light Glare**

Although the current LUP does not have any specific policies related to light emissions and the night sky, the General Provisions of Title 21 – Coastal Zoning includes a section related to lighting (§21.46.050). In order to minimize potential glare from any exterior lighting, a condition has been recommended that requires that all exterior lights be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward.

### **Visual Resources and Public Access**

The proposed development is on the periphery of an existing residential area and subdivision. The property is not located in a designated highly scenic area as listed in the LCP. The proposed project will not involve substantial alteration of the natural landform nor will the site be visible from the shoreline or public road. There is no public access to the shoreline affected by this project nor are there any established trails on the property that provide public access to the shoreline. The proposed development will not create any new demand for public access or otherwise significantly impact any existing public access.

### **Constructive Notice to Subsequent Owners**

A condition is recommended which requires the recording of a Notice of Conditional Approval which will formalize acceptance and acknowledgement of the conditions of approval by the applicants and provide constructive notice to subsequent owners and other parties of interest.

### **Recommendation**

Staff recommends that after consideration of the staff report and its attachments, and after receipt of any public comment and the consideration of such comment, the Commission adopt the recommended findings and approve the issuance of the building permit/Coastal Development Permit (CDP) for the subject parcel with the recommended conditions listed below:

#### 5. FINDINGS:

- A. The Commission finds that pursuant to the Marine and Water Resources policy 4f of the County's certified Local Coastal Program, a determination to utilize a buffer area of less than one-hundred feet has been done in cooperation with the California Department of Fish and Game;
- B. A biological assessment(s) has been prepared regarding the biological significance of adjacent lands, sensitivity of species to disturbance, the susceptibility of the parcel to erosion, and the type and scale of the development proposed. The proposed buffer and deed restrictions in conjunction with the implementation of the listed conditions requiring erosion and sedimentation control and the prohibition of the planting of invasive exotic species is adequate to protect the environmentally sensitive habitat adjacent to the project site from possible disruption generated by the development proposed;
- C. The project, as conditioned and sited on the parcel, is consistent with the policies and standards of the Local Coastal Plan Land Use Plan and Title 21 Zoning for a R1B6 Zone 2;
- D. The building site has been relocated as far as possible from the ESHA and still allow the residence and outbuilding to be in compliance with the standards for the R1B6 zone district;
- E. A condition of approval of the building permit/CDP has been included, that the property owners consent to and sign a Notice of Merger for the old subdivision lots, lots 104 through 105, legally merging the subject lots into one building site;
- F. The Notice of Conditional Approval which will formalize acceptance and acknowledgement of the conditions of approval by the applicants and provide constructive notice to subsequent owners and other parties of interest; and
- G. \*\*\* Amended per PC Mtg 9/1/07 \*\*\* The Planning Commission finds that based on the staff report, its attachments and the project design that for the issuance of this building permit for a single-family residence (Approximately 1700 sq. ft. foot print) and appurtenant structure (400 sq. ft. foot print) has been sited and designed to prevent

impacts that would significantly degrade the ESHA without otherwise substantially denying the reasonable use of the residentially zoned parcel; \*\*\* Amended per PC Mtg 9/1/07 \*\*\*

- H. \*\* Added per PC Mtg 9/1/07\*\* The building site and immediate surrounding area has been field checked and verified by the County Engineering staff regarding building location and terrain slopes (See Exhibit N attached). The building site slopes conform to County standards for development on slopes of 30% or less. The building site for the residence is on slopes of 8% to 12% and the accessory building is on slopes of 19%. \*\* Added per PC Mtg 9/1/07\*\*

## 6. CONDITIONS:

1. The project shall be developed in substantial accord with the submitted plot plan and elevation plans as submitted;
2. The project shall comply with the requirements of the California Fire Code applicable at the time of complete application (7/2007);
3. Prior to issuance of building permit to construct the residence and out building, an engineered grading and drainage plan for on-site and any off-site drainage improvements (if any) shall be submitted to the Community Development Department, Engineering and Surveying Division, for review and acceptance. The plan shall contain provisions for temporary sediment and erosion control and permanent sediment and erosion control post construction. The plan shall incorporate design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in storm water runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The plan shall address roof drains and their discharge and other impervious surfaces. The plan shall also include road improvements of Keller Avenue and Berry Street. Keller Avenue shall be widen from the intersection of Keller and Spruce Avenue and extend to the easterly corner of the property on Keller Avenue a distance of 158 feet. Keller Avenue shall be 20 feet wide with 4 inches compacted thickness of 3/4 minus crushed rock with 4 foot graded shoulders. Berry Street shall be improved for a distance of 100 feet from the intersection of Keller and Spruce for a width of 20 feet. It shall be 4 inches compacted thickness 3/4 minus crushed rock with 4 feet graded shoulder, and drainage ditches where needed. All improvements on Keller Avenue and Barry Street shall be located within the center of the 40 feet wide right-of-way. The plan shall be prepared by a California Registered Civil Engineer and submitted to the County Engineer for approval and include all calculations for surface water runoff. All improvements called for in the plan shall be the responsibility of the developer. The right-of-ways shall be monumented on at least one side at critical points (point of curve, point of tangent) by a person licensed to practice land surveying in the State of California. An encroachment permit shall be obtain from the Del Norte County Engineering and Surveying Division for any work within the Keller Avenue and Berry Street right-of-way;
4. The detached out building is prohibited from any rental or lease of the detached unit separate from rental of the main residential structure is prohibited and the use of the

- detached workshop as a residence with cooking or kitchen facilities is prohibited. The detached workshop shall not be converted into a residence or second unit;
5. Exterior lighting is required to comply with Title 21 Coastal Zoning – General Provisions- Chapter 21 Section 46.050 which requires that all direct light be confined to the subject premises. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward;
  6. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
  7. No development, as defined in Section 21.04.195 of Del Norte County Code shall occur within the areas labeled "AREA A" and "AREA B" on Exhibit M attached to this staff report except for:
    - A. The portion of the open space area labeled "Area A", 30 feet from the residence and outbuilding toward the ESHA, will be permitted to remove flammable vegetation and other combustible growth within 30 feet of each building allowing single specimens of trees or other vegetation is to be retained provided they are well-spaced, well pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
    - B. The area of the property labeled as "Area B" within 100 feet of the permitted structures can conduct the limbing of trees and removal of surface shrubs pursuant the fuel treatment guidelines of CDF including the removal of English Ivy;
  8. Prior to final issuance of the building permit, the applicant shall submit for the review and approval of the County, a deed restriction with a legal description and graphic depiction of the portion of the subject property affected by condition 7 above, as generally described above and shown on Exhibit M attached to this staff report. Upon approval by the County, the deed restriction shall be recorded at the applicant's expense;
  9. This entitlement is specifically conditioned on the applicant agreeing to indemnify and hold harmless the County of Del Norte, the Planning Commission of the County of Del Norte, the Board of Supervisors of the County of Del Norte, their officers, employees and agents against any and all claims arising out of the issuance of the entitlement and specifically against any expense arising from defending any legal actions challenging the value of time devoted to such defense by County officers, employees and agents and the amount of any judgment, including costs of suit and attorney fees, recovered against the County or any of its officers, employees or agent in such legal action. The County of Del Norte reserves the option to either undertake the defense to the applicant or to tender such defense to the applicant. Should the County tender such defense to the applicant and the applicant fail or neglect to diligently defend such legal action, the County may consider such failure or neglect to be a material breach of this condition and forthwith revoke this entitlement;
  10. It is the policy of the County of Del Norte that should any archaeological resources be found during site excavation for the proposed addition, construction activities shall be

halted until an evaluation of the find is made either by a qualified archaeologist or a representative of a local Rancheria or Rancherias;

11. The applicant or their representative shall contact the Smith River Rancheria two weeks prior to excavation of footings in order to allow the Rancheria to have an observer present during the initial excavation when the footings are dug and prior to pouring of the concrete. The applicant is responsible for any charge by the Rancheria for the time and expenses (if any) of the observer. Should the Rancheria determine that they do not wish to have an observer present; a written statement to that effect will meet the intent of this condition; and
12. A Notice of Conditional Approval shall be recorded at the time of issuance of the building permit at the applicant's expense. Such notice shall contain a signature block of the owners of record of the subject property and shall be notarized at the applicant's expense.

\*\* Added per PC Mtg 9/1/07 \*\*

\*\*\* Amended per PC Mtg 9/1/07 \*\*\*

## CALIFORNIA COASTAL COMMISSION

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



## APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: The Friends of Del Norte and James Snow

Mailing Address: P.O. Box 229

City: Gasquet CA

Zip Code: 95543

Phone: 707-954-2473

RECEIVED

AUG 24 2007

CALIFORNIA  
COASTAL COMMISSION

SECTION II. Decision Being Appealed

- Name of local/port government: Del Norte County
- Brief description of development being appealed:  
Coastal Development Permit for New Residence  
APP # B28832C TRASK

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

700 Berry St. APN 120-035-02  
Crescent City

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

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

EXHIBIT NO. 13

APPEAL NO.

A-1-DNC-07-036

TRASK

APPEAL (1 of 19)

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

## TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-DNC-07-036

DATE FILED: 8/24/07

DISTRICT: North Coast

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

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

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision:

Aug. 1, '07 hearing

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

B28832 C

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Adam & Tamara Trask

(913) 651-2975

915 Murphy Ave  
Crescent CA  
City 95531

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

(1)

JAMES SNOW  
601 SPRUCE ST.  
Crescent City, CA 95531

(2)

Eileen Cooper and Donna Thompson  
1093 Hwy 101 N  
Crescent City, CA 95531

(3)

(4)

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

**SECTION IV. Reasons Supporting This Appeal**

**PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Attached ~

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

**SECTION V. Certification**

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

Signature on File

*Boardmember FDN*

Signature of Appellant(s) or Authorized Agent

Signature on File

*8/23/07* Date:

*August 23, 07*

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

**Section VI. Agent Authorization**

I/We hereby  
authorize

\_\_\_\_\_ to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

**Friends of Del Norte, Committed to our environment since 1973**

*A nonprofit, membership based conservation group P.O. Box 229, Gasquet, CA 95543  
Advocating sound environmental policies for our region. friendsdelnorte@yahoo.com*



August 23, 2007

ATT: California Coastal Commission, North Coast, Jim Baskin, FAX 707-445-7877

REGARDING: Trask, Coastal Development Permit, B28832C, APN 120-035-02, 700 Berry St.

This 0.87 acre parcel consists mostly of undevelopable wetland/stream resource land, and is part of an extensive and biologically significant undeveloped wetland and stream complex. This parcel is part of a paper subdivision that was drawn without regard to Coastal Policy. These lots predate the Coastal Act. Most of these lots are entirely of wetland and stream character and cannot be developed. There simply is not enough developable area to avoid significant impacts to the Marhoffer wetland and stream corridor. That is why this sliver of land has remained undeveloped. Development proposals for this property and surroundings have been rejected before on the basis of conflict with Coastal resource policies that restrict development. The property owner is fully aware of the limitations of this property and area in general.

There is an extensive wetland and a steep stream corridor within and adjacent to the parcel. This stream and associated wetland is a part of the Marhoffer wetland complex that has specific LCP policy, as well as 100 foot buffer no disturbance LCP policy that extends to all wetland/riparian ESHA (Environmentally Sensitive Habitat Area) within the Coastal Zone of Del Norte. This is a special study area within the LCP, with important biological value. Marhoffer wetlands/branch streams have the following specific LCP policy requirements:

*6- Riparian vegetation along the course of Marhoffer Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.*

*3- New development adjacent to Marhoffer Creek wetlands shall not result in adverse levels of additional sediment, runoff, noise, wastewater or other disturbances.*

*2-A buffer strip shall be maintained in natural conditions around the Marhoffer creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.*

*9. Vegetation removal in the Marhoffer Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.*

This project is inconsistent with these Marhoffer Creek LCP policies.

Dept. of Fish and Game (DFG) guidelines indicate that a minimum no disturbance buffer should be measured at 50 feet from the top of the bank or slope break.

In this case, after walking along Keller Ave, the plot map does not appear accurate. The slope break appears much closer to the house and shed than indicated, approximately 10 feet from the roadway. The house and shed appear to extend slightly over sloped terrain. As shown on the plot map, there is insufficient room for the reduced minimum stream buffer recommended by DFG.

The biologist states that the closest area to the stream is 66 feet. However, most if not all of this area is below the slope break and within the sensitive steep stream corridor. There are large trees and shrubs along and below the slope break that are integral in holding the bank together and preventing erosion, sediment and runoff. The

placement of the structures should in no way necessitate the removal of native vegetation within the stream buffer and below the slope break, as stated within Marhoffer branch stream policies.

We are concerned that major vegetation removal below the slope break will be necessary, as indicated by the fire prevention requirements and project conditions. The requirements of the Dept. of Forestry and Fire Protection necessitate the clearing of 30 feet of vegetation around the structures. This removal will therefore occur within the buffer and below the stream bank itself. And between 30 feet to 100 feet surrounding the home and shed, the removal of shrubs and limbing of trees will occur. This clearing is likely to extend to the streambed itself. These fire protection conditions are in direct conflict with the LCP requirements, and will significantly degrade the stream corridor. Although the clearing of ivy would be beneficial, fire safety requirements would also necessitate the clearing and permanent suppression of mostly native vegetation.

We find that development is inappropriate for this tiny corner that borders a rich wetland complex. The biological assessment is incorrect in stating that no functional relationship exists between the building site and the ESHA. The project encroaches into the slope break and stream corridor. This wooded area has rich and moist soils, even in the middle of summer.

The biological assessment is incorrect in stating that, "as homes are already built in the immediate area, including the adjacent lot, there would be no significant increase in disturbance." The adjacent home is built at an adequate distance from the stream corridor. The stream corridor bends around the adjacent home, but it transverses the proposed building area. The ravine and stream corridor have not been encroached upon by the adjacent homes in general. The line of development along this segment of Keller Av has been to the south, and has not encroached upon the north wetland/stream ravine. A view of the aerial photo reveals the extensive and undeveloped nature of the marshland which extends along the north side Keller Av. The area north of this segment of Keller Av should remain undeveloped.

The biological assessment is incorrect in stating that the building site is on a flat. The buildings will extend slightly over sloped terrain. And the requirements for clearing and removal of major vegetation around 30 feet surrounding the home and shed, as well as limbing and clearing within the next 30-100 feet will in fact necessitate major vegetation removal within the already reduced stream corridor. This will negate most of the biological and water quality buffer value of the reduced stream and wetland buffer.

The biological assessment relies on an undisturbed reduced buffer strip of 60 feet (6) as being adequate. However this area will not be maintained as an undisturbed area but will actually be mostly cleared because of fire safe conditions. And furthermore, the biological assessment fails to point out that most of the buffer is below the slope break. The Dept. of Fish and Game requires a minimum 50 undisturbed reduced buffer as measured from the top of the bank or slope break. The Dept. of Fish and Game was not informed as to where the buffer was measured from, and any assessment is based on an inaccurate project description.

This subdivision predates the Coastal Act, and is impossible to execute without significant effects to the stream corridor and the associated biological values of this rich Marhoffer Creek marsh and stream area. We are sure to see inappropriate development continue to be proposed, as property values are high. Please deny the project.

Short of that, we recommend eliminating the shed altogether, as it sits too close to the stream. The shed is not essential as the house itself contains a garage. We recommend a significant reduction in the size of the home. This is a very large structure, and no attempt to be modest has been made. The structure contains 1,696 square feet downstairs, and 1,728 square feet upstairs. Unfortunately it is not possible to abandon Berry St. or Keller, as they provide access to other perhaps useable areas.

We list some relevant LCP policies which apply to this project. This project is inconsistent with the following:

LCP Policy, Marine and Water Resources,

LCP V11.D: Wetlands, 4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

- i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.
- ii.) Vegetation map
- iii.) Soils map

Review of this information shall be in cooperation with the Dept. of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Dept. of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

LCP Policy, Marine and Water Resources, VI. C:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.

5. Water conservation measures (e. g., flow restrictors, industrial recycling of usable waste waters) should be considered by present users and required in new development to lessen cumulative impacts on existing water systems and supplies.

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

LCP Marine and Water Resources V11. E. Riparian Vegetation 4.a

Riparian vegetation shall be maintained along streams, creeks, and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.

Thank you,

Eileen Cooper, Boardr

Signature on File

  
Joe Gillespie, President.

Attached: aerial photo and letters of appeal from James Snow



e-mail contains excellent photo copy  
to Jim Baskin

AUG. 13, '07

To: COASTAL COMMISSION - APPEALS DEPT.

I WISH TO APPEAL THE BUILDING PERMIT FOR 700 BERRY ST. (APN 120-035-02) CRESCENT CITY, CA. APPROVED BY THE DEL NORTE CO. PLANNING COM. AT THEIR AUG 1, 07 MEETING.

I DON'T KNOW IF IN THE APPEALS PROCESS A SITE VISIT CAN BE DONE BUT I BELIEVE IN THIS CASE OF "WHO-SAYS-WHAT" A SITE VISIT BY A THIRD PARTY WOULD QUICKLY CUT TO THE FACTS.

THIS SAME PARCEL WITH THE SAME PROPOSED HOUSE WAS PROPOSED IN 2004 BUT THE PERMIT <sup>APPLICATION</sup> WAS QUICKLY WITHDRAWN BECAUSE OF ALL THE ENVIRONMENTAL CONCERNS AND THE "IFFINISH" OF THE SLOPE OF THE PARCEL RELATIVE TO THE SLOPE-EDGE AND WETLAND BUFFER REQUIRED,

NOW AGAIN THE BASICALLY SAME PROPOSAL SEEMS TO BE ON THE GREASED-SLIDE, WHAT HAS CHANGED? I THINK THE "HUMAN-ELEMENT" IS BASICALLY THE ANSWER. TO BE FRANK, NOW ADAM + TAMARA TRASK ARE REQUESTING IT. TAMARA TRASK IS MIKE YOUNG'S DAUGHTER - THE SAME MR. YOUNG WHO IN THE LATE 70S - EARLY 80S WAS CRESCENT CITY'S, CITY-MANAGER/CITY ENGINEER AND WHO RETIRED A FEW YEARS AGO AS OUR COUNTY ENGINEER.

(2)

While I do have respect for Mr. Young's service to our community, I still have a problem with the very people he worked so closely with now just pushing at best a questionable project ~~through~~.

As examples of his ex-colleagues: Art Reeves (his ex-coworker) has questioned my patriotism for opposing this project. It seems Mr. Reeves knows the applicants on a personal level in that "Mr. Trash is a Lt. Colonel and his son is in the military and fighting for us in Iraq, <sup>and</sup> how can I oppose them?" Also Mr. Reeves submitted "Exhibit N" the note of our Planning Comm. Meeting (Aug. 1) - he stated "he had spent 3 hours that day cutting his way through stickers to do it." I wonder if he was on the County pay-roll when doing this? Wouldn't you think it would be the Trash's responsibility? Although my appeal is more based on concerns of the actual property and proximity to Marhofer Wetlands I believe Mr. Reeves close relationship is indicative of at minimum clouded judgment.

Now more to the physical-concerns of my appeal: #1 - I disagree with the biological study in that even now with no rain for

(3)

MONTHS THERE IS "STANDING-WATER" AT THE ~~THE~~ BOTTOM OF THE SLOPE. ALSO EVEN THIS LEVEL HAS BEEN AFFECTED BY OUR COUNTY'S PAST ACTIONS AROUND MARKOFFER WETLANDS REMOVING BEAVER DAMS — ANOTHER EXAMPLE OF THE MAXIMUM "NO LAW NORTH OF THE KUAMATH." / JUST-US MENTALITY VERSUS JUSTICE.

#2 - THE SLOPE OF THE AREA WHERE PROPOSED HOUSE WILL SIT WILL HAVE TO BE CLEARED OF THE VERY TREE'S HOLDING IT TOGETHER, FURTHER DE-GRADING THE SLOPE + DRAINAGE INTO THE WETLAND.

#3 - THE COUNTY SAYS THE PARCEL IS "ZONED" FOR 4 RESIDENCES. WELL "NO-WAY" - IT'S ALL MAINLY AT THE BOTTOM OF THE SLOPE IN SWAMP, EVEN THE PROPOSED FOOT-PRINT OF THE HOUSE IS HANGING OUT OVER THE ACTUAL SLOPE-EDGE, NOT TO MENTION THE SEPARATE GARAGE WHICH EVEN WITH ONLY A 12'6" SET-BACK FROM THE ROAD STILL REALLY STICKS OUT PAST THE SLOPE-EDGE.

Bottom Line: IF THE ~~PROPOSED~~ PROPOSED HOUSE CAN BE BUILT ON THIS LOT THEN WHAT'S NEXT - HOUSES BUILT IN WETLANDS ON STILTS?

AGAIN, I REQUEST A SITE-VISIT IF POSSIBLE AS I BELIEVE THE REPORTS SUBMITTED FOR BIOLOGICAL AND TERRAIN ARE QUESTIONABLE.

LASTLY, ALTHOUGH NOT STRICTLY PART OF MY APPEAL, MR. REEVES ALSO PUT A CONDITION OF BOTH BERRY ST. AND KEUER STREET'S WOULD ONLY BE REQUIRED TO BE 20' WIDE FROM THEIR CENTER-LINE AND GRAVEL ROADS, THESE ARE COUNTY ROADS NOT DRIVEWAYS AND I BELIEVE FURTHER PROOF OF A BIAS ON HIS PART TO HELP THE TRASK'S. ESPECIALLY SINCE KEUER STREET CAN'T BE DEVELOPED WITHOUT CONSIDERABLE ENGINEERING BECAUSE OF THE SLOPE OF THE LAND. JUST ANOTHER EXAMPLE OF FUDGING THE REQUIREMENTS FOR THIS PARCEL.

COME SEE FOR YOURSELF'S AND MAYBE BRING A FISH+GAME BIOLOGIST TO LOOK OVER MARHOFFER AND THE WETLANDS BY OUR AIRPORT, THIS COULD WELL BE A TEST-CASE FOR THE FUTURE.

CELL # 707-954-6923



Sincerely,  
JAMES SNOW  
601 SPRUCE ST.  
CRESCENT CITY, CA.  
95531

\* ATTACHING DEEDS TO SHOW SEQUENCE OF TITLE.

AS AN ASIDE NOBODY MENTIONED THAT THE TRASK WERE RELATED TO MIKE YOUNG. I DID THE RESEARCH.

ALSO AT OUR PLANNING Commission JACK REESE OUR RETIRED COUNTY SUPERVISOR WAS THE CHAIRPERSON OF THE PLANNING Commission, IN FACT HE WAS THE ONE WHO MADE THE MOTION TO APPROVE. I REALIZE WE HAVE A SMALL GENE-POOL BUT IT REALLY SEEMS INBRED!

Secondly EVEN THE REMOVAL OF THE BEAVER DAMS WAS A INSIDE-JOB IN THAT MR. WOODS AND STAFF WERE CLOSE FRIENDS APPARENTLY. IT WAS SUPPOSEDLY HIS PROPERTY THAT WAS THREATENED THAT WAS THE REASON FOR DAM REMOVAL, NO-WAY!

ccw # 954-6923  
Signature on File

JULY, 24, 2009

To:

I WISH TO BRING TO YOUR ATTENTION  
ACTIONS TAKEN BY COUNTY (DEI NERIC) EMPLOYEES  
USING COUNTY EQUIPMENT ON PRIVATE PROPERTY TO  
REMOVE A BEAVER DAM THAT WAS CONSTRUCTED  
TO BLOCK MARHOFFER CREEK/WETLANDS. ACTUALLY  
THEY REPEATED THE REMOVAL AT INTERVALS  
UNTIL FINALLY THE BEAVER WAS LYING DEAD  
BESIDE THE ROAD — END OF PROBLEM!

ALTHOUGH IT'S BEEN SEVERAL YEARS AGO THE  
EFFECT HAS BEEN TO PERMANENTLY LOWER  
THE WATER LEVEL IN THE WETLANDS BETWEEN  
18" - 24" CONSEQUENTLY SHRINKING THE AREA  
COVERED. NOW TO ADD INSULT TO INJURY,  
OUR LOCAL DEVELOPERS ARE APPARENTLY TAKING  
TO USE THE SHRUNKEN PERIMETER AS A DATUM-  
LINE TO MEASURE THEIR BUFFER-ZONE FROM.

I QUESTION THEIR AUTHORITY FOR DOING SO. AND  
WOULD LIKE A AUDIT OF ANY PERMITS ISSUED AND  
THE REASONS THAT WOULD HAVE BEEN USED. I  
BELIEVE A "CLOSE-LOOK" WOULD BE REVEALING  
OF A CERTAIN "GOOD-OLD-BOYS" VERSUS JUSTICE!

I'LL KEEP THIS LETTER SHORT BUT I AM  
AVAILABLE FOR A WALK-THROUGH OR SIT-DOWN FOR  
MORE SPECIFICS.

Signature on File

Cell # 707-054-6423

THANK YOU,

JAMES SNOW  
601 SPRUCE ST.  
CRESTVIEW CITY, CA 95531

COPIES TO: BOARD OF SUPERVISORS, FISH & GAME, COASTAL-COMMISSIONER,  
COUNTY PLANNING DEPT.

Order No.  
Escrow No.  
Loan No.

WHEN RECORDED MAIL TO:  
Mr. & Mrs. Michael J. Young  
711 J Street  
Crescent City, CA. 95531

DEL NORTE COUNTY TITLE CO.

AUG 8 11 39 AM '88

DEL NORTE COUNTY  
COUNTY CLERK  
BY *[Signature]*

88 3340

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO

Same as Above

DOCUMENTARY TRANSFER TAX \$ 11.00

XX. Computed on the consideration or value of property conveyed, OR  
Computed on the consideration or value less liens or encumbrances  
remaining at time of sale.

*[Signature]* DEL NORTE COUNTY TITLE CO.  
Signature of Declarant or Agent determining tax Firm Name

### GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

WE, JOE H. LEE, who acquired title as JOE H. LEE, a widower and ALICE LEE, husband and wife

hereby GRANT(S) to MICHAEL J. YOUNG and MARILYN M. YOUNG, husband and wife,  
as joint tenants

the real property in the City of  
County of Del Norte

State of California, described as

LOTS 104, 105, 106, 107, 108 and 109 Pebble Beach Tract Unit One according to the map  
thereof filed in the office of the County Recorder of Del Norte County, California on  
October 30, 1926 in Book 2 of Maps, page 43.

APN 120-035-02

Dated June 30, 1988

STATE OF CALIFORNIA  
COUNTY OF Del Norte

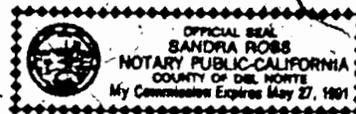
On July 27, 1988  
before me, the undersigned, a Notary Public in and for said State, per-  
sonally appeared Joe H. Lee and  
Alice Lee

personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/she/they executed  
the same.

WITNESS my hand and official seal.

Signature Sandra Boss

Joe H. Lee  
Alice Lee



(This area for official notarial seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

1002 (6/82)  
338 PAGE 38

Order No.  
Escrow No.  
Loan No.

WHEN RECORDED MAIL TO:

AADAM & TAMARA TRASK  
915 MURPHY AVE  
CRESCENT CITY, CA  
95531

98 5763

RECORDED & INDEXED  
Tamara Trask  
OFFICE 5763-98

Nov 6 2 02 PM '98

DEL NORTE COUNTY, CA  
JOHN J. WILSON  
COUNTY CLERK  
BY [Signature]

SPACE ABOVE THIS LINE FOR RECORDERS USE

MAIL TAX STATEMENTS TO:

SAME AS ABOVE

DOCUMENTARY TRANSFER TAX \$ NO CONSIDERATION  
X Computed on the consideration or value of property conveyed OR  
Computed on the consideration or value less fees or encumbrances  
remaining at time of sale.

The undersigned Grantor declares  
Signature of Declarant or Agent determining tax - Print Name

### GRANT DEED

APN 120-035-02

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

MARILYN M. YOUNG, a married woman, as her sole and separate property

hereby GRANT(S) to

AADAM TRASK and TAMARA TRASK, husband and wife, as joint tenants

the real property in the City of  
County of Del Norte

State of CALIF, described

as LOTS 104, 105, 106, 107, 108 and 109 PEBBLE BEACH TRACT UNIT ONE  
according to the map thereof filed in the Office of the County Recorder  
of Del Norte County, California on October 30, 1926 in Book 2 of Maps, page  
43.

Dated November 6, 1998

*Marilyn M. Young*  
MARILYN M. YOUNG

STATE OF CALIFORNIA )  
COUNTY OF DEL NORTE )

On November 6, 1998 before  
me, ROSE S. WILSON  
personally appeared MARILYN M. YOUNG

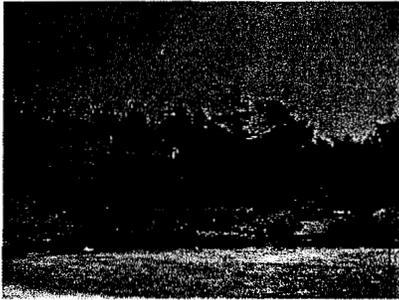
personally known to me (or proved to me on the basis of satisfactory  
evidence) to be the person(s) whose name(s) is/are subscribed to the  
within instrument and acknowledged to me that he/har/they executed the  
same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s) or the entity upon behalf of  
which the person(s) acted, executed the instrument.  
WITNESS my hand and official seal.

ROSE S. WILSON  
Comm. #1073179  
NOTARY PUBLIC  
DEL NORTE COUNTY, CALIFORNIA  
My commission expires Sept. 25, 1999

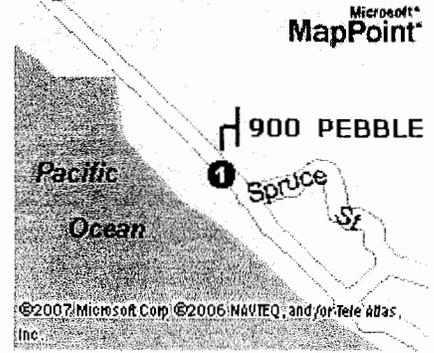
Signature *Rose Wilson*  
ROSE S. WILSON, NOTARY PUBLIC

BOOK 497 PAGE 657

**LISTING DETAIL**



MLS # **60955**  
 Status **ACTIVE**  
 Type **SINGLE FAMILY**  
 Address **900 PEBBLE BEACH**  
 Address 2  
 City **CRESCENT CITY**  
 State **CA**  
 Zip **95531**  
 Area **CRESCENT CITY**  
 Class **RESIDENTIAL**  
 Asking Price **\$1,100,000**



**GENERAL**

# of Bedrooms	<b>4</b>	Number of Acres	<b>1.00</b>	Water/Sewer	<b>Public Wtr Swr</b>
# of Bathrooms	<b>2</b>	Zoning	<b>r1b6-rca-2(wb)</b>	Year Built	<b>1977</b>
View	<b>Ocean View</b>	Paved Streets Y/N	<b>Yes</b>	Mobile Size	
Levels	<b>2 Story</b>	Approx Lot Dimensions		Mobile ID#	
Garage Type	<b>Detached Garage</b>	Subdivision	<b>Unknown</b>	Mobile Model	
Garage Capacity	<b>2</b>	School District	<b>Other</b>	Mobile Home Park	
SQFT	<b>1501 - 2000</b>	Tax ID		Mobile Rent \$	
Heating	<b>Other</b>	Approx SqFt	<b>1986</b>	Mobile Space #	
		Price Per SQFT	<b>553.88</b>		

**FEATURES**

TOPOGRAPHY	Level	EXTERIOR	<b>Redwood</b>	INTERIO	<b>Bath-Master, Bay Window, Cabinets</b>
EXTERIOR CONDITION	Excellent	SEWER	<b>Public Water, Sewer Connected</b>	R FEATU	<b>In Garage, Cabinets In Utilities,</b>
CONSTRUCTION	Frame	WATER		RES	<b>Cable, Carpet, Central Vacuum,</b>
STREET/ROAD INFORMATION	<b>Paved</b>	UTILITIES	<b>Cable, Electric, Stove-Electric</b>		<b>Drapes/Curt/Blinds, Extra Storage,</b>
		EXTERIOR	<b>Decking Open, Fencing/Partial,</b>		<b>Fan-Ceiling, Floors-Tile, Garage</b>
		FEATURE	<b>Garden Area, Gutters, Kennel,</b>		<b>Door Opener, Lighting-Recess,</b>
		S	<b>Landscaped, Lighting, Patio/Open</b>		<b>Smoke Detector, Utility Closet,</b>
			<b>, Sprinkler System</b>		<b>Utility Room, Walk-in Closets, Walk</b>
				APPLIAN	<b>Compactor, Dishwasher, Oven/Built</b>
				CES	

**REMARKS**

EXCEEDING THE HIGHEST EXPECTATIONS, THIS PEBBLE BEACH HOME DEFINES CHARM, CHARACTER AND QUALITY, IMPECCABLY REFURBISHED . WALK 100 FT. TO OCEAN. VIEW THE SUNSETS FROM EACH LARGE WINDOW FRONT. UNIQUE TRAVERTINE FLOORS, GOURMET KITCHEN. OPEN BUT INTIMATE FLOOR PLAN WITH TASTEFULLY USE OF WOODS AND STONE. SPECIAL LIGHTING WITH DIMMERS. BEAUTIFUL LANDSCAPING SURROUNDS THIS MAGNIFICANT HOME. UNPARRALLED VIEWS OF CASTLE ROCK AND PACIFIC OCEAN.



**SHIRLEY A SELMAN**  
 (707) 218-5845  
 shirlselman@charter.net

**CENTURY 21**  
**HAMILTON REALTORS**  
 CRESCENT CITY, CA 95531



8/17/07

TO: ERNIE PERRY

THE RESIDENCE AT 900 ~~LEA~~ BEACH IS FOR SALE. (MR. WOODS OLD PLACE)

THE REALTOR HAS IT LISTED WITH PUBLIC WATER + SEWER. COULD YOU DOUBLE-CHECK THIS AND IF IT IS CORRECT LET ME KNOW WHEN THE CONNECTIONS WERE MADE.

I'VE ATTACHED THE REALTORS INFO. SHEET.

# 954-6923

Signature on File

*[Handwritten signature]*

THANKS

JAMES SNOW  
601 SPRUCE ST.  
C.I.E. CA.

RECEIVED

AUG 17 2007

DN COUNTY BUILDING INSPECTION

(over) →

FRI 8/17/07

① I TURNED IN TO Co. AT APPROX. 10:15 AM.

2)\* GRICE CALLED ME AT 11:35 WITH THE ANSWER  
"1978-79" - WE DISCUSSED PR BUILT 1977 = "YEAR!  
THAT'S ABOUT RIGHT."

BUT THERE'S SOMETHING IN HIS VOICE TONE - SOMETHING  
WRONG? = (REF. HEIDE TOLD ME THE DAMS WERE REMOVED  
BECAUSE WATER LEVEL WAS AFFECTING HIS SONIC SYSTEM ???  
ALWAYS BEFORE IT WAS "FLOODING HIS DRIVEWAY" ???)

SEPT. 14, '07

TO: Tom BASKIN / Coastal Commission

I WANT TO THANK YOU FOR ACTUALLY COMING TO CRESCENT CITY FOR A HANDS-ON LOOK AT MY APPEAL, CONCERNING APN# 120-035-02.

I ONLY HOPE THAT YOU GOT TO LOOK AT THE CANAL WHERE MARHOFFER CREEK/WETLANDS DRAINS INTO THE OCEAN. AS I STATED IN MY APPEAL, THE REPEATED DESTRUCTION OF THE BEAVER-DAM HAS HAD A LONG TERM DEVASTATING EFFECT ON THE VIBRANCY OF THAT AREA AND HAS PERMANENTLY SCRAY-RIGGED IT'S BORDERS, (I LIKE IT TO DRAWING A BATH-TUB,) BOTH BIOLOGICALLY AS WELL AS WILD-LIFE - IT SIGNIFICANTLY ALTERED THE AREA.

IN FACT, ASIDE FROM MY IMMEDIATE CONCERNS, I THINK A WHOLE NEW ENVIRONMENTAL STUDY SHOULD BE CONDUCTED TO CONTRAST IT'S PRESENT CONDITION TO IT'S PAST. ALTHOUGH I'VE ONLY LIVED HERE FOR 16 YRS, AS A LAY-PERSON IT'S OBVIOUS THAT THE WETLANDS HAVE SUFFERED SERIOUS CHANGE IN JUST THIS SHORT TIME, THESE WILFUL ACTS SHOULD BE ADDRESSED AND CORRECTED.

Thank You,

JAMES SNOW  
601 SPRUCE ST.  
CRESCENT CITY, CA. 95531

RECEIVED

SEP 18 2007

CALIFORNIA  
COASTAL COMMISSION

(909) 954-6923

Signature on File

EXHIBIT NO. 14  
APPEAL NO.  
A-1-DNC-07-036  
TRASK  
APPELLANT'S  
CORRESPONDENCE