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Filed:	November 6, 2007
49th Day:	December 25, 2007
Staff:	Melissa B. Kraemer
Staff Report:	November 30, 2007
Hearing Date:	December 14, 2007

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE

APPEAL NO.:	**A-1-MEN-07-047**
APPLICANT:	**William & Marcia McConnell**
LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
PROJECT LOCATION:	In the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on the south side of Navarro Way (CR 553), approximately 250 feet southwest of its intersection with State Highway 1, on a west-facing slope near the ocean, at 14820 Navarro Way (APN 132-020-05).
PROJECT DESCRIPTION:	Construction of a 1,336-square-foot single-story single family residence with a maximum average height of 20 feet above finished grade; 327 square feet of decks; 85 square feet of covered porch; a 305-square-foot detached garage with a maximum average height of 13 feet above finished grade; 1,200 square feet of concrete driveway; installation of an underground propane tank, 24-square-foot trash enclosure, and an on-site septic system; and connection to utilities and community water.
APPELLANT:	Commissioners Pat Kruer and Sara J. Wan
SUBSTANTIVE FILE DOCUMENTS:	1) Mendocino County CDP No. 76-2006 2) Mendocino 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 appellants have 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, involves construction of a 1,336-square-foot single-story single family residence with a maximum average height of 20 feet above finished grade; 327 square feet of decks; 85 square feet of covered porch; a 305-square-foot detached garage with a maximum average height of 13 feet above finished grade; 1,200 square feet of concrete driveway; installation of an underground propane tank, 24-square-foot trash enclosure, and an on-site septic system; and connection to utilities and community water. The project site is located in the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on the south side of Navarro Way, approximately 250 feet southwest of its intersection with State Highway 1, on a west-facing slope near the ocean, at 14820 Navarro Way (APN 132-020-05).

The Mendocino County Coastal Permit Administrator (CPA) denied the project on June 28, 2007. On July 3, 2007, the applicants appealed the CPA's denial to the Mendocino County Board of Supervisors. On October 2, 2007, the Board conditionally approved the project. The Board of Supervisors' approval was appealed to the Coastal Commission in a timely manner, on November 6, 2007. The primary issues raised by the appeal involve the project's inconsistency with the certified Mendocino County LCP regarding (1) environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) grading, erosion, and runoff.

1. Environmentally Sensitive Habitat Areas

The subject property, which is approximately 0.48-acre in size, is located on a west-facing marine terrace and extends down a coastal bluff, but it is not the most westward lot on the bluff; there is a neighboring lot designated as Open Space under separate ownership located halfway up the bluff between the subject lot and the ocean. The entire subject lot is sloped westward, with slopes ranging from ~14 percent on the upper terrace to ~84 percent on the steep ocean bluff. Slopes within the approved project footprint range from 22.5 to 41.5 percent.

The vegetation communities on the property include Nonnative Grassland on the eastern, upper-most, more gently sloping portion of the parcel, and Coastal Scrub on the progressively steeper slopes. A habitat assessment and survey conducted on the property by BioConsultant LLC in April 2006 for the Point Arena mountain beaver (PAMB) reports "good to excellent quality" habitat with an estimated 200+ active PAMB burrows throughout the Coastal Scrub habitat on the parcel. Burrows also were observed in the disturbed, eastern portion of the parcel, where mowing and shrub removal reportedly occurred in late 2005 or early 2006 (prior to the applicants owning the property), altering the habitat from Coastal Scrub to Nonnative Grassland. Point Arena mountain beaver (*Aplodontia rufa nigra*) is a federally-listed endangered species protected under the Endangered Species Act of 1973. The applicants established, in cooperation with the

U.S. Fish and Wildlife Service (FWS), a deed-restricted conservation easement over the approximately western half of the property, which prohibits certain activities within the deed-restricted PAMB habitat on the parcel, including vegetation alteration or removal, ground disturbance, and rodent control. The deed restriction also requires that a barrier at least 18-inches tall and constructed of rock, wood, or other durable material be established between the deed-restricted habitat area and the remainder of the parcel to prevent domestic pets and other disturbance from impacting PAMB habitat.

The area that was deed-restricted as PAMB habitat by agreement with FWS does not necessarily represent all of the PAMB ESHA habitat pursuant to the LCP and the Coastal Act. The local record indicates that some clearing of vegetation that may have affected PAMB habitat was performed without permits some time between October of 2005 and April of 2006. Any area that was converted from PAMB ESHA without the benefit of any necessary coastal development permit authorization must be considered in evaluating how the new proposal affects PAMB ESHA. The County's findings for approval do not address this possible additional PAMB habitat.

The appeal contends that approval of the subject development is inconsistent with the ESHA policies of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, because (a) the development would be constructed adjacent to (within 5 to 15 feet of) endangered species ESHA (PAMB habitat) without maintaining a minimum 50-foot buffer, (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA buffer, and (c) the County has not demonstrated that the approved development complies with any guidelines and management practices established by the CDFG for the protection of the endangered PAMB. The approved building site for the residence is located 15 feet from the deed-restricted Point Arena mountain beaver (PAMB) habitat, and the approved site for the septic tank is located 5 feet from the designated PAMB habitat.

As the County findings do not explain how locating the development within 5 feet of the deed restricted habitat area is consistent with the minimum 50-foot buffer requirement required by the Mendocino County certified LCP, staff believes that the project as approved raises a substantial issue of conformance with the above-cited policies.

In addition, the County staff report, which recommended denial of the project based on its inability to make the required findings for approval, contends that there is a feasible site available on the parcel for a single family residence and associated structures. Locating the structures on the flatter, easternmost portion of the parcel near Navarro Way and locating the septic system downslope from the structures would not only allow for a minimum 50-foot setback between the nearest portion of the development (the leachfield area) and the ESHA, but also would reduce the amount of necessary grading for the driveway by not having to extend the driveway 125 feet down the slope to the detached garage. The applicant argues that the County staff's recommended "feasible alternative" conflicts both with the applicants' objectives and the Irish Beach Community CC&Rs. However, the County's decision to approve or deny the coastal development permit is independent of and unrelated to the subdivision's CC&Rs; instead, the

County's decision must be based on conformance of the development with the certified LCP and the public access policies of the Coastal Act.

Furthermore, the County's approval does not address what CDFG guidelines and management practices apply to protect the PAMB ESHA and how the approved project conforms with these guidelines and practices, as required by LUP Policy 3.1-18. The CDFG was consulted on the project by the County and recommended that a 50-foot buffer be established to protect the ESHA. The County's approval of the residence 15 feet from the ESHA and the septic tank 5 feet from the ESHA directly conflicts with CDFG's minimum buffer width recommendation.

Thus, because (1) a 5-foot buffer was approved and LUP Policy 3.1-7 does not allow ESHA buffers to be reduced to less than 50 feet and the Board of Supervisors' findings for approval of the development do not address how the approved project is consistent with the ESHA buffer policies, and (2) the development has not been demonstrated to conform with CDFG guidelines and practices for the protection of endangered PAMB habitat, the degree of legal and factual support for the County's approval of the project is low. Furthermore, as the cumulative impact of the loss of rare and endangered species over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue.

Therefore, for all of the above reasons, staff believes that the project, as approved by the County, raises a substantial issue of conformance with the ESHA protection provisions of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020.

2. Geologic Hazards

The appeal contends that the development approved by the County would be located on a bluff face, on the seaward side of the bluff edge, according to the bluff-edge determinations of both Dr. Mark Johnsson, the Coastal Commission's staff geologist, and County planning staff. The appeal contends that approval of development on a bluff face is inconsistent with the certified LCP, which prohibits development on bluff faces, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Furthermore, the appeal contends that the approved project is inconsistent with LCP policies that require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years).

The approved building site for the residence is in line with existing residences to the immediate north and south of the parcel. According to assessor's records, the residence to the immediate south (APN 132-020-06) has been in existence since 1972, predating the Coastal Act. The residence to the immediate north (APN 132-020-04) was approved by the Coastal Commission in 1991 (CDP No. 1-91-55). The project was approved with a 50-foot geologic setback requirement; at that time the bluff edge on that particular property was determined to be approximately 176 feet south of Navarro Way.

The applicants' consulting engineer, Paoli Engineering & Surveying, disagrees with Dr. Johnsson's contention that the entire lot is seaward of the bluff edge. Paoli acknowledges that

the subject parcel is located on a marine terrace, but contends that an older marine terrace located to the west of the subject lot and much lower down the slope from the property at approximately 120 feet in elevation. This older terrace, Paoli contends, is approximately 135 feet wide, and it is on this older terrace that the bluff edge is located. Paoli contends that the bluff edge is located approximately 400 feet west of the approved development site. This bluff edge determination is based on consideration of geologic processes such as plate tectonics and global warming, an analysis of 1964 and 2000 aerial photos, and geologic observations of the subject site and other sites in the region.

The certified LCP does not include a definition of "bluff edge." Dr. Johnsson's bluff edge determination is based on the definition of bluff edge found in Section 13577(h) of the Commission's regulations. Dr. Johnson concluded that because the coastal bluff at the subject site is broadly rounded near the top and levels off very nearly at the location of Navarro Way, applying the definition of Section 13577(h), the entire lot is on the bluff face. The Coastal Permit Administrator, in his findings for denial of the project, which was subsequently overturned on appeal by the Board of Supervisors, agrees with Dr. Johnsson's determination of bluff edge "because protection of public welfare is assured by taking the most conservative approach, and because the determination appears to be based on the application of an appropriate definition." Yet in its approval of the project on appeal, the County's findings fail to address the project's consistency with the requirements of both (1) LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1) that an approved building site will assure safety from bluff erosion and cliff retreat for the economic lifespan of the approved development, as well as (2) LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), as the approved development is located on the bluff face and is not a type of development that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Therefore, a substantial issue is raised as to how the approved project conforms with the requirements of LCP policies prohibiting development on bluff faces.

Paoli's recommended geologic setback and calculation of bluff retreat rate is based on aerial photo analysis. Paoli calculated bluff retreat rate to be approximately 0.83 feet per year and determined the 75-year blufftop setback distance to be 62 feet, which would locate the geologic setback approximately 350 feet west of the approved development. However, this bluff retreat rate evaluation did not include a quantitative slope stability analysis (QSSA), which is the necessary method for determining a site's "factor of safety," or the numerical "confidence" in the stability of the slope. Typically, the development setback line to assure safety from marginally stable slopes is simply the line corresponding to a "factor of safety" of 1.5.

Because the bluff retreat evaluation did not include a QSSA, a substantial issue is also raised as to whether the "factor of safety" for the subject parcel is greater or less than (or equal to) the recommended safety standard of 1.5. If it is less than 1.5, permitting development on the site would be in conflict with LUP 3.4-7 and CZC §20.500.020, which require that new structures be set back a sufficient distance from the bluff edge to ensure their safety from bluff erosion and cliff retreat during their economic life spans, and with CZC §20.500.010, which requires that new development shall minimize risk to life and property, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas. QSSAs have consistently been required by the

Commission for projects on blufftop parcels for a number of years, since the method satisfies generally accepted scientific standards and provides reliable information regarding slope stability.

Thus, for all of the above reasons, staff believes that the project, as approved by the County, raises a substantial issue of conformance with the geologic hazard provisions of the certified LCP including, but not limited to, LUP Policies 3.4-7 and 3.4-10 and CZC Sections 20.500.010 and 20.500.020.

3. Grading, Erosion, & Runoff

The appeal contends that the approved development is inconsistent with LCP policies regarding grading, erosion, and runoff, which require that new development be designed to best fit the topography, soils, and other conditions of the site. According to the appeal, rather than locating the development on the least steeply sloping portions of the site where grading would be minimized and development would better fit the topography, the approved residence will be located on the steepest and most westward portion of the parcel outside of the deed-restricted PAMB habitat area where much greater grading will be required. The appeal contends that the amount of necessary grading would be greatly reduced if the residential and garage structures were to be located near the road and the leach fields were to be located west of the structures, as the approved driveway will be approximately 125 feet long and 12 feet wide and will necessitate a retaining wall on its uphill side.

The County staff report, which recommended denial of the project based on its inability to make the required findings for approval, contends that there is a feasible site available on the parcel for a single family residence and associated development. Locating the structures on the flatter, easternmost portion of the parcel near Navarro Way and locating the septic system downslope from the structures would not only reduce the amount of necessary grading for the driveway by not having to extend the driveway 125 feet down the slope to the detached garage, but also it would allow for a minimum 50-foot setback between the nearest portion of the development (the leachfield area) and the ESHA. The County's findings for approval do not address how the approved development will be planned to fit the topography, soils, geology, hydrology, and other conditions existing at the site to keep the grading to an absolute minimum.

The applicants, at the Board of Supervisors appeal hearing, proposed an alternative design of the project that would reduce the amount of grading necessary by approximately 130 cubic yards to a total of 75 cubic yards. However, the project description was not amended to incorporate this alternative design, as the notice of final action indicates that the approved project is the original project described in the County staff report. Therefore, notwithstanding the possibility of locating the house on the flatter area of the property near the road to reduce grading, an alternative for reducing the amount of grading even at the approved location may exist.

Given the existence of alternatives that would significantly reduce the amount of grading required for the approved project, the degree of legal and factual support for the County's decision is low. Therefore, for all of the above reasons, staff believes that the project, as

approved by the County, raises a substantial issue of conformance with the grading, erosion, and runoff provisions of the certified LCP including, but not limited to, CZC Section 20.492.010(B).

In conclusion, for all of the reasons discussed above, staff recommends that the Commission find that the contentions are valid grounds for an appeal, and that the contentions raise a substantial issue of conformity of the approved development with the certified LCP.

The motion to adopt the staff recommendation of Substantial Issue is found on Page No. 8.

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 three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any 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 which constitute 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 the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located (1) between the sea and the first public road paralleling the sea, and (2) within 300 feet of the top of the seaward face of a coastal bluff.

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 appellants, 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, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and the public access policies of the Coastal Act.

2. Filing of Appeal

One appeal was filed from Commissioners Pat Kruer and Sara Wan on November 6, 2007 (Exhibit No. 16). The appeal was filed with the Commission in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action on October 23, 2007 (Exhibit No. 15).

I. STAFF RECOMMENDATION, MOTION & RESOLUTION ON SUBSTANTIAL ISSUE

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-MEN-07-047 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-MEN-07-047 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 the public access and recreation policies of the Coastal Act.

II. FINDINGS & DECLARATIONS

The Commission hereby finds and declares the following:

A. APPELLANT'S CONTENTIONS

The Commission received one appeal of the County of Mendocino's decision to conditionally approve the development from Commissioners Pat Kruer and Sara Wan. The County of Mendocino approved Coastal Development Permit (CDP) No. 76-2006 for development of a single-story single family residence, decks, covered porch, detached garage, concrete driveway, underground propane tank, trash enclosure, on-site septic system, and connection to utilities and community water. The approved development is located in the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on a west-facing slope near the ocean, at 14820 Navarro Way.

The appeal raises three main contentions alleging inconsistency of the approved project with the County's certified LCP. The appeal's contentions are summarized below, and the full text of the appeal is included as Exhibit No. 16.

1. Environmentally Sensitive Habitat Areas (ESHA)

The appeal contends that approval of the subject development is inconsistent with the ESHA policies of the certified LCP because (a) the development would be constructed adjacent to (within 5 feet of) endangered species ESHA [Point Arena mountain beaver (PAMB) habitat] without maintaining a minimum 50-foot buffer, as is required by the LCP; (b) the County did not fully evaluate feasible alternative sites or configurations for the development that would avoid locating development within the ESHA buffer; and (c) the County has not demonstrated that the approved development complies with any guidelines and management practices established by the California Department of Fish and Game (CDFG) for the protection of the endangered PAMB.

2. Geologic Hazards

The appeal contends that the development approved by the County would be located on a bluff face, on the seaward side of the bluff edge, according to the bluff-edge determinations of both Dr. Mark Johnsson, the Coastal Commission's staff geologist, and County planning staff. The appeal contends that approval of development on a bluff face is inconsistent with the certified LCP, which prohibits development on bluff faces, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to

serve coastal-dependent industry. Furthermore, the appeal contends that the approved project is inconsistent with LCP policies that require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years).

3. Grading, Erosion, & Runoff

The appeal contends that the approved development is inconsistent with LCP policies regarding grading, erosion, and runoff, which require that new development be designed to best fit the topography, soils, and other conditions of the site. According to the appeal, rather than locating the development on the eastern, most gently sloping portions of the site where grading would be minimized and development would better fit the topography, the approved residence would be located on the steepest and most westward portion of the parcel outside of the deed-restricted PAMB habitat area (a deed-restricted conservation easement was established over the PAMB habitat on the western half of the property in an agreement with the U.S. Fish and Wildlife Service in 2006). The appeal contends that the amount of necessary grading would be greatly reduced if the residential and garage structures were to be located near the road and the leach fields were to be located west of the structures rather than the other way around, as was approved by the County, as the approved driveway will be approximately 125 feet long and 12 feet wide and will necessitate a retaining wall on its uphill side.

B. LOCAL GOVERNMENT ACTION

On June 28, 2007, the Mendocino County Coastal Permit Administrator denied the project. On July 3, 2007, the applicants appealed the Coastal Permit Administrator's denial to the Mendocino County Board of Supervisors. On October 2, 2007, the Board conditionally approved Coastal Development Permit (CDP) No. 76-2006 for construction of the project.

The Board imposed nine special conditions of approval, four of which pertains to the appeal's three main contentions:

- **County Special Condition No. 1** requires that, prior to issuance of the building permit, a landscape plan be submitted for approval by the Coastal Permit Administrator in compliance with the PAMB deed restriction (a deed-restricted conservation easement was established over the PAMB habitat on the western half of the property in an agreement with the U.S. Fish and Wildlife Service in 2006), which prohibits alteration or removal of existing vegetation. Special Condition No. 1 also requires planting of local native grasses and shrubs for erosion control purposes (in compliance with the recommendations of the consulting engineer).

- **County Special Condition No. 2** requires that, prior to issuance of the coastal development permit (CDP), the applicants execute and record a deed restriction, which, among other things, prohibits the construction of a bluff or shoreline protective device to protect the approved structures in the event that they are subject to damage or other erosional hazards in the future.

- **County Special Condition No. 3** requires that, prior to issuance of the CDP, a grading plan approved by a California licensed architect or engineer be submitted for approval by the Coastal Permit Administrator, which clarifies the total amounts and locations of proposed cut and fill, requires adherence to the Erosion Control Plan development by the consulting engineer, and restricts ground disturbing activities to the dry season period of July 1 through October 31.

- **County Special Condition No. 5** designates the PAMB habitat on the western half of the parcel as ESHA, requires its protection from development and disturbance in perpetuity, and restricts development, other than that approved by the County, within the 50-foot buffer area surrounding the designated PAMB habitat. Special Condition No. 5 further restricts ground-disturbing activities during the PAMB breeding season (December 15 through June 30); encourages exclusion of domestic pets from the designated PAMB habitat area; requires, prior to issuance of the building permit, erection of a temporary barrier between the PAMB habitat area and the remainder of the parcel; and requires erection of a permanent fence at least 36 inches tall within six months after initiation of construction activities, which is to be inspected for condition compliance prior to final clearance of the building permit.

The County issued a Notice of Final Action, which was received by Commission staff on October 23, 2007 (Exhibit No. 15). The County Board of Supervisors' approval of the project was appealed to the Coastal Commission in a timely manner, on November 6, 2007, within 10-working days after receipt by the Commission of the Notice of Final Local Action on October 23, 2007 (Exhibit No. 16).

C. PROJECT DESCRIPTION

The approved development is located in the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on the south side of Navarro Way (CR 553), approximately 250 feet southwest of its intersection with State Highway 1, on a west-facing slope near the ocean, at 14820 Navarro Way (APN 132-020-05) (see Exhibit Nos. 1-4).

The development as approved by the County involves construction of a 1,336-square-foot single-story single family residence with a maximum average height of 20 feet above finished grade; 327 square feet of decks; 85 square feet of covered porch; a 305-square-foot detached garage with a maximum average height of 13 feet above finished grade; 1,200 square feet of concrete driveway; installation of an underground propane tank, 24-square-foot trash enclosure, and an on-site septic system; and connection to utilities and community water (see Exhibit No. 5).

The approved building site for the residence is located on the most westward portion of the parcel outside of the deed-restricted Point Arena mountain beaver (PAMB) habitat area, approximately 15 feet from the ESHA. This portion of the parcel is steep, with maximum slopes exceeding 40 percent. A steep driveway 125 in length, which includes a 3-foot retaining wall on its east side, will provide access to the detached garage, which will be located just east of the

residence. The approved site for the septic leach field is located on the flattest portion of the parcel, near the road. The approved site for the septic tanks is located 5 feet from the ESHA, on the west side of the residence (see Exhibit No. 5).

The development is located within the Irish Beach Community Subdivision, which was subdivided in 1965, prior to enactment of the Coastal Act. As such, the development is subject to the Irish Beach Community CC&Rs, which include minimum building standards on view corridors (relative to views to the ocean and scenic coastal areas from other lots in the subdivision), minimum building size (1,200 square feet, excluding garage, porch, and decks), setback requirements (minimum 28-foot side yard setbacks between residences), height limitations (structure height is not to exceed the height of a horizontal plane 16 feet above the mean natural grade at any point on the perimeter foundation), off-street parking (each development is to include the location of a 2-car garage, whether constructed or not), roof slopes (minimum 4:12 pitch), and other standards (see Exhibit No. 6).

The Irish Beach Architectural Design Committee granted five variances from the CC&Rs to the applicants for the approved development, including (a) height variance of 2'4" above 16-foot limit; (b) north side yard setback variance; (c) no stepped foundation on a steeply sloped lot; (d) roof pitch of 3:12 instead of 4:12; and (e) single car garage instead of 2-car garage (see Exhibit No. 6).

In addition to the project components described above, the County approved the applicants' erosion control plan prepared by Paoli Engineering & Surveying and dated June 11, 2007 (Exhibit No. 7), which includes the following erosion control measures: (1) using concrete pier and grade beam foundations to help eliminate soil creep and erosion within the building envelope; (2) locating the septic system on the least steep part of the lot (the eastern end); (3) replanting all cut and fill slopes with erosion-controlling vegetation; (4) paving the driveway with concrete to eliminate erosion on the roadway surface; (5) collecting runoff from the driveway and roofs in a storm drain system and disposing of in a leaching trench west of the house, which is an area of rapid leaching; (6) erecting silt fences during construction to prevent loose soils from moving west of the construction site; (7) removing unused excavated spoils from the lot; (8) refraining from earthwork on rainy days and keeping stockpiled materials covered and surrounded with silt fences to avoid runoff; and (8) implementing the restrictions on access, disturbance, and construction time periods related to the designated Point Arena habitat on the western side of the parcel, which will minimize human-induced erosion on the lot.

D. SITE DESCRIPTION

The subject property, which is approximately 0.48-acre in size, is located on a west-facing marine terrace and extends down a coastal bluff, but it is not the most westward lot on the bluff; there is a neighboring lot designated as Open Space under separate ownership located halfway up the bluff between the subject lot and the ocean (see page 1 of Exhibit No. 5). Elevations across the subject parcel range from approximately 120 feet above mean sea level at the western end to approximately 300 feet above mean sea level at the eastern end near Navarro Way. According to the applicants' botanical consultant (BioConsultant LLC), the entire lot is sloped westward, with slopes ranging from 8 degrees [~14 percent] on the upper terrace to 40 degrees [~84 percent] on

the steep ocean bluff. Slopes within the approved project footprint range from 22.5 to 41.5 percent (averaging 33 percent), according to measurements taken on a site visit by County planning staff (Exhibit No. 8).

The vegetation communities on the property include Nonnative Grassland (type #42.000.00 per CDFG 2003) on the eastern, upper-most, more gently sloping portion of the parcel, and Coastal Scrub (type #32.000.00 per CDFG 2003) on the progressively steeper slopes (BioConsultant LLC May 2006 botanical survey report and June 2007 addendum to the botanical survey). The botanical surveys revealed no rare plant species or community types present on the property. The Nonnative Grassland community is dominated by exotic (and in some cases invasive) species such as Velvet grass (*Holcus lanatus*), soft chess (*Bromus hordeaceus*), ripgut brome (*B. diandrus*), rattlesnake grass (*Briza maxima*), Wild radish (*Raphanus sativus*), and others. The Coastal Scrub community is dominated by native species such as Thimbleberry (*Rubus parviflorus*), Pacific bramble (*R. ursinus*), Coyote brush (*Baccharis pilularis*), Cow parsnip (*Heracleum lanatum*), Poison-oak (*Toxicodendron diversilobum*), Henderson's angelica (*Angelica hendersonii*), and others. According to botanical reports prepared by BioConsultant LLC dated May 2006 and June 2007 (Exhibit No. 9), disturbance (mowing and shrub removal) that occurred at some point after October 2005 and before April 2006 (based on aerial photo and survey history) modified the eastern, upper-most portion of the parcel, altering the vegetation on this upper section from Coastal Scrub with scattered grassy openings to Nonnative Grassland with scattered Coastal Scrub remnants.

A habitat assessment and survey conducted on the property by BioConsultant LLC in April 2006 for the Point Arena mountain beaver (PAMB) (Exhibit No. 10) reports "good to excellent quality" habitat with an estimated 200+ active PAMB burrows throughout the Coastal Scrub habitat on the parcel. Burrows also were observed in the disturbed, eastern portion of the parcel, where (as discussed above) mowing and shrub removal reportedly occurred in late 2005 or early 2006, altering the habitat from Coastal Scrub to Nonnative Grassland. Point Arena mountain beaver (*Aplodontia rufa nigra*) is a federally-listed endangered species protected under the Endangered Species Act of 1973. The species is also listed as a California Species of Concern by the California Department of Fish and Game (CNDDB *RareFind* 3.1.1), and its habitat meets the definition of "environmentally sensitive" (ESHA) under the County's certified LCP (see Section II-E-1-a below).

Because PAMB burrows were observed throughout much of the subject property and there was likelihood of "incidental take" of PAMB as a result of future development of the parcel, BioConsultant LLC initiated technical assistance from the U.S. Fish and Wildlife Service (FWS) in April of 2006. The FWS determined (in its response to request for technical assistance dated June 7, 2006) that with appropriate protective measures, the development would not be likely to result in incidental take of PAMB. Recommended protective measures included designating and protecting in perpetuity the currently suitable and occupied habitat on the parcel. Thus, the applicants established, in cooperation with FWS, a deed-restricted conservation easement over the approximately western half of the property, which prohibits certain activities within the designated PAMB habitat on the parcel, including vegetation alteration or removal, ground disturbance, and rodent control (see Exhibit No. 11). The deed restriction also requires that a barrier at least 18-inches tall and constructed of rock, wood, or other durable material be

established between the designated habitat area and the remainder of the parcel to prevent domestic pets and other disturbance from impacting the PAMB habitat. The FWS also recommended removal of a single cypress tree near the eastern boundary of the designated habitat area to enhance PAMB habitat and restriction of construction during the PAMB breeding season (December 15 to June 30).

The parcel is classified on the Coastal Plan Map as Rural Residential Five Acres Minimum with an alternate zoning of Suburban Residential 12,000-square-foot minimum. The parcel is similarly zoned RR:L-5 [SR: L-12,000]. The Suburban Residential zoning designation applies, as the parcel is under 1 acre in size.

The approved building site for the residence is in line with existing residences to the immediate north and south of the parcel (see page 1 of Exhibit No. 5). According to assessor's records, the residence to the immediate south (APN 132-020-06) has been in existence since 1972, predating the Coastal Act. The residence to the immediate north (APN 132-020-04) was approved by the Coastal Commission in 1991 (CDP No. 1-91-55). The project was approved with a 50-foot geologic setback requirement; at that time the bluff edge on that particular property was determined to be approximately 176 feet south of Navarro Way.

The subject site is not located within an area designated as "highly scenic" in the County's certified LCP. However, views of the ocean are afforded through the site from Navarro Way, a public street.

E. 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.*

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." [California Code of Regulations, Title 14, Section 13115(b)]. In previous decisions on appeals, the Commission has been guided by the following factors:

1. 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;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. 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 a petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

All of the contentions raised by the appellants present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. The contentions allege that the approval of the project by the County is inconsistent with LCP provisions regarding (1) environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) grading, erosion, and runoff. In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that with respect to the allegations, the appeal raises a substantial issue with regard to the approved project's conformance with the certified Mendocino County LCP.

1. Allegations Raising Substantial Issue:

a. Development Adjacent to Environmentally Sensitive Habitat Areas

The appeal contends that the approval of development is inconsistent with the environmentally sensitive habitat area (ESHA) policies of the certified LCP, which require, in part, (1) a minimum 50-foot buffer from rare plant ESHA, and (2) that structures be allowed in the ESHA buffer only if there is no other feasible site available on the parcel. The approved building site for the residence is located 15 feet from the designated Point Arena mountain beaver (PAMB) habitat, and the approved site for the septic tank is located 5 feet from the designated PAMB habitat.

LCP Policies:

Environmentally Sensitive Habitat Areas (ESHA) are defined in Section 3.1 of the Mendocino County Land Use Plan (LUP) as follows:

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

Coastal Zoning Code (CZC) Section 20.496.010 *"Environmentally Sensitive Habitat and other Resource Areas—Purpose"* states the following (emphasis added):

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

LUP Policy 3.1-7 states the following (emphasis added):

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

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*

2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*

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

LUP Policy 3.1-18 states the following (emphasis added):

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not significantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

CZC Section 20.496.020 *"Environmentally Sensitive Habitat and other Resource Areas—Development Criteria"* states the following (emphasis added):

> ***(A) Buffer Areas.*** *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*
>
> > ***(1) Width.*** *The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*
> >
> > *Standards for determining the appropriate width of the buffer area are as follows:*
> >
> > > ***(a) Biological Significance of Adjacent Lands.*** *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*
> > > *Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.*
> > >
> > > ***(b) Sensitivity of Species to Disturbance.*** *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*
> > >
> > > *(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;*
> > >
> > > *(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the

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

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

Discussion:

As discussed above in Section II-D, a habitat assessment and survey conducted on the property by BioConsultant LLC in April 2006 for the Point Arena mountain beaver (PAMB) reports "good to excellent quality" habitat with an estimated 200+ active PAMB burrows throughout the Coastal Scrub habitat on the parcel (Exhibit No. 10). Burrows also were observed in the disturbed, eastern portion of the parcel, where (as discussed above in Section II-D) mowing and shrub removal reportedly occurred in late 2005 or early 2006, altering the habitat from Coastal Scrub to Nonnative Grassland. Point Arena mountain beaver (*Aplodontia rufa nigra*) is a federally-listed endangered species protected under the Endangered Species Act of 1973. The species is also listed as a California Species of Concern by the California Department of Fish and Game (CNDDB *RareFind* 3.1.1), and its habitat meets the definition of "environmentally sensitive" (ESHA) under LUP Section 3.1 and CZC Section 20.496.010 cited above.

U.S. Fish and Wildlife (FWS) standards for "no-take" of individuals of the species prohibit noise disturbance (including chain saws and weed eaters) within 100 feet of active burrows during the breeding season (December 15 to June 30); ground vibration disturbance (including soil excavation and air compressors) within 100 feet of active burrows during the breeding season and not within 50 feet during the remainder of the year; and habitat modification and removal of PAMB habitat (including mowing, grazing, plowing, cultivation of nonnative vegetation, herbicide application, paving, and road construction) within 400 feet of active burrows. As further discussed above in Section II-D, because PAMB burrows were observed throughout much of the subject property and there was likelihood of "incidental take" of PAMB as a result of development of the parcel, BioConsultant LLC initiated technical assistance from the FWS in April of 2006 to determine whether construction of the development subsequently approved by the County would be consistent with Endangered Species Act requirements. The FWS determined (in its response to request for technical assistance dated June 7, 2006) that with appropriate protective measures, the development subsequently approved by the County would not be likely to result in incidental take of PAMB. Recommended protective measures include designating and protecting in perpetuity the currently suitable and occupied habitat on the parcel.

Thus, the applicants recorded, in cooperation with FWS, a conservation easement and deed restriction, which prohibits certain activities within the designated PAMB habitat on the over the approximately western half of the parcel, including vegetation alteration or removal, ground disturbance, and rodent control (Exhibit No. 11). The deed restriction also requires that a barrier at least 18-inches tall and constructed of rock, wood, or other durable material be established between the deed-restricted habitat area and the remainder of the parcel to prevent domestic pets and other disturbance from impacting the deed-restricted PAMB habitat. The FWS also recommended removal of a single cypress tree near the eastern boundary of the deed-restricted habitat area to enhance PAMB habitat and restriction of construction during the PAMB breeding season (December 15 to June 30).

The area that was deed-restricted as PAMB habitat by agreement with FWS does not necessarily represent all of the PAMB ESHA habitat pursuant to the LCP and the Coastal Act. The local record indicates that some clearing of vegetation that may have affected PAMB habitat was performed without permits some time between October of 2005 and April of 2006 (see Exhibit Nos. 9 and 10). Any area that was converted from PAMB ESHA without the benefit of any necessary coastal development permit authorization must be considered in evaluating how the new proposal affects PAMB ESHA.

As cited in the policies above, CZC Section 20.496.010 defines environmentally sensitive habitat areas (ESHA) and includes habitats of rare and endangered species. Therefore, as ESHA, endangered species habitat is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the CDFG that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width. CZC Section 20.496.020 states that the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed. LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) further require that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel. LUP Policy 3.1-18 states, in applicable part, that development within buffer areas recommended by the CDFG to protect rare or endangered wildlife species and their nesting and breeding areas shall meet guidelines and management practices established by the Department, and must be consistent with other applicable policies of this plan.

The appeal contends that approval of the subject development is inconsistent with the ESHA policies of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, because (a) the development would be constructed adjacent to (within 5 to 15 feet of) endangered species ESHA (PAMB habitat) without maintaining a minimum 50-

foot buffer, (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA buffer, and (c) the County has not demonstrated that the approved development complies with any guidelines and management practices established by the CDFG for the protection of the endangered PAMB. The approved building site for the residence is located 15 feet from the deed-restricted Point Arena mountain beaver (PAMB) habitat, and the approved site for the septic tank is located 5 feet from the designated PAMB habitat.

The County's approval is based on the attachment of Special Condition Nos. 1 and 5. Special Condition No. 1 requires in part that, prior to issuance of the building permit, a landscape plan be submitted for approval by the Coastal Permit Administrator in compliance with the PAMB deed restriction, which prohibits alteration or removal of existing vegetation. Special Condition No. 5 states in part that "no development or disturbance, other than that approved by the County, shall occur in the 50 foot buffer area to the designated ESHA" (emphasis added). Yet the County's findings for approval of the project fail to address the consistency of the project with the ESHA buffer requirements of LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, including how a buffer less than the minimum of 50 feet required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) is allowable under the LCP and conforms with CDFG requirements. As the County findings do not explain how locating the development within 5 feet of the deed restricted habitat area is consistent with the minimum 50-foot buffer requirement, the project as approved raises a substantial issue of conformance with the above-cited policies.

LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent ESHA, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. The LCP sets forth uses permitted in wetland and riparian ESHAs, but does not list any allowable uses within rare plant ESHA, and thus allowable uses within the endangered species buffer.

Furthermore, even if a single family home was considered an allowable development within an endangered species buffer, which it is not, LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4) require permitted development within an ESHA buffer to comply with several standards. These standards include that structures be allowed within a buffer area only if there is no other feasible site available on the parcel and that the development be sited and designed to prevent impacts that would significantly degrade the ESHA.

The applicants contend that there is no other feasible site to build on the parcel that satisfies the applicants' "basic objectives for the project" and the Irish Beach Design Guidelines (see Exhibit Nos. 6 and 12). However, neither the applicants' objectives nor the Irish Beach Design Guidelines give consideration to the policies and standards of the County's certified LCP, including LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020. The applicants' stated objectives include (1) building a house on the lot which maximizes the sights and sounds of the ocean; (2) building a 1,300 square-foot (more or less) house with two bedrooms and two bathrooms as a vacation home which can be shared with friends; and (3) building a house consistent with the community standards of Irish Beach (Exhibit No. 12). The Irish Beach Design Guidelines are based on the subdivision's CC&Rs, which outline minimum building

standards for the Irish Beach Community related to view corridors (relative to views to the ocean and scenic coastal areas from other lots in the subdivision), minimum building size (1,200 square feet, excluding garage, porch, and decks), setback requirements (minimum 28-foot side yard setbacks between residences), height limitations (structure height is not to exceed the height of a horizontal plane 16 feet above the mean natural grade at any point on the perimeter foundation), off-street parking (each development is to include the location of a 2-car garage, whether constructed or not), roof slopes (minimum 4:12 pitch), and other standards (Exhibit Nos. 6 and 12).

The County staff report, which recommended denial of the project based on its inability to make the required findings for approval, contends that there is a feasible site available on the parcel for a single family residence and associated structures (see Exhibit No. 15, page 15). Locating the structures on the flatter, easternmost portion of the parcel near Navarro Way and locating the septic system downslope from the structures would not only allow for a minimum 50-foot setback between the nearest portion of the development (the leachfield area) and the ESHA, but also would reduce the amount of necessary grading for the driveway by not having to extend the driveway 125 feet down the slope to the detached garage (see Section II-E-1-c below). The applicant argues (Exhibit No. 12) that the County staff's recommended "feasible alternative" conflicts both with the applicants' objectives and the Irish Beach Community CC&Rs. However, the County's decision to approve or deny the coastal development permit is independent of and unrelated to the subdivision's CC&Rs; instead, the County's decision must be based on conformance of the development with the certified LCP and the public access policies of the Coastal Act, including all the required findings pursuant to LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020.

The County's approval of the project does not demonstrate that the project as approved was sited and designed on the parcel in a manner that would best protect the ESHA. Furthermore, the County's approval does not address what CDFG guidelines and management practices apply to protect the PAMB ESHA and how the approved project conforms with these guidelines and practices, as required by LUP Policy 3.1-18. The CDFG was consulted on the project by the County and recommended that a 50-foot buffer be established to protect the ESHA. The County's approval of the residence 15 feet from the ESHA and the septic tank 5 feet from the ESHA directly conflicts with CDFG's minimum buffer width recommendation.

Thus, because (1) a 5-foot buffer was approved and LUP Policy 3.1-7 does not allow ESHA buffers to be reduced to less than 50 feet and the Board of Supervisors' findings for approval of the development do not address how the approved project is consistent with the ESHA buffer policies, and (2) the development has not been demonstrated to conform with CDFG guidelines and practices for the protection of endangered PAMB habitat, the degree of legal and factual support for the County's approval of the project is low. Furthermore, as the cumulative impact of the loss of rare and endangered species over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue.

Therefore, for all of the above reasons, the Commission finds that the project, as approved by the County, raises a substantial issue of conformance with the ESHA protection provisions of the

certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020.

b. Minimizing Geologic Hazards

The appeal contends that the development approved by the County would be located on a bluff face, on the seaward side of the bluff edge, according to the bluff-edge determinations of both Dr. Mark Johnsson, the Coastal Commission's staff geologist, and County planning staff. The appeal contends that approval of development on a bluff face is inconsistent with the certified LCP, which prohibits development on bluff faces, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Furthermore, the appeal contends that the approved project is inconsistent with LCP policies that require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years).

LCP Policies:

LUP Policy 3.4-7 states the following (emphasis added):

> *The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*
>
> *Setback (meters) = Structure life (years) x Retreat rate (meters/year)*
>
> *The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.*
>
> *All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report.*

LUP Policy 3.4-10 states the following (emphasis added):

> *No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.*

CZC Section 20.500.010 states the following (emphasis added):

(A) The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:

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

(2) Assure structural integrity and stability; and

(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ord. No. 3785 (part), adopted 1991)

CZC Section 20.500.020 states the following (emphasis added):

(B) Bluffs.

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

Setback (meters) = structure life (75 years) x retreat rate (meters/year)

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

(2) Drought tolerant vegetation shall be required within the blufftop setback.

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

(4) No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

Discussion:

The development as approved by the County would be located on a bluff face, on the seaward side of the bluff edge, according to the bluff-edge determinations of both Dr. Mark Johnsson, the Coastal Commission's staff geologist, and County planning staff (see Exhibit Nos. 13 and 15). Approval of development on a bluff face is inconsistent with LUP Policy 3.4-10 and CZC

Section 20.500.020(B)(4), which prohibit development on bluff faces, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Furthermore, LUP Policy 3.4-7 and CZC Section 20.500.020 require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). According to Dr. Johnson, the bluff edge on the subject property is located very near the position of Navarro Way near the eastern property boundary.

The applicants' consulting engineer, Paoli Engineering & Surveying, disagrees with Dr. Johnsson's contention that the entire lot is seaward of the bluff edge (Exhibit No. 14). Paoli acknowledges that the subject parcel is located on a marine terrace, but contends that an older marine terrace located to the west of the subject lot and much lower down the slope from the property at approximately 120 feet in elevation. This older terrace, Paoli contends, is approximately 135 feet wide, and it is on this older terrace that the bluff edge is located. Paoli contends that the bluff edge is located approximately 400 feet west of the approved development site. This bluff edge determination is based on consideration of geologic processes such as plate tectonics and global warming, an analysis of 1964 and 2000 aerial photos, and geologic observations of the subject site and other sites in the region (see Exhibit No. 14).

The certified LCP does not include a definition of "bluff edge." Dr. Johnsson's bluff edge determination is based on the definition of bluff edge found in Section 13577(h) of the Commission's regulations, which states the following, in applicable part (emphasis added):

> *(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:*
>
> *(1) those bluffs, the toe of which is not or was historically (generally within the last 200 years) subject to marine erosion; and*
>
> *(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*
>
> *Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.*

Dr. Johnson concluded that because the coastal bluff at the subject site is broadly rounded near the top and levels off very nearly at the location of Navarro Way, applying the definition of Section 13577(h), the entire lot is on the bluff face (see Exhibit No. 13).

The Coastal Permit Administrator, in his findings for denial of the project (Exhibit No. 15), which was subsequently overturned on appeal by the Board of Supervisors, agrees with Dr. Johnsson's determination of bluff edge "because protection of public welfare is assured by taking the most conservative approach, and because the determination appears to be based on the application of an appropriate definition." The County's approval of the project is apparently based on the attachment of Special Condition No. 2, which requires that prior to permit issuance the applicant execute and record a deed restriction for the subject property. The deed restriction shall provide that, among other things, the landowner agree not to construct any bluff or shoreline protective device to protect the approved development in the event that the development is subject to damage or other erosional hazards in the future, and the landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened.

Yet in its approval of the project on appeal, the County's findings fail to address the project's consistency with the requirements of both (1) LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1) that an approved building site will assure safety from bluff erosion and cliff retreat for the economic lifespan of the approved development, as well as (2) LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), as the approved development is located on the bluff face and is not a type of development that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Therefore, a substantial issue is raised as to how the approved project conforms with the requirements of LCP policies prohibiting development on bluff faces.

Paoli's recommended geologic setback and calculation of bluff retreat rate is based on aerial photo analysis, as explained in Exhibit No. 14. Paoli calculated bluff retreat rate to be approximately 0.83 feet per year and determined the 75-year blufftop setback distance to be 62 feet, which would locate the geologic setback approximately 350 feet west of the approved development (Exhibit No. 14, "Exhibit C"). However, this bluff retreat rate evaluation did not include a quantitative slope stability analysis (QSSA), which is the necessary method for determining a site's "factor of safety," or the numerical "confidence" in the stability of the slope. Typically, the development setback line to assure safety from marginally stable slopes is simply the line corresponding to a "factor of safety" of 1.5. According to a paper by Dr. Johnsson (to be published in the Proceedings of the California and the World Ocean Conference):

> "Assessing the stability of slopes against landsliding is undertaken through a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the "factor of safety." A value below 1.0 is theoretically impossible, as the slope would have failed already. A value of 1.0 indicates that failure is imminent. Factors of safety at increasing values above 1.0 lend increasing

> confidence in the stability of the slope. The industry-standard for new development is a factor of safety of 1.5, and many local grading ordinances in California and elsewhere (including the County of Los Angeles, and the Cities of Irvine, Malibu, and Saratoga, among others) require that artificial slopes meet this factor of safety."

Because the bluff retreat evaluation did not include a QSSA, a substantial issue is also raised as to whether the "factor of safety" for the subject parcel is greater or less than (or equal to) the recommended safety standard of 1.5. If it is less than 1.5, permitting development on the site would be in conflict with LUP 3.4-7 and CZC §20.500.020, which require that new structures be set back a sufficient distance from the bluff edge to ensure their safety from bluff erosion and cliff retreat during their economic life spans, and with CZC §20.500.010, which requires that new development shall minimize risk to life and property, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas. Quantitative slope stability analyses have consistently been required by the Commission for projects on blufftop parcels for a number of years, since the method satisfies generally accepted scientific standards and provides reliable information regarding slope stability.

As discussed above, the degree of legal and factual support for the County's approval of the project is low because in its findings for approval of the project, the County fails to address the project's consistency with both (1) LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1) and (2) LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4). The approved building site does not assure safety from bluff erosion and cliff retreat for the economic lifespan of the approved development, and the approved development is located on the bluff face and is not a type of development that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry.

Thus, for all of the above reasons, the Commission finds that the project, as approved by the County, raises a substantial issue of conformance with the geologic hazard provisions of the certified LCP including, but not limited to, LUP Policies 3.4-7 and 3.4-10 and CZC Sections 20.500.010 and 20.500.020.

c. Grading, Erosion, & Runoff

The appeal contends that the approved development is inconsistent with LCP policies regarding grading, erosion, and runoff, which require that new development be designed to best fit the topography, soils, and other conditions of the site. According to the appeal, rather than locating the development on the least steeply sloping portions of the site where grading would be minimized and development would better fit the topography, the approved residence will be located on the steepest and most westward portion of the parcel outside of the deed-restricted PAMB habitat area where much greater grading will be required. The appeal contends that the amount of necessary grading would be greatly reduced if the residential and garage structures were to be located near the road and the leach fields were to be located west of the structures, as the approved driveway will be approximately 125 feet long and 12 feet wide and will necessitate a retaining wall on its uphill side.

LCP Policy:

CZC Section 20.492.010(B) states the following:

…

(B) Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum.

…

Discussion:

The approved project includes a relatively long and steep driveway with a 3-foot high retaining wall located in an area with maximum slopes exceeding 40 percent and septic fields located near the road on the flattest portion of the parcel. As discussed in the County staff report (Exhibit No. 15), the County Division of Environmental Health (DEH) expressed concern that the retaining wall and propane tank would be located 22 feet and 18 feet, respectively, downslope of the leach fields, as DEH generally recommends at least 50 feet between leach fields and downslope cuts. Furthermore, the amount of necessary grading could be greatly reduced if the residential and garage structures were to be located near the road and the leach fields were to be located west of the structures, as the approved driveway will be approximately 125 feet long and 12 feet wide and will necessitate a retaining wall on its uphill side.

The County's approval of the project is based on the attachment of Special Condition No. 3, which requires, among other things, that prior to permit issuance the applicant submit a grading plan approved by a licensed architect or engineer, which clarifies the total amounts and locations of cut and fill. The condition also requires that development adhere to the erosion control measures outlined in the erosion control plan prepared by the applicant's consultant Paoli Engineering & Surveying (Exhibit No. 7).

Although providing the information required by Special Condition No. 3 and adhering to the erosion control plan as required by the condition would provide helpful information and help reduce erosion from the approved development, satisfying the requirements of Special Condition No. 3 does nothing to ensure the project's consistency with CZC Section 20.492.010(B), which requires that development be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum.

The County staff report, which recommended denial of the project based on its inability to make the required findings for approval, contends that there is a feasible site available on the parcel for a single family residence and associated structures (see Exhibit No. 15, page 15). Locating the structures on the flatter, easternmost portion of the parcel near Navarro Way and locating the septic system downslope from the structures would not only reduce the amount of necessary grading for the driveway by not having to extend the driveway 125 feet down the slope to the detached garage, but also it would allow for a minimum 50-foot setback between the nearest portion of the development (the leachfield area) and the ESHA. The County's findings for approval do not address how the approved development will be planned to fit the topography, soils, geology, hydrology, and other conditions existing at the site to keep the grading to an absolute minimum. The applicant argues that "absolute minimum" referred to in CZC Section

20.492.010(B) means the minimum grading necessary to build a house that meets the applicants' objectives and the Irish Beach Community CC&Rs (Exhibit No. 12). The applicant further argues that the County staff's recommended "feasible alternative" conflicts with these other objectives. However, the County's decision to approve or deny the coastal development permit is independent of and unrelated to the subdivision's CC&Rs; instead, the County's decision must be based on conformance of the development with the certified LCP and the public access policies of the Coastal Act, including all the required findings pursuant to CZC Section 20.492.010(B).

The applicants, at the Board of Supervisors appeal hearing, proposed an alternative design of the project that would reduce the amount of grading necessary by approximately 130 cubic yards to a total of 75 cubic yards (see Exhibit No. 12). However, the project description was not amended to incorporate this alternative design, as the notice of final action indicates that the approved project is the original project described in the County staff report. Therefore, notwithstanding the possibility of locating the house on the flatter area of the property near the road to reduce grading, an alternative for reducing the amount of grading even at the approved location may exist.

Given the existence of alternatives that would significantly reduce the amount of grading required for the approved project, the degree of legal and factual support for the County's decision is low. Therefore, for all of the above reasons, the Commission finds that the project, as approved by the County, raises a substantial issue of conformance with the grading, erosion, and runoff provisions of the certified LCP including, but not limited to, CZC Section 20.492.010(B).

Conclusion:

The foregoing contentions raised by the appellants have been evaluated against the claim that the contentions raise a substantial issue of conformance of the local approval with the certified LCP. The Commission finds that the project, as approved by the County, raises a substantial issue of conformance of the approved project with the provisions of the certified LCP regarding (1) LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, which require that a buffer area of a minimum width of 50 feet be established around environmentally sensitive habitat areas, that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, that structures are allowable within the buffer area only if there is no other feasible site available on the parcel, and that development conform with Department of Fish and Game guidelines and practices for the protection of endangered wildlife habitat; (2) LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1), which require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years); (3) LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), which prohibit development on the bluff face, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry; and (4) CZC Section 20.492.010(B), which requires that development be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum. The Commission finds that for the reasons stated above, the project, as approved by the County, raises a

substantial issue of conformance of the approved development with the provisions of the certified LCP.

F. 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. Geotechnical Analysis

The Commission must make findings regarding potential geologic hazards associated with new development. LCP policies require that new development (1) minimize risks to life and property in areas of high geologic hazard, and (2) assure stability and structural integrity, and neither create or contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural land forms along bluffs and cliffs. Authorization of the placement of the new development on a blufftop lot is contingent on making findings that (a) the approved project site will be stable over the life of the project, and (b) that threats to the development from geologic hazards will be minimized and mitigated.

The existing geotechnical report on record, based on a 1983 field investigation with updates in 1995 and 2007 by Paoli Engineering & Surveying, does not contain sufficient information with which to make these findings since it does not include a “quantitative slope stability analysis.” Such an analysis is needed to determine the following: (1) the static minimum factor of safety against landsliding of the bluff in its current configuration; (2) assuming that factor of safety obtained in (1) is less than 1.5, the location on the blufftop where a factor of safety of 1.5 is obtained; (3) the pseudostatic minimum factor of safety of the bluff, using a horizontal seismic coefficient of 0.15g; and (4) assuming that the factor of safety in (3) is less than 1.1, the location on the blufftop where a factor of safety of 1.1 is obtained. Therefore, the Commission must receive a quantitative slope stability analysis prepared according to the following guidelines:

1) The analyses should determine the factor of safety against sliding for both static and seismic conditions. Seismic analyses may be performed by the pseudostatic method or by displacement methods.

2) Slope stability analyses should be undertaken through cross-sections modeling worst case geologic and slope gradient conditions. Analyses should include postulated failure surfaces such that both the overall stability of the slope and the stability of the surficial units is examined.

3) The effects of earthquakes on slope stability (seismic stability) may be addressed through pseudostatic slope analyses assuming a horizontal seismic coefficient of 0.15g. Alternative (displacement) methods may be useful, but should be in conformance with the guidelines published by the American Society of Civil Engineers, Los Angeles Section (ASCE/SCEC), "Recommended Practices for Implementation of DMS Special Publication 117, Conditions for Analyzing and Mitigating Landslide Hazards in California."

4) All slope analyses should ideally be performed using shear strength parameters (friction angle and cohesion), and unit weights determined from relatively undisturbed samples collected at the site. The choice of shear strength parameters should be supported by direct shear tests, triaxial shear test, or literature references.

5) All slope stability analyses should be undertaken with water table or potentiometric surfaces for the highest potential ground water conditions.

6) If anisotropic conditions are assumed for any geologic unit, strike and dip of weakness planes should be provided, and shear strength parameters for each orientation should be supported by reference to pertinent direct sheer tests, triaxial shear test, or literature references.

7) When planes of weakness are oriented normal to the slope or dip into the slope, or when the strength of materials is considered to be homogenous, circular failure surfaces should be sought through a search routine to analyze the factor of safety along postulated critical failure surfaces. In general, methods that satisfy both force and moment equilibrium (*e.g.*, Spencer, Morgenstern-Price, and General Limit Equilibrium) are preferred. Methods based on moment equilibrium alone (*e.g.*, Bishop's Method) also are acceptable for circular failure models.

8) If anisotropic conditions are assumed for units containing critical failure surfaces and when planes of weakness are inclined at angles ranging from nearly parallel to the slope to dipping out of slope, factors of safety for translational failure along specified failure surfaces should also be calculated, using Spencer's, Janbu's generalized, or Morgenstern-Price methods. Jabu's simplified method may be used for planar failures. The use of a block failure model should be supported by geologic evidence for anisotropy in rock or soil strength. Shear strength parameters for such weak surfaces should be supported through direct shear tests, triaxial shear test, or literature references.

2. Analysis of Point Arena Mountain Beaver (PAMB) Habitat Modification

As discussed above in Section II-E-1-a, a habitat assessment and survey conducted on the property by BioConsultant LLC in April 2006 observed PAMB burrows in the disturbed, eastern portion of the parcel, where the report alleges that mowing and shrub removal occurred in late 2005 or early 2006, altering the habitat from Coastal Scrub to Nonnative Grassland. The alleged vegetation removal may constitute a form of development as defined in the LCP (LUP Glossary Page G-2 and CZC Section 20.308.035), which mirrors the definition given in Section 30106 of the Coastal Act and includes *"…the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations…"*. "Major vegetation removal" is further defined in CZC Section 20.308.080 as follows (emphasis added):

(C) "Major Vegetation, Removal or Harvesting" shall be defined to include one or more of the following:

(1) The removal of more than fifteen (15) trees or ten (10) percent of the total number of trees on the parcel, whichever is less, with a diameter of twelve (12) inches or a circumference of thirty-eight (38) inches or more measured at four and one-half (4 ½) feet vertically above the ground; or

(2) The removal of trees within a total contiguous ground area of six thousand (6,000) square feet, or within a noncontiguous area or areas not exceeding a total of six thousand (6,000) square feet measured as the area located directly beneath the tree canopy; or

(3) The Planning and Building Services Director may determine that a proposal to remove vegetation constitutes major vegetation removal if the Planning and Building Services Director finds that it may result in a significant impact. In making a finding that the proposed major vegetation removal may result in a significant impact, the Planning and Building Services Director shall review the proposal and determine if any of the following conditions exist or are proposed:

(a) The vegetation removal involves the use of heavy equipment, or

(b) The vegetation removal is proposed on a steep slope (fifteen (15) percent or greater) and removal of vegetation may result in soil erosion or landslide, or

(c) The vegetation removal is located within or adjacent to an environmentally sensitive habitat, or

(d) The vegetation removal may result in significant exposure of adjacent trees to wind damage, or

(e) The vegetation removal may result in significant degradation of the viewshed.

(f) The removal of one or more trees which measure twenty-four (24) inches or more in diameter at breast height and which are visually or historically significant, exemplary of their species, or ecologically significant.

(4) Exempt from this definition would be one or more of the following:

(a) Removal of trees and other vegetation that have been reviewed and approved in conjunction with an associated development permit; or

(b) Removal or harvesting of vegetation for agricultural purposes in areas presently used for agriculture; or

(c) Kelp harvesting; or

(d) Timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

If the alleged vegetation removal does constitute development, its removal was presumably conducted without the benefit of a CDP. The BioConsultant PAMB report claims that the "habitat modification" resulting from the removal of coastal scrub vegetation on the eastern end of the parcel "most likely impacted on-site PAMB by reducing its available suitable and foraging habitat" and "prior to the habitat manipulation much of [the eastern terrace portion of the property] would have constituted suitable habitat. The discovery of a solitary PAMB tunnel in this area supports this statement." Because of the alleged habitat modification, however, the BioConsultant survey delineated the habitat on eastern end of the parcel (*i.e.*, the location of the approved development) as "unsuitable" for PAMB.

To understand the full extent of the PAMB habitat, the Commission must receive a delineation and description of the area on the eastern end of the parcel that constituted the extent of the PAMB habitat before modification of the habitat. The delineation and habitat description should quantify the amount of previously suitable PAMB habitat that was modified and include an assessment of the habitat value of the area prior to its modification.

3. <u>Information Needed to Evaluate Project Consistency with Coastal Act Section 30010</u>

If the project cannot be found consistent with the ESHA and geologic policies of the certified Mendocino 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 applicants concerning the applicants' reasonable investment-backed expectations to make such determinations prior to holding a *de novo* hearing on the project. Specifically, the landowner of the property that is the subject of A-1-MEN-07-047 must provide the following information for the property that is subject to A-1-MEN-07-047 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. Irish Beach CC&Rs and Design Guidelines

In order to understand constraints on the property imposed by the Irish Beach Subdivision Covenants, Conditions, and Restrictions, the Commission must receive a complete copy of the Irish Beach CC&Rs, Design Guidelines, and any other related guidelines or restrictions that affect the subject property.

5. Evaluation of Alternative Septic System Location

As part of the determination as to whether or not an alternative site plan for the development is feasible, the Commission must receive an evaluation of the suitability of the soils for a septic system at the alternative leach field location suggested by the County staff in the County staff report. The evaluation should include a preliminary review by the County Department of Environmental Health Department as to whether or not a septic system at that alternative location would meet County standards.

6. Letter from the Irish Beach Water District

In order to assure that the development can be served by the Irish Beach Water District, the Commission must receive a letter from the Irish Beach Water District demonstrating that the District has the capacity and willingness to serve the development.

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. Irish Beach Subdivision Lot Map
5. Approved Site Plan
6. Irish Beach Subdivision CC&Rs and variances granted for the approved development
7. Erosion Control Plan by Paoli Engineering & Surveying
8. County Memorandum regarding slopes on the subject property
9. Botanical surveys by BioConsultant LLC
10. Point Arena Mountain Beaver survey by BioConsultant LLC
11. Deed restriction recorded under agreement between applicants and U.S. Fish & Wildlife Service
12. Information submitted to the Mendocino County Board of Supervisors at the appeal hearing by architect Phillip Roberts
13. Bluff edge determination by Dr. Mark Johnsson, Coastal Commission staff geologist
14. Information submitted to the Mendocino County Board of Supervisors at the appeal hearing by engineer David Paoli
15. Notice of Final Local Action & County Staff Report
16. Appeal

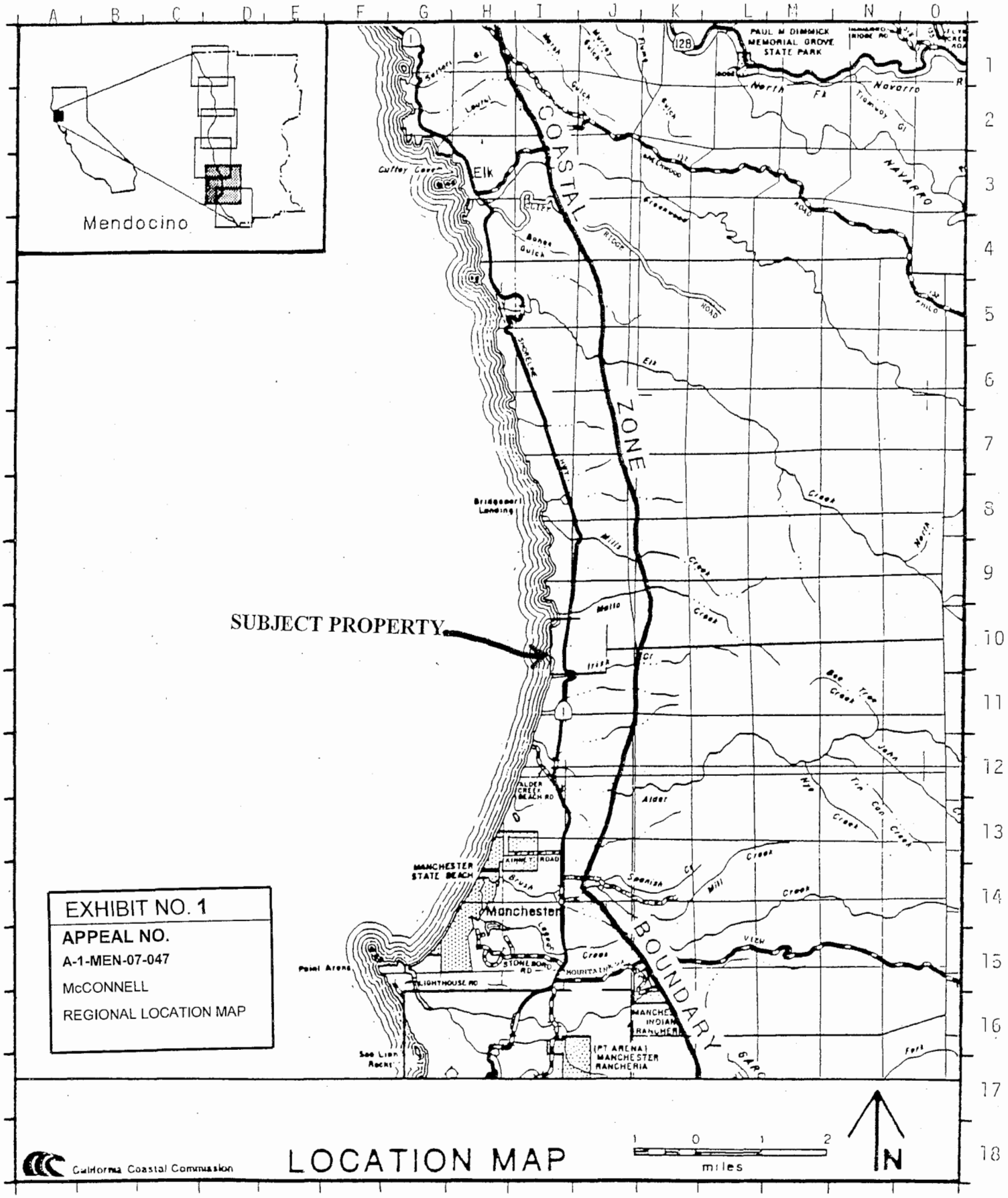


EXHIBIT NO. 1

APPEAL NO.

A-1-MEN-07-047

McCONNELL

REGIONAL LOCATION MAP

California Coastal Commission

LOCATION MAP

County of Mendocino

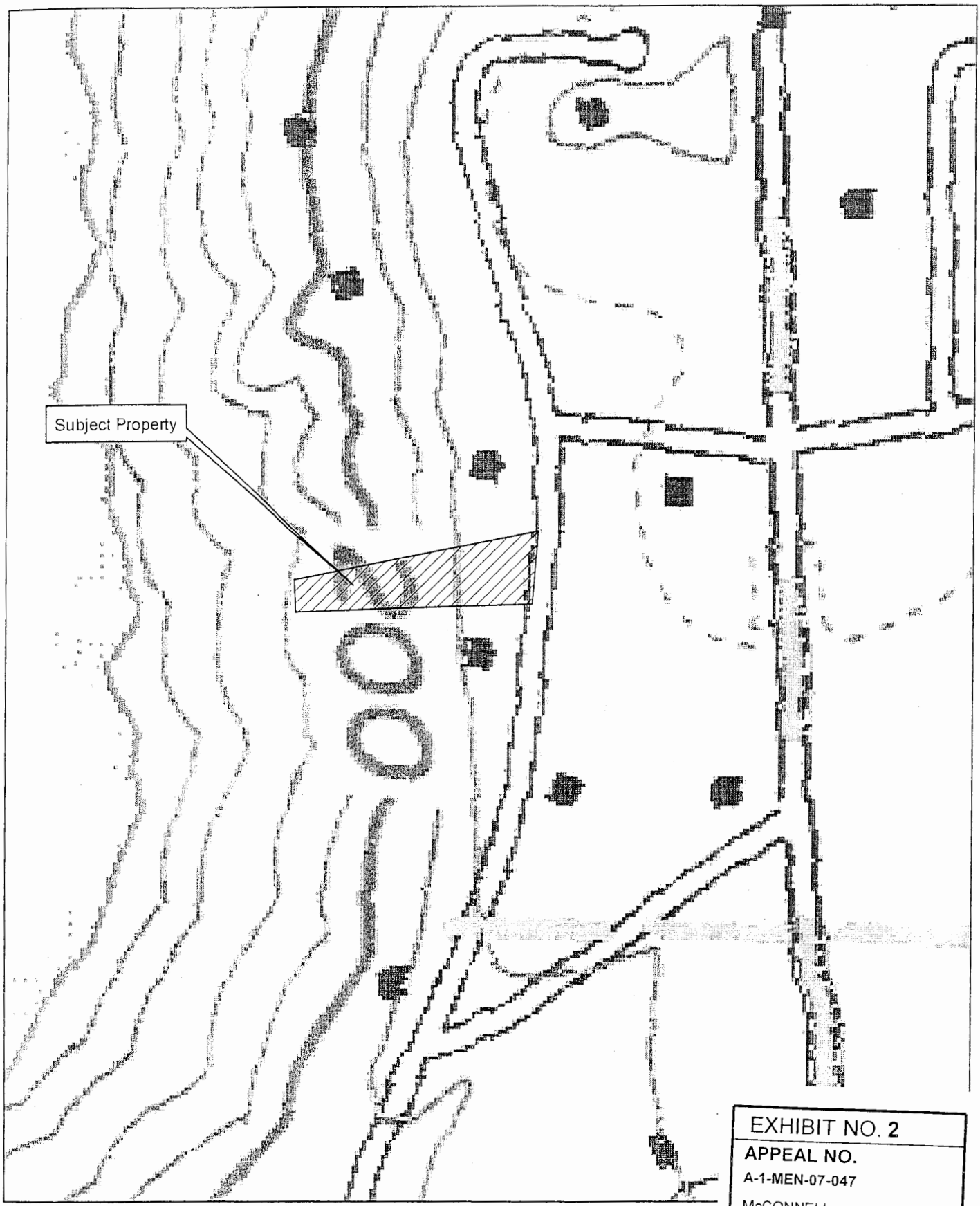


EXHIBIT NO. 2
APPEAL NO.
A-1-MEN-07-047
McCONNELL
VICINITY MAP

OWNER: McCONNELL
CASE: CDP 76-2006
APN: 132-020-05

100 50 0 100
Feet

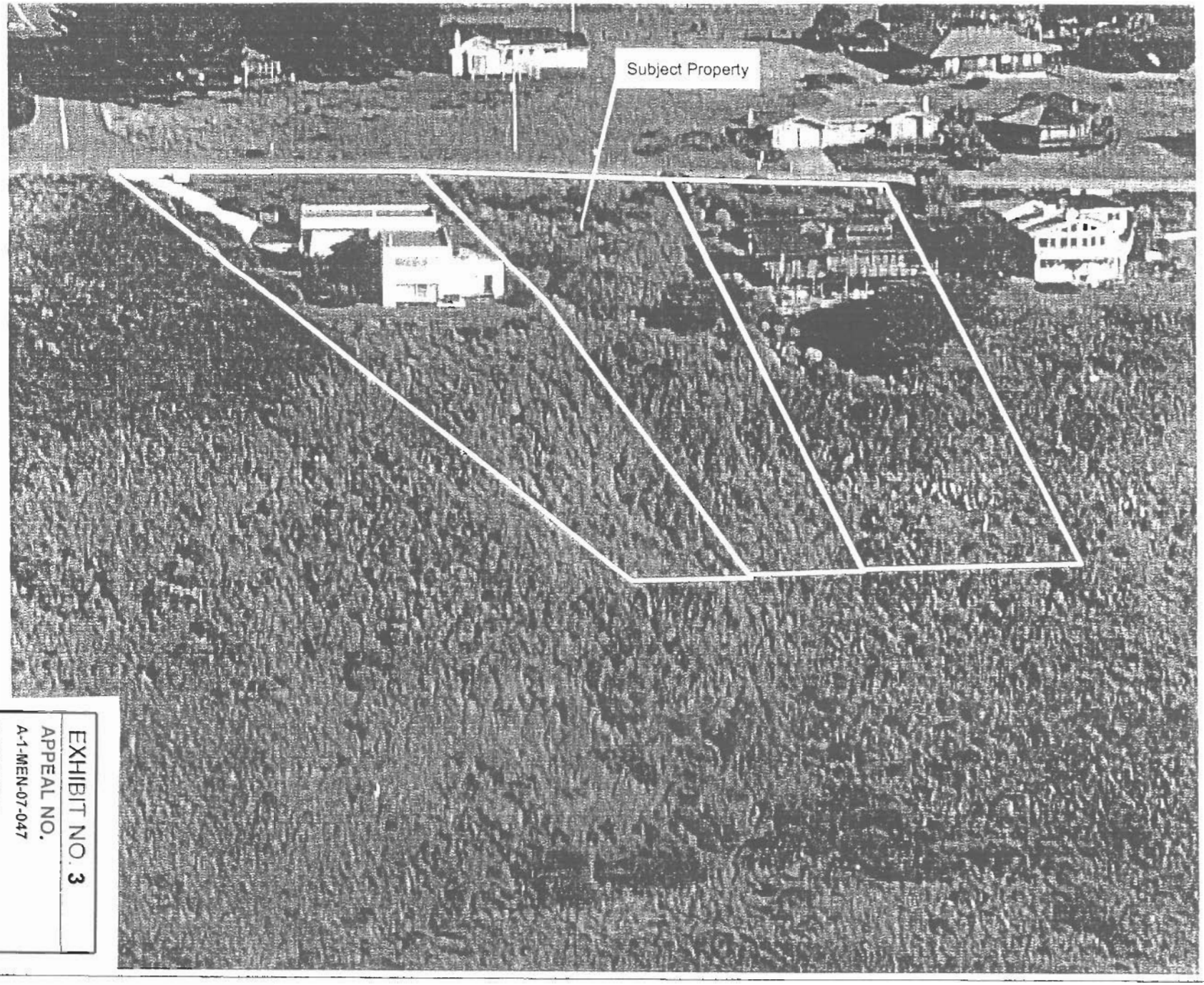


EXHIBIT NO. 3
APPEAL NO.
A-1-MEN-07-047
McCONNELL
AERIAL PHOTOGRAPH

OWNER: McCONNELL, William & Marcia
AGENT: ROBERTS, Phillip
CASE: CDP 76-2006
APN: 132-020-05

CAUGHEY
O.R. 679 / 622
O.R. 688 / 667

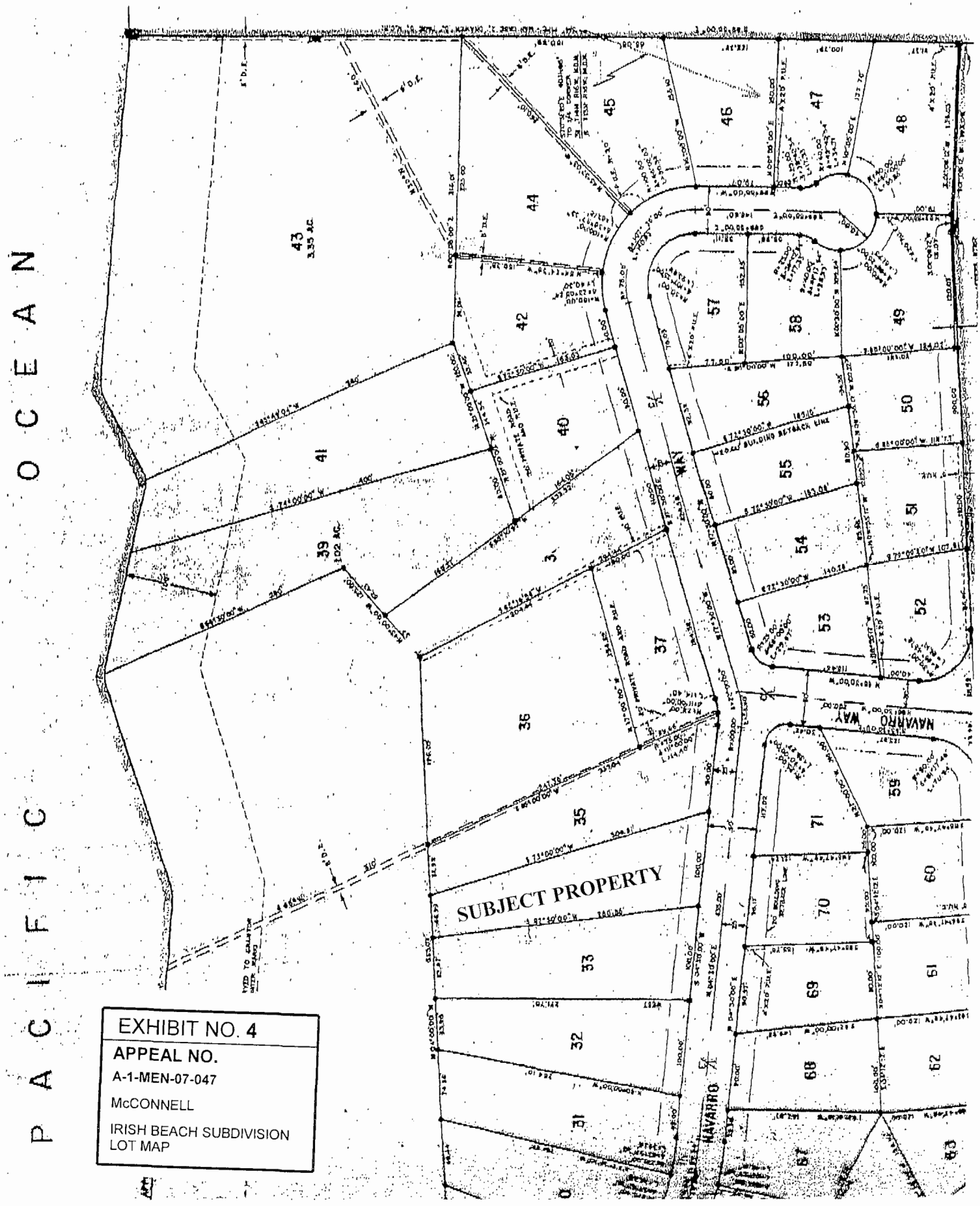


EXHIBIT NO. 4
APPEAL NO.
A-1-MEN-07-047
McCONNELL
IRISH BEACH SUBDIVISION
LOT MAP

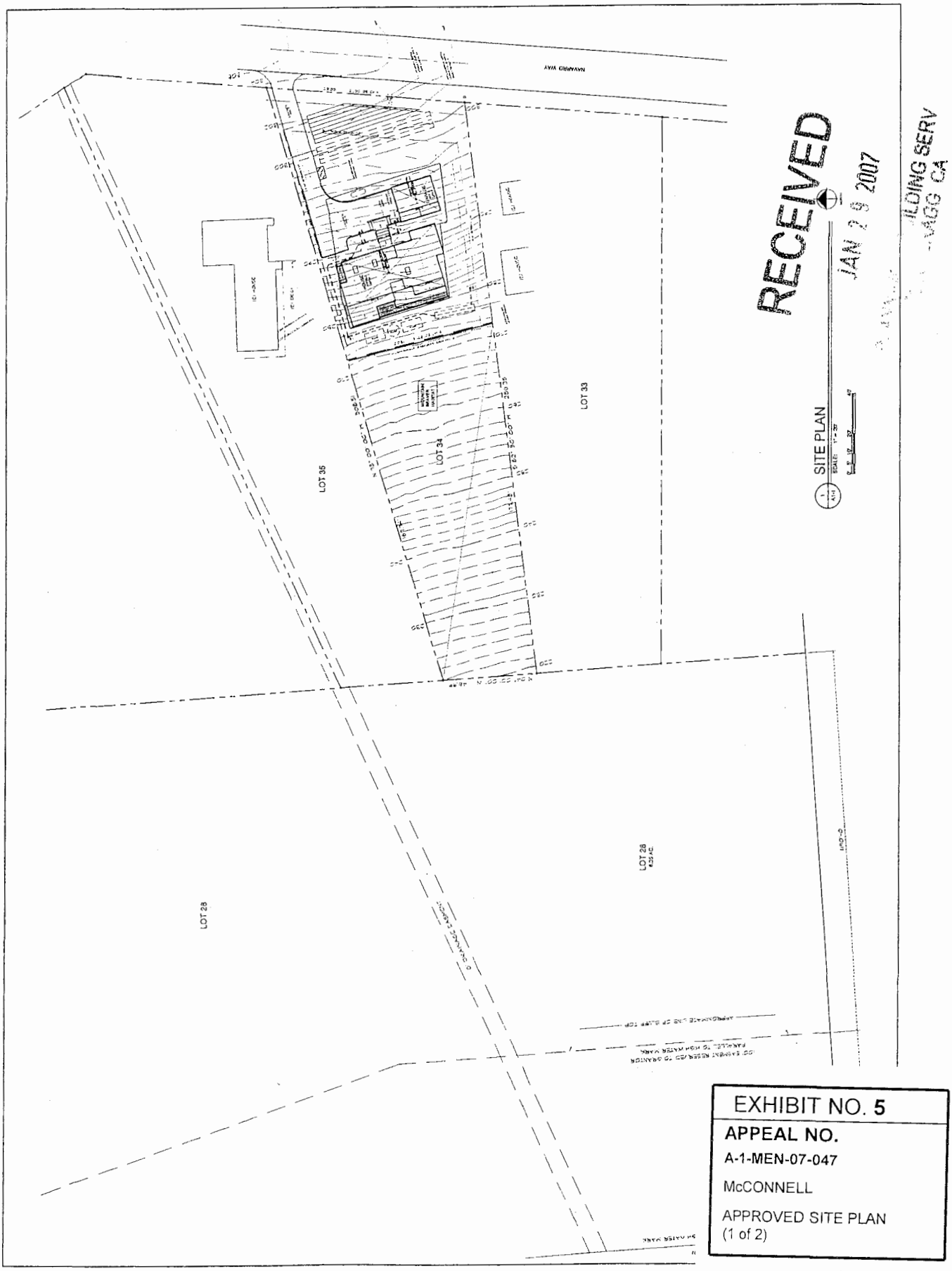


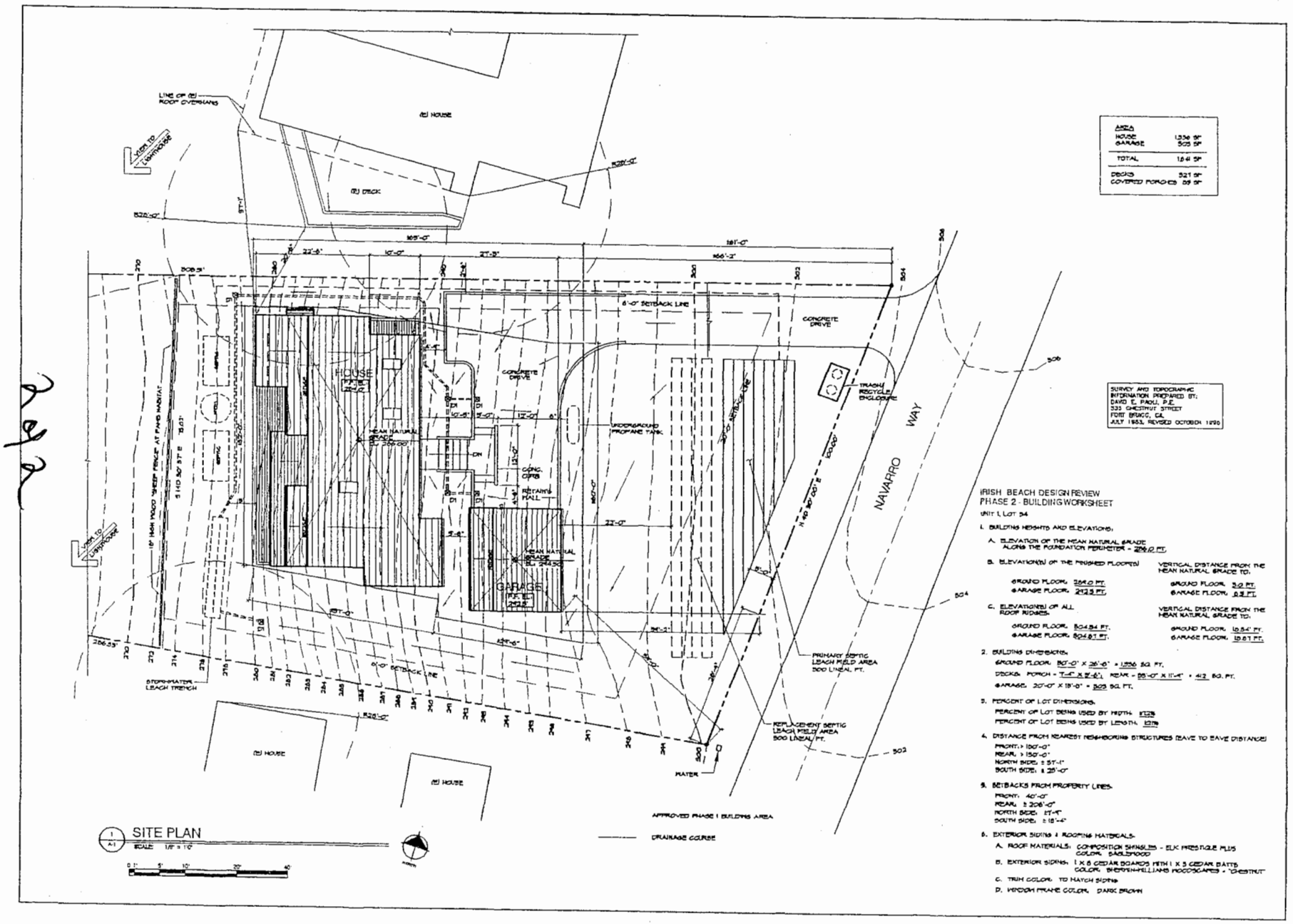
EXHIBIT NO. 5

APPEAL NO.

A-1-MEN-07-047

McCONNELL

APPROVED SITE PLAN
(1 of 2)



1 A-1 SITE PLAN
SCALE: 1/8" = 1'-0"

AREA	
HOUSE	1336 SF
GARAGE	505 SF
TOTAL	1841 SF
DECKS	321 SF
COVERED PORCHES	88 SF

SURVEY AND TOPOGRAPHIC INFORMATION PREPARED BY:
DAVID E. PAOLI, P.E.
333 CHESTNUT STREET
FORT BRAGG, CA.
JULY 1993, REVISED OCTOBER 1998

IRISH BEACH DESIGN REVIEW
PHASE 2 - BUILDING WORKSHEET

UNIT 1, LOT 34

1. BUILDING HEIGHTS AND ELEVATIONS:

A. ELEVATION OF THE MEAN NATURAL GRADE ALONG THE FOUNDATION PERIMETER = 296.0 FT.

B. ELEVATION(S) OF THE FINISHED FLOOR(S)
- GROUND FLOOR: 304.0 FT.
- GARAGE FLOOR: 297.5 FT.

VERTICAL DISTANCE FROM THE MEAN NATURAL GRADE TO:
- GROUND FLOOR: 8.0 FT.
- GARAGE FLOOR: 6.5 FT.

C. ELEVATION(S) OF ALL ROOF RIDGES:
- GROUND FLOOR: 324.84 FT.
- GARAGE FLOOR: 324.67 FT.

VERTICAL DISTANCE FROM THE MEAN NATURAL GRADE TO:
- GROUND FLOOR: 16.84' FT.
- GARAGE FLOOR: 16.67 FT.

2. BUILDING DIMENSIONS:
GROUND FLOOR: 80'-0" X 26'-6" = 1856 SQ. FT.
DECKS: PORCH = 7'-4" X 8'-6", REAR = 88'-0" X 11'-4" = 412 SQ. FT.
GARAGE: 20'-0" X 19'-0" = 505 SQ. FT.

3. PERCENT OF LOT DIMENSIONS:
PERCENT OF LOT BEING USED BY WIDTH: 53%
PERCENT OF LOT BEING USED BY LENGTH: 52%

4. DISTANCE FROM NEAREST NEIGHBORING STRUCTURES (EAVE TO EAVE DISTANCE)
FRONT: > 150'-0"
REAR: > 150'-0"
NORTH SIDE: ± 57'-1"
SOUTH SIDE: ± 25'-0"

5. SETBACKS FROM PROPERTY LINES:
FRONT: 40'-0"
REAR: ± 208'-0"
NORTH SIDE: 17'-9"
SOUTH SIDE: ± 18'-4"

6. EXTERIOR SIDING & ROOFING MATERIALS:
A. ROOF MATERIALS: COMPOSITION SHINGLES - ELK PRESTIGE PLUS COLOR: SAXELWOOD
B. EXTERIOR SIDING: 1 X 6 CEDAR BOARDS WITH 1 X 3 CEDAR BATTS COLOR: SHERWIN-WILLIAMS WOODSCAPES - "CHESTNUT"
C. TRIM COLOR: TO MATCH SIDING
D. WINDOW FRAME COLOR: DARK BROWN

ROBERTS AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1288
EUREKA, CALIFORNIA 95445
707 786-9306

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1 - LOT 34

PHASE:	IBAC PHASE 2
REVISIONS:	
JOB NO: 02-08-IMC	DATES: 12/1/08
SCALE:	AS SHOWN
DRAWN BY:	M.J.R.
CHECKED BY:	M.J.R.
SHEET NO:	A-1
OF:	1

IRISH BEACH CC&R - ARTICLE V

Minimum Construction Standards

The following minimum construction standards must be observed in constructing any dwelling str improvements on any Lot unless a variance is applied for and granted by the Committee in accorda IV, Section 4.6, above:

Section 5.1 View Corridors. To the extent practical, views from common living areas as defined herein shall be preserved. When plans for construction of a new dwelling, outbuilding or addition are being developed, the views from other Lots shall be considered to the greatest extent possible for preserving views of the lighthouse, white water, blue water, mountains, headlands, meadow and pond.

All proposed construction that affects views shall be subject to the prior approval of the Committee.

Section 5.2 Minimum Building Size.

Units One, Two, Three, Four, Seven and Seven A: No single family dwelling shall be constructed which contains less than 800 square feet of interior ground floor space and less than 1200 feet of total floor space.

Future Annexations: Building size in all future defined Units shall not be less than 1200 square feet of interior ground floor space.

The interior ground floor space as defined herein, does not include garage, porch or deck area. The Committee may issue a written variance to this construction standard if topographic, aesthetic or environmental concerns necessitate a lesser number of square feet on the ground floor.

Section 5.3 Set-Back Requirements. a) All structures shall be at least 20 feet from any street line and at least six feet from any side line or area line. The term "area line" shall mean a boundary line which is not a street line and does not extend to any street line, and the term "side line" shall mean a boundary line that is not a street line but which does intersect to a street line.

b)In addition to the foregoing, no dwelling hereafter constructed shall be closer than 28 feet in Units One and Two or 32 feet in all other Units plus the number of additional feet that the Committee may have granted through a height variance.

c)If the dwelling to be constructed is not adjacent to a Lot containing another dwelling, the Committee shall impose the fore going set back requirements with respect to adjacent Building Envelopes to the greatest extent possible so that substantial construction restrictions do not affect adjacent Lots.

d)The Committee may waive the additional requirements of paragraphs b) and c) above if it finds a variance is requested and granted under the provisions of Article IV, Section 4.6.

Section 5.4 Height Limitations:

Unit One, Two: Except as hereinafter provided, no part of the roof of a structure shall exceed the height of a horizontal plane 16 feet above the mean natural grade at any point on the perimeter foundation. On steeply sloping Lots, that have a fall of five (5) feet within the natural contour of the property within the foundation perimeter, the architectural design shall incorporate mitigating factors such as stepping the roof and foundation to reduce the impact of the bulk of the structure.

Other Units: Except as hereinafter provided, no part of the roof of a structure shall exceed the height of a horizontal plane 20 feet above the mean natural grade at any point on the perimeter foundation. On steeply sloping Lots, that have a fall of five (5) feet within the natural contour of the property within the foundation perimeter, the architectural design shall incorporate mitigating factors such as stepping the roof and foundation to reduce the impact of the bulk of the structure.

The Committee shall be entitled to grant variances to the height limits set forth if the topography of a Lot is such that it places an impractical hardship on an applicant or requires a change to preserve view corridors from other Lots and mitigate visual intrusion upon neighboring Lots. Variances can be used to either reduce or raise the height of a structure. Architectural design mitigation shall be proposed by the applicant receiving a variance to most appropriately blend the structure into the community. For Lots within the Properties that are severely restricted in

their development potential due to standards for septic systems in conjunction with height restrictions, the Committee may grant variances to the height limit on Lots where the Committee finds that the variance will have little impact on the views from surrounding Lots. The variance shall not exceed one and one half stories in units with a 16 foot height restriction nor two stories in units with a 20 foot height restriction and in each instance the applicant shall use architectural mitigating factors to lower the profile of the structure.

Section 5.5 Retaining Walls Construction of walls over three (3) feet in height designed to hold back earth for erosion and drainage control must be designed or approved by a licensed engineer and requires the approval of the Committee prior to construction.

Section 5.6 Fences. No fence shall be constructed on any lot or property within the Properties which materially obstructs a view from any other Lot within the Properties. Solid property line fences shall not be permitted. To preserve the open feeling of the Properties, privacy or screening fences shall be in close proximity and in architectural harmony with the residence and constructed of wood material. Deer fences of green laminated wire to protect garden areas may be permitted if they are screened from neighboring properties and public ways. Any fence construction shall be first submitted to the Committee for approval of area to be enclosed, materials to be used and height.

Section 5.7 Off-Street Parking. Residence construction proposals shall include the location of a two-car garage, whether to be constructed or not, so that its impact may be measured by the Committee during the initial review process. All new residences must include a two car garage or off-street parking for a minimum of two cars. Off-street parking shall be screened from view from the street and adjoining properties. The Committee shall grant variances if the Lot size does not permit compliance with the above.

Section 5.8 Painting Limitations. All exterior paints and stains should be in muted tones consistent with neighboring structures, and in colors commonly found daily in the surrounding natural environment. A sample of the paint or stain must be submitted to the Committee for approval on all initial painting. A sample must also be submitted for repainting if the desire is to substantially change the color previously approved. The sample must be on a piece of wood at least 6 inches square.

Section 5.9 Window and Door Materials. All window and door frames shall be of materials that can withstand the rigors of the coastal environment and finished to match or complement in muted tones the exterior color of the structure.

Section 5.10 Limitations on Roofing Materials. Roofs shall be fire proof or fire resistant architectural grade shingles in muted tones that provide a relief appearance similar to wood shakes. The slope of a roof should be a minimum of four inches in 12 inches, unless the Committee finds that a variation from this is necessary because of the contour of the Lot or because of view considerations from other Lots. Flues should be sheathed to within 12 inches of the top of the flue and to within 4 inches of the peak of the roof.

Section 5.11 Garages and Outbuildings. Garages and other outbuildings erected on any Lot shall be similar in construction quality and architectural design to the dwellings located on the Lot and must conform to the other restrictions contained in this Article.

Section 5.12 Exterior Lighting. All exterior lights must be sheltered or housed in such a way that no light will shine directly into any window of any neighboring Lot within the Properties.

Section 5.13 Antennas and/or Satellite Dishes.

In order to ensure adequate aesthetic controls and to maintain the general attractive appearance of the Properties every Owner shall obtain a permit from the Committee for any Antenna/Satellite Dish that exceeds 18 inches in height or 18 inches in diameter. Roof top installation should be avoided unless it is the only location that provides access to the desired signal.

Section 5.14 Drainage. No Owner shall do any work, construct any improvement, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Owner's Lot or any adjacent Lots or Common Area, except to the extent such alteration in drainage pattern is approved in writing by the Committee.

ROBERTS & ASSOCIATES

ARCHITECTURE

McCONNELL RESIDENCE

VARIANCE REQUESTS

Unit 1, Lot 34
14820 Navarro Way
Manchester, California 95459

December 13, 2006

SITE AND BUILDING DESIGN CONSIDERATIONS

This parcel presents many opportunities and constraints for development. There are dramatic views of the ocean to the west and the Point Arena Lighthouse to the southwest. Existing houses occupy the lots to the north and south with no notable views from this parcel in those directions. There are no notable views in the easterly direction across Navarro Way. The subject parcel is approximately 100 feet wide and 300 feet long, and extends to within 300 feet of the ocean. The elevation along the eastern property line on Navarro Way is generally 304 feet above sea level. The lot has an average slope of 20% westward from Navarro Way and is generally the most favorable portion of the site for development. The next 40 feet has a steeper slope of 40%, and then flattens to a slope of 30% for the next 40 feet, and the most westerly 130 feet has a steep 70% slope to the western property line.

During the course of investigations associated with the purchase of the parcel, Point Arena Mountain Beaver (PAMB) was observed to be active on the steep western portions of the site starting approximately 150 feet from Navarro Way. In order to mitigate this condition with the Department of Fish and Game, the owner has agreed to create a habitat zone by erecting a fence across the entire width of the property and restricting all development in areas west of the fence.

The area between the PAMB habitat fencing and the western limits of the proposed house will be used to locate the septic system holding tanks and a site drainage leach basin to receive stormwater runoff from the site and building roof areas. In the event the basin fills to capacity, an overflow piping system will allow water to be dispersed on the site utilizing accepted erosion control materials and methods.

The owner's program requirements call for a relatively small house to be used primarily as a vacation retreat. The desire to visually connect with the westerly ocean views is paramount. The plan configuration uses the Entry to bisect the active and passive areas of the house and also provide direct access to the deck on the west side of the house. A great room consisting of living, dining and kitchen areas are located to the north of the entry. The two bedrooms and bathrooms are located off a hallway to the south of the entry. All primary rooms have dramatic views of the ocean. There is a strong desire by the owners to have all rooms located on one level to facilitate easy movement throughout the house as accessibility issues may arise in the future.

Design alternatives were investigated with the owner's program requirements and the approved Phase 1 Building area as determinants. Stepping of house levels down the hill seemed to be a reasonable approach, but the small size of the floor plan makes this approach difficult because of the space required to effect the level changes and its impact on room size. Other design layouts were considered, but the terrain, septic system locations and vehicular movement on the site left few alternatives to be considered.

VARIANCE REQUESTS

We request variances from the following Sections of Article 5 of the Irish Beach CC&R's:

1. Building Separation:

A. Section 5.3 - A building separation of 28 ft. in Units 1 and 2 and 32 ft. in all other units. This distance is measured eave to eave.

B. When a height variance is requested, the minimum building separations and its related setbacks must be increased by the requested height variance.

Response to Item A:

We request a variance to the required 28-foot building separation as it relates to the adjoining property to the north. A portion of the residence containing conditioned space with a combination deck/roof is located 10 ft. from the north side property line. The county mandates a minimum of 6 feet setback from the side property lines. This leaves 4 feet that could be developed, but the owner of the neighboring residence has signed an agreement restricting any development in this area.

The distance between eave of the existing house to the north and the eave of the proposed residence is approximately 37 ft. (see site plan), exceeding the required 28 ft. separation. There is a separation of approximately 20'-6" feet between the eave of the proposed house and the wall defining the deck/planter edge (see site plan). We do not consider this deck/planter wall as an eave as defined in the CC&R's, therefore the required separation is not applicable.

The existing residence to the south will have a 29'-0" separation between its eave and the eave of the proposed house (see site plan).

Response to Item B:

We are requesting a height variance of 2'-4", therefore the resulting setbacks would be increased to 30'-4" between the proposed house and existing houses on the north and south parcels. As stated above the setback between the house to the south will be approximately 29 feet eave to eave and the house to the north will be approximately 37 feet eave to eave. The relatively small footprint of the proposed house will be forced to be even smaller unless a variance is granted.

2. Section 5.4 Height Limitations.

Unit One, Two: Except as hereinafter provided, no part of the roof of a structure shall exceed the height of a horizontal plane 16 feet above the mean natural grade at any point on the perimeter foundation. On steeply sloping Lots, that have a fall of five (5) feet within the natural contour of the property within the foundation perimeter, the architectural design shall incorporate mitigating factors such as stepping the roof and foundation to reduce the impact of the bulk of the structure.

Response:

As indicated on the Site Plan, Building Elevations and Sections, the "horizontal plane" defining the mean natural grade for the house foundation is 3'-0" (Elev: 286.0') below the proposed finish floor elevation (Elev: 289.0') of the house. This elevation was established based on a proposed 2'-6" cut to be made at the eastern wall of Bedroom 2 resulting in the house being sunk into the hillside. The depth of this cut is restricted by anticipated lateral ground loads imposed by the garage structure and a vehicle in the garage and the potential for groundwater from underground drainage and possible septic system outfall.

The finish floor elevation of the garage (293.5') cannot be lower that what is proposed because proximity to the septic leach fields. The house has been moved as far to the west as possible based on required setbacks between septic tanks and the proposed house structure and the PAMB habitat zone. Proposed roof slopes have been lowered to 3 :12 pitch. The height of the ridge at the gable roof of the garage is 12'-2" above the finish floor of the garage and approximately eight inches above the existing pavement on Navarro Way. The height of the ridge is 15'-4" above the finish floor of the house and approximately four inches above the existing pavement on Navarro Way.

In conclusion, we request a height variance of 2'-4" in order to locate the house and detached garage in the proposed locations on the site with the owner's program requirement for a plan configuration with minimum or no level variations.

Section 5.7 Off-Street Parking.

Residence construction proposals shall include the location of a two-car garage, whether to be constructed or not, so that its impact may be measured by the Committee during the initial review process. All new residences must include a two car garage or off-street parking for a minimum of two cars. Off-street parking shall be screened from view from the street and adjoining properties. The Committee shall grant variances if the Lot size does not permit compliance with the above.

Response:

Due to site topographic constraints and Mendocino County septic system development guidelines requiring minimum distances from site cuts and proposed septic leach fields (which are to be located to the west of Navarro Way as close to the easterly property line as possible), it is possible to provide only a one-car garage with off-street parking for an additional car. In order to accomplish this, we are proposing to make a cut no greater than 3-foot approximately 22 feet from the western edge of the replacement leach field. We plan to construct a retaining wall along the eastern side of the driveway. A concrete driveway will enter the parcel at the northeastern corner of the property; proceed downhill and swing to the south on a level terrace in front of the house and into the garage. The placement of the garage on this flat terrace is crucial to allow for vehicular access. We have located the garage as low as possible based on minimum separation from the septic leach fields and maximum heights of retaining walls allowed adjacent to the septic leach fields.

3. Section 5.10 Limitations on Roofing Materials.

Roofs shall be fire proof or fire resistant architectural grade shingles in muted tones that provide a relief appearance similar to wood shakes. *The slope of a roof should be a minimum of four inches in 12 inches, unless the Committee finds that a variation from this is necessary because of the contour of the Lot or because of view considerations from other Lots.* Flues should be sheathed to within 12 inches of the top of the flue and to within 4 inches of the peak of the roof.

Response:

The proposed 3 : 12 pitch has been proposed to lower the overall height of the roofs so that the proposed buildings are compatible with the adjacent houses. It is also the minimum slope that will accept composition shingles without additional waterproofing measures having to be included during construction.

On behalf of the owners of this parcel, Roberts & Associates have considered and responded to the requirements of the Irish Beach Developmental Guidelines in an accommodating manner that we feel will complement the Irish Beach community as a whole. We feel that with the approval of the requested variances the proposed house will be compatible with the neighboring structure's heights and pose no adverse consequences for future development of vacant lots remaining on Navarro Way.

Paoli Engineering & Surveying DAVID E. PAOLI

535 E Chestnut St., Fort Bragg, CA 95437
Phone: 707-964-5225 – Fax: 707-961-1452 – Cell: 707-357-3193
E-mail: engineersurvey@yahoo.com

CALIFORNIA REGISTERED CIVIL ENGINEER/LAND SURVEYOR – RCE 18341
OREGON REGISTERED CIVIL ENGINEER – NO. 8426
OREGON PROFESSIONAL LAND SURVEYOR – NO. 1289

EXHIBIT NO. 7
APPEAL NO.
A-1-MEN-07-047
McCONNELL
EROSION CONTROL PLAN BY PAOLI ENGINEERING & SURVEYING (1 of 3)

June 11, 2007

CDP 76-2006 (McConnell)

EROSION CONTROL PLAN

Mendocino County Planning staff is citing a section of the Coastal Zoning code as follows:

- Section 20.492.015(E) of the Mendocino County Coastal Zoning Code requires as follows:

  To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur.

On June 8, 2007, I located all the proposed house and garage corners and surveyed their elevations. All corners are now marked with ½" rebar protruding approximately 2 inches above the ground surface. Exhibit A shows the numbering system used and the elevation we obtained on each corner. The percentage of ground slope between selected corners is calculated below.

POINTS	CALCULATION	SLOPE
14 to 11	(287.05 – 277.02) x 100 ÷ 32.0'	31.3%
17 to 14	(289.22 – 287.05) x 100 ÷ 50.5'	4.3%
17 to 20	(289.22 – 280.94) x 100 ÷ 30.5'	27.1%
20 to 11	(280.94 – 277.02) x 100 ÷ 50.0'	7.8%

For the garage:

28 to 27	(294.88 – 290.90) x 100 ÷ 17.5'	22.7%
29 to 28	(296.44 – 294.88) x 100 ÷ 20.0'	7.8%
29 to 26	(296.44 – 290.44) x 100 ÷ 17.5'	34.3%
27 to 26	(290.90 – 290.44) x 100 ÷ 20.0'	2.3%

This information could be interpreted at least three ways: (1) the average slope of the house and garage is less than 30 percent; (2) taking the two steepest slopes of the house or the garage, their average is less than 30 percent; (3) the steepest single slope for the house and garage exceeds 30 percent.

The worst case scenario is that a portion of these buildings are proposed to be constructed on a slope greater than 30 percent, so this triggers the need to supply adequate evidence that no increase in erosion will occur.
The following is largely a recapitulation of recommendations found in earlier reports and letters that are meant to minimize and control erosion.

1. Concrete pier and grade beam foundations are to be used, which will eliminate soils creep and erosion within the building envelope.

2. The septic system is located on the least steep part of the lot. Shallow leach lines that emit low volumes of effluent will be used and replanting with hardy native vegetation will be done.

3. All cut and fill slopes will be replanted with erosion-controlling vegetation. Present practice is to hydro-seed with a mixture approved by the Mendocino County Transportation Department. A professional landscaper should be consulted for the exact planting design.

4. The driveway will be paved with concrete to eliminate erosion on the roadway surface.

5. Runoff from the driveway and roofs will be collected in a storm drain system and disposed of in a leaching trench west of the house. This is an area of very rapid leaching, as discussed in previous reports. All water will rapidly percolate downward.

6. During construction, silt fences need to be placed to prevent loose soils from moving west of the construction site. The fences should be placed no farther than 3 feet from the cut or fill.

7. Any excavated material that is not to be used as backfill or as topsoil must be removed from the lot. This material must be surrounded by a silt fence until it is removed. Temporary storage on site is east of the garage.

8. No earthwork should take place on rainy days. Stockpiled material should be covered with tarps.

9. The restrictions on access, disturbance and construction time periods related to the nearby Point Arena Mountain Beaver Habitat will tend to minimize human activity and human-induced erosion on this lot.

I am aware that the recommendations found in the April, 2006 study by BioConsultant LLC are still being updated. Recommendations on planting within the proposed building area may also be forthcoming, which may over-ride some of my recommendations.

In conclusion, it is my professional opinion that the strategies outlined above will ensure that no increase in erosion will occur. Placing the building sites and driveway under concrete, asphalt and wood floors will decrease erosion for those specific areas. Proper management of the construction site plus a storm-water system design and professional landscaping plan should match or be superior to runoff from the present uncontrolled situation which is apparently a mix of native and non-native vegetation that has just grown there without any regard for erosion control policies.

EXP. 6-30-09

Mendocino County Dept. of Planning & Building Services
Coastal Planning Division
790 South Franklin Street
Fort Bragg, CA 95437
707 964-5379 (tel) • 707 961-2427 (fax)

MEMORANDUM

TO: Project File, CDP 76-2006
FROM: Teresa Beddoe, Planner I
DATE: June 12, 2007
SUBJECT: Site view June 11, 2007

On June 11, 2007, Planning Staff visited the project site to check slopes in the proposed development areas. A clinometer was used, and slope percentages were checked by both parties present for accuracy. The building site locations were already staked out by Mr. Paoli. Staff found that the slope in the vicinity of the garage is approximately 22.5%. In the vicinity of the residence, the maximum slope is 41.5% for a distance of approximately 15 feet, the remainder of the residence site averages 26%. On average, the residence site has an approximately 33% slope, with a maximum slope of 41.5%. Both the average and maximum slope in the vicinity of the residence exceed the 30% referenced in Section 20.492.015(E) in the Mendocino County Coastal Zoning Code. While the average is included for comparison with figures submitted by Mr. Paoli and Roberts and Associates, the code does not specify an average, therefore the maximum slope is the relevant figure in regards to Section 20.492.015 County Code conformance.

The original comprehensive site plan (A1-1) submitted with the project by Roberts and Associates shows slopes similar to slopes found by planning staff. The December 13, 2006 Architectural Design Variance request letter written by Roberts and Associates describes similar slopes:

> The lot has an average slope of 20% westward from Navarro Way and is generally the most favorable portion of the site for development. The next 40 feet has a steeper slope of 40%, and then flattens to a slope of 30% for the next 40 feet, and the most westerly 130 feet has a steep 70% slope to the western property line.

On May 10, 2007, Staff recommended a comprehensive erosion control plan due to slopes exceeding 30% in the vicinity of the proposed structures, in order to comply with Section 20.492.015(E) of the Mendocino County Coastal Zoning Code.

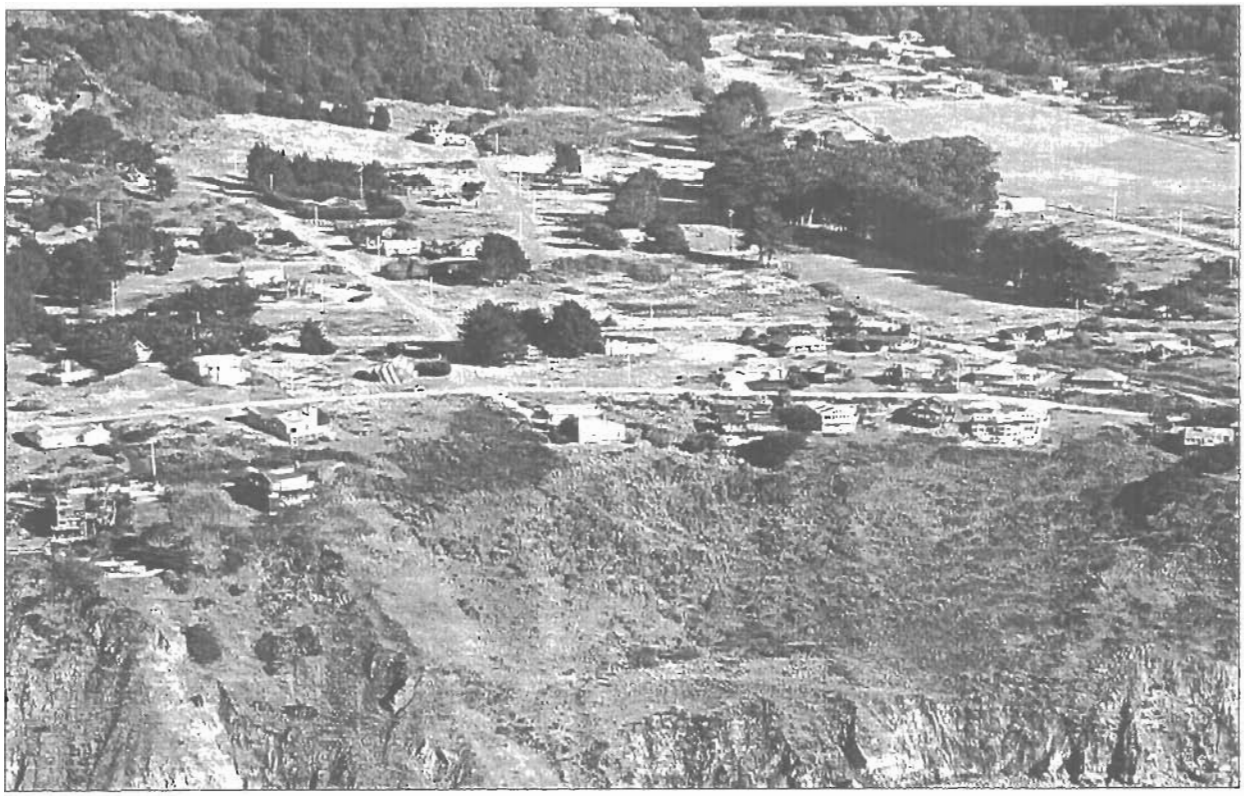
Mr. Paoli responded on May 25, 2007, by stating that the building site has a 21% slope. On June 6, Roberts and Associates responded by submitting a revised comprehensive site plan (A1-1), showing the slope in the vicinity of the residence as 29.4%, and the slope in the vicinity of the garage as 22.9%.

In summary, the site view on June 11, 2007 by planning staff concludes that the original slope estimates were consistent with staff findings, and that the recent submissions (May 25 and June 6, 2007) by Mr. Paoli and Roberts and Associates are inconsistent with staff findings.

c/c: David Paoli, 535 East Chestnut Street, Fort Bragg, CA 95437
Phillip Roberts, P.O. Box 1588, Gualala, CA 95445
William & Marcia McConnell, 25755 Josefa Lane, Los Altos Hills, CA 94022
Mark Johnsson, Ph. D., Staff Geologist, California Coastal Commission

EXHIBIT NO. **8**
APPEAL NO.
A-1-MEN-07-047
McCONNELL
COUNTY MEMORANDUM REGARDING SLOPES ON SUBJECT PROPERTY

BOTANICAL SURVEY:
McConnell Project (May, 2006)



Irish Beach

BioConsultant LLC
122 Calistoga Rd. #360
Santa Rosa, CA 95409
Ph/Fx: 539-4488
dmarshall@bioconsultant.net
www.bioconsultant.net

BOTANICAL SURVEY

William McConnell APN 132-202-05

SUMMARY

A botanical assessment and survey conducted at parcel APN 132-202-05 *on May 9, 2006 did not result in the observation of any rare, threatened, or endangered plant species. Early blue violet* (Viola adunca), *the primary larval host plant for the federally endangered Behren's silverspot butterfly* (Speyeria zerene behrensii), *was not detected during the survey, nor was it found during a Point Arena mountain beaver survey previously conducted at the parcel by BioConsultant LLC on April 5, 2006.*

INTRODUCTION

Property owner Joe Kaleda is seeking to sell a small lot within the Irish Beach Subdivision in Manchester, California. In order to facilitate this process, Margaret Ballou of Irish Beach Realtors and the potential buyer, Mr. McConnell, contracted BioConsultant LLC to conduct a botanical survey to determine if any rare, threatened, or endangered plant species are present on the property. The survey results are presented in this report and will be submitted to all interested parties (Mr. Kaleda, Mr. McConnell and Ms. Ballou).

Project Site Location

The referenced property lies west of State Highway 1, within the Irish Beach Subdivision at Navarrow Way and Sea Cypress Dr. (APN 132-020-005), and four miles north of the village of Manchester (**Figure 1**).

Project Description

No project is proposed at this time as the lot is in escrow. The potential buyers intend to build a house on the upper (eastern) portion of the parcel.

Parcel Description

The subject parcel configuration and boundaries are outlined in **Figure 2**. A color photo of the area (**Figure 3**) shows the habitat within and surrounding the subject parcel. Used together, Figures 2 and 3 provide a complete representation of the site and its environs.

The narrow rectangular-shaped 0.521 acre parcel is located on a marine terrace and extends down a coastal bluff. It has a west-southwest aspect and is composed of introduced grassland and northern coastal scrub communities (see Figure 3). The parcel's terrain progressively slopes toward the western boundary, ranging from 8 degrees slope on the terrace to 40 degrees slope on the steep bluff overlooking the Pacific Ocean. Introduced grassland occupies the gently sloping terrace and grades into the predominant northern coastal scrub habitat, which extends down the coastal bluff to the western property line (**Figure 4**).

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Mowing and shrub removal recently modified the easternmost section of the parcel, altering the vegetation on this upper section from northern coastal scrub with scattered grassy openings to introduced grassland with scattered northern coastal scrub remnants. Figure 3, a color photo dated October 4, 2005, shows the habitat as a continuum of coastal scrub prior to the alteration.

BOTANICAL ASSESSMENT AND SURVEY

BioConsultant LLC staff botanist Linda Esposito, assisted by Kim Fitts and Derek Marshall, conducted an on-site habitat assessment and survey for special-status plants on May 9, 2006. The three-person survey effort duration totaled 2 hours. The investigators surveyed an area extending from the eastern parcel boundary at Navarrow Way west and down slope a distance of 180 to 200ft (see Figures 2 and 3). They walked the entire survey area, making a careful search for potentially occurring special-status plant species. They noted and recorded details of terrain, hydrology, vegetation communities, and the presence of individual plant species. Plant samples were obtained for diagnostic review in the laboratory.

The steep lower section of the parcel was not surveyed due to the excessive slope and the instability of the substrate. Any special-status plant species that may occur in this unsurveyed area would be outside of the standard 100ft. setback from the uppermost portion of the parcel, which is the area of potential development.

Plant Communities

Two small non-native Monterey cypress (*Cupressus macrocarpa*) and some other ornamental plants are found in the upper half of the parcel.

Introduced Grassland

Introduced grassland is found on the upper portion of the parcel and is chiefly composed of non-native grasses and forbs combined with small islands of native coastal scrub plants. Grasses including sweet vernal grass (*Anthoxanthum odoratum*), velvet grass (*Holcus lanatus*), rattlesnake grass (*Briza maxima*), and slender Spanish wild oat grass (*Avena barbata*) are mixed with bracken (*Pteridium aquilinum* var. pubescens) and a large component of weedy forbs such as radish (*Raphanus sativus*) and Italian thistle (*Carduus pycnocephalus*). The clumps of coastal scrub contain cow parsnip (*Heracleum lanatum*), coast man-root (*Marah oreganus*), hedge nettle (*Stachys ajugoides* var. *rigida*), coyote brush (*Baccharis pilularis*), mugwort (*Artemisia douglasiana*), and Douglas iris (*Iris douglasiana*). There are some native coastal prairie indicators such as yarrow (*Achillea millefolium*) and California poppy (*Eschscholzia californica*) which reflect the historic coastal prairie/coastal scrub vegetation of the site. There are good stands of California brome (*Bromus carinatus* var. *carinatus*), a native perennial bunchgrass, here and further down the slope in grassy openings between shrubs.

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Northern Coastal Scrub
This is a dense to moderately dense community of low shrubs with scattered grassy openings. Representative species are: thimbleberry (*Rubus parviflorus*), cow parsnip, coyote brush, California blackberry (*Rubus ursinus*), western poison oak (*Toxicodendron diversilobum*), lupine (*Lupinus* sp.), angelica (*Angelica hendersonii*), figwort (*Scrophularia californica*), and California brome.

Intact northern coastal scrub covers the 20 to 40 degree slopes of the lower two-thirds of the parcel. Below the grassland community there is a transitional area in which scrub and grassland exist in roughly equal proportions.

Rare, Threatened and Endangered Plants
A review of the California Department of Fish and Game Natural Diversity Database (CNDDB [2006]) and the California Native Plant Society's (CNPS) *Electronic Inventory of Rare and Endangered Plants of California* (2006) for the Point Arena and Mallo Pass Creek USGS 7.5 minute quadrangles was conducted prior to the in-field survey.

These records indicate the potential occurrence of 34 special-status plant species in the project vicinity. The list of 24 species resulting from the CNDDB query is attached as **Appendix A.** The CNPS query resulted in 13 additional species. A comprehensive list of all 34 special-status plants with potential to occur within the Point Arena and Mallo Pass Creek quadrangles is attached as **Appendix B**.

Twenty-three of these special-status plant species have potential to occur in habitats found within the parcel boundary. **Table 1** lists these species with their common names, blooming time, status, and the plant communities in which they occur.

Table 1. Rare, threatened, and endangered plants with potential to occur at the subject parcel

Scientific Name	Common Name	Plant Communities	Blooming Time	Status
Agrostis blasdalei	Blasdale's bent grass	Coastal bluff scrub, coastal dunes, coastal prairie	May-Jul	CNPS List 1B.2
Angelica lucida	sea-watch	Coastal bluff scrub, coastal dunes, coastal scrub, marshes & swamps (coastal salt)	May-Sep	CNPS List 4.2
Calamagrostis bolanderi	Bolander's reed grass	Bogs and fens, broadleafed upland forest, closed-cone coniferous forest, coastal scrub, meadows & seeps, marshes & swamps, north coast coniferous forest/mesic	May-Aug	CNPS List 4.2
Calandrinia breweri	Brewer's calandrinia	Chaparral, coastal scrub/sandy or loamy, disturbed sites and burns	Mar-Jun	CNPS List 4.2
Calystegia purpurata ssp. *saxicola*	coastal bluff morning-glory	Coastal dunes, coastal scrub	May-Sep	CNPS List 1B.2
Campanula californica	swamp harebell	Bogs & fens, closed-cone coniferous forest, coastal prairie, meadows & seeps, marshes & swamps (freshwater), north coast coniferous forest/mesic	Jun-Oct	CNPS List 1B.2

Carex californica	California sedge	Bogs & fens, closed-cone coniferous forest, coastal prairie, meadows & seeps, marshes and swamps (margins)	May-Aug	CNPS List 2.3
Carex saliniformis	deceiving sedge	Coastal prairie, coastal scrub, meadows & seeps, marshes & swamps (coastal salt)/mesic	Jun	CNPS List 1B.2
Castilleja mendocinensis	Mendocino coast Indian paintbrush	Coastal bluff scrub, closed-cone coniferous forest, coastal dunes, coastal prairie, coastal scrub	Apr-Aug	CNPS List 1B.2
Erigeron supplex	supple daisy	Coastal bluff scrub, coastal prairie	May-Jul	CNPS List 1B.2
Fritillaria roderickii	Roderick's fritillary	Coastal bluff scrub, coastal prairie, valley & foothill grassland	Mar-May	CNPS List 1B.1; CA Endangered
Gilia capitata ssp. *pacifica*	Pacific gilia	Coastal bluff scrub, chaparral, coastal prairie, valley & foothill grassland	Apr-Aug	CNPS List 1B.2
Hemizonia congesta ssp. *tracyi*	Tracy's tarplant	Coastal prairie, lower montane coniferous forest, north coast coniferous forest/openings, sometimes serpentinite	May-Oct	CNPS List 4.3
Lasthenia macrantha ssp. *bakeri*	Baker's goldfields	Closed-cone coniferous forest, coastal scrub, meadows & seeps, marshes & swamps	Apr-Oct	CNPS List 1B.2
Lasthenia macrantha ssp. *macrantha*	perennial goldfields	Coastal bluff scrub, coastal dunes, coastal scrub	Jan-Nov	CNPS List 1B.2
Leptosiphon acicularis	bristly leptosiphon	Chaparral, cismontane woodland, coastal prairie, valley & foothill grassland	Apr-Jul	CNPS List 4.2
Lilium maritimum	coast lily	Broadleafed upland forest, closed-cone coniferous forest, coastal prairie, coastal scrub, marshes & swamps (freshwater), north coast coniferous forest	May-Aug	CNPS List 1B.1
Lotus formosissimus	harlequin lotus	Broadleafed upland forest, coastal bluff scrub, closed-cone coniferous forest, cismontane woodland, coastal prairie, coastal scrub, meadows & seeps, marshes & swamps, north coast coniferous forest, valley & foothill grassland/wetlands, roadsides	Mar-Jul	CNPS List 4.2
Perideridia gairdneri ssp. *gairdneri*	Gairdner's yampah	Broadleafed upland forest, chaparral, coastal prairie, valley & foothill grassland, vernal pools/mesic	Jun-Oct	CNPS List 4.2
Sidalcea malachroides	maple-leaved checkerbloom	Coastal prairie, coastal scrub, north coast coniferous forest, riparian woodland/often in disturbed areas	Apr-Jul	CNPS List 1B.2
Sidalcea malviflora ssp. *purpurea*	purple-stemmed checkerbloom	Broadleafed upland forest, coastal prairie	May	CNPS List 1B.2
Stellaria littoralis	beach starwort	Bogs & fens, coastal bluff scrub, coastal dunes, coastal scrub, marshes & swamps	Mar-Jul	CNPS List 4.2
Veratrum fimbriatum	fringed false-hellebore	Bogs & fens, coastal scrub, meadows & seeps, north coast coniferous forest/mesic	Jul-Sep	CNPS List 4.3

CNPS List:

1B – Rare or Endangered in California and elsewhere

2 – Rare or Endangered in California, more common elsewhere

3 – Plants for which we need more information – Review list
4 – Plants of limited distribution – Watch list

CNPS Threat Code extenstion:

.1 – Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat)
.2 – Fairly endangered in California (20-80% occurrences threatened)
.3 – Not very endangered in California (<205 of occurrences threatened or no current threats known)

The survey was conducted during the blooming time of all but four of the special-status plant species listed in Table 1. Swamp harebell and Gairdner's yampah bloom from June to October; deceiving sedge flowers in June; and fringed false-hellebore flowers from July to September. It is always best to survey an area more than once in order to capture the blooming times of all of the potentially-occurring special-status plants.

The parcel was also surveyed for the presence of the early blue violet (*Viola adunca*), the primary larval host plant for the federally endangered Behren's silverspot butterfly (*Speyeria zerene behrensii*), which has potential to occur at the site. The blooming season for the early blue violet is April to June. BioConsultant LLC previously surveyed for the presence of early blue violet at the subject parcel on April 5, 2006 during a habitat assessment and survey for the Point Arena mountain beaver. The early blue violet was not detected during that survey.

Survey Results

No special-status plant species were observed at the subject parcel.

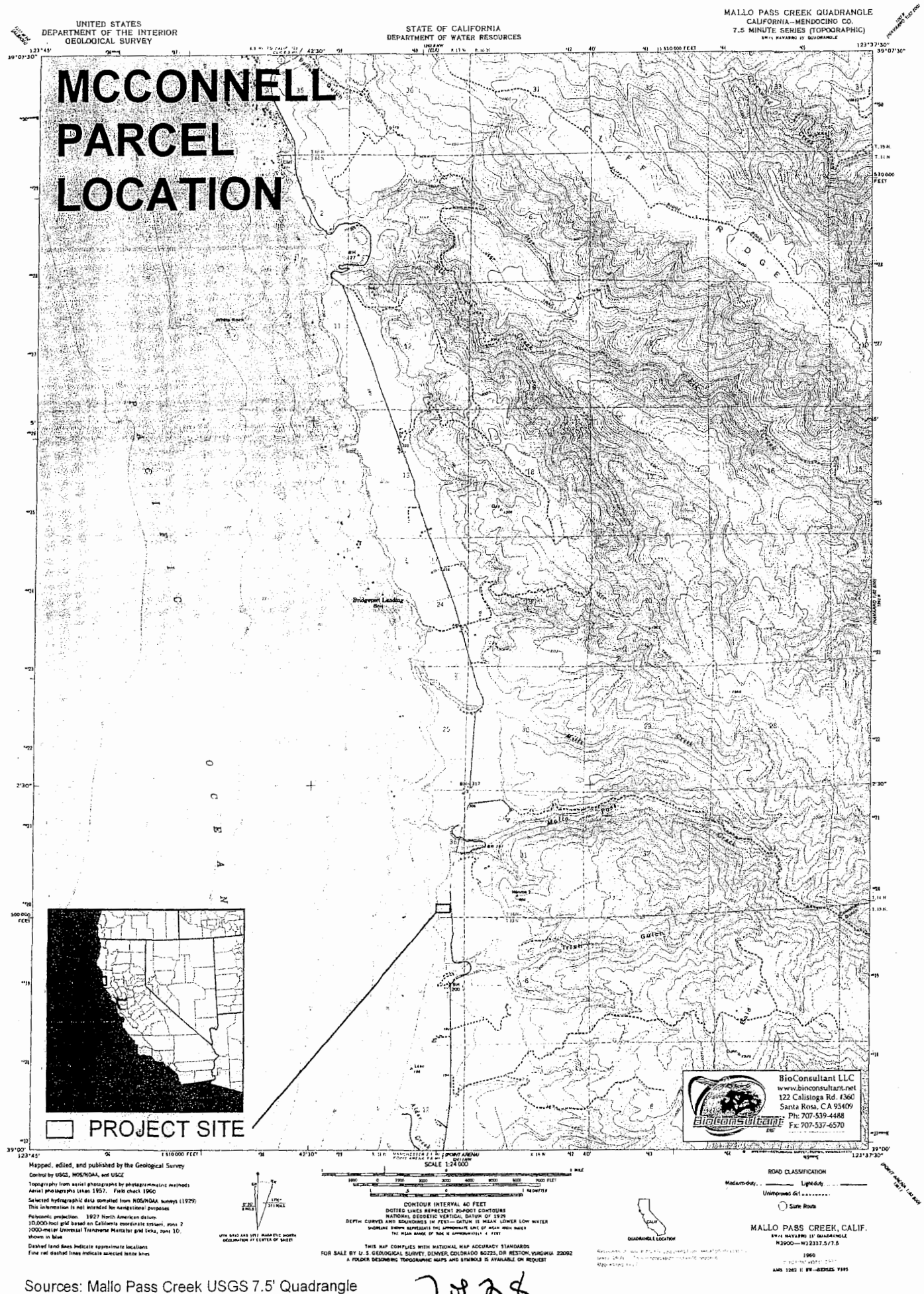
Although the survey preceded the blooming time of deceiving sedge by nearly a month, a careful search of the parcel revealed no plants of the sedge (*Carex*) genus. Therefore, we can be reasonably certain that deceiving sedge was not present on the parcel.

The survey also preceded the blooming times of swamp harebell, Gairdner's yampah, and fringed false-hellebore. The investigators are familiar with all three of these species, having observed them at other locations. They are relatively large perennial herbs that are easily recognizable in vegetative form in late spring. We observed no plants belonging to the harebell (*Campanula*), yampah (*Perideridia*), or false-hellebore (*Veratrum*) genera at the site.

No early blue violet plants were observed during the survey. This species was known to be in bloom when the survey was conducted; we observed a reference population in Anchor Bay within two days of the survey date.

CONCLUSIONS

The comprehensive botanical survey completed during the spring blooming season detected no rare, threatened, or endangered plant species. Therefore, future proposed development plans should not impact rare plants.



Sources: Mallo Pass Creek USGS 7.5' Quadrangle

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Figure 1 McConnell location map

MCCONNELL BOTANICAL SURVEY

N

April, 2006

FIG 2

BioConsultant LLC

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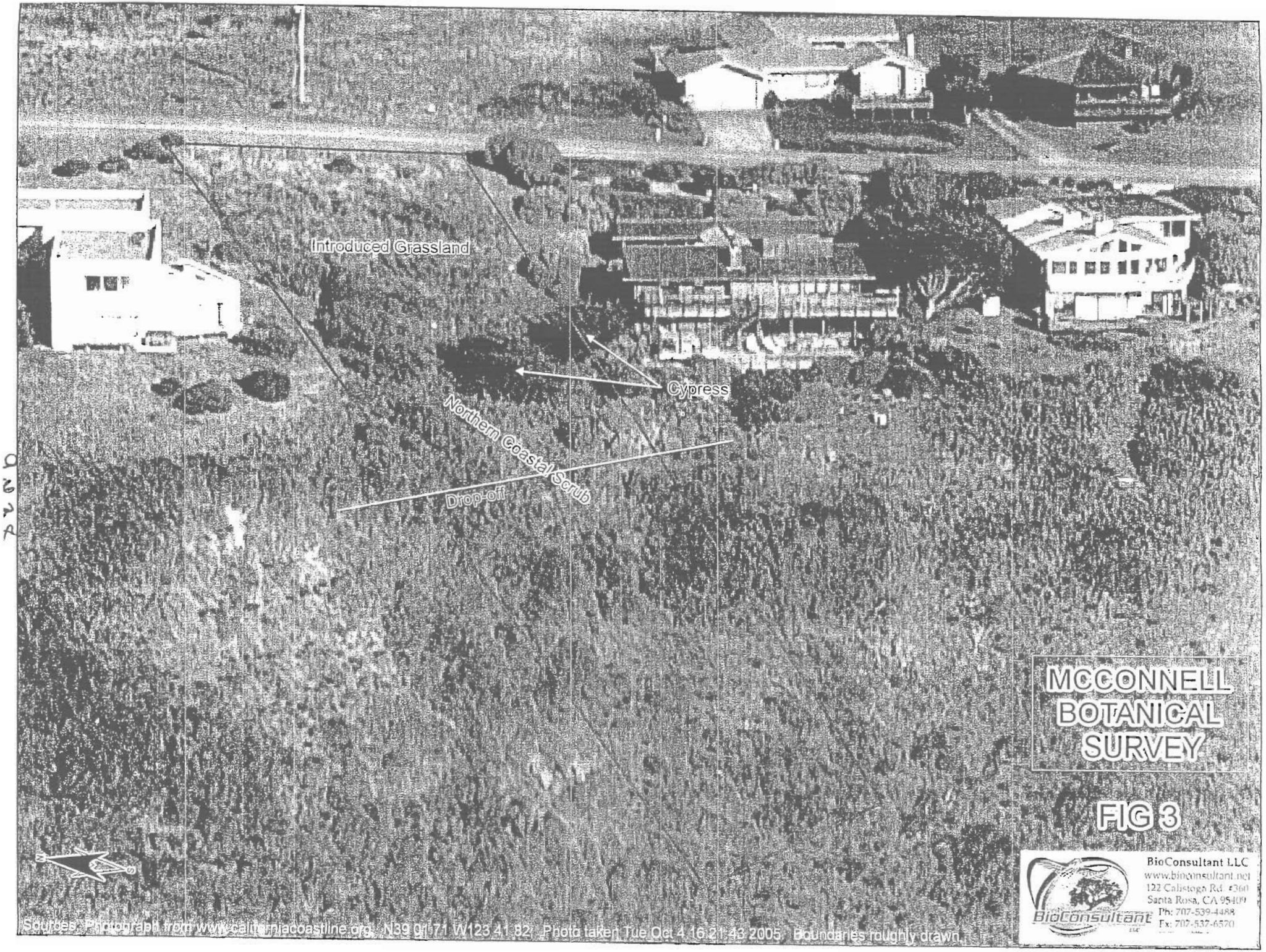
Introduced Grassland
Cypress
Northern Coastal Scrub
Drop-off
MCCONNELL
BOTANICAL
SURVEY
FIG 3
BioConsultant LLC
www.bioconsultant.net
122 Calistoga Rd. #360
Santa Rosa, CA 95409
Ph: 707-539-4488
Fx: 707-537-6570
Sources: Photograph from www.californiacoastline.org. N39 01 171 W123 41 82. Photo taken Tue Oct 4 16:21:43 2005. Boundaries roughly drawn.

Figure 4. Shows the area of transition from introduced grassland to NCS.

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Appendix A
California Department of Fish and Game- Natural Diversity Database
Selected Plants by Scientific Name for Quads: Gualala & Point Arena
BioConsultant LLC

	Scientific Name/Common Name	Element Code	Federal Status	State Status	GRank	SRank	CDFG or CNPS/R-E-D
1	***Abronia umbellata ssp. breviflora*** pink sand-verbena	PDNYC010N2			G4G5T2	S2.1	1B/2-3-2
2	***Agrostis blasdalei*** Blasdale's bent grass	PMPOA04060			G2	S2.2	1B/3-2-3
3	***Astragalus agnicidus*** Humboldt milk-vetch	PDFAB0F080		Endangered	G1	S1.1	1B/2-3-3
4	***Calystegia purpurata ssp. saxicola*** coastal bluff morning-glory	PDCON040D2			G4T2	S2.2	1B/2-2-3
5	***Campanula californica*** swamp harebell	PDCAM02060			G3	S3.2	1B/1-2-3
6	***Carex californica*** California sedge	PMCYP032D0			G5	S2?	2/3-1-1
7	***Carex lyngbyei*** Lyngbye's sedge	PMCYP037Y0			G5	S2.2	2/2-2-1
8	***Carex saliniformis*** deceiving sedge	PMCYP03BY0			G2	S2.2	1B/2-2-3
9	***Castilleja ambigua ssp. humboldtiensis*** Humboldt Bay owl's-clover	PDSCR0D402			G4T2	S2.2	1B/2-2-3
10	***Castilleja mendocinensis*** Mendocino coast Indian paintbrush	PDSCR0D3N0			G2	S2.2	1B/2-2-2
11	***Cupressus goveniana ssp. pigmaea*** pygmy cypress	PGCUP04032			G2T2	S2.2	1B/2-2-3
12	***Erigeron supplex*** supple daisy	PDAST3M3Z0			G1	S1.1	1B/3-2-3
13	***Fritillaria roderickii*** Roderick's fritillary	PMLIL0V0M0		Endangered	G1Q	S1.1	1B/3-3-3
14	***Gilia capitata ssp. pacifica*** Pacific gilia	PDPLM040B6			G5T3T4	S2.2?	1B/2-2-2
15	***Glyceria grandis*** American manna grass	PMPOA2Y080			G5	S1.3?	2/3-1-1
16	***Hesperevax sparsiflora var. brevifolia*** short-leaved evax	PDASTE5011			G4T3	S3.2	2/2-2-1
17	***Horkelia marinensis*** Point Reyes horkelia	PDROS0W0B0			G2	S2.2	1B/3-2-3
18	***Horkelia tenuiloba*** thin-lobed horkelia	PDROS0W0E0			G2	S2.2	1B/2-2-3
19	***Lasthenia conjugens*** Contra Costa goldfields	PDAST5L040	Endangered		G1	S1.1	1B/3-3-3
20	***Lasthenia macrantha ssp. bakeri*** Baker's goldfields	PDAST5L0C4			G3TH	SH	1B/2-2-3
21	***Lasthenia macrantha ssp. macrantha*** perennial goldfields	PDAST5L0C5			G3T2	S2.2	1B/2-2-3
22	***Lilium maritimum*** coast lily	PMLIL1A0C0			G2	S2.1	1B/2-3-3
23	***Sidalcea malachroides*** maple-leaved checkerbloom	PDMAL110E0			G3	S3.2	1B/2-2-2

	Scientific Name/Common Name	Element Code	Federal Status	State Status	GRank	SRank	CDFG or CNPS/R-E-D
24	***Sidalcea malviflora ssp. purpurea*** purple-stemmed checkerbloom	PDMAL110FL			G5T2	S2.2	1B/2-2-3

Appendix B

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Special-status Plants with Potential to Occur in the Project Area
Sources: California Department of Fish and Game Natural Diversity Database (2006) and CNPS Electronic Inventory of Rare and Endangered Plants of California (2006)

Scientific Name	Common Name	Federal Status	State Status	CNPS List	Blooms
Abronia umbellata ssp. breviflora	pink sand-verbena			List 1B.1	Jun-Oct
Agrostis blasdalei	Blasdale's bent grass			List 1B.2	May-Jul
Angelica lucida	sea-watch			List 4.2	May-Sep
Calamagrostis bolanderi	Bolander's reed grass			List 4.2	May-Aug
Calamagrostis foliosa	leafy reed grass		Rare	List 4.2	May-Sep
Calandrinia breweri	Brewer's calandrinia			List 4.2	Mar-Jun
Calystegia purpurata ssp. saxicola	coastal bluff morning-glory			List 1B.2	May-Sep
Campanula californica	swamp harebell			List 1B.2	Jun-Oct
Carex californica	California sedge			List 2.3	May-Aug
Carex lyngbyei	Lyngbye's sedge			List 2.2	May-Aug
Carex saliniformis	deceiving sedge			List 1B.2	Jun
Castilleja ambigua ssp. humboldtiensis	Humboldt Bay owl's-clover			List 1B.2	Apr-Aug
Castilleja mendocinensis	Mendocino coast Indian paintbrush			List 1B.2	Apr-Aug
Ceanothus gloriosus var. gloriosus	Point Reyes ceanothus			List 4.3	Mar-May
Cupressus goveniana ssp. pigmaea	pygmy cypress			List 1B.2	
Erigeron supplex	supple daisy			List 1B.2	May-Jul
Fritillaria roderickii	Roderick's fritillary		Endangered	List 1B.1	Mar-May
Gilia capitata ssp. pacifica	Pacific gilia			List 1B.2	Apr-Aug
Glyceria grandis	American manna grass			List 2.3	Jun-Aug
Hemizonia congesta ssp. tracyi	Tracy's tarplant			List 4.3	May-Oct
Hesperevax sparsiflora var. brevifolia	short-leaved evax			List 2.2	Mar-Jun
Horkelia tenuiloba	thin-lobed horkelia			List 1B.2	May-Jul
Lasthenia conjugens	Contra Costa goldfields	Endangered		List 1B.1	Mar-Jun
Lasthenia macrantha ssp. bakeri	Baker's goldfields			List 1B.2	Apr-Oct
Lasthenia macrantha ssp. macrantha	perennial goldfields			List 1B.2	Jan-Nov
Leptosiphon acicularis	bristly leptosiphon			List 4.2	Apr-Jul
Lilium maritimum	coast lily			List 1B.1	May-Aug
Lotus formosissimus	harlequin lotus			List 4.2	Mar-Jul
Mitella caulescens	leafy-stemmed mitrewort			List 2.3	Apr-Oct
Perideridia gairdneri ssp. gairdneri	Gairdner's yampah			List 4.2	Jun-Oct
Sidalcea malachroides	maple-leaved checkerbloom			List 1B.2	Apr-Jul(Aug
Sidalcea malviflora ssp. purpurea	purple-stemmed checkerbloom			List 1B.2	May
Stellaria littoralis	beach starwort			List 4.2	Mar-Jul
Veratrum fimbriatum	fringed false-hellebore			List 4.3	Jul-Sep

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ADDENDUM TO BOTANICAL SURVEY William McConnell- APN 132-020-05 (April 2006)

June 2007

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ADDENDUM TO
BOTANICAL SURVEY
William McConnell- APN 132-020-05 (April 2006)
June 2007

1. INTRODUCTION

The Mendocino County Department of Planning and Building Services (County) has requested additional information be provided for the finalization of the William McConnell Coastal Development Permit: 76-2006, 14820 Navarro Way, Manchester (APN) 132-020-05.

In conjunction with this application, BioConsultant LLC has submitted two earlier reports titled: *Point Arena Mountain Beaver Survey; McConnell Project* (April 2006) and *Botanical Survey; William McConnell* (May 2006). The first of these reports documented that the subject parcel contains good to excellent quality habitat with active Point Arena mountain beaver (*Aplodontia rufa nigra*)(PAMB) burrows throughout the coastal scrub habitat that extends off-site into the contiguous occupied habitat along the western bluff. Due to lack of sufficient area for a building site with appropriate setbacks for a No-Take project, technical assistance with the USFWS was recommended prior to further action. The botanical report stated that no rare plants were found on the May 9th survey date.

For further detailed information refer to the original report.

This addendum provides the additional information requested by the County, including the June 2007 botanical survey results, and a buffer zone analysis addressing the reduced buffer to habitat occupied by the federally endangered mountain beaver, referred to as the designated PAMB habitat area.

2. BACKGROUND INFORMATION

2.1 Botanical Survey Scope

County planners have asked that additional botanical survey information be provided in this Addendum. Clarification is sought regarding the extent of any remnant coastal prairie habitat that may occur as well as the precise community designation and Element Code of the on-site Northern Coastal Scrub habitat. Also requested is a June survey for late blooming rare, threatened and endangered plants that will, in combination with the May 2006 survey, meet the blooming windows of all potential plant species of concern.

2.2 Point Arena Mountain Beaver

William McConnell entered into the technical assistance process with the USFWS to prevent unauthorized take of PAMB during and subsequent to construction on the parcel. The USFWS determined that with the following mitigation measures implemented, the proposed project would not be likely to result in incidental take of PAMB (USFWS letters dated June 7, 2006 and January 3, 2007).

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1. All construction will be conducted outside of the PAMB breeding season (Dec.15 to June 30).

2. Obtain a conservation easement and deed restriction that states: within the designated habitat area there shall be a complete prohibition of any vegetation alteration or removal, ground disturbance, or any rodent control activities. All reasonable efforts shall be made to exclude domestic pets from the designated habitat area. With suitable forewarning to the property owners, the USFWS shall have access to the designated habitat area for the sole purpose of research or monitoring of the PAMB population.

3. A temporary barrier between the designated habitat area and the remainder of the parcel shall be constructed prior to, and maintained during, all construction activities.

4. A permanent fence or barrier at least 18 inches tall shall be constructed within six months after the initiation of construction activities.

5. A single cypress near the eastern boundary of the designated habitat area can and should be removed to enhance the PAMB habitat; any material for this or other tree trimming or landscaping activities should be disposed of outside of the designated habitat area.

These mitigation measures, and other information contained in the USFWS letters, the previously submitted reports, the site plan, letter from David E. Paoli (May 25, 2007) and consultation with Phil Roberts of Roberts and Associates were used for the reduced buffer Analysis in Table 1.

3. SURVEY METHODOLOGY

On June 1, 2007, BioConsultant LLC staff Linda Esposito and Kim Fitts re-visited the Project Site to collect data for the buffer zone analysis and to survey for potentially occurring late season rare plants. The survey was floristic in nature and all plants encountered were documented.

The study area extended from the road edge at Navarro Way to 50ft. downslope of the designated PAMB habitat area as described in the conservation deed restriction (see Figure 1). This corresponds to the area surveyed in May 2006. The investigators walked the entire described study area making a careful search for potentially occurring special-status plants. They obtained samples for diagnostic review in the laboratory. The two-person survey effort duration totaled 2 hours.

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4. SURVEY RESULTS

4.1 Plant Communities

As stated in the May 2006 botanical survey report, the subject parcel is located on a marine terrace and extends down a coastal bluff, with slopes ranging from 8 degrees on the upper terrace to 40 degrees on the steep ocean bluff, and is composed of introduced grassland and northern coastal scrub communities. As previously described, the uppermost gently sloping portion of the parcel is covered with introduced grassland, which gives way to dense coastal scrub on the progressively steeper slope. The May 2006 report states that mowing and shrub removal had recently modified the vegetation of this easternmost portion of the parcel, altering it from northern coastal scrub with characteristic scattered grassy openings to introduced grassland interspersed with northern coastal scrub remnants. On the June 1, 2007 survey date there was no evidence of recent mowing or shrub removal and the on-site habitats were little changed from the previous season, with an average grassland plant height of 2.5ft.

The introduced grassland is dominated by velvet grass (an exotic perennial), a suite of non-native annual grasses (soft chess, rattlesnake grass, and ripgut grass), and wild radish (an exotic weed). If this community is considered apart from the included small islands of native coastal scrub, it most closely corresponds to Non-native Grassland [42.000.00] of the Department of Fish and Game (Vegetation Classification and Mapping Program) *List of Terrestrial Natural Communities Recognized by the California Natural Diversity Database* (September 2003) but is not referable to any vegetation type described at the finer levels of the classification (alliance or association). The on-site community does not correspond to Non-native grassland [42200] as described in the earlier Department of Fish and Game publication, *Preliminary Descriptions of the Terrestrial Natural Communities of California* (Holland 1986), because it is a mixed annual/perennial grassland and not an annual grassland.

The historic vegetation along the bluff most likely consisted of northern coastal scrub fingered with coastal terrace prairie patches, and both of these habitats may have been present at the subject parcel at some time in the past. However, a series of color aerial photos of the coastline (www.californiacoastline.org) dating from 1972 show that significant and ongoing habitat alterations have occurred at the Irish Beach subdivision for several decades. Figure 3 of the May 2006 botanical survey report shows a continuum of coastal scrub habitat at the subject parcel on October 4, 2005, prior to the mowing and shrub removal that took place the following spring. The on-site grassland contains a large component of weedy forbs such as wild radish and Italian thistle that typically invade disturbed areas. A small component of native forbs such as California poppy and yarrow do occur, however these forbs provide minimal cover and are characteristic of coastal scrub as well as coastal prairie habitats. The two native grasses (California brome and blue wildrye) occurring at the site are found in the grassy interstices of the coastal scrub habitat; only California brome is found on the upper portion of the parcel, where it is associated with the coastal scrub islands. We therefore conclude that coastal terrace prairie habitat is not present at the site.

The on-site northern coastal scrub habitat, which was described in the 2006 botanical survey report, corresponds to Coastal Scrub [32.000.00] of the DFG *List of Terrestrial Natural Communities*. The current DFG classification does not include an alliance or association similar to the on-site community, which is co-dominated by thimbleberry, coyote brush, and cow parsnip. The on-site community is also referable to Northern (Franciscan) Coastal Scrub [32100] as described in the Holland classification (see above).

4.2 Rare, Threatened and Endangered Plants

A review of the California Native Plant Society's *Electronic Inventory of Rare and Endangered Plants of California* on May 31, 2007 resulted in two plant species with potential to occur in habitats present at the site in addition to those listed in Table 1 of the 2006 botanical report. These are coast iris (*Iris longipetala*), which blooms from March to May, and marsh microseris (*Microseris paludosa*), which blooms from April to June. The floristic June survey targeted these species and all other potentially occurring special-status plants, including the late-blooming species deceiving sedge, Gairdner's yampah, swamp harebell, and fringed false hellebore. In addition, we surveyed for the presence of early blue violet (*Viola adunca*), the larval host plant for the federally endangered Behren's silverspot butterfly, which was not detected during previous surveys.

4.3 Plant Survey Results

No rare, threatened or endangered plant species were found at the project site during the June 1, 2007 survey. Positive identifications of all plants observed in the described study area could be made; most species were in flower or fruit or could be readily identified from vegetative characters. A complete list of plants observed during the May 2006 and June 2007 surveys is included as Appendix A.

4.4 Point Arena Mountain Beaver Designated Habitat Area

As per the technical assistance requirements, the property owner Joe Kelada, recorded a two-page deed restriction with the County of Mendocino with the dates of June 6, 2006 and June 13th.

Although the conservation deed restriction was officially surveyed, there are no apparent stakes or other demarcation in the field to delineate the location of the required exclusionary fence to protect the PAMB designated habitat area. Demarcation must be in place prior to the initiation of construction in accordance with the measurements given in Exhibit A of the deed restriction accepted by the USFWS per their letter of June 3, 2007. See recommendations.

5. BUFFER ZONE ANALYSIS

Section 20.308.040 of the Mendocino County Coastal Zoning Code defines an environmentally sensitive habitat area (ESHA) as:

...any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals.

Projects that propose construction with a buffer less than 100ft. from an ESHA must provide information that demonstrates a lesser buffer distance will not have a significant adverse impact on the habitat.

The northern coastal scrub habitat that contains active PAMB burrows (designated habitat area) meets the definition within the County of Mendocino's Local Coastal Program (LCP) as an (ESHA). The project proposes a reduced buffer width for the PAMB ESHA, therefore a buffer zone analysis utilizing Mendocino LCP Ordinance 20.496.020 (A) through 4 (j) and 20.532.095 (4) is presented in Table 4: Reduced Buffer Analysis.

TABLE 4. REDUCED BUFFER ZONE ANALYSIS.

Section 20.496.020 Coastal Zoning Ordinance	
(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.	The buffer analysis is based on current on-site habitat conditions, parcel size and configuration, site topography, mandatory subdivision and County setbacks, and mitigation measures developed in consultation with USFWS.
(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.	The use of the standard 100ft. buffer to the EHSA would render the Project Site un-developable. Even the use of a 50ft. buffer would reduce the parcel's buildable area to 0.15ac. As a result, the focus of this buffer matrix is the analysis of the most feasible and least environmentally damaging proposal. The following setback measurements were obtained from the PAMB protection fence (see site plan) that separates the designated habitat area (ESHA) to the areas of construction. This fence line will span the parcel's width and is measured from the property's north/east corner to the west a length of 140 ft. and 108 ft. from the

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	south/east corner. An approximate 5ft. buffer is proposed from the ESHA to the septic holding tanks, which represent the closest area of disturbance, and a 15.5ft. buffer will be maintained to the western edge of the building limits. These buffer distances are consistent with those that the neighboring residences maintain to the known PAMB habitat/population that occurs along the western bluff of Irish Beach. The applicant is not proposing to sub-divide the parcel.
(a) Biological Significance of Adjacent Lands. The degree of significance depends upon the habitat requirements of the species in the habitat area.	The PAMB require friable soils on slopes with abundant mesic herbaceous vegetation; the northern coastal scrub protected by the PAMB fence and other measures is a significant resource, but the adjacent grassland where construction is proposed is not suitable as PAMB habitat, and therefore its degree of significance is low.
(b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development.	The PAMB are often found in proximity to established developments, such as road banks and rural residences. A seasonal restriction period of (Dec.15-June 30) is part of the mitigation measures that have been developed to avoid and reduce potential negative impacts to PAMB during the sensitive breeding season. The other mitigation measures- described in Section 2.2 will offset potential disturbances to the PAMB.
b(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species.	No other special-status species were observed at the Project Site and it is expected that common species will utilize the optimal wildlife habitat (northern coastal scrub), which will be protected in perpetuity with the conservation deed restriction.

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b(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance.	Common wildlife species are often well adapted to low-level human noise and disturbance. The project may cause a short-term disturbance, but continued long-term use by the local wildlife community is expected. The seasonal restriction period will reduce any impacts to the PAMB breeding season.
b(iii) An assessment of the impact and activity levels of the proposed development on the resource.	The proposed single-family residence represents a relatively small-scale construction project. Adoption of the mitigation measures, and the erosion control techniques, combined with the conservation deed restriction on further development will buffer potential impacts to the ESHA during and post-development.
(c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.	Storm water and impervious surface runoff will be directed via a series of drains to a gravel filled "storm water leach trench". This drainage system will reduce the potential for soil erosion and allow storm water to dissipate before reaching the ESHA. David Paoli concludes that even after development reduces pervious surface area the percolation rates on-site will be high, so that direct rainfall infiltration will not cause an erosion problem. Erosion control measures will include: placement of silt fencing not further than 3 ft. from cut or fill; excavated materials not to be used for backfill or topsoil must be removed from the parcel; stored material will be surrounded by silt fencing; temporary storage on-site will be east of the garage; stockpiled material will be covered with tarps; and no earthwork will take place on rainy days. For more detail see the Comprehensive Erosion Control Plan by David Paoli.
(d) Use of Natural Topographic Features to Locate Development	The building envelope encompasses the eastern and mid area with the least slope.
(e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood	The small parcel contains no culture features.

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control channels, etc., away from the ESHA.	
(f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection.	The proposed project is within an established subdivision, and proposes buffers that are consistent with those of the neighboring parcels, which are a uniform distance to the ESHA. The project has proposed appropriate mitigation measures.
(g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.	The proposal represents a fairly small-scale single-family home construction project within an established subdivision.
(2) Configuration. The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).	The buffer is measured from the outside edge (eastern edge) of the ESHA, which is the occupied northern coastal scrub habitat (designated habitat area). This corresponds to the PAMB protection fence.
(3) Land Division. New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.	The applicant does not propose subdividing the property or adjusting the boundary lines.
4(a) Permitted Development. Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.	The functional capacity and sustainability of the PAMB habitat will be protected during construction with exclusionary fencing and erosion control measures and subsequently with a permanent fence. The conservation deed restriction will protect the PAMB habitat in perpetuity. The seasonal restriction will avoid impacts to PAMB during the breeding season and assist in maintaining the population's ability to be self-sustaining.

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(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.	The narrow configuration of the parcel plus the PAMB ESHA that occupies the steep western portion of the parcel offers no other site for the proposed house site.
(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels.	Due to the narrow and deep configuration of the parcel, the placement of the development elements; house, garage, leach fields, and septic holding tanks are limited in feasible designs. The leach field must be placed either at the east or the west end of the parcel. Due to the fossorial habits of the PAMB and the porosity of the soil, the placement of the leach fields furthest away from the PAMB habitat is the best design to prevent degradation of the PAMB ESHA.
(d) Same as 4(a)	Same as 4(a)
(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.	As described in A (1) and 4 (b) (c) the proposed construction will occur in the most feasible and least environmentally damaging location. Mitigation measures are proposed.
(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.	No riparian or coastal scrub vegetation will be removed. Bare soil areas resulting from the development will be planted with native grasses and shrubs in consultation with a professional landscaper. The Project as described will cause minimal noise, dust, artificial light and air pollution.
(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.	No riparian vegetation will be removed.
(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.	The proposed development does not include structures that would significantly impede the flow of water during large (100 year) storm events.
(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.	Biological diversity in the ESHA will be protected and enhanced by the proposed mitigation measures, i.e., exclusionary fencing and non-native cypress removal. The storm drainage system and erosion control methods will protect the on-site hydrological processes.

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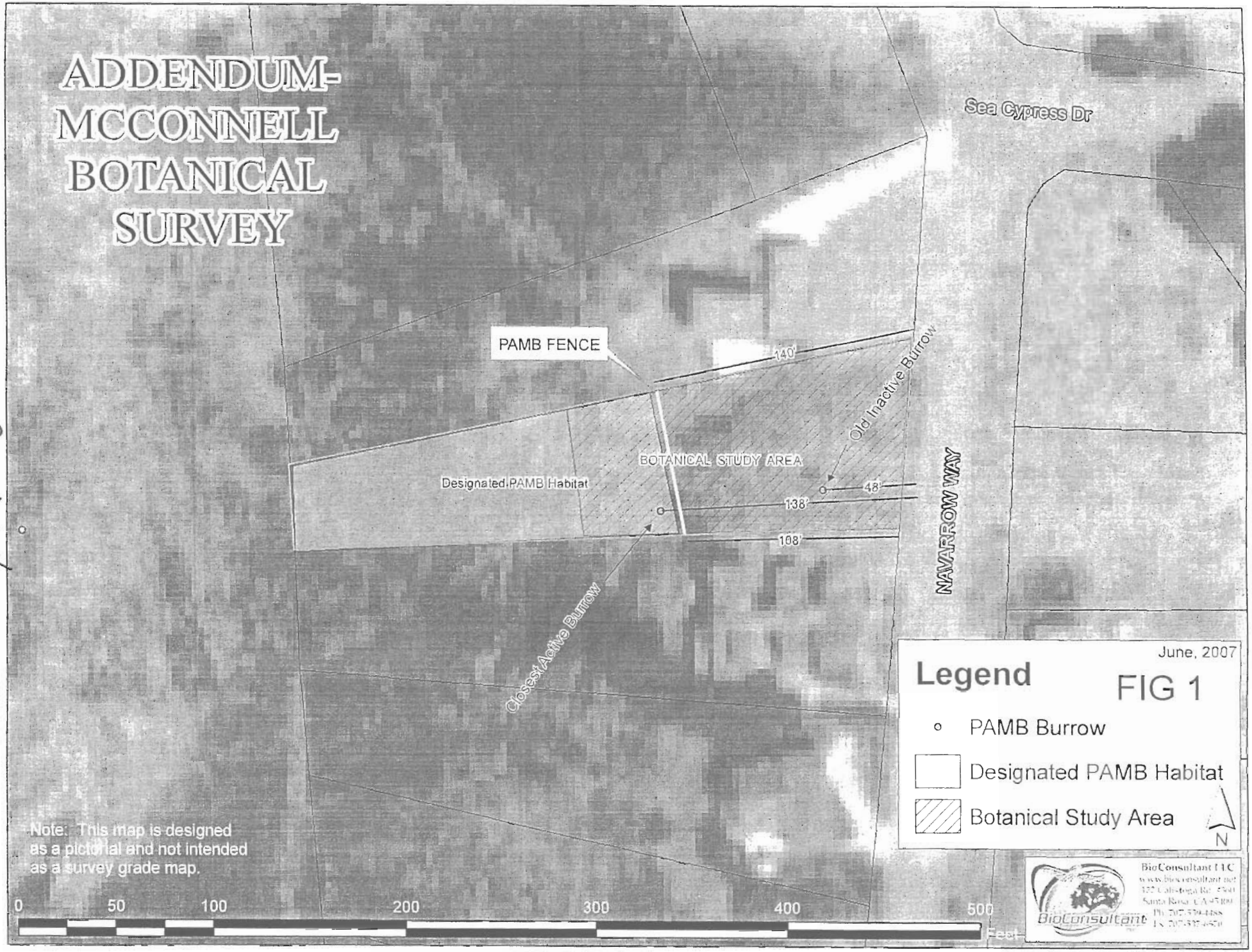
(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.	Natural stream environment zones do not occur in the development area. See storm water drainage system description in 4(1) and David Paoli (May 25, 2007) letter to Teresa Beddoe.
Sec. 20.532.095 Required Findings For all Coastal Development Permits.	
(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.	The proposed development will not have a significant impact on the environment if the recommended mitigations are adopted.

6. RECOMMENDATIONS

1. The boundary of the designated PAMB habitat area must be clearly delineated in the field prior to the on-set of construction. This could be accomplished with 8ft. vertical wooden stakes securely driven into the ground and topped with a 3-ft. section of bright orange paint. At least 4 such stakes should be installed to be clearly visible as a guide to the placement of the temporary and permanent exclusionary fences and they should remain in place throughout all phases of construction.

2. The permanent fence should be tall enough to discourage human and dog access into the restricted PAMB area; a permanent fence of at least 36 inches should be implemented.

3. In consultation with a professional landscaper, plant bare soil areas resulting from the development with a perennial native grass mix including blue wildrye and the fast-growing California brome, and plant western sword fern (*Polystichum munitum*), coastal bush lupine, and silk tassel bush (*Garrya elliptica*).


ADDENDUM-
MCCONNELL
BOTANICAL
SURVEY
Sea Cypress Dr
PAMB FENCE
140'
Old Inactive Burrow
BOTANICAL STUDY AREA
Designated PAMB Habitat
48'
138'
108'
NAVARROW WAY
Closest Active Burrow
June, 2007
Legend
FIG 1
PAMB Burrow
Designated PAMB Habitat
Botanical Study Area
N
Note: This map is designed as a pictorial and not intended as a survey grade map.
0
50
100
200
300
400
500
BioConsultant LLC

APPENDIX A

List of all plant species documented at the McConnell site, May, 2006 & June, 2007

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Appendix A. List of All Plant Species Documented at the Project Site, May 2006 and June 2007

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
FERNS AND ALLIES				
	Dennstaedtiaceae	*Pteridium aquilinum* var. *pubescens*	bracken	yes
GYMNOSPERMS				
	Cupressaceae	*Cupressus macrocarpa*	Monterey cypress	no
DICOTS				
	Aizoaceae	*Carpobrotus edulis*	hottentot fig	no
	Anacardiaceae	*Toxicodendron diversilobum*	western poison oak	yes
	Apiaceae	*Angelica hendersonii*	Henderson's angelica	yes
		Heracleum lanatum	cow parsnip	yes
	Asteraceae	*Achillea millefolium*	yarrow	yes
		Anaphalis margaritacea	pearly everlasting	yes
		Artemisia douglasiana	mugwort	yes
		Baccharis pilularis	coyote brush	yes
		Carduus pycnocephalus	Italian thistle	no
		Hypochaeris radicata	rough cat's-ear	no
		Sonchus asper ssp. *asper*	prickly sow thistle	no
		Sonchus oleraceus	common sow thistle	no
	Boraginaceae	*Myosotis latifolia*	forget-me-not	no
	Brassicaceae	*Raphanus sativus*	radish	no
	Caryophyllaceae	*Cerastium glomeratum*	mouse-ear chickweed	no
		Stellaria media	common chickweed	no
	Convolvulaceae	*Calystegia purpurata* ssp. *purpurata*	climbing morning-glory	yes
	Cucurbitaceae	*Marah oreganus*	coast man-root	yes
	Fabaceae	*Lotus corniculatus*	birdfoot trefoil	no
		Lupinus arboreus	coastal bush lupine	yes
		Trifolium dubium	little hop clover	no
		Trifolium glomeratum	clustered clover	no
		Vicia sativa	vetch	no
	Geraniaceae	*Geranium dissectum*	cutleaf geranium	no
	Lamiaceae	*Stachys ajugoides* var. *rigida*	hedge nettle	yes
	Papaveraceae	*Eschscholzia californica*	California poppy	yes
	Polygonaceae	*Rumex acetosella*	sheep sorrel	no
	Rosaceae	*Horkelia californica* ssp. *californica*	California horkelia	yes
		Rubus parviflorus	thimbleberry	yes
		Rubus ursinus	California blackberry	yes
	Rubiaceae	*Galium aparine*	goose grass	yes
		Galium porrigens	climbing bedstraw	yes
	Scrophulariaceae	*Scrophularia californica*	figwort	yes
MONOCOTS				
	Araceae	*Zantedeschia aethiopica*	calla lily	no
	Iridaceae	*Iris douglasiana*	Douglas's iris	yes
	Poaceae	*Aira caryophyllea*	silver European hairgrass	no
		Anthoxanthum odoratum	sweet vernal grass	no
		Avena barbata	slender wild oat	no
		Briza maxima	rattlesnake grass	no
		Bromus carinatus ssp. *carinatus*	California brome	yes
		Bromus diandrus	ripgut grass	no
		Bromus hordeaceus	soft chess	no
		Elymus glaucus	blue wildrye	yes
		Holcus lanatus	velvet grass	no
		Hordeum murinum	barley	no
		Lolium multiflorum	Italian ryegrass	no
		Vulpia bromoides	six-weeks fescue	no

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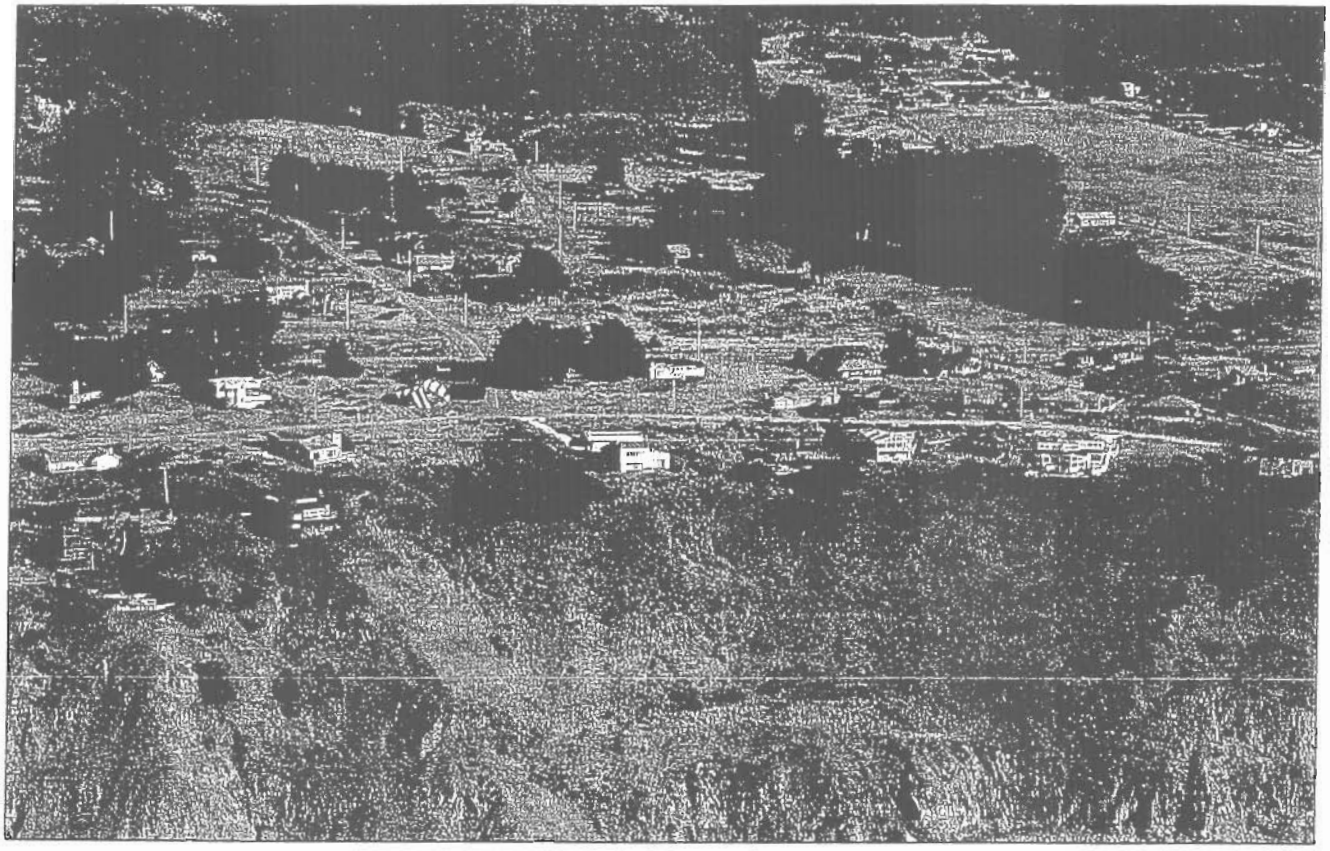
POINT ARENA MOUNTAIN BEAVER SURVEY:

McConnell Project (April, 2006)



Irish Beach

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Point Arena Mountain Beaver Survey
McConnell Project

1. *SUMMARY OF FINDINGS*

This report presents the habitat assessment and the survey results for the presence of Point Arena mountain beaver (PAMB) at APN 132-202-05. Previous biological surveys have documented that a population of Point Arena mountain beaver (Aplodontia rufa nigra) (PAMB) occurs within the surrounding area of the subject parcel. The survey effort found the parcel to contain good to excellent quality habitat with active PAMB burrows throughout the coastal scrub habitat that extends off-site into the contiguous occupied habitat along the western bluff. There is little remaining space for a building site with appropriate setbacks for a No-Take project; therefore, technical assistance with the USFWS is recommended prior to further action. The presence of Viola adunca, the larva host plant for the Behren's silverspot butterfly was not detected during the April 5th, 2006 survey.

2. INTRODUCTION

Property owner Joe Kaleda is seeking to sell a small lot within the Irish Beach Subdivision in Manchester, California. In order to facilitate this process, BioConsultant LLC was contracted by Margaret Ballou with Irish Beach Realtors to conduct a USFWS-protocol level survey for the presence of Point Arena mountain beaver *(Aplodontia rufa nigra)*(PAMB) on the property. During the site visit evidence of the mountain beaver was discovered. The Point Arena mountain beaver was listed by the U.S. Fish and Wildlife Service (USFWS) as endangered on December 12, 1991, and is protected under the Endangered Species Act of 1973. In addition, a complete search of the suitable habitat for the early blue violet (*Viola adunca)*, the larva host plant for the federally endangered Behren's silverspot butterfly (*Speyeria zerene behrensii*) was conducted during the appropriate bloom time.

The survey results are presented in this report and will be submitted to the property owners and to USFWS to be used in the recommended technical assistance process.

Bioconsultant LLC conducted the PAMB survey following the survey and reporting protocol presented in *Draft Guidelines for Project-Related Habitat Assessments and Surveys for Point Arena Mountain Beaver (Aplodontia rufa nigra)* (October 2002). The guidelines and setback distances of the *Draft Point Arena Mountain Beaver Standard Protection Measures for No-Take Determinations* (November 2002) were used in the impact determination discussion.

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Project Site Location
The referenced property lies west of State Highway 1 within the Irish Beach Subdivision at Navarrow Way and Sea Cypress Dr. (APN132-020-05), and four miles north of the village of Manchester (Figure 1).

Project Description
No project is proposed at this time as the lot is in escrow. The potential buyers intend to build a house on the upper (eastern) portion of the parcel. The purpose of the survey is to document the status of PAMB on-site and to map the areas of occupied/suitable habitat.

Point Arena Mountain Beaver Distribution and Potential Range
Currently, the potential range of the PAMB is considered by USFWS to be that area of coastal Mendocino County located south of a point two miles north of Bridgeport Landing, north of a point five miles south of the town of Point Arena, and to a distance of five miles inland from the Pacific Ocean (USFWS 2002). Point Arena mountain beaver occupy a wide range of habitat types (Fitts *et al.* 2002, USFWS 2002), which can overlap and integrate with one another. The USFWS recommends surveying for PAMB in all areas that contain brushy and herbaceous plant cover within the potential range of PAMB.

The subject parcel is inside the known PAMB distribution range and PAMB occurrences are well documented within and surrounding the Irish Beach Subdivision. The PAMB Recovery Plan (USFWS 1986) refers to the population as Id No. 4: Irish Beach. The California Department of Fish and Game's Natural Diversity Data Base (CNDDB) references the population as occurrence No. 6. Additionally, active PAMB sites have been documented on (APN132-020-03) two parcels to the north as well as to the south at Navarrow Way and Noyo Way- ocean side.

Parcel Description
The subject parcel configuration, boundaries, and suitable and occupied PAMB habitat are outlined in Figure 2. A color photo of the area (**Figure 3**) shows the habitat within and surrounding the subject parcel. Used together Figures 2 and 3 provide an complete representation of the site and its environs.

The narrow rectangular shaped 0.521 acre parcel is located on the marine terrace and extends down the coastal bluff, and is composed of mixed grassland and north coastal scrub communities (see figure 3). The parcel's terrain progressively slopes toward the western boundary from 8 degrees on the terrace to 40 degrees on the steep bluff overlooking the Pacific Ocean.

The eastern most area now classified as mixed grassland was recently modified by mowing and shrub removal thus altering the vegetation composition into the now present grassland community. Figure 3, a color photo taken on Oct. 4th, 2005, shows the habitat conditions prior to the alteration as a continuum of coastal shrub habitat.

The existing grassland community (**Figure 4**) is dominated by velvet grass (*Holcus lanatus*) and perennial non-native grasses and species characteristic of coastal grasslands

such as yarrow (*Achillea millefolium*), and geranium species. Italian thistle (*Carduus pycnocephalus*) and wild radish (*Raphanus sativus*), both non-native invasive species that typically invade following habitat alteration are present throughout the grassland.

Remnant native coastal scrub/prairie species are scattered throughout the grassland and many of these plants are known components of preferred PAMB habitat. These include cow parsnip (*Heracleum lanatum*), angelica (*Angelica hendersonii*), coast manroot (*Marah oreganus*), California blackberry (*Rubus ursinus*), and hedge nettle (*Stachys ajugoides var. rigida*). A small patch of ice plant (*Carpobrotus edulis*) also a known plant associate is present. Although much of the coyote brush (*Baccharis pilularis*) as seen in Figure 3 has been either removed or cut and left in place, a few coyote and lupine (*Lupinus arboreus*) shrubs remain in the grassland area (**Figure 5**).

The grassland grades into the coastal scrub habitat which extends down the coastal bluffs to the western property line (**Figure 6**).

3. POINT ARENA MOUNTAIN BEAVER SURVEYS

Derek Marshall performed the PAMB survey. Per the referenced survey protocol, he is a USFWS-approved PAMB surveyor. The assessment and survey were performed only on the referenced parcel, but portions of adjacent parcels were walked and active PAMB sign was noted.

Habitat Assessments for PAMB Suitability
All areas and plant communities within the subject parcel were assessed for their potential to support PAMB on April 5, 2006. The assessment was conducted as Mr. Marshall walked through the site and evaluated habitat suitability.

As described above, the eastern terrace portion of the property currently is composed of mixed grassland with a minor component of coastal scrub/prairie species and is assessed as unsuitable habitat for PAMB; however, prior to the habitat manipulation much of this area would have constituted suitable habitat. The discovery of a solitary PAMB tunnel in this area supports this statement.

Suitable coastal scrub habitat begins approximately 110 ft. from the road edge into the parcel and extends to and outside of the western boundary. The edge of the coastal scrub community, specifically coyote brush was used to determine the line between unsuitable and suitable habitats (**Figure 7**).

The coastal scrub community constitutes good to excellent quality habitat for PAMB. The assemblage of species varies slightly with the micro-terrain. In general, however typical native mesic coastal scrub species are present with coyote bush and lupine forming a 3 to 5 ft. shrub layer with cow parsnip, angelica, Douglas iris (*Iris Douglasiana*), California blackberry, hedge nettle, pearly everlasting (*Anaphalis margaritacea*), and angelica (*Angelica hendersonii)* forming an herbaceous understory.

Non-native wild radish, a known PAMB forage plant with the occasional field mustard (*brassica rapa*) contribute significantly to the understory. Mosaics of dense stands of thimbleberry (*Rubus parviflorus*) form thickets throughout the coastal scrub community and poison oak and various grasses occur in higher proportions on the steep bluff area. A few cypress and some ornamentals are planted along the boundaries between adjacent properties and are included in the suitable habitat.

Surveys for PAMB Sign

On April 5, 2006, the entire parcel was surveyed for PAMB sign using a wandering transect technique. The spacing between the transect lines was determined by the vegetation type and structure. Using this technique, 100% of the ground surface and vegetation was examined for PAMB sign (burrows and runways). Due to the early season survey much the foliage of the thimbleberry thickets had yet to bloom enhancing the ability to visually detect burrows at a distance. The duration of the survey effort was 2.5 hours.

The survey effort found the parcel to contain good to excellent quality habitat with active PAMB burrows throughout the coastal scrub habitat that extends off-site into the contiguous occupied habitat along the western bluff.

As previously stated, a single PAMB tunnel was discovered 48 feet from the road edge into the grassland. This tunnel was found by stepping through the thin soil covering (**Figure 8**). The interior of the tunnel was examined and found to be a smooth clean laterally running tunnel with no detectably entrances in the grassland vicinity.

In general, the soil was moist and friable and the moderate presence of other fossorial sign was determined to be pocket gopher (*Thomomys bottae*).

Site Characteristics of the Burrow Area (BA)

The site is well established with both inactive and freshly created burrows. An estimated 200+ burrows with a high (80-90%) activity level are present throughout the coastal scrub habitat of the BA. Due to the frailty and instability of the habitat, burrows were located primarily to delineate the burrow area rather than obtain a precise number of burrows. The omnipresent deer have made zigzagging trails throughout the BA and like grazing livestock, make PAMB detection relatively simple. Walking along and off the deer trails, the earth is soft and very unstable.

The BA begins near the edge of the suitable habitat. The closest active burrows (**Figure 9**) to the area proposed for future development was measured from the road edge into the parcel at 138 ft. These burrows are under and between two small cypress trees and extend with varying densities towards the beach (**Figure 10**). The burrow concentration is greatest along the steepest most unstable mid section of the slope (**Figures 11**). As the upper slope begins to descend, yard clippings and other vegetation debris have been thrown down the hillside on top of the PAMB burrows. The BA had a western aspect with a slope ranging from 20° to 40 °; (UTM 10S 440,377.220, 4,319,866.316mN; NAD 27 Z10N).

4. CONCLUSIONS

The subject parcel contains areas of suitable and occupied good quality habitat that is continuous with the occupied habitat along the bluffs of Irish Beach. As previously stated the closest recorded PAMB site is 100ft. to the north (see figure 3). This BA extends up from the bluffs and ends at the roadway; similar to this site. From a review of past photos of Irish Beach it is apparent that coastal scrub and prairie communities encompassed the terrace and bluffs of the area and it is highly likely that prior to the development of Irish Beach much these areas were occupied by PAMB.

The on-site BA contains an estimated 200+ burrows with a high level of activity and has sustained some habitat modification. This action most likely impacted on-site PAMB by reducing its available suitable and foraging habitat. According to the USFWS no-take standards this action would constitute TAKE as removal of habitat within 400 ft. of active burrows. Some pertain standards are included below for discussion purposes.

- Noise Disturbance

No operation of above ground noise generation equipment (includes chainsaws and weed eaters) within 100 feet of active burrows during the breeding season.

- Ground Vibration Disturbance

No operation of mechanical equipment that causes ground vibration (includes soil excavators, air compressors) within 100 feet of active burrows during the breeding season, and not within 50 feet during the remainder of the year.

- Habitat Modification and Removal

No habitat modification (includes mowing, grazing plowing, cultivation of non-native vegetation, and herbicide application) or removal (includes paving and road construction or structures) of PAMB habitat within 400 feet of active burrows.

The USFWS considers the PAMB breeding season to be December 15 to June 30.

As you can see from the USFWS guidelines there is little remaining space for a building site with appropriate setbacks for a No-Take project; therefore, it is our recommendation that interested parties should contact Mr. John Hunter with the USFWS for technical assistance. To facilitate this process BioConsultant has included a written request for technical assistance with this report.

The County of Mendocino also requires 100 ft. setbacks from any environmental sensitive habitat area (including PAMB). Fifty foot setbacks are possible with Department of Fish and Game consultation and agreement that the lesser setback will not impact the resource. The Irish Beach Association may also have specific height and or setback restrictions to be considered also.
In order to complete the technical assistance process a complete building plan would have to be developed that complied with agreed to setbacks and mitigations. Some mitigation possibilities might include erecting a permanent exclusionary fence the length

of the suitable habitat which future homeowners could not access, a conservation easement, and various construction restrictions. Such a plan could be developed with technical assistance from the USFWS.

As recommended in the referenced survey protocol, complete assessment and surveys within 500 feet of impact areas will be considered valid for a period of 2 years. If the development plans are delayed after October 2008, surveys in the identified suitable habitats should be repeated.

5. LITERATURE CITED

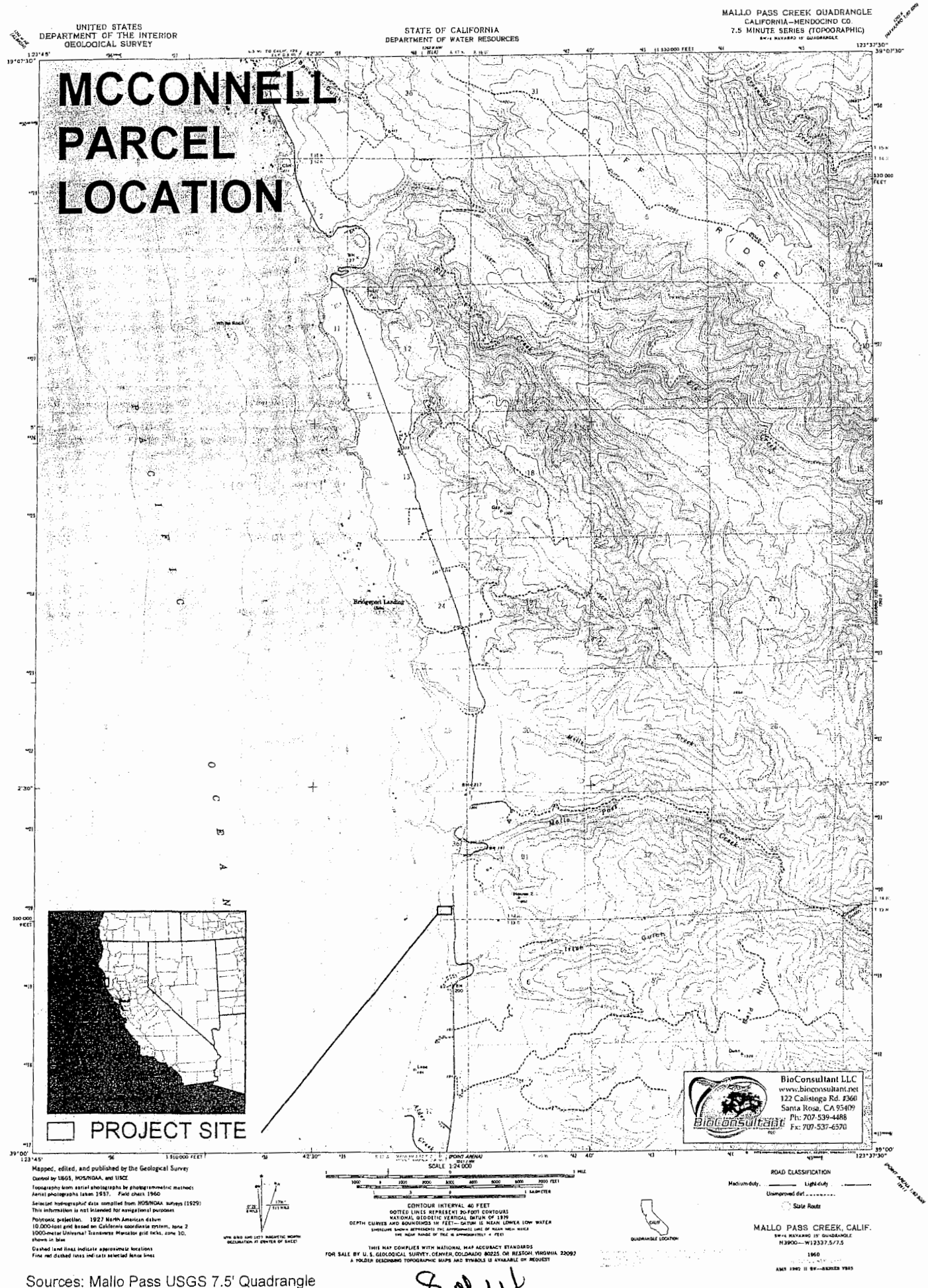
U.S. Fish and Wildlife Service (USFWS). 1998. Recovery Plan for the Point Arena Mountain Beaver *Aplodontia ruff nigra* (Rafinesque). Portland, Oregon.

_____. 2001. Draft Point Arena Mountain Beaver Standard Protection Measures for No-take Determinations. Unpublished document on file at the Arcata Fish and Wildlife Office, Arcata, California.

_____. 2002. Draft Guidelines for Project-Related Habitat Assessments and Surveys for Point Arena Mountain Beaver (*Aplodontia ruff nigra).* Unpublished document on file at the Arcata Fish and Wildlife Office, Arcata, California.

_____. 2002. Point Arena Mountain Beaver Locations. Point Arena 7.5-Minute Quadrangle. September 9, 2002.

7414



Sources: Mallo Pass USGS 7.5' Quadrangle

8/14

Figure 1. McConnell location map

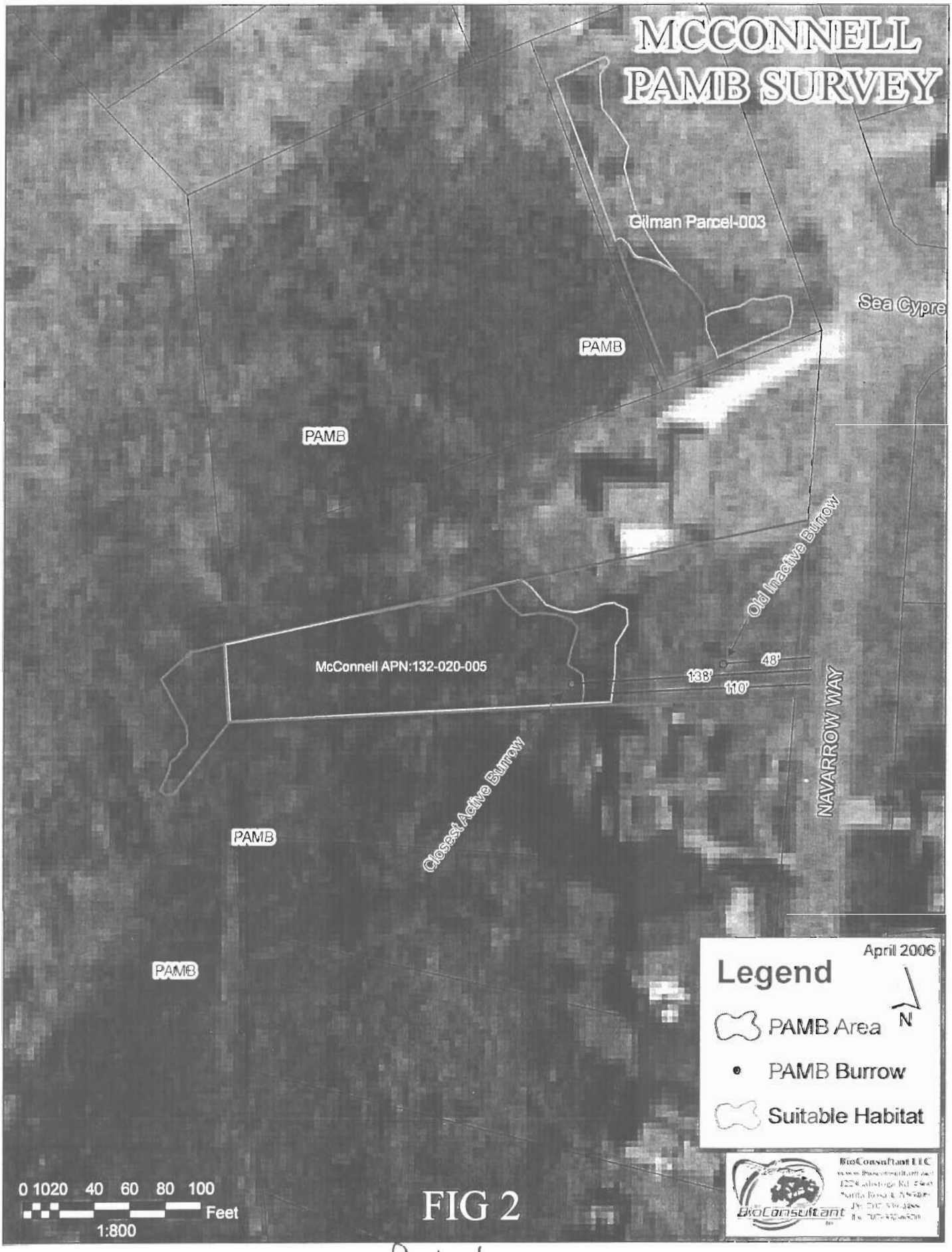

MCCONNELL
PAMB SURVEY
Gilman Parcel-003
Sea Cypre
PAMB
PAMB
PAMB
PAMB
McConnell APN:132-020-005
Old Inactive Burrow
48'
138'
110'
NAVARROW WAY
Closest Active Burrow
April 2006
Legend
N
PAMB Area
PAMB Burrow
Suitable Habitat
0 1020 40 60 80 100
Feet
1:800
BioConsultant LLC

FIG 2

9/14


UNOCCUPIED
OCCUPIED
MCCONNELL
PAMB
SURVEY
FIG 3
BioConsultant LLC
BioConsultant
Sources: Photograph from www.californiacoastline.org; N39 01.71 W123 41.82; Tue Oct 4 16:21:43 2005

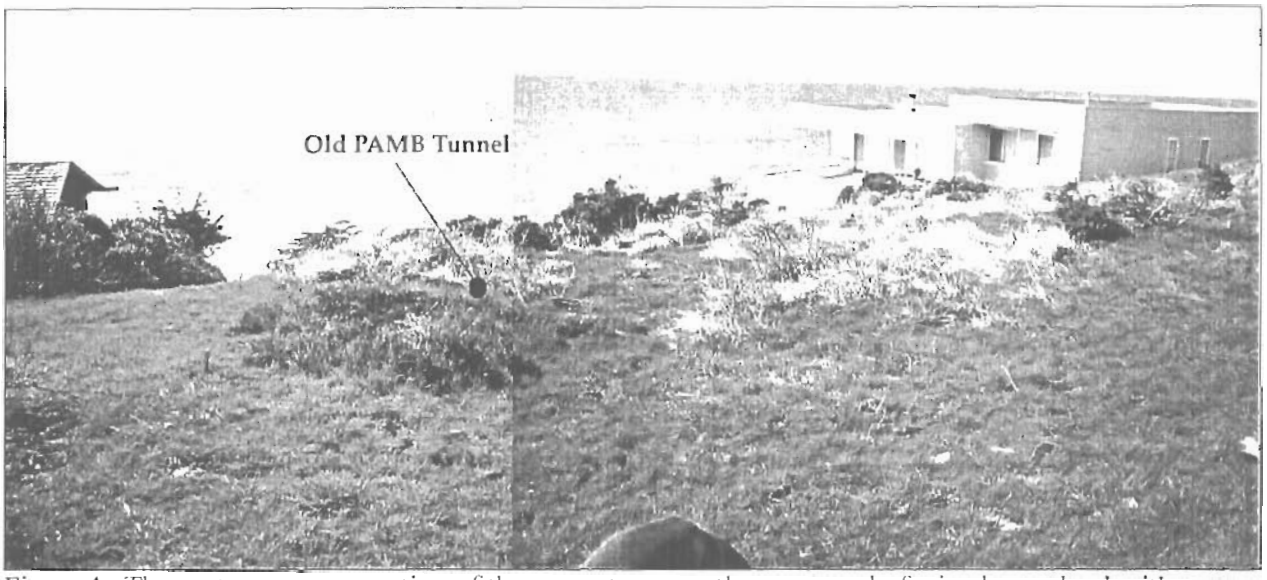


Figure 4. The eastern terrace portion of the property currently composed of mixed grassland with a minor component of coastal scrub/prairie species is assessed as unsuitable. Note the location of the PAMB tunnel.

Figure 5. The eastern terrace portion of the parcel showing where coastal shrubs were removed since Oct. 2005.

11414

Figure 6. The coastal scrub habitat extending down the bluff and off-site.

Figure 7. The transition area from grassland to the suitable/occupied coastal scrub PAMB habitat.

12914

Figure 8. Looking SE at the location of PAMB tunnel found in the grassland 48 feet from the road edge. Note the orange flagging

Figure 9. Looking east at the beginning of the active BA under the cypress tree.

Figure 10. Looking the opposite direction (west) from Figure 9, this shot shows the good quality PAMB habitat which extends off-site towards the beach.

Figure 11. The dense burrow activity made visible along deer trails

14 of 14

2006-11795
Pg: 1/2

RECORDING REQUESTED BY:
Fidelity National Title Company of California
Escrow No.: 06-**230100740**-AP
Locate No.: CAFNT0923-0923-0001-0230100740
Title No.: 06-**230100740**-CT

When Recorded Mail Document and Tax Statement To:
William H. McConnell and Marcia E. McConnell, Trustees of the McConnell Living Trust
25755 Josefa Lane
Los Altos, CA 94022

2006-11795
Recorded at the request of
FIDELITY NATIONAL TITLE CO
06/15/2006 03:38P
Fee: 10.00 No of Pages: 2

OFFICIAL RECORDS
Marsha A Wharff, Clerk-Recorder
Mendocino County, CA

APN: 132-020-05

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

	$20.00 PAID
X	PCO FILED
	Exempt

The undersigned grantor(s) declare(s)
Documentary transfer tax is $522.50
[x] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale,
[ ] Unincorporated Area City of **Manchester**,

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Joe Kelada, an unmarried man /Joseph Kelada also known as

hereby GRANT(S) to William H. McConnell and Marcia E. McConnell, Trustees of the McConnell Living Trust

the following described real property in the City of **Manchester**, County of **Mendocino**, State of **California**:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

DATED: June 6, 2006

Signature on File
Joseph Kelada /AKA Joe Kelada

STATE OF CALIFORNIA Placer)
COUNTY OF _____)
ON June 13 2006 before me, notary public, Elhamy Kelada, notary public (here insert name and title of the officer), personally appeared Joseph Kelada aka Joe Kelada

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 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.

ELHAMY KELADA
Commission # 1495371
Notary Public - California
Placer County
My Comm. Expires Jun 18, 2008

Witness my hand and official seal.

Signature _____ Signature on File

Signature on File

MAIL TAX STATEMENTS AS DIRECTED ABOVE

EXHIBIT NO. 11
APPEAL NO.
A-1-MEN-07-047 - McCONNELL
DEED RESTRICTION RECORDED UNDER AGREEMENT BETWEEN APPLICANTS & U.S. FISH &

Escrow No.: 06-**230100740**-AP
Locate No.: CAFNT0923-0923-0001-0230100740
Title No.: 06-**230100740**-CT

EXHIBIT "A"

The land referred to herein is situated in the State of California, County of Mendocino, Unincorporated Area, and is described as follows:

Lot 34, as numbered and designated upon the Map of "Unit One, Mendocino Coast Subdivision", filed June 1, 1965, in Map Case 2, Drawer 4, Page 23, Mendocino County Records.
APN: 132-020-05

The above described land is subject to the following described Conservation Easement and Deed Restrictions as follows:

That portion of the parcel to be considered the designated Point Arena mountain beaver (Aplodontia rufa nigra) habitat area is described as beginning at the southwest corner of said Lot 34; thence along the westerly lot line, North 4° 00' 00" West, 46.99 feet to the northwest corner; thence along the northerly lot line, North 73° 00' 00" East, 167.74 feet, more or less, to a ½ inch rebar with plastic cap stamped RCE 18341; thence leaving the northerly lot line and bearing South 14° 30' 37" East, 75.02, more or less to a ½ inch rebar with plastic cap stamped RCE 18341, said point on the southerly line of Lot 34; thence along said southerly lot line and bearing South 82° 30' 00" West, 177.43 feet, more of less, to the Point of Beginning. Within the designated habitat area there shall be a complete prohibition on any vegetation alteration or removal, ground disturbance, or any rodent control activities. All reasonable efforts shall be made to exclude domestic pets from the designated habitat area. A temporary barrier between the designated habitat area and the remainder of the parcel shall be constructed prior to, and maintained during, all construction activities, followed by the construction of a permanent fence or other barrier within six months after the initiation of construction activities.
The permanent fence or barrier shall be at least 18 inches tall and be constructed of rock, wood, or other durable material. With suitable forewarning to the property owners, the U.S. Fish and Wildlife Service shall have access to the designated habitat area for the sole purpose of research or monitoring of Point Arena mountain beavers.

2 of 2

ROBERTS & ASSOCIATES

ARCHITECTURE

September 20, 2007

County of Mendocino
Board of Supervisors
500 Low Gap Road
Ukiah, CA 95482

Re: CDP # 76-2006

Dear Supervisors:

The purpose of this letter is to support the appeal of the McConnells in CDP #76-2006. I am the architect for the McConnells. A copy of my resume is attached.

I address, in this letter, two sections of the staff report dated June 28, 2007, which were accepted by the Coastal Permit Administrator in his decision of June 28, 2007, and which are clearly wrong for the reason stated below. I will add to and elaborate on this material at the October 2, 2007, hearing.

1. The section on "Grading, Erosion and Runoff" (pp.10-11 of the report) concluded that the proposed project violated section 20.492.010(B) of the County's Coastal Zoning Code because the project is not "planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so the grading is kept to an absolute minimum."

   (a) As the project is currently designed it complies with this requirement because it balances the objective of minimizing grading with other governing objectives of equal or greater importance, such as:

   (1) to minimize visual impacts from other properties and public roads,
   (2) to place necessary facilities such as septic fields, leach lines and fuel tanks in a safe, functional location,
   (3) to construct a feasible project that meets the owner's objectives.

   I believe "absolute minimum" referred to in section 20.492.010(B) means the minimum grading necessary to build a house that meets these other objectives. The residence is placed on the steepest and most westward location portion of the parcel because the location best fits the character of the existing neighborhood by preserving the views of the Lighthouse and ocean from public roads (Navarro Way) as mandated in the Planned Unit Development Combining District guidelines, the neighboring houses and vacant lots. The residence actually spans over the noted 41.5 percent slope, consistent with other houses in the area. The septic leachfields are located on the flattest portion of the site because the septic engineer recommended this location and it is the safest and easiest area in which to install the leach lines using mechanical equipment.

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(b) The presently proposed project, in my opinion, best reconciles what the staff appears to believe are conflicting objectives.

However, I think it is physically possible to make minor modifications in the project that would reduce the amount of grading by approximately 130 cubic yards, if the desire is to give greater weight to minimizing grading than to meeting other objectives. With the consent of the McConnells, I have produced documents that reflect these possible changes in the attached Exhibits A-1R through A-6R. Proposed changes reducing the amount of grading to be exported are shown in the documents and have been reviewed and approved by the Irish Beach Architectural Design Committee (IBADC) at a meeting held on September 15, 2007. The finish floor elevations of the proposed development was raised one foot vertically in order to reduce the grade cuts by reconfiguring the proposed foundation systems. The roof slope was lowered to a 2 ½ :12 pitch in order to maintain the same roof ridge elevations as previously approved. The result is a reduction of grade cutting from approximately 205 cubic yards to approximately 75 cubic yards. The retaining wall on the east side of the driveway into the garage has been reduced to 2-foot height in lieu of the 3-foot height previously shown.

The propane tank has been relocated from the proposed underground position to an above ground location within a fenced enclosure to the south of the proposed garage.

2. The section on "Natural Resources" (pp.13-16 of the report), concluded that the project is inconsistent with sections 20.496.020(A)(4) b,c,e, and f) of the Coastal Zoning Code because the project is located in an ESHA buffer and a "feasible alternative" exists.

(a) The major problem with this conclusion is that it overlooks the extent to which all the objectives behind the buffer requirement have been met and it does not reflect the balancing of other objectives of the Local Coastal Plan (LCP). Such a balancing is required before a project can be denied.

(b) Of equal importance, the staff report is wrong in its conclusion that a "feasible alternative" exists that can be constructed within the parameters left by the report's limitations.

Staff explains its conclusion thusly: "Staff finds that there is in fact a feasible site available on the parcel for structures. Staff finds that structures can and should be limited to the flatter, easternmost portion of the parcel, and that the septic system should be located downslope from the structures, thus reducing the need for driveway areas and the extensive leachfield setback area. The leachfield could be closer to the structures, and a 50 foot setback between the leachfield area and the ESHA would then be possible." (See pg. 15, about the middle of the large paragraph, of the staff report.) This position does not withstand analysis.

The project has been designed taking a number of factors into consideration: the existing site conditions, including the existing neighborhood character and endangered species habitat (ESHA) on site; the Owner's basic objectives of the project; the Irish Beach Design Guidelines; the Mendocino County Building Standards and Mendocino County Coastal Zoning Code.

The Owner's basic objectives for the project are listed below:

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1. Build a house on the lot which maximizes the sights and sounds of the ocean.

2. Build a 1,300 sq. ft. (more or less) house with 2 bedrooms and 2 bathrooms as a vacation home which can be shared with friends.

3. Build a house consistent with the community standards of Irish Beach.

The Irish Beach Design Guidelines are based on CC&Rs which set requirements for maximum structure height and minimum roof pitch. They set the profile of the residence which is the Owner's responsibility to meet.

The following are the minimum building standards in the Irish Beach Community:

View Corridors - the views from other lots shall be considered to the extent possible for preserving views to the Point Arena Lighthouse, white water, blue water, mountains, headlands, meadow and pond. The projects should blend into the community. This is consistent with the Coastal Act.

Minimum Building Size - All units shall have no less than 1,200 square feet of total floor area, excluding garage, porch and decks.

Set Back Requirements - Sideyard setbacks shall be a minimum of 28 feet (14 feet on each parcel) between residences.

Height Limitations - Structure height shall not exceed the height of a horizontal plane 16 feet above the mean natural grade at any point on the perimeter foundation.

Off-Street Parking - Each development shall include the location of a 2 car garage, whether constructed or not.

Roof Slopes - Minimum 4:12 pitch.

History: Working with the Irish Beach Architectural Design Committee, an initial proposal was submitted for consideration. The major issue that the Committee found objectionable was the height of the roof ridgelines. For reference the elevation of the crown of the public street fronting the property (Navarro Way) is approximately 304 feet above sea level. The ridgelines for the initial submittal was 308 feet. The finding was that this was too high and inconsistent with the neighboring houses and interfered with the preservation of the view from the public roads. A revised design lowered the roof ridgeline of the garage to 304'-8" and the roof ridgeline of the house to 304'-0" and this was found to be acceptable and subsequently submitted for consideration by the Mendocino County Planning Department as part of the Coastal Development Permit application.

It should be noted that five variances were granted by the Irish Beach Architectural Design Committee to allow the project design to be approved. They included:

a. Height variance of 2'-4" above 16 foot limit
b. North sideyard setback variance
c. No stepped foundation on a steeply sloped lot
d. Roof pitch of 3:12 instead of 4:12
e. Single car garage instead of 2-car garage.

3 of 5

It is not possible to build a "feasible alternative" meeting the governing criteria and meet the report's requirements, as the following analysis demonstrates.

On an attached drawings, (Drawing Exhibit FA-1), I have outlined what staff suggests is a "feasible alternative" building site on the parcel with a 50 foot setback from the PAMB fence line. I have included the septic leachfields downslope from the house adjacent to the setback line. I have also located the septic tanks offset the required distance from the leachfields and the proposed building line. In addition, I have constructed the sideyard setback lines based on the Irish Beach guidelines rather than county standards of 6 feet in order to preserve views between houses and retain the patterns of development in the neighborhood. IBADC has indicated these requirements will be followed. The resulting total development area is approximately 1,289 square feet into which a minimum 1,200 sq. ft. house, a one-car garage consisting of approximately 250 sq. ft. and driveway are to be placed.

Within this maximum allowed development area I have drawn a floor plan of the largest practicable development to illustrate the limitations imposed by such a small area (Drawing Exhibit FA-2), which demonstrates it will not accommodate a "feasible" development. The Owner's objectives are not achieved with only 851 sq. ft. and one bedroom and bath. The Irish Beach Design Guidelines, which require a minimum of 1,200 sq. ft. of area, have not been achieved. The mean natural grade of the plan is 298.6 ft. This results in a roof ridge height of approximately 313.75 ft., or approximately 10 feet above the level of the street, which would totally block views of the Lighthouse and blue water from properties across the street to the east and from the north on Navarro Way. If the proposed residence had a flat roof the height would be approximately 310 feet or 6 feet above the level of the street, still blocking views from surrounding areas in the neighborhood. Additionally, by placing the house on the 20 foot street setback line, the location has completely disrupted the overall neighborhood development patterns. I have included an enlarged floor plan on Drawing Exhibit FA-3. I will demonstrate this situation further at the hearing.

Conclusion: Staff's recommended residence location on the easternmost area of the parcel stems from such a narrowly defined set of factors which they feel should be addressed, namely the 50 foot buffer from the ESHA line and the location of the septic leachfields, that its location ignores the general neighborhood development patterns, as well as the Owner's development intentions. Staff's proposed "feasible alternative" ignores other LCP objectives and the design guidelines that Irish Beach Architectural Design Committee strives to maintain so that all adjacent properties have equal access to the views of the Lighthouse and ocean, which are the objectives of the Coastal Act as well. The Owner's objectives have not been met with a residence that is much smaller than desired.

Sincerely,

Phil Roberts

cc Mendocino Planning Department

4915

P. O. Box 1588 Gualala, California 95445 707 785-9316

ROBERTS & ASSOCIATES

ARCHITECTURE

Phillip H. Roberts Architect / Principal

Registration:

State of California C-21017
State of Texas 7050

Education:

University of Texas at Austin 1972
Bachelor of Architecture

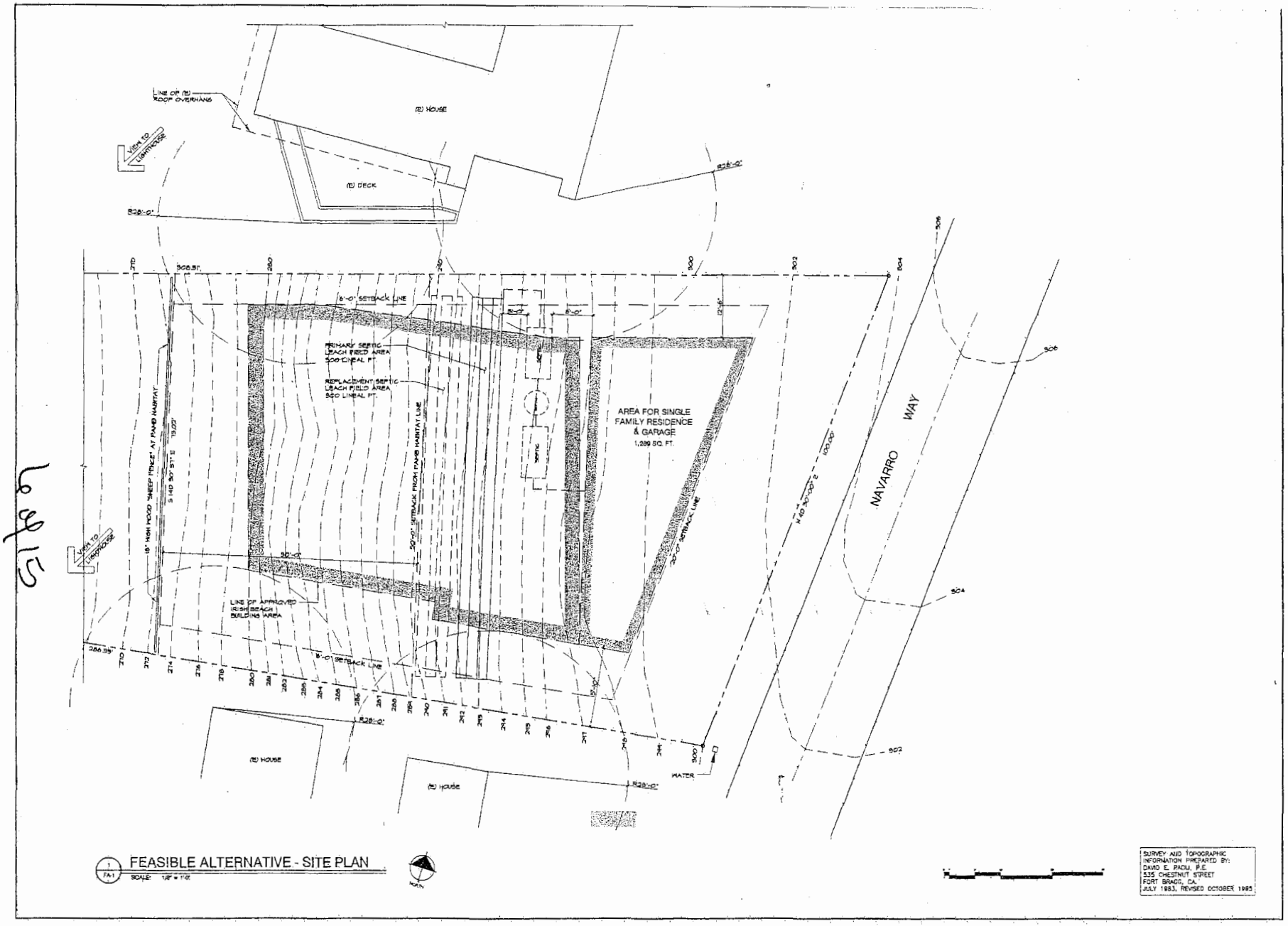
Experience:

Phillip Roberts is a licensed architect with over 35 years of experience in the design and management of architectural and engineering projects, including manufacturing, industrial, institutional, commercial, educational, residential housing and retail facilities. As a project manager and project architect, his experience includes new design projects, facility expansions/additions and remodels / renovations giving him extensive background in a broad range of building systems and construction approaches. During the past seven years his concentration has focused on new Residential projects, Additions and Remodeling projects along the Sonoma and Mendocino coastal areas including The Sea Ranch and Irish Beach developments as a principal and owner of Roberts & Associates Architecture.

5915

ROBERTS & ASSOCIATES Architecture

P. O. Box 1588 Gualala, California 95445 707 785-9316



FEASIBLE ALTERNATIVE - SITE PLAN

SCALE: 1/8" = 1'-0"

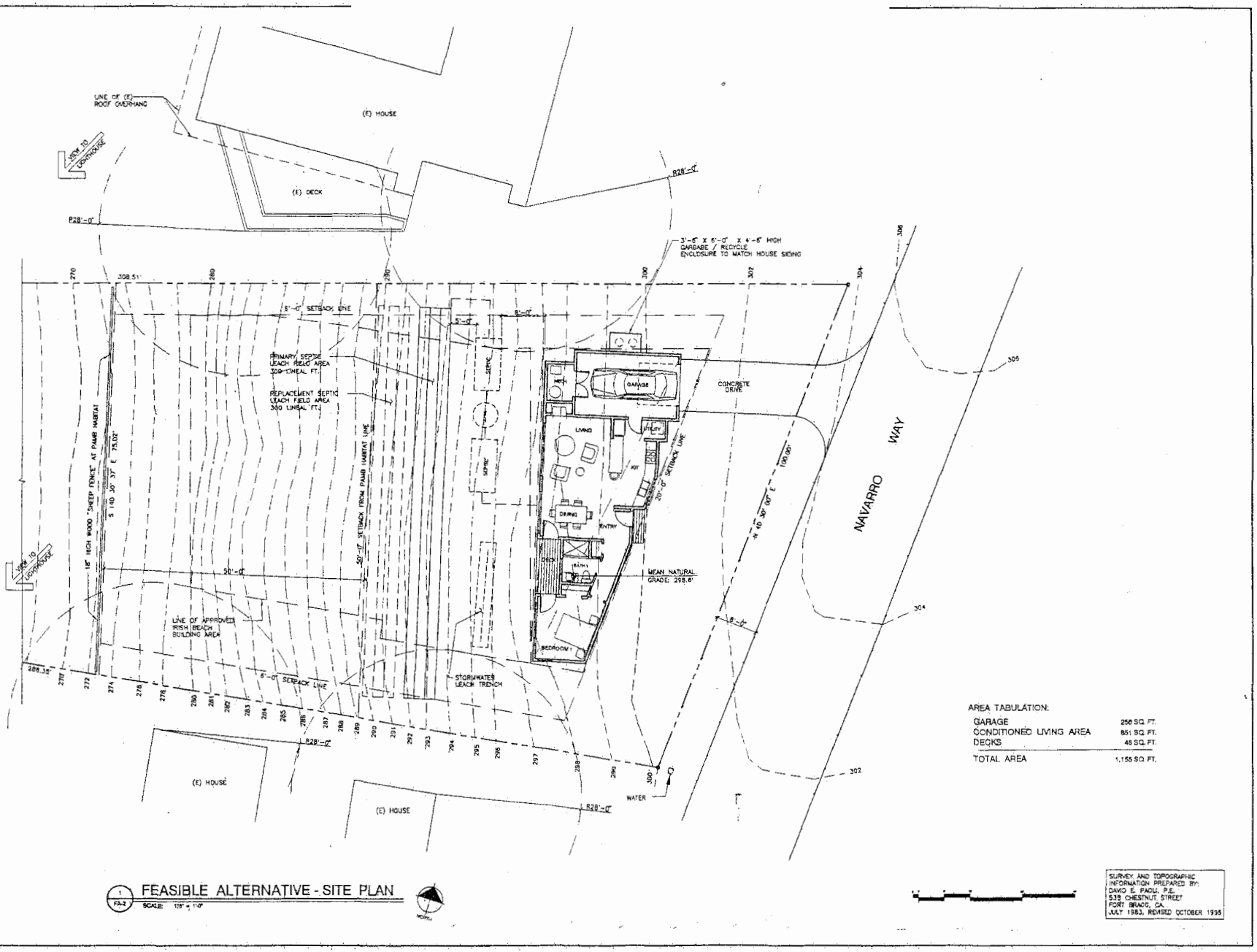
SURVEY AND TOPOGRAPHIC INFORMATION PREPARED BY:
DAVID E. PACIU, P.E.
535 CHESTNUT STREET
FORT BRAGG, CA.
JULY 1983, REVISED OCTOBER 1995

ROBERTS AND ASSOCIATES
ARCHITECTURE
P.O. BOX 1580
GUALALA, CALIFORNIA 95445
707 785-9336

NEW RESIDENCE
BILL & MARCIA McCONNELL
14500 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT1-LOT34

PHASE: CDP ALTERNATIVE LAYOUT
REVISIONS:
JOB NO: C2-06-MC
DATE: 10/6/07
SCALE: AS SHOWN
DRAWN BY: F.R.
CHECKED BY: F.R.
SHEET NO: FA-1
OF:

6 of 15



1 FA-2 FEASIBLE ALTERNATIVE - SITE PLAN

SCALE: 1/8" = 1'-0"

NORTH

AREA TABULATION:

GARAGE	256 SQ. FT.
CONDITIONED LIVING AREA	851 SQ. FT.
DECKS	48 SQ. FT.
TOTAL AREA	1,155 SQ. FT.

SURVEY AND TOPOGRAPHIC INFORMATION PREPARED BY:
DAVID E. PADU, P.E.
539 CHESTNUT STREET
FORT BRAGG, CA.
JULY 1983, REVISED OCTOBER 1995

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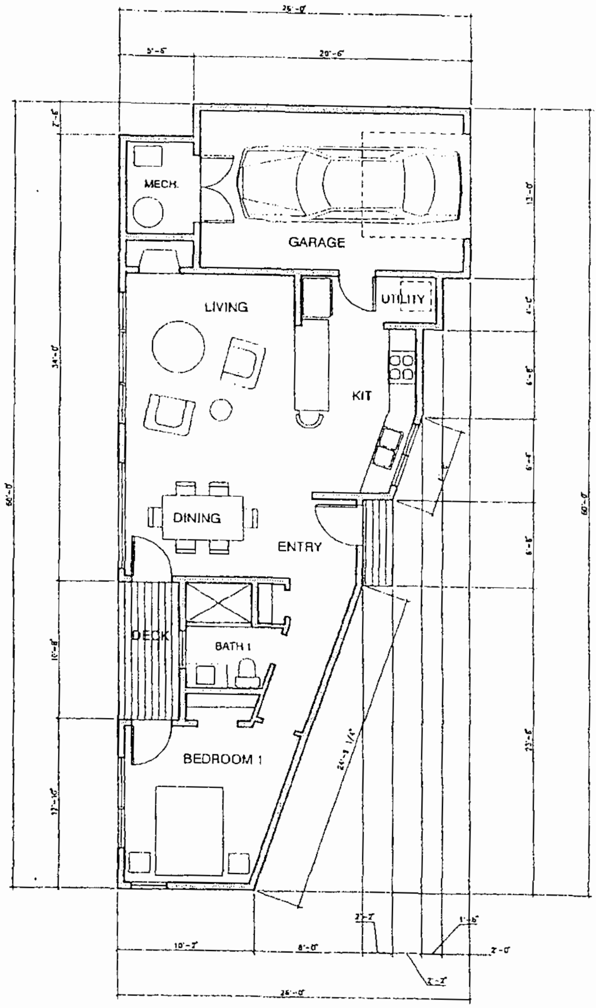
ARCHITECTURE
P. O. BOX 1588
GUALALA, CALIFORNIA 95445
707 785-9316

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1 - LOT 34

PHASE: CDP ALTERNATIVE LAYOUT
REVISIONS:
JOB NO: 03-06-MC
DATE: 10/6/07
SCALE: AS SHOWN
DRAWN BY: P.R.
CHECKED BY: P.R.
SHEET NO: FA-2
OF:

7 of 15



FEASIBLE ALTERNATIVE - FLOOR PLAN
SCALE: 1/4" = 1'-0"

AREA TABULATION:

GARAGE	257 S.F.
HOUSE	851 S.F.
DECK	48 S.F.
TOTAL	1,156 S.F.

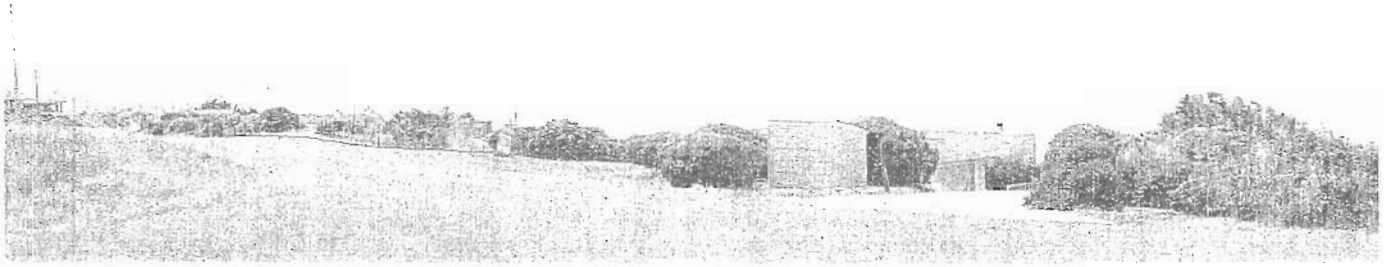
ROBERTS AND ASSOCIATES
A R C H I T E C T U R E
P. O. BOX 1588
GUALALA, CALIFORNIA 95445
707 785-9314

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER CALIFORNIA
UNIT 1-LOT 24

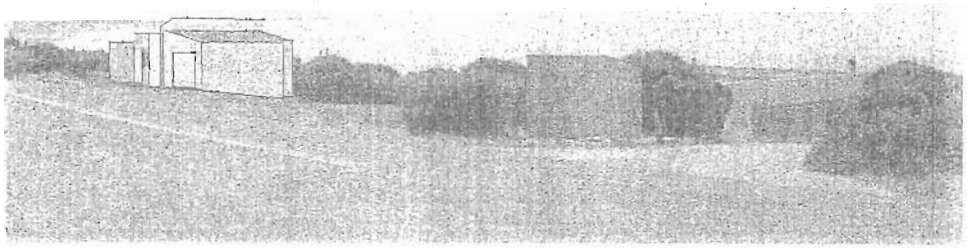
PHASE: CDP ALTERNATIVE LAYOUT
REVISIONS:
JOB NO. 02-06-PC
DATE: 10/10/07
SCALE: AS SHOWN
DRAWN BY: P.R.
CHECKED BY: P.R.
SHEET NO. FA-3

8 of 15

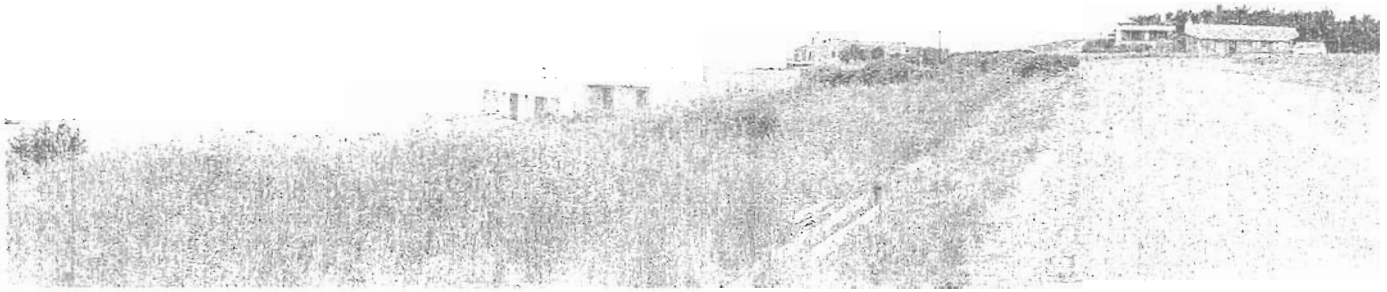
McCONNELL PARCEL



VIEW TO SOUTH - NAVARRO WAY



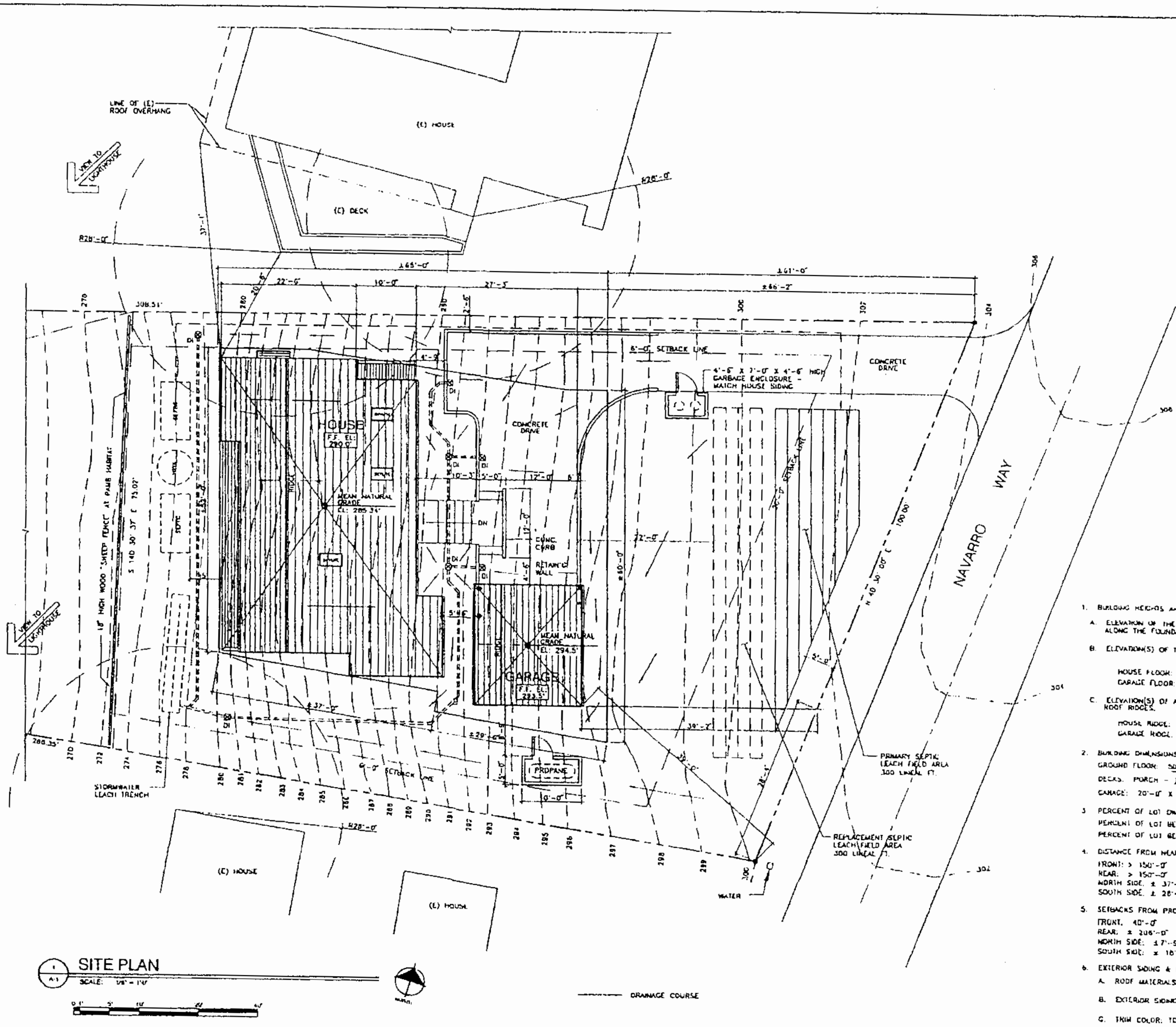
APPROXIMATE LOCATION OF "FEASIBLE ALTERNATIVE"



VIEW TO NORTH - NAVARRO WAY

NEW RESIDENCE
BILL & MARCIA McCONNELL
14620 NAVARRO WAY
MANCHESTER, CALIFORNIA

FA-4



SITE PLAN
SCALE: 1/8" = 1'-0"

AREA	
HOUSE	1,336 SF
GARAGE	305 SF
TOTAL	1,641 SF
DECKS	291 SF
COVERED PORCHES	40 SF

IRISH BEACH DESIGN REVIEW
PHASE 2 - BUILDING WORKSHEET

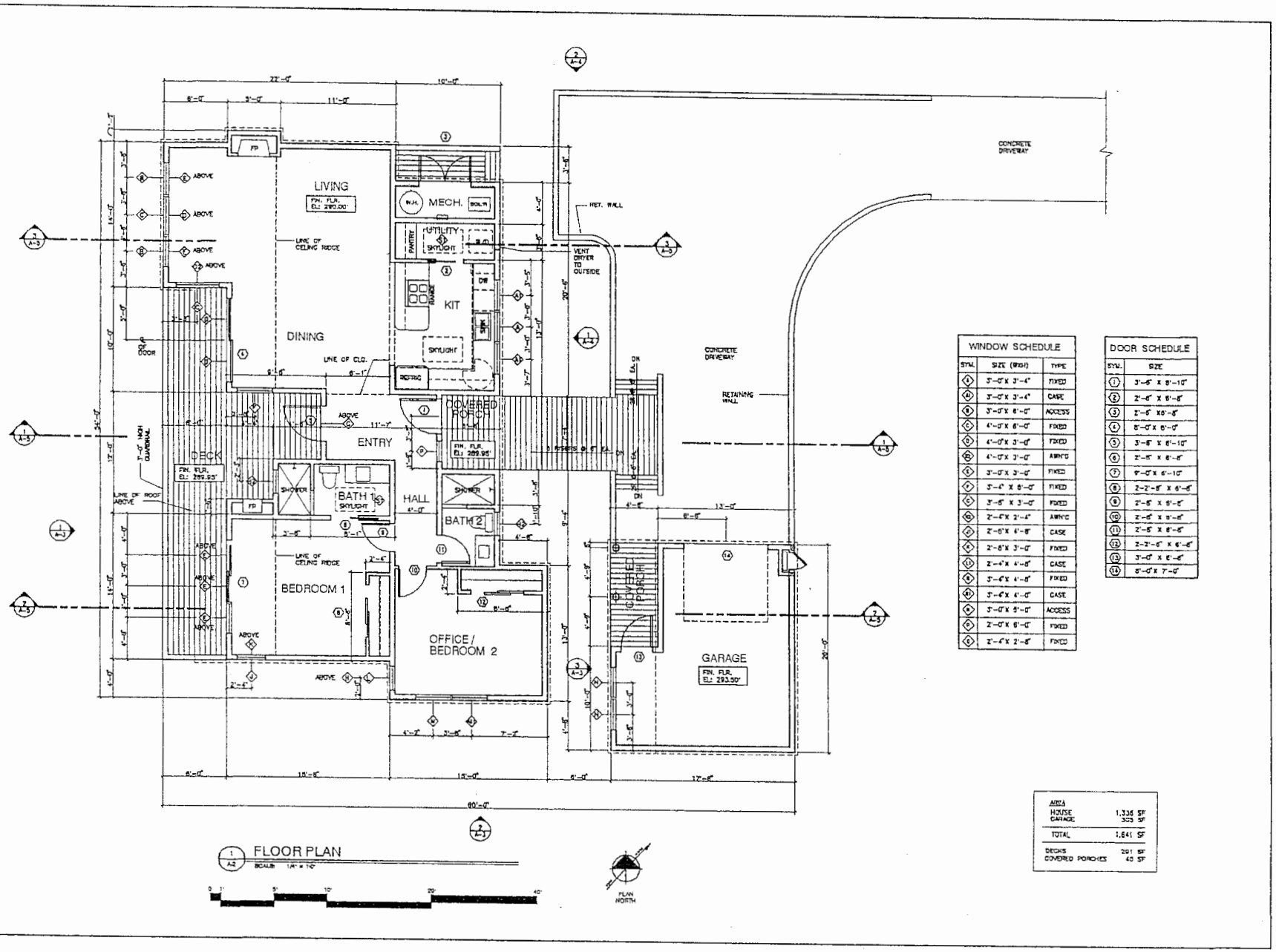
UNIT 1, LOT 34

1. BUILDING HEIGHTS AND ELEVATIONS:
   A. ELEVATION OF THE MEAN NATURAL GRADE OF HOUSE ALONG THE FOUNDATION PERIMETER - 285.34 FT
   B. ELEVATION(S) OF THE FINISHED FLOOR(S)
      HOUSE FLOOR: 290.0 FT.
      GARAGE FLOOR: 293.5 FT.
      VERTICAL DISTANCE FROM THE MEAN NATURAL GRADE TO:
      HOUSE FLOOR: 4.67 FT
      GARAGE FLOOR: 8.16 FT
   C. ELEVATION(S) OF ALL ROOF RIDGES:
      HOUSE RIDGE: 304.34 FT.
      GARAGE RIDGE: 305.00 FT.
      VERTICAL DISTANCE FROM THE MEAN NATURAL GRADE TO:
      HOUSE RIDGE: 19.00 FT.
      GARAGE RIDGE: 19.66 FT
2. BUILDING DIMENSIONS:
   GROUND FLOOR: 50'-0" X 26'-8" = 1,336 SQ. FT
   DECKS: PORCH - 7'-4" X 5'-8"; REAR - 36'-0" X 8'-0" = 331 SQ. FT
   GARAGE: 20'-0" X 15'-3" = 305 SQ. FT.
3. PERCENT OF LOT DIMENSIONS:
   PERCENT OF LOT BEING USED BY WIDTH: ± 72%
   PERCENT OF LOT BEING USED BY LENGTH: ± 31%
4. DISTANCE FROM NEAREST NEIGHBORING STRUCTURES (EAVE TO EAVE DISTANCE)
   FRONT: > 150'-0"
   REAR: > 150'-0"
   NORTH SIDE: ± 37'-1"
   SOUTH SIDE: ± 28'-0"
5. SETBACKS FROM PROPERTY LINES:
   FRONT: 40'-0"
   REAR: ± 206'-0"
   NORTH SIDE: ± 7'-9"
   SOUTH SIDE: ± 18'-4"
6. EXTERIOR SIDING & ROOFING MATERIALS:
   A. ROOF MATERIALS: STANDING SEAM METAL
      COLOR: WEATHERED COPPER
   B. EXTERIOR SIDING: 1 X 8 CEDAR BOARDS WITH 1 X 3 CEDAR BATTS
      COLOR: SHERWIN - WILLIAMS WOODSCAPES - "CHESTNUT"
   C. TRIM COLOR: TO MATCH SIDING
   D. WINDOW FRAME COLOR: DARK BROWN

ROBERTS AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1588
GUALALA, CALIFORNIA 95445
707 785-1311

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1, LOT 34

PHASE: IRISH BEACH - PHASE 2 REVISIONS
REVISIONS: REVISED GRADING - FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2:12
JOB NO.:
DATE: 9/15/07
SCALE: AS SHOWN
DRAWN BY: M.J.R.
CHECKED BY: M.J.R.
SHEET NO.: A-1R
OF 5



1 A-2 FLOOR PLAN
SCALE: 1/4" = 1'-0"

PLAN NORTH

WINDOW SCHEDULE		
SYM.	SIZE (WXH)	TYPE
A	3'-0" X 3'-4"	FIXED
B	3'-0" X 3'-4"	CASE
C	3'-0" X 6'-0"	ACCESS
D	4'-0" X 6'-0"	FIXED
E	4'-0" X 3'-0"	FIXED
F	4'-0" X 3'-0"	AWN'G
G	3'-0" X 3'-0"	FIXED
H	3'-4" X 6'-0"	FIXED
I	3'-6" X 3'-0"	FIXED
J	2'-4" X 2'-4"	AWN'G
K	2'-6" X 4'-8"	CASE
L	2'-8" X 3'-0"	FIXED
M	2'-4" X 4'-8"	CASE
N	3'-4" X 4'-8"	FIXED
O	3'-4" X 4'-0"	CASE
P	3'-0" X 6'-0"	ACCESS
Q	2'-0" X 6'-0"	FIXED
R	2'-4" X 2'-8"	FIXED

DOOR SCHEDULE	
SYM.	SIZE
1	3'-6" X 8'-10"
2	2'-6" X 8'-8"
3	2'-6" X 6'-8"
4	8'-0" X 6'-0"
5	3'-6" X 6'-10"
6	2'-6" X 6'-8"
7	9'-0" X 6'-10"
8	2-2'-8" X 6'-8"
9	2'-6" X 8'-8"
10	2'-6" X 8'-8"
11	2'-6" X 6'-8"
12	2-2'-6" X 6'-8"
13	3'-0" X 6'-8"
14	8'-0" X 7'-0"

AREA	
HOUSE	1,338 SF
GARAGE	303 SF
TOTAL	1,641 SF
DECKS	291 SF
COVERED PORCHES	40 SF

ROBERTS AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1588
GUALALA, CALIFORNIA 95445
707 785-9316

NEW RESIDENCE
BILL & MARCIA McCONNELL
14800 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT I - LOT 34

PHASE: IRISH BEACH - PHASE 2 REVISIONS

REVISIONS:
REVISED GRADING - FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2/12

JOB NO:
DATE: 9/18/07

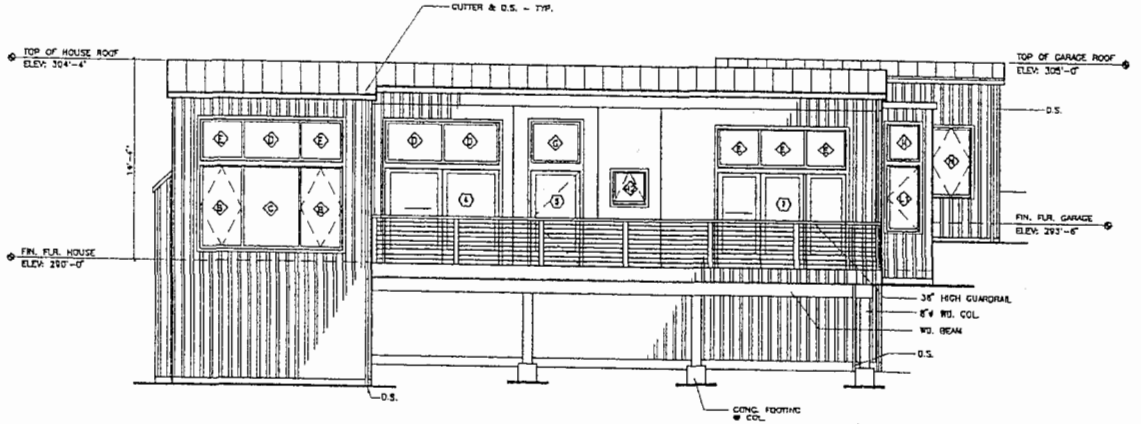
SCALE: AS SHOWN

DRAWN BY: M.J.R.

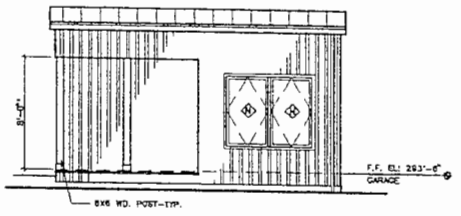
CHECKED BY: M.J.R.

SHEET NO: A-2R

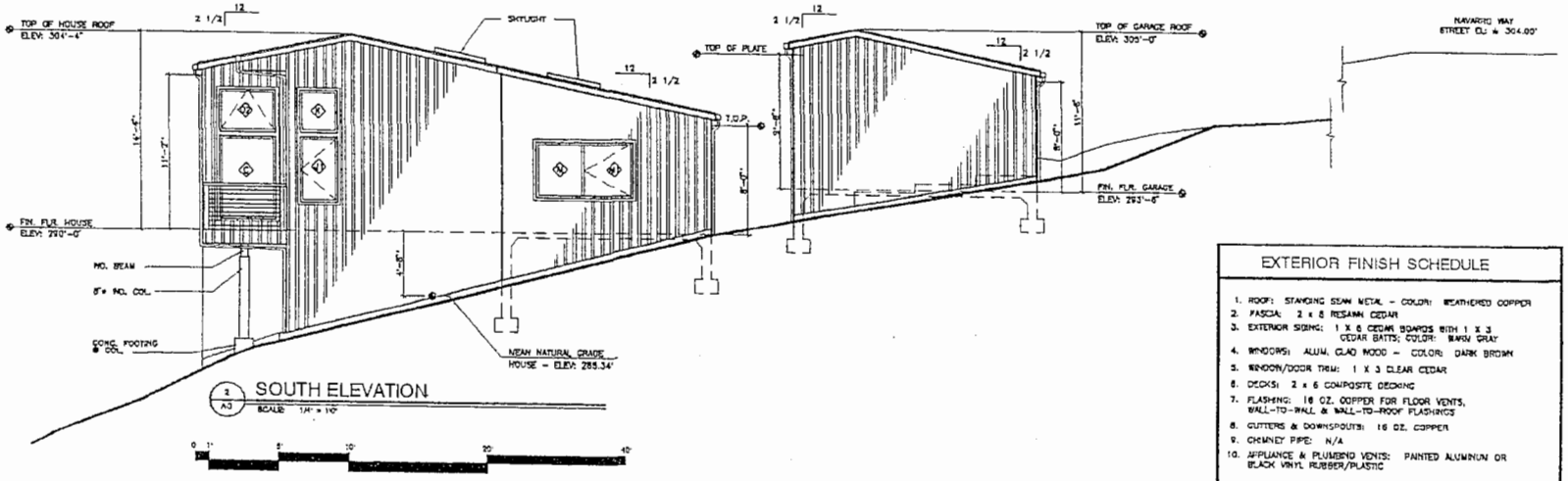
CH. 15



1 A3 WEST ELEVATION
SCALE: 1/4" = 1'0"



2 A3 WEST ELEVATION @ GARAGE
SCALE: 1/4" = 1'0"



2 A3 SOUTH ELEVATION
SCALE: 1/4" = 1'0"

0 1' 5' 10' 20' 40'

EXTERIOR FINISH SCHEDULE

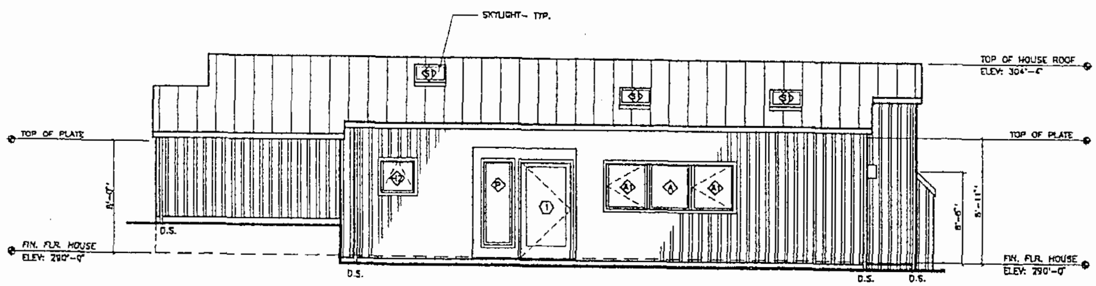
1. ROOF: STANDING SEAM METAL - COLOR: WEATHERED COPPER
2. FASCIA: 2 x 8 RESAWN CEDAR
3. EXTERIOR SIDING: 1 X 6 CEDAR BOARDS WITH 1 X 3 CEDAR BATTS; COLOR: WARM GRAY
4. WINDOWS: ALUM. CLAD WOOD - COLOR: DARK BROWN
5. WINDOW/DOOR TRIM: 1 X 3 CLEAR CEDAR
6. DECKS: 2 x 6 COMPOSITE DECKING
7. FLASHING: 16 OZ. COPPER FOR FLOOR VENTS, WALL-TO-WALL & WALL-TO-ROOF FLASHINGS
8. GUTTERS & DOWNSPOUTS: 16 OZ. COPPER
9. CHIMNEY PIPE: N/A
10. APPLIANCE & PLUMBING VENTS: PAINTED ALUMINUM OR BLACK VINYL RUBBER/PLASTIC

ROBERT'S AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1598
GUALALA, CALIFORNIA 95445
707 785-0316

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1-LOT 54

PHASE:	PRSH, BEACH - PHASE 2 REVISIONS
REVISIONS:	REVISED GRADING - FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2|12
JOB NO:	DATE: 9/15/07
SCALE:	AS SHOWN
DRAWN BY:	M.J.R.
CHECKED BY:	M.J.R.
SHEET NO:	A-3R
OF:	6

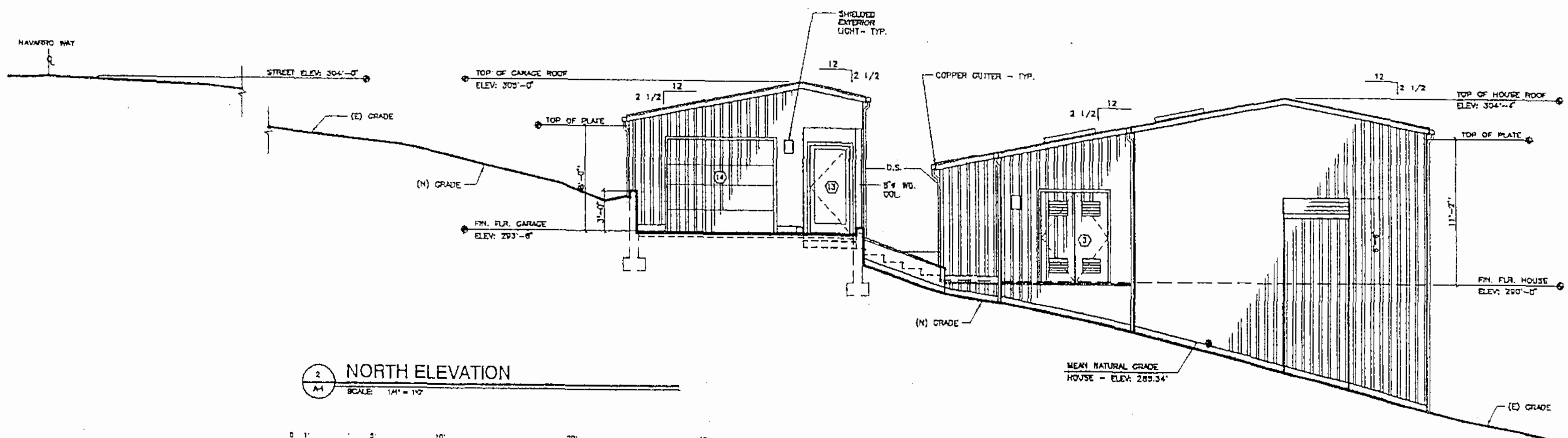
12 of 15



1 A-4 EAST ELEVATION
SCALE: 1/4" = 1'0"

EXTERIOR FINISH SCHEDULE

1. ROOF: STANDING SEAM METAL – COLOR: WEATHERED COPPER
2. FASCIA: 2 x 6 RESAWN CEDAR
3. EXTERIOR SIDING: 1 X 6 CEDAR BOARDS WITH 1 X 3 CEDAR BATTS; COLOR: WARM GRAY
4. WINDOWS: ALUM. CLAD WOOD – COLOR: DARK BROWN
5. WINDOW/DOOR TRIM: 1 X 3 CLEAR CEDAR
6. DECKS: 2 x 6 COMPOSITE DECKING
7. FLASHING: 16 OZ. COPPER FOR FLOOR VENTS, WALL-TO-WALL & WALL-TO-ROOF FLASHINGS
8. GUTTERS & DOWNSPOUTS: 16 OZ. COPPER
9. CHIMNEY PIPE: N/A
10. APPLIANCE & PLUMBING VENTS: PAINTED ALUMINUM OR BLACK VINYL RUBBER/PLASTIC



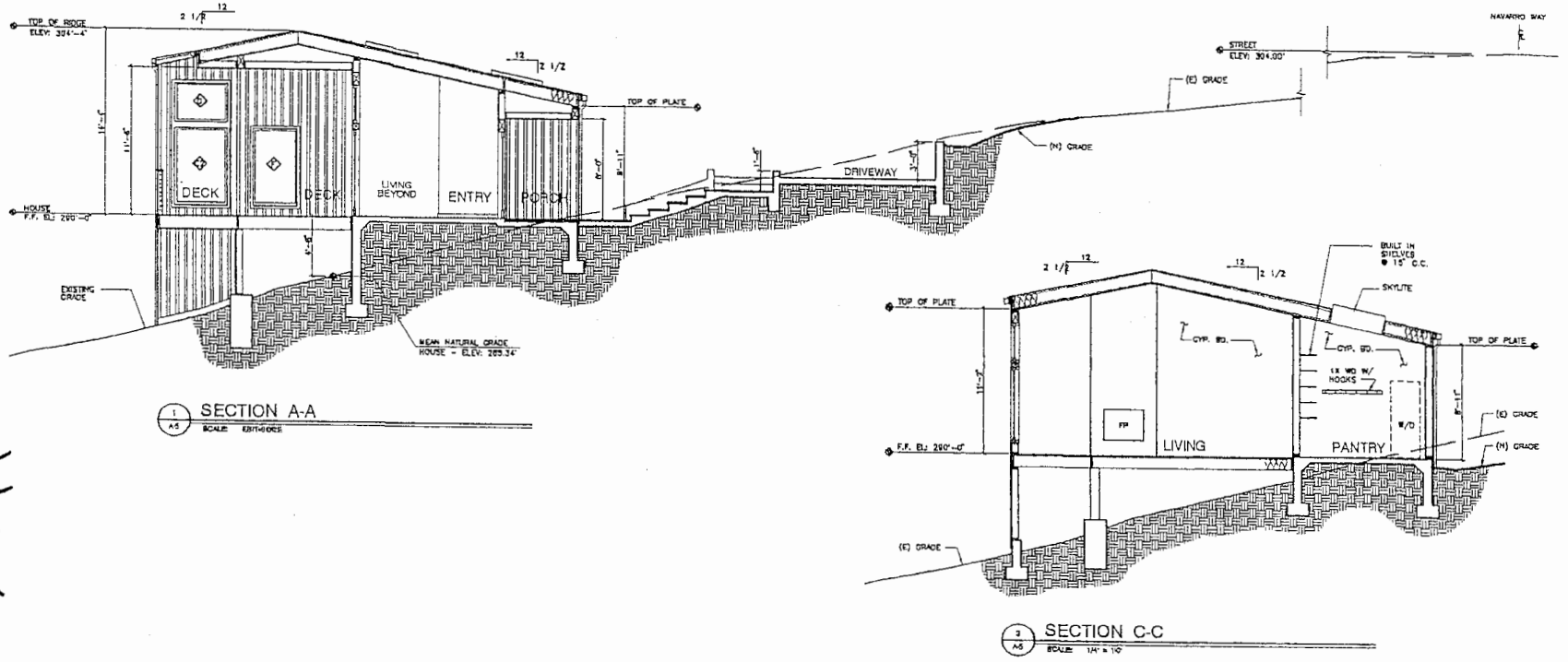
2 A-4 NORTH ELEVATION
SCALE: 1/4" = 1'0"

ROBERTS AND ASSOCIATES
A R C H I T E C T U R E
P. O. BOX 1563
GUALALA, CALIFORNIA 95445
707 785-9311

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1-LOT 34

PLAN: IRISH BEACH – PHASE 2 REVISIONS
REVISIONS: REVISED GRADING – FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2:12
JOB NO.: | DATE: 9/15/07
SCALE: AS SHOWN
DRAWN BY: M.J.R.
CHECKED BY: M.J.R.
SHEET NO.: A-4R
OF: 8

13 of 15



Sheet 5 of 5

ROBERTS AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1339
GUALALA, CALIFORNIA 95445
707 785-6536

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT I - LOT 34

PHASE: IRISH BEACH – PHASE 2 REVISIONS

REVISIONS:
REVISED GRADING – FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2:12

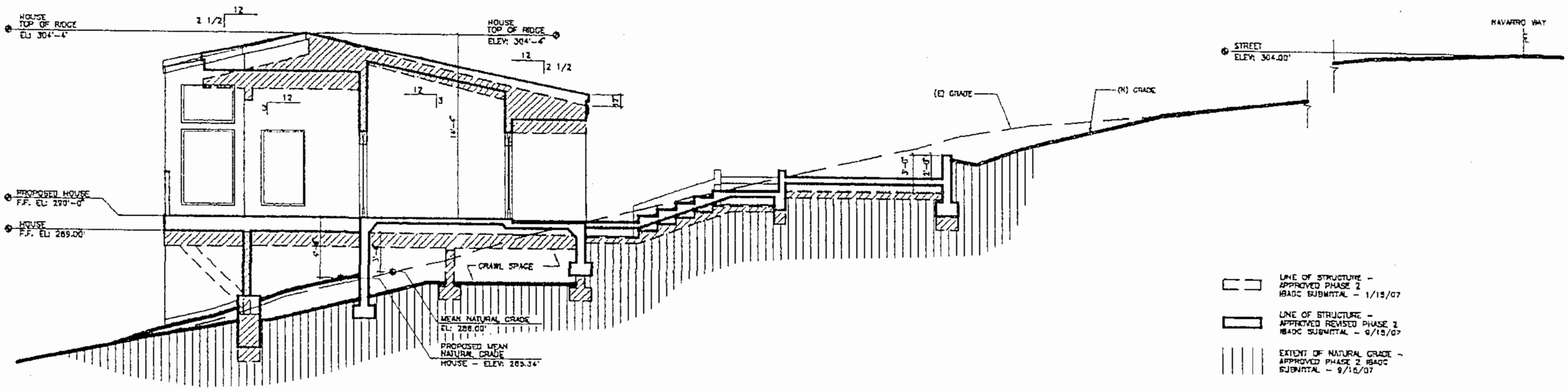
JOB NO:
DATE: 9/13/07

SCALE: AS SHOWN

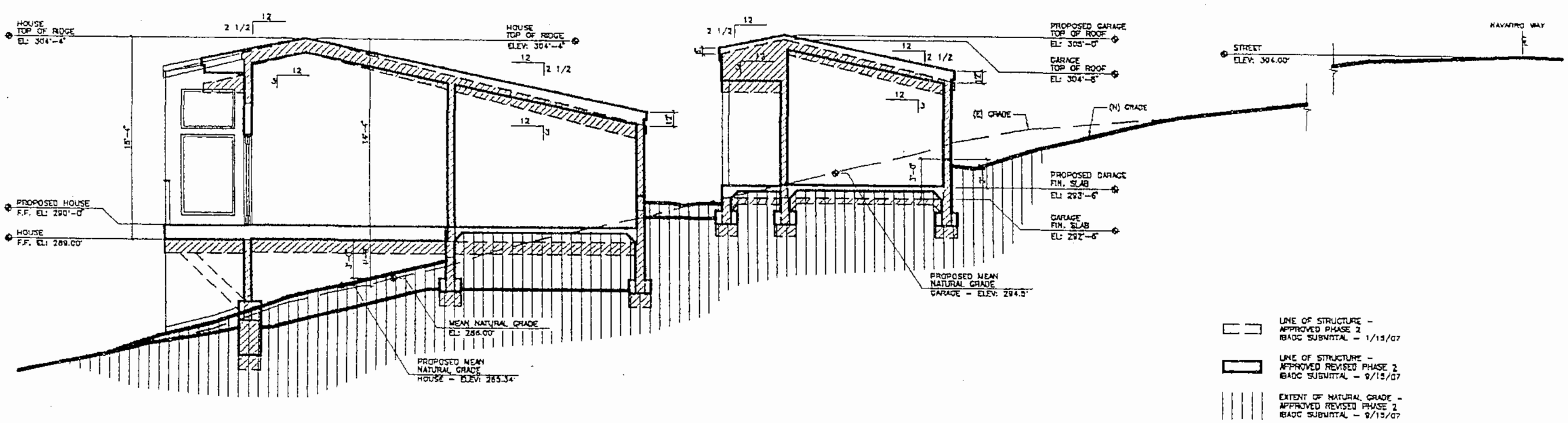
DRAWN BY: M.J.R.

CHECKED BY: M.J.R.

SHEET NO:
A-5R
OF: 5



1 A6 SECTION A-A
SCALE: 1/4" = 1'0"



2 A6 SECTION B-B
SCALE: 1/4" = 1'0"

ROBERTS AND ASSOCIATES
ARCHITECTURE
P. O. BOX 1505
GUALALA, CALIFORNIA 95445
707 785-9316

NEW RESIDENCE
BILL & MARCIA McCONNELL
14820 NAVARRO WAY
MANCHESTER, CALIFORNIA
UNIT 1-LOT 34

PHASE: IRISH BEACH - PHASE 2 REVISIONS
REVISIONS: REVISED GRADING - FOUNDATIONS RAISED 12" / ROOF SLOPES REDUCED TO 2 1/2:12
JOB NO: | DATE: 9/15/07
SCALE: AS SHOWN
DRAWN BY: M.J.R.
CHECKED BY: M.J.R.
SHEET NO: A-6R
OF: 5

15 of 15

From: "Mark Johnsson" <mjohnsson@coastal.ca.gov>
To: "Teresa Beddoe" <beddoet@co.mendocino.ca.us>
Date: 04/23/07 14:07:40
Subject: Bluff Edge for CDP 76-2006 McDonnell

Dear Tess--

I apologize for taking so long to get back to you on this project; I have been tied up for the past month or more spending most of my time on the LNG terminal proposed off Malibu. That went to hearing last week, and so I have been able to turn to other matters.

I have reviewed the three letter reports by David Paoli(PE) dated 28 July 1983, 24 March 2006, and 5 March 2007. I also have reviewed an undated report (Job No. 95-34) apparently prepared by Mr. Paoli in 1995. I visited the site on 31 January 2007.

You asked me for my opinion as to the location of the bluff edge per the Coastal Commission's regulations. California Code of Regulations Title 40 Section 13577 (h) (2) contains the Coastal Commission's definition of bluff edge:

...
Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge...

The profile included as exhibit C of the 1995 report, and repeated in the 2007 report (attached) contains a profile through the subject lot and another lot to the west. It is not clear from the report how this profile was prepared, but the 1995 report, in describing the site topography states that:

"The easterly 100 feet of the lot has an average slope of 20 percent and is anticipated to be the home site. A steeper slope of 40 percent occurs for approximately 30 feet, then flattens to a slope of 30 percent for 40 feet, Finally, the most westerly 120 feet steepens to approximately 70 percent. To the west of the lot is another large lot, approximately 300 feet wide and 50 feet above sea level. This large lot appears to have been leveled for a building site some years ago, but not used as such."

This language and the round numbers suggest to me that the profile is based on estimated angles and distances, rather than a survey. During my site visit, I could not confirm the presence of a large nearly flat area west of the lot at an elevation of approximately 50 feet above sea level. Further, the detailed subtlties of the slope misses the point that the entire slope, from Navarro Way to the sea, is overall a steep slope, that Navarro Way is very nearly cited at a sharp break in slope, and that east of Navarro Way there is a broad, flat terrace at

EXHIBIT NO. 13
APPEAL NO.
A-1-MEN-07-047 - McCONNELL
BLUFF EDGE DETERMINATION BY DR. MARK JOHNSSON, COASTAL COMMISSION STAFF GEOLOGIST (1 of 3)

approximately 300 feet elevation. This overall geometry is captured in the attached profile, labeled Navarro Way Profile, taken from the 1:24,000 scale USGS topphic quadrangle.

It is my opinion that the coastal bluff at this site is approximately 300 feet high, is broadly rounded near the top, and levels off very nearly at the location of Navarro Way. Applying the definition from section 13577 of the Commission's regulation, the entire lot would thus be on the bluff face, and the bluff edge is very near the position of Navarro Way.

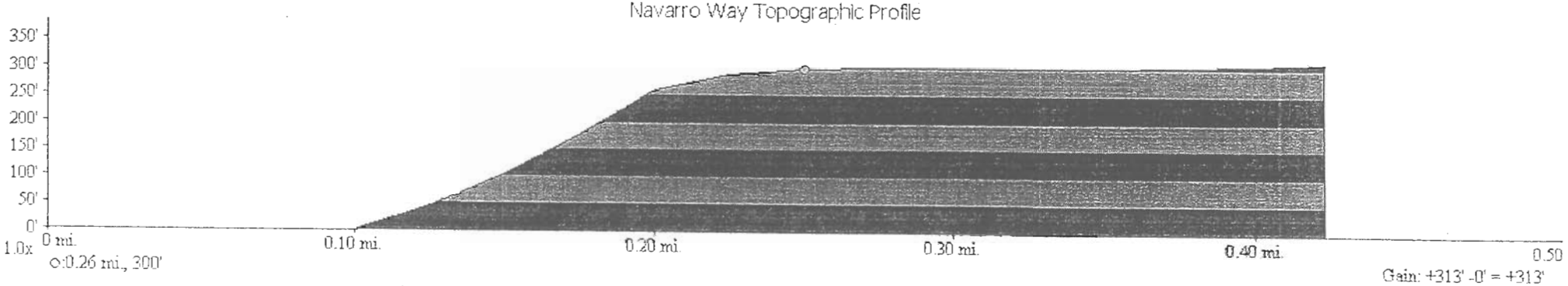
I hope that this informal review is helpful to you. Please do not hesitate to contact me if I can be of further assistance

Mark J. Johnsson, Ph.D. Staff Geologist

California Coastal Commission (415)904-5200 (v)
45 Fremont St., Suite 2000 (415)904-5400 (f)
San Francisco, CA 94105 mjohnsson@coastal.ca.gov

CC: "Tiffany Tauber" <ttauber@coastal.ca.gov>

Navarro Way Topographic Profile



3 of 3

Paoli Engineering & Surveying

DAVID E. PAOLI

535 E Chestnut St., Fort Bragg, CA 95437
Phone: 707-964-5225 – Fax: 707-961-1452 – Cell: 707-357-3193
E-mail: engineersurvey@yahoo.com

CALIFORNIA REGISTERED CIVIL ENGINEER/LAND SURVEYOR – RCE 18341
OREGON REGISTERED CIVIL ENGINEER – NO. 8426
ON PROFESSIONAL LAND SURVEYOR – NO. 1289

EXHIBIT NO. 14
APPEAL NO.
A-1-MEN-07-047 - McCONNELL
INFORMATION SUBMITTED TO THE COUNTY BOARD OF SUPERVISORS AT THE APPEAL HEARING BY ENGINEER DAVID PAOLI (1 of 4)

RECEIVED
NOV 15 2007
CALIFORNIA COASTAL COMMISSION

September 21, 2007

Mendocino County Board of Supervisors
501 Low Gap Rd., Room 1090
Ukiah, CA 95482-3734

Re: CDP 76-2006 (McConnell)

Honorable Chairperson and Members of the Board:

For our October meeting with the Mendocino County Board of Supervisors I have been asked by the McConnells to address engineering and geologic issues relating to this lot. The following are the issues and responses as I see them:

1. **The contention that the entire lot is on an ocean bluff as defined by the California Coastal Commission.**

   I offer the document labeled Exhibit M. This drawing includes a to-scale profile of the ground from the ocean to Navarro Way. This profile is based on field work done on May 18, 2007, under my direct supervision and with my direct participation. The field work was done with modern, survey grade equipment.

   The profile clearly shows the ocean, the beach, the ocean bluff, a sloping terrace about 135 feet wide, then a steep slope, then a decreased slope to Navarro Way. The County and Coastal Commission staff initially questioned the existence of this sloping terrace, but I believe we have convincing evidence of its existence, both with my profiles and with the two aerial photos attached to this letter.

   Is the terrace at elevation 120 just part of a continuous bluff from the ocean to Navarro Way, as contended by the Coastal Commission Staff Geologist Dr. Johnsson? No, it is not, and in the past this terrace was much wider east to west and extended for miles to the north and south. To explain this we need to look at our coastline not as a static entity presently being acted upon by the ocean, but as a dynamic model affected by plate tectonics and global warming. Exhibit N illustrates my dynamic models.

   Present theories of geology postulate there are large crustal "plates" covering the earth's surface. These plates are floating on a "sea" of molten lava miles below the surface and have been moving in predictable patterns for tens of millions of years. Irish Beach is near the west edge of the North American Plate. The Pacific Plate is rubbing against the North American Plate. At Irish Beach the point of surface contact between these two plates may be the San Andreas Fault (SAF). South of Irish Beach the SAF is not coincident with these plates, which is another story we will not deal with here.

   These two plates are in physical contact with each other as previously stated. Further, the Pacific Plate is sliding under the Continental Plate. So if we consider this has been happening for millions of years, we find that the ocean floor between the coast and the SAF builds up sediments from erosion for thousands of years or longer, then is lifted up by the Pacific Plate forcing itself under the Continental Plate in a process called subduction. This process has happened a number of times over millions of years, and has given us identifiable terraces or plains. For example, the coastal portion of Fort Bragg is on a sloping terrace that starts at elevation 80. Go east on Highway 20 about 2 miles and just before Benson Lane there is a short hill that rises to an ancient terrace of about elevation 200, which is the start of the Pygmy Forest soils. Another example is the Village of Elk, which is on a sloping terrace that starts at elevation 120.

My contention is that the present terrace I have shown on Exhibit M, which starts at elevation 116 and is about 135 feet wide, is a remainder of a much larger old terrace. I have seen references to these old terraces in previous geotechnical reports I have studied, particularly several near the mouth of the Navarro River.

What does global warming have to do with this?

Global Warming (and Cooling) has occurred a number of times over the lifetime of the earth. About 10 thousand years ago the last Ice Age ended, and since that time our sea level has risen over 300 feet. The ocean is now able to actively erode the 80 to 200 foot elevation terraces it could not previously get to during the ice age. If the average rate of erosion were ½ foot per year, the recession would be about one mile over 10,000 years. The sea stacks we see offshore, such as at Elk, are locally tougher material that is still fighting ocean erosion. There are several sea stacks on shore, such as one east of the highway at the very north end of the Irish Beach subdivision that graphically illustrates the point about uplifting of the sea bed. Another may be seen about a mile north of the Galletti Ranch, south of Elk Creek.

To restate my position, I believe it is inaccurate to consider the slopes from the ocean to Navarro Way as one continuous bluff. They never have been one continuous bluff here, and as long as a portion of the terrace remains, the ocean bluff should be defined as that portion of the slope west of the terrace.

2. **What is the 75-year setback in feet?**

I have been reluctant to deal with this because I never thought the issue applied to this lot; it applied to the lot to the west of the McConnell lot, which is owned by Gordon Moores, who is not my client on this project. However, I have done an analysis to prove my point.

I am supplying copies of a 1964 aerial photo of the site, which was done one year before the property was subdivided, and a year 2000 aerial of the site, the newest information available without commissioning a special flight. Both photos are at the approximate scale of 1-inch equals 200 feet.

You can see that in 1964 there was a road extending from the 200-foot elevation terrace, down to the remnant terrace at 120 feet, then the road switches back on the flat and continues down the bluff to the ocean. The very bottom of the road appears to be washed out.

This road has not been maintained for about 20 years, but it still shows up in the 2000 photo. Based only on the erosion up to the road switchback, about 12 feet of terrace has been lost in the 36 years between photos. This is a recession rate of about 0.33 feet per year, or 25 feet in 75 years.

Using other control points on the photos, I calculated the worst-case scenario in this vicinity is 62 feet in 75 years.

On the year 2000 aerial photo I have plotted a red line representing this 62-foot setback from top of bluff. I have also shown the proposed house and garage in red on this photo. This house is 300 feet back from this worst-case line. I have always thought that anyone looking at the house site and the ocean could judge bluff recession to be a non-issue, and sure enough it is a non-issue. However, the aerial photos show several other lots west of Navarro Way are vacant, and chances are future buyers will be required to spend time and money wrestling with these same problems that should not be problems.

3. **How are we protecting the property from erosion?**

My June 11, 2007 "Erosion Control Plan" is largely based on my earlier reports of 1983, 1995, and 2006 with updated information based on the specific house and garage plan and the new knowledge about the Mountain Beaver Habitat. I have not seen any criticism of this plan yet. We can supply a copy of this plan to the Board of Supervisors if you wish.

294

4. How are we ensuring the house and garage stability?

The house and garage sites are not all that steep, with a maximum measured steepness of 34 percent. However, from the first report we did in 1983 to the most recent, we have always recommended a pier and grade beam foundation be used, with the piers extending into bedrock. This is the same level of protection provided to numerous houses in Irish Beach, the Mendocino Coast, and coastal California that are located on moderate and steep slopes. Although it is not a new concept, it is state-of-the-art and it works.

Finally, my views and conclusions about this lot and this area may differ from others. However, I have been studying this lot since 1983 and this coastline since about 1960. I like to think that in that time I have picked up some insights into our coastal geology and its processes.

Should you have questions about any of this, please call me at (707) 964-5225.

Sincerely,

Signature on File

David E. Paoli
Professional Engineer/Land Surveyor

PES: 0708 McConnell

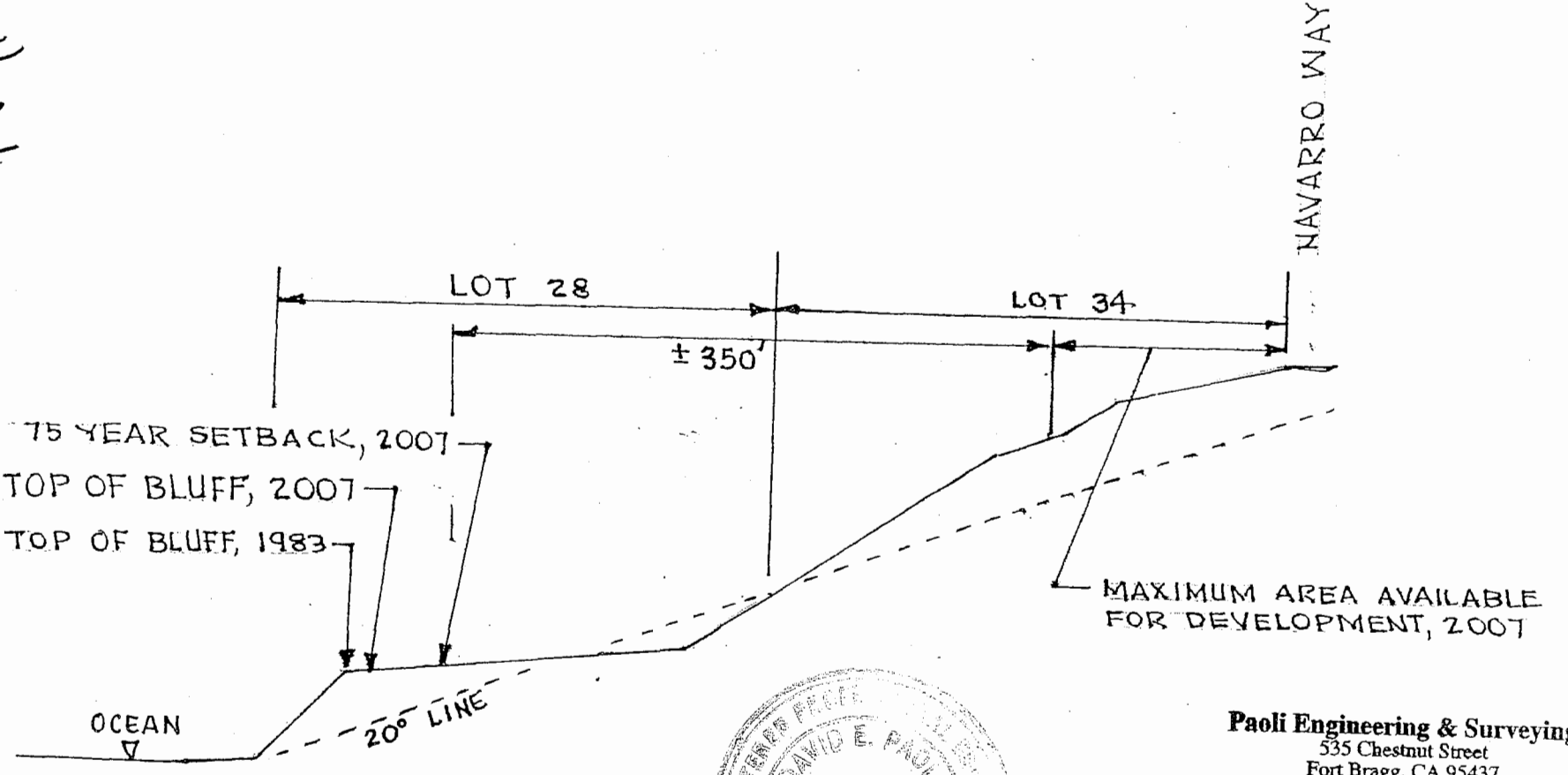
Exhibits

EXP. 6-30-09

3 of 4

EXHIBIT C
PROFILE OF LOT
FROM 1983 REPORT, JOB 83-40

E & F



REGISTERED PROFESSIONAL ENGINEER
DAVID E. PAOLI
16341
David E. Paoli
CIVIL
STATE OF CALIFORNIA
EXP. 6-30-07

Paoli Engineering & Surveying
535 Chestnut Street
Fort Bragg, CA 95437

TEL: 707-964-5225
FAX: 707-961-1452

JOB 0708
3/05/07
SCALE 1" = 100'

INTEROFFICE MEMORANDUM

TO: CALIFORNIA COASTAL COMMISSION

FROM: ANN MORA, FT. BRAGG PBS

SUBJECT: MCCONNELL NOTICE OF FINAL ACTION

DATE: 10/17/2007

Enclosed please find the Notice of Final Action, action sheet and agenda summary for the following item:

CDP #76-2006 (McConnell)

This item was heard on June 28, 2007 and was denied by the Coastal Permit Administrator. The owners appealed the denial to the Mendocino County Board of Supervisors. At the October 2, 2007 BOS meeting, the Supervisors overturned the CPA's denial and approved the permit with conditions.

MENDOCINO COUNTY BOARD OF SUPERVISORS AGENDA SUMMARY

BOARD AGENDA # 7d2

RECEIVED
OCT 10 2007
PLANNING & BUILDING SERV.
FORT BRAGG CA

Agenda Summaries must be submitted no later than noon Monday, 15 days prior to the meeting date

TO: Board of Supervisors DATE: September 12, 2007

FROM: Planning and Building Services AGENDA DATE: October 2, 2007

DEPARTMENT RESOURCE/CONTACT: Frank Lynch PHONE: 463-4281 Present ☑ On Call ☐

Consent ☐ Regular Agenda ☑ Est. Time for Item: 1 hour Urgent ☐ Routine ☑

■ AGENDA TITLE: Discussion and possible action regarding appeal of Coastal Permit Administrator decision on Coastal Development Permit #76-2006 (McConnell)

■ PREVIOUS BOARD OR BOARD COMMITTEE ACTIONS: None

■ SUMMARY: On June 28, 2007, the Coastal Permit Administrator denied Coastal Development Permit 76-2006 to construct a 1,336± sq. foot single-story single-family residence with a maximum average height of 20± feet above finished grade, with 327± sq. feet of decks and 85± sq. feet of covered porch, and a detached 305± sq. foot garage with a maximum average height of 13± feet above finished grade. Associated development includes 1,200± sq. feet of concrete driveway, installation of an underground propane tank, a 24± sq. foot trash enclosure, on-site septic and connect to utilities and community water. Located at 14820 Navarro Way, in the Irish Beach Subdivision (APN 132-020-05).

Major issues with the project include a failure to meet safety standards set forth in the Hazards section of the Coastal Zoning Code, and failure to adequately protect a Federally Endangered animal species habitat according to Coastal Act requirements.

According to the Coastal Commission definition of a bluff edge, the bluff edge is located approximately in the vicinity of Navarro Way relative to the project, therefore the proposed project would be located entirely over the bluff edge. This fails to comply with Section 20.500.020(B) of the Mendocino County Coastal Zoning Code (Section 20.500.020(B)(1)) which states that "New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years)."

The project also fails to meet the minimum 50 foot buffer to the Federally Endangered species (*Aplodontia rufa nigra - the Point Arena Mountain Beaver*) Environmentally Sensitive Habitat Area as required by Chapter 20.496 of the Mendocino County Coastal Zoning Code. Of note, one of the stated reasons for placing the structure in its proposed location is that it would comply with local CC&Rs for protection of private views. While acceptable in its location for that purpose, the building envelop conflicts with other planning policies as cited above, therefore less environmentally damaging alternatives exist, and all feasible mitigation measures capable of reducing or eliminating project impacts have not been adopted.

RECEIVED
OCT 05 2007
BY
PLANNING & BUILDING SERVICES
Ukiah, CA 95482

This summary of reasons for denial is not comprehensive; a full list of findings for denial is outlined in the staff report.

BOARD ACTION Date of Action _____

1) ☐ Approved _____ 2) ☐ Referred to _____

3) ☑ Other Approved CDP No. 76-2006 w/conditions (pg. CPA 18) - See minutes

)end 14 Complete Sets (original single sided) These

MENDOCINO COU Y BOARD OF SUPERVISORS B. RD AGENDA #_____
AGENDA SUMMARY

■ ALTERNATIVES: The Board may uphold the decision made by the Coastal Permit Administrator and deny the project, approve the project as conditioned, or approve the project with alternate and/or new conditions.

■ WILL PROPOSAL REQUIRE ADDITIONAL PERSONNEL? Yes* ☐ Number ____ No ☑

*If yes, has this been through the Personnel Process? Yes ☐ No ☐

FISCAL IMPACT:			
Source of Funding	Current F/Y Cost	Annual Recurring Cost	Budgeted in Current F/Y
N/A	N/A	N/A	Yes ☐ No ☐

■ RECOMMENDED ACTION/MOTION: That the Board of Supervisors deny the appeal and uphold the action of the Coastal Permit Administrator denying Coastal Development Permit #76-2006.

■ CEO REVIEW (NAME): _____ PHONE: 463-4441

RECOMMENDATION: Agree ☒ Disagree ☐ No Opinion ☐ Alternate ☐ Staff Report Attached ☐

BOARD ACTION Date of Action _____
1) ☐ Approved _____ 2) ☐ Referred to _____
3) ☐ Other _____

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
790 SOUTH FRANKLIN · FORT BRAGG · CALIFORNIA · 95437

RAYMOND HALL, DIRECTOR
Telephone 707-964-5379
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www.co.mendocino.ca.us/planning

notice mcconnell cdp 76-2006

June 15, 2007

PUBLIC NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, June 28, 2007 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

CASE #: CDP #76-2006
DATE FILED: 12/14/2006
OWNER: William & Marcia McConnell
AGENT: Phillip H. Roberts
REQUEST: Construct a 1,336± sq. foot single-story single-family residence with a maximum average height of 20± feet above finished grade. The residence would have 327± sq. feet of decks and 85± sq. feet of covered porch. Build a detached 305± sq. foot garage with a maximum average height of 13± feet above finished grade. Associated development includes 1,200± sq. feet of concrete driveway, installation of an underground propane tank. 24± sq. foot trash enclosure, on-site septic and connect to utilities and community water.
LOCATION: In the Coastal Zone, in the Irish Beach Subdivision, 4± miles north of the town of Manchester, on the south side of Navarro Way (CR 553), 250± feet southwest of its intersection with Highway 1, at 14820 Navarro Way (APN 132-020-05).
PROJECT COORDINATOR: Teresa Beddoe

As you are an adjacent property owner and/or interested party, you are invited to appear at the hearing, or to direct written comments to this office at the above address. If you would like to be notified of the Coastal Permit Administrator's action, please submit a written request to this office. All correspondence should contain reference to the above noted case number.

The decision of the Coastal Permit Administrator shall be final unless a written appeal is submitted to the Board of Supervisors with a filing fee within 10 calendar days thereafter. If appealed, the decision of the Board of Supervisors to approve the project shall be final unless appealed to the Coastal Commission in writing within 10 working days following Coastal Commission receipt of a Notice of Final Action on this project.

If you challenge the above case in court, you may be limited to raising only those issues described in this notice or that you or someone else raised at the public hearing, or in written correspondence delivered to the Coastal Permit Administrator at or prior to, the public hearing.

Additional information regarding the above noted case may be obtained by calling the Planning and Building Services Department at 964-5379, Monday through Friday.

Raymond Hall, Coastal Permit Administrator

STAFF REPORT FOR COASTAL DEVELOPMENT STANDARD PERMIT

CDP# 76-2006 (McConnell)
June 28, 2007
CPA-1

OWNERS/APPLICANTS:	William & Marcia McConnell 25755 Josefa Lane Los Altos Hills, CA 94022
AGENT:	Phillip H. Roberts P.O. Box 1588 Gualala, CA 95445
REQUEST:	Construct a 1,336± sq. foot single-story single-family residence with a maximum average height of 20± feet above finished grade. The residence would have 327± sq. feet of decks and 85± sq. feet of covered porch. Build a detached 305± sq. foot garage with a maximum average height of 13± feet above finished grade. Associated development includes 1,200± sq. feet of concrete driveway, installation of an underground propane tank, a 24± sq. foot trash enclosure, on-site septic and connect to utilities and community water.
LOCATION:	In the Coastal Zone, in the Irish Beach Subdivision, 4± miles north of the town of Manchester, on the south side of Navarro Way (CR 553), 250± feet southwest of its intersection with Highway 1, at 14820 Navarro Way (APN 132-020-05).
APPEALABLE AREA:	Yes – Blufftop L[illegible]
PERMIT TYPE:	Standard
TOTAL ACREAGE:	21,050± Sq. Feet
GENERAL PLAN:	RR-5-PD [SR-12,000-PD]
ZONING:	RR: L-5-PD [SR: L-12,000-PD]
EXISTING USES:	Undeveloped
ADJACENT ZONING:	North, East & South: RR: L-5-PD [SR: L-12,000-PD] West: Open Space
SURROUNDING LAND USES:	North, East & South: Residential West: Bluff Face
SUPERVISORIAL DISTRICT:	5
CA COASTAL RECORDS PROJECT:	Image 200503792

ENVIRONMENTAL DETERMINATION: Based on Staff Recommendation: Statutory Exemption per Section 15270 (a) - (Projects which are Disapproved).

Alternative Motion: The project is categorically exempt from CEQA, Class 3(a)

OTHER RELATED APPLICATIONS/DOCUMENTS:

Deed Restriction 2006-11795 recorded for Map of "Unit One, Mendocino Coast Subdivision," in Map Case 2, Drawer 4, Page 23, Mendocino County Records. Exhibit A outlines a conservation easement and deed restriction as follows (pertinent part):

> Within the designated habitat area there shall be a complete prohibition on any vegetation alteration or removal, ground disturbance, or any rodent control activities. All reasonable efforts shall be made to exclude domestic pets from the designated habitat area. A temporary barrier between the designated habitat area and the remainder of the parcel shall be constructed prior to, and maintained during, all construction activities, followed by the construction of a permanent fence or other barrier within six months after the initiation of construction activities. The permanent fence or barrier shall be at least 18 inches tall and be constructed or rock, wood or other durable material. With suitable forewarning to the property owners, the U. S. Fish and Wildlife Service shall have access to the designated habitat area for the sole purpose of research or n\monitoring of Point Arena mountain beavers.

Septic Permit application ST 22861

PROJECT HISTORY: While the subject parcel is on a west facing slope near the ocean, the parcel is not actually a bluff top lot, as a lot designated as Open Space exists between the subject lot and the ocean. According to the CC&R variance request the applicants submitted to the Irish Beach Architectural Design Committee, the applicants "call for a relatively small house to be used primarily as a vacation retreat (Roberts & Associates 2006)." The parcel increasingly slopes westward, from a gentle slope near the adjacent road, to a 70% slope for the majority of the westward half of the parcel. Approximately half of the parcel, the westward half, is Point Arena mountain beaver (*Aplodontia rufa nigra*) habitat. In 1991, the Point Arena mountain beaver was listed by the U.S. Fish and Wildlife Service as endangered under the Endangered Species Act of 1973. Just prior to the Coastal Development Permit process, that portion of the parcel was put into a deed restricted conservation easement by the property owners in an agreement with the U.S. Fish and Wildlife Service; this agreement was made outside any County process. The applicants have indicated that "the desire to visually connect with the westerly ocean views is paramount (Roberts & Associates 2006)." To that effect, prior to the Coastal Development Permit process, the applicants requested and received the following five CC&R variances from the Irish Beach Architectural Design Committee:

1. Height variance of 2'4" above the 16 foot limit.
2. North side yard setback variance.
3. No stepped foundation on a steeply sloped lot.
4. Roof pitch of 3:12 instead of 4:12.
5. Single car garage instead of two car garage.

PROJECT DESCRIPTION: The applicants request to construct a 1,336± sq. foot single-story single-family residence with a maximum average height of 20± feet above finished grade. The residence would have 327± sq. feet of decks and 85± sq. feet of covered porch. The residence would be located on the

steepest and most westerly portion of the parcel that is outside the Point Arena mountain beaver deed restricted habitat area, and would be set back from that habitat area approximately 15 feet. The applicants request to build a detached 305± sq. foot single car garage with a maximum average height of 13± feet above finished grade. The garage would be located approximately five feet upslope from the residence, and a walkway would connect the residence to the garage. A concrete driveway would extend along the north property line westward (downhill) approximately 80 feet, and would then crossect the parcel in a southward direction, extending to the garage, located just southeast of the center of the portion of the lot outside the PAmb habitat. A 3 foot high retaining wall would be located along the perimeter of much of the driveway area. There would be approximately 1,200± sq. feet of concrete driveway, which appears sufficient to allow parking for at least one additional vehicle (in addition to the proposed one-car garage). The septic leach fields would be located on the flattest, easternmost portion of the parcel, adjacent to Navarro Way. The septic pumps and tanks would be located approximately 88 feet west (downhill) from the proposed leach area, approximately 5 feet from the Point Arena mountain beaver habitat area. The applicants would install an underground propane tank approximately 17 feet west (downhill) from the leach fields, install a 24± sq. foot trash enclosure, and connect to utilities and community water.

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION: The proposed project is **not** consistent with the applicable goals and policies of the Local Coastal Program as described below. Staff therefore recommends denial of the project as proposed. Special Conditions have been included in this report in the event that the Coastal Permit Administrator approves the project.

Land Use

The parcel is classified on the Coastal Plan Map as Rural Residential Five Acres Minimum with an alternate zoning of Suburban Residential 12,000 sq. foot minimum. The parcel is similarly zoned; RR:L-5 [SR: L-12,000]. The Suburban Residential zoning designation applies, as the parcel is under an acre in size and located within the Irish Beach Water District. The proposed single family residence and associated development are permitted uses within the Suburban Residential Zoning District, and are consistent with the Suburban Residential land use classification.

The required yard setbacks for a parcel in an SR zone are 20 feet from front and rear property lines, and 6 feet from side property lines. A corridor preservation setback of 25 feet applies along Navarro Way, resulting in a front yard setback of either 45 feet from the road corridor centerline or 20 feet from the property line, whichever is greater. As shown on the Site Plan, the structures comply with setbacks required by the County Zoning Code.

The site is not within a designated Highly Scenic Area, therefore the height limit is 28 feet above average finished grade. The proposed 20± foot height of the residence and 13± foot height of the garage comply with the height limit.

Maximum lot coverage in an SR zone is 50%. Lot coverage is the percentage of the gross lot area covered by structures, including roads. The lot is approximately 0.48 acre, or 21,050 square feet. The Site Plan shows approximately 3,650 square feet of coverage, or 17%. The project complies with lot coverage limits.

The parcel is located in a Planned Unit Development Combining District (PD). The intent of the PD is outlined in Section 20.428.005 of the Mendocino County Coastal Zoning Code (MCCZC) as follows:

The Planned Unit Development Combining District (PD) is intended to require sensitive development of selected sites where standard residential and commercial and industrial design would be inappropriate to the unique or highly visible nature of the site, and to encourage imaginative development incorporating cluster development and the maximization and preservation of open space and views from public roads. Development on parcels entirely within areas of pygmy vegetation shall be reviewed for mitigation measures to prevent impacts to this resource consistent with all applicable policies of the land use plan and development standards of this Division. (Ord. No. 3785 (part), adopted 1991)

Dwelling units in the Planned Unit Combining District are to be specifically reviewed to best preserve open space, protect views from public roads, and provide for resource protection. **The project is inconsistent with Section 20.428.005 of the Mendocino County Coastal Zoning Code in that the proposed project does not adequately provide for resource protection. The project fails to meet even the minimum required County ESHA setback to Point Arena mountain beaver habitat present on the property.**

Public Access

The project site is located west of Highway 1, but is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the developed site. The project would have no effect on public access to the coast.

Hazards

Geologic Background

The applicant requests the construction of a single-family residence on a lot which slopes steeply toward the ocean[1]. A lot exists between the subject lot and the ocean, which is shown on land use maps as zoned Open Space. The Open Space zoned lot appears to be located such that it is inaccessible to the public due to steep slopes and lack of an access trail (see Exhibit B and the online California Coastal Records Project image indicated on page CPA-2). When the applicant submitted for the project, included was an updated geotechnical report for the subject parcel dated March 24, 2006 by David Paoli of Paoli Engineering and Surveying. The update states that an earlier update occurred in 1995 by David Paoli, who did his first evaluation of the project area in 1983, in cooperation with Wessley Paulsen, Registered Geologist and Consulting Engineer. The March 24, 2006 update concludes:

> The building site is still stable, the new construction should not push further west than the two existing houses are sited, the foundation should still be based on bedrock or on a concrete pier/grade beam foundation that extends into bedrock, roof runoff should be directed away from the building site, graded areas should be replanted with native vegetation, driveway should be paved (Paoli 2006).

None of the provided reports indicate the location of the bluff edge or the 75 year erosion and cliff retreat. Staff requested this information from the agent, and additionally requested assistance from the Coastal Commission staff geologist Dr. Mark Johnsson. David Paoli responded in a letter to staff dated March 5, 2007 that the bluff edge is located west of the subject parcel, and that the proposed development is approximately 350 feet east of the 75-year setback line. The letter includes a profile of the subject lot and lot to the west, and assigns the bluff top edge near the westernmost edge of the western lot. Staff

[1] In a letter from the Architect Phillip Roberts to dated March 6, 2007, Mr. Roberts indicates that the slope in the vicinity of the proposed residence is 20 percent for approximately 100 feet, and then transitions to a 40 percent slope for approximately 30 feet.

continued to have concerns because the relatively flat lower area shown to span approximately 350 feet on Mr. Paoli's profile (Exhibit C) is not at all apparent on the California Coastal Records Project image (http://www.californiacoastline.org/cgi-bin/captionlist.cgi?searchstr=200503792). Additionally, the location of the bluff edge differs for the residence adjacent to the north (APN 132-020-04), which was approved by the Coastal Commission in 1991[2] (see Figure 1.). The site plan for the adjacent residence shows the bluff edge as located approximately 57 feet south of the existing residence.

Staff received an email response from Dr. Mark Johnsson, (Appendix A), Staff Geologist for the Coastal Commission on April 23, 2007. Dr. Johnsson reviewed the reports provided by Mr. Paoli and visited the site on January 31, 2007, and summarized in his email as follows:

> It is my opinion that the coastal bluff at this site is approximately 300 feet high, is broadly rounded near the top, and levels off very nearly at the location of Navarro Way. Applying the definition from section 13577 of the Commission's regulation, the entire lot would thus be on the bluff face, and the bluff edge is very near the position of Navarro Way.

Given the opinion of Dr. Johnsson, the entire lot is over the bluff edge, therefore it is not possible to designate a place for a proposed residence that would assure safety from bluff erosion and cliff retreat as outlined in Section 20.500.020(B)(1) of the Mendocino County Coastal Zoning Code.

Mr. Paoli responded to Dr. Johnsson's opinion on May 25, 2007 by providing the County with a summary of a slope survey from Navarro Way along the northern property boundary extending through the subject and westerly parcel to the ocean (see Exhibit E). Mr. Paoli summarizes:

> When I compare this profile with the one I included with the March 5, 2007 letter to you, I see a very close correspondence, except the height of the flat on Lot 28 is about 100 feet above the ocean instead of the 60 feet shown on the 1983 profile. However my basic conclusion is still the same. There is a substantial bench on Lot 28 that separates the ocean bluff and its issues of blufftop erosion from the McConnell lot.

The May 25, 2007 summary report by Mr. Paoli was sent to Dr. Johnsson at the California Coastal Commission for response. Dr. Johnsson responded by stating that his opinion remains the same; the bluff edge is located very near the position of Navarro Way.

The proposed residence placement is in line with existing residences to the immediate north and south of the parcel. According to assessor's records, the residence to the immediate south (APN 132-020-06) has been in existence since 1972, predating the Coastal Act. The residence to the immediate north (APN 132-020-04) was approved by the Coastal Commission in 1991 (permit 1-91-55). The project was approved with a 50 foot geological setback requirement. The residence was to be set back approximately 57 feet from the bluff edge, which was determined at that time to be approximately 176 feet south of Navarro way on the property line adjacent to the subject parcel (see Figure 1).

[2] Coastal Commission permit application number 1-91-55 – staff report is located in the project file.

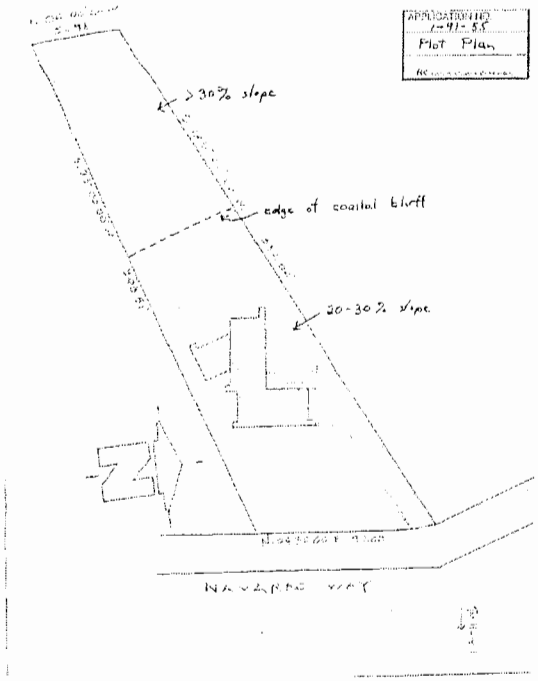

Figure 1. Bluff edge as approved for the northerly adjacent parcel in 1991.

Relative to the subject project, this bluff line would be located approx. 50 feet from the proposed residence (see Figure 2.).

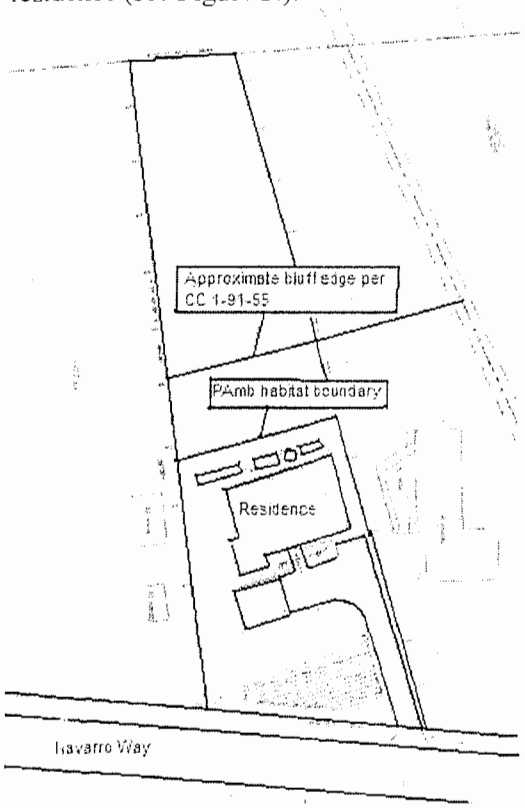

Figure 2. Map modified by staff showing approximate location of bluff edge as approved by CC 1-91-55.

Staff spoke with Dr. Johnsson regarding the inconsistency between the bluff line approved by the Coastal Commission in 1991 for the adjacent parcel and his assertion that the bluff line is closer to Navarro Way. Dr. Johnsson explained that his determination regarding the bluff line location is based on application to the specific parcel of the Coastal Commission definition from the California Code of Regulations, Title 14, Section 13577:

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and

(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).

Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the seaward face of the bluff, and a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.

Staff observes the bluff edge determination as provided by Dr. Johnsson because protection of public welfare is assured by taking the most conservative approach, and because the determination appears to be based on the application of an appropriate definition.

Geologic Hazards

Faults –

There are no known active faults on or in the near vicinity of the project site. The closest active fault, the San Andreas Fault, is located off shore approximately one mile southwest as shown on Land Use Maps. Seismic safety issues are addressed as part of the Building Permit process. Standard Condition Number 5 is included to require that the Coastal Permit be subject to acquisition of the Building Permit.

Bluffs -

The purpose of Chapter 20.500 of the Mendocino County Coastal Zoning Code (MCCZC), Hazard Areas, is outlined in Section 20.500.010 as follows:

(A) The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:

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

(2) Assure structural integrity and stability; and

(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ord. No. 3785 (part), adopted 1991)

Section 20.500.015(2) requires a geologic investigation and report as follows:

In areas of known or potential geologic hazards such as shoreline and blufftop lots and areas delineated on the hazard maps, a geologic investigation and report, prior to development approval, shall be required. The report shall be prepared by a licensed engineering geologist or registered civil engineer pursuant to the site investigation requirements in Chapter 20.532.

Regarding geologic hazard requirements for bluffs, the MCCZC states in Section 20.500.020(B) as follows:

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

Setback (meters) = structure life (75 years) x retreat rate (meters/year)

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

(2) Drought tolerant vegetation shall be required within the blufftop setback.

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

(4) No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

Section 20.500.020(B)(4) of the MCCZC states that no new development be allowed on the bluff face except developments substantially furthering the public welfare including staircase accessways to beaches and pipelines to serve coastal dependant industry. Therefore the proposed development is not allowed in the proposed location. The intent of the hazards chapter of the MCCZC, as outlined above (Section 20.500.010), is to minimize risk to life and property, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The project is inconsistent with hazard policies relative to coastal bluffs as outlined in Section 20.500.020(B)(4) of the Mendocino County Coastal Zoning Code which states (emphasis added): "no development be allowed on the bluff face except developments substantially furthering public welfare including staircase accessways to beaches and pipelines to serve coastal dependant industry. The project is also inconsistent with Section 20.500.020(B)(1) of the Mendocino County Coastal Zoning Code which requires (emphasis added): "New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years).

Tsunami –

The proposed development is not located in a tsunami inundation zone as shown on the Mendocino County General Plan Geotechnical Hazard Zones map. The project area is located approximately 250 feet above sea level and is therefore relatively safe from tsunami threats.

Landslides –

David Paoli, California Registered Civil Engineer of Paoli Engineering & Surveying, stated in his March 24, 2006 report that two slides occurred during the winter of 2005/2006 approximately 100 feet west of the project site. Mr. Paoli states that the sliding "is far enough away from the building site that it is not a threat," however, he recommends "planting native grasses and shrubs on and near the slides in an attempt to stabilized them and minimize erosion." He recommends that a professional landscaper be consulted. The slide area Mr. Paoli describes is located within the designated Point Arena mountain beaver habitat area and the deed restriction (2006-11795 recorded on June 15, 2006 in Mendocino County) completely prohibits "vegetation alteration, removal, ground disturbance, or any rodent control activities" within these areas. Special Condition Number 1 is recommended, should the project be approved, to ensure compliance with Mr. Paoli's recommendations within the deed restriction allowance.

Erosion –

Regarding erosion hazards, Section 20.500.020(E) of the Mendocino County Coastal Zoning Code requires as follows (applicable part):

(1) Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses. Environmental geologic and engineering review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.

(2) The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access and shall minimize visual impacts through all available means.

(3) All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineer's report and Chapter 20.492 of this Division.

It is the policy of the Coastal Commission and the County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean up associated with portions of the development that might fall onto a beach. Special Condition Number 2 is recommended to address this issue, should the development be approved.

Fire Hazards

The property is in an area that has a "moderate" fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention. The project site is less than one acre in size and is exempt from CDF's fire safety regulations. Fire safety issues are addressed as part of the building permit process.

Flood Hazards

As shown on Land Use Maps, the parcel is not located in a 100-Year Flood Zone.

Grading, Erosion and Runoff

Grading

Section 20.492.010(B) of the Mendocino County Coastal Zoning Code requires as follows:

Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so the grading is kept to an absolute minimum.

The applicant proposes to place the residence on the steepest and most westward portion of the parcel outside of the deed restricted habitat area. The maximum slope in the proposed residential location is approximately 41.5 percent for approximately 15 feet, as field checked by staff (see memorandum dated June 11, 2007 in the project file). Additionally, a steep driveway which includes a three foot retaining wall on its the east side is proposed to provide access to a detached garage. The septic leach field is to be located on the flattest portion of the parcel, near the road. The development has not been designed to best fit the topography and soils. Grading would be greatly reduced if the residential and garage structures were to be located near the road, and the leach field were to be located west of the structures. In speaking with David Jensen of the Division of Environmental Health, he agreed that the project appeared to be designed "backwards," and that it appeared as though the design would work better if the septic system were located downhill (west) of the structures. He expressed additional concerns regarding the proposed three foot high retaining wall, to be located approximately 22 feet downslope of the leach fields, and the proposed underground propane tank, to be located approximately 18 feet downslope of the proposed leach fields. Mr. Jensen explained that the design looked troublesome, and that DEH generally likes to see at least 50 feet between leachfields and downslope cuts.

The project application indicates that grading is planned, however an estimate in cubic yards has not been provided. The proposed driveway would be approximately 125 feet in length and approximately 12 feet in width. A retaining wall is indicated on the uphill side of the proposed driveway. Elevations of the residential structures indicate that the applicant plans to follow existing ground contours when building the residence and garage, and little grading is indicated relative to these structures. Although staff is not recommending approval of the project at this time, Special Condition Number 3 is included to require that

the applicant submit a grading plan prior to approval of the Coastal Development Permit, should the Coastal Permit Administrator approve the project.

The project is inconsistent with grading policies as outlined in Section 20.492.010(B) of the Mendocino County Coastal Zoning Code which states that (emphasis added): "Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so the grading is kept to an absolute minimum."

Erosion Control

Regarding erosion control, Section 20.492.015 of the MCCZC states in pertinent part:

(A) The erosion rate shall not exceed the natural or existing level before development.

(B) Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.

(C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.

(E) To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur.

The applicant proposes development on slopes over 30%. According to information initially supplied by the applicant, and as field checked by staff, 40% slopes are present in the vicinity of the proposed residence for a distance of approximately 15 length feet.

On June 11, 2007, Mr. Paoli submitted an erosion control plan, requested by staff to achieve compliance with Section 20.492.015(E) of the Mendocino County Coastal Zoning Code as outlined above. Mr. Paoli provided his own slope estimates for ground slope in the vicinity of the proposed residence and detached garage. While Mr. Paoli's methods and estimates differ from those of staff, Mr. Paoli nonetheless finds slopes in the vicinity of both the proposed residence and garage to exceed 30%. Therefore compliance with Section 20.492.015(E) of the Mendocino County Coastal Zoning Code is needed.

Mr. Paoli lists the following nine points in his comprehensive erosion control plan which he states are "largely a recapitulation of recommendations found in earlier reports and letters that are meant to minimize and control erosion." His points are outlined as follows with staff comments following:

1. Concrete pier and grade beam foundations are to be used, which will eliminate soils creep and erosion within the building envelope.
2. The septic system is located on the least steep part of the lot. Shallow leach lines that emit low volumes of effluent will be used and replanting with hardy native vegetation will be done.
3. All cut and fill slopes will be replanted with erosion-controlling vegetation. Present practice is to hydro-seed with a mixture approved by Mendocino County Transportation Department. A professional landscaper should be consulted for the exact planting design.
4. The driveway will be paved with concrete to eliminate erosion on the roadway surface.

5. Runoff from the driveway and roofs will be collected in a storm drain and disposed of in a leaching trench west of the house. This is an area of very rapid leaching, as discussed in previous reports. All water will rapidly percolate downward.
6. During construction, silt fences need to be placed to prevent loose soils from moving west of the construction site. The fences should be placed no farther than 3 feet from the cut or fill.
7. Any excavated material that is not to be used as backfill or as topsoil must be removed from the lot. This material must be surrounded by a silt fence until it is removed. Temporary storage on site is east of the garage.
8. No earthwork should take place on rainy days. Stockpiled material should be covered with tarps.
9. The restrictions on access, disturbance and construction time periods related to nearby Point Arena Mountain Beaver Habitat will tend to minimize human activity and human induced erosion on this lot.

Special Condition Number 3 is included, with added seasonal constraints, should the Coastal Permit Administrator find the submitted comprehensive erosion control plan adequate and approve the development.

Stormwater Runoff

The project proposes a decrease in permeable surfaces and an increase in stormwater runoff due to proposed roof and impermeable paved areas. Water flows would therefore be in excess of natural flows.

Regarding stormwater runoff, Section 20.492.025 of the MCCZC states in pertinent part:

(A) Water flows in excess of natural flows resulting from project development shall be mitigated.

(C) The acceptability of alternative methods of storm water retention shall be based on appropriate engineering studies. Control methods to regulate the rate of storm water discharge that may be acceptable include retention of water on level surfaces, the use of grass areas, underground storage, and oversized storm drains with restricted outlets or energy dissipaters.

(D) Retention facilities and drainage structures shall, where possible, use natural topography and natural vegetation. In other situations, planted trees and vegetation such as shrubs and permanent ground cover shall be maintained by the owner.

(E) Provisions shall be made to infiltrate and/or safely conduct surface water to storm drains or suitable watercourses and to prevent surface runoff from damaging faces of cut and fill slopes.

The comprehensive site plan provided by Roberts and Associates (Exhibit C) shows a drainage plan indicating that stormwater runoff would be directed from driveway roof runoff areas and would be collected in a stormwater leach trench. The project complies with stormwater runoff requirements.

Visual Resources

The project site is located in the Iversen Beach Subdivision, a moderately built out subdivision which is not located within a designated Highly Scenic Area. Therefore it is not subject to the policies within the Coastal Element relating to visual resources, except for Policy 3.5-1, which applies to all parcels within the Coastal Zone:

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

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

The proposed structures would be single-story. The proposed residence would have an average maximum height of 20 feet above grade, and the proposed detached garage would have an average maximum height of 13 feet above grade. The project proposes three skylights, each approximately two by four feet in size, to adorn the east facing residential roof. The skylights are proposed as "Model FS" skylights, shown on the submitted information sheets as flat surface skylights. The proposed residence and accessory structure would be clad in the following exterior materials and colors:

Table 1. Proposed exterior materials and colors.

	Material	Color
Siding	Cedar	Sherwin Williams - Chestnut
Trim	Cedar	Sherwin Williams - Chestnut
Chimney	Copper	Copper
Roofing	Composition Shingles	Sablewood
Window Frames /Doors	Metal Clad Wood	Tuscany Brown (Dark)
Fencing/Retaining Walls	Cedar	Sherwin Williams - Chestnut

As proposed, exterior materials and colors would be visually compatible with surrounding development and the surrounding environment.

Section 20.504.035 of the Coastal Zoning Code (Exterior Lighting Regulations) states:

(A) *Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.*

(2) Where possible, all lights, whether installed for security, safety, or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.

(5) No lights shall be installed so that they distract motorists.

Exterior lighting is proposed as wall mounted fixtures and "soffit" lighting. Although Staff is not recommending approval, Special Condition Number 4 is recommended in the event that the Coastal Permit Administrator approves the project to allow the Coastal Permit Administrator to review the exterior light choices for conformance with downcast and shielded requirements. As conditioned, the project would not adversely impact visual resources.

Natural Resources

The subject parcel is roughly ½ acre in size and located on a hillside in a moderately built out residential subdivision, west of the westernmost local road, and overlooking the ocean. Residentially developed parcels are located directly adjacent to the north and south, and a steeply sloping parcel zoned Open Space is located to the west, approximately 250 feet down a predominantly 70% slope - the Open Space parcel is situated between the subject parcel and the ocean. The westernmost half of the subject parcel is

very steep endangered animal species habitat, reserved from development and disturbance by deed restriction for the federally endangered Point Arena mountain beaver (*Aplodontia rufa nigra*). Slopes in the easternmost portion of the parcel range from 20 to 40 percent.

Biological and botanical surveys were conducted in April and May of 2006 respectively, by BioConsultant LLC, and survey reports were provided with the application. According to BioConsultant reports, plant communities present include Introduced Grassland, composed primarily of non-native grasses and located in the upper portion of the parcel, and Northern Coastal Scrub[3], covering the 20 to 40 degree slopes of the lower two thirds of the parcel. In the vicinity of the proposed residence, the plant profile transitions from the Introduced Grassland[4] to the Northern Coastal Scrub. BioConsultant notes that native Coastal Terrace Prairie[5] indicators such as yarrow (*Achillea millefolium*) and California poppy (*Eschscholzia californica*) are present within the Introduced Grassland.

The County of Mendocino Coastal Element describes an Environmentally Sensitive Habitat Area (ESHA) as follows:

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

The Environmentally Sensitive Habitat Area found onsite during BioConsultant surveys is occupied Point Arena mountain beaver habitat. The Point Arena mountain beaver is a Federally endangered species protected by the Endangered Species Act and overseen by the U. S. Fish and Wildlife Service.

The U. S. Fish and Wildlife Service has been consulted regarding potential impacts of the proposed project on the Point Arena mountain beaver, and mitigation measures have been designed to avoid incidental take of Point Arena mountain beavers. Measures include the recordation of a deed restriction protecting the habitat area from vegetation removal or alteration, ground disturbance, and rodent control activities. The deed restriction requires a temporary barrier to be erected prior to construction, between the designated habitat area and the remainder of the parcel, to remain in place during all construction activities. A permanent fence or other barrier is to be constructed within six months after initiation of construction activities. The permanent fence or barrier is to be at least thirty six (36) inches tall and constructed of rock, wood, or other durable material. With prior notice, the U. S. Fish & Wildlife Service is to have access to the habitat area for research and monitoring. An additional requirement set forth by the U. S. Fish & Wildlife Service is that all construction on the parcel would be conducted outside the Point Arena mountain beaver breeding season. Should the Coastal Permit Administrator approve the project, Special Condition Number 5 is included to ensure the Environmentally Sensitive Habitat Area is protected in perpetuity, and to require the measures outlined in the recorded habitat area deed restriction as well as recommendations by the biologist.

Chapter 20.496 and Section 20.532.060, et. seq. of the MCCZC contain specific requirements for protection of ESHAs and development within the buffer area of an ESHA. A sufficient buffer area is

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[3] California Natural Diversity Database element code CTT31100CA, rarity ranking status - Imperiled: At high risk of extinction due to a very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.
[4] California Natural Diversity Database element code CTT42200CA, rarity ranking status – Apparently secure; uncommon but not rare.
[5] California Natural Diversity Database element code CTT41100CA, rarity ranking status - Imperiled: At high risk of extinction due to a very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.

required to be established and maintained to protect ESHAs from disturbances related to proposed development. Section 20.496.020(A)(1) of the MCCZC states:

The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.

The applicant proposes a five foot setback from the nearest development (septic tanks) to the Environmentally Sensitive Habitat Area. As the EHSA buffer shall be a minimum of 100 feet, and shall not be less than 50 feet in width if California Department of Fish and Game and Planning Staff concur, development, including at minimum nearly the entire residence, would be located within the ESHA buffer. Consequently, a reduced buffer analysis was requested by staff in order to meet requirements set forth in Section 20.496.020 of the Mendocino County Coastal Zoning Code. The reduced buffer analysis was provided by BioConsultant and is included as Appendix B. The reduced buffer analysis is designed as a matrix to be used to establish the appropriate setback from development to Environmentally Sensitive Habitat Areas (Section 20.496.020(A)(1)(a-g). Staff notes that the biologist appears to consider feasibility of development in establishing the appropriate buffer width. Feasibility of development is not one of the listed criteria for buffer reduction, and should not be included as a consideration. The biologist suggests that a 5 foot buffer to septic holding tanks, and a 15.5 foot buffer to the residential structure, as proposed, is appropriate. As the Mendocino County Coastal Zoning Code allows 50 feet as the minimum buffer size, and that is allowed only with agreement from Planning and DFG staff, a 50 foot buffer has been considered by Planning and DFG staff and has been found sufficient (see email dated June 15, 2007, to Tracie Nelson, located in the project file). Therefore the buffer size is 50 feet, the minimum size allowed, and substantial developments, including the bulk of the residence, are proposed within the buffer area. Section 20.496.020(A)(4)(a-j) of the Mendocino County Coastal Zoning Code outlines a matrix to be used to analyze proposed development within the buffer area. Staff does not agree with biologist analysis specific to 20.496.020(A)(4)(b,c,e and f) of this section. The biologist writes that "The narrow configuration of the parcel plus the PAmb ESHA that occupies the steep western portion of the parcel offers no other site for the proposed house site." Staff finds that there is in fact a feasible site available on the parcel for structures. Staff finds that structures can and should be limited to the flatter, easternmost portion of the parcel, and that the septic system should be located downslope from the structures, thus reducing the need for driveway areas and the extensive leachfield setback area. The leachfield could be closer to the structures, and a 50 foot setback between the leachfield area and the ESHA would then be possible. The biologist writes that "Due to the fossorial habits of the PAMB and the porosity of the soil, the placement of the leach fields furthest away from the PAMB habitat is the best design to prevent degradation of the PAMB ESHA." In speaking to David Jensen of the Division of Environmental Health, he explained that a leachfield area 50 feet from the Point Arena mountain beaver habitat area would have no impact on the habitat area; that the materials would percolate downward into the soil, and would not come anywhere near the habitat area. In addition to Mr. Jensen's comments, as shown on Exhibit 4 of CC 1-91-55 (located in the project file), on the adjacent northerly parcel, the leach field is located west of the residence, and within 50 feet of PAmb habitat. Staff finds that placement of the leach field approximately 50 feet away from PAmb habitat would not impact PAmb. Staff finds the proposed development fails to minimize impervious surfaces, and fails to minimize the alteration of natural landforms. If redesigned with the structures in the flattest and most easterly part of the lot, the applicant could significantly minimize impervious surfaces by omitting a large portion of the proposed driveway, and could minimize alterations of landforms by greatly reducing the amount of needed grading.

Therefore staff finds that the proposed project is inconsistent with Sections 20.496.020(A)(4)(b,c,e, and f) of the Mendocino County Coastal Zoning Code in that the structures are located within the buffer area, and a feasible alternative exists.

Archaeological/Cultural Resources

The project was reviewed by the Northwest Information Center of the California Historical Resources Inventory at Sonoma State University. The Information Center responded that the project area has the possibility of containing unrecorded archaeological sites and recommended a study. The application was reviewed by the Mendocino County Archaeological Commission on April 11, 2007, which determined that no survey was necessary. Standard Condition Number 8 is recommended, advising the applicant of the requirements of the County's Archaeological Ordinance (Chapter 22.12 of the Mendocino County Code) in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

Groundwater Resources

The site is located within an area designated as a Marginal Water Resources area (MWR) as shown in the 1982 Coastal Groundwater Study prepared by the Department of Water Resources. The applicant indicates that domestic water would be supplied by the community water system. The Irish Beach Water District was notified regarding the application and did not respond with comments. Although staff is not recommending approval of the project at this time, Special Condition Number 6 is included to require a letter from the Irish Beach Water District stating ability and willingness to serve the project, prior to issuance of the building permit, should the Coastal Permit Administrator approve the project.

The application proposes a new on-site sewage disposal system. The project was referred to the Division of Environmental Health (DEH). Craig Rivera of DEH commented that the project appears to be consistent with the revised septic design (ST-2286), which is sized for a two bedroom single-family residence. Mr. Rivera additionally commented that because the leach fields are to be located upslope from the proposed residence construction, no equipment is to be driven over the leach field areas, and no grading cut of over three feet or foundation French drain is to be located within 50 feet down slope of the leach fields. The proposed underground propane tank, to be located approximately 18 feet west (downslope) of the leach fields, would therefore not be acceptable in that location. Although staff is not recommending approval of the project at this time, Special Condition Number 7 is included to assure compliance with DEH recommendations, should the Coastal Permit Administrator approve the project.

As conditioned, no adverse impacts to groundwater resources are anticipated.

Transportation/Circulation

The project proposes a new encroachment onto Navarro Way (CR 553). The application was referred to the Mendocino County Department of Transportation for comment. DoT found the plans acceptable and submitted a recommended condition of approval for encroachment improvements to be constructed within the County road right-of-way. The Department's recommended condition is included as Special Condition Number 8.

The project will contribute incrementally to traffic volumes on local and regional roadways, however such incremental increases were considered when the Local Coastal Plan land use designations were assigned to the site.

Zoning Requirements

The project as proposed does not comply with the zoning requirements for the Rural Residential District set forth in Division II of Title 20 of the Mendocino County Code as set forth in the discussions above.

RECOMMENDED MOTION: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator deny the proposed project, based on the following findings:

FINDINGS FOR DENIAL: The project as proposed fails to comply with the intent of the Planned Unit Development Combining District of the Mendocino County Coastal Zoning Code (Section 20.428.005), in that the proposed project does not adequately provide for resource protection; the project as proposed fails to comply with requirements set forth in the Geologic Hazards – Siting and Land Use Restrictions, Bluffs section of the Mendocino County Coastal Zoning Code (Section 20.500.020(B)(4)) which states that "no development be allowed on the bluff face except developments substantially furthering public welfare including staircase accessways to beaches and pipelines to serve coastal dependant industry.."; the project as proposed fails to comply with requirements set forth in the Geologic Hazards – Siting and Land Use Restrictions, Bluffs section of the Mendocino County Coastal Zoning Code (Section 20.500.020(B)(1)) which requires that "New structures shall be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (seventy-five (75) years)"; the project is inconsistent with grading policies as outlined in Section 20.492.010(B) of the Mendocino County Coastal Zoning Code which states that "Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so the grading is kept to an absolute minimum"; the project fails to comply with natural resources protection policies as outlined in Sections 20.496.020(A)(4)(b,c,e, and f) of the Mendocino County Coastal Zoning Code in that the project fails to adequately protect natural resources and alternatives exist. Therefore, the following findings can be made:

1. The proposed development is not in conformity with the certified Local Coastal Program; and

2. The proposed development is inconsistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and

3 The structures are proposed within the ESHA buffer; and

4. There is a feasible less environmentally damaging alternative; and

5. All feasible mitigation measures capable of reducing or elimination project related impacts to natural resources have not been adopted.

ALTERNATIVE MOTION: Should the Coastal Permit Administrator choose to approve the proposed project, the following findings and conditions are required, and the following special conditions are recommended:

FINDINGS FOR APPROVAL OF COASTAL DEVELOPMENT PERMIT:

1. The proposed development is in conformity with the certified Local Coastal Program; and

2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and

4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and

5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and

6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.

7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.

3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.

4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.

5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.

6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:

   a. The permit was obtained or extended by fraud.

   b. One or more of the conditions upon which the permit was granted have been violated.

   c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.

   d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. Prior to issuance of the building permit, a landscape plan, designed by a California licensed landscape architect, shall be submitted for approval by the Coastal Permit Administrator. In compliance with the Point Arena mountain beaver deed restriction, the landscape plan shall assure that no existing vegetation is altered or removed, and in compliance with the recommendations of the consulting engineer, planting shall consist of local native grasses and shrubs known to the Northern Coastal Scrub plant community. The intent of the planting is to help stabilize the ground in the vicinity of recent slides, in order to minimize erosion. This plan shall be reviewed and approved by the engineer of record prior to submission to the County. Prior to final clearance of the building permit, planting shall be installed.

2. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall

execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:

a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;

b) The landowner agrees to indemnify and hold harmless the County of Mendocino, it successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;

c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;

d) The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;

e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;

f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.

3. Prior to the issuance of the Coastal Development Permit, the applicant shall submit for the approval of the Coastal Permit Administrator, a grading plan approved by a California licensed architect or engineer, which clarifies the total amounts and locations of proposed cut and fill, and erosion control measures proposed in association with grading. Development shall strictly adhere to the erosion control measures outlined in the Erosion Control Plan by David Paoli dated June 11, 2007, located in the project file and outlined on page CPA-9. The grading plan shall specify the location of the approved fill-disposal area. All ground disturbing activities shall occur between July 1 and October 31.

4. Prior to issuance of the building permit, the applicant shall submit an exterior lighting plan and design details or manufacturer's specifications for all the exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded in compliance with Section 20.504.035 of the MCCZC.

5. The Point Arena mountain beaver (PAmb) habitat area is hereby a designated Environmentally Sensitive Habitat Area (ESHA), and shall be protected in perpetuity from development and disturbance. Additionally, no development or disturbance, other than that approved by the County, shall occur in the 50 foot buffer area to the designated ESHA. All construction on the parcel shall occur outside of the PAmb breeding season (the PAmb breeding season is from December 15 to June 30); non-ground disturbing construction shall occur only between July 1 and December 14. Ground disturbing construction shall be limited to between July 1 and October 31. No vegetation alteration or removal, ground disturbance, or rodent control activities shall occur within the ESHA. All reasonable efforts shall be made to exclude domestic pets from the designated habitat area. With suitable forewarning to property owners, the U.S. Fish and Wildlife Service shall have access to the designated habitat area for the sole purpose of research or monitoring of the PAmb population. Prior to issuance of the building permit, a temporary barrier shall be placed between the designated habitat area and the remainder of the parcel, and shall remain in place during all construction activities. The purpose of the temporary fence shall be to ensure construction activities and materials remain outside the ESHA habitat area. A permanent fence or barrier at least thirty six (36) inches tall shall be constructed within six months after the initiation of construction activities, and shall be maintained in perpetuity. Prior to final clearance of the building permit, the permanent fence shall be inspected to ensure compliance with this condition. If developments are delayed until after October 2008, PAmb surveys in the identified suitable habitats shall be repeated. If new surveys indicate an expansion of occupied habitat such that the proposed development would directly or indirectly impact PAmb habitat, this permit shall require modification to ensure protection of PAmb and PAmb habitats.

6. Prior to issuance of the building permit, the applicant shall submit to the Planning and Building Services Department a letter from the Irish Beach Water District stating an ability and willingness to serve the project.

7. Prior to issuance of the building permit, the applicant shall install temporary fencing around the leach field areas. The intent is to prevent construction equipment from driving over the leach field areas. No grading cut of over three (3) feet, and no foundation French drain shall be located within fifty (50) feet downslope of the leach fields. Prior to issuance of the building permit, the applicant shall submit a revised site plan, showing relocation of the proposed underground propane tank to comply with this requirement.

8. Prior to commencement of construction activities for the residence, applicant shall obtain an encroachment permit from the Mendocino County Department of Transportation and construct appropriate improvements to protect the County road during the construction phase of the project. Prior to final occupancy, applicant shall complete, to the satisfaction of the Department of Transportation, two standard private driveway approaches onto Navarro Way (CR 553), each to a minimum width of ten (10) feet, area to be improved fifteen (15) feet from the edge of the County road, to be surfaced with surfacing comparable to that on the County road.

9. A copy of the staff report and coastal permit for CDP 76-2006 must be provided to the contractor and all sub-contractors conducting the work, and must be in their possession at the work site. This requirement is intended to ensure that the project construction is done

in a manner consistent with the submitted application and all other supplemental information contained in the staff report.

Staff Report Prepared By:

June 15, 2007
Date

Teresa Beddoc
Planner I

Attachments:

Exhibit A	Location Map
Exhibit B	Zoning Display Map
Exhibit C	Profile of Lot
Exhibit D	Rarefind Map
Exhibit E	Site Plan
Exhibit F	Comprehensive Site Plan
Exhibit G	Floor Plans
Exhibit H	Elevations – West & South
Exhibit H	Elevations – North & East
Appendix A	Determination of Bluff Edge, Dr. Johnsson
Appendix B	Reduced Buffer Analysis

Appeal Period: Ten calendar days for the Mendocino County Board of Supervisors, followed by ten working days for the California Coastal Commission following the Commission's receipt of a Notice of Final Action from the County.

Appeal Fee: $795 (For an appeal to the Mendocino County Board of Supervisors.)

SUMMARY OF REFERRAL AGENCY COMMENTS:

Planning – Ukiah	No comment.
Department of Transportation	Need encroachment permit and to construct a standard private driveway.
Environmental Health – Fort Bragg	Consistent with septic design (ST 2286). No equipment to be driven over leach field areas – no grading/cut/foundation/French drain within 50 feet downslope of leach fields.
Building Inspection – Fort Bragg	Calif. Licensed Architect or Engineer may be required for this project.
Assessor	No response.
Friends of Schooner Gulch	No response.
Department of Fish & Game	No response.
Coastal Commission	Has project applicant provided a biological assessment of project impacts/mitigations on PAmb habitat?
Coastal Commission (staff geologist)	Project area is located on bluff face.
Dept. of Parks & Recreation	No response.
Irish Beach Water District	No response.
U.S. Fish & Wildlife Service	No response.
SSU	Archaeological study needed.

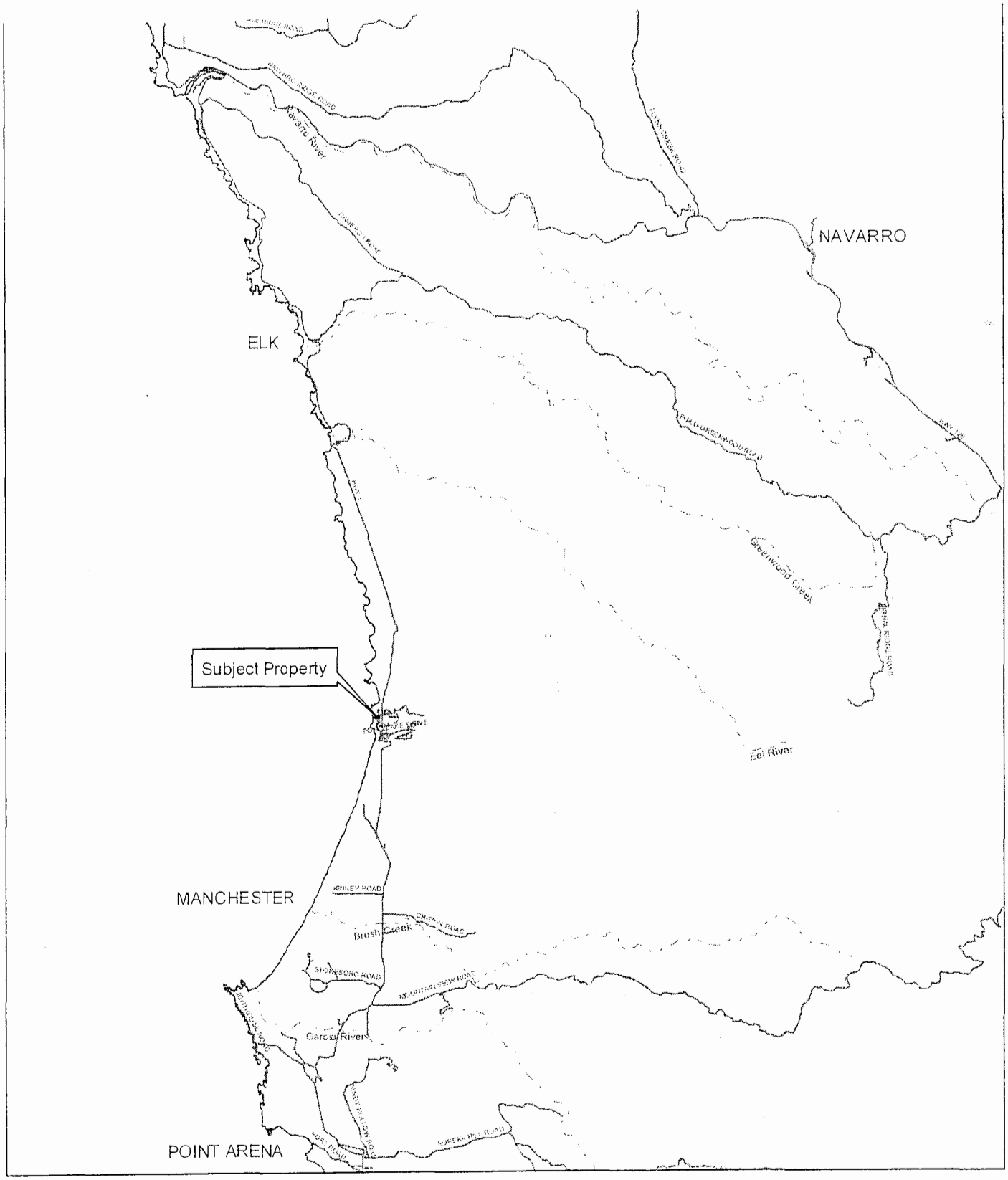


EXHIBIT A

LOCATION MAP

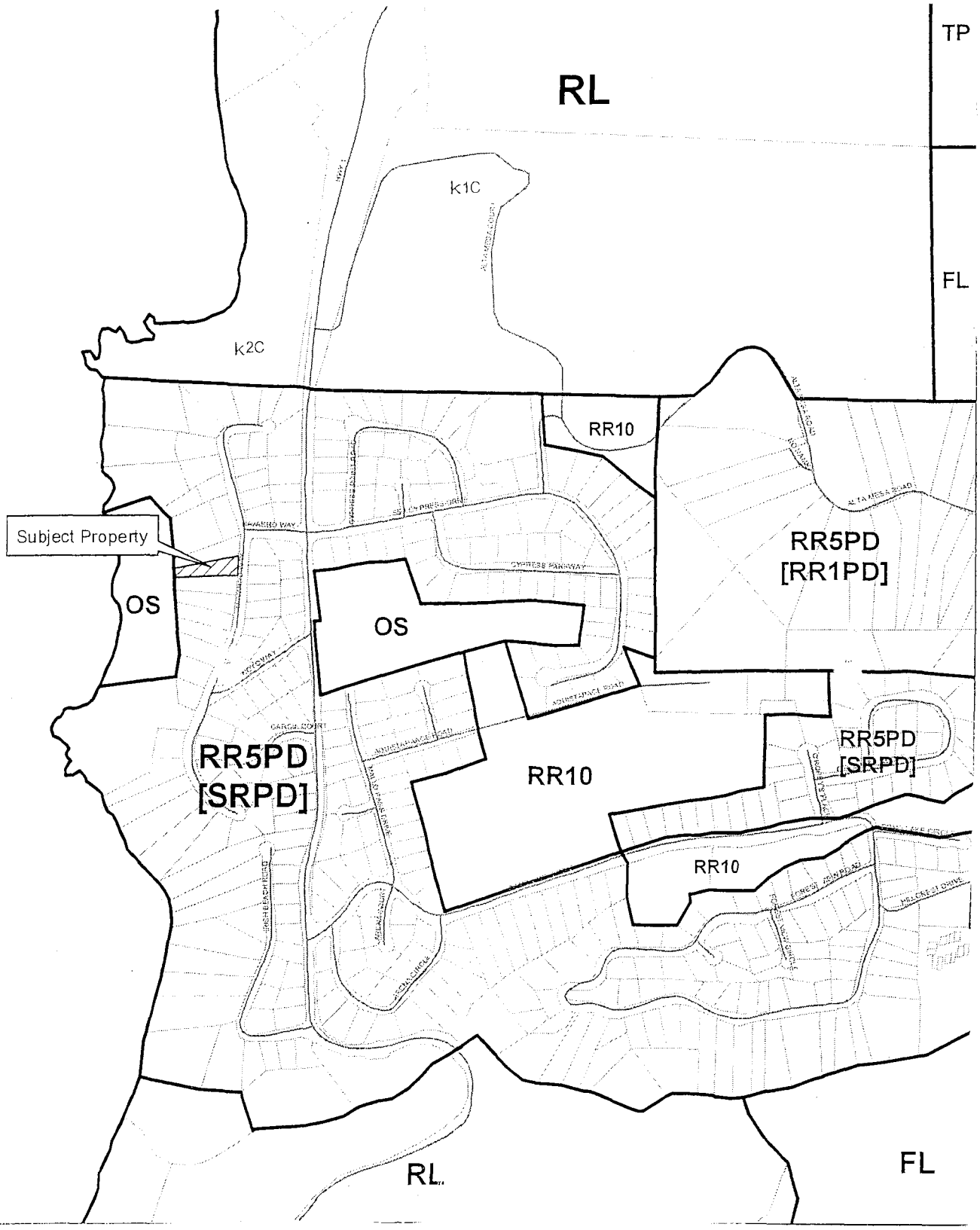


EXHIBIT B

ZONING DISPLAY MAP

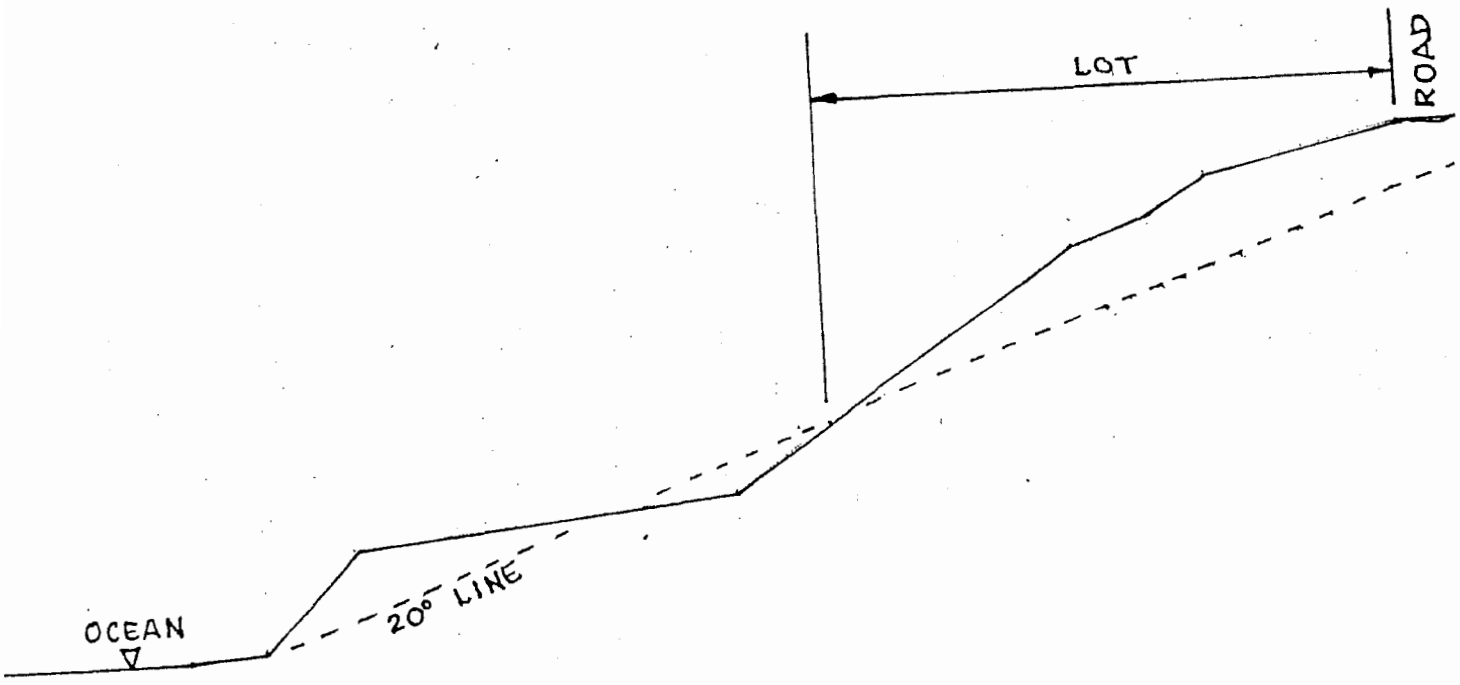


EXHIBIT C

PROFILE OF LOT

SCALE 1" = 100'

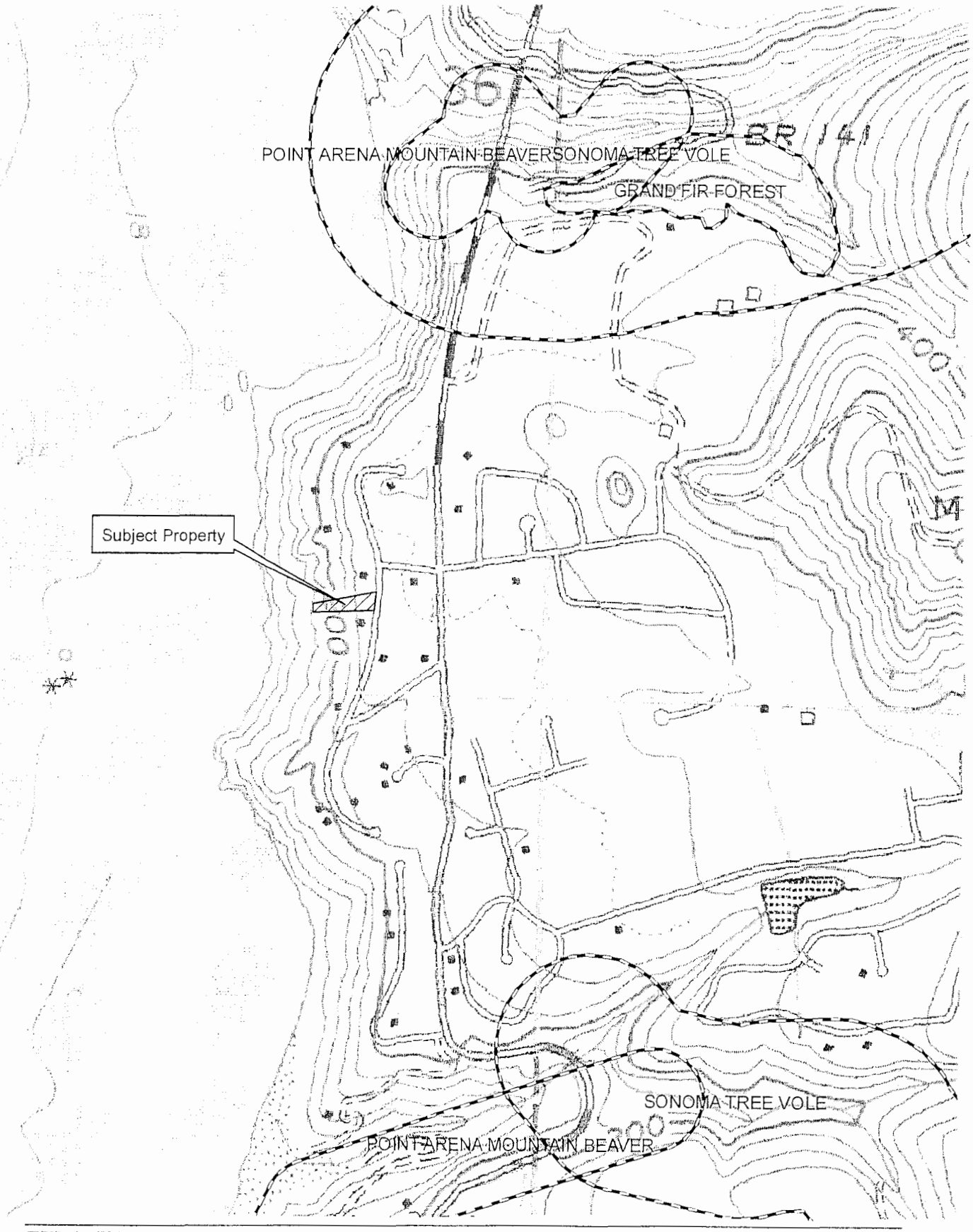


EXHIBIT D

RAREFIND MAP

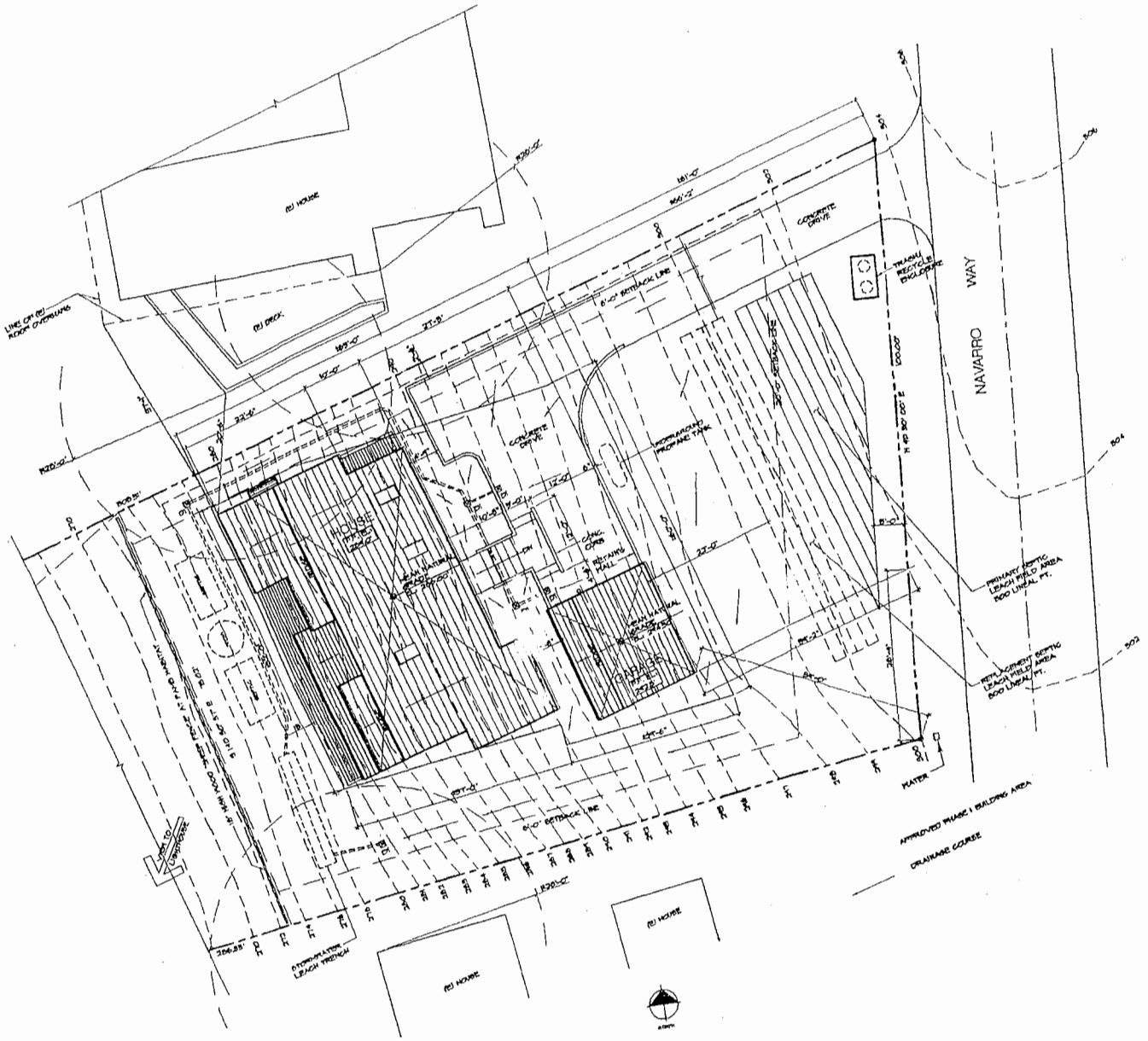


EXHIBIT E

SITE PLAN

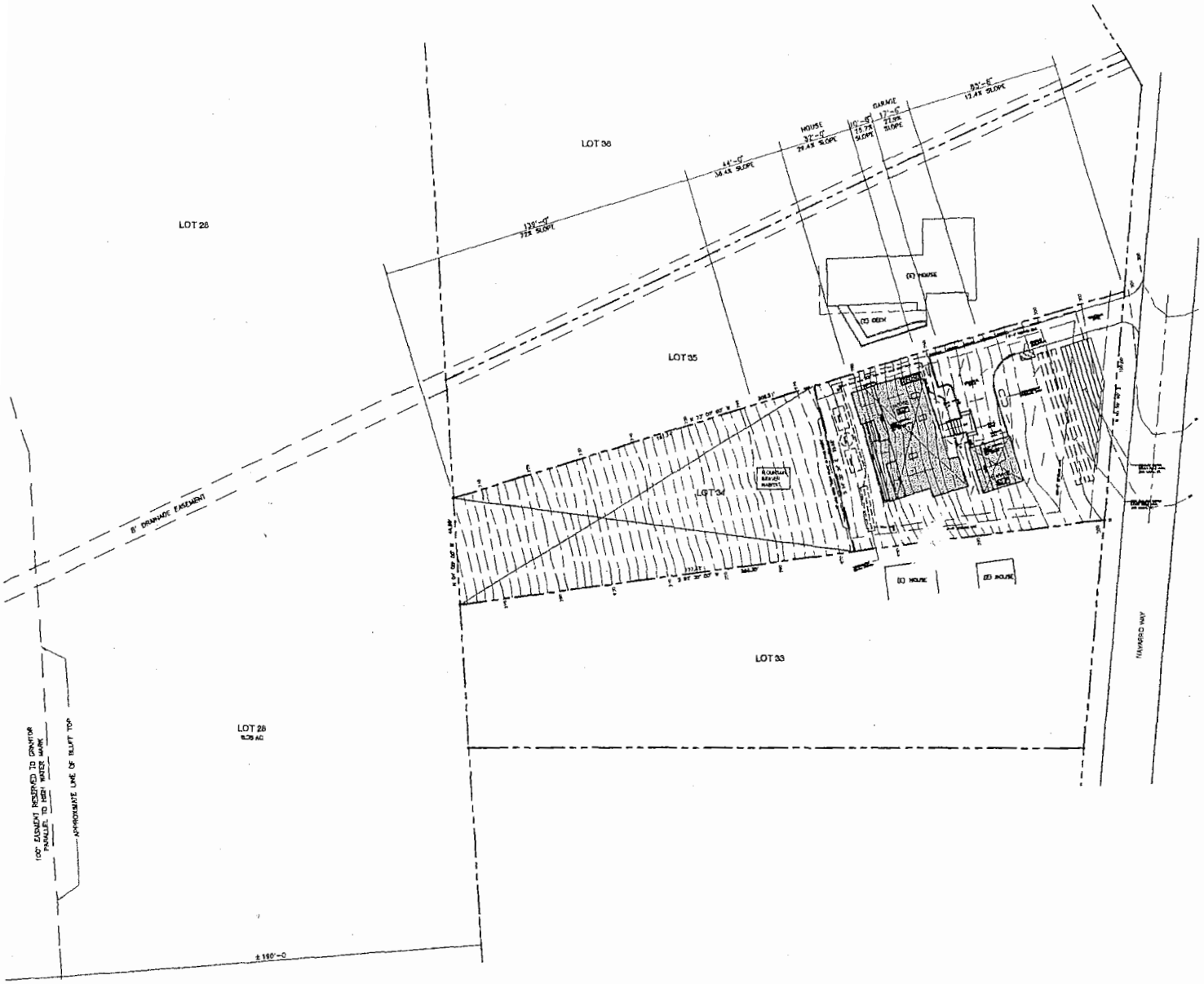


EXHIBIT F

COMPREHENSIVE SITE PLAN

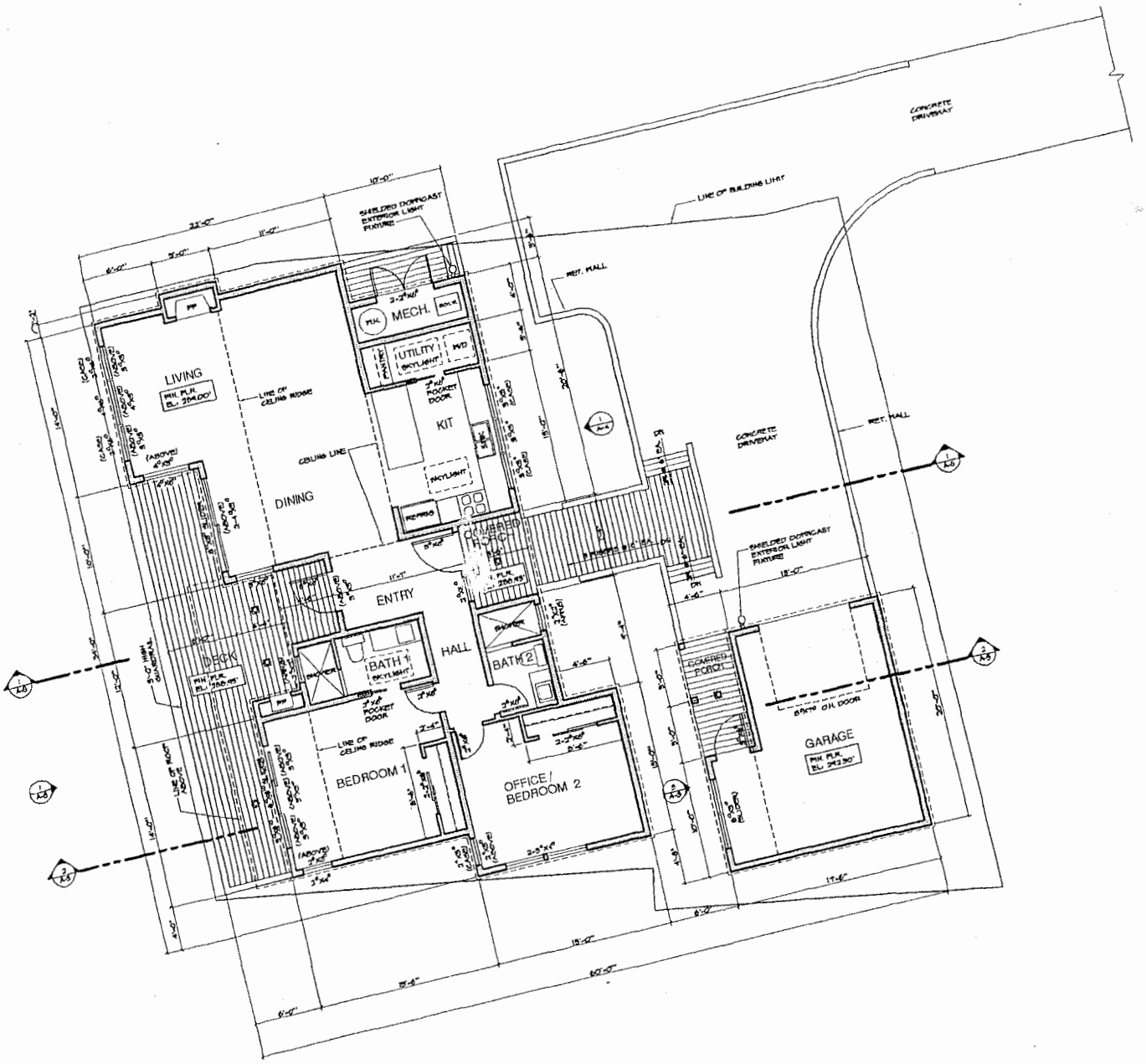
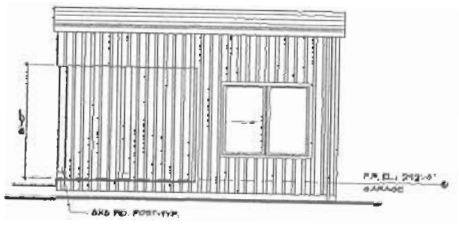
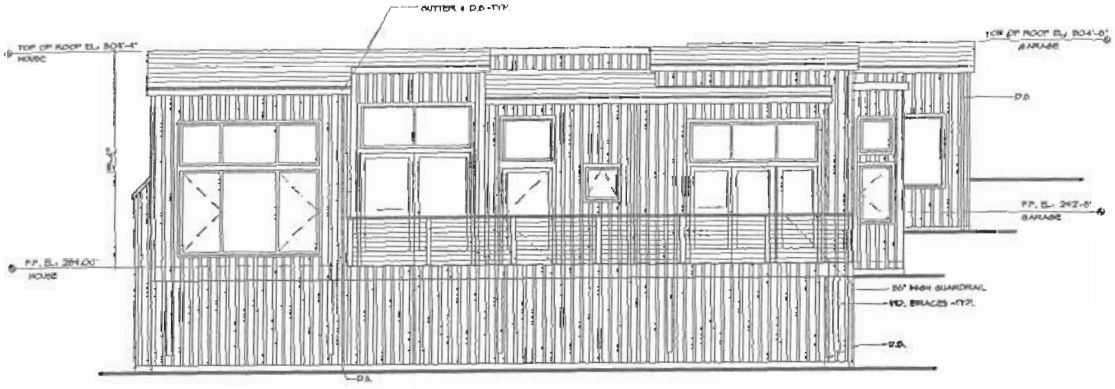


EXHIBIT G

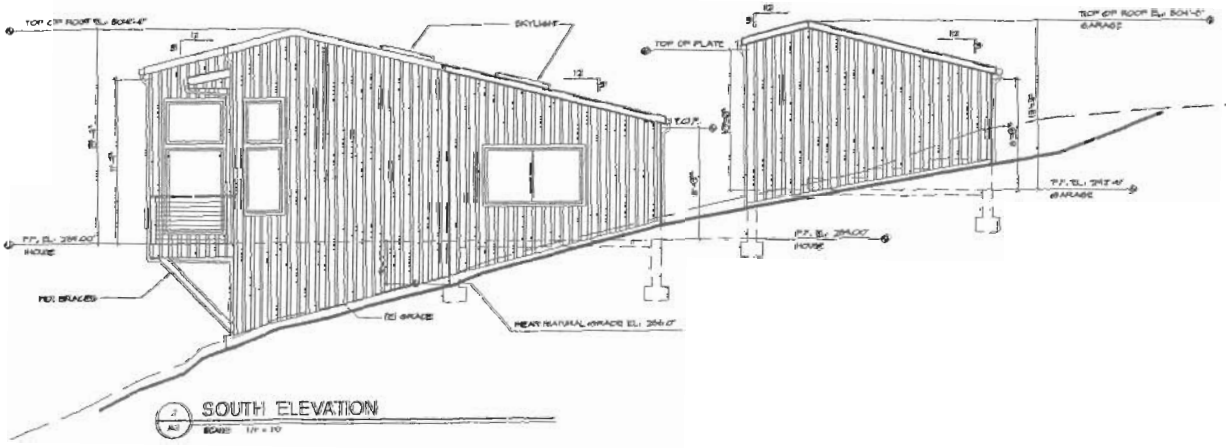
FLOOR PLANS



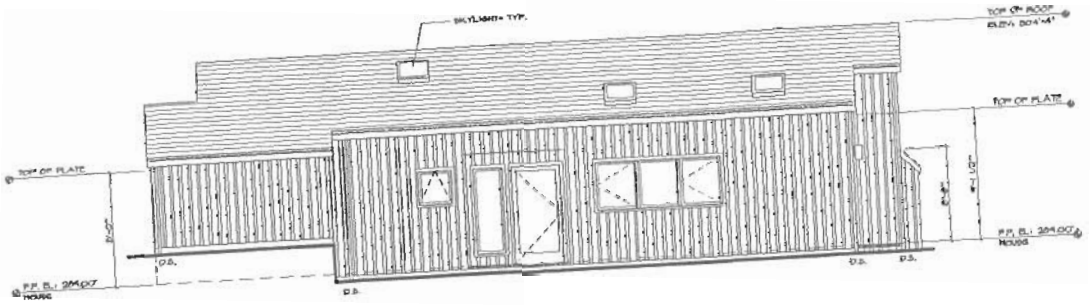
WEST ELEVATION @ GARAGE



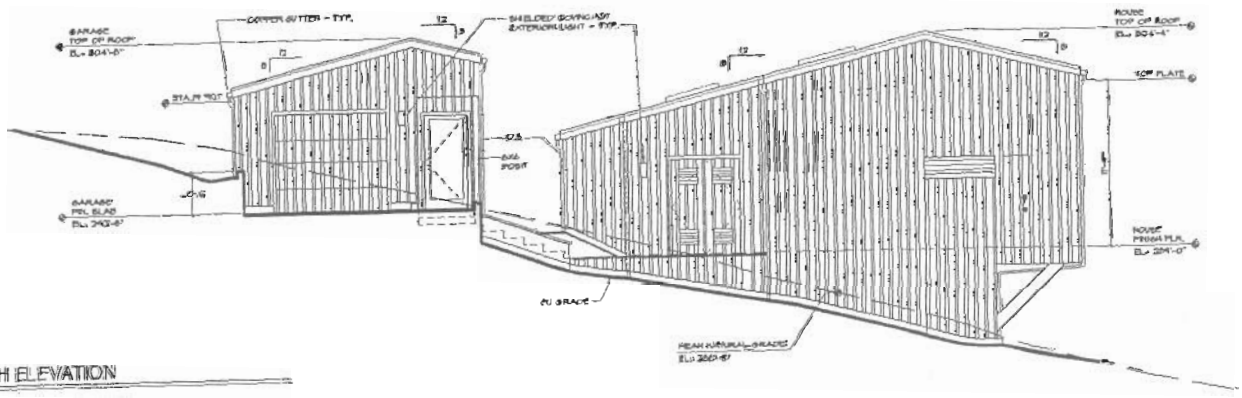
EAST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

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: See Attachment A

Mailing Address:

City: Zip Code: Phone:

RECEIVED
NOV 0 6 2007
CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County

2. Brief description of development being appealed:

Coastal Development Permit #76-2006 for construction of a 1,336-square-foot single-story single family residence with a maximum average height of 20 feet above finished grade; 327 square feet of decks; 85 square feet of covered porch; a 305-square-foot detached garage with a maximum average height of 13 feet above finished grade; 1,200 square feet of concrete driveway; installation of an underground propane tank, 24-square-foot trash enclosure, and an on-site septic system; and connection to utilities and community water.

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

In the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on the south side of Navarro Way (CR 553), approximately 250 feet southwest of its intersection with State Highway 1, on a west-facing slope near the ocean, at 14820 Navarro Way (APN 132-020-05).

EXHIBIT NO. 16
APPEAL NO.
A-1-MEN-07-047
McCONNELL
APPEAL (1 of 19)

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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.

CALIFORNIA COASTAL COMMISSION

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-07-047

DATE FILED: 11/26/07

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: October 2, 2007

7. Local government's file number (if any): CDP 76-2006

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:

William & Marcia McConnell
25755 Josefa Lane
Los Altos Hills, CA 94022

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) Phillip H. Roberts
P.O. Box 1588
Gualala, CA 95445

(2)

(3)

(4)

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.

See Attachment B

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.)

See Attachment B

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

SECTION V. Certification

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

Signed Signature on File
Appellant or Agent

Date: 11/6/07

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

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.)

See Attachment B

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

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

Signed: Signature on File
Appellant or Agent

Date: 11/6/07

Agent Authorization: I designate the above identified person(s) to act as my agent in all matters pertaining to this appeal.

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

1. Patrick Kruer
The Monarch Group
7727 Herschel Avenue
LaJolla, CA 92037

Phone: (858) 551-4390

2. Sara J. Wan
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Phone: (415) 904-5201

ATTACHMENT B

APPEALABLE PROJECT:

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 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any 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 which constitute 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 the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located (1) between the sea and the first public road paralleling the sea, and (2) within 300 feet of the top of the seaward face of a coastal bluff.

REASONS FOR APPEAL:

The County of Mendocino approved Coastal Development Permit #76-2006 for construction of a 1,336-square-foot single-story single family residence with a maximum average height of 20 feet above finished grade; 327 square feet of decks; 85 square feet of covered porch; a 305-square-foot detached garage with a maximum average height of 13 feet above finished grade; 1,200 square feet of concrete driveway; installation of an underground propane tank, 24-square-foot trash enclosure, and an on-site septic system; and connection to utilities and community water.

The approved development is located in the Irish Beach Subdivision, approximately four miles north of the town of Manchester, on the south side of Navarro Way (CR 553), approximately 250 feet southwest of its intersection with State Highway 1, on a west-facing slope near the ocean, at 14820 Navarro Way (APN 132-020-05).

The approval of CDP #76-2006 by Mendocino County is inconsistent with the policies and standards of the certified Local Coastal Program (LCP) including, but not limited to, policies and standards regarding (1) environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) grading, erosion, and runoff.

8 of 19

1. LCP Policies on Environmentally Sensitive Habitat Areas:

Environmentally Sensitive Habitat Areas (ESHA) are defined in Section 3.1 of the Mendocino County Land Use Plan (LUP) as follows:

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

Coastal Zoning Code (CZC) Section 20.496.010 *"Environmentally Sensitive Habitat and other Resource Areas—Purpose"* states the following (emphasis added):

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

LUP Policy 3.1-7 states the following (emphasis added):

> *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:*
>
> 1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
> 2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
> 3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

LUP Policy 3.1-18 states the following (emphasis added):

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not significantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

CZC Section 20.496.020 *"Environmentally Sensitive Habitat and other Resource Areas—Development Criteria"* states the following (emphasis added):

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

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

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

(a) Biological Significance of Adjacent Lands. *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*
Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

(b) Sensitivity of Species to Disturbance. *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

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

Discussion:

The approximately western half of the 0.48-acre subject parcel is designated Point Arena mountain beaver (*Aplodontia rufa nigra*) habitat. Point Arena mountain beaver (PAMB) is a federally-listed endangered species. The County staff report notes that a deed-restricted conservation easement was established over the PAMB habitat on the property in an agreement with the U.S. Fish and Wildlife Service in 2006. The deed restriction prohibits certain activities within the PAMB habitat on the parcel, including vegetation alteration or removal, ground disturbance, and rodent control. The deed restriction also requires that a barrier be established between the designated habitat area and the remainder of the parcel to prevent domestic pets and other disturbance from impacting the PAMB habitat.

According to the applicant's biological report, the eastern half of the parcel at the site of the approved development consists of Introduced Grassland, Northern Coastal [Bluff] Scrub, and potentially Coastal Terrace Prairie habitats. Northern Coastal Bluff Scrub and Coastal Terrace Prairie meet the definition of "environmentally sensitive habitat area" (ESHA) per LUP Section 3.1 and CZC Section 20.496.010. Both are ranked by the California Department of Fish and Game's (CDFG) California Natural Diversity Database (CNDDB) as "imperiled" at both the global and state levels.

As cited in the policies above, CZC Section 20.496.010 defines environmentally sensitive habitat areas (ESHA) and includes habitats of rare and endangered species. Therefore, as ESHA, endangered species habitat is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the CDFG that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width. CZC Section 20.496.020 states that the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed. LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) further require that development permitted within an ESHA buffer area shall generally be the same as those uses

permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel. LUP Policy 3.1-18 states, in applicable part, that development within buffer areas recommended by the CDFG to protect rare or endangered wildlife species and their nesting and breeding areas shall meet guidelines and management practices established by the Department, and must be consistent with other applicable policies of this plan.

The approval of the subject development is inconsistent with the ESHA policies of the certified LCP including, but not limited to, LUP Policies 3.1-7, 3.1-18 and CZC Section 20.496.020, because (a) the development would be constructed adjacent to (within 5 feet of) endangered species ESHA (PAMB habitat) without maintaining a minimum 50-foot buffer, (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA buffer, and (c) the County has not demonstrated that the approved development complies with any guidelines and management practices established by the CDFG for the protection of the endangered PAMB. The County's approval is based on the attachment of Special Condition No. 5, which states in part that "no development or disturbance, other than that approved by the County, shall occur in the 50 foot buffer area to the designated ESHA" (emphasis added). Yet in its findings for approval of the project, the County fails to address the consistency of the project with the ESHA buffer requirements of LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, including how a buffer less than the minimum of 50 feet required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) is allowable under the LCP and conforms with CDFG requirements.

LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent environmentally sensitive habitat area, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. The LCP sets forth uses permitted in wetland and riparian ESHAs, but is silent with regard to allowable uses within rare plant ESHA, and thus allowable uses within the endangered species buffer.

Nonetheless, even if a single family home was considered an allowable development in an endangered species buffer, LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4) require permitted development within an ESHA buffer to comply with several standards. These standards include that structures be allowed within a buffer area only if there is no other feasible site available on the parcel, and that the development be sited and designed to prevent impacts that would significantly degrade the ESHA. The County's findings do not analyze alternative sites or project designs or demonstrate that the project as approved was sited and designed on the parcel in a manner that would best protect the ESHA. Furthermore, the findings do not address what CDFG guidelines and management practices apply to protect the PAMB ESHA and how the approved project conforms with these guidelines and practices, as required by LUP Policy 3.1-18

Thus, because (1) ESHA buffers are not allowed to be reduced to less than 50 feet, (2) development is allowed within a buffer area only if it is demonstrated that there is no other feasible site available on the parcel, and (3) the development has not been demonstrated to

conform with CDFG guidelines and practices for the protection of endangered PAMB habitat, the project, as approved by the County, is inconsistent with the ESHA protection provisions of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020.

2. LCP Policies on Hazards:

LUP Policy 3.4-7 states the following (emphasis added):

> *The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*
>
> *Setback (meters) = Structure life (years) x Retreat rate (meters/year)*
>
> *The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.*
>
> *All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report.*

LUP Policy 3.4-10 states the following (emphasis added):

> *No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.*

CZC Section 20.500.010 states the following (emphasis added):

> *(A) The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:*
>
> *(1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;*
>
> *(2) Assure structural integrity and stability; and*
>
> *(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ord. No. 3785 (part), adopted 1991)*

CZC Section 20.500.020 states the following (emphasis added):

> *(B) Bluffs.*

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

Setback (meters) = structure life (75 years) x retreat rate (meters/year)

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

(2) Drought tolerant vegetation shall be required within the blufftop setback.

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

(4) No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

Discussion:

The development approved by the County would be located on a bluff face, on the seaward side of the bluff edge, according to the bluff-edge determinations of both Dr. Mark Johnsson, the Coastal Commission's staff geologist, and County planning staff. Approval of development on a bluff face is inconsistent with LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), which prohibit development on bluff faces, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. Furthermore, LUP Policy 3.4-7 and CZC Section 20.500.020 require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). According to Dr. Johnson and County planning staff, the bluff edge on the subject property is located very near the position of Navarro Way near the eastern property boundary. This bluff edge determination is based on the definition of bluff edge found in Section 13577(h) of the Commission's regulations, which states the following, in applicable part (emphasis added):

(h) Coastal Bluffs. Measure 300 feet both landward and seaward from the bluff line or edge. Coastal bluff shall mean:

(1) those bluffs, the toe of which is not or was historically (generally within the last 200 years) subject to marine erosion; and

> *(2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified in Public Resources Code Section 30603(a)(1) or (a)(2).*
>
> *Bluff line or edge shall be defined as the upper termination of a bluff, cliff, or seacliff. In cases where the top edge of the cliff is rounded away from the face of the cliff as a result of erosional processes related to the presence of the steep cliff face, the bluff line or edge shall be defined as that point nearest the cliff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the cliff. In a case where there is a steplike feature at the top of the cliff face, the landward edge of the topmost riser shall be taken to be the cliff edge. The termini of the bluff line, or edge along the seaward face of the bluff, shall be defined as a point reached by bisecting the angle formed by a line coinciding with the general trend of the bluff line along the inland facing portion of the bluff. Five hundred feet shall be the minimum length of bluff line or edge to be used in making these determinations.*

Dr. Johnson concluded that because the coastal bluff at the subject site is broadly rounded near the top and levels off very nearly at the location of Navarro Way, applying the definition of Section 13577(h), the entire lot is on the bluff face.

The County's approval is presumably based on the attachment of Special Condition No. 2, which requires that prior to permit issuance the applicant execute and record a deed restriction for the subject property. The deed restriction shall provide that, among other things, the landowner agree not to construct any bluff or shoreline protective device to protect the approved development in the event that the development is subject to damage or other erosional hazards in the future, and the landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. Yet in its findings for approval of the project, the County fails to address the project's consistency with both (1) LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1), as the approved building site does not assure safety from bluff erosion and cliff retreat for the economic lifespan of the approved development, as well as (2) LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), as the approved development is located on the bluff face and is not a type of development that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry. The project as approved includes development seaward of the bluff edge and is therefore inconsistent with LCP policies regarding geologic hazards including, but not limited to, LUP Policies 3.4-7 and 3.4-10 and CZC Sections 20.500.010 and 20.500.020.

3. LCP Policies on Grading, Erosion, & Runoff:

CZC Section 20.492.010(B) states the following:

...

> *(B) Development shall be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum.*

...

Discussion:

The approved development is inconsistent with CZC Section 20.492.010(B), as the development has not been designed to best fit the topography, soils, and other conditions of the site. Rather than locating the development on the least steeply sloping portions of the site where grading would be minimized and development would better fit the topography, the approved residence will be located on the steepest and most westward portion of the parcel outside of the deed-restricted PAMB habitat area. According to County planning staff, the maximum slope in the approved development area is over 41 percent for approximately 15 feet. The approved driveway to access the detached garage will be steep and will include a 3-foot retaining wall on its east side. The approved septic fields will be located on the flattest portion of the parcel, near the road. As discussed in the County staff report, the County Division of Environmental Health (DEH) expressed concern that the retaining wall and propane tank would be located 22 feet and 18 feet, respectively, downslope of the leach fields, as DEH generally recommends at least 50 feet between leach fields and downslope cuts. Furthermore, the amount of necessary grading would be greatly reduced if the residential and garage structures were to be located near the road and the leach fields were to be located west of the structures, as the approved driveway will be approximately 125 feet long and 12 feet wide and will necessitate a retaining wall on its uphill side.

The County's approval of the project is based on the attachment of Special Condition No. 3, which requires, among other things, that prior to permit issuance the applicant submit a grading plan approved by a licensed architect or engineer, which clarifies the total amounts and locations of cut and fill. The condition also requires that development adhere to the erosion control measures outlined in the erosion control plan prepared by the applicant's consultant David Paoli. Although providing the information required by Special Condition No. 3 and adhering to the erosion control plan as required by the condition would provide helpful information and help reduce erosion from the approved development, satisfying the requirements of Special Condition No. 3 does nothing to ensure the project's consistency with CZC Section 20.492.010(B), which requires that development be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to an absolute minimum. Therefore, the project, as approved, is inconsistent with the LCP policies and standards regarding grading, erosion, and runoff including, but not limited to, CZC Section 20.492.010(B).

CONCLUSION:

The project, as approved by Mendocino County, is inconsistent with the policies of the certified LCP including, but not limited to, the following:

- LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, which require that a buffer area of a minimum width of 50 feet be established around environmentally sensitive habitat areas, that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, that structures are allowable within the buffer area only if there is no other feasible site available on the parcel, and that development conform with Department of Fish and Game guidelines and practices for the protection of endangered wildlife habitat;

- LUP Policy 3.4-7 and CZC Section 20.500.020(B)(1), which require that new structures be setback a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years);

- LUP Policy 3.4-10 and CZC Section 20.500.020(B)(4), which prohibit development on the bluff face, except for developments that would substantially further the public welfare such as staircase accessways to beaches or pipelines to serve coastal-dependent industry; and

- CZC Section 20.492.010(B), which requires that development be planned to fit the topography, soils, geology, hydrology, and other conditions existing on the site so that grading is kept to a minimum.