

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET • SUITE 200

EUREKA, CA 95501-1865

VOICE (707) 445-7833

FACSIMILE (707) 445-7877

MAILING ADDRESS:

P. O. BOX 4908

EUREKA, CA 95502-4908



F 13c

Filed:	December 5, 2006
49 th Day:	January 23, 2007
Hearing Opened:	January 12, 2007
Staff:	Tiffany S. Tauber
Staff Report:	April 20, 2007
Hearing Date:	May 11, 2007
Commission Action:	

STAFF REPORT: APPEAL
De Novo

APPEAL NO.:	A-1-MEN-06-047
APPLICANTS:	Robert & Sharon Elliott
AGENTS:	(1) Norbert & Stephanie Dall; (2) Rick Jurczynski
LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
PROJECT LOCATION:	On the north side of Albion Ridge Road, approximately 1/4 mile east of its intersection with Highway One at 33800 Albion Ridge Road (APN 123-170-19).
PROJECT DESCRIPTION:	(1) Construct a 25'-8"-high, 2,115-square-foot, two-story single-family residence with an attached 658-square-foot garage for a total of 2,773 square feet, and associated development including a pump house, driveway, septic system, fencing, landscaping, underground utilities, and conversion of an existing test well to a production well.
APPELLANTS:	(1) Rixanne Wehren (2) Commissioners Mike Reilly & Mary Shallenberger

SUBSTANTIVE FILE:
DOCUMENTS

(1) Mendocino County CDP No. 28-2006;
(2) Mendocino County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION *DE NOVO*:
APPROVAL WITH CONDITIONS

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that as conditioned, the development as amended for purposes of the Commission's *de novo* hearing would be consistent with the Mendocino County LCP.

The primary issue raised by the proposed project is the project's consistency with the visual resource protection policies of the LCP. The subject site is an approximately one-acre parcel located in a designated "highly scenic" area on the top of a ridge above the Albion River on the east side of Highway One. The parcel is planned and zoned Rural Village (RV) in the County's LCP. The subject site is located adjacent to Albion Ridge Road and slopes steeply westward. The parcel sits above the clustered residential village of Albion and is the last undeveloped designated RV parcel in the village. The approved development is highly visible from the Albion River Bridge heading southbound on Highway One.

For the purposes of *de novo* review by the Commission, the applicants submitted revised project plans dated April 5, 2007 that made changes to the originally proposed residential development as approved by the County to minimize visual impacts of the project. The project revisions involve (1) reducing the total square footage of the development from 3,551 square feet to 2,773 square feet, (2) siting the residence an additional five feet downslope from the eastern property boundary, (3) reducing the height from 27'-4" to 25'-8", (4) reducing the pitch of the roof from 8:12 to 6½:12, (5) reducing the width of the west-facing elevation from 64 feet to 54 feet by eliminating ten feet of structural bulk from the southeast portion of the site, and (6) installing native landscaping at the site.

As revised for purposes of *de novo* review, the proposed project involves construction of a 25'-8"-high, 2,115-square-foot, two-story single-family residence with an attached 658-square-foot garage for a total of 2,773 square feet. The project also involves associated residential development including a pump house, driveway, septic system, fencing, landscaping, underground utilities, and conversion of an existing test well to a production well.

The LCP policies and standards governing the protection of visual resources at the site, which is located just below a ridgeline in a designated highly scenic area and within the rural village of Albion, require conformance with a number of visual criteria, including criteria related to: (1) minimizing the impacts of development on ridge; (2) ensuring the scale of new development is within the scope and character of existing development in the surrounding neighborhood; (3) minimizing landform alteration; (4) utilizing tree planting to screen development; (5) utilizing

appropriate building materials, colors, and lighting; (6) protecting views to and along the coast; (7) minimizing the impacts of development on hillsides; and (8) ensuring the development is visually compatible with and subordinate to the character of its setting.

Staff recommends that the Commission find that the proposed development, as conditioned, is consistent with the LCP policies and standards affecting development within highly scenic areas and within the rural village of Albion for several reasons as summarized below.

Based on a site visit to view the revised story poles, Commission staff determined that although the proposed residence would rise above the topographic ridgeline such that a portion of the residence would be set against the background of open sky, the structure would not project any higher than existing trees, or other structures that define the ridgeline at this location. The proposed residence would be sited, and the roofline designed, in a manner such that it would not project above the ridgeline as viewed from southbound Highway One consistent with policies of the LCP requiring buildings in highly scenic areas to be sited below rather than on a ridge.

Additionally, the scale of the proposed development would be within the scope and character of existing development in the surrounding neighborhood. Based on total square footage, the proposed residence would be larger than the average of several surrounding homes and even larger still than the surrounding homes that are located in the Rural Village zoning district. However, the perceivable bulk of the structure from southbound Highway One has been minimized by reducing the width of the southwest end of the west-facing elevation by ten feet and by scaling back the prominent architectural features of the west-facing façade. In addition, other features of the proposed structure that contribute to perceived bulk including the number of stories, overall form, and roof style of the house are generally in keeping with the architecture of the existing structures within the Rural Village district. Furthermore, the proposed 25'-8"-high residence would be consistent with the height limit established for the rural village.

Furthermore, the proposed residence has been sited and designed to follow the natural contour of the sloped site and would not involve the alteration of natural landforms. As revised for *de novo* review, the pitch of the roof was reduced from 8:12 to 6 ½ :12 to more effectively blend the visual angles of the residence with the slope of the hillside.

The applicants have proposed a conceptual landscaping plan that includes planting additional vegetation to screen portions of the development as viewed from southbound Highway One and to maintain the tree line silhouette of the ridge. In particular, the proposed landscaping plan would partially screen the lower portion of the residence as viewed from the highway by planting native shrubs along an approximately 80-foot-long, 8"-high berm located on the slope in front of the residence across nearly the entire width of the parcel. To protect and enhance the silhouette of the ridgeline, the landscaping plan proposes to protect, in perpetuity, the existing pine tree in the northeast corner of the site that forms a portion of the ridgeline silhouette and creates a backdrop for the northeast portion of the house. The proposed landscaping plan also includes planting an additional tree in the southeast corner of the site to further enhance the ridgeline silhouette as viewed from the highway. Moreover, the applicants propose to use exterior

earthtone colors including light brown siding, hunter green trim, and weathered wood composition shakes. The proposed light brown and hunter green colors would cause it to blend in hue and brightness with the colors of the surrounding landscape, including the light brown grassy hillside and the dark green pine trees.

Lastly, the subject parcel is geographically situated such that the proposed residential development would not significantly affect views to the ocean from public areas including highways, roads, coastal trails, beaches, or coastal streams. The subject site is located on the east side of Highway One and therefore, the proposed development would not obstruct any views to or along the coast between the highway and the ocean. Minimal views of the ocean are afforded across the site from Albion Ridge Road, a public road that extends east-west adjacent to the southern property boundary and intersects with Highway One approximately ¼ mile west of the site. Views of the ocean from this road are largely obstructed by existing pine trees located along the extent of the southern property line adjacent to the road. The applicants propose to install 5-foot-high wire mesh fencing with native vines along the western, northern, and eastern property lines and a 3 ½ -foot-high wire fence with native vines along the southern property line. This shorter fence along the southern boundary, or proposed landscaping would not significantly block glimpses of the ocean across the site as viewed by the public traveling westbound on Albion Ridge Road.

For all of the reasons discussed above, the proposed development would be visually compatible with and subordinate to the character of its setting, as required by LCP policies regarding new development located in highly scenic areas.

Staff recommends that the Commission attach several special conditions to ensure the project's consistency with the visual resource protection policies of the LCP. Special Condition No. 1 requires the applicants to submit a final landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that substantially conforms to the proposed landscape concept plan included as Exhibit No. 5, but is revised to include provisions that (i) prohibit limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan, or planting vegetation that would block public ocean views from Albion Ridge Road unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning or additional planting; (ii) require all plantings and all existing trees on the parcel be maintained in good growing condition throughout the life of the project to ensure continued compliance with the landscape plan and that if any of the existing trees or any of the trees and plants to be planted according to the plan die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height; (iii) require all proposed plantings be obtained from local genetic stocks and of native, non-invasive species, and (iv) prohibit the use of certain rodenticides. Special Condition No. 1 also requires the revised landscaping plan to include a schedule for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; and a map showing the type, size, and location of all plant materials that will be retained and installed on the developed site, the

irrigation system and a delineation of the approved development, and all other landscape features.

Special Condition No. 2(A) requires that all exterior siding and visible exterior components be comprised of earth tone colors as proposed and that the current owner or any future owner shall not repaint or stain the house or other approved structures with products that would change the color of the house or other approved structures from the approved earth tone colors without an amendment to this permit. Special Condition No. 2(B) also requires that all exterior materials, including roofs and windows, be non-reflective to minimize glare that could result in an adverse visual impact as viewed from Highway One if the building materials were reflective in nature and that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel.

Special Condition No. 3 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including restrictions on colors, materials, and lighting. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity. Special Condition No. 7 expressly states that any future improvements to the single-family residence would require a coastal development permit such that the County and the Commission would have the ability to review all future development on the site to ensure that future improvements would not be sited or designed in a manner that would result in an adverse environmental impacts.

In addition to the recommended special conditions regarding the protection of visual resources, staff is recommending that the Commission attach several other special conditions regarding (1) the protection of water quality, and (2) the provision of adequate services.

To ensure that Best Management Practices (BMPs) are implemented to control the erosion of exposed soils and minimize sedimentation of coastal waters during construction, staff recommends Special Condition No. 4. This condition requires the implementation of BMPs to control erosion and sedimentation during and following construction including (a) disposing of any excess excavated material resulting from construction activities at a disposal site outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit; (b) installing straw bales, coir rolls, or silt fencing structures to prevent runoff from construction areas from draining down the hillside toward the Albion River, (c) maintaining on-site vegetation to the maximum extent possible during construction activities; (d) replanting any disturbed areas with native vegetation following project completion; and (e) covering and containing all on-site stockpiles of construction debris at all times to prevent polluted water runoff.

To ensure that the proposed septic system has been reviewed and approved by Mendocino County Division of Environmental Health (DEH), the Commission attaches Special Condition No. 5 requiring the applicant to submit evidence of approval of the proposed septic system from

DEH prior to issuance of the coastal development permit, or evidence that no further review and approval is required by DEH for installation of the proposed septic system.

Therefore, as conditioned, staff recommends that the Commission find that the project is consistent with the certified Mendocino County LCP.

The Motion to adopt the Staff Recommendation of Denial is found on page 7.

STAFF NOTES:

1. Standard of Review

The Coastal Commission effectively certified the County of Mendocino's LCP in 1992. Pursuant to Section 30603(b) of the Coastal Act, after effective certification of an LCP, the standard of review for all coastal permits and permit amendments for development located between the first public road and the sea is the standards of the certified LCP and the public access and recreation policies of the Coastal Act.

2. Procedure

On January 12, 2007, the Coastal Commission found that the appeal of Mendocino County's conditional approval of a coastal development permit for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Testimony may be taken from all interested persons at the *de novo* hearing.

3. Amended Project Description Submitted by Applicant for de novo Review

For the purposes of *de novo* review by the Commission, the applicants submitted revised project plans dated April 5, 2007 that made changes to the originally proposed residential development as approved by the County to minimize visual impacts of the project. The project revisions review involve (1) reducing the total square footage of the development from 3,551 square feet to 2,773 square feet, (2) siting the residence an additional five feet downslope from the eastern property boundary, (3) reducing the height from 27'-4" to 25'-8," (4) reducing the pitch of the roof from 8:12 to 6½:12, (5) reducing the width of the west-facing elevation from 64 feet to 54 feet by eliminating ten feet of structural bulk from the southeast portion of the site, and (6) installing native landscaping at the site.

As revised for purposes of *de novo* review, the proposed project involves construction of a 2,115-square-foot, two-story single-family residence with a maximum average height of 25'-8"

above natural grade with an attached 658-square-foot garage for a total of 2,773 square feet. The project also involves associated residential development including a pump house, driveway, septic system, fencing, landscaping, underground utilities, and conversion of an existing test well to a production well.

The amended project description addresses issues raised by the appeal where applicable, and provides additional information concerning the amended project proposal that was not a part of the record when the County originally acted to approve the coastal development permit.

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

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-06-047 subject to conditions.

Staff Recommendation of Approval:

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

Resolution to Approve Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Mendocino County LCP. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS: See Attachment A.

III. SPECIAL CONDITIONS:

1. Landscaping Plan

A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT

AMENDMENT NO. A-1-MEN-06-047, the applicant shall submit to the Executive Director, for review and written approval, a landscaping plan that substantially conforms to the proposed landscape plan dated April 5, 2007 entitled "Landscape Concept Plan" attached as Exhibit No. 5 of the staff report, but shall be revised to include the following provisions:

- i. No limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan, and no additional planting of vegetation that would block public ocean views from Albion Ridge Road shall occur unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning or additional planting;
- ii. All plantings and all existing trees on the parcel shall be maintained in good growing condition throughout the life of the project to ensure continued compliance with the landscape plan. If any of the existing trees or any of the trees and plants to be planted according to the plan die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height;
- iii. All proposed plantings shall be obtained from local genetic stocks. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed demolition. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;
- iv. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used;
- v. A schedule for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; and

- vi. A map showing the type, size, and location of all plant materials that will be retained and installed on the developed site, the irrigation system, delineation of the approved development, and all other landscape features.

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

2. Design Restrictions

- A. All exterior siding, trim, fascia, and roofing of the proposed structure shall be composed of the materials proposed in the application and shall be earth tone colors only. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that would change the color of the house or other approved structures from the approved earth tone colors without an amendment to this permit. In addition, all exterior materials, including roofs and windows, shall not be reflective to minimize glare; and
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

3. Deed Restriction

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

4. Best Management Practices and Construction Responsibilities

The permittee shall comply with the following construction-related requirements:

- (a) Any and all excess excavated material resulting from construction activities shall be removed and disposed of at a disposal site outside the coastal zone or placed within the coastal zone pursuant to a valid coastal development permit;
- (b) Straw bales, coir rolls, or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants downslope toward the Albion River;
- (c) On-site vegetation shall be maintained to the maximum extent possible during construction activities;
- (d) Any disturbed areas shall be replanted or seeded with native vegetation obtained from local genetic stocks immediately following project completion. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the governments of the State of California or the United States shall be utilized within the property; and
- (e) All on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff.

5. Septic System Approval

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittee shall submit to the Executive Director evidence of review and approval of the proposed septic system the Mendocino County Division of Environmental Health (DEH), or evidence from the DEH that no further review and approval is required. The applicant shall inform the Executive Director of any changes to the project required by the DEH. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

6. Indemnification by Applicant

Liability for Costs and Attorneys Fees: By acceptance of this permit, the Applicant/Permittee agrees to reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees -- including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys fees that the Coastal Commission may be required by a court to pay --

that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

7. Future Development Restrictions

This permit is only for the development described in Coastal Development Permit No. A-1-MEN-06-047. Any future improvements to the single-family residence or other approved structures will require a permit amendment or a new coastal development permit.

8. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

1. Commission's Appeal Jurisdiction Over 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, within one hundred feet of a wetland or stream, within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or within 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.

a) Sensitive Coastal Resource Area

The County's action to approve a coastal development permit for the project with conditions was appealed to the Commission on the basis that the project is located within a sensitive coastal resource area pursuant to Section 30603(a)(3) of the Coastal Act.

Section 30116 of the Coastal Act defines Sensitive Coastal Resource Areas as follows:

"Sensitive coastal resource areas" means those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity. "Sensitive coastal resource areas" include the following:

- (a) Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.*
- (b) Areas possessing significant recreational value.*
- (c) Highly scenic areas. (emphasis added)*
- (d) Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.*
- (e) Special communities or neighborhoods which are significant visitor destination areas.*
- (f) Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.*
- (g) Areas where divisions of land could substantially impair or restrict coastal access.*

Section 30502 of the Coastal Act indicates that sensitive coastal resource areas are areas within the coastal zone where the protection of coastal resources and public access requires, in addition to the review and approval of zoning ordinances, the review and approval by the Commission of other implementing actions to protect coastal resources. Sensitive coastal resource areas (SCRAs) can be designated either by the Commission pursuant to Section 30502 of the Coastal Act, or by local government by including such a designation in its Local Coastal Program (LCP).

Section 30502 directs the Commission to designate SCRAs not later than September 1, 1977, pursuant to a report which must contain the following information:

- (1) A description of the coastal resources to be protected and the reasons why the area has been designated as a sensitive coastal resource area;*
- (2) A specific determination that the designated area is of regional or statewide significance;*
- (3) A specific list of significant adverse impacts that could result from development where zoning regulations alone may not adequately protect coastal resources or access;*
- (4) A map of the area indicating its size and location.*

The Commission did not ultimately designate SCRAs or make recommendations to the Legislature, as contemplated by Section 30502 and 30502.5. Because it did not designate SCRAs, the Commission does not have the authority to require local governments to adopt such additional implementing actions. Nothing in Sections 30502 or 30502.5, however, overrides

other provisions in the Coastal Act that assign primary responsibility to local governments for determining the contents of LCPs and that authorize local governments to take actions that are more protective of coastal resources than required by the Coastal Act. Such Coastal Act provisions support the position that the Commission does not have the exclusive authority to designate SCRAs. In 1977, the Attorney General's Office advised the Commission that if the Commission decided not to designate SCRAs, local government approvals of development located in SCRAs delineated in LCPs would nonetheless be appealable to the Commission.

The ability of local governments to designate SCRAs in LCPs is further supported by the legislative history of changes to Section 30603. In 1982, after the 1978 deadline for the Commission to designate SCRAs, the Legislature amended the provisions of Section 30603 that relate to appeals of development located in SCRAs. (Cal. Stats. 1982, c. 43, sec. 19 (AB 321 - Hannigan).) The Legislature's 1982 revisions to the SCRA appeal process demonstrate that the Commission's decision not to designate SCRAs did not have the effect of preventing local governments from designating SCRAs through the LCP process. If the Commission's decision not to designate SCRAs rendered the Coastal Act provisions that relate to SCRAs moot, the Legislature's action in 1982 would have been a futile and meaningless exercise. Instead, by deliberately refining the SCRA appeal process, the Legislature confirmed that local governments continue to have the authority to designate SCRAs.

Although a city or county is not required to designate SCRAs in their LCP, at least four local governments have chosen to do so. The Commission has certified LCP's that contain SCRA designations from the City of Grover Beach (1982), San Luis Obispo County (1987), the City of Dana Point (1989) and the segment of Mendocino County's LCP that covers areas outside of the Town of Mendocino (1992).

Designation of SCRAs in this manner is consistent with the reservation of local authority, under Section 30005, to enact certain regulations more protective of coastal resources than what is required by the Act. As noted above, the Coastal Act does not require local governments to designate SCRAs, but local governments are allowed to designate such areas.

The appeal of Mendocino County Coastal Development Permit (CDP) No. 28-2006 was accepted by the Commission on the basis that the project site is located in a sensitive coastal resource area designated by Mendocino County and certified by the Commission when the County's LCP was certified in 1992.

The applicable designation of sensitive coastal resource areas was accomplished in the LCP by defining sensitive coastal resource areas within the LCP to include "highly scenic areas," and by mapping specific geographic areas on the certified Land Use Maps as "highly scenic." Chapter 5 of the Mendocino County General Plan Coastal Element (the certified Land Use Plan) and Division II of Title 20, Section 20.308.105(6) of the Mendocino County Coastal Zoning Code (CZC), both define "Sensitive Coastal Resource Areas" to mean "those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity." Subparts (c) of these sections include "highly scenic areas." This definition closely

parallels the definition of SCRA contained in Section 30116 of the Coastal Act. Mendocino LUP Policy 3.5 defines highly scenic areas to include, in applicable part, “those [areas] identified on the Land Use Maps as they are adopted.” Adopted Land Use Map No. 18 (Albion) designates the area inclusive of the site that is the subject of Mendocino County CDP No. 28-2006 as highly scenic. Therefore, it is clear that by defining sensitive coastal resource areas to include highly scenic areas, and by then mapping designated highly scenic areas on the adopted Land Use Maps, the County intended that highly scenic areas be considered sensitive coastal resource areas. The County also noticed the coastal development permit application as appealable to the Commission.

Section 30603 of the Coastal Act states that “after certification of its local coastal program, an action taken by a local government on a coastal development permit may be appealed to the Commission...” Included in the list of appealable developments are developments approved within sensitive coastal resource areas. Additionally, Division II of Title 20, Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code specifically includes developments approved “located in a sensitive coastal resource area” as among the types of developments appealable to the Coastal Commission.

Therefore, for all of the above reasons, the Commission finds that as (1) highly scenic areas are designated and mapped in the certified LCP as a sensitive coastal resource area, and (2) approved development located in a sensitive coastal resource area is specifically included among the types of development appealable to the Commission in the certified LCP, Mendocino County’s approval of local CDU No. 28-2006 for the applicant’s proposed development is appealable to the Commission under Section 30603(a)(3) of the Coastal Act and Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code.

2. Procedure

On January 12, 2007, the Commission (1) found that the appeal of the County of Mendocino’s approval of a local coastal development permit for a single-family residence, garage, retaining wall, driveway, septic system, and utilities raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations, and (2) continued the appeal hearing for future *de novo* review.

The January 12, 2007 appeal hearing during which the Commission made its substantial issue determination was held within 49 days of the filing of the appeal on December 5, 2006 as is required by Section 30621 of the Coastal Act. A public hearing notice dated December 22, 2006 was mailed to the applicants and all interested parties prior to the Commission’s January 12, 2007 meeting. The January 12, 2007 appeal hearing was open to the public and the Commission accepted written comments on Appeal No. A-1-MEN-06-047, including written correspondence from the applicants’ agent.

Coastal Act Sections 30621 and 30622 contemplate one single appeal hearing comprised of: (1) a threshold determination regarding whether the appeal raises a substantial issue; and (2) a *de*

novo review of the appeal, unless the Commission determines that, pursuant to Coastal Act Section 30625, no substantial issue exists with respect to the grounds on which an appeal has been filed. Pursuant to the Commission's established procedures, the Commission assumes an appeal raises a substantial issue unless staff recommends no substantial issue or three Commissioners desire to hear a debate on the question of substantial issue. The Commission chose not to take oral testimony on the Substantial Issue portion of the January 12, 2007 appeal hearing because three or more Commissioners did not request to hear a debate on the question of substantial issue and no Commissioner moved to vote on a No Substantial Issue determination.

As a result, the County's approval is no longer effective, and the Commission must consider the application *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and is not located between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with the Mendocino County certified Local Coastal Program (LCP). Testimony may be taken from all interested persons at the *de novo* hearing.

3. Site Description

The subject site is an approximately one-acre parcel located in a designated "highly scenic" area near the top of a ridge above the south side of the Albion River on the east side of Highway One (Exhibit Nos. 1 & 2). The parcel is planned and zoned Rural Village (RV) in the County's LCP. The subject site is located adjacent to Albion Ridge Road and slopes steeply westward. The parcel sits above the clustered residential village of Albion and is the last undeveloped designated RV parcel in the village.

The site is primarily vegetated with grasses and low shrubs with several clusters of coniferous evergreens scattered along the southern property boundary adjacent to Albion Ridge Road, two clusters of pine trees at the southwest corner of the parcel, and an approximately 25-foot-high pine tree in the northeast corner of the parcel. With the exception of these trees, the majority of the site is generally very exposed. The site is visible from southbound Highway One (Albion River bridge) and from Albion Ridge Road, a public road that runs east-west adjacent to the site and intersects Highway One approximately ¼ mile west of the site.

No known environmentally sensitive habitat exists at the site.

4. Project Description

For purposes of *de novo* review by the Commission, the applicants submitted revised project plans dated April 5, 2007 that made changes to the originally proposed residential development as approved by the County to minimize visual impacts of the project. The revisions to the project involve (1) reducing the total square footage of the development from 3,551 square feet to 2,773 square feet, (2) siting the residence an additional five feet downslope from the eastern

property boundary, (3) reducing the height from 27'-4" to 25'-8", (4) reducing the pitch of the roof from 8:12 to 6½:12, (5) reducing the width of the west-facing elevation from 64 feet to 54 feet by eliminating ten feet of structural bulk from the southeast portion of the site, and (6) installing native landscaping at the site.

As revised for purposes of de novo review, the proposed project involves construction of a 25'-8"-high, 2,115-square-foot, two-story single-family residence with an attached 658-square-foot garage for a total of 2,773 square feet. The footprint of the structure would occupy approximately 1,425 square feet. The project also involves associated residential development including a pump house, driveway, septic system, fencing, landscaping, underground utilities, and conversion of an existing test well to a production well.

The proposed residence would be sited approximately 25 feet from the eastern property boundary near the highest point of the parcel with the primary leach field sited in the middle of the parcel and the replacement leachfield sited near the western, downslope end of the parcel. An approximately 10-foot-high, 140-square-foot pumphouse would be located adjacent to the residence on the south side. The residence would be constructed of exterior materials in earthtone colors described as follows:

Siding: Hardi Siding, light brown

Trim: Hunter green

Window frames: Hunter green fiberglass

Roofing: Composition shake, weathered wood color

Decking: Trex, Brasilia line (tan)

The proposed project also includes the installation of 5-foot-high wire mesh fencing planted with native vines along the west, north, and east property lines, and a 3 ½ -foot-high wire mesh fence similarly planted with native vines along the southern property boundary. The proposed driveway would be constructed of semi-pervious material and a bio-swale would be installed downslope from the proposed residence to capture and filter stormwater runoff.

The applicants further propose to install native landscaping at the site including native shrubs planted on an 8-inch-high berm in front of the west-facing elevation of the house, native shrubs and needlegrass along the eastern property line behind the house, and a shore pine near the southeast corner of the property (see Exhibit No. 5). The applicants also propose to retain the existing pine tree in the northeast corner in perpetuity by replacing the tree in the event that it becomes diseased or dies.

5. Visual Resources

LCP Policies and Standards:

LUP Policy 3.5-1 states in applicable part:

“The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected 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.” [emphasis added]

LUP Policy 3.5-2 states in applicable part:

Other communities and service centers along the Mendocino Coast including Westport, Caspar, Little River, Albion, Elk and Manchester shall have special protection to the extent that new development shall remain within the scope and character of existing development by meeting the standards of implementing ordinances. [emphasis added]

LUP Policy 3.5-3 states in applicable part:

The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. ...Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1. ... New development should be subordinate to natural setting and minimize reflective surfaces... [emphasis added]

NOTE : The certified LUP Maps designate the area in the project vicinity as highly scenic.

LUP Policy 3.5-4 states in applicable part:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.

...

Minimize visual impact of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4) concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with

hillside...Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel. [emphasis added]

LUP Policy 3.5-5 states in applicable part:

Providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged. In specific areas, identified and adopted on the land use plan maps, trees currently blocking views to and along the coast shall be required to be removed or thinned as a condition of new development in those specific areas. New development shall not allow trees to block ocean views. [emphasis added]

LUP Policy 3.5-15 states in applicable part:

Installation of satellite receiving dishes shall require a coastal permit. In highly scenic areas, dishes shall be located so as to minimize visual impacts. Security lighting and floodlighting for occasional and/or emergency use shall be permitted in all areas. Minor additions to existing nightlighting for safety purposes shall be exempt from a coastal permit. In any event no lights shall be installed so that they distract motorists and they shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible. [emphasis added]

Coastal Zoning Ordinance Section 20.504.015 states in applicable part:

(A) The visual resource areas listed below are those which have been designated highly scenic and in which development shall be subordinate to the character of its setting:

...

(2) Portions of the Coastal Zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

...

(C) Development Criteria.

(1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

...

- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.
- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited:
- (a) *Near the toe of a slope;*
 - (b) *Below rather than on a ridge; and*
 - (c) *In or near a wooded area....*
- (6) *Minimize visual impact of development on hillsides by the following criteria:*
- (a) *Requiring grading or construction to follow the natural contours;*
 - (b) *Resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms;*
 - (c) *Designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites;*
 - (d) *Concentrate development near existing major vegetation, and*
 - (e) *Promote roof angles and exterior finish which blend with hillside.*
- ...
- (8) *Minimize visual impact of development on ridges by the following criteria:*
- (a) *Prohibiting development that projects above the ridgeline;*
 - (b) *If no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation;*
 - (c) *Prohibiting removal of tree masses which destroy the ridgeline silhouette.*
- (10) *Tree planting to screen buildings shall be encouraged, however, new development shall not allow trees to interfere with coastal/ocean views from public areas.*
[emphasis added]

...

Development in Westport, Caspar, Little River, Albion, Elk, Manchester, Anchor Bay and Gualala shall be subject to the development criteria in Section 20.504.020. [emphasis added]

Coastal Zoning Ordinance Section 20.504.020 states in applicable part:

(B) The communities and service centers, designated as CRV or CFV, of Westport, Caspar, Albion, Elk and Manchester, and the additional areas of Little River, Anchor Bay and Gualala, as described below, shall have special protection as set forth in Section 20.504.020(C):

(C) Development Criteria.

(1) The scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.

(2) New development shall be sited such that public coastal views are protected.

(3) The location and scale of a proposed structure will not have an adverse effect on nearby historic structures greater than an alternative design providing the same floor area. Historic structure, as used in this subsection, means any structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture.

(4) Building materials and exterior colors shall be compatible with those of existing structures.

(D) 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. (Ord. No. 3785 (part), adopted 1991) [emphasis added]

Coastal Zoning Ordinance Section 20.504.035 states in applicable part:

(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.

(1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser.

(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.

(3) Security lighting and flood lighting for occasional and/or emergency use shall be permitted in all areas.

(4) Minor additions to existing night lighting for safety purposes shall be exempt from a coastal development permit.

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

Discussion:

The subject site is an approximately one-acre parcel located in a designated “highly scenic” area near the top of a ridge above the south side of the Albion River on the east side of Highway One (Exhibit Nos. 1 & 2). The subject site is located adjacent to Albion Ridge Road and slopes steeply westward. The parcel sits above the clustered residential village of Albion and is the last undeveloped designated RV parcel in the village. The site is primarily vegetated with grasses and low shrubs with several clusters of coniferous evergreens scattered along the southern property boundary adjacent to Albion Ridge Road, two clusters of pine trees at the southwest corner of the parcel, and an approximately 25-foot-high pine tree in the northeast corner of the parcel. With the exception of these trees, the majority of the site is generally very exposed. The site is visible from southbound Highway One (Albion River bridge) and from Albion Ridge Road, a public road that runs east-west adjacent to the site and intersects Highway One approximately ¼ mile west of the site.

The proposed project involves construction of a 25’-8”-high, 2,115-square-foot, two-story single-family residence with an attached 658-square-foot garage for a total of 2,773 square feet. The project also involves associated residential development including a pump house, driveway, septic system, fencing, landscaping, underground utilities, and conversion of an existing test well to a production well.

The proposed development would be visible from southbound Highway One across the Albion River Bridge, which is the primary public vantage point (see Exhibit No. 12). The development would also be visible from Albion Ridge Road, a public road that runs east-west and intersects Highway One approximately ¼ mile west of the subject site. The view traveling over the Albion River Bridge is particularly scenic, as it affords stunning views of Albion Cove to the west, views of the village of Albion to the east, and of Albion Flats and the harbor below. The character of the subject viewshed as seen looking eastward from the Highway One bridge over the Albion River is largely defined by the cluster of modest-sized residences set below the peak of the ridge that rises above the south bank of the river. This view is described in Section 4.9 of the County’s LUP and states, “*Approaching from the north, motorists see one of the coast’s most*

striking townscapes: a wood-trestle bridge in the foreground of a small village that clings to the edge of the hill.”

As cited above, the LCP sets forth numerous policies regarding the protection of visual resources, including several policies specific to development in designated highly scenic areas, and several policies specific to development in the Rural Village of Albion. LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas must be considered and protected by requiring that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. Additionally, LUP Policy 3.5-1 requires that in highly scenic areas, new development must be subordinate to the character of its setting.

LUP Policy 3.5-3 similarly requires that new development located within areas designated highly scenic must be subordinate to the character of its natural setting and requires any development permitted in these areas to provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. Coastal Zoning Code (CZC) Section 20.504.015 reiterates these requirements. LUP Policy 3.5-4 and CZC Section 20.504.015 sets forth further development criteria intended to minimize the visual impact of development on hillsides and ridges.

Furthermore, LUP Policy 3.5-2 and CZC Section 20.388.060 require special protection for several communities designated as Coastal Rural Village (CRV), including the village of Albion. CZC Section 20.388.060 requires that development in the Rural Village of Albion be subject to the development criteria set forth in CZC Section 20.504.020(C), which requires, in part, that the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.

The LCP policies and standards governing the protection of visual resources at the site which is located just below a ridgeline in a designated highly scenic area and within the rural village of Albion require conformance with a number of visual criteria, including criteria related to: (1) minimizing the impacts of development on ridge; (2) ensuring the scale of new development is within the scope and character of existing development in the surrounding neighborhood; (3) minimizing landform alteration; (4) utilizing tree planting to screen development; (5) utilizing appropriate building materials, colors, and lighting; (6) protecting views to and along the coast; (7) minimizing the impacts of development on hillsides; and (8) ensuring the development is visually compatible with and subordinate to the character of its setting. The project's consistency with these criteria is discussed below. For the reasons discussed below, the Commission finds that the development as conditioned is consistent with both the LUP policies and zoning standards affecting development within highly scenic areas and the LUP policies and zoning standards affecting development within the rural village of Albion.

1. Minimize Impacts of Development on Ridges

The subject site is an approximately one-acre, steeply sloping parcel located near the top of an east-west trending ridge above the Albion River in a designated highly scenic area. LUP Policy 3.5-4 and CZC Section 20.504.015(C) require that buildings within a designated highly scenic area shall be sited below rather than on a ridge, and that the visual impact of development on ridges be minimized, in part, by prohibiting development that projects above the ridgeline, and by prohibiting removal of tree masses which destroy the ridgeline silhouette.

The County's LCP does not contain a specific definition of "ridge" or "ridgeline" in a manner that would clarify whether, for purposes of visual impact analysis, the ridgeline is to be limited to the topographic slope of the ground, or whether defining a ridgeline is to be inclusive of existing trees and other structures that may rise above the topographic slope of a ridge. However, LUP Policy 3.5-4 and subsection (8)(c) of CZC Section 20.504.015(C) set forth specific criteria for development on ridges, and specifically prohibit the removal of tree masses "which destroy the ridgeline silhouette," thereby suggesting that existing trees are to be considered in defining the ridgeline for purposes of visual impact analysis.

As described above, the applicants amended the project description for purposes of the Commission's *de novo* review of the project in a manner that would site the proposed residence an additional five feet downslope from the eastern property line, reduce the pitch of the roof, and reduce the overall height of the structure by approximately three feet. The applicants installed story poles at the subject site to delineate the perimeter and height of the proposed residence as revised for purposes of *de novo* review.

Based on a site visit to view the revised story poles, Commission staff determined that although the proposed residence would rise above the topographic ridgeline such that a portion of the residence would be set against the background of open sky, the structure would not project any higher than existing trees, or other structures that define the ridgeline in this location. Specifically, a large mass of trees and a sloped roof of an existing residence form the silhouette of the peak of the ridge to the northeast of the project site. Additionally, three other residences located above the ridge at its peak to the north of the subject site are visible from Highway One (see Exhibit No. 12). The ridgeline silhouette downslope from this point is largely defined by an approximately 25-foot-tall pine tree located in the northwest corner of the subject property, followed by another large cluster of mature trees located further downslope to the southeast of the subject site. As viewed from southbound Highway One, the proposed residence would be sited, and the roofline designed, in a manner such that it would not project above the ridgeline, inclusive of the existing trees, consistent with the requirements of LUP Policy 3.5-4 and CZC Section 20.504.015(C)(5)(b) requiring buildings in highly scenic areas to be sited below rather than on a ridge.

As noted above, the existing mature tree located in the northwest corner of the project site is a significant defining element of the ridgeline in this location and provides a screening backdrop to the proposed residence as viewed from southbound Highway One. As such, the applicants propose to protect this tree in perpetuity and propose that in the event that this tree becomes

diseased or dies, it would immediately be replaced with a tree of the same species. Additionally, the proposed landscape plan includes planting an additional shore pine near the southeast corner of the property that would, over time as the tree matures, contribute to the ridgeline silhouette, thereby further softening the view of the residence along the ridgeline. Therefore, to ensure that the applicants implement the landscaping concept as proposed, and to ensure that the final plan includes provisions specific to ensure appropriate planting and maintenance of the landscaping and existing vegetation at the site, the Commission attaches Special Condition No. 1. Special Condition No. 1 requires the applicants to submit a final landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that substantially conforms to the proposed landscape concept plan included as Exhibit No. 5, but is revised to include provisions that (i) prohibit limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan, or planting of vegetation that would block public ocean views from Albion Ridge Road unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning or additional planting; (ii) require all plantings and all existing trees on the parcel be maintained in good growing condition throughout the life of the project to ensure continued compliance with the landscape plan and that if any of the existing trees or any of the trees and plants to be planted according to the plan die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height; (iii) require all proposed plantings be obtained from local genetic stocks and of native, non-invasive species, and (iv) prohibit the use of certain rodenticides. Special Condition No. 1 also requires the revised landscaping plan to include a schedule for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; and a map showing the type, size, and location of all plant materials that will be retained and installed on the developed site, the irrigation system, and a delineation of the approved development and all other landscape features.

Therefore, as conditioned, the Commission finds that the proposed project is consistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C)(5) & (8), as the development would (1) be sited below rather than on a ridge in a manner that would prevent the development from projecting above the ridgeline, and (2) not result in the removal of tree masses in a manner that would destroy the ridgeline silhouette.

2. Scale of New Development in the Surrounding Neighborhood

LUP Policy 3.5-2 provides special protection for particular communities along the Mendocino coast, including the designated Rural Village of Albion. CZC Section 20.388.060 requires that development in the Rural Village of Albion be subject to the criteria of CZC Section 20.504.020. CZC Section 20.504.020(C) sets forth specific development criteria as a means of protecting the visual quality of Albion and requires, in part, that the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.

As noted above, the subject property is the last remaining undeveloped parcel in the Rural Village zoning district of Albion. The proposed development involves the construction of a 25'-8"-high, approximately 2,115-square-foot residence with an attached 658-square-foot garage and associated residential development. The proposed residence would be sited just below the ridge above the clustered residential development that comprises the majority of the rural hillside village of Albion. The subject site within the Rural Village zoning district borders an area of parcels in the Rural Residential zoning district that extend along Albion Ridge Road to the east of the subject parcel. As cited above, the LCP affords special protection to the Rural Village of Albion. Although located within the Rural Village zoning district, the subject parcel is situated on the hillside adjacent to the Rural Residential zoning district above the site to the east. Thus, the existing development in both of these surrounding neighborhoods contributes to the character of the proposed development's setting. Existing residences in the Rural Residential zoning district that are visible from Highway One form a portion of the backdrop of the proposed development while existing residences lower on the hillside in the Rural Village zoning district dominate the foreground of the viewshed as seen from the highway.

CZC Section 20.504.020(C) requires, in part, that the scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood. One measure of a structure's "bulk" is its overall size. According to information obtained by the County from the County assessor's office, the average size of a sampling of seven surrounding residences is approximately 2,000 square feet. These seven surrounding homes include several in the Rural Village District and several in the Rural Residential District. The three homes in this area that have been granted coastal development permits by the County since certification of the LCP in 1992 are all within the Rural Residential District and range in size from approximately 1,700 square feet to approximately 2,400 square feet (including garages). In general, the homes in the Rural Village District are somewhat smaller than the homes in the Rural Residential District.

For purposes of the Commission's *de novo* review, the applicants also revised the proposed project to reduce the total size of the residence from 3,551 square feet to 2,773 square feet (including garage). The proposed residence would be larger than the average of the seven surrounding homes and even larger still than the surrounding homes that are located in the Rural Village zoning district. However, the perceivable bulk of the structure from southbound Highway One has been minimized by reducing the width of the southwest end of the west-facing elevation by ten feet (from 64 feet to 54 feet) and by scaling back the prominent architectural features of the west-facing façade (see Exhibit Nos. 8 & 3). In addition, other features of the structure that contribute to perceived bulk including the number of stories, overall form, and roof style of the house are generally in keeping with the architecture of the existing structures within the Rural Village District. Many of the homes in the rural village district are also two story, all of the homes have similarly pitched roofs, and the overall form or shape of the proposed house is similar to the existing homes. As a result, the perceived bulk of the structure from southbound Highway One is similar to the perceived bulk of other structures within the Rural Village district.

For purposes of the Commission's *de novo* review, the applicants also revised the proposed project to reduce the overall height of the residence from 27'-4" to 25'-8" and to reduce the pitch of the roofline from 8:12 to 6 ½ :12 to further minimize the visual prominence of the structure relative to the surrounding development and to prevent the residence from projecting above the ridgeline, as discussed above. CZC Section 20.388.040 establishes a 35-foot building height limit for the RV district. The proposed 25'-8"-high residence would be consistent with the height limit established for the rural village. As also discussed above, the applicants amended the proposed development to site the residence an additional five feet downslope from the eastern property boundary to further reduce the perceived height of the residence as viewed from Highway One.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-2 and CZC Section 20.504.020(C)(1), as the scale, including the height and bulk of the proposed residence, would be within the scope and character of existing development in the surrounding neighborhood.

3. Landform Alteration

LUP Policies 3.5-1 and 3.5-4 and CZC Sections 20.504.015(C) (6)(c) and 20.504.020(D) require that new development in highly scenic areas and in the Rural Village of Albion minimize the alteration of natural landforms. The proposed residence has been sited and designed to follow the natural contour of the sloped site (see project elevations in Exhibit No. 3). Construction of the proposed residence would require creating a cut slope to integrate the lower level of the residence into the hillside. However, the proposed grading would not alter or destroy the appearance of the natural topography of the site beyond the introduction of a new residence to the existing developed hillside.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policies 3.5-1 and 3.5-4 and CZC Sections 20.504.015(C) (6)(c) and 20.504.020(D) because the proposed development would not involve the alteration of natural landforms.

4. Utilizing Tree Planting to Screen Development

LUP Policy 3.5-5 encourages tree planting to screen buildings provided that the trees would not block coastal views from public areas. The applicants have proposed a conceptual landscaping plan that includes planting additional vegetation to screen portions of the development as viewed from southbound Highway One and to maintain the tree line silhouette of the ridge. In particular, the proposed landscaping plan would partially screen the lower portion of the residence as viewed from the highway by planting native shrubs along an approximately 80-foot-long, 8"-high berm located on the slope in front of the residence across nearly the entire width of the parcel. To protect and enhance the silhouette of the ridgeline, the landscaping plan proposes to protect, in perpetuity, the existing pine tree in the northeast corner of the site that forms a portion of the ridgeline silhouette and creates a backdrop for the northeast portion of the house. The proposed landscaping plan also includes planting an additional tree in the southeast corner of

the site to further enhance the ridgeline silhouette as viewed from the highway. These trees would not significantly affect coastal views from Albion Ridge Road or other public vantage points.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-5, as the proposed project includes landscaping to screen the proposed residence in a manner that would not block coastal views from public areas.

5. Building Materials, Colors, and Lighting

LUP Policy 3.5-3 and CZC Section 20.504.015(C)(3) require that new development in highly scenic areas minimize reflective surfaces. CZC Section 20.504.015(C)(3) further requires that in highly scenic areas, building materials shall be selected to blend in hue and brightness with their surroundings. Additionally, LUP Policy 3.5-15 and CZC Sections 20.504.035 and 20.504.020(C)(4) set forth standards for exterior lighting.

As noted in the project description finding, the applicants propose to use earthtone colors for the exterior of the residence and accessory pumphouse. Specifically, the proposed residence would include light brown siding, hunter green trim, and weathered wood composition shakes.

Existing residences in the clustered Rural Village on the hillside below the project site vary from neutral earth tones to bright colors including blue, red, and yellow, which create an element of uniqueness to the visual character of the village. The homes near the top of the ridge and along Albion Ridge Road near the subject site are comprised of more earthtone colors and materials, including a weathered wood residence located directly behind the subject parcel. Because the project site sits near the top of the ridge and is geographically removed from the clustered development of the remainder of the village on the hillside below, choosing a brighter color consistent with some of the homes in the village would cause the proposed residence to be more visually prominent in a manner that would not blend with its surroundings. The proposed light brown and hunter green colors would cause it to blend in hue and brightness with the colors of the surrounding landscape, including the light brown grassy hillside and the dark green pine trees. The Commission and the County commonly require new development in highly scenic areas of the Mendocino coast to be comprised of *dark* earth tone colors. However, at this particular site, the proposed light brown siding would be more compatible with the light brown shade of the grassy hillside than darker colored siding. Therefore, the Commission attaches Special Condition No. 2(A) to ensure that only the proposed building materials and colors are used in the construction of the development. The Commission finds that if the applicant or future owner(s) choose to change the materials or colors of the residence to brighter, non-earth tone colors or materials, the development may no longer blend in hue and brightness with its surroundings and could create an adverse visual impact as viewed from the highway. Thus, Special Condition No. 2(A) further requires that the current owner or any future owner shall not repaint or stain the house or other approved structures with products that would change the color of the house or other approved structures from the approved earth tone colors without an amendment to this permit.

As proposed, the west-facing elevation as viewed from Highway One does not contain a significant amount of glass. The upper story of the west façade includes one set of 7-foot-high French doors, two large windows, and several smaller windows that would be visible from the highway. The windows on the lower story would be largely screened by existing and proposed vegetation and landscaping. To ensure that the proposed development does not result in increased glare as viewed from the highway, Special Condition No. 2(A) also requires that all exterior materials, including roofs and windows be comprised of material that is not reflective. To further minimize potential glare from any exterior lighting, Special Condition No. 2(B) requires that all exterior lights be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward such that no light will shine beyond the boundaries of the subject parcel.

Furthermore, Special Condition No. 3 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including restrictions on colors, materials, and lighting. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

Therefore, the Commission finds that as conditioned, the proposed project is consistent with LUP Policies 3.5-3 and 3.5-15 and CZC Sections 20.504.015(C)(3) and 20.504.035, as (1) building materials and colors would blend in hue and brightness with their surroundings, (2) reflective surfaces would be minimized, and (3) exterior lighting would be designed to minimize glare and not shine beyond the boundaries of the parcel.

6. Protecting Views To and Along the Coast

LUP Policies 3.5-1 and 3.5-3 and CZC Sections 20.504.015(C)(1) and 20.504.020(C)(2) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas from public areas including highways and roads.

The subject parcel is geographically situated such that the proposed residential development would not significantly affect views to the ocean from public areas including highways, roads, coastal trails, beaches, or coastal streams. As described above, the subject site is located on the east side of Highway One and therefore, the proposed development would not obstruct any views to or along the coast between the highway and the ocean. Additionally, the subject site is not visible from the beach or visitor-serving campground facilities located along the Albion River below the site.

Minimal views of the ocean are afforded across the site from Albion Ridge Road, a public road that extends east-west adjacent to the southern property boundary and intersects with Highway One approximately ¼ mile west of the site. Views of the ocean from this road are largely obstructed by existing pine trees located along the extent of the southern property line adjacent to the road. The

applicants propose to install 5-foot-high wire mesh fencing with native vines along the western, northern, and eastern property lines and a 3 ½ -foot-high wire fence with native vines along the southern property line. This shorter fence along the southern boundary would not block glimpses of the ocean across the site as viewed by the public traveling westbound on Albion Ridge Road.

Therefore, the Commission finds that the proposed development, as conditioned, would not result in significant adverse impacts to public views to and along the ocean and scenic coastal areas consistent with the provisions of LUP Policy 3.5-1 and 3.5-3, and CZC Sections 20.504.015(C)(1) and 20.504.020(C)(2).

7. Minimize Impacts of Development on Hillsides

As discussed above, the project site is a steeply sloping parcel located near the top of Albion ridge. The proposed residence would be sited below the ridgeline on the sloping hillside above the cluster of hillside residences that define the village of Albion. LUP Policy 3.5-4 and CZC Section 20.504.015(C)(6) set forth development criteria to minimize the visual impact of development on hillsides within highly scenic areas by (a) requiring grading or construction to follow the natural contours; (b) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (c) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (d) concentrating development near existing major vegetation, and (e) promoting roof angles and exterior finish which blend with hillside.

The proposed residence has been designed to follow the natural contour of the sloped site (see project elevations in Exhibit No. 3). Construction of the proposed residence would require grading to create a cut slope to integrate the lower level of the residence into the hillside. However, the proposed grading would not alter or destroy the appearance of the natural topography of the site beyond the introduction of a new residence to the existing developed hillside. Additionally, the proposed residence has been sited toward the northeastern corner of the site to utilize the screening effect of existing vegetation, including the approximately 25-foot-high pine tree in the northeast corner of the site, and the existing cluster of vegetation located downslope and in front of the proposed residence to help soften the development as viewed against the hillside. As revised for purposes of the Commission's *de novo* review, the width of the west-facing elevation of the residence was reduced by eliminating ten feet from the southeast portion of the house (from 64 feet to 54 feet) to minimize the amount of structure that would be sited in the most exposed portion of the site, thereby concentrating the development toward existing major vegetation.

Furthermore, as revised for *de novo* review, the pitch of the roof was reduced from 8:12 to 6 ½ :12 to more effectively blend the visual angles of the residence with the slope of the hillside. As discussed in more detail above, the applicants propose to use earthtone colors of light brown and hunter green for the exterior of the structures to further ensure that the development would blend with the dominate colors of the naturally vegetated hillside.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with the development criteria of LUP Policy 3.5-4 and CZC Section 20.504.015(C)(6) to minimize the visual impact of development on hillsides, as the development would (1) follow natural contours and not result in the destruction of natural landforms, (2) be concentrated near existing major vegetation, and (3) be designed such that the roof angles and exterior finish would blend with the hillside.

8. Visually Compatible with and Subordinate to the Character of its Setting

LUP Policies 3.5-1 and 3.5-3, and CZC Section 20.504.015 and 20.504.020 require that new development in highly scenic areas be visually compatible with and subordinate to the character of its setting. In addition, LUP Policy 3.5-5 states that tree planting to screen buildings shall be encouraged. Furthermore, CZC Section 20.504.010 states that permitted development shall be sited and designed to minimize the alteration of landforms. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that in highly scenic areas, building materials, including siding and roof materials, shall be selected to blend in hue and brightness with their surroundings.

Several aspects of the proposed project, as conditioned, would cause the development to be visually compatible with and subordinate to the character of its setting. As discussed in detail above, the proposed development would (1) be within the scope and character, including bulk and height, of existing development of the surrounding neighborhood, (2) not project above the ridgeline, and (3) be sited and designed to fit with the natural contour of the hillside to minimize alteration of natural landforms and utilize existing vegetation to screen and soften the visual impact of the development. Additionally, as also discussed in detail above, the development, as conditioned, would utilize exterior materials of neutral earth tone colors that would blend with the surrounding vegetated landscape and minimize reflective surfaces in a manner that would cause the development to be visually compatible with and subordinate to the character of its setting.

Furthermore, the applicant proposes a landscaping plan that includes planting additional vegetation to screen portions of the development as viewed from southbound Highway One and to maintain the tree line silhouette of the ridge. In particular, the proposed landscaping plan would partially screen the lower portion of the residence as viewed from the highway by planting native shrubs along an approximately 80-foot-long, 8"-high berm located on the slope in front of the residence across nearly the entire width of the parcel. To protect and enhance the silhouette of the ridgeline, the landscaping plan proposes to protect, in perpetuity, the existing pine tree in the northeast corner of the site that forms a portion of the ridgeline silhouette and creates a backdrop for the northeast portion of the house. The proposed landscaping plan also includes planting an additional tree in the southeast corner of the site to further enhance the ridgeline silhouette as viewed from the highway. The proposed landscaping would further cause the development to be visually compatible with and subordinate to the character of its setting. Therefore, to ensure that the applicants implement the landscaping concept as proposed, and to ensure that the final plan includes provisions specific to ensure appropriate planting and maintenance of the landscaping and existing vegetation at the site, the Commission attaches

Special Condition No. 1. Special Condition No. 1 requires the applicants to submit a final landscaping plan for the review and approval of the Executive Director prior to issuance of the permit amendment that substantially conforms to the proposed landscape concept plan included as Exhibit No. 5, but is revised to include provisions that (i) prohibit limbing or pruning of the visually screening trees already existing or planted pursuant to the approved landscaping plan, or planting of vegetation that would block public ocean views from Albion Ridge Road unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning or additional planting; (ii) require all plantings and all existing trees on the parcel be maintained in good growing condition throughout the life of the project to ensure continued compliance with the landscape plan and that if any of the existing trees or any of the trees and plants to be planted according to the plan die or are removed for any reason, they shall be immediately replaced in-kind or with other native non-invasive species common to the area that will grow to a similar or greater height; (iii) require all proposed plantings be obtained from local genetic stocks and of native, non-invasive species, and (iv) prohibit the use of certain rodenticides. Special Condition No. 1 also requires the revised landscaping plan to include a schedule for the installation of the landscaping demonstrating that all landscape planting shall be completed prior to occupancy; and a map showing the type, size, and location of all plant materials that will be retained and installed on the developed site, the irrigation system, and a delineation of the approved development and all other landscape features.

As discussed above, the applicant proposes to utilize earth tone colors in the construction of the proposed amended residence including light brown siding and hunter green trim. The proposed exterior building materials and colors would be subordinate to the natural setting, and would blend in hue and brightness with their surroundings consistent with Coastal Zoning Code Section 20.504.015(C)(3). The Commission finds that if the applicant or future owner(s) choose to change the materials or colors of the residence to brighter, non-earth tone colors or materials, the development may no longer be subordinate to the natural setting and may become increasingly visible from public vantage points. To ensure that the exterior building materials and colors used in the construction of the development as proposed to be amended are compatible with natural-appearing earth tone colors that blend in hue and brightness with their surroundings as proposed, the Commission attaches Special Condition No. 2(A), which requires that all exterior siding and visible exterior components be comprised of earth tone colors as proposed and that the current owner or any future owner shall not repaint or stain the house or other approved structures with products that would change the color of the house or other approved structures from the approved earth tone colors without an amendment to this permit. Special Condition No. 2(A) also requires that all exterior materials, including roofs and windows, be non-reflective to minimize glare that could result in an adverse visual impact as viewed from Highway One if the building materials were reflective in nature. Additionally, Special Condition No. 2(B) requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel.

The Commission finds that while the proposed project as conditioned would not result in significant adverse visual impacts, future development or further improvements to the residence at the site could result in potential adverse visual impacts if such new development or

improvements are not properly sited and designed. The Commission further notes that Section 30610(a) of the Coastal Act and Chapter 20.532.020(C) of the County's Coastal Zoning Code exempt certain improvements to single-family residences from coastal development permit requirements. Pursuant to this exemption, once a residence has been constructed, certain improvements that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, in this case because the project site is located within a highly scenic area, future improvements to the approved project would not be exempt from permit requirements pursuant to Section 30610(a) of the Coastal Act and Section 13250 of the Commission's regulations. Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations. Section 13250 specifically authorizes the Commission to require a permit for improvements to existing single-family residences that could involve a risk of adverse environmental effect.

In addition, Section 13250(b)(1) indicates that improvements to an existing single-family residence in an area designated as highly scenic in a certified land use plan involve a risk of adverse environmental effect and therefore, are not exempt. As discussed previously, the entire subject property is within an area designated in the certified Mendocino Land Use Plan as highly scenic. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, Special Condition No. 7 expressly states that any future improvements to the single-family residence would require a coastal development permit such that the County and the Commission would have the ability to review all future development on the site to ensure that future improvements would not be sited or designed in a manner that would result in an adverse environmental impacts.

Furthermore, to ensure that any future buyers of the property will be aware of the limitations of Special Condition Nos. 1 and 2 regarding landscaping and design restrictions such that the development would continue to be visually compatible with and subordinate to the character of its setting for the life of the project, the Commission imposes Special Condition No. 3. This condition requires that the applicants execute and record a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

Therefore, the Commission finds that as conditioned, the proposed development would be visually compatible with and subordinate to the character of its setting as required by LUP policy 3.5-1, 3.5-3, 3.5-4, and CZC Section 20.504.015 and 20.504.020(D) because the proposed residential development would (1) be within the scope and character, including bulk and height, of existing development of the surrounding neighborhood, (2) not project above the ridgeline, (3) be sited and designed to fit with the natural contour of the hillside to minimize alteration of natural landforms, (4) utilize existing vegetation and provide additional landscaping to screen the development, (5) utilize exterior materials of earth tone colors that would blend with the

surrounding vegetated landscape, and (6) minimize reflective surfaces and glare from building materials and exterior lighting.

Conclusion

Therefore, for all of the reasons discussed above, the Commission finds that the proposed project, as conditioned, is consistent with the policies of the certified LCP regarding (1) new development in highly scenic areas, including LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Section 20.504.015, and (2) the visual protection of the Rural Village of Albion, including LUP Policy 3.5-2 and CZC Section 20.504.020.

6. Water Quality

Summary of LCP Provisions

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

Coastal Zoning Code Section 20.492.020(B) incorporates sedimentation standards and states in applicable part:

- (B) To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- (C) Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*

Discussion

LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. CZC Section 20.492.020 sets forth sedimentation standards to minimize sedimentation of off-site areas. Specifically, CZC Section 20.492.020(B) requires that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation. CZC Section 20.492.020(C) suggests the use of temporary mechanical methods as a means of controlling sedimentation.

The proposed project involves the construction of a 2,115-square-foot single-family residence, an attached 658-square-foot garage and associated residential development. As discussed previously, the subject parcel is located near the top of a ridge above the Albion River. Runoff originating from the development site that is allowed to drain down the hillside toward the river could contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of coastal waters. As the parcel proposed for residential development does not currently contain any developed impervious surfaces, the majority of stormwater at the site infiltrates prior to leaving the site as surface runoff. However, the increase in impervious surface area from the proposed development would decrease the infiltrative function and capacity of the existing permeable land on site. The reduction of permeable surface area would lead to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Sediment and other pollutants entrained in stormwater runoff from the development that is carried down the hillside toward the Albion River would contribute to degradation of the quality of coastal waters and any intervening sensitive habitat. Other than removing vegetation from within the building envelope, the applicants propose to retain the majority of the site in its natural, vegetated condition and to plant additional landscaping throughout the site, which would continue to allow for infiltration of stormwater, thereby greatly reducing the potential that runoff from the completed development would affect coastal waters. Additionally, the applicants propose to use semi-pervious materials for construction of the driveway and to construct a vegetated bio-swale downslope from the proposed residence. The proposed semi-pervious driveway surface and the vegetated bio-swale would provide filtration of stormwater runoff and further minimize the amount of stormwater runoff that would potentially leave the site.

Therefore, sedimentation impacts from runoff would be of greatest concern during construction. Construction of the proposed development would expose soil to erosion and entrainment in runoff, particularly during the rainy season. To ensure that best management practices (BMPs) are implemented to control the erosion of exposed soils and minimize sedimentation of coastal waters during construction, the Commission attaches Special Condition No. 4. This condition requires the implementation of Best Management Practices (BMPs) to control erosion and sedimentation during and following construction. These required BMPs include (a) disposing of any excess excavated material resulting from construction activities at a disposal site outside the coastal zone or within the coastal zone pursuant to a valid coastal development permit; (b) installing straw bales, coir rolls, or silt fencing structures to prevent runoff from construction areas from draining down the hillside toward the Albion River, (c) maintaining on-site vegetation to the maximum extent possible during construction activities; (d) replanting any disturbed areas with native vegetation following project completion; and (e) covering and containing all on-site stockpiles of construction debris at all times to prevent polluted water runoff.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with Section 20.492.020 because erosion and sedimentation will be controlled and minimized. Furthermore, the Commission finds that the proposed development as conditioned is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained because stormwater runoff from the proposed development would be directed away from the hillside that drains to the Albion River.

7. Locating New Development

Summary of LCP Provisions

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in, or in close proximity to, existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for coastal development permits. The intent of the policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits.

Zoning Code Section 20.388.025 provides for one single-family dwelling per forty thousand (40,000) square feet for parcels not in a water or sewer service area located in the Rural Village zoning district.

Discussion:

The subject parcel is planned and zoned in the Land Use Plan and Coastal Zoning Code as Rural Village (RV). Coastal Zoning Code Section 20.388.010 allows single-family residential development as a principal permitted use in the RV zoning district. CZC Section 20.388.025 allows a development density of one single-family dwelling per forty thousand (40,000) square feet for parcels not in a water or sewer service area. The proposed project involves the construction of a single-family residence located in an area planned for single-family residential use. The subject parcel is approximately 0.92 acres, or 40,075 square feet and is not located within a water or sewer service area. Therefore, the proposed single-family residential use is consistent with the LUP and zoning designation for the site.

Development of the site as a single-family residence is envisioned under the certified LCP. The significant cumulative adverse impacts on traffic capacity of Highway One from development approved pursuant to the certified LCP were addressed at the time the LCP was certified. Therefore, as conditioned, the proposed single-family residence is located in an area able to accommodate traffic generated by the proposed development and would not result in adverse impacts to the traffic capacity of Highway One consistent with the applicable provisions of LUP Policy 3.8-1.

The proposed development would be served by an existing on site well that would be converted from a test well to a production well. The proposed project includes the installation of a septic system, including a primary and replacement leachfield. During the County's review of the

project prior to it being appealed to the Commission, the Mendocino County Division of Environmental Health (DEH) commented that although DEH could give clearance to the permit, *“on 8/10/06, the septic work will be 5 years old and will have to be re-reviewed by the designer per the sunset policy.”* Therefore, there is evidence to suggest that because DEH had given clearance to a septic system previously for single-family residential development at the site, approval by DEH could be expected for the currently proposed project, which involves a smaller single-family residence at the site, assuming the applicants update the septic work for review and approval by DEH. To ensure that the proposed septic system has been reviewed and approved by Mendocino County DEH, the Commission attaches Special Condition No. 5 requiring the applicant to submit evidence of approval of the proposed septic system from DEH prior to issuance of the coastal development permit, or evidence that no further review and approval is required by DEH for installation of the proposed septic system.

As discussed above, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts. Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.9-1, 3.8-1, and with Zoning Code Section 20.388.025, because (1) there will be only one residential unit on the parcel, (2) there would be adequate services on the site to serve the proposed development, and (3) the project would not contribute to adverse cumulative impacts on highway capacity, scenic values, water quality, or other coastal resources.

8. California Environmental Quality Act

Mendocino County is the lead agency for purposes of CEQA review. The County determined that the proposed project is categorically exempt (Class 3) from CEQA requirements.

Section 13096 of the Commission’s administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act, the proposed project has been conditioned to be found consistent with the certified Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any

significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Exhibits:

1. Regional Location Map
2. Vicinity Map
3. Proposed Project Plan & Exterior Elevations
4. Proposed Site Plan
5. Proposed Landscape Plan
6. Proposed Landscape Concept Elevations
7. County Approved Site Plan
8. County Approved Elevations
9. County Approved Floor Plan
10. Photo-simulation of County Approved Development prepared by Applicant
11. Photo of Homes in Albion Rural Village
12. Photos of Site from Albion River Bridge submitted by Applicant
13. Appeal (Commissioners Reilly & Shallenberger)
14. Appeal (Rixanne Wehren)
15. Notice of Final Local Action & County Findings

ATTACHMENT A

Standard Conditions:

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

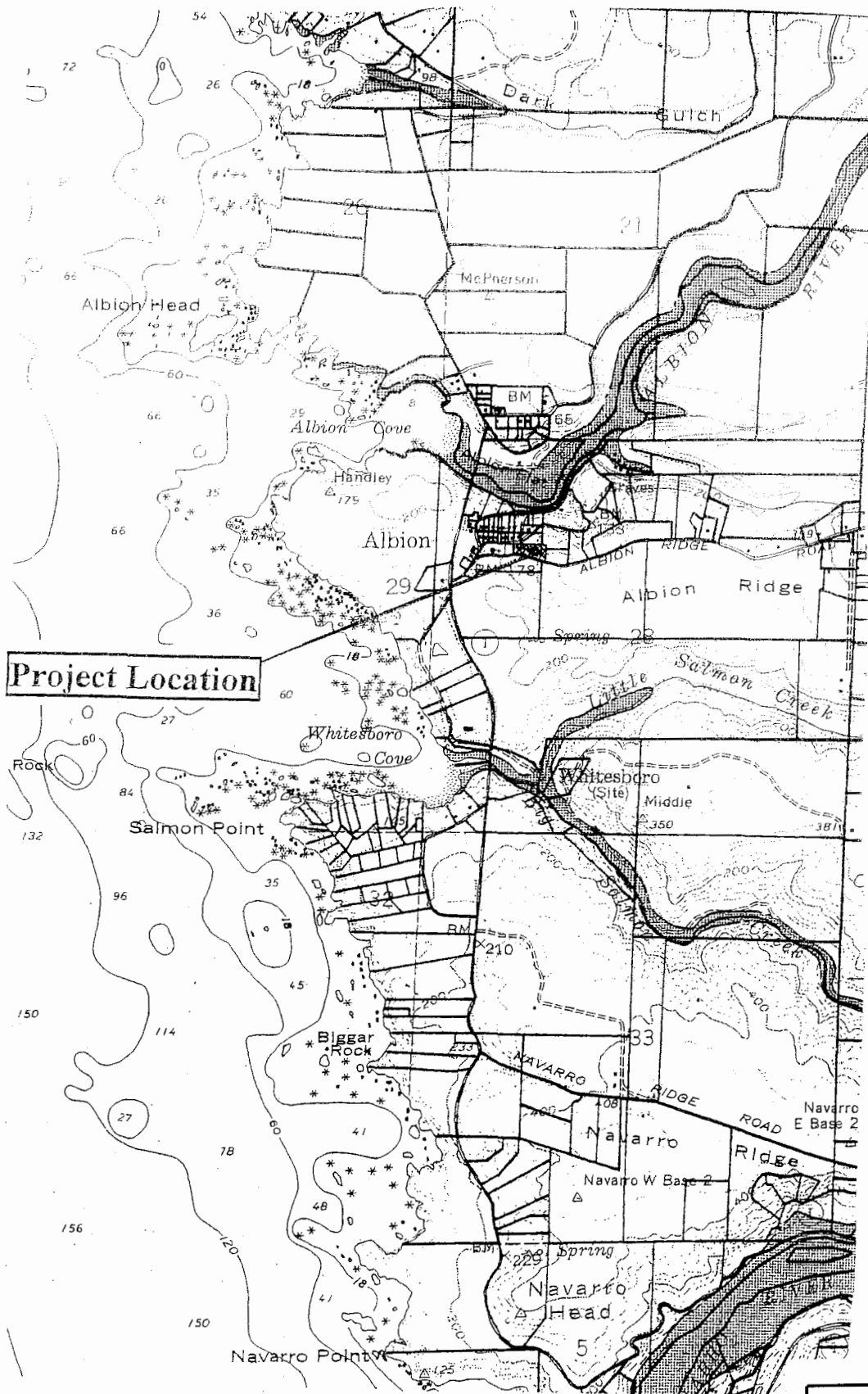


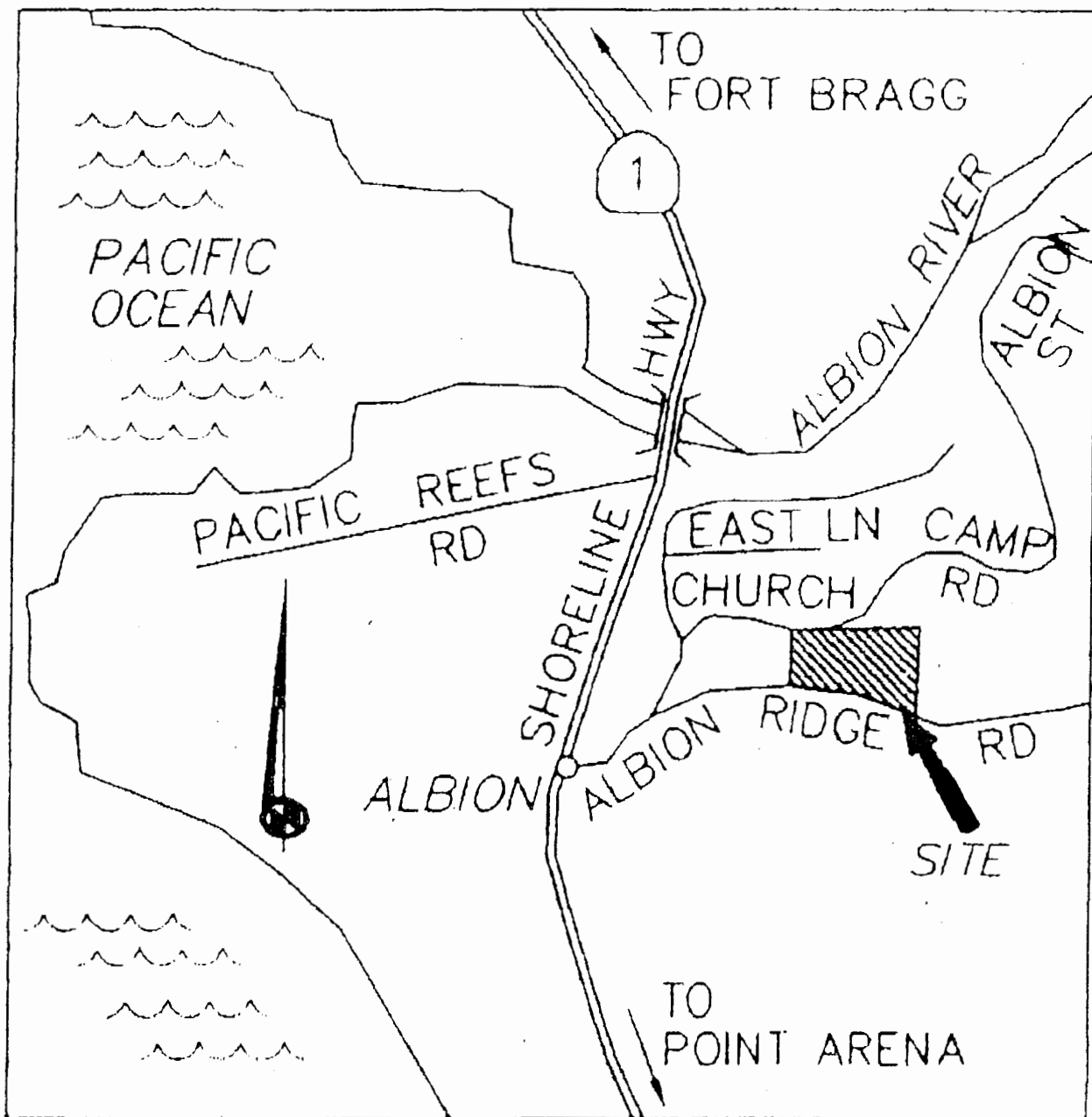
EXHIBIT NO. 1

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON
REGIONAL LOCATION MAP

EXHIBIT A



VICINITY MAP

N.T.S.

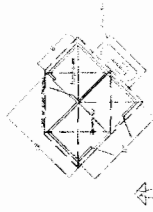
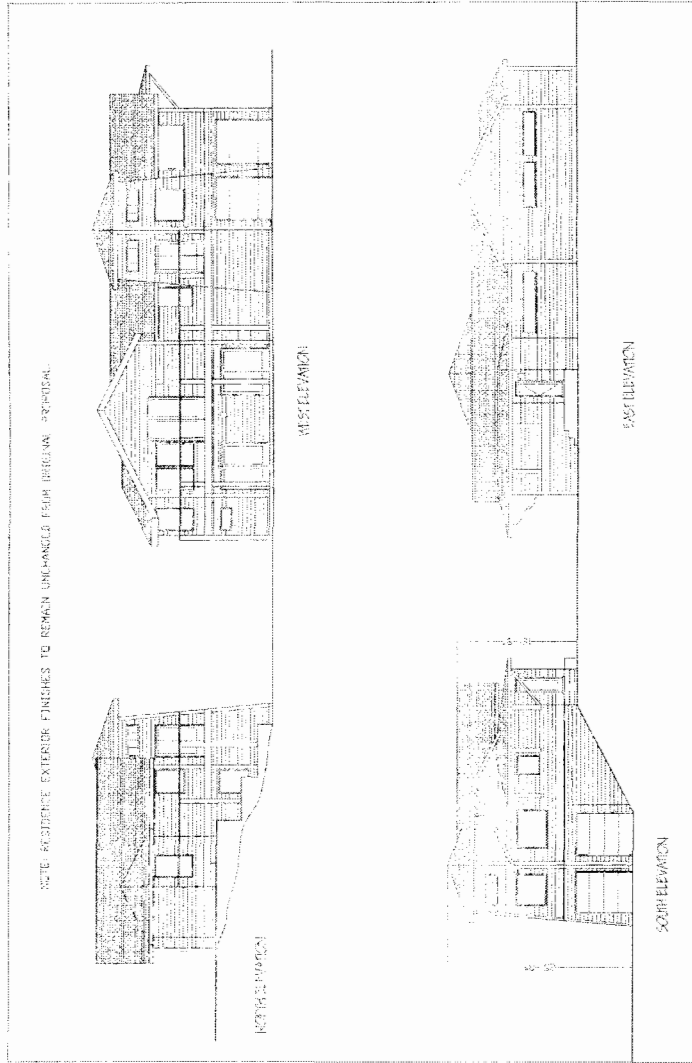
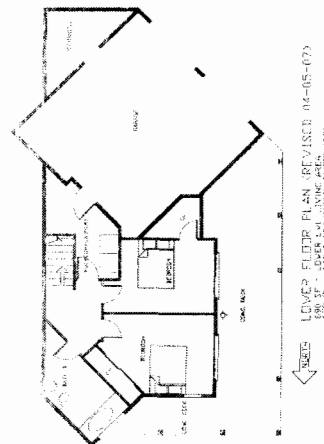
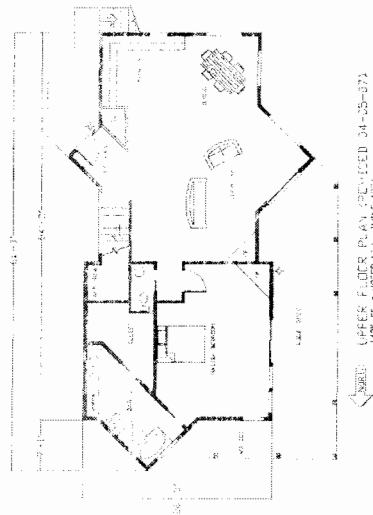
EXHIBIT NO. 2

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

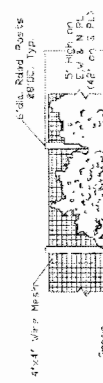
VICINITY MAP



NOTE: 1x4x8 Siding & Roofing to Match Residence

Scale 1/8" = 1'

Pumphouse & Fence
Are being Added to
Proposed Project



Detail of Perimeter Fence w/ Native Vines
(See Landscape Concept Pg. 3 for Location)

PLAN & EXTERIOR ELEVATIONS (REVISED 04-05-07)

PROJECT: New Residence for
ROBERT & SHARON ELLIOTT
33800 Albion Ridge Rd.
Albion, CA APN 123-170-190

EXHIBIT NO. 3

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

PROPOSED PROJECT PLAN
& EXTERIOR ELEVATIONS

SHEET

1 / 4

PROPOSED SITE PLAN

ELLIOTT, ROBERT & SHARON
PROPOSED LANDSCAPE
PLAN



A horizontal scale bar with tick marks at 0, 10, 20, and 30 miles. The text "SCALE BAR" is written vertically below the bar.

NATIVE GRASSES
1. Purple Needlegrass (*Navasota pulchra*). Seed and/or plugs

NATIVE SPORES
1. Honeyfruit canchulus (*Cantharellus cantharellus*) 1 or 6 Gal. containers
2. Coyote tooth (*Boletus schuleri*) 1 or 6 Gal. containers
3. Shaggy manureball (*Arctostaphylos manureball*) 1 or 6 Gal. containers

- TREES**
1. Shore Pine (*Pinus contorta*) 1 of 5 Gal. containers
2. Wax Myrtle (*Myrica asplenifolia*) 1 Gal. container

NOTE: TREES THAT HAVE BEEN KILLED OR DAMAGED WILL BE REPLACED WITH TREES OF SIMILAR SPECIES (SEE SPECIES LIST) IN A TIMELY FASHION.

Albion, CA APN 123-170-190

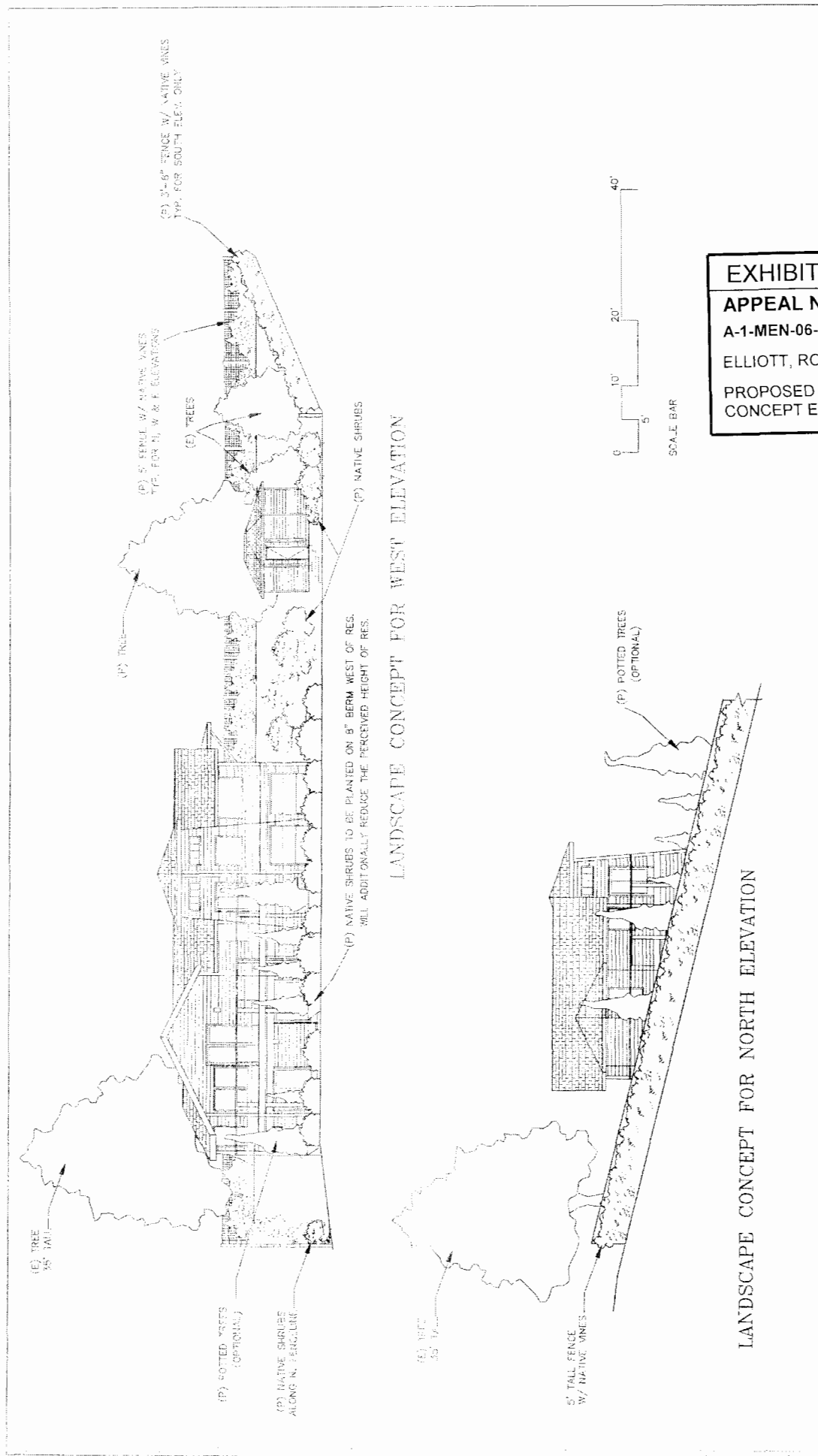


EXHIBIT NO. 6

APPEAL NO.
A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

PROPOSED LANDSCAPE
CONCEPT ELEVATIONS

LANDSCAPE CONCEPT ELEVATIONS (REVISED 04-05-07)

PROJECT: New Residence for
ROBERT & SHARON ELLIOTT
33800 Albion Ridge Rd.
Albion, CA APN 123-176-190

CDP 28-2006
November 20, 2006

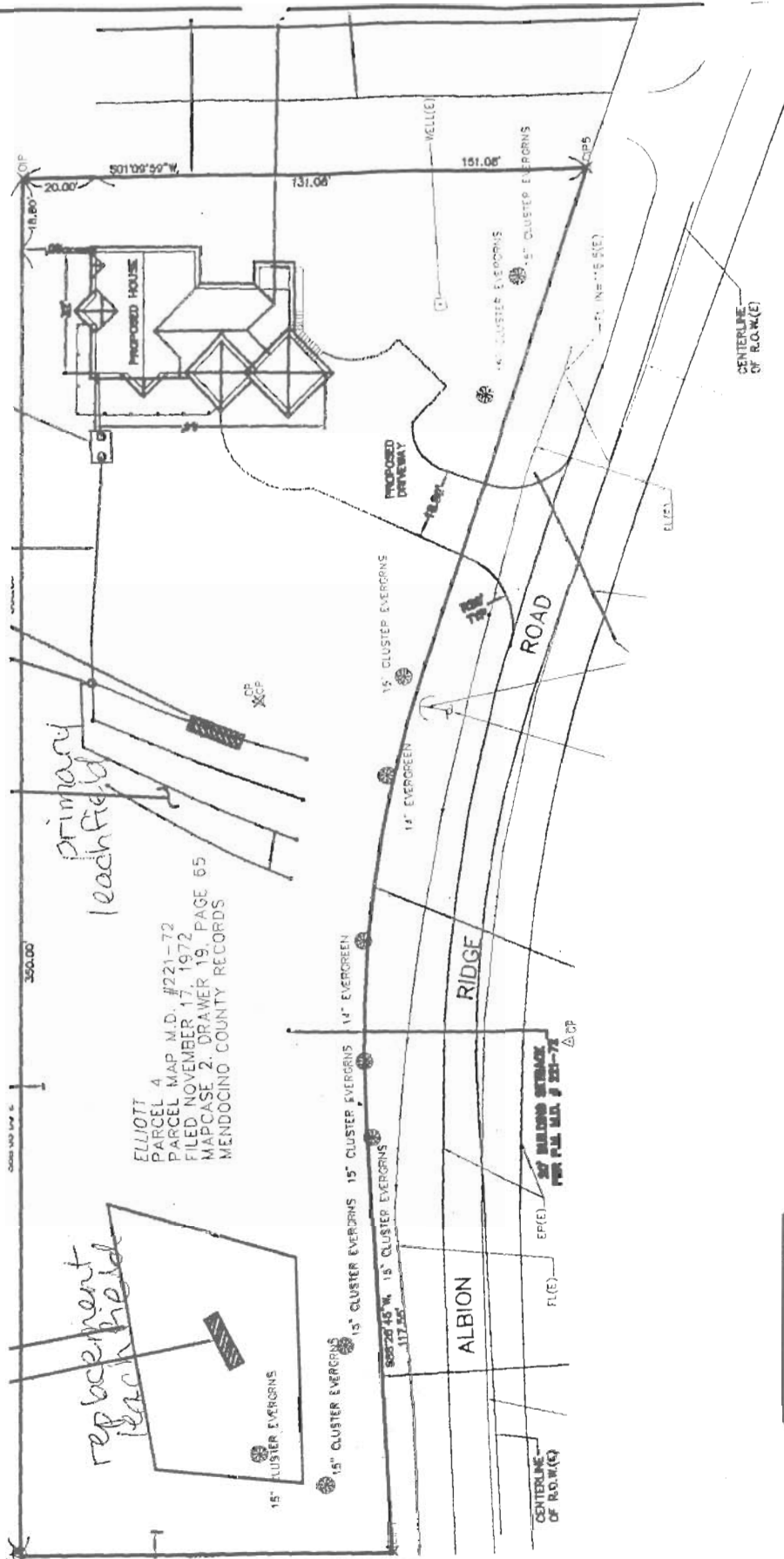


EXHIBIT NO. 7

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

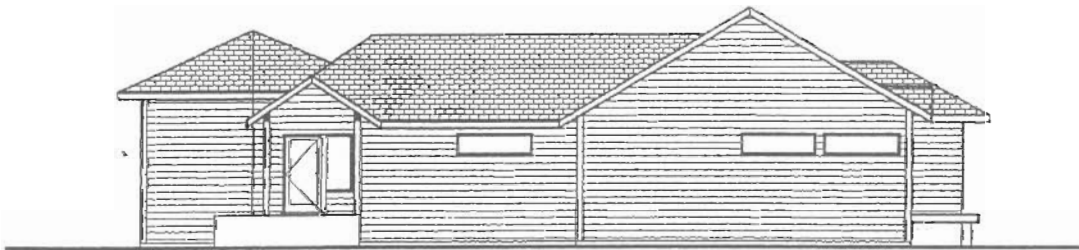
COUNTY APPROVED SITE
PLAN

EXHIBIT B

SITE PLAN



WEST ELEVATION - (Elevation visible from Hwy One)



EAST ELEVATION

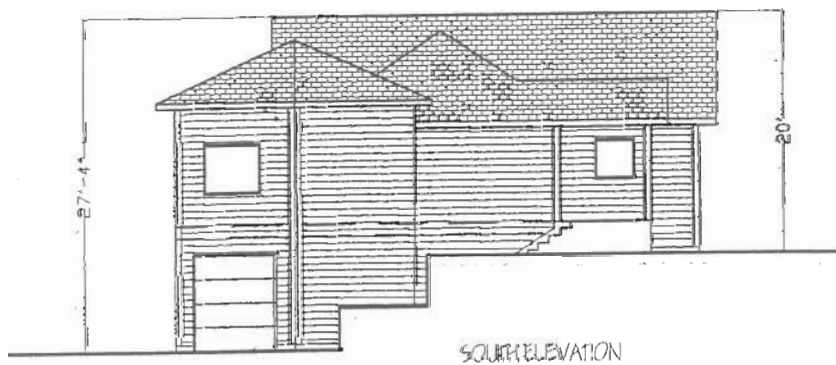
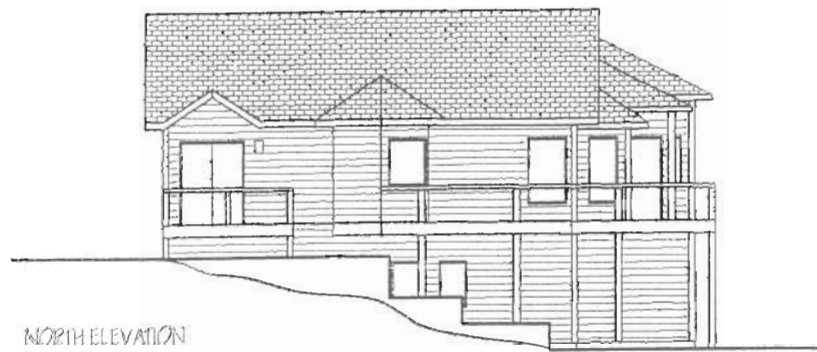
EXHIBIT NO. 8

APPEAL NO.

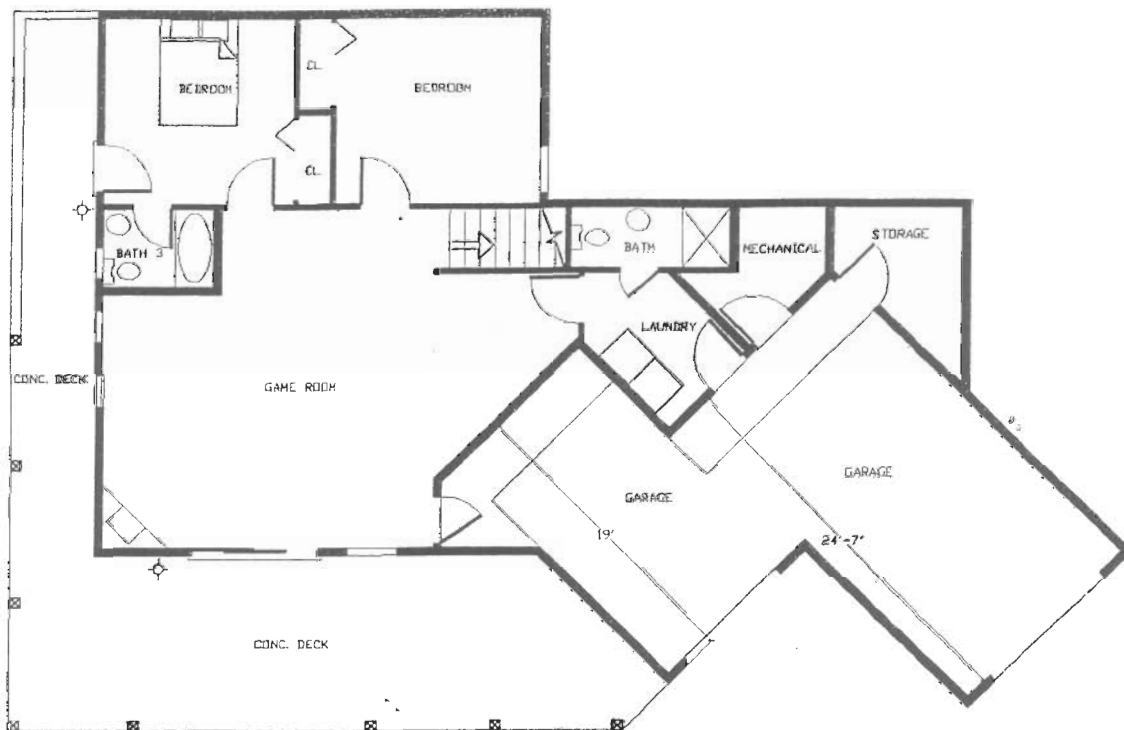
A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

COUNTY APPROVED
ELEVATIONS (1 of 2)



2 of 2



LOWER FLOOR PLAN
972 SF = LOWER LVL LIVING AREA
790 SF = GAR/MECH/STORAGE FLOOR AREA

EXHIBIT NO. 9

APPEAL NO.

A-1-MEN-06-047

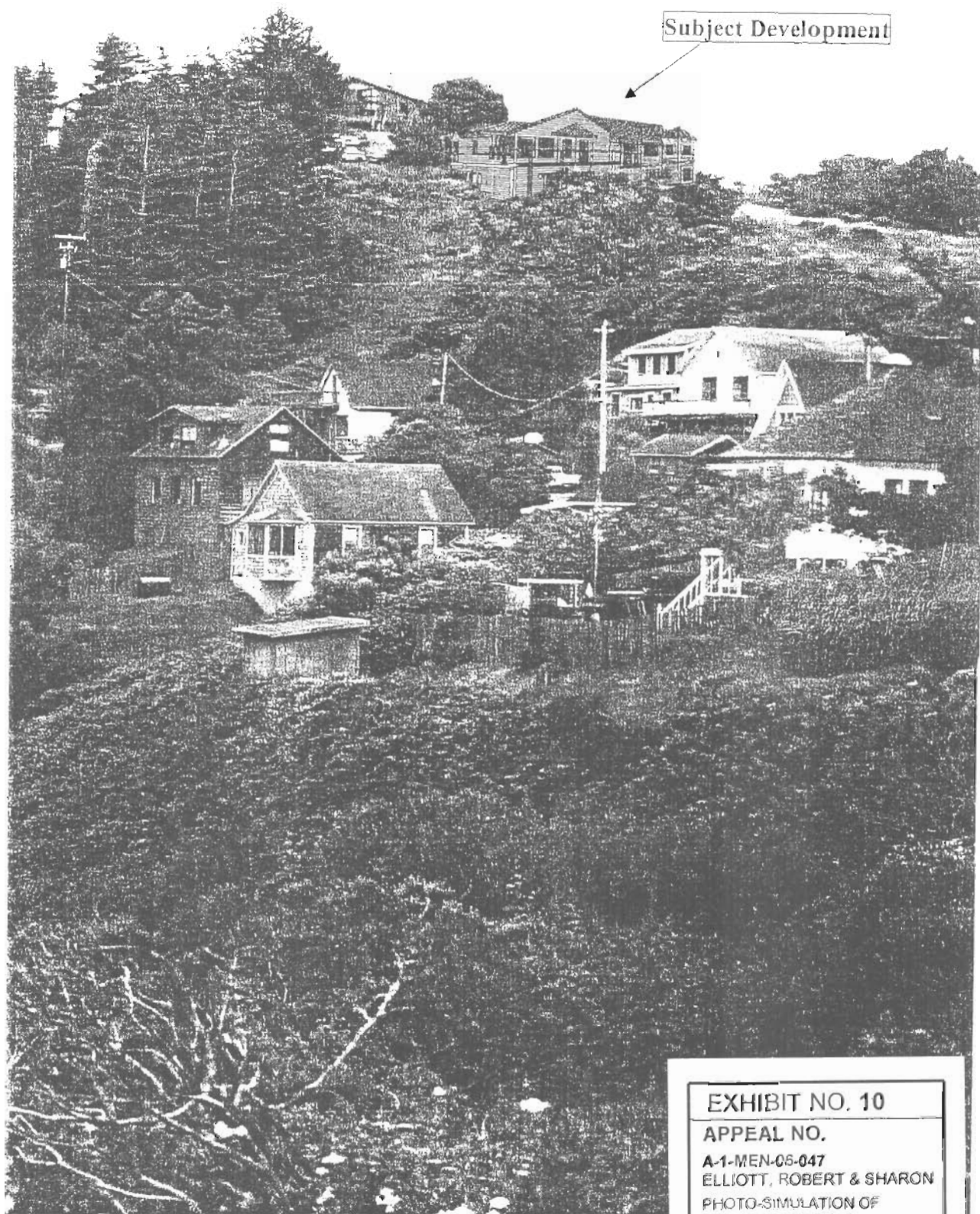
ELLIOTT, ROBERT & SHARON

COUNTY APPROVED FLOOR
PLAN (1 of 2)

EXHIBIT C

FLOOR PLAN





Subject Development

EXHIBIT NO. 10

APPEAL NO.

A-1-MEN-05-047

ELLIOTT, ROBERT & SHARON

**PHOTO-SIMULATION OF
COUNTY APPROVED
DEVELOPMENT PREPARED
BY APPLICANT**

EXHIBIT NO. 11

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

PHOTO OF HOMES IN ALBION
RURAL VILLAGE

SUBJECT SITE



ELLIOTT, A-1-MEN-06-047
PRELIM. REVISED HOUSE PLANS
BULK/MASS STUDY, MARCH 30, 2007

EXHIBIT NO. 12
APPEAL NO.
A-1-MEN-06-047
ELLIOTT, ROBERT & SHARON
PHOTOS OF SITE FROM ALBION
RIVER BRIDGE SUBMITTED BY
APPLICANT (1 of 2)

STRUCTURES ABOVE APPARENT RIDGELINE

UTILITY POLES

S4

S2

S3

SITE

UTILITY POLES

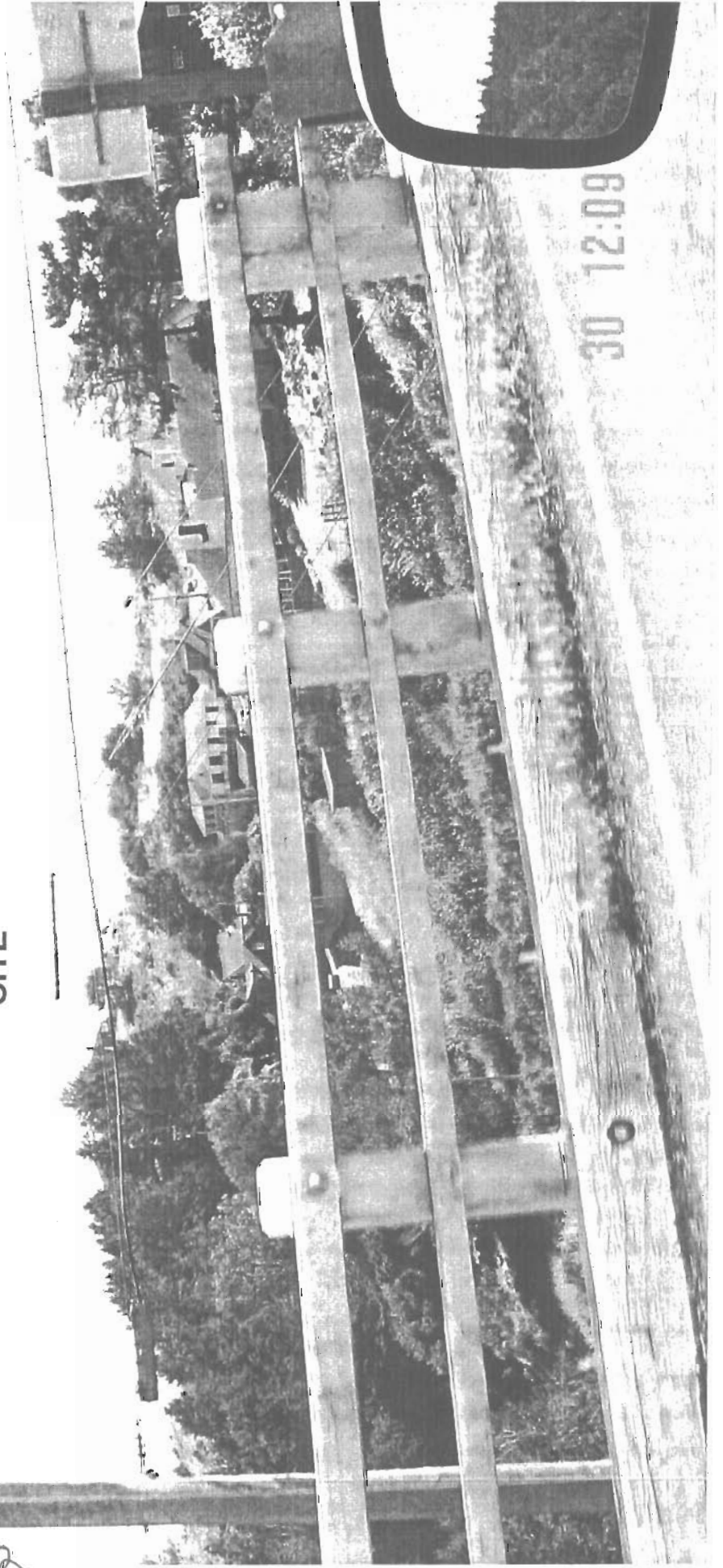
S4



ELLIOTT, A-1-MEN-06-047
PRELIM. REVISED HOUSE PLANS:
BULK/MASS STUDY, MARCH 30, 2007

UTILITY LINES AND POLE ALONG ALBION RIVER BRIDGE

SITE



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:

Mailing Address: SEE ATTACHMENT 1

City:

Zip Code:

Phone:

RECEIVED

DEC 18 2006

CALIFORNIA
COASTAL COMMISSION**SECTION II. Decision Being Appealed**

1. Name of local/port government:

County of Mendocino

2. Brief description of development being appealed:

(1) Construct a 2,761-square-foot, two-story single-family residence with a maximum average height of 24 feet above natural grade with an attached 790-square-foot garage for a total of 3,551 square feet, (2) construct a retaining wall and driveway, (3) install a septic system and underground utilities, (4) convert an existing test well to a production well, and (5) grade approximately 30 cubic yards.

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

On the north side of Albion Ridge Road, approximately 1/4 mile east of its intersection with Highway One at 33800 Albion Ridge Road (APN 123-170-19).

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

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

EXHIBIT NO. 13**APPEAL NO.****A-1-MEN-06-047****ELLIOTT, ROBERT & SHARON****APPEAL (COMMISSIONERS
REILLY & SHALLENBERGER)
(1 of 10)**

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-06-047

DATE FILED: December 18, 2006

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: November 20, 006

7. Local government's file number (if any): CDP #28-2006

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:

Kathleen Elliott Lloyd, Irene Elliott, Lym & Donna Shalley
Owner: Robert & Sharon Elliott
4214 Canyon Valley Road
Diamond Springs, CA 95619

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)

(2)

(3)

(4)

2 of 10

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See ATTACHMENT 2

3410

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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: December 18, 2006

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

Signed: _____

Date: _____

5910

ATTACHMENT 1

SECTION I. Appellant(s)

1. Mary K. Shallenberger
3309 East Curtis Drive
Sacramento, CA 95818

Phone: (916) 322-0995

2. Mike Reilly, Supervisor
County of Sonoma
575 Administration Drive, Room 100
Santa Rosa, CA 95403-2887

Phone: (707) 565-2241

ATTACHMENT 2

Reasons for Appeal

The approval of Coastal Development Permit Application No. 28-2006 by Mendocino County is inconsistent with the certified Local Coastal Program (LCP), and raises substantial issues regarding visual resources.

VISUAL RESOURCES

The approval of the coastal development permit by Mendocino County encompasses property within a highly scenic area designation, and is in conflict with visual resource policies and standards contained in the Mendocino LCP, including, but not limited to Policies 3.5-1, 3.5-3, and Coastal Zoning Ordinance Sections 20.504.015 and 20.504.020 .

Policies

Policy 3.5-1 states in applicable part:

"The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected 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." (emphasis added)

Policy 3.5-3 states in applicable part:

"The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. ...Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1. ...In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces..."

Coastal Zoning Ordinance Section 20.504.015 states in applicable part (emphasis added):

7410

(C) Development Criteria.

- (1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
- (2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.*

Coastal Zoning Ordinance Section 20.504.020 states in applicable part (emphasis added):

(B) The communities and service centers, designated as CRV or CFV, of Westport, Caspar, Albion, Elk and Manchester, and the additional areas of Little River, Anchor Bay and Gualala, as described below, shall have special protection as set forth in Section 20.504.020(C):

(C) Development Criteria.

- (1) The scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.*
- (2) New development shall be sited such that public coastal views are protected.*
- (3) The location and scale of a proposed structure will not have an adverse effect on nearby historic structures greater than an alternative design providing the same floor area. Historic structure, as used in this subsection, means any structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture.*
- (4) Building materials and exterior colors shall be compatible with those of existing structures.*

(D) 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. (Ord. No. 3785 (part), adopted 1991)

8910

Discussion

The County of Mendocino approved Coastal Development Permit # 28-2006 for the construction of a 2,761-square-foot, two-story single-family residence with a maximum average height of 24 feet above natural grade with an attached 790-square-foot garage for a total of 3,551 square feet. The approved development also includes construction of a retaining wall and driveway, installation of a septic system and underground utilities, conversion of an existing test well to a production well, and grading of approximately 30 cubic yards.

The subject site is an approximately one-acre parcel located in a designated "highly scenic" area on the top of a ridge above the Albion River on the east side of Highway One. The parcel is planned and zoned Rural Village (RV) in the County's LCP. The subject site is located adjacent to Albion Ridge Road and slopes steeply westward. The parcel sits above the clustered residential village of Albion and is the last undeveloped designated RV parcel in the village. The approved development is highly visible from the Albion River Bridge heading southbound on Highway One. The development is also visible from Albion Ridge Road, a public road.

The project as approved by the County would have a significant impact on visual resources. The approved development would not be subordinate to the character of its setting as required by LUP Policies 3.5-1 and 3.5-3, and Coastal Zoning Ordinance Sections 20.504.015(C)(3) and 20.504.020(D). Additionally, the scale of the approved development would not be consistent with the scope and character of existing development in the surrounding neighborhood as required by Coastal Zoning Ordinance Section 20.504.020(C)(1).

The character of the subject viewshed is largely defined by the cluster of modest-sized residences set below the peak of the ridge that rises above the south bank of the Albion River. As discussed in the County's findings, the average size of surrounding residences that comprise the character of the area is approximately 2,000 square feet. The approved two-story residence is approximately 3,550 square feet, significantly larger than the surrounding average. The approved residence would be located near the top of the ridge above and separated from the clustered residential village located downslope. Because of its prominent location near the top of the ridge, and because of its significantly larger size and bulk, the approved residence would dominate the view of the village as seen from southbound Highway One. As noted in the County's findings, several homes located east of the subject site in an area designated Rural Residential (RR) are larger than the homes located in the Rural Village below. Several of these homes in the RR zone are visible from Albion Ridge Road, but are out of the viewshed of Highway One. Thus, although the approved residence may be more similar to the character of homes along Albion Ridge Road, it is the smaller homes of the village that comprise the character of the area as viewed from Highway One. Additionally, the County's findings indicate that at least three County-approved permits for residential development in the RR zone east of the subject site range in size from approximately 1,700 square feet to approximately 2,400 square feet, still much less than the approved development in the RV zone. Furthermore, although some mature trees surround the site, and the County conditioned the project to require additional landscaping, existing and new trees and vegetation would not effectively soften or screen the

9 of 10

design and bulk of the development in a manner that would cause it to be subordinate to the character of the surrounding area.

Therefore, the project as approved by the County is inconsistent with LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Sections 20.504.015(C)(3), 20.504.020(D), and 20.504.020(C)(1) as (1) it would not be subordinate to the character of its setting, and (2) the scale of the approved development would not be consistent with the scope and character of existing development in the surrounding neighborhood.

CONCLUSION

The Commission finds that the project as approved by the County is inconsistent with, and raises substantial issues, with respect to its conformance with LCP standards and policies pertaining to visual resource protection.

10 of 10

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: Rixanne Wehren

Mailing Address: 27401 Albion Ridge Rd.

City: Albion

Zip Code: 95410

Phone: 707-937-2709

SECTION II. Decision Being Appealed

RECEIVED

DEC 08 2006

CALIFORNIA
COASTAL COMMISSION

1. Name of local/port government:

Mendocino County Coastal Development Permit Administrator

2. Brief description of development being appealed:

CDP# 28-2009 (Elliott) Development of a 3550 sq. ft. house and garage in the Rural Village of Albion, within a highly scenic area, and visible from the Highway 1 corridor. Landscaping plan not yet made available to the public.

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

33800 Albion Ridge Rd. Albion, CA 95410, AP# 123-170-19

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

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

EXHIBIT NO. 14

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

APPEAL (RIXANNE WEHREN)
(1 of 6)

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-06-047

DATE FILED: 12/5/06

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: 11-20-06 meeting of CPA

7. Local government's file number (if any): CDP#28-2006

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:

Kathleen Elliott Lloyd, Irene Elliott, Lynn and Donna Shalley
4214 Canyon Valley Road
Diamond Springs, CA 95619

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) Rixanne Wehren
27401 Albion Ridge Rd.
Albion CA 95410

(2) Beth Bosk
32201 Condor Rd.
Willits, CA 95490

(3) Linda Perkins
Sierra Club, Mendocino Croup
PO Box 467
Albion, CA 95410

(4) David Bramblett
Boxholder
Albion, CA 95410

2 of 6

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

The development is in the Rural Village zoning, but is not consistent with the LCP requirements. These include:

Section 20.504.020(c) of the Zoning Code requires that any new development (building height and bulk) be within the scope and character of existing development. This house, at 3550 sq. ft., would be nearly twice as big as the neighboring Rural Village houses (average size 2000 sq.ft.). While the argument has been made that the uphill house is large, it is in another zone. The huge increase in size within the Rural Village is inappropriate, and would set a precedent that would allow the other homeowners in the Rural Village zoning to feel entitled to expand to 3550 sq.ft. also, changing the entire makeup of the village.

Section 20.504.015 (c) states that development permitted in highly scenic areas shall provide protection of coastal views from public areas ... and (c) (10) adds that tree planting to screen buildings ... shall not allow trees to interfere with coastal /ocean views from public areas. Although our letters to the CPA specifically identified a valued coastal view of the Albion Bridge and Cove, the site plan shows 5 clusters of evergreens to be planted right along the stretch of road that affords this view for the other 700 residents of Albion, as well as visitors. A landscaping plan could have corrected this oversight, but was not submitted for public review prior to the approval of the permit. The "trimming" mentioned is not adequate protection.

Secondly, the public view of the hillside including the village would be greatly changed by the large flat front of the new house, with large reflective windows facing the Highway 1 bridge. At 64' wide and 27' high, the western wall would dominate the village scene and be visible from the highway, Albion beach and harbor, Albion River Inn and Albion Flats Campground. The intention of the RV zoning is to "preserve and maintain the character of the rural atmosphere and visual quality of existing coastal rural villages (Section 20.388.005) so a large, highly visible development is inconsistent with a Highly Scenic area with Rural Village zoning.

396

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

SECTION V. Certification

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

Signature on File

Signature of Appellant(s) or Authorized Agent

Date: 12/1/06

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

Section VI. Agent Authorization

I/We hereby
authorize _____

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

Signature of Appellant(s)

Date: _____

446



**SIERRA
CLUB**
FOUNDED 1892

Sierra Club, Mendocino Group
Trails Committee, P.O. Box 340
Albion, CA 95410

Nov. 17, 2006

Coastal Permit Administrator
Mendocino County Planning & Building Dept.
790 S. Franklin St.
Fort Bragg, CA 95437

RECEIVED

DEC 08 2006

*copy to CCC
12/1/06*

Re: CDP 28-2006 Elliott

CALIFORNIA
COASTAL COMMISSION

Dear Staff,

We are concerned about several issues in the application for a 3551 sq. ft. development in the Albion Rural Village, a highly scenic area. The bulk of the development is considerably larger than the other houses in the area (averaging 2000 sq.ft.) and so does not meet the requirement of protecting views from Albion bridge, Highway 1 and Albion Flats, nor of being consistent with the surrounding structures of the Rural Village zoning. A third issue is the protection of the view from Albion Ridge Road toward the Albion bridge and cove.

Regarding the size of the structure and eastward views, we find that the structure can be seen from public spaces, and will have a huge presence, standing as it will near the crest of a hill overlooking all of the town. It will look like the huge mansion on the hill compared to the common people's houses below. While we appreciate the improved design from the original application, we still feel that a solid wall 28' high with large reflective windows and an upstairs deck will dominate the hillside, and is not in keeping with the village, nor subordinate to the natural setting.

We also understand the staff report on the visual impact being similar to the adjacent Rural Residential dwellings, but would argue that this is not relevant, as the zoning is Rural Village. As such, a large increase of square footage in this instance would set a

5 of 6

precedent for the Rural Village zone that is greatly in excess of the current sizes. This will become a growth-inducing element in the Albion Village, with each other homeowner now feeling justified to increase their structure square footage to 3500 sq. ft. Such a precedent should not be made on the desire of one applicant.

We would suggest a smaller split-level house to minimize the visual impact and the vast difference with the structural square footage.

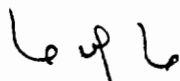
The third issue is the viewshed from Albion Ridge Road northwest toward Albion bridge and cove. While this is easily overlooked in construction planning, it is vitally important to the residents of Albion Ridge. When driving west down Albion Ridge, the view over the Elliott property to the bridge and cove is the most highly scenic and inspiring of the entire area. It is one of the very few places where this view is available, and the protection of that particular view is very important to us. We find that the recommended landscaping plan does not take into consideration the protection of this specific view, instead recommending plantings to shield the house. While this is commendable, we feel that the view to the bridge should be protected, and no trees or bushes planted that interfere with that view. Therefore we would request that the landscaping plan be detailed before approval of the CDP, and that it specify the protection of the view from Albion Ridge Road to the bridge and cove. This is in keeping with the use of the lower property for septic fields, and will not much effect the screening of the house. We feel very strongly about this, as mentioned in my letter in Aug. 2005, so please consider it an important issue. A special condition could resolve this issue.

We hope these issues will be addressed at the hearing, even though we may not be able to attend on a workday.

Sincerely,

Signature on File

Rixanne Wehren

A handwritten signature in dark ink, appearing to read 'Rixanne Wehren', located below the printed name.



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

RAYMOND HALL, DIRECTOR
Telephone 707-964-5379
FAX 707-961-2427
pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

December 1, 2006

NOTICE OF FINAL ACTION

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDP #28-2006
OWNER: Robert & Sharon Elliott
APPLICANT: Kathleen Elliott Lloyd, Irene Elliott, Lynn & Donna Shalley
AGENT: Rick Jurczynski
REQUEST: Construct a 2,761± square foot two-story single-family residence with a maximum average height of 24± feet from natural grade, with an attached 790± square foot garage. Total square footage of development would be 3,551± square feet. Construct a retaining wall and driveway; install a septic system and underground utilities. Convert an existing test well to a production well. Grading of approximately 30 cubic yards associated with the project.

LOCATION: In the Coastal Zone, on the N side of Albion Ridge Road (CR# 402), approximately ¼ mile E of its intersection with State Highway One, at 33800 Albion Ridge Road, APN 123-170-19.

PROJECT COORDINATOR: Teresa Beddoe

HEARING DATE: November 20, 2006

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

The project is appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

EXHIBIT NO. 15

APPEAL NO.

A-1-MEN-06-047

ELLIOTT, ROBERT & SHARON

NOTICE OF FINAL LOCAL
ACTION & COUNTY FINDINGS
(1 of 13)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP 28-2006 HEARING DATE: 11/20/06

OWNER: Elliott

ENVIRONMENTAL CONSIDERATIONS:

☒ Categorically Exempt

☐ Negative Declaration

☐ EIR

FINDINGS:

☒ Per staff report

☐ Modifications and/or additions

ACTION:

☒ Approved

☐ Denied

☐ Continued _____

CONDITIONS:

☒ Per staff report

☐ Modifications and/or additions

Signature on File

Signed: Coastal Permit Administrator

2413

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-1

OWNER: Robert & Sharon Elliott
4214 Canyon Valley Road
Diamond Springs, CA 95619

APPLICANTS: Kathleen Elliott Lloyd & Irene Elliott.
Lynn & Donna Shalley
4214 Canyon Valley Road
Diamond Springs, CA 95619

AGENT: Rick Jurezynski
30710 Sherwood Road
Fort Bragg, CA 95437

REQUEST: Construct a 2,761± square foot two-story single-family residence with a maximum average height of 24± feet from natural grade, with an attached 790± square foot garage. Total square footage of development would be 3,551± square feet. Construct a retaining wall and driveway; install a septic system and underground utilities. Convert an existing test well to a production well. Grading of approximately 30 cubic yards associated with the project.

LOCATION: In the Coastal Zone, on the N side of Albion Ridge Road (CR# 402), approximately ¼ mile E of its intersection with State Highway One, at 33800 Albion Ridge Road, APN 123-170-19.

APPEALABLE AREA: Yes - Highly Scenic Area

PERMIT TYPE: Standard

TOTAL ACREAGE: .92± acre

ZONING: Rural Village (RV)

GENERAL PLAN: Rural Village (RV)

EXISTING USES: Undeveloped with the exception of a test well

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically exempt, Class 3

CA. COASTAL RECORDS PROJECT: Image 200503590 (shows CDP 88-2003 story poles)

OTHER RELATED APPLICATIONS: 3913

CDP 88-2003 for the subject parcel was denied (see project history for more information). Septic permit #5728, not issued. Septic permit ST 22686, on hold awaiting issuance of a CDP.

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-2

Projects nearby the subject parcel that have obtained a Coastal Development permit:

CDP 103-1999 (Sinnott & Hall) approved, in an Rural Residential zone, the construction of a 1,612 sq. foot single-family residence with a 410 sq. foot attached garage and a maximum height of 18 feet. Associated development includes well, underground utilities, septic installation, and driveway development. Located at 33666 Albion Ridge Road (APN 123-170-12).

CDP 103-2002 (Bosk) approved, in a Rural Residential zone, the construction of a 1,100 square foot single-family residence with the maximum average building height of 24 feet from natural grade. Construction of a 150 foot driveway, a detached 648 square foot carport, installation of a septic system, connection to existing well and extension of underground utilities. Located at 33740 Albion Ridge Road (APN 123-170-25).

CDP 111-2003 (Woodhull) approved, in a Rural Residential zone, the construction of a 1,888 square foot two-story, split-level, single-family residence with an average maximum height of 20'10" above natural grade, and an attached 576 square foot garage, a 250-foot long driveway and a septic system, both within an easement on a neighboring parcel. Conversion of a test well to a production well, and extension of underground utilities. The project also includes a request for a variance to the front yard setback. The specific variance request is to reduce the front yard setback from twenty feet to five feet. Located at 33710 Albion Ridge Road (APN 123-170-26).

CDP 32-2004 (Pacific Union College) approved, in a Fishing Village zone, the addition of bath facilities to four existing dorm cabins and four existing family cabins; upgrade of the existing septic system; demolition and relocation of a boat barn; underground utilities; installation of boat sewage pump line; removal of cement boat; temporary bridge placement; tree removal; construction of a generator building. Located at 34100 Albion Street (APNs 123-170-02, 123-060-07).

PROJECT HISTORY: The previous application (CDP 88-2003) was for the construction of a 4,016± square foot two-story single-family residence with a maximum average height of 28± feet from natural grade, and the installation of a septic system, underground utilities, fence with a gate, a driveway and conversion of a test well to a production well. Grading associated with placement of the structure and a retaining wall was included in the request. This project was denied by the Coastal Permit Administrator due to the potential for negative impacts to visual resources in a mapped Highly Scenic Area and inconsistency with the LCP, requiring that the scale of development and the scope of the project be consistent with the surrounding structures in the Rural Village designation.

The applicant has redesigned the project, bringing the overall height down by 4 feet, to 24 feet average from natural grade, and eliminating 465 square feet of proposed development. The exterior façade of the structure, once referred to by a member of the public at the previous CDP hearing as a "Ramada Inn," has been redesigned to be more in keeping with the surrounding area and development.

Staff has contacted the Assessor's office in an effort to determine square footages for surrounding residential developments (some are within the Rural Village zoning and some are zoned Rural Residential; however, all examples are located on the same assessor's parcel number page). Seven surrounding parcels (APN's 123-170-09, -10, -12, -21, -23, -25 and -26) were examined; the average residential square footage is slightly less than 2,000 square feet (1942.14) per parcel.

PROJECT DESCRIPTION: The applicants propose to construct a 2,761± square foot two-story, 4-bedroom, 4 1/2 bathroom, single-family residence with a maximum average height of 24 feet from natural grade and an attached 790± square foot, 2-car garage for a total of 3,551± square feet of structural

4413

**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 28-2006 (Elliott)
November 20, 2006
CPA-3**

development. The applicant would also install a septic system, underground utilities, a driveway and a retaining wall. An existing test well would be converted to a production well.

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION: The proposed project is consistent with the applicable goals and policies of the Local Coastal Program (LCP) as described below.

Land Use

The proposed residential use is compatible with the Rural Village zoning district and is designated as a principal permitted use as per Section 20.388.010 of the Mendocino County Coastal Zoning Code (MCCZC).

The maximum building height limitation in a designated "highly scenic" area east of Highway One is 28 feet. Although Rural Village zoning would potentially allow for 35 feet in height, this is superseded by the 28-foot height limit in designated highly scenic areas, as discussed in Visual Resources below. The proposed structure would have a maximum average height of 24 feet above natural grade.

The proposed development complies with the rear and side building setback requirements of the Rural Village zoning district, which are 20 feet for the rear yard, and 6 feet for the side yards. Corridor preservation setbacks are also met.

Public Access

The project site is located east of Highway 1 and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site. The proposal is consistent with the public access policies of the LCP.

Hazards

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.

As the property is in close proximity to the slope that leads down to the Albion River, the applicant has submitted a geotechnical report. The report, prepared by PJC & Associates, dated November 29, 2004, concludes that the project is feasible, with several significant notations:

- The San Andreas fault is located five miles southwest from the project site, and the Maacama fault is located 24 miles northeast of the site.
- The site is located within a region subject to a high level of seismic activity. Although the potential for fault rupture, liquefaction, lateral spreading and expansive soils are low, ground shaking is expected to occur in the region on the next several decades.
- No evidence of significant slope instability was observed; however, due to the steepness, soil creep should be expected within the building envelope.
- Of primary concern to the geologists is the presence of the weak and creeping colluvial soils and the close proximity of the building envelope to the steep slope bordering the Albion River.

5913

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-4

- The geologist recommends the foundation should consist of a drilled concrete, cast-in-place pier and grade beam foundation system, as well as making specific requirements for site preparation, drainage, grading, retaining walls, and observation by PJC & Associates.
- Drainage and erosion control measures are recommended by the geologist.

Special Condition #1 is recommended to ensure compliance with the geotechnical report.

Visual Resources

The project site is located within a designated "highly scenic area" and is zoned Rural Village. The proposed residence would be visible from the north on Highway One, Albion River and Albion Flats.

Policy 3.5-1 of the Mendocino County Coastal Element states:

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.

Policy 3.5-3 states:

Any development permitted in [highly scenic] areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.

Section 20.388.005 of the Mendocino County Coastal Zoning Code (noting the intention of the RV zoning) states:

This district is intended to preserve and maintain the character of the rural atmosphere and visual quality of existing coastal rural villages...

Section 20.504.015 of the Mendocino County Coastal Zoning Code states (pertinent part):

(C) Development Criteria.

*(1) Any development permitted in **highly scenic areas** shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*

(3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.

6 of 13

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-5

(5) Buildings and building groups that must be sited in highly scenic areas shall be sited:

- (a) Near the toe of a slope;*
- (b) Below rather than on a ridge; and*
- (c) In or near a wooded area.*

(8) Minimize visual impact of development on ridges by the following criteria:

- (a) Prohibiting development that projects above the ridgeline;*
- (b) If no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation;*
- (c) Prohibiting removal of tree masses, which destroy the ridgeline silhouette.*

(10) Tree planting to screen buildings shall be encouraged, however, new development shall not allow trees to interfere with coastal/ocean views from public areas.

The project site is located within the portions of Albion that are subject to the Development Criteria established in Section 20.504.020(C) of the Zoning Code:

(C) Development Criteria.

- (1) The scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.*
- (2) New development shall be sited such that public coastal views are protected.*
- (3) The location and scale of a proposed structure will not have an adverse effect on nearby historic structures greater than an alternative design providing the same floor area. Historic structure, as used in this subsection, means any structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture.*
- (4) Building materials and exterior colors shall be compatible with those of existing structures.*

7913

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-6

(D) 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. (Ord. No. 3785 (part), adopted 1991)

Of primary visual concern is the bulk of the development. This parcel is the furthest Rural Village zoned parcel from the highway as one travels east on Albion Ridge Road, and there are several existing homes behind it (east) that are somewhat larger and taller than those found in the older Albion village (RV zoning). The parcels to the east of the subject are in the Rural Residential zone, but are also in the mapped "highly scenic" area. While the proposed development would exceed the bulk of the surrounding homes (and all of those found in the RV zoning), staff has worked closely with the agent/designer of the home to ensure that the visual impact to the public would be minimized. Staff requested that story poles be placed to assist in envisioning the development, and a computer-generated photo be prepared.

As noted above, this proposed structure is larger than the surrounding development. However, after staff received a computer-generated photo of the site with the story poles, with the development superimposed as an overlay, it is staff's determination that this home is consistent with the intent of the Rural Village zoning, despite the difference in size and height compared to surrounding structures.

The rationality behind staff determination of consistency with Visual Resources policy for the project is as follows:

- The public view of the ocean, as heading westerly on Albion Ridge Road, would not be negatively impacted, as the development would be placed in a cut of 6 to 8 feet, resulting in a lower development. The cut would follow natural contours.
- The view of the development as seen from Highway 1 would not silhouette the sky, and would be set back sufficiently from the public roadway so as to nearly match in perceived bulk the neighboring structures to the east. Without looking at a map, it is very difficult to ascertain that the proposed development is zoned RV and not Rural Residential like the parcels to the east. The development would be located in the viewshed of the Rural Residential structures as opposed to the cluster of smaller houses comprising the Rural Village below.
- The proposed materials have been revised from the original submittal and are more in keeping with the neighboring structures and the surroundings.
- The location of the proposed development has remained largely the same as in the previous application; however, it is located on a long piece of land that requires that the proposed septic system be located lower than the house for proper flow of septic material. It meets all of the required setbacks set forth in the Rural Village zoning.
- The house could conceivably be located farther to the west on the subject property; however, it would be moved away from existing vegetation and out into an open area where it would be more visible.
- A landscaping plan is recommended to ensure that the public view of the proposed structure would be softened. It is not staff's intent to make the structure "invisible;" it is our intent that the

8913

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-7

development blend in better with the surroundings. We believe this may be accomplished with a landscape plan containing mostly native plants¹.

In order to comply with the visual resource policies noted above, staff would recommend that a landscaping plan be submitted and approved prior to the issuance of the Coastal Development Permit. The purpose of the landscaping would not be to obscure the structure but to soften the appearance of the structure from public locations. Native plantings shall be specified. Special Condition #2 is recommended to this effect.

Exterior colors and materials are also analyzed for consistency with Visual Resources policy. As discussed above, Section 20.504.015(C)(3) states that in Highly Scenic Areas, building materials including, siding and roof materials, shall be selected to blend in hue and brightness with their surroundings. The following exterior materials and finishes are proposed:

Siding: Hardi Siding, light brown

Trim: Hunter green

Window frame: Hunter green fiberglass

Roofing: Composition shake, weathered wood color

Decking: Trex, Brasilia line (tan)

The proposed materials and finishes appear to meet Visual Resources code compliance.

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

- (1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser.*
- (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.*

Special Condition #3 is recommended to ensure that, prior to the issuance of the building permit, the applicant shall submit acceptable external lighting details.

Special Condition #4 is recommended to ensure proposed exterior materials, finishes and lighting are not changed without the review and approval of the Coastal Permit Administrator for the life of the project.

9413

¹ All proposed vegetation shall be limited in height to protect the public view of the ocean as one travels westerly on Albion Ridge Road.

**STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT**

**CDP# 28-2006 (Elliott)
November 20, 2006
CPA-8**

Additionally, there is an existing tree located on the northeast corner of the subject property, which staff believes to be an important visual screening resource. In order for the project to be in compliance with the section noted above that requires the structure not create a silhouette, this established tree must be retained in perpetuity, with a 1:1 ratio replacement when the natural lifespan of the tree is reached.

Staff feels that the proposed development as revised complies with the development criteria, if all recommended conditions were implemented.

Natural Resources

There are no known rare or endangered plant or animal species located on or in close proximity to the project site, as noted in the submitted botanical report prepared by the late Dr. Gordon McBride.

There are no environmentally sensitive habitat areas located within 100' of the proposed development.

Archaeological/Cultural Resources

This project was referred to the Northwest Information Center of the California Historical Resources Inventory at Sonoma State University (SSU) for an archaeological records search. SSU responded that the site has a low probability of containing archaeological resources and further investigation was not recommended. The applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

Groundwater Resources

The site is located within an area mapped as "Critical Water Resources" (CWR). An existing well and a proposed septic system would serve the development.

A response to a referral sent to the Division of Environmental Health states:

DEH can give clearance to this CDP. Please note that the septic permit has not yet been purchased, and that on 8/10/06, the septic work will be 5 years old and will have to be re-reviewed by the designer per the sunset policy.

The project is expected to result in incremental but insignificant impacts to groundwater resources.

Transportation/Circulation

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned. No adverse impacts would occur.

A response to a referral sent to the County Department of Transportation (DoT) noted the requirements for construction of a standard private driveway approach. Special Condition #5 is recommended to ensure compliance with DoT's regulations.

10913

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-9

Zoning Requirements

The project, as conditioned, complies with all of the zoning requirements of Division II of Title 20 of the Mendocino County Code.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, the Coastal Permit Administrator approves the proposed project, and adopts the following findings and conditions.

FINDINGS:

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.

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.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

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.

11/9/13

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 28-2006 (Elliott)
November 20, 2006
CPA-10

3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. The permit is 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 such permit was granted have been violated.
 - c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or is 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 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. The applicant shall comply with all requirements set forth by PJC & Associates and shall not deviate from this plan unless a written modification is submitted by the geologist and approved by the Coastal Permit Administrator. Prior to issuance of the building permit, evidence shall be provided that PJC & Associates or another qualified geotechnical or civil engineer has reviewed the final building plans.
2. Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Coastal Permit Administrator, a landscaping plan designed to soften and partially shield the proposed structure from public view. This is intended

12/9/13

STAFF REPORT FOR
STANDARD COASTAL DEVELOPMENT PERMIT

CDPH 28-2006 (Elliott)
November 20, 2006
CPA-11

for the western, northwestern and eastern views. The existing tree located on the northeasterly portion of the property will be maintained in perpetuity; if it appears that the development would require that the tree be removed, then the building itself MUST be relocated downslope in order to retain the tree, only as far in distance as that is required. In the event that the tree reaches its natural lifespan, a replacement tree shall be replanted on a 1:1 basis and maintained for the life of the project. Any screening vegetation that hinders the public's view as seen from Albion Ridge Road traveling west shall be trimmed so as to protect the public view.

3. Prior to the issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Coastal Permit Administrator, an exterior lighting detail that indicates shielded and downcast fixtures.
4. No change may be made to the exterior colors or approved lighting fixtures without prior approval by the Coastal Permit Administrator, for the life of the project.
5. Prior to commencement of construction activities, the 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, a standard private driveway approach onto Albion Ridge Road (CR# 402), to a minimum width of ten feet, area to be improved fifteen feet from the edge of the County road, to be surfaced with surfacing comparable to that on the County road.

Staff Report Prepared By:

Nov. 1, 2006
Date

Tc Signature on File
Teresa Beddoe
Planner I

Attachments:

- Exhibit A Location Map
- Exhibit B Site Plan
- Exhibit C Floor Plan
- Exhibit D Floor Plan
- Exhibit E Elevations
- Exhibit F Elevations

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 the Notice of Final Action from the County.

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

13013