

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
www.coastal.ca.gov

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 5, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management Department — Planning  
Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst *WZ*  
RE: **Commission Appeal No. A-2-SON-07-009**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: **CPH06-0017**  
Applicant(s): **Carlile Macy for RJB-GP, LLC**  
Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,861 square foot parcel.**  
Location: **132 Pacific Vista Court, Bodega Bay (Sonoma County) (APN(s) 100-560-12)**  
Local Decision: **Approved**  
Appellant(s): **Kimberly Burr**  
Date Appeal Filed: **4/4/2007**

The Commission appeal number assigned to this appeal is A-2-SON-07-009. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Sonoma's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Yinlan Zhang at the North Central Coast District office.

cc: Carlile Macy for RJB-GP, LLC  
Law Office Of Jerry Bernhaut

Exhibit No. 1 (Page 1 of 54)  
Application No. A-2-SON-07-009 to 012  
RJP-GP, LLC  
Notices of Final Local Action

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5280 FAX (415) 904-5400  
www.coastal.ca.gov

**NOTIFICATION OF APPEAL PERIOD**

DATE: March 27, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management  
Department -- Planning Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst  
RE: **Application No. 2-SON-07-038**

Please be advised that on March 26, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: **CPH06-0017**

Applicant(s): **Carlile Macy For Rjb-Gp, Llc**

Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,861 square foot parcel.**

Location: **132 Pacific Vista Court, Bodega Bay (Sonoma County) (APN(s) 100-560-12)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 9, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Carlile Macy For Rjb-Gp, Llc  
Law Office of Jerry Bernhaut



# Notice of Final Action on a Coastal Permit

**RECEIVED**

**MAR 26 2007**

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**CALIFORNIA  
COASTAL COMMISSION**

Date: March 22, 2007

File: CPH06-0017  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,861 square foot parcel.

**Project Location:** 132 Pacific Vista Court, Bodega Bay

**Assessor's Parcel Number:** 100-560-012

**APPROVED** by the Board of Supervisors on March 20, 2007.

**Conditions of Approval:** See attached.

**Findings:** The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

**Appealable.** Following an action by the Board of Supervisors granting a Coastal Permit, an appeal may be filed with the Coastal Commission within ten (10) working days following receipt of the Notice of Final Action by the Commission.

**Address:**  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Board of Supervisors Final Conditions of Approval**

**Date:** March 20, 2007  
**Applicant:** Carlile Macy for RJB-GP, LLC  
**Address:** 132 Pacific Vista Court, Bodega Bay

**File No.:** CPH06-0017  
**APN:** 100-560-012

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,861 square foot parcel.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

**PLANNING:**

"The conditions below have been satisfied." BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This Coastal Permit allows for the construction of a new 1,827 square foot, 16-foot tall single-family residence on a 9,861 square foot parcel, as shown on the drawings dated September 2005, prepared by Hedgepeth Architects. The proposal includes a landscape plan by Quadriga dated March 8, 2004. The use shall be operated in accordance with the proposal statement and site plan located in File# CPH05-0012 and PLP05-0083, unless otherwise modified by these conditions. Maximum roof height shall conform to the height restrictions of the View Corridor and Envelope Plan for the Harbor View Subdivision dated March 11, 1998, prepared by JMA Architects.
3. All building construction shall take place in conformance with the building envelopes shown on the Final Map and View Corridor and Envelope Plan. Outside the building envelope, decks are allowed but there shall be no decks greater than 18 inches above finished grade. Pursuant to section 2.2.15 of the Architectural Review Guidelines dated February 25, 1997, any spa, hot tub, or pool shall require a fence of 48 inches tall, and shall only be constructed within the approved building envelope.
4. During project grading (site preparation, cut/fill construction, foundation excavation) inspections/observations shall be routinely made by a qualified geotechnician for compliance with the intent of the geotechnical design recommendations as reflected in the geotechnical report and grading plan. Any substantial change from the approved recommendations (approved grading plan) shall require an amendment to the grading permit. Following completion of grading and before initiation of other on-site improvements, the geotechnician shall submit a report certifying that the grading was completed in conformance with the approved grading plan.
5. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
6. Two dry wells shall be installed to maintain the seasonal component of recharge to the wetland in Parcel A. The dry wells shall be a minimum of 24 inches in diameter, and shall be constructed to

depths of 16 to 20 feet, or to bedrock. Depth of the dry wells shall be determined by the design-level geotechnical investigation. Runoff from suitably-sized roof areas will be directed into the dry wells, such that water of high quality is recharged. The top of the dry well shall be covered, to prevent introduction of fine material capable of clogging the interstices of the crushed rock used to fill the dry wells. Sizing and construction criteria are presented in Appendix B of the EIR.

7. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
8. Prior to the start of construction, a temporary chain link fence shall be constructed at least 100 feet from the edge of the Parcel A wetland as delineated by Wetland Research Associates to prevent any development activities from occurring within the wetland and to prevent any accidental incursion into the seep area. Prior to issuance of building permits for the subject property, the applicant shall commence physical restoration of the Parcel "B" wetland, including additional wetland area to replace the wetland lost because of the storm drain construction through Parcel "A".
9. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required.
10. Applicant shall equip all residential structures with an interior sprinkler system for fire protection.
11. All utilities shall be placed underground.
12. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
13. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
14. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Use Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
15. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not

affect the original permit approval date or the term for expiration of the permit.

16. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
17. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN \_\_\_\_\_ OFFICE.

#44  
Resolution Number 07-0220

ATTEST: **MAR 23 2007**

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

March 20, 2007  
PLP05-0083 David Hardy

BY C Woodson DEPUTY

**RECEIVED**  
**MAR 26 2007**  
**RECEIVED**  
**CALIFORNIA**  
**COASTAL COMMISSION**  
**MAR 26 2007**

CALIFORNIA  
COASTAL COMMISSION

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio..." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots 1-7 through 1-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

SUPERVISORS VOTE:

Kerns: Aye      Smith: Aye      Kelley: Absent      Reilly: Aye      Brown: Aye

Ayes: 4      Noes:      Absent: 1      Abstain:

SO ORDERED.

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
www.coastal.ca.gov

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 5, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management Department — Planning  
Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst *YZ*  
RE: **Commission Appeal No. A-2-SON-07-010**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: **CPH06-0021**  
Applicant(s): **Carlile Macy for RJB-GP, LLC**  
Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 11,138 square foot parcel.**  
Location: **955 Harbor Haven Drive, Bodega Bay (Sonoma County) (APN(s) 100-560-16)**  
Local Decision: **Approved**  
Appellant(s): **Kimberly Burr**  
Date Appeal Filed: **4/4/2007**

The Commission appeal number assigned to this appeal is A-2-SON-07-010. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Sonoma's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Yinlan Zhang at the North Central Coast District office.

cc: Carlile Macy for RJB-GP, LLC  
Law Office Of Jerry Bernhaut

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
www.coastal.ca.gov

**NOTIFICATION OF APPEAL PERIOD**

DATE: March 27, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management  
Department -- Planning Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst  
RE: **Application No. 2-SON-07-039**

Please be advised that on March 26, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: **CPH06-0021**

Applicant(s): **Carlile Macy for RJB-GP, LLC**

Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 11,138 square foot parcel.**

Location: **955 Harbor Haven Drive, Bodega Bay (Sonoma County) (APN(s) 100-580-16)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 9, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Carlile Macy for RJB-GP, LLC  
Law Office of Jerry Bernhaut



# Notice of Final Action on a Coastal Permit

## Sonoma County Permit and Resource Management Department

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

NOISSINWOOVLSVOC  
CALIFORNIA

MAR 26 2007

Date: March 22, 2007

File: CPH06-0021  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

RECEIVED

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 11,138 square foot parcel.

**Project Location:** 955 Harbor Haven Drive, Bodega Bay

**Assessor's Parcel Number:** 100-560-016

APPROVED by the Board of Supervisors on March 20, 2007.

**Conditions of Approval:** See attached.

**Findings:** The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

**Appealable.** Following an action by the Board of Supervisors granting a Coastal Permit, an appeal may be filed with the Coastal Commission within ten (10) working days following receipt of the Notice of Final Action by the Commission.

**Address:**  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Board of Supervisors Final Conditions of Approval**

**Date:** March 20, 2007  
**Applicant:** Carlile Macy for RJB-GP, LLC  
**Address:** 955 Harbor Haven Drive, Bodega Bay

**File No.:** CPH06-0021  
**APN:** 100-560-016

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 2.5-bath house (Plan F) with a maximum height of 16 feet, measured from the highest point of natural grade under neath the structure to the highest point of the structure on a 11,138 square foot parcel.

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

**PLANNING:**

"The conditions below have been satisfied." BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This Coastal Permit allows for the construction of a new 2,200 square foot, 16-foot tall single-family residence on a 11,138 square foot parcel, as shown on the drawings dated September 2005, prepared by Hedgepeth Architects. The proposal includes a landscape plan by Quadriga dated March 8, 2004. The use shall be operated in accordance with the proposal statement and site plan located in File# CPH05-0012 and PLP05-0083, unless otherwise modified by these conditions. Maximum roof height shall conform to the height restrictions of the View Corridor and Envelope Plan for the Harbor View Subdivision dated March 11, 1998, prepared by JMA Architects.
3. All building construction shall take place in conformance with the building envelopes shown on the Final Map and View Corridor and Envelope Plan. Outside the building envelope, decks are allowed but there shall be no decks greater than 18 inches above finished grade. Pursuant to section 2.2.15 of the Architectural Review Guidelines dated February 25, 1997, any spa, hot tub, or pool shall require a fence of 48 inches tall, and shall only be constructed within the approved building envelope.
4. During project grading (site preparation, cut/fill construction, foundation excavation) inspections/observations shall be routinely made by a qualified geotechnician for compliance with the intent of the geotechnical design recommendations as reflected in the geotechnical report and grading plan. Any substantial change from the approved recommendations (approved grading plan) shall require an amendment to the grading permit. Following completion of grading and before initiation of other on-site improvements, the geotechnician shall submit a report certifying that the grading was completed in conformance with the approved grading plan.
5. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
6. Two dry wells shall be installed to maintain the seasonal component of recharge to the wetland in Parcel A. The dry wells shall be a minimum of 24 inches in diameter, and shall be constructed to

depths of 16 to 20 feet, or to bedrock. Depth of the dry wells shall be determined by the design-level geotechnical investigation. Runoff from suitably-sized roof areas will be directed into the dry wells, such that water of high quality is recharged. The top of the dry well shall be covered, to prevent introduction of fine material capable of clogging the interstices of the crushed rock used to fill the dry wells. Sizing and construction criteria are presented in Appendix B of the EIR.

7. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
8. Prior to the start of construction, a temporary chain link fence shall be constructed at least 100 feet from the edge of the Parcel A wetland as delineated by Wetland Research Associates to prevent any development activities from occurring within the wetland and to prevent any accidental incursion into the seep area. Prior to issuance of building permits for the subject property, the applicant shall commence physical restoration of the Parcel "B" wetland, including additional wetland area to replace the wetland lost because of the storm drain construction through Parcel "A".
9. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required. Prior to the commencement of construction activities, a temporary noise barrier shall be constructed between the northern edge of the site and the adjacent residences. The barrier shall be constructed sufficiently high to cut off line-of-site noise exposure from the dominant construction noise sources to the exposed receptor. The construction fence shall be removed upon completion of construction of the house and garage, and in its place the owner may construct a new fence up to six feet in height in accord with the fences to be allowed to homes along the boundary of the Taylor Tract in Phases 2 and 3 of the Final Map.
10. Applicant shall equip all residential structures with an interior sprinkler system for fire protection.
11. All utilities shall be placed underground.
12. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
13. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
14. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Use Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
15. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property

rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

16. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
17. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN ) OFFICE.

#44  
Resolution Number 07-0220

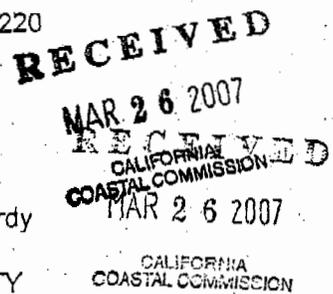
ATTEST: MAR 23 2007

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

March 20, 2007  
PLP05-0083 David Hardy

BY C Woodson DEPUTY



RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio...." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots 1-7 through 1-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

Resolution #07-0220

March 20, 2007

Page 5

signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

SUPERVISORS VOTE:

Kerns: Aye      Smith: Aye      Kelley: Absent      Reilly: Aye      Brown: Aye

Ayes: 4      Noes:      Absent: 1      Abstain:

SO ORDERED.

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
www.coastal.ca.gov

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 5, 2007

TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management Department -- Planning  
Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403

FROM: Yinlan Zhang, Coastal Program Analyst *YJZ*

RE: Commission Appeal No. A-2-SON-07-011

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: CPH06-0020  
Applicant(s): Carlille Macy for RJB-GP, LLC  
Description: To construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,068 square foot parcel.  
Location: 949 Harbor Haven Drive, Bodega Bay (Sonoma County) (APN(s) 100-560-15)  
Local Decision: Approved  
Appellant(s): Kimberly Burr  
Date Appeal Filed: 4/4/2007

The Commission appeal number assigned to this appeal is A-2-SON-07-011. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Sonoma's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Yinlan Zhang at the North Central Coast District office.

cc: Carlille Macy for RJB-GP, LLC  
Law Office Of Jerry Bernhaut

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5280 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**NOTIFICATION OF APPEAL PERIOD**

DATE: March 27, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management  
Department -- Planning Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst  
RE: **Application No. 2-SON-07-040**

Please be advised that on March 26, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: **CPH06-0020**

Applicant(s): **Carlille Macy for RJB-GP, LLC**

Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,068 square foot parcel.**

Location: **949 Harbor Haven Drive, Bodega Bay (Sonoma County) (APN(s) 100-560-15)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 9, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Carlille Macy for RJB-GP, LLC  
Law Office of Jerry Bernhaut



# Notice of Final Action on a Coastal Permit

**RECEIVED**  
**MAR 26 2007**  
CALIFORNIA  
COASTAL COMMISSION

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

Date: March 22, 2007

File: CPH06-0020  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

Project Description: Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,068 square foot parcel.

Project Location: 949 Harbor Haven Drive, Bodega Bay

Assessor's Parcel Number: 100-560-015

X  APPROVED by the Board of Supervisors on March 20, 2007.

Conditions of Approval: See attached.

Findings: The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

X  Appealable. Following an action by the Board of Supervisors granting a Coastal Permit, an appeal may be filed with the Coastal Commission within ten (10) working days following receipt of the Notice of Final Action by the Commission.

Address:  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Board of Supervisors Final Conditions of Approval**

**Date:** March 20, 2007  
**Applicant:** Carlile Macy for RJB-GP, LLC  
**Address:** 949 Harbor Haven Drive, Bodega Bay

**File No.:** CPH06-0020  
**APN:** 100-560-015

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade under neath the structure to the highest point of the structure on a 9,068 square foot parcel.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

**PLANNING:**

"The conditions below have been satisfied." BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This Coastal Permit allows for the construction of a new 2,200 square foot, 16-foot tall single-family residence on a 9,068 square foot parcel, as shown on the drawings dated September 2005, prepared by Hedgepeth Architects. The proposal includes a landscape plan by Quadriga dated March 8, 2004. The use shall be operated in accordance with the proposal statement and site plan located in File# CPH05-0012 and PLP05-0083, unless otherwise modified by these conditions. Maximum roof height shall conform to the height restrictions of the View Corridor and Envelope Plan for the Harbor View Subdivision dated March 11, 1998, prepared by JMA Architects.
3. All building construction shall take place in conformance with the building envelopes shown on the Final Map and View Corridor and Envelope Plan. Outside the building envelope, decks are allowed but there shall be no decks greater than 18 inches above finished grade. Pursuant to section 2.2.15 of the Architectural Review Guidelines dated February 25, 1997, any spa, hot tub, or pool shall require a fence of 48 inches tall, and shall only be constructed within the approved building envelope.
4. During project grading (site preparation, cut/fill construction, foundation excavation) inspections/observations shall be routinely made by a qualified geotechnician for compliance with the intent of the geotechnical design recommendations as reflected in the geotechnical report and grading plan. Any substantial change from the approved recommendations (approved grading plan) shall require an amendment to the grading permit. Following completion of grading and before initiation of other on-site improvements, the geotechnician shall submit a report certifying that the grading was completed in conformance with the approved grading plan.
5. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
6. Two dry wells shall be installed to maintain the seasonal component of recharge to the wetland in Parcel A. The dry wells shall be a minimum of 24 inches in diameter, and shall be constructed to

depths of 16 to 20 feet, or to bedrock. Depth of the dry wells shall be determined by the design-level geotechnical investigation. Runoff from suitably-sized roof areas will be directed into the dry wells, such that water of high quality is recharged. The top of the dry well shall be covered, to prevent introduction of fine material capable of clogging the interstices of the crushed rock used to fill the dry wells. Sizing and construction criteria are presented in Appendix B of the EIR.

7. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
8. Prior to the start of construction, a temporary chain link fence shall be constructed at least 100 feet from the edge of the Parcel A wetland as delineated by Wetland Research Associates to prevent any development activities from occurring within the wetland and to prevent any accidental incursion into the seep area. Prior to issuance of building permits for the subject property, the applicant shall commence physical restoration of the Parcel "B" wetland, including additional wetland area to replace the wetland lost because of the storm drain construction through Parcel "A".
9. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required. Prior to the commencement of construction activities, a temporary noise barrier shall be constructed between the northern edge of the site and the adjacent residences. The barrier shall be constructed sufficiently high to cut off line-of-site noise exposure from the dominant construction noise sources to the exposed receptor. The construction fence shall be removed upon completion of construction of the house and garage, and in its place the owner may construct a new fence up to six feet in height in accord with the fences to be allowed to homes along the boundary of the Taylor Tract in Phases 2 and 3 of the Final Map.
10. Applicant shall equip all residential structures with an interior sprinkler system for fire protection.
11. All utilities shall be placed underground.
12. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
13. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
14. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Use Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
15. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property

rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

16. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
17. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN \_\_\_\_\_ OFFICE.

#44

Resolution Number 07-0220

ATTEST: **MAR 23 2007**

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, In & for the County of  
Sonoma

March 20, 2007

PLP05-0083 David Hardy

BY C Woodson DEPUTY

RECEIVED

MAR 26 2007

RECEIVED  
CALIFORNIA  
COASTAL COMMISSION

MAR 26 2007

CALIFORNIA  
COASTAL COMMISSION

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio...." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots 1-7 through 1-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

SUPERVISORS VOTE:

Kerns: Aye      Smith: Aye      Kelley: Absent      Reilly: Aye      Brown: Aye

Ayes: 4      Noes:      Absent: 1      Abstain:

SO ORDERED.

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5280 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 5, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management Department -- Planning  
Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst *YZ*  
RE: **Commission Appeal No. A-2-SON-07-012**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: **CPH06-0018**  
Applicant(s): **Carlile Macy for RJB-GP, LLC**  
Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,039 square foot parcel.**  
Location: **124 Pacific Vista Court, Bodega Bay (Sonoma County) (APN(s) 100-560-13)**  
Local Decision: **Approved**  
Appellant(s): **Kimberly Burr**  
Date Appeal Filed: **4/4/2007**

The Commission appeal number assigned to this appeal is A-2-SON-07-012. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Sonoma's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Yinlan Zhang at the North Central Coast District office.

cc: Carlile Macy for RJB-GP, LLC

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5280 FAX (415) 904-5400  
www.coastal.ca.gov

**NOTIFICATION OF APPEAL PERIOD**

DATE: March 27, 2007  
TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management  
Department -- Planning Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
FROM: Yinlan Zhang, Coastal Program Analyst *YZ*  
RE: **Application No. 2-SON-07-041**

Please be advised that on March 26, 2007 our office received notice of local action on the coastal development permit described below:

Local Permit #: **CPH06-0018**

Applicant(s): **Carlile Macy for RJB-GP, LLC**

Description: **To construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,039 square foot parcel.**

Location: **124 Pacific Vista Court, Bodega Bay (Sonoma County) (APN(s) 100-580-13)**

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 9, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Carlile Macy for RJB-GP, LLC  
Law Office of Jerry Bernhaut



# Notice of Final Action on a Coastal Permit

RECEIVED  
MAY 9  
CALIFORNIA  
COASTAL COMMISSION

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

RECEIVED

MAR 26 2007

CALIFORNIA  
COASTAL COMMISSION

Date: March 22, 2007

File: CPH06-0018  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade underneath the structure to the highest point of the structure on a 9,039 square foot parcel.

**Project Location:** 124 Pacific Vista Court, Bodega Bay

**Assessor's Parcel Number:** 100-560-013

APPROVED by the Board of Supervisors on March 20, 2007.

**Conditions of Approval:** See attached.

**Findings:** The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

**Appealable.** Following an action by the Board of Supervisors granting a Coastal Permit, an appeal may be filed with the Coastal Commission within ten (10) working days following receipt of the Notice of Final Action by the Commission.

Address:  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Board of Supervisors Final Conditions of Approval**

**Date:** March 20, 2007  
**Applicant:** Carlile Macy for RJB-GP, LLC  
**Address:** 124 Pacific Vista Court, Bodega Bay

**File No.:** CPH06-0018  
**APN:** 100-560-0013

**Project Description:** Request for a Coastal Permit to construct a new 2,200 square foot, single story, 3-bedroom, 3-bath house (Plan G) with a maximum height of 16 feet, measured from the highest point of natural grade under neath the structure to the highest point of the structure on a 9,039 square foot parcel.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

**PLANNING:**

"The conditions below have been satisfied." BY \_\_\_\_\_ DATE \_\_\_\_\_

2. This Coastal Permit allows for the construction of a new 2,200 square foot, 16-foot tall single-family residence on a 9,039 square foot parcel, as shown on the drawings dated September 2005, prepared by Hedgepeth Architects. The proposal includes a landscape plan by Quadriga dated March 8, 2004. The use shall be operated in accordance with the proposal statement and site plan located in File# CPH05-0012 and PLP05-0083, unless otherwise modified by these conditions. Maximum roof height shall conform to the height restrictions of the View Corridor and Envelope Plan for the Harbor View Subdivision dated March 11, 1998, prepared by JMA Architects.
3. All building construction shall take place in conformance with the building envelopes shown on the Final Map and View Corridor and Envelope Plan. Outside the building envelope, decks are allowed but there shall be no decks greater than 18 inches above finished grade. Pursuant to section 2.2.15 of the Architectural Review Guidelines dated February 25, 1997, any spa, hot tub, or pool shall require a fence of 48 inches tall, and shall only be constructed within the approved building envelope.
4. During project grading (site preparation, cut/fill construction, foundation excavation) inspections/observations shall be routinely made by a qualified geotechnician for compliance with the intent of the geotechnical design recommendations as reflected in the geotechnical report and grading plan. Any substantial change from the approved recommendations (approved grading plan) shall require an amendment to the grading permit. Following completion of grading and before initiation of other on-site improvements, the geotechnician shall submit a report certifying that the grading was completed in conformance with the approved grading plan.
5. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
6. Two dry wells shall be installed to maintain the seasonal component of recharge to the wetland in Parcel A. The dry wells shall be a minimum of 24 inches in diameter, and shall be constructed to

depths of 16 to 20 feet, or to bedrock. Depth of the dry wells shall be determined by the design-level geotechnical investigation. Runoff from suitably-sized roof areas will be directed into the dry wells, such that water of high quality is recharged. The top of the dry well shall be covered, to prevent introduction of fine material capable of clogging the interstices of the crushed rock used to fill the dry wells. Sizing and construction criteria are presented in Appendix B of the EIR.

7. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
8. Prior to the start of construction, a temporary chain link fence shall be constructed at least 100 feet from the edge of the Parcel A wetland as delineated by Wetland Research Associates to prevent any development activities from occurring within the wetland and to prevent any accidental incursion into the seep area. Prior to issuance of building permits for the subject property, the applicant shall commence physical restoration of the Parcel "B" wetland, including additional wetland area to replace the wetland lost because of the storm drain construction through Parcel "A".
9. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required. Prior to the commencement of construction activities, a temporary noise barrier shall be constructed between the northern edge of the site and the adjacent residences. The barrier shall be constructed sufficiently high to cut off line-of-site noise exposure from the dominant construction noise sources to the exposed receptor. The construction fence shall be removed upon completion of construction of the house and garage, and in its place the owner may construct a new fence up to six feet in height in accord with the fences to be allowed to homes along the boundary of the Taylor Tract in Phases 2 and 3 of the Final Map.
10. Coastal Permit Applicant shall equip all residential structures with an interior sprinkler system for fire protection.
11. All utilities shall be placed underground.
12. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
13. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
14. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Use Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
15. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD

demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.

16. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
17. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN ) OFFICE.

#44  
Resolution Number 07-0220

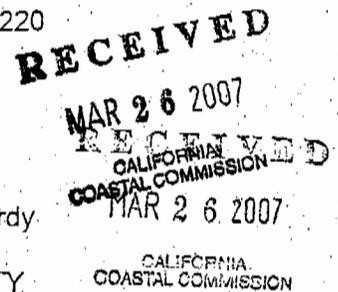
ATTEST: MAR 23 2007

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

March 20, 2007  
PLP05-0083 David Hardy

BY C Woodson DEPUTY



RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision; and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio...." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the RC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots 1-7 through 1-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

SUPERVISORS VOTE:

Kerns: Aye      Smith: Aye      Kelley: Absent      Reilly: Aye      Brown: Aye

Ayes: 4      Noes:      Absent: 1      Abstain:

SO ORDERED.

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5260 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**COMMISSION NOTIFICATION OF APPEAL**

DATE: April 5, 2007

TO: Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management Department -- Planning  
Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403

FROM: Yinlan Zhang, Coastal Program Analyst *YZ*RE: **Commission Appeal No. A-2-SON-07-013**

Please be advised that the coastal development permit decision described below has been appealed to the California Coastal Commission pursuant to Public Resources Code Sections 30603 and 30625. Therefore, the decision has been stayed pending Commission action on the appeal pursuant to Public Resources Code Section 30623.

Local Permit #: **CPH06-0022**Applicant(s): **Carlile Macy for RJB-GP, LLC**

Description: **To landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.**

Location: **1000 Highway 1, Bodega Bay (Sonoma County) (APN(s) 100-560-30, 100-560-28)**Local Decision: **Approved**Appellant(s): **Kimberly Burr**Date Appeal Filed: **4/4/2007**

The Commission appeal number assigned to this appeal is A-2-SON-07-013. The Commission hearing date has not yet been established for this appeal. Within 5 working days of receipt of this Commission Notification of Appeal, copies of all relevant documents and materials used in the County of Sonoma's consideration of this coastal development permit must be delivered to the North Central Coast District office of the Coastal Commission (California Administrative Code Section 13112). Please include copies of plans, relevant photographs, staff reports and related documents, findings (if not already forwarded), all correspondence, and a list, with addresses, of all who provided verbal testimony.

A Commission staff report and notice of the hearing will be forwarded to you prior to the hearing. If you have any questions, please contact Yinlan Zhang at the North Central Coast District office.

cc: Carlile Macy for RJB-GP, LLC

Law Office Of Jerry Bernhaut

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
(415) 904-5280 FAX (415) 904-5400  
[www.coastal.ca.gov](http://www.coastal.ca.gov)

**NOTIFICATION OF APPEAL PERIOD**

**DATE:** March 27, 2007  
**TO:** Dave Hardy, Supervising Planner  
County of Sonoma, Permit and Resource Management  
Department -- Planning Division  
2550 Ventura Avenue  
Santa Rosa, CA 95403  
**FROM:** Yinlan Zhang, Coastal Program Analyst  
**RE:** **Application No. 2-SON-07-042**

Please be advised that on March 26, 2007 our office received notice of local action on the coastal development permit described below:

**Local Permit #: CPH06-0022**

**Applicant(s): Carlile Macy for RJB-GP, LLC**

**Description:** To landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

**Location:** 1000 Highway 1, Bodega Bay (Sonoma County) (APN(s) 100-560-30, 100-560-28)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 9, 2007.

Our office will notify you if an appeal is filed.

If you have any questions, please contact me at the address and telephone number shown above.

cc: Carlile Macy for RJB-GP, LLC  
Law Office of Jerry Bernhaut



# Notice of Final Action on a Coastal Permit

RECEIVED

MAR 26 2007

CALIFORNIA  
COASTAL COMMISSION

Sonoma County Permit and Resource Management Department

2550 Ventura Avenue, Santa Rosa, CA 95403

(707) 565-1900 FAX (707) 565-1103

Date: March 22, 2007

File: CPH06-0022  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

**Project Description:** Request for a Coastal Permit to landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the Parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

**Project Location:** 1000 Highway 1, Bodega Bay

**Assessor's Parcel Number:** (Adjacent) 100-560-030 and 100-560-028

APPROVED by the Board of Supervisors on March 20, 2007.

**Conditions of Approval:** See attached.

**Findings:** The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

Appealable. Following an action by the Board of Supervisors granting a Coastal Permit, an appeal may be filed with the Coastal Commission within ten (10) working days following receipt of the Notice of Final Action by the Commission.

Address:  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

**Board of Supervisors Final Conditions of Approval**

**Date:** March 20, 2007  
**Applicant:** Carlile Macy for RJB-GP, LLC

**File No.:** CPH06-0022  
**APN:** (Adjacent) 100-560-030  
and 100-560-028

**Address:** 1000 Highway 1, Bodega Bay

**Project Description:** Request for a Coastal Permit to landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the Parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

**BUILDING:**

1. The applicant shall apply for and obtain grading and building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

**PLANNING:**

2. This Coastal Permit allows for the construction of a subdivision entry sign and landscaping as shown on the plans by Quadriga dated March 8, 2004, as modified at the September 28, 2006, Board of Adjustments hearing. This permit also allows for revision of the Parcel B wetland pursuant to the drawings and plans prepared by WRA dated December 8, 2006, and the project description dated January 5, 2007. The use shall be operated in accordance with the proposal statements and site plans located in File# PLP05-0083, unless otherwise modified by these conditions.
3. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
4. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application and in the Improvement Plans. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
5. Prior to the start of construction of the entry sign, a temporary fence shall be constructed at the boundary line of Parcel A and at least 10 feet from the southern freshwater seep to prevent any accidental incursion into the seep area, to the extent that such fencing can be accomplished on the applicant's property.
6. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required.

7. All utilities shall be placed underground.
8. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
9. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
10. The Parcel B wetland shall be constructed in conformance with the recommendations of PRMD biologist as set forth in the memorandum dated March 9, 2007. Success of the wetland shall be measured using the performance criteria of the requirements of the U.S. Army Corps of Engineers contained in the 1987 Corps of Engineers Wetlands Delineation Manual.
11. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
12. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.
13. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if: (a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
14. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN OFFICE.

#44  
Resolution Number 07-0220

ATTEST: MAR 23 2007

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

March 20, 2007  
PLP05-0083 David Hardy

BY: C Woodson DEPUTY

RECEIVED  
MAR 26 2007  
RECEIVED  
CALIFORNIA  
COASTAL COMMISSION  
MAR 26 2007  
CALIFORNIA  
COASTAL COMMISSION

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community); CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio...." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots 1-7 through 1-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

Resolution #07-0220

March 20, 2007

Page 5

signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

SUPERVISORS VOTE:

Kerns: Aye      Smith: Aye      Kelley: Absent      Reilly: Aye      Brown: Aye

Ayes: 4      Noes:      Absent: 1      Abstain:

SO ORDERED.



# Revised Notice of Final Action on a Coastal Permit

Sonoma County Permit and Resource Management Department  
2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**RECEIVED**

JUL 20 2007

CALIFORNIA  
COASTAL COMMISSION

Date: July 19, 2007

File: CPH06-0022  
Applicant: Carlile Macy for RJB-GP, LLC  
Address: 15 3<sup>rd</sup> Street  
City, State, Zip: Santa Rosa CA 95402  
Planner: David Hardy

This notice is being distributed to the Coastal Commission and those who requested notice. The following project is located within the Coastal Zone. A project decision has been completed.

**Project Description:** Request for a Coastal Permit to landscape and to construct a new entry sign for the Harbor View Subdivision entry on the south side of the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the Parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

**Project Location:** 1000 Highway 1, Bodega Bay

**Assessor's Parcel Number:** (Adjacent) 100-560-030 and 100-560-028

APPROVED by the Board of Supervisors on March 20, 2007. Revision accepted July 17, 2007.

Conditions of Approval: See attached.

Findings: The project, as described in the application and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Coastal Program. See attached.

Not appealable to the Coastal Commission.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN THIS OFFICE.

#10  
Minute Order No. 07-0628

ATTEST: JUL 18 2007

Administration Center  
Santa Rosa, CA 95403

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

BY *J. Boyer* DEPUTY

Date: July 17, 2007

MINUTE ORDER OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF SONOMA, STATE OF CALIFORNIA,  
ACCEPTING THE DELETION OF THE APPROVED ENTRY  
SIGN ON THE NORTH SIDE OF HARBOR VIEW WAY FROM  
THE PROJECT DESCRIPTION FOR CPH06-0022, AS  
REQUESTED BY THE APPLICANT

BE IT RESOLVED that the Board of Supervisors of the County of Sonoma hereby  
accepts the deletion of the approved entry sign on the north side of Harbor View Way from the  
project description for CPH06-0022, as requested by the applicant

SUPERVISORS:

Kerns: Aye Smith: Aye Kelley: Aye Reilly: Aye Brown: Absent

Ayes: 4 Noes: Abstain: Absent: 1

SO ORDERED

### Board of Supervisors Final Conditions of Approval

**Date:** March 20, 2007 (Revised July 17, 2007)  
**Applicant:** Carlile Macy for RJB-GP, LLC

**File No.:** CPH06-0022  
**APN:** (Adjacent) 100-560-030  
and 100-560-028

**Address:** 1000 Highway 1, Bodega Bay

**Project Description:** Request for a Coastal Permit to landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the Parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

---

**Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.**

#### **BUILDING:**

1. The applicant shall apply for and obtain grading and building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

#### **PLANNING:**

2. This Coastal Permit allows for the construction of a subdivision entry sign and landscaping as shown on the plans by Quadriga dated March 8, 2004, as modified at the September 28, 2006, Board of Adjustments hearing, and by the Board of Supervisors' acceptance of the applicant-proposed deletion of the sign on the north side of Harbor View Way. This permit also allows for revision of the Parcel B wetland pursuant to the drawings and plans prepared by WRA dated December 8, 2006, and the project description dated January 5, 2007. The use shall be operated in accordance with the proposal statements and site plans located in File# PLP05-0083, unless otherwise modified by these conditions.
3. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
4. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application and in the Improvement Plans. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
5. Prior to the start of construction of the entry sign, a temporary fence shall be constructed at the boundary line of Parcel A and at least 10 feet from the southern freshwater seep to prevent any accidental incursion into the seep area, to the extent that such fencing can be accomplished on the applicant's property.
6. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required.

7. All utilities shall be placed underground.
8. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
9. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
10. The Parcel B wetland shall be constructed in conformance with the recommendations of PRMD biologist as set forth in the memorandum dated March 9, 2007. Success of the wetland shall be measured using the performance criteria of the requirements of the U.S. Army Corps of Engineers contained in the 1987 Corps of Engineers Wetlands Delineation Manual.
11. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
12. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.
13. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
14. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

THE WITHIN INSTRUMENT IS A CORRECT COPY  
OF THE ORIGINAL ON FILE IN THIS OFFICE.

#44

Resolution Number 07-0220

ATTEST: **MAR 23 2007**

County of Sonoma  
Santa Rosa, California

ROBERT DEIS, Clerk of the Board of Supervisors  
of the State of California, in & for the County of  
Sonoma

March 20, 2007

PLP05-0083 David Hardy

BY C Woodson DEPUTY

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY  
OF SONOMA, STATE OF CALIFORNIA, APPROVING THE  
REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS  
FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B  
WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING  
AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE  
FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS  
WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR  
APN'S 100-560-001 to -033; 100-570-001 to -025; AND  
100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on March 20, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots I-7 through I-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and

**COUNTY OF SONOMA  
AGENDA ITEM  
SUMMARY REPORT**

**Clerk of the Board Use Only**  
 Meeting Date: \_\_\_\_\_ Held Until: \_\_\_\_\_  
 Agenda Item No: \_\_\_\_\_ Agenda Item No: \_\_\_\_\_

Department: Permit and Resource Management  
 Department:

( ) 4/5 Vote Required

Contact:  
 David Hardy

Phone:  
 565-1924

Board Date:  
 July 17, 2007

Deadline for Board Action:

**AGENDA SHORT TITLE:**

Harbor View Subdivision Entry Sign, CPH06-0022

**REQUESTED BOARD ACTION:**

Minute Order accepting the deletion of the approved entry sign on the north side of Harbor View Way from the project description for CPH06-0022, as requested by the applicant.

**CURRENT FISCAL YEAR FINANCIAL IMPACT**

**EXPENDITURES**

Estimated Cost \$

Amount Budgeted \$

Other Avail Approp \$  
 (Explain below)

Additional Requested: \$

**ADD'L FUNDS REQUIRING BOARD APPROVAL**

Contingencies \$  
 (Fund Name: )

Unanticipated Revenue \$  
 (Source: )

Other Transfer(s) \$  
 (Source: )

Add'l Funds Requested: \$

Explanation (if required):

**Prior Board Action(s):**

On March 20, 2007, the Board of Supervisors approved the Coastal Permits and Design Review for 70 new homes, the subdivision front entry sign, and modifications of the Parcel B wetland.

**Alternatives - Results of Non-Approval:**

**Background:**

On March 20, 2007, the Board of Supervisors approved Coastal Permits and Design Review for 70 new homes, the subdivision entry sign and landscaping, and the modification of the Parcel B wetland at the Harbor View subdivision. Five Coastal Permits were appealed to the California Coastal Commission. Staff at the Commission has indicated there may be a "substantial issue" with CPH06-0022 because siting of the subdivision entry sign within 100 feet of the Parcel A wetland may not be consistent with the County's wetland protection policies in the LCP. The applicant, in correspondence to the Commission staff and by letter to PRMD staff, has agreed to remove the sign from the project description. Coastal Commission staff have asked that the County formally accept the applicant's request in order to remove the sign issue from the appeal pending before the Commission. Absent County action, the Commission must review whether the permit, as approved by the County, raises a substantial issue of conformity with the County's certified LCP. Staff therefore recommends that the Board of Supervisors accept the applicant's deletion of the northern entry sign from the project description.

**Attachments:**

Letter from RJB-GP, Inc. dated June 18, 2007.

**On File With Clerk:**

**CLERK OF THE BOARD USE ONLY**

**Board Action (if other than "Requested")**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Vote:**

# RJB-GP, Inc.

## Harbor View Subdivision

3366 Via Lido • Newport Beach, California 92663

Tel (949) 723-8900 • Fax (949) 723-8915

Via email [dhardy@sonoma-county.org](mailto:dhardy@sonoma-county.org)

Via Facsimile 707 565-1103

June 18, 2007

Mr. David B. Hardy, AICP  
Supervising Planner  
Permit and Resource Management  
Sonoma County  
2550 Ventura Avenue  
Santa Rosa, CA 95403-2829

RE: Harbor View Subdivision, 1000 Highway 1, Bodega Bay, California  
• Coastal Permit CHP06-0022 Amendment

Dear David,

RJB-GP, Inc. wishes to withdraw and amend that portion of the above referenced Coastal Permit that involves specifically the construction of a new entry sign, as proposed, for the north side of the entry road to Harbor View Subdivision, at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way.

We do request that all other elements of Coastal Permit CHP06-0022 remain intact.

Please find attached our letter to YinLan Zhang, California Coastal Commission, informing her of our decision to withdraw the above noted portion of Coastal Permit CHP06-0022.

On behalf of RJB-GP, Inc., with warm regards,



Philip Young

Attachments: June 4, 2007 Letter to California Coastal Commission - 3 pages

CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE (415) 904-5280 FAX (415) 904-5400



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Bodega Bay Concerned Citizens c/o  
Mailing Address: Kimberly BURR, Esq.  
City: P.O. Box 1246 Forestville, CA Zip Code: 95436 Phone: 707-887-7433

SECTION II. Decision Being Appealed

- Name of local/port government: Sonoma County Board of Supervisors
- Brief description of development being appealed: Harbor View subdivision - 70 houses, 14 multifamily units and club house, Wetlands
- Development's location (street address, assessor's parcel no., cross street, etc.):  
1000 Hwy One Bodega Bay, CA 94923  
998 Hwy One Bodega Bay, CA 94923
- Description of decision being appealed (check one.):  
 Approval; no special conditions  
 Approval with special conditions:  
 Denial

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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-2-SON-07-009 to 013

DATE FILED: 4/4/07

DISTRICT: North Central 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:

3/20/07 (Filed with ecc 3/26/07)

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

CPH06-0017, 0018, 0020, 0021, 0022

**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: Richard J Battaglia d.b.a. RJB, Inc.

(B) Carlile Maay (applicant)  
c/o Bruce Jarvis  
15 3rd Street  
Santa Rosa, CA 95401

(A) Landowner c/o Arthur Friedman, Esq.  
One Embarcadero Ctr. 30th Fl.  
San Francisco, CA 94111-3719

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) Dr. Peter Borge - Botanist + Coastal Ecologist  
P.O. Box 65  
Annapolis, CA 95412-0065

(2) Allan Buckmann - Associate Wildlife Biologist DFG  
7329 Silverado Trail  
Napa, CA 94558

(3) Richard Macedo  
Department of Fish and Game  
7329 Silverado Trail  
Napa, CA 94558

(4) Sue Wiedel  
P.O. Box 193  
Bodega Bay, CA 94923

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

## CALIFORNIA COASTAL COMMISSION

NORTH CENTRAL COAST DISTRICT OFFICE

45 FRÉMONT STREET, SUITE 2000

SAN FRANCISCO, CA 94105-2219

VOICE (415) 904-5260 FAX (415) 904-5400



5. Abigail Myers  
Non Profit Support Services  
Post office Box 255  
17175 Bodega Hwy  
Bodega, CA 94922.

6. Greg Kamman  
Kamman Hydrology + Engineering, Inc.  
7 Mount Lassen Drive ste. B-256  
San Rafael, CA 94903

7. Barbara McElhinney  
Post office Box 892  
Bodega Bay, CA 94923

8. Donna Freeman  
Po Box 176  
Bodega Bay, CA 94923

and numerous others that commented on the 1994 EIR.

**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 submittal dated April 3, 2007 from  
Kimberly Burr on behalf of Bodega  
Bay Concerned Citizens appellants.

**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.

Kimberly Burr  
Signature of Appellant(s) or Authorized Agent

Date: 4/5/07

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

**Section VI. Agent Authorization**

I/We hereby authorize Kimberly Burr  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Coquina Bay Concerned Citizens  
Margaret C. Orsini  
Signature of Appellant(s)

Date: 4/5/07

**Kimberly Burr**  
Attorney at Law  
Post Office Box 1246  
Forestville, California 95436  
707.887.7433 • 707.887.0847 facsimile

**RECEIVED**  
APR 04 2007  
CALIFORNIA  
COASTAL COMMISSION

April 2, 2007

Peter Douglas, Executive Director  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105-2219

Re: Appeal of Bodega Harbor View Coastal Permits and the Failure to Require Proper Coastal Permits; 2-SON-07-083thru 042

### **I. Coastal Commission Appeal, Jurisdictional Issues**

This is an appeal from a local government decision on coastal permit applications. The lead agency, the Sonoma County Board of Supervisors, voted to approve Design Review of 70 large structures and one Coastal Permit for an entry wall, landscaping and lights within 100-feet of a wetland. Of the 70 permits approved, ten Coastal Permits were approved for ten houses within view of Highway One (four of which are also within 300-feet of the bluff). Of the 71 permits approved, only four were determined by the lead agency to be subject to appeal to the Coastal Commission.

The approved Coastal Permits were received by the Coastal Commission staff on March 26, 2007. The Appellant, Bodega Bay Concerned Citizens (hereafter "Concerned Citizens"), are aggrieved persons who appeared at public hearings of local government in connection with the decision being appealed, where they informed local government of the nature of their concerns and have exhausted all local remedies and appeals.

This appeal is made on the grounds that approval of the subject permits and the failure to require appropriate coastal permits do not conform to the standards set forth in the certified Local Coastal Program (LCP). In addition, Attachment J to the LCP states that waiver of 300-foot environmental requirement near wetlands in urban areas is subject to approval by the Executive Director of the Coastal Commission (Exhibit A, page 6). Concerned Citizens hereby requests review by the Executive Director of the waiver of 300-foot setbacks in this case.

Due to the presence of sensitive coastal resources and environmentally sensitive habitat areas (ESHA) including registered wetlands, seeps, and habitat of the California red-legged frog (*Rana aurora draytonii*) and the likelihood that sensitive coastal resources will be affected by the approval of the size and location of the 70 large houses, the decision not to require coastal permits for all the structures to be built in this area is being appealed.

Many Coastal Act and LCP provisions apply in a case like this and they will be discussed in detail below. The law is clear, "[e]nvironmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas." PRC §30240; emphasis added).

Although Dr. Baye and DFG policies express deep concerns over the effects of herbicides, pesticides and changes in water and air quality near known CRLF populations, no mitigations have been incorporated into this project to give the CRLF a chance to avoid destruction through direct and indirect impacts (Exhibit C, pages 13, 29, and 30). This is contrary to the laws meant to protect species of special concern. The County did not acknowledge the status of the frogs as a species of special concern and rushed to approve the permits prior to the receipt of the comments of the Department of Fish Game, which they had requested, on the most recent environmental assessment. The habitat and the frogs themselves now face imminent destruction.

In summary, the significance of the County's failure to require Coastal Permits for all structures to be constructed within and adjacent to ESHA has resulted in an unacceptable failure to apply Coastal Commission and LCP standards in this area.

### C. Procedural History

Although development activities continue, not one house has been built, and there is still time to make adjustments in this project as new substantial evidence informs this process. This owner has owned this property for less than 2 years and obtained the property after the previous owner went bankrupt. Land speculation must be tempered by reason and respect for the common good. Changing the design, number, and location of proposed structures will not eliminate this owner's ability to use his property.

Concerned Citizens has urged the County to take into consideration the opinion of the Department of Fish and Game and others, including Dr. Dixon, that the preliminary development activities (some grading, utilities, paving, and storm drains) were having an adverse impact on the protected wetland referred to as Parcel A. These impacts were occurring despite the fact that a 100-foot setback was given Parcel A and despite the fact that conditions approving this large subdivision prohibit such harm and require that construction cease if significant harms to the wetlands are discovered. (Exhibit E, Condition 30).<sup>1</sup> Allan Buckmann of the Department of Fish and Game, an independent biologist with a long history on this project, concluded after a site visit that the wetland was effectively being drained (Exhibit C, pages 13-19, March 2006). It

---

<sup>1</sup> "If at any time during construction, monitoring results indicate that the water supply to the wetland is being reduced significantly to the extent that the viability of the wetland is threatened, **construction shall cease.**" (Exhibit E; emphasis added). See declaration of Greg Kamman lead author of the baseline study on the Parcel A wetland wherein he questions the monitoring by the developer and concludes that the wetland has not received adequate water supply insofar as the rate of outflow from the wetland has been increased reducing percolation time (Exhibit C, pages 33-36).

## II. Background

### A. The Site

As described in the certified EIR for this project "[t]he project site supports one sensitive habitat, freshwater seep" (Exhibit B) referred to as Parcel A. The Department of Fish and Game, included the wetland on its priority list of 19 coastal wetlands (*Acquisition Priorities for the Coastal Wetlands of California*). Eminently qualified biologists including Allan Buckmann of the Department of Fish and Game and Dr. Peter Baye have confirmed that Parcel A is a rare freshwater wetland, and that the rest of the site supports seeps and important habitat (Exhibit 3). The site is the location of, and adjacent to, sensitive resources of vital interest (PRC §30116).

The site is habitat of the California red-legged frog (CRLF), and CRLF are listed as species of special concern in California. Dr. Baye walked the site and noted areas of habitat and in March 2007, a CRLF was indeed found on the project site. The sighting was confirmed by Dr. Northen an expert on frogs in this area. The project site abuts Johnson's Gulch and contains freshwater seeps and wetlands as well as small mammals. According to Dr. Baye and Dr. Northen this site is habitat of CRLF, and CRLF utilize burrows of small mammals when they disperse in order to avoid hot dry conditions (Exhibit C, page 1, 24, 25, 28, and 30).

Parcel A is a prominent feature on this site (Exhibit D) since it contains a rare freshwater coastal wetland on the Pacific Flyway. The focus of much the concern when this large project was proposed was the fate of this important wetland. In order to obtain final approval, the developer promised to monitor the wetland and if anything jeopardized its existence it would stop construction until measures could be taken to understand and fix the problem (Exhibit C, pages 23, 27-30, and 38, 39). One hundred foot-setbacks from development were provided. Although the wetland has been significantly degraded (Exhibit C page 16, 17, 21-23, Exhibit 12, 15), development has never been stopped to evaluate and protect this high value habitat and this hydrologically uncommon wetland feature.

The negative effects on the Parcel A wetland, the discovery of other seeps, and CRLF sends a strong message that a much more cautious approach to development of the project site is indicated. Fortunately, no structures have been built yet and some needed changes can still be incorporated into this project.

### B. Site Conditions are Highly Significant

Although this site has always fit the definition of environmentally sensitive habitat and sensitive coastal resource area, the recent discovery of CRLF, confirms this fit.

"Where during the course of review of a project, Coastal Staff discovers an unmapped environmentally sensitive habitat area, staff shall utilize Coastal Plan habitat definitions and Coastal Commission guidelines for environmentally sensitive habitat areas to define such areas. Applicable Coastal Program restrictions would then apply."  
(Exhibit A, page 7).

was apparent then that the minimal 100-foot setbacks afforded the perennial wetland in Parcel A **just down slope of the development** were insufficient to protect it from the impacts of even the preliminary construction activities.

With respect to Parcel A, it is under a conservation easement which calls for preservation of historical wetland values. The intent of the easement has been systematically violated by the County when, in every evaluation of wetland conditions, the criteria relied on were whether in its current condition the area would qualify as a wetland under Army Corps or Coastal Commission standards, rather than whether current conditions are consistent with its historical status as a perennially saturated wetland habitat.

The County has ignored the affect on sensitive coastal resources and thereby stripped 66 of the 70 housing permit applications before it of Coastal Commission jurisdiction. This was improper and Concerned Citizens maintain that the 70 design review permits for large structures just upslope of the Parcel A protected wetland, to the extent that they will likely add to the impacts on sensitive coastal resources, are appealable to the Commission. (See discussion under IV B below).

In addition to raising the issue of sensitive coastal resources with the inferior reviewing bodies, Concerned Citizens urged the County to restore the Parcel A wetland and to take extra measures through design review and coastal permit review to ensure that the permanent damage was mitigated on site and in kind at a 1:1 ration. Concerned Citizens asked that 300-foot setbacks be required in the design review phase especially given the documented harm to the valuable wetland and the LCP policy that calls for 300-foot setbacks if development may affect a wetland and larger buffer areas for wetlands in **subdivisions**.<sup>2</sup> (Exhibit F).

The lead agency, subsequent to the filing of Concerned Citizen's appeal of discrete BZA permit approvals, modified CPH06-0022 by adding a highly controversial issue -- reconfiguration of Parcel B, to the appeal process. The county allowed this although County Code states that appeals stay any amendments to permits under appeal (Sec. 26-92-160).

The significance of the modification of CPH06-0022 is that it was an attempt to cover up and minimize the significant damage that had been wrought on the perennial wetland in Parcel A by attempting to squeeze a mitigation wetland into Parcel B which is a very questionable site (Exhibit C, pages 23-25, 35, 36, and 39). The harm to Parcel A, it is important to note, occurred despite the 100 foot-setbacks originally provided for and despite the minor development activities which have occurred to date 200 feet- away from the valuable wetland. Wetland setbacks must be meaningful and effective. The proposed construction of large structures, now **only 100-feet away**, will cause even further harm. This is, therefore an absurd proposition. If meaningful protections are the goal, the observations of the independent scientists, the last

---

<sup>2</sup> If the project involves substantial improvements or increased human impacts, such as a **subdivision**, a much wider buffer area should be required (Exhibit A, page 8). LCP. In addition, Attachment K of the LCP states that waiver of 300 foot environmental requirement near wetlands in urban areas is subject to approval by he Executive Director of the Coastal Commission (Exhibit A, page 6).

minute attempt to fix the problem in Parcel B, the injuries suffered by the wetlands in Parcel A, the presence of important seeps, and the discovery of CRLF must all be taken into consideration but have not.

At no time has construction been stayed pending the outcome of this appeal despite the fact that the main issue raised in the appeal was the failure of past and proposed wetland setbacks to protect the high value sensitive coastal resources and despite the fact that construction was, and is, occurring in these disputed fragile and important setback areas.

Three staff reports and several supplements were prepared by County staff prior to the final hearing on Concerned Citizens' appeal on March 20, 2007 (Exhibit I – March 20, 2007). Despite the sworn declarations of eminently qualified and independent scientists including Dr. Peter Baye, Dr. Philip Northen, Greg Kamman - hydrogeologist, and statements by the county's own biologist that contradicted the developer's longstanding position that infrastructure development did not harm wetland (Exhibit I page 11), the County ultimately relied upon the statements of developer's consultants based on questionable analysis which disregards the visible changes in wetland conditions. Crystal Acker of the County wrote that damage to the wetland had occurred as evidenced by the affect on the overall hydrology which left the eastern portion drier than the western portion and evidenced by an eight to ten foot swath in the middle of the wetland along the new storm drain that was not functioning as a wetland anymore (Exhibit G, page 3). In effect, it is the County's position that the wetland in Parcel A has not been significantly impacted, that the reconfigured wetland mitigation site (necessitated by the substantial harm to Parcel A) with another minimal 100-foot buffer, no year round water source, and bounded on three sides by new roads approximately 10 feet away would adequately compensate for the actual significant harm that had come to the protected perennial wetland in Parcel A.

Concerned Citizens files this timely appeal.

**D. Statement of Specific Legal and Factual Basis for the Appeal**

"After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments.... (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300-feet of the top of the seaward face of any coastal bluff, or (3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource areas. PRC 30803

**III. Project Site and Wetland are Environmentally Sensitive Habitat Area (ESHA) and Sensitive Coastal Resource Area within the Jurisdiction of Coastal Commission**

Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource areas may be appealed to the Coastal Commission

(PRC §30803). This provision of the Coastal Act does not say that only determinations by local governments dictate what is appealable to the Commission. It is the Coastal Act and the LCP that define appealable issues, and the issue of significance in this case is ESHA and sensitive coastal resource areas.

The basis for this claim of ESHA and sensitive coastal resource area are several. The LCP at page 20, defines "sanctuary preservation areas" as corresponding to "environmentally sensitive habitat areas" [or ESHA] as defined in Coastal Act sections 30107.5 and 30240. The LCP designates "sanctuary preservation areas" in Bodega bay as seeps and marsh areas at the southeast side of Bodega Harbor where the parcel A wetland is located (page 26). And the LCP defines the east shore of Bodega Bay as sanctuary preservation marshes and seeps. As explained above, even the environmental impact report for this project admits that the area contains a sensitive habitat freshwater seep. And finally, any areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments are ESHA. (PRC 30107.5)

The Act, therefore protects CRLF and their habitat which are rare, and which are very vulnerable to human activities and disturbances. According to the Department of Fish and Game's CRLF are "species of special concern" DFG management recommendations include, "[r]iparian habitats where California red-legged frogs still occur need a greater degree of protection." (Exhibit C, page 13). Changes in water quality, habitat modification, changed hydrology, and effects of pesticides and herbicides urgently need to be studied.<sup>1</sup>

Another Coastal Act provision that applies is PRC 30240(b), which states that "[d]evelopment in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to **prevent** impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas." (emphasis added). This provision applies and yet is not being followed.

The project site is ESHA and a sensitive coastal resource area, as will be addressed below, the structures to be built are properly subjects of coastal permits and properly the subject of coastal permits appealable to the Commission.

Although the County has narrowed the limit of what they consider to be appealable permits to only four houses and one entry wall permit, this is based on the improper and

---

<sup>1</sup> "Additionally, the water quality standards (e.g., low salinity levels: Jennings and Hayes 1989) and water flow regimes of such sites need to be maintained. This taxon is suspected of being particularly sensitive to changes in water quality due to a variety of factors (e.g., various herbicides and pesticides, sulfate ions) that have not been examined specifically for their effects on the developmental stages of this taxon; these urgently need study. The local hydrology of sites where California red-legged frogs still occur should be carefully monitored. Impacts such as additional withdrawals of surface and groundwater that modify existing flow regimes and can change water quality should especially be avoided. Particular efforts need to be made to reduce or eliminate habitat modification" - DFG Management Recommendations for CRLF.

inaccurate characterization of the area, in which the 70 large structures are proposed, as biologically unimportant and of only average sensitivity.

There is information, some obtained over a year ago and some more recent, that must inform this process. Ignoring evidence and important information, especially this early in the construction process, would be unwise and would effectively shove science and facts into the backseat.

#### IV. Permits Being Appealed

##### A. Permits Acknowledged by Local Government as Appeallable

Concerned Citizens appeal a Coastal Permit for a substantial entry wall, landscaping, and lighting, No. **CPH006-0022** within 100-feet of the protected wetland in Parcel A. This approval falls squarely into Coastal Commission jurisdiction minimum setbacks for wetlands. The County waived even the minimum setbacks despite the unambiguous language of the LCP and the Coastal Act that waivers be cautiously granted, that wetlands in subdivision projects be given larger buffers, and amazingly despite the fact that actual harm had already befallen this Parcel A wetland even after affording it an actual 100-foot setback from other structures (Exhibit C and Exhibit G).

This approval of the wall and lighting typifies the County's approach to implementation of the Coastal Act and the LCP. Any and all pronouncements that this Board of Supervisors fully embraces the spirit and letter of the laws governing coastal development or that it diligently enforces conditions of approval of high impact non-essential projects must be measured against the decision to waive protective setbacks in this case and its willingness to further encroach upon a wetland struggling to survive merely to allow installation of a cosmetic non-essential structure.

CPH06-022 was first submitted as an entry sign and in the middle of the appeal, was modified to add a grading permit to reconfigure Parcel B "to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland." The County violated its own law when it allowed a permit under appeal to be modified (Sec. 26-92-160). The significance of this in this case is that the amendment is an admission that Parcel A's 100-foot setbacks were inadequate and high value wetlands were lost as a result (Exhibit C, page 17, Exhibit G, page 3, Exhibit I page 2, 3). The minimum 100-foot setbacks approved are inadequate and inappropriate in this area.

Subsequent to the filing of Concerned Citizens' appeal of the BZA decision, County staff concluded that indeed, what Concerned Citizens had been describing in Parcel A was true, the wetland has been affected by development activities evidenced by an 8-10 foot dead zone along a storm drain and evidenced by affect of overall hydrology because the eastern portion has become drier than western portion (Exhibit G, page 3) The overall hydrology has been affected by the approximately 100-foot storm drain associated with the preliminary infrastructure work.

As a result of confirming Concerned Citizens' claims, County staff did not recommend reversing the BZA but instead allowed modification of an existing permit under appeal to allow for reconfiguration of Parcel B to accommodate a clay lined wetland that could be configured to be 100-feet from structures, but not from roads and drains. Staff even said that the new wetland, required to be a high quality perennial wetland (in kind and on site at a 1:1 ratio), did not deserve real wetland protections or setbacks although provided for in the LCP and Coastal Act.

The developer sought and obtained County cooperation to modify a permit under appeal and to cover up and trivialize the impacts to Parcel A by proposing enlarging a failed created wetland in a completely improper manner. While Concerned Citizens made every effort to stop construction in order that the status quo could be preserved and a fair and independent evaluation of impacts, possible mitigations, and further design review could take place, the County and the developer failed to honor their promise to stop construction under these exact circumstances. (LCP and Condition of Approval No. 30).

Concerned Citizens appeals this approval of the entry wall and also the modification of Parcel B as violative of the Coastal Act and the LCP. The Coastal Act establishes 100-foot minimum setbacks for wetlands with rare exceptions, none of which apply in this case. Parcel B is located in and in close proximity to ESHA, is in a subdivision, and is located in and in close proximity to a sensitive resource area. Elevated levels of protection, than were approved, are indicated.

Concerned Citizen's also appeal Coastal Permits **CPH06-0017, CPH06-0018, CPH06-0020, and CPH06-0021** structures within 300-feet of a coastal bluff. Examination of Exhibit "F" to the December 12, 2006 staff report (released some five weeks after Concerned Citizens appealed), shows that subsequent to their recommendation that all the permits be approved, staff found that only four (reduced from 6) of the ten parcels visible from Highway One were appeallable as structures within 300-feet of the coastal bluff.

Concerned Citizens appeals the approval of the four coastal permits within the coastal bluff zone, as violative of the Coastal Act and the LCP due to location of these structures in ESHA, in and in close proximity to sensitive coastal resource area for which inadequate protective measures have been required. (Exhibit D).

In addition, the structures are located in the highly hazardous Alquist-priolo Earthquake Fault Zone. The geologic information on the bluff is vague, incomplete, or non-existent. For example, essential trench log maps cannot be found in the County's files and the County continues to approve fragmented and incomplete geologic information without the benefit of a geologist on staff. This situation poses an unacceptable risk to public safety. (Exhibit H).

Concerned Citizens also appeal the six other Coastal permits for parcels within view of the highway represented by the County as outside Commission jurisdiction. These permits are for the first tier of structures and are just upslope from the fragile and affected wetland in Parcel A. Although the preliminary development activities have occurred some 200 feet away from the wetland, the wetland has been substantially harmed. Now ten large structures are proposed in this 200-foot zone which was clearly not adequate protection in the first place. This is unwise

and improper given the high level of protections provided for ESHA and wetlands in urban areas and subdivisions.

Concerned Citizens appeals approval of the six coastal permits as violative of the Coastal Act and the LCP based on their likelihood to affect sensitive coastal resources.

**B. Permits Unacknowledged by Local Government as Appeallable**

Respondent has misapplied Categorical Exclusion Order E-81-5 (Exhibit A, page 2) to effectively exempt the other approximately 60 structures from obtaining Coastal Permits. Concerned Citizens disagrees with the County's attempt to avoid Commission scrutiny of the 70 design review permits.

Under the Coastal Act of 1976, all parcels within the Harbor View subdivision are within the Coastal Zone of Sonoma County. Respondent has attempted to selectively apply the LCP's Categorical Exclusion Order E-81-5, Section N, to exempt the other 60 structures from Commission oversight and permit requirement. The County has applied the Order to exempt all single family dwellings not visible from Highway 1 or within 100-feet of a wetland from Coastal Permit requirements. Section N, however also makes clear that the exemption **does not apply** if development of single-family dwellings might affect sensitive coastal resources.

The miserly setbacks provided in the past have, as many predicted, been insufficient, and the result has been tragic. The County must acknowledge this fact and act accordingly and properly.

Concerned Citizens appeals the approval of the 70 design review permits to the extent that the size and location encroach on necessary buffer areas, as violative of the Coastal Act and the LCP. The County, unfortunately continues to deny their own laws, guidelines, and evidence and is thereby denying the protections for ESHA and sensitive coastal resources provided for in the law.

As the County will point out, for some reason this site and its wetlands are not mapped sensitive resource areas. This is not dispositive as explained above based upon sanctuary preservation area designation in the LCP and Attachment K provisions. The EIR described the area as sensitive habitat, the LCP provides for protection in a situation where there is a sensitive area discovered (Exhibit A, page 7) that was previously unmapped, species of special concern occupy the site, and past activities have had an adverse impact on the wetland in Parcel A establishing the sensitivity of this once vital year round refuge for creatures with very low mobility, birds and wetland plants.

**C. Aspects of The Project Substantially Related to the Appeal of Coastal Permits**

"[T]he commission may "consider aspects of the project other than those identified by the appellant in the appeal itself, and may ultimately change conditions of approval or deny a permit altogether." (Appeal Fact Sheet CCC). Ongoing compliance with the LCP and conditions of

approval for this large project are other aspects of the project that are intimately and inextricably connected to the permits under appeal.

### 1. Violations of Sonoma County Local Coastal Program

The County has not implemented and evaluated environmental setbacks as required by its local coastal program. The County completely ignores the provision in the LCP directly applicable to wetlands in subdivisions that essentially, especially in this case, make mere 100-foot set backs inapplicable.

The LCP states that that "[i]f the project involves substantial improvements or increased human impacts, such as a **subdivision**, a much wider buffer area [than 100-feet] should be required (Exhibit A, page 8; emphasis added). As proposed, more parcels are within the 100 to 300 foot buffer necessary for the minimal protections for amphibians, birds, and the hydrology of the wetlands than the County has acknowledged and probably include at least the first tier of structures closest to the wetlands as designed.

For example, the LCP, consistent with the Coastal Act, states that "[b]etween 100 and 300-feet of wetlands **prohibit** construction of agricultural, commercial, industrial, and residential structures unless an environmental assessment finds that the wetland would not be affected by such construction." Although the LCP calls for a prohibition on construction until after a finding is made, construction activities within the 300-foot setback area have proceeded without such an assessment. The most recent alleged environmental assessment occurred after development started, and while it continued, strongly suggesting that the assessment was a token gesture with a forgone conclusion. The plain meaning of the LCP was violated. Not surprisingly, the author of the environmental assessment found that development activities, going on as close as 100-feet of the created wetland, would not harm it.

The County of Sonoma has unfortunately recklessly waived protections meant to be "cautiously applied." The County did not provide the wider buffers required and the Parcel A wetlands have been substantially damaged as a result. Despite the tragic consequences of its improper waivers, the County is seeking to waive additional protections for the Parcel B mitigation site. Biologically meaningful and effective setbacks and buffer areas, of the maximum extent possible, are indicated. (Exhibit C, pages 26 and 36).

### 2. Local Government Failed to Enforce Mandatory Conditions of Approval Placed Upon the Development Project

The Conditions of Approval associated with this large subdivision are not being enforced as required. A mitigation monitoring program was approved with the conditions of approval and these apply to the whole project. The conditions state that "[i]f at any time during construction, monitoring results indicate that the water supply to the wetland is being reduced significantly to the extent that the viability of the wetland is threatened, **construction shall cease.**" (Exhibit E, page 5; emphasis added). The language is mandatory, however in the face of highly credible independent confirmation that the wetland water supply is being significantly affected, the

County has failed to halt construction. Past construction, within the miserly 100-foot setbacks, harmed the wetland in Parcel A and the County not only has not halted construction to conduct an independent investigation as required (Exhibit E, page 5), it is facilitating more construction within disputed setbacks within the mitigation wetland sight.

The situation described in Condition 30 was triggered several times and most recently by Greg Kamman the lead author of the baseline study of wetland conditions for the project proponent.<sup>1</sup> The Department of Fish and Game, in March of 2006, concluded that development activities were having the effect of draining the wetland. A letter dated February 11, 2003, from Dr. John Dixon, Coastal Commission wetland coordinator, described essentially the same conditions Allan Buckmann of Fish & Game observed in 2006. Dr. Dixon called for "a focused hydrological study...to determine the causal mechanisms underlying the perceived drying of the wetland."

The opinions of these declarants, and others, carry great weight especially in light of the lack of credibility manifested in the reassurances issued by the developer's consultants that have been proven to be incorrect and inaccurate. Crystal Acker, a biologist recently tasked by the county to evaluate the impacts of construction, did not agree with the rosy picture the developer's consultants painted of the wetland conditions. Ms. Acker's opinion more closely corroborates the opinions of the Department of Fish and Game, Greg Kamman, Peter Baye, Ph. D., and others that the 100-foot set back, improperly settled upon for Parcel A, was inadequate and that the wetland has experienced negative impacts due to construction activities. The County has at every opportunity sought to minimize the above findings that the Parcel A wetlands have been significantly depleted.

In addition, the County has failed to enforce the Permit Condition of Approval 63 (Exhibit E, page 8), which requires a 1:1 mitigation of lost wetlands on-site and in-kind. Wetlands have been lost and are being lost and yet some seven years after road widening activities and some infrastructure activities, mitigation efforts have still been unsuccessful. Mitigation plans have proven to be extremely optimistic so as to render them unrealistic (Exhibit C). Mitigation efforts have wandered all over the map as impacts are discovered and mitigations plans are found to be wanting. Although the law and the permit granted requires mitigation and protection of wetlands on site, the little parcel of land, meant to serve as the wetland mitigation site, evidently cannot serve to mitigate the impacts of this subdivision of large structures as currently proposed.

The fall back position for the developer and the County has been the mitigation measure requiring two dry wells per dwelling, which will collect rainwater from roof gutters to provide

---

<sup>1</sup> [I]t is my opinion that shallow groundwater conditions under the Parcel A wetland and associated wetland habitat have been adversely impacted by infrastructure work performed in 2000 and 2001, in particular the installation of storm drains through and bordering the Parcel A wetland. It is my belief that the interconnected gravel-lined trenches and storm drain pipelines recently installed: a) within the Parcel A wetland; b) bordering Highway One and the Parcel A wetland; and c) under Highway One, have enhanced and accelerated the subsurface drainage of the shallow groundwater off-site and towards Bodega Bay (Exhibit D, pg.1 - Kamman).

additional aquifer recharge to the wetland once the project is completed. Conveniently for the developer, the adequacy of this measure can be determined only after the project is completed, and once the project is completed responsibility for monitoring and mitigating the wetlands shifts to the homeowners. There have been reports that some recently excavated dry wells have contained ground water, most likely diverted from the wetland by infrastructure trenching. This condition would render the dry wells ineffective for their intended purpose.

The elephant in the developer is attempting to create momentum and commit resources which may have the effect preventing any agency from carrying out the appropriate oversight and enforcement. And unfortunately, construction will reduce opportunities to repair the damage done. A temporary cessation of construction will go along way toward ensuring that bad behavior is not rewarded and protected resources are not sacrificed on the alter of grand land speculation gambles.

3. March 2007 Confirmation of the California red-legged frog  
(*Rana Aurora draytonii*)

Although Dr. Baye (January 2007) identified and documented in his sworn declaration the habitat values of this project site for California red-legged frog, the County ignored these observations. Dr. Baye is a scientist with twenty years of experience on the Sonoma and Marin coasts studying plants, animals, and wetlands. Dr. Baye is a former employee of the Army Corps of Engineers' wetland program and the US Fish and Wildlife Service. The recent discovery of the frog on site (Exhibit C, pages 31 and 32 - March 2007) confirmed the findings of Dr. Baye. The County and the developers' completely disregard this information including the discovery of seeps in close proximity to Johnson's Gulch, and burrows for dispersal in dry periods. This discovery was immediately brought to the attention of Dr. Northen a local scientist and professor with an expertise in CRLF. Dr. Northen confirmed the identification of the amphibian and told county staff that a study was likely indicated.

Rather than further modify the project, conduct a study, or take time to seek the independent recommendations of the Department of Fish and Game the agency most knowledgeable about "species of special concern" including the rare red-legged frog, the County rushed to approve the permits under its consideration.

Waivers of setbacks, failure to provide adequate buffer areas for ESHA and sensitive coastal resources, failure to afford additional buffers in the subdivision for wetlands, the absence of mitigations to protect species of special concern, failure to recognize sensitive coastal resources when they are discovered, failure to fully implement and honor the LCP and Coastal Act and to monitor and enforce conditions of approval have been typical of the County's handling of this project.

Each of these actions, and failures to act, constitute a violation of the Coastal Act and LCP. Together they most certainly violate the Coastal Act and LCP rendering the decision of the Board of Supervisors of Sonoma County to approve 10 Coastal Permits, design review for 70 homes in a sensitive coastal area, and the waiver of a the minimal wetland setbacks improper.

## V. CONCLUSION

Concerned Citizens urge the Coastal Commission to fully exercise its duty and authority to encourage appropriate and legal development of California's magnificent coast.

Concerned Citizens request that a stay be issued until all the issues raised by the appeal and related information be considered and a decision rendered on the appealability of all the permits challenged, on ESHA, and proper extent of protective setbacks. (PRC §30623 Stay on appeal). Adequate and proper setbacks are being trenced, compacted, and scraped as Concerned Citizens makes every effort to bring the issue of the adequacy and importance of past and future setbacks to the Commission. "If an appeal of any action on any development by any local government or port governing body is filed with the commission, the operation and effect of that action shall be stayed pending a decision on appeal. (Amended by Ch. 285, Stats. 1991.) The stay on all development activity will ensure that development shall not disrupt the status quo further and vulnerable frogs and high value wetlands will be protected until at least all appeals have been exhausted.

Concerned Citizens hereby incorporate all correspondence, testimony, and photographs that they have or their agents have submitted to the Coastal Commission on this project and also that information provided to inform the enforcement action. Concerned Citizens reserves the right to supplement this submission as additional information becomes available.

Thank you for your careful consideration of the issues raised.

Very truly yours,

  
KIMBERLY BURR  
*Attorney at Law*

cc: Jerry Bernhaut, Esq.  
Bodega Bay Concerned Citizens

*tree free paper*

**CALIFORNIA COASTAL COMMISSION**  
 45 Fremont St., Suite 2000, San Francisco 94105-2219 (415) 904-5260

CATEGORICAL EXCLUSION ORDER E-81-5, ADOPTED in 1981

SONOMA COUNTY

The Commission by a two-thirds vote of its appointed members hereby adopts an order, pursuant to Public Resources Code Section 30010(e) and 30610.5(b), categorically excluding from the permit requirements of the California Coastal Act of 1976 the categories of development within the specifically defined geographic area described below:

**I. BACKGROUND**

Section 30610 of the Coastal Act allows the State Commission to adopt a Categorical Exclusion for a specific type of development within a defined geographic area

Section 30610(e) states that no coastal development permit shall be required for the following types of development and in the following areas::

"Any category of development, or any category of development within a specifically defined geographic area, that the Commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the Commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where such exclusion precedes certification of the applicable local coastal program, that such exclusion will not impair the ability of local government to prepare a local coastal program."

Public Resources Code Section 30610.5(b) additionally requires that the following findings and the provisions must be made.

Section 30610.5(b) states in part:

"Every exclusion granted. . .shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division and an order granting an exclusion under Subdivision (e) of Section 30610...may be revoked at any time by the Commission if the conditions of the exclusion are violated."

The County of Sonoma seeks the exclusion by the California Coastal Commission of categories of development in the geographic areas designated in Exhibit 1 from Coastal Development Permit requirements. The categorical exclusion may be authorized pursuant to Public Resources Code Section 30610(e) and 30610.5(b). The geographic area is the entire coastal zone of the County of Sonoma. Within this area, the County proposes that the following activities within the specific areas shall not require a coastal development permit.

7. A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than 3 feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

Geographic Area of Exclusion

Land in the Coastal Zone of Sonoma County designated as excludable areas by the map attached as Exhibit 1, not within any sensitive or hazardous areas as designated by the County's adopted Open Space Map, nor affecting any sensitive area in a manner contrary to the Environmental Resource Management Recommendations.

Conditions

This exclusion shall not apply to grading or fill on land with slopes over 30% nor where the Soils Conservation Service of the U.S. Department of Agriculture has identified the soils as moderately to severely erodible.

**M. Category of Development**

Controlled burns regulated by the Department of Forestry and the Air Pollution Control District.

Geographic Area Exclusion

Land in the Sonoma County Coastal Zone mapped on the attached Exhibit 1 as excluded areas.

Conditions

All required permits must be obtained from the Department of Forestry and the Air Pollution Control District.

**N. Category of Development**

A single residential dwelling on a vacant, legal lot or improvements to an existing residential dwelling or accessory structures or uses incidental and appurtenant to a single-family dwelling provided it does not affect scenic views or sensitive coastal resources.

Geographic Area of Exclusion

Parcels of land in the Sonoma County Coastal Zone designated as excludable on the map attached as Exhibit 1 east of Highway One (except for parcels within the Timber Cove subdivision, not within view of any designated scenic road).

**O. Category of Development**

One single family dwelling for each existing vacant parcel in Unit III of Bodega Harbour Subdivision.

Geographic Area of Exclusion

Vacant single family residential lots in Unit III of Bodega Harbour Subdivision as shown on Exhibit B-2.

Conditions

1. No structure shall be more than one story or 16 feet in height, except that up to 20 percent of the total roof area may be 20 feet in height if a corresponding distance is below the 16 foot maximum height. Height is measured as the vertical distance from the median elevation of the highest and lowest points of natural grade beneath the enclosed portion of the structure to the high point of the roof.
2. Because subdivision geologic studies have indicated that certain lots require additional soils engineering study to insure proper construction, the following lots must meet specified requirements.

AP# 100-038-003, 032  
100-040-049  
100-042-025,037

5. The use shall not create substantial additional traffic or require additional parking;
6. No persons are employed other than those necessary for domestic purposes;
7. The use does not occupy more than one-quarter (1/4) of the total floor space of the dwelling;
8. The entrance to the space devoted to a home occupation shall be from within the building. No internal or external alterations or construction features are permitted;
9. Signing shall be limited to one (1) attached, non-illuminated, two (2) square foot sign;
10. No commercial vehicle shall be garaged, except that a single one ton or smaller truck may be ungaraged as long as signs on the truck are limited in size to normal logos found on business vehicles.

Geographic Area of Exclusion

Parcels within the Coastal Zone of Sonoma County shown as excluded on the map attached as Exhibit 1.

Conditions

Each person proposing to conduct a home occupation shall submit a letter to the Director of the Permit and Resource Management Department fully disclosing the nature and extent of the proposed occupation. The Director of the Permit and Resource Management Department may require the person proposing to conduct a home occupation to obtain written consent of owners of neighboring properties, or to obtain a use permit in cases where the proposed home occupation be incompatible with the particular neighborhood.

**R. Category of Development**

Signs subject to design review and conforming to Coastal Zone Design Guidelines.

Geographic Area of Exclusion

Land in the Sonoma County Coastal Zone designated as excluded in Exhibit 1.

**S. Category of Development**

Fences appurtenant to single-family residential, agricultural or animal husbandry use.

Geographic Area of Exclusion

Land in the Sonoma County Coastal Zone shown as excluded by Exhibit 1.

Conditions

No fence which might obstruct public accessways or public views to the ocean is exempted under this order. No fence shall be allowed to obstruct any path, trail, or road over which there is evidence of use by the public. If the construction of a fence is nonetheless necessary, and there is evidence of public use, then the developer shall preserve the accessway by erecting a stile, installing a gate, or by other appropriate physical means.

**EXHIBIT 1**

"Exhibit 1", as used in this document, refers to the adopted map of exclusion areas which was prepared by the staff of the Coastal Commission and incorporated herein by this reference. The map is on file with both the County and the Commission. This map shows areas excluded from this request for categorical exclusion under Section 30610.5(b) of the Coastal Act, namely:

"Tide and submerged lands, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust," where land is in the jurisdiction of the State Coastal Commission.

**ENVIRONMENTAL RESOURCES MANAGEMENT RECOMMENDATIONS  
IMPLEMENTING ZONING DISTRICT ENVIRONMENTAL AND HAZARD REQUIREMENTS**

The habitats or specific resources which have been mapped for the Sonoma County coast are listed below with management recommendations for each. In any case where the General Plan standard for riparian corridors or critical habitats is more restrictive than the standards below, development shall conform to the General Plan standard.

**Sandy Beaches and Sand Spits, including Smelt Spawning Areas.**

1. Prohibit the opening of sandbars except for maintenance of tidal flow to assure the continued biological productivity of streams and associated wetlands and in particular cases to prevent flooding. Bars should not be breached until there is sufficient instream flow to preserve anadromous fish runs.
2. Prohibit all off-road non-authorized motor vehicles from beach areas.
3. Prohibit the removal of sand from beaches and spits.

**Dunes and Coastal Strand**

4. Prohibit the removal of sand from dunes except for dunes management.
5. Preserve and protect coastal dune habitats from all but resource dependent, scientific, educational, and passive recreational uses including support facilities. Disturbance or destruction of any dune vegetation should be prohibited unless as required for public park facilities, and then only if revegetation is a condition of project approval.
6. Prohibit all off-road, non-authorized vehicles from dune areas.
7. Minimize foot traffic for all permitted uses, including recreation, on vegetated dunes. Where access through dunes is necessary, well-defined footpaths or raised boardwalks shall be developed and used. Access areas should be posted with explanations describing the importance of the use of limited access routes for the purpose of protecting the plant communities.
8. Identify wildlife nesting and breeding habitats of rare or sensitive plants or animals for the publicly owned dune areas in order to temporarily restrict access to these areas during identified breeding and nesting seasons.
9. Prohibit construction of permanent structures within riparian areas as defined, or 100 feet from the lowest line of riparian vegetation, whichever is greater, except development dependent on the resources in the riparian habitat, including public recreation facilities related to the resource. Any development shall be allowed only if it can be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of the riparian habitat. The riparian area or 100 foot wide buffer zone should generally be maintained in a natural, undisturbed state. Trails and access may be permitted if studies determine no long-term adverse impacts would result from their construction, maintenance and public use. Trails should be made of porous materials.
10. Require erosion-control measures for projects affecting the riparian corridor.
11. Prohibit the removal of vegetation except commercial timber, subject to an approved timber harvest plan, from the riparian corridor unless it is shown to be essential to continued viability of the wetland.

12. Prohibit filling, grading, dredging, excavation, or construction in the watercourse of a riparian corridor unless it is shown that such action will maintain the value of the area as a habitat for wildlife and aquatic organisms and is compatible with continued viability of the habitat.
13. Prohibit pesticide and herbicide application in a riparian protection zone of 100 feet above the lowest streamside vegetation, or within riparian areas as defined, whichever is greater.
14. Encourage special-range management practices which protect riparian areas.
15. Encourage development of livestock watering areas away from the riparian corridor.

**Wetlands (Marshes, ponds, reservoirs, seeps)**

16. Encourage restoration of marshlands where feasible.
17. Exclude all motor vehicles from wetlands. Pedestrian and equestrian traffic should be directed to specific areas with facilities provided to eliminate adverse impacts on biological resources.
18. Prohibit filling, grading, diking, dredging, and construction in wetlands, except under special conditions delineated in the Coastal Act Section 30233.

All projects must maintain or enhance the functional capacity of the wetland or estuary. Dredging, when consistent with the provisions of the Coastal Act and where necessary for the maintenance of the tidal flow and continued viability of the wetland habitat, should be subject to the following conditions:

- Prohibit dredging in breeding and nursery areas and during periods of fish migration and spawning.
- Limit dredging to the smallest area feasible.
- Require protective measures for dredging and excavation such as silt curtains, diapers, and weirs to protect water quality. Remove structures as soon as possible once they have served their purpose.

Dredge spoils should not be deposited in areas subject to tidal influence or in areas where public access would be significantly adversely affected, as well as certain environmentally sensitive areas.

19. Minimize construction on land adjacent to wetlands during maximum seasons of breeding bird activity. (March 1 to July 1)
20. Prohibit discharge of wastewater into any wetland unless such discharge maintains or enhances the functional capacity of the wetland and maintains the quality of the receiving water.
21. Prohibit grazing or other agricultural uses in designated coastal wetlands. On watershed lands, a fence should be constructed on the outer edge of the wetland.
22. Prohibit the diking or filling of seasonal wetlands for the purpose of conversion to Agriculture or to accommodate development of any kind.
23. Encourage the fencing of springs, seeps, and pond areas surrounded by lands used for grazing. Water for livestock should be piped outside of the wetland for use by livestock.
24. Prohibit the removal of vegetation from wetlands unless it is shown to be essential to the habitat viability.
25. Prohibit construction of agricultural, commercial, industrial and residential structures within 100 feet of wetlands.

ATTACHMENT "J"

ADMINISTRATIVE WAIVER OF WETLAND (100 FOOT SETBACKS) REQUIREMENTS  
IN THE LOCAL COASTAL PLAN IN "RURAL COMMUNITIES" AND  
"URBAN SERVICE AREAS" ONLY, WHERE ROADS, TOPOGRAPHY, OTHER  
DEVELOPMENT EXISTS BETWEEN PROPERTY DEVELOPMENT AREA AND WETLAND.

In enforcing the 100 foot setbacks from wetlands and 300 foot environmental requirement near wetlands in urban areas, the Director of the Permit and Resource Management Department may, through aerial photos, topographical maps, or other means make a determination, subject to review and approval by the Executive Director of the Coastal Commission, that development will not affect the riparian area or wetland because:

- a. Other developed lots or roads exist between the proposed development and the wetland. This standard shall be used cautiously - at the outer edge of the 300 foot limit. If there is any reasonable doubt the proposal would affect the wetlands or riparian area, an environment assessment shall be undertaken and include appropriate mitigation measures.
- b. Topography is such that it is highly unlikely that development could affect the wetland.

The policies shall not be waived outside designated "rural community" and "urban service areas" on the Coastal Plan Land Use Map.

REVISION OF MAPPED ENVIRONMENTALLY SENSITIVE HABITAT AREAS

If there is no obvious mapping error which can be determined from review of aerial photos, the burden of proof is on the applicant to re-define the boundaries of a mapped environmentally sensitive habitat.

To define wetlands, the applicant shall use the State Coastal Commission Criteria for identifying and mapping wetlands and other wet environmentally sensitive habitat areas. (See Attachment L) The Coastal Act defines wetlands as "lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats and fens."

Riparian areas refer only to riparian vegetation. The geographical extent of a riparian habitat would be where riparian vegetation comprises at least 50% of the ground (shade) cover. Other habitats may be defined from Coastal Plan definitions.

Small drainage ways, usually less than five feet wide, with no evidence of riparian vegetation, are not to be considered riparian corridors. Unless there is a pooled or marshy area, they are probably also not wetlands as defined by the guidelines.

Where, during the course of review of a project, Coastal staff discovers an unmapped environmentally sensitive habitat area, staff shall utilize Coastal Plan habitat definitions and coastal Commission guidelines (for wet environmentally sensitive habitat areas), to define such area. Applicable Coastal Program restrictions would then apply.

Official changes in Open Space Maps may occur when Local Coastal Plan amendments are considered.

Criteria for Establishing Buffer Areas

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

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

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

1. Biological significance of adjacent lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. That is, functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance would depend upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding or resting). This determination requires the expertise of an ecologist, wildlife biologist, ornithologist, or botanist who is familiar with the particular type of habitat involved. Where a significant functional relationship exists, the land supporting this relationship should also be considered to be part of the environmentally sensitive habitat area, and the buffer area should be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer should be extended from the edge of the wetland, stream or riparian habitat (for example) which is adjacent to the proposed development (as opposed to the adjacent area which is significantly related ecologically).
2. Sensitivity of species to disturbance. The width of the buffer area should be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination should be based on the following:
  - a. Nesting, feeding, breeding, resting or other habitat requirements of both resident and migratory fish and wildlife species.
  - b. An assessment of the short-term and long-term adaptability of various species to human disturbance.
3. Susceptibility of parcel to erosion. The width of the buffer area should be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

4. Use of natural topographic features to located development. Hills and bluffs adjacent to environmentally sensitive habitat areas should be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from environmentally sensitive habitat areas. Similarly, bluff faces should not be developed, but should be included in the buffer area.
5. Use of existing cultural features to locate buffer zones. Cultural features, (e.g., roads and dikes) should be used, where feasible, to buffer habitat areas. Where feasible, development should be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the environmentally sensitive habitat area.
6. Lot configuration and location of existing development. Where an existing subdivision or other development is largely built out and the buildings are a uniform distance from a habitat area, at least that same distance will be required as a buffer area for any new development permitted. However, if that distance is less than 100 feet, additional mitigation measures (e.g., planting of native vegetation which grows locally) should be provided to ensure additional protection. Where development is proposed in an area which is largely undeveloped, the widest and most protective buffer area feasible should be required.
7. Type and scale of development proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer area necessary to protect the environmentally sensitive habitat area. For example, due to domestic pets, human use and vandalism, residential developments may not be as compatible as light industrial developments adjacent to wetlands, and may therefore require wider buffer areas. However, such evaluations should be made on a case-by-case basis depending upon the resources involved, and the type and density of development on adjacent lands.

Wetland SIZE

**HARBOR VIEW FINAL  
EIR:  
REVISIONS TO DRAFT  
EIR**

*July 27, 1994*

*Prepared for:*

*County of Sonoma*

**LSA**

### Ruderal

Ruderal habitat is loosely defined as weedy areas dominated by introduced forbs. A small area in the southern corner of the project site is classified as ruderal because it is dominated by dense stands of wild radish (*Raphanus sativus*), poison hemlock, and cow parsnip (*Heracleum lanatum*). Wild radish and poison hemlock are non-native species that colonize disturbed habitats, in particular, grasslands and riparian habitats. Cow parsnip is a native species and probably was present prior to the colonization of the area by weeds.

### Other Habitats

A small stand of wax myrtle (*Myrica californica*) is present along Highway 1 at the base of the lower spring wetland. The origin of this stand is unknown.

### Wildlife

A variety of wildlife species are adapted to the non-native grassland and seep habitats which dominate the project site. These species would use the small patches of willows, cypress trees, and ruderal habitat for shelter and forage. Wildlife species reported in the DEIR (1990) as being observed on the site in July and August 1987 and March 30, 1990 were amphibians, birds, and mammals. Amphibians were California slender salamander (*Batrachoseps attenuatus*). Birds were turkey vulture (*Cathartes aura*), northern harrier (*Circus cyaneus*), barn swallow (*Hirundo rustica*), bush-tit (*Psaltiparus minimus*), hermit thrush (*Calbarus guttatus*), American robin (*Turdus migratorius*), American pipit (*Anthus rubescens*), savannah sparrow (*Passerculus sandwichensis*), song sparrow (*Melospiza melodia*), white-crowned sparrow (*Zonotrichia leucophrys*), red-winged blackbird (*Agelaius phoeniceus*), Brewer's blackbird (*Euphagus cyanocephalus*), house finch (*Carpodacus mexicanus*), pine siskin (*Carduelis pinus*), and American goldfinch (*Carduelis tristis*). Mammals observed during the 1987 and 1990 surveys were black-tailed jackrabbit (*Lepus californicus*). Included in Appendix C is a checklist of birds of Bodega Bay prepared by Nancy T. Conzett, an active birder and Bodega Bay resident, for Sonoma County Regional Parks. Checkmarks on the list indicate birds she has observed on the site.

Wildlife species observed on LSA's site visit were amphibians, birds, and mammals. Amphibians observed were Pacific tree frog (*Pseudacris (Hyla) regilla*). Birds observed were turkey vulture, northern harrier, killdeer (*Charadrius vociferus*), unidentified medium sized sandpiper, common snipe (*Gallinago gallinago*), common raven (*Corvus corax*), western bluebird (*Sialia mexicana*), European starling (*Sturnus vulgaris*), yellow-rumped warbler (*Dendroica coronata*), Brewer's blackbird, and red-winged blackbird. Mammals observed were dens of Botta's pocket gopher (*Thomomys bottae*).

## ***Sensitive Habitats and Special Status Species***

### ***Sensitive Habitats***

One sensitive habitat is present on the project site, freshwater seep. This habitat was described in the vegetation setting, above. The freshwater seeps on site are wetlands subject to jurisdiction under Section 404 of the Clean Water Act. The seeps on the project site were delineated by Wetland Research Associates (July, 1990) and WESCO (1992) (both references are included in Appendix C). The latter delineation was verified by the U.S. Army Corps of Engineers (Corps) on August 9, 1992 (D. Hickman pers. comm.). The seep located at the western boundary of the site, adjacent to Highway 1, encompasses approximately 1.6 acres. The seep located along the southern boundary of the site encompasses approximately 0.6 acres.

Seeps in the property containing the Alternate 2 access route have not been delineated but appear to comprise five to ten acres of wetlands. These wetlands would need to be delineated to determine the extent of Corps jurisdiction there.

### ***Special Status Plant Species***

The CNDDDB (1993) has records of two special status plant species that occur in the project vicinity and that could occur on the project site. These are the swamp harebell (*Campanula californica*) and yellow larkspur (*Delphinium luteum*).

**Swamp Harebell:** The swamp harebell is a federal category 2 candidate for listing as threatened or endangered. Category 2 candidates are those species which are thought to be threatened but insufficient information is currently available to warrant listing them as threatened or endangered. The species is not listed by the State. The swamp harebell occurs in bogs and fens, closed cone coniferous forests, coastal prairies, freshwater marshes, and North Coast coniferous forests (CNDDDB 1993). The CNDDDB (1993) has one record of this species from a marshy hillside depression southeast of lower Salmon Creek Marsh. The species was not observed on the project site during previous surveys of the site (Harrison 1987, WESCO 1991; see Appendix C) and was not observed in the adjacent property which contains the Alternate 2 access route (LSA 1993; see Appendix C). The swamp harebell is not expected to occur on the site.

**Yellow Larkspur.** The yellow larkspur is a federal category 1 candidate and listed by the State as rare. Category 1 candidate species are those for which there is sufficient information to warrant listing them as threatened or endangered. The yellow larkspur occurs in coastal scrub habitats, on rocky areas from sea level to 300 feet. The CNDDDB (1993) has two records of this

I, Dr. Philip Northen, declare:

1. I have personal knowledge of the facts stated herein, and if called upon to testify in regard thereto, I could and would do so competently under oath.
2. I hold a doctorate from the University of Wisconsin and am currently a full professor in the Department of Biology at Sonoma State University, Sonoma County, California. My doctoral thesis was on the distribution and taxonomy of spadefoot toads in western North America, work based on five field seasons of work with the species.
4. My research interests are animal behavior; breeding behavior of frogs; wetland and riparian ecology and conservation. I am expert in the vocal behavior of frogs, and, with students, have intensively studied the Pacific treefrog's courtship. My students were the first to record the underwater vocalizations of the foothill yellow-legged frog, work that they and I have published.
5. I have visited the site referred to as the proposed Harbor View subdivision in Bodega Bay, California.
6. I have reviewed the photographs of the frog attached hereto, and it is a red-legged frog. This identification is based upon my experience, education, and the red color of the legs and the light color of the upper jaw. These features combined with the size of the specimen and the locality where it was collected rule out the possibility of it being any other type of local frog.
7. Both the California red-legged frog - *Rana aurora draytonii* (CRLF) and Northern red-legged frog - *Rana aurora aurora* (NRLF) are in decline.

Both species are listed as "species of special concern" in California, and the Federal government lists CRLF as a threatened species. The category "species of special concern" is defined by the California Department of Fish and Game as those animals not listed under the federal Endangered Species Act or the California Endangered Species Act, but which nonetheless 1) are declining at a rate that could result in listing, or 2) historically occurred in low numbers and known threats to their persistence currently exist."

8. Students and I have been working on the ecology of the federally threatened California red-legged frog since the early 1990's. Following our discovery of a significant population of this species at the Ledson Marsh, Annadel State Park, Sonoma County, California, we censused the population. I developed a technical report on this work and submitted it to the Department of Parks and Recreation in 1993. Shortly thereafter, David Cook, a master's student of mine, began additional research on this marsh, and he completed his thesis in 1997. I have worked with him and noted red-legged frog expert Mark Jennings on a manuscript of this work that has been resubmitted following revisions to the journal *Herpetologica*. In 2005, a second graduate student, Patricia Tatarian, completed her masters degree on a second population of this species, following their movement patterns with radio-telemetry.

9. I also study plant communities in California, particularly those associated with vernal pools. I established an experimental set of artificial pools on Travis Air Force Base in Solano County in 1992, and worked

with students to quantitatively sample the plant communities in these pools and a nearby set of natural pools for five years. One student finished her thesis on this work, and I have published the essential results.

10. Representative samples of my published work, some of which I co-authored, include the 2006 *Demography and breeding phenology of the California tiger salamander (Ambystoma californiense) in an urban landscape*. Northwestern Naturalist. 87:215-224; the 2000 *Comparison of techniques for inoculating artificial vernal pools in California*. Ecological Restoration 18:124-25; the 1998 *Techniques for Mitigating Loss of Vernal Pools-An Experimental Approach*. Technical publication for the California Department of Transportation. 139 pp.; the 1998 *Biological Monitoring of the Caltrans Cloverdale Bypass Mitigation Project; Year 4 Report*. Technical report for the California Department of Transportation. 98 pp.; the 1997 *Monitoring of the Point Arena Mountain Beaver; Year 5 Report*. Technical report for the U.S. Fish and Wildlife Service. 35 pp.; the 1996 *Biological Inventory of the Proposed Pleasanton Ridge Conservation Bank, Alameda County, California*. Technical report for the American Land Conservancy. 33 pp., the 1994 *Underwater vocalization by the foothill yellow-legged frog, Rana boylei*. Transactions of the Western Section of the Wildlife Society 29:1-7.; and the 1993. *Report on the Status of the California red-legged frog, Rana aurora draytonii, in the Ledson Marsh, Annadel State Park, Sonoma County, California*. Technical report

for the California Department of Parks and Recreation. 22 pp.

I declare under penalty of perjury that the foregoing statements are true and correct and that this declaration was executed at Santa Rosa, California on March 20, 2007.

Philip T. Northen  
Philip Northen, Ph. D.

AMPHIBIAN AND REPTILE SPECIES  
OF  
SPECIAL CONCERN IN CALIFORNIA

Mark R. Jennings  
Research Associate

Department of Herpetology, California Academy of Sciences  
Golden Gate Park, San Francisco, CA 94118-9961

and

Marc P. Hayes  
Research Associate

Department of Biology, Portland State University  
P.O. Box 751, Portland, OR 97207-0751

and

Research Section, Animal Management Division, Metro Washington Park Zoo  
4001 Canyon Road, Portland, OR 97221-2799

The California Department of Fish and Game commissioned this study as part of the  
Inland Fisheries Division Endangered Species Project. Specific recommendations  
from this study and in this report are made as options by the authors for the  
Department to consider. These recommendations do not necessarily represent the  
findings, opinions, or policies of the Department.

FINAL REPORT SUBMITTED TO  
THE CALIFORNIA DEPARTMENT OF FISH AND GAME  
INLAND FISHERIES DIVISION  
1701 NIMBUS ROAD  
RANCHO CORDOVA, CA 95701  
UNDER CONTRACT NUMBER 8023

1994

5

changes in the salinity gradients in coastal lagoons that could significantly impact the survivorship of *R. a. aurora* in a manner similar to that reported for *R. a. draytonii* (see Jennings and Hayes 1989) need study. Finally, because it is likely that many of the conditions that impact *R. a. aurora*, allowing for differences in their respective life histories, also impact *R. a. draytonii*, the account for the California red-legged frog should be read to gain a broader perspective on other potential impacts.

**CALIFORNIA RED-LEGGED FROG**  
*Rana aurora draytonii* Baird and Girard 1852

**Description:** A large (85.0-138.0 mm SUL) brown to reddish brown frog with prominent dorsolateral folds and diffuse moderate-sized dark brown to black spots that sometimes have light centers (Storer 1925; pers. observ.). Distribution of red or red-orange pigment is highly variable, but usually restricted to the belly and the undersurfaces of the thighs, legs, and feet. Some individuals have red pigment extending over all undersurfaces and upper surfaces of the body; other individuals lack red pigment entirely or have it restricted to the feet (pers. observ.). The groin has a distinct black region with a complex arrangement of light blotches that range from white to pale yellow in color. The posterior thigh is a nearly uniform brown color with 3-12 distinct white to lemon-yellow spots. The iris is dark brown with iridophores on the upper and lower portions of the iris (pers. observ.).

**Taxonomic Remarks:** See the northern red-legged frog (*Rana aurora aurora*) account for pertinent remarks. The California red-legged frog (*R. a. draytonii*) is a morphologically (larger body size, males have paired vocal sacs), behaviorally (males always call in air, adults do not leave the site of oviposition), and probably genetically distinct form (Hayes and Miyamoto 1984; Green 1985a; pers. observ.). Comprehensive study of the geographic pattern of morphological, behavioral, and genetic variation, some of which is underway, is needed to determine whether the California red-legged frog represents a distinct species.

**Distribution:** The historic range of this frog extends through Pacific slope drainages from the vicinity of Redding (Shasta County; Storer 1925) inland and at least to Point Reyes (Marin County; pers. observ.), California (coastally) southward to the Santo Domingo River drainage in Baja California, Mexico (Linsdale 1932). Historically, it also occurred in a few desert slope drainages in southern California (Jennings and Hayes 1994). Populations in central southern Nevada are introduced (Linsdale 1940, Green 1985b). In California, it occurs from Shasta County south to the Mexican border (Figure 17). The records for Santa Cruz Island have been shown to represent an introduction (Jennings 1988a). Its known elevational range extends from near sea level to around 1500 m, although some of the populations toward the upper limit of the range of this species may represent translocations (unpubl. data).

**Life History:** California red-legged frogs breed early in the year (late November-late April; Storer 1925; Hayes and Jennings 1986; S. Sweet, pers. comm.; pers. observ.), undoubtedly because they have a low embryonic critical thermal maximum (see Hayes and Jennings 1986) that restricts them to using a time-window with a high probability of ensuring embryonic survival. Males appear at breeding sites from 2-4 weeks before females (Storer 1925). At breeding sites, males typically call in small, mobile groups of 3-7 individuals that attract females (pers. observ.). Females move toward male calling groups and amplex a male. Following amplexus, females move to the site of oviposition and attach egg masses containing ca. 2,000 to 6,000 moderate-sized (2.0-2.8 mm in diameter), dark reddish brown eggs to an emergent vegetation brace (Storer 1925; pers.

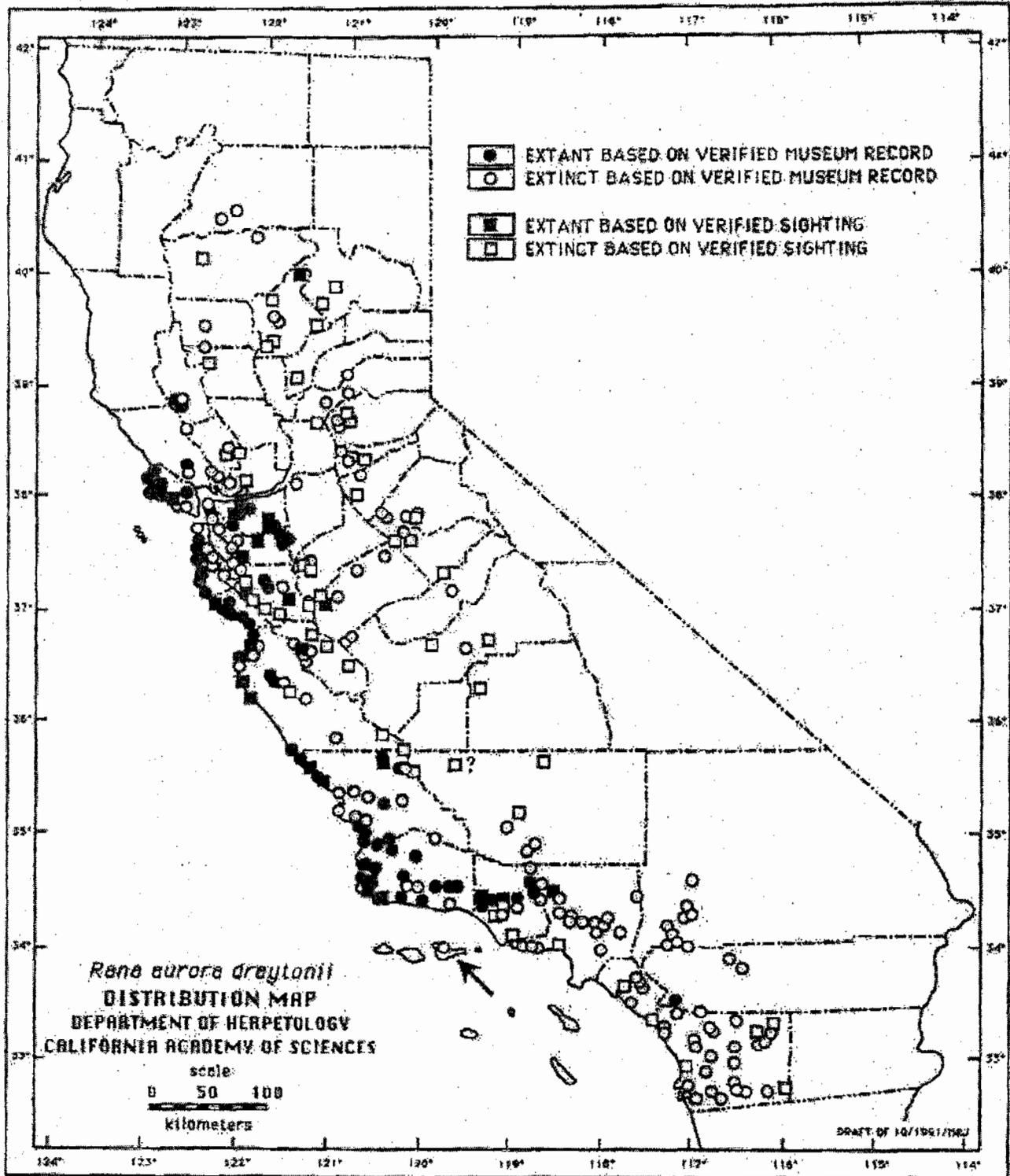


Figure 17. Historic and current distribution of the California red-legged frog (*Rana aurora draytonii*) in California based on 762 locations from 1229 museum records and 291 records from other sources.

observ.). Embryos hatch 6-14 days after fertilization, and larvae require 4-5 months to attain metamorphosis (Storer 1925). Larvae are thought to be algal grazers, but the foraging ecology of larval *R. a. draytonii* is unknown. Larvae are infrequently observed in the field because they spent most of their time concealed in submergent vegetation or organic debris (pers. observ.). Larvae, which are not known to overwinter, typically metamorphose between July and September (Storer 1925; pers. observ.). Postmetamorphs grow rapidly, and sexually maturity can be attained at 2 years of age by males and 3 years of age by females (Jennings and Hayes 1985), but both sexes may not reproduce until 3 and 4 years of age, respectively (pers. observ.). Females attain a significantly larger body size than males (138 mm vs. 116 mm SUL; Hayes and Miyamoto 1984). No data are available on the longevity of California red-legged frogs.

Unlike northern red-legged frogs, adult California red-legged frogs do not appear to move large distances from their aquatic habitat, although they are known to make pronounced seasonal movements within their local aquatic and terrestrial habitats. Adult *R. a. draytonii* move seasonally between the site of oviposition and the foraging habitat occupied in spring and summer (Jennings and Hayes 1989; pers. observ.), but a few data indicate that they move into terrestrial riparian thickets during the fall (Rathbun et al. 1993). It is also known that during periods of high water flow, California red-legged frogs are rarely observed (S. Sweet, pers. comm.; pers. observ.). Where frogs go during this interval is not well understood, but at least some individuals have been observed concealed in pockets or small mammal burrows beneath banks stabilized by shrubby riparian growth (pers. observ.). Nevertheless, much of the movement ecology of *R. a. draytonii* remains poorly understood.

Postmetamorphs have a highly variable animal food diet (Hayes and Tennant 1986). Most prey that can be swallowed that are not distasteful are eaten, with larger frogs capable of taking larger prey. Frogs (Anura) and small mammal prey may contribute significantly to the diet of adults and subadults (Arnold and Halliday 1986; Hayes and Tennant 1986). Adult frogs appear to use vibrations transmitted along willow branch runways to detect approaching small mammal prey (see Hayes and Tennant 1986; pers. observ.).

In general, adult frogs are quite wary. Highly nocturnal (Storer 1925; Hayes and Tennant 1986), adults appear to face frequent attempts at predation by wading birds (e.g., black-crowned night herons [*Nycticorax nycticorax*], bitterns [*Botaurus lentiginosus*]), judging from the number of dorsal puncture-like wounds observed on frogs (pers. observ.). Moreover, adult frogs also seem to use vibrations transmitted along willow branches or vegetation upon which they are resting to detect the approach of certain predators (e.g., raccoons). In contrast, juveniles ( $\leq 60$ -65 mm SUL) are much less wary, are frequently active diurnally, and spend much of the daytime hours basking in the warm, surface-water layer associated with floating and submerged vegetation (see Hayes and Tennant 1986), where they can fall prey to predators such as San Francisco garter snakes (Wharton 1989) and two-striped garter snakes (*Thamnophis hammondi*; Cunningham 1959a). California red-legged frogs are seasonal prey in the diet of the San Francisco garter snake (Wharton 1989).

**Habitat:** Habitat of California red-legged frogs is characterized by dense, shrubby riparian vegetation associated with deep ( $\leq 0.7$  m), still or slow-moving water (Jennings 1988b; Hayes and Jennings 1988). The shrubby riparian vegetation that structurally seems to be most suitable for California red-legged frogs is that provided by arroyo willow (*Salix lasiolepis*); cattails (*Typha* sp.) and bulrushes (*Scirpus* sp.) also provide suitable habitat (Jennings 1988b). Although California red-legged frogs can occur in ephemeral or permanent streams or ponds, populations probably cannot be maintained in ephemeral

streams in which all surface water disappears. Water should have a salinity of  $\leq 4.5$  ‰ to ensure the survival of embryonic stages (Jennings and Hayes 1989). Juvenile frogs seem to favor open, shallow aquatic habitats with dense submergents (pers. observ.).

**Status:** Endangered in the Central Valley hydrographic basin (includes the Sacramento, San Joaquin, Kings, Kaweah, and Kern River systems) and in southern California from the Santa Clara River system south to the Mexican border. Threatened throughout the remainder of its range in California; once the abundant species of large ranid frog throughout most of lowland California, this species has sustained large reductions both in geographic range and in the size of local populations. Historically, California red-legged frogs were heavily commercially exploited for food, a situation that led to their becoming severely depleted by the turn of the century (Jennings and Hayes 1985). Continued exploitation of depleted populations and the prior and subsequent establishment of a diverse exotic aquatic predator fauna that includes bullfrogs, crayfish, and a diverse array of fishes likely contributed to the decline of the California red-legged frog (Hayes and Jennings 1986), although it is not understood which exotic aquatic predator or predators may have been most significant (Hayes and Jennings 1988). Further, habitat alterations that are unfavorable to California red-legged frogs and favorable to most of the exotic aquatic predators are confounded with potential direct effects of predation by such exotics (Hayes and Jennings 1986). The tone of these suggestions is not new. Nearly 20 years ago, Robert L. Livezey (in litt., 3 February 1972 to Leonard Fisk, then Senior Fishery Biologist with CDFG charged with investigating the state of non-game amphibians and reptiles) attempted to draw attention to the fact that he believed that the California red-legged frog has suffered a drastic reduction over the previous 15 to 20 years because of bullfrogs and expanding human activities. Regardless of the exact cause, our surveys for California red-legged frogs at over 95% of the historical localities in the Central Valley hydrographic basin over the last 10 years indicate that this species has probably disappeared from over 99% of its former range within that region. The few remaining populations are threatened by proposed reservoir construction, off-road vehicle use, and continued habitat degradation due to the cumulative effects of abusive land use practices, especially with regard to livestock grazing (pers. observ.; see Kauffman et al. 1983; Kauffman and Krueger 1984; Bohn and Buckhouse 1986) and development of groundwater resources (see Groeneveld and Griepentrog 1985). The only locality within the Central Valley hydrographic basin that supports California red-legged frogs that receives some degree of protection, the Corral Hollow Ecological Reserve, is currently threatened by siltation promoted by an off-road vehicle park and livestock grazing practices upstream. Similarly, between the Santa Clara River system and the Mexican border, extant populations of California red-legged frogs are known from only four relatively small areas. These combined areas represent no more than 1% of the area historically occupied by California red-legged frogs within that region. Additionally, no more than 10% of the localities where California red-legged frogs were recorded within the Salinas River hydrographic basin and inner Coast Ranges between the Salinas basin and the San Joaquin south of the Pacheco Creek drainage still have *R. a. draytonii*.

Significant numbers of California red-legged frogs occur only in the relatively small coastal drainages between Point Reyes (Marin County) and Santa Barbara (Santa Barbara County). The drainages within this region are characterized by more suitable habitat and a less frequent occurrence of exotic aquatic predators than elsewhere. Yet, even the California red-legged frogs within this region are threatened by an exotic aquatic predator fauna that is still slowly expanding its range, continuing habitat degradation because of abusive grazing practices, and decreased water quality because of increased salinities related to decreased freshwater flows because of increased human use and recent decreases in annual rainfall potentially related to global climate changes.

**Management Recommendations:** Riparian habitats where California red-legged frogs still occur need a greater degree of protection. In particular, emphasis needs to be placed on retaining the dense riparian vegetation associated with deep water habitats used by this taxon. Additionally, the water quality standards (e.g., low salinity levels; Jennings and Hayes 1989) and water flow regimes of such sites need to be maintained. This taxon is suspected of being particularly sensitive to changes in water quality due to a variety of factors (e.g., various herbicides and pesticides, sulfate ions) that have not been examined specifically for their effects on the developmental stages of this taxon; these urgently need study. The local hydrology of sites where California red-legged frogs still occur should be carefully monitored. Impacts such as additional withdrawals of surface and groundwater that modify existing flow regimes and can change water quality should especially be avoided. Particular efforts need to be made to reduce or eliminate habitat modification that results from overgrazing because grazing and similar land use practices are especially effective at reducing or eliminating the dense riparian cover required by California red-legged frogs. Despite the fact that the total protection of entire local hydrographic basins has been suggested (Moyle 1973, Hayes and Jennings 1988), that suggestion remains unimplemented. That approach may ultimately be the only way to protect some of the remaining populations of this taxon.

#### FOOTHILL YELLOW-LEGGED FROG

*Rana boylei* Baird 1854

**Description:** A moderate-sized (37.2-82.0 mm SUL) highly variably colored frog, but usually dark to light gray, brown, green, or yellow with a somewhat mottled appearance often with considerable amounts of brick or reddish pigment, and rough, tubercled skin (Zweifel 1955; unpubl. data). A light band is present between the eyelids that often appears as a pale triangle between the eyelids and the nose. Undersurfaces of the legs and lower belly are yellow or orangish-yellow, the latter color usually present on the largest individuals (pers. observ.). The iris is silvery gray with a horizontal, black countershading stripe (pers. observ.).

**Taxonomic Remarks:** Since the work of Zweifel (1955), this frog has been recognized as a distinctive species. An understanding of the genetic and karyologic variation within *R. boylei* is limited to 13 populations in central and northern California and one population in Oregon (Houser and Sutton 1969; Haertel et al. 1974; Case 1976, 1978a, 1978b; Green 1986a, 1986b). Available data indicate complex genetic variation within *R. boylei*, but data are both difficult to interpret because of some lumping of nearby populations (Case 1978b) and too few to identify any geographic patterns to genetic variation conclusively. A sound understanding of the geographic pattern of genetic variation in *R. boylei*, with the intent of distinguishing potentially cryptic taxa, is needed.

**Distribution:** Historically, this species was known to occur in most Pacific drainages from the Santiam River system in Oregon (Mehama, Marion County) to the San Gabriel River system (Los Angeles County) in California (Storer 1923, 1925; Fitch 1938; Marr 1943; Zweifel 1955). Its known elevational range extends from near sea level to ca. 2040 m (lower end of La Grulla Meadow, Baja California, Mexico; Stebbins 1985). No desert slope populations are known, but an isolated outpost has been reported from the Sierra San Pedro Mártir, Baja California, Mexico (Loomis 1965). In California, *R. boylei* was historically distributed throughout the foothill portions of most drainages from the Oregon border to the San Gabriel River (Figure 18). Its known elevation range in California extends from near sea level to 1940 m (Snow Mountain, Trinity County; Hemphill 1952).

Welcome to California

[DFG Home](#)[HCPB Home](#)[About HCPB](#)[Branch Highlights](#)[How You Can Help](#)[Conservation Planning](#)[Conservation and Mitigation Banking](#)[Conservation Projects](#)[Partnerships and Related Programs](#)[Environmental Review and Species Take Permits](#)[California's Plants and Animals](#)[Publication Information](#)

Habitat Conservation Planning Branch  
1416 Ninth St., Sacramento, CA  
95814  
Telephone: (916) 653-4875

California Department of Fish and Game  
Habitat Conservation Planning Branch



## CALIFORNIA'S PLANTS AND ANIMALS



California Red-legged Frog  
*Rana aurora draytonii*

**State Status:** Species of Special Concern  
**Federal Status:** Threatened, 1996. (listing does not incl. HU, TR and MEND Co.; GLN, LK & SNM Co. W of the Cent. Val. Hydrolog. Bsn.; SNM & MRN Co. N and W of the Napa R., Snm. Ck. & Petlma. R. drngs. (flow into SF Bay), N of the Walker Ck. drng. (flow to Pac. Ocn.)

Amphibian and Reptile Species of Special Concern in California, California Red-legged Frog. California Department of Fish and Game, 1994.

[http://endangered.fws.gov/features/ri\\_frog/ffrog.html](http://endangered.fws.gov/features/ri_frog/ffrog.html)

Endangered Species Profiles. Photograph, California Red-legged Frog. San Joaquin Valley Endangered Species Recovery Program, Calif. State Univ., Stanislaus.

<http://amica.csustan.edu/espp/redleg.htm>

Determination of Threatened Status for the California Red-Legged Frog. Fed. Register Notice, U.S. Fish and Wildlife Service, 1996.

[http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1996\\_register&docid=f123my96-22](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1996_register&docid=f123my96-22)

Threatened and Endangered Amphibians and Reptiles, California Red-legged Frog. US Fish and Wildlife Service, Sacramento.

[http://sacramento.fws.gov/es/animal\\_spp\\_acct/red\\_legged\\_frog.htm](http://sacramento.fws.gov/es/animal_spp_acct/red_legged_frog.htm)

California's Wildlife, Amphibians and Reptiles, Red-legged Frog. California Wildlife Habitat Relationships System, California Department of Fish and Game, 1988.

<http://www.dfg.ca.gov/whdab/html/A040.html>

## CALIFORNIA RED-LEGGED FROG

**Description:** A large (85.0-138.0 mm SUL) brown to reddish brown frog with prominent dorsolateral folds and diffuse moderate-sized dark brown to black spots that sometimes have light centers (Storer 1925; pers. observ.). Distribution of red or red-orange pigment is highly variable, but usually restricted to the belly and the undersurfaces of the thighs, legs, and feet. Some individuals have red pigment extending over all undersurfaces and upper surfaces of the body; other individuals lack red pigment entirely or have it restricted to the feet (pers. observ.). The groin has a distinct black region with a complex arrangement of light blotches that range from white to pale yellow in color. The posterior thigh is a nearly uniform brown color with 3-12 distinct white to lemon-yellow spots. The iris is dark brown with iridophores on the upper and lower portions of the iris (pers. observ.).

**Taxonomic Remarks:** See the northern red-legged frog (*Rana aurora aurora*) account for pertinent remarks. The California red-legged frog (*R. a. draytonii*) is a morphologically (larger body size, males have paired vocal sacs), behaviorally (males always call in air, adults do not leave the site of oviposition), and probably genetically distinct form (Hayes and Miyamoto 1984; Green 1985a; pers. observ.). Comprehensive study of the geographic pattern of morphological, behavioral, and genetic variation, some of which is underway, is needed to determine whether the California red-legged frog represents a distinct

11

species.

Distribution: The historic range of this frog extends through Pacific slope drainages from the vicinity of Redding (Shasta County; Storer 1925) inland and at least to Point Reyes (Marin County; pers. observ.), California (coastally) southward to the Santo Domingo River drainage in Baja California, Mexico (Linsdale 1932). Historically, it also occurred in a few desert slope drainages in southern California (Jennings and Hayes 1994). Populations in central southern Nevada are introduced (Linsdale 1940, Green 1985b). In California, it occurs from Shasta County south to the Mexican border (Figure 17). The records for Santa Cruz Island have been shown to represent an introduction (Jennings 1988a). Its known elevational range extends from near sea level to around 1500 m, although some of the populations toward the upper limit of the range of this species may represent translocations (unpubl. data).

Life History: California red-legged frogs breed early in the year (late November-late April; Storer 1925; Hayes and Jennings 1986; S. Sweet, pers. comm.; pers. observ.), undoubtedly because they have a low embryonic critical thermal maximum (see Hayes and Jennings 1986) that restricts them to using a time-window with a high probability of ensuring embryonic survival. Males appear at breeding sites from 2-4 weeks before females (Storer 1925). At breeding sites, males typically call in small, mobile groups of 3-7 individuals that attract females (pers. observ.). Females move toward male calling groups and amplex a male. Following amplexus, females move to the site of oviposition and attach egg masses containing ca. 2,000 to 6,000 moderate-sized (2.0-2.8 mm in diameter), dark reddish brown eggs to an emergent vegetation brace (Storer 1925; pers. observ.). Embryos hatch 6-14 days after fertilization, and larvae require 4-5 months to attain metamorphosis (Storer 1925). Larvae are thought to be algal grazers, but the foraging ecology of larval *R. a. draytonii* is unknown. Larvae are infrequently observed in the field because they spent most of their time concealed in submergent vegetation or organic debris (pers. observ.). Larvae, which are not known to overwinter, typically metamorphose between July and September (Storer 1925; pers. observ.). Postmetamorphs grow rapidly, and sexually maturity can be attained at 2 years of age by males and 3 years of age by females (Jennings and Hayes 1985), but both sexes may not reproduce until 3 and 4 years of age, respectively (pers. observ.). Females attain a significantly larger body size than males (138 mm vs. 116 mm SUL; Hayes and Miyamoto 1984). No data are available on the longevity of California red-legged frogs.

Unlike northern red-legged frogs, adult California red-legged frogs do not appear to move large distances from their aquatic habitat, although they are known to make pronounced seasonal movements within their local aquatic and terrestrial habitats. Adult *R. a. draytonii* move seasonally between the site of oviposition and the foraging habitat occupied in spring and summer (Jennings and Hayes 1989; pers. observ.), but a few data indicate that they move into terrestrial riparian thickets during the fall (Rathbun et al. 1993). It is also known that during periods of high water flow, California red-legged frogs are rarely observed (S. Sweet, pers. comm.; pers. observ.). Where frogs go during this interval is not well understood, but at least some individuals have been observed concealed in pockets or small mammal burrows beneath banks stabilized by shrubby riparian growth (pers. observ.). Nevertheless, much of the movement ecology of *R. a. draytonii* remains poorly understood.

Postmetamorphs have a highly variable animal food diet (Hayes and Tennant 1986). Most prey that can be swallowed that are not distasteful are eaten, with larger frogs capable of taking larger prey. Frogs (*Anura*) and small mammal prey may contribute significantly to the diet of adults and subadults (Arnold and Halliday 1986, Hayes and Tennant 1986). Adult frogs appear to use vibrations transmitted along willow branch runways to detect approaching small mammal prey (see Hayes and Tennant 1986; pers. observ.).

In general, adult frogs are quite wary. Highly nocturnal (Storer 1925, Hayes and Tennant 1986); adults appear to face frequent attempts at predation by wading birds (e.g., black-crowned night herons [*Nycticorax nycticorax*], bitterns [*Botaurus lentiginosus*]), judging from the number of dorsal puncture-like wounds observed on frogs (pers. observ.). Moreover, adult frogs also seem to use vibrations transmitted along willow branches or vegetation upon which they are resting to detect the approach of certain predators (e.g., raccoons). In contrast, juveniles (< 60-65 mm SUL) are much less wary, are frequently active diurnally, and spend much of the daytime hours basking in the warm, surface-water layer associated with floating and submerged vegetation (see Hayes and Tennant 1986), where they can fall prey to predators such as San Francisco garter snakes (Wharton 1-989) and two-striped garter snakes (*Thamnophis hammondi*; Cunningham 1959a). California red-legged frogs are seasonal prey in the diet of the San Francisco garter snake (Wharton 1989).

Habitat: Habitat of California red-legged frogs is characterized by dense, shrubby riparian vegetation associated with deep (0.7 m), still or slow-moving water (Jennings 1988b, Hayes and Jennings 1988). The shrubby riparian vegetation that structurally seems to be most suitable for California red-legged frogs is that provided by arroyo willow (*Salix lasiolepis*); cattails (*Typha* sp.) and bulrushes (*Scirpus* sp.) also provide suitable habitat (Jennings 1988b). Although California red-legged frogs can occur in ephemeral or permanent streams or ponds, populations probably cannot be maintained in ephemeral streams in which 0 surface water disappears. Water should have a salinity of 4.5 ? to ensure the survival of embryonic stages (Jennings and Hayes 1989). Juvenile frogs seem to favor open, shallow aquatic habitats with dense submergents (pers. observ.).

Status: Endangered in the Central Valley hydrographic basin (includes the Sacramento, San Joaquin, Kings, Kaweah, and Kern River systems) and in southern California from the Santa Clara River system south to the Mexican border; Threatened throughout the remainder of its range in California; once the abundant species of large ranid frog throughout most of lowland California, this species has sustained large reductions both in geographic range and in the size of local populations. Historically, California red-legged frogs were heavily commercially exploited for food, a situation that led to their becoming severely depleted by the turn of the century (Jennings and Hayes 1985). Continued exploitation of depleted populations and the prior and subsequent establishment of a diverse exotic aquatic predator fauna that includes bullfrogs, crayfish, and a diverse array of fishes likely contributed to the decline of the California red-legged frog (Hayes and Jennings 1986), although it is not understood which exotic aquatic predator or predators may have been most significant (Hayes and Jennings 1988). Further, habitat alterations that are unfavorable to California red-legged frogs and favorable to most of the exotic aquatic predators are confounded with potential direct effects of predation by such exotics (Hayes and Jennings 1986). The tone of these suggestions is not new. Nearly 20 years ago, Robert L. Livezey (in litt., 3 February 1972 to Leonard Flisk, then Senior Fishery Biologist with CDFG charged with investigating the state of non-game amphibians and reptiles) attempted to draw attention to the fact that he believed that the California red-legged frog has suffered a drastic reduction over the previous 15 to 20 years because of bullfrogs and expanding human activities. Regardless of the exact cause, our surveys for California red-legged frogs at over 95% of the historical localities in the Central Valley hydrographic basin over the last 10 years indicate that this species has probably disappeared from over 99% of its former range within that region. The few remaining populations are threatened by proposed reservoir construction, off-road vehicle use, and continued habitat degradation due to the cumulative effects of abusive land use practices, especially with regard to livestock grazing (pers. observ.; see Kauffman et al. 1983; Kauffman and Krueger 1984; Bohn and Buckhouse 1986) and development of groundwater resources (see Groeneveld and Griepentrog 1985). The only locality within the Central Valley hydrographic basin that supports California red-legged frogs that receives some degree of protection, the Corral Hollow Ecological Reserve, is currently threatened by siltation promoted by an off-road vehicle park and livestock grazing practices upstream. Similarly, between the Santa Clara River system and the Mexican border, extant populations of California red-legged frogs are known from only four relatively small areas. These combined areas represent no more than 1% of the area historically occupied by California red-legged frogs within that region. Additionally, no more than 10% of the localities where California red-legged frogs were recorded within the Salinas River hydrographic basin and inner Coast Ranges between the Salinas basin and the San

Joaquin south of the Pacheco Creek drainage still have *R. a. draytonii*.

Significant numbers of California red-legged frogs occur only in the relatively small coastal drainages between Point Reyes (Marin County) and Santa Barbara (Santa Barbara County). The drainages within this region are characterized by more suitable habitat and a less frequent occurrence of exotic aquatic predators than elsewhere. Yet, even the California red-legged frogs within this region are threatened by an exotic aquatic predator fauna that is still slowly expanding its range, continuing habitat degradation because of abusive grazing practices, and decreased water quality because of increased salinities related to decreased freshwater flows because of increased human use and recent decreases in annual rainfall potentially related to global climate changes.

**Management Recommendations:** Riparian habitats where California red-legged frogs still occur need a greater degree of protection. In particular, emphasis needs to be placed on retaining the dense riparian vegetation associated with deep water habitats used by this taxon. Additionally, the water quality standards (e.g., low salinity levels; Jennings and Hayes 1989) and water flow regimes of such sites need to be maintained. This taxon is suspected of being particularly sensitive to changes in water quality due to a variety of factors (e.g., various herbicides and pesticides, sulfate ions) that have not been examined specifically for their effects on the developmental stages of this taxon; these urgently need study. The local hydrology of sites where California red-legged frogs still occur should be carefully monitored. Impacts such as additional withdrawals of surface and groundwater that modify existing flow regimes and can change water quality should especially be avoided. Particular efforts need to be made to reduce or eliminate habitat modification that results from overgrazing because grazing and similar land use practices are especially effective at reducing or eliminating the dense riparian cover required by California red-legged frogs. Despite the fact that the total protection of entire local hydrographic basins has been suggested (Moyle 1973, Hayes and Jennings 1988), that suggestion remains unimplemented. That approach may ultimately be the only way to protect some of the remaining populations of this taxon.

The California Red-legged Frog. Information page and photographs, U.S. Fish and Wildlife Service, 2001.

---

#### Quick Search for Species Accounts

You may only search for: Rare, Threatened, or Endangered Species, Fully Protected Species, and Species of Special Concern.

You may search for a species account by choosing an animal type or a plant by clicking on a button below.

Amphibian   Bird   Fish   Invertebrate   Mammal   Plant   Reptile



Then enter all or part of a species' common name or of its scientific name in the box below.

Search:



[Back to Top of Page](#)

© 2006 State of California

[Conditions of Use](#) [Privacy Policy](#)

I, Allan Buckmann declare,

1. I am a Wildlife Biologist employed by the California Department of Fish & Game (hereafter, "DFG").
2. I have worked for DFG as a wildlife biologist for some 38 years.
3. The mission of DFG is Trustee Agency to the natural wildlife resources of the state.
4. In my capacity as Wildlife Biologist, I have been involved in the review of hundreds of projects proposed for development. Until last year, my job involved performing site inspections, reviewing reports of consultants, writing letters, attending hearings, and making comments and recommendations in furtherance of my duty as a Unit Manager and Wildlife Biologist for DFG.
5. In addition, I have been invited to speak numerous times throughout my career to a wide array of audiences, including developers, citizen groups, farmers, and industry, on all resource topics such as wildlife impacts and management, wildlife friendly fencing and vineyard layouts, wildlife corridors, impacts on wetlands and other resources, and mitigation.
6. On March 15, 2006, at the request of local publics, I toured the site commonly described as the "Harbor View Subdivision" AKA "Romancia Project" (located at 1000 Highway 1, Bodega Bay, Sonoma County, California. (I have one letter

in my file that refers to the Bodega Bay Village. This was apparently the name given to the first iteration of this project.)

7. This site is familiar to me. I reviewed a project titled Harbor View Subdivision in 1984, and made recommendations for the conservation of on-site wetlands, requested wetland surveys for sensitive species (never did see these), and US Army Corps of Engineers (COE) review and permitting for the wetlands under their purview.

8. In response to the proposed development of this site in 1984, DFG wrote, "The wetland area along Highway 1 and extending above the Bodega P.U.D. parcel, plus a minimum 20 foot buffer area around the wetland should be zoned as valuable natural resource and remain as native habitat. The wetland is valuable for both wildlife use and as a natural scenic element" (attached). In September of that year, Brian Hunter the Regional Manager for DFG wrote that, "Allan Buckmann, Wildlife Biologist, of my staff is available to provide any details which would help preserve these wetlands."

9. There was then a period of inactivity (no file records or memory of project) until I was contacted by Jane Marx of Carlile, Macey, Mitchell and Heryford in September 26, 1996 to review their proposals for wetland permits to the US Army Corps of Engineers (3 each) for;

(1) Mitigation for loss of plant material due to widening Highway 1 (Nationwide 26 Permit),

(2) Removal, storage, and reuse of wetland soils for the proposed storm drain trench (Nationwide 12 Permit), and

(3) Guidelines for instillation of the storm drain outfall into Bodega Harbor (Nationwide 7 Permit).

10. The review was late to me, since they received their Nationwide 7 Permit for the storm drain from the Corps on September 25, 1996, the day before I was contacted to review this stage of the project and comment on the permits. The COE permit was good until January 22, 1997 (4 months), until they were modified, reissued, or revoked, and good for 12 months under the "present conditions." I saw no further permits for this project, nor are any on file in this office.

11. "Present Conditions;" 1) For Nationwide 26, they were to replace only plants to be removed to do the work and there was no mention of wetland loss or mitigation for such loss (I reviewed no Highway widening project); 2) for Nationwide 12, they were to remove and store the wetland soils for the proposed storm drain trench, with the purpose of replacing the wetland conditions so there would be no loss of wetlands. Instead, soils were placed in the trench and over filled, resulting not in the reestablishment of the wetlands but a compacted barrier to water flow resulting in the loss of wetlands; 3) for Nationwide 7, the residential storm drain

was to collect only surface runoff from the subdivision and shunt it through the marsh. The intake of storm drain SDMH 9 was moved further down into the wetland so that it then collected marsh water as well as surface runoff, and effectively drained a significant part of the wetland recharge.

12. DFG files revealed a copy of the Army Nationwide 7 Permit issued for the project on November 15, 1996, File Number 194021N, good until January 22, 1997. The permit was to be effective when Section 401 Water quality certification or a waiver of the certification was obtained from the Water Quality Control Board (WQCB) and sent to COE. We have no record of this filing, nor of the records of the Nationwide 26 Permit, nor the Nationwide 12 Permit proposed for this project by Carlile, Macey, Mitchell & Hereyford on 9/26/1996.

13. Again there was a long period of inactivity until I was contacted September 24, 2002, by Wetlands Research Associates, Inc. (WRAI) and the project had a new name "Romancia Project." WRAI provided a list of problems that had occurred in the wetland, basically a litany of the above COE conditions that they wanted to resolve to move forward. It includes a description of the trenching problem and loss of wetlands, the loss of wetlands from the road widening project, and revegetation of select areas, and the creation of compensatory wetlands in Parcel B of 0.17 acres, including

construction monitoring and contingency measures for unexpected problems.

14. There are no records available in DFG files regarding our response, however, I recall that we accepted the mitigation for loss of wetlands from the highway widening and for plantings to replace those lost, but there is no discussion of mitigation to fix the barrier fill and the loss of recharge from the placement of the storm drain SDMH 9 in the wetland. These details seemed to disappear from the project and are still a concern.

15. It is my opinion that the development activities that have taken place on this site were not as directed, and have effectively drained the wetland. The cut off ditch at the top of the slope effectively removes the surface flows as designed, however, the relocation of the drainage intake of storm drain SDMH 9 (designed to catch surface flows) from its original position above the marsh, has instead deprived the wetland of the needed subsurface flows critical for marsh maintenance and function, the removal of the berm at the toe of the slope has accelerated the dry-out of the marsh, and the barrier made by trench line fill blocks wetland distribution and flow. Combined, these impacts maintain a constant loss of the formerly high marsh values we were trying to protect.

16. It is now clear that these above described actions have severely degraded the wetland, and a notable slump has occurred in the wetland since the project began (I am guessing at least 6 feet, and probably due to water removal). Local publics state that the area also now goes completely dry for many weeks during the summer when it used to stay wet all year. This is probably a result of the storm drain SDMH 9 drainage, now in the marsh, removing waters from underground springs. Wetland dependent animal species are no longer observed in the wetland. The site supported hydrophilic plants year round and was a vital wetland providing habitats for migratory and resident birds, mammals, amphibians, and marsh plants.

17. In my opinion, mitigation needs to occur to 1) restore the spring flow to the marsh by redesigning the surface pipeline to collect only surface flows by redesigning the SDMH 9 drain so that it no longer takes underground flows needed for marsh function, 2) removing the compact fill from the pipeline route from SDMH 9 to the road and replacing it with materials that carry water and restore marsh sub-flows, and 3) restore and maintain a lower berm (sheet piling?) to help retain water in the marshland and to replace historic conditions.

18. Further, the sediment accumulation visible in the bay indicates that mitigations to keep such sediment out of the bay as indicated in the COE permit are not functioning.

19. I believe that all of these conditions need to be implemented to bring the project into compliance with the original intent of Trustee Agency concerns, and the permits issued for the project by WQCB, and COE that are on file. If there are documents available that clearly resolve these issues beyond our present documentation, they should be provided to the Trustee Agencies.

This Declaration is executed on April 24, 2006, at Yountville, California. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that I could testify completely thereto if called as a witness in this matter.

Allan Buckmann

Allan Buckmann  
Associate Wildlife Biologist  
Central Coast Region  
(707) 944-5537

I Peter Baye declare:

1. I have personal knowledge of the facts stated herein, and if called upon to testify in regard thereto, I could and would do so competently under oath.
2. I am a plant ecologist and botanist with over 30 years of professional and academic work experience in coastal ecosystems, including a Ph.D. in Plant Sciences (1990) from the University of Western Ontario, Canada, and a Thomas J. Watson Fellowship (1981) for study of coastal barrier beach and wetland ecosystems. My regulatory background includes seven years with the U.S. Army Corps of Engineers Regulatory Branch, San Francisco (where I specialized in wetland permits, National Environmental Policy Act and Endangered Species Act implementation), and five years with the U.S. Fish and Wildlife Service, Endangered Species Program, Sacramento Fish and Wildlife Office. I have over twenty years of field experience with the California coast, and I am particularly familiar with the vegetation, habitats, and geomorphology of the Marin-Sonoma/southern Mendocino coast.
3. I have made two separate visits to the site of the proposed Harbor View subdivision in Bodega Bay. I have observed the wetland commonly referred to as Parcel A and the mitigation site referred to as Parcel B. I have also read relevant documents by Allan Buckmann of the Department of Fish and Game, Dr. Dixon, of the Coastal Commission, and Harold Appleton. Based upon my personal

observations and expertise, I make the following comments.

4. The margins of the hillslope (seep/spring-fed; emergent groundwater) marsh support a core of perennial freshwater marsh vegetation. The species composition and structure of this marsh indicate a long-term history of abundant perennial soil moisture, and prolonged or effectively permanent near-surface soil saturation during the winter and spring-summer growing season, with no summer desiccation of soils. The lack of surface water sources to support freshwater marsh in the rainless summer months clearly indicates that groundwater discharges have in the past maintained the hillslope marsh. The margins of the marsh, however, are now exhibiting indicators of reduced near-surface soil saturation during the spring-summer growing season: upland plants (intolerant of prolonged soil saturation or waterlogging) are invading the margins of the relict marsh margins. This is specifically indicated by declining density and vigor of perennial marsh species, and widespread distribution of relatively young or small patches of upland weeds or terrestrial scrub in the apparently receding edges of the hillslope marsh. This interpretation of the dynamic marsh/terrestrial vegetation pattern is further supported by the anomalous presence of artificial surface irrigation lines placed along the soil surface bordering the hillslope seep-marsh. These irrigation lines appear to have been placed to compensate (unsuccessfully) for the long-term reduction in soil saturation at the marsh periphery. On the whole, the

vegetation patterns indicate, in my judgment, a long-term trend of net contraction of wetland, and a change in the character of wetland around the margins of the hill slope marsh. These changes are contrary to by a regional trend of coastal wetlands in recent years (1998 to 2006) marked by abundant (often above-normal) late-season rainfall that has otherwise corresponded with either expansion of freshwater wetland margins (enlargement; encroachment of peripheral terrestrial vegetation) or an increase in the proportion or growth of marsh plants tolerant of more extreme soil waterlogging or flooding (i.e., "wetter" freshwater marsh). The Bodega Harbor View site hill slope wetland show a reverse trend and pattern of recent of terrestrial vegetation encroachment into a matrix of freshwater marsh, and declining vigor of marsh plants along the wetland edge. This apparent recession of hillslope wetlands likely due to reduction in either groundwater recharge on the slopes and terraces above the hillslope marsh, diversion of subsurface flows away from the hillslope marsh, or drainage (local lowering) of groundwater supplying the hillslope marsh. The observed new/recent extensive paved surface area (roads) and installation of drainage infrastructure is consistent with this interpretation.

5. The hillslope marsh is distinct in some respects from many freshwater marshes on the Sonoma Coast. Most freshwater marshes are associated with surface drainages (riparian or streamside marshes, fens with flowing surface water) or impoundments (obstructed surface drainage resulting in pooling or ponding of

water). The hillslope marsh appears to have formed around a broad spring with persistent, strong perennial flow. No other explanation appears to adequately explain the broad extent, vigor, and maturity of the dominant clonal (creeping) perennial marsh sedges (*Schoenoplectus*; syn. *Scirpus* species) and rushes (*Juncus* species) that dominate much of the marsh, especially near the center and lower elevations.

6. I observed an artificially excavated and planted depression within the project site, described by local residents as a past attempt at (compensatory) wetland mitigation or Parcel B. The depression lacked indicators of wetland soils, lacked surface indicators of past or present wetland hydrology, and also lacked a prevalence of wetland vegetation. The depression is not a wetland, and does not function as a wetland. There were plantings of some wetland plants supported by artificial (geotextile fabric) mulch and irrigation, but these appear to have resulted in mere survival and a lack of spread and of some wetland species plantings, despite extraordinary and unsustainable effort to cultivate a wetland into place. This would-be "wetland" does not approach the composition, structure, or function of the hillslope marsh. In any case, a depression seasonal wetland with precipitation-driven hydrology is in no way equivalent ecologically to a perennial seep or spring-fed hill slope marsh. Its landscape position as an isolated patch within a residential development, also makes its potential ecological functions

basically different from the remnant hillslope marsh below.

7. There are large patches within the artificially terraced uplands, below new/recent paved roads, that appear to support potential "new" (post-construction) seep-fed seasonal wetlands (characterized by soil saturation in winter-spring months, but drained or dry in summer). These are marked by abrupt increases in the local density and vigor of some perennial wetland rush (*Juncus*) species and some broadleaf plants tolerant of limited soil saturation. The observation of likely potential seasonal wetlands on graded slopes suggests that altered groundwater discharge patterns are causing either re-emergence of seasonal seep wetlands in place, or emergence of new seep-fed seasonal wetlands at different locations.

These novel slope wetlands contrast with the nominal "mitigation" site, in that they are spontaneously recruiting vegetation characteristic of seasonally saturated soils.

8. The project site occurs adjacent to a canyon (east/northeast) with a stream and associated riparian wetland vegetation. Based on my familiarity with wetlands in Sonoma County, and the recent revised geographic distribution [Schaffer, B. et al. 2004, *Molecular Ecology* volume 14, page 2667] of the California red-legged frog (CRLF) based on genetic evidence, the project site and its remaining wetlands, in my judgment, lie within likely dispersal distance of California red-legged frog habitat that may be occupied or intermittently occupied by this species. This federally listed species is known to forage and seek moisture

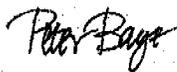
refuges in hillslope wetlands and canyons, CRLF, if present, are also likely to utilize hillslope wetlands during long-distance dispersal in rainy winter months. I have no knowledge of the adequacy of past assessments of impacts and mitigation for this listed species in relation to the Harbor View project, but I am aware that the project's environmental assessments occurred before molecular evidence confirmed that the federally listed subspecies of red-legged frog's coastal distribution extended north of Walker Creek, Tomales Bay, and as far north as Elk, Mendocino County. For this reason, I consider it unlikely that the past environmental assessments and interagency consultations with state and federal permit agencies considered the project's potential effects on CRLF.

9. The restoration technology to repair, replace, or rehabilitate seep-fed hillslope marshes or fens is extremely limited in this region. At best, even if successful, restoration of the type of hillslope perennial marsh that remains would take well over a decade, because of the nature of the clonal graminoid (grass-like) vegetation that dominates. Restoration efforts would very likely result in rapid invasion of non-native wetland vegetation that is better adapted to colonization and rapid dominance of disturbed wetland soils with seasonal drainage.

10. I concur with Alan Buckman (California Department of Fish and Game) that the biological conservation value of the wetland in Parcel A is significant. The

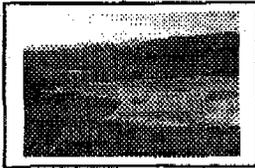
remnant wetland here has been, in my professional opinion, already been subject to degradation due to altered drainage and groundwater discharges. Intensification of residential land uses due to development of the terraces above it would likely further degrade this important wetland due to urban "edge effects" of wildlife disturbance, fertilizer and pesticide runoff or groundwater infiltration, increased invasion pressure by non-native species, and disruption of movement or dispersal patterns that link the wetland to other habitats in the vicinity. These impacts should be avoided or minimized to the greatest extent feasible before compensation for unavoidable impacts is considered; this is both a valid general principle for biological conservation, and a matter of state and federal environmental policy in regulation. Biologically meaningful and effective setbacks and buffer areas, of the maximum extent possible, are indicated. Perfunctory monitoring and remediation of the degraded remaining wetland will not be sufficient protect it or support effective adaptive management. The wetland and its surrounding upland grassland and scrub should be fully protected, and properly studied and managed.

I declare under penalty of perjury that the foregoing statements are true and correct and that this declaration was executed at Annapolis, Sonoma County, California on January 29, 2007.



---

Peter Baye, Ph. D.



[baye@earthlink.net](mailto:baye@earthlink.net)

**Peter R. Baye, Ph.D.**  
*Botanist, Coastal Plant Ecologist*  
P. O. Box 65, 33660 Annapolis Road  
Annapolis, California 95412-0065



(415) 310-5109

## MEMORANDUM

**To: Sonoma County Permit and Resource Management Department** (David Hardy, Project Planner, Harbor View Subdivision, Bodega Harbor, PRMD File No. PLP05-0083)

**Date: March 28, 2007**

**SUBJECT: Comments on WRA** (Wetlands Research Associates, San Rafael; Doug Spicher) re-assessment of wetland impacts and mitigation, Harbor View Subdivision, letter report to Sonoma County Supervisor Valerie Brown dated February 20, 2007.

I have reviewed the WRA re-assessment of wetland impacts and mitigation at Bodega Harbor's Harbor View Subdivision site. Below is a summary of my principal findings and conclusions, with explanation.

(1) Throughout the WRA re-assessment, and throughout previous mitigation planning and construction, there is a fundamentally flawed equivocation of the general term "seasonal wetland" applied so that ecologically and hydrologically dissimilar wetland types are treated as one generic type.

The groundwater-fed seep and spring hillslope wetland types native to the site (including both perennially saturated or wet-mesic marsh and seasonally surface-drained wetland) are not equivalent functionally or structurally to the perched groundwater basin seasonal wetlands (fed by surface-impounded runoff and direct precipitation). Seep and spring hillslope wetlands are characteristic of the marine terraces of the Sonoma Coast, and characteristically support perennial and woody wetland vegetation such as sedge-rush wet meadow, freshwater marsh, fen, and riparian wetland scrub (willow/waxmyrtle thickets). These perennial wetland vegetation types are present on the Harbor View subdivision site. Depending on whether portions of these perennial groundwater-fed wetland vegetation types are drained or dry in summer within the upper soil profile, they may fall within the generic category "seasonal wetland" ("seasonal" refers to the duration of the wet phase, not the life-form of the vegetation; hence perennial vegetation or annual vegetation may dominate "seasonal wetlands").

In contrast, northern claypan vernal pool and swale depressions (and other similar impermeable shallow depressions), typical of inland valley flats of Sonoma County, are generally desiccated in summer, support a rich annual and perennial flora in grassland or oak savannah vegetation, but are relatively rare on coastal terraces. These precipitation-fed pool and swale depressions are exclusively "seasonal wetlands" because their upper soil profiles (root zones of dominant wetland vegetation) are generally desiccated in summer, and lack perennial subsurface moisture sources within the root zone.

The wildlife, biogeochemical, hydrogeomorphic, and floristic traits of these groundwater-fed hillslope and precipitation-fed depression wetlands all qualifying in part or whole as "seasonal wetlands" are basically dissimilar. Seep-fed seasonal wetlands and perennial wetlands are notoriously difficult to replicate ("restore" or construct) because of the infeasibility of precise engineering of groundwater

discharge patterns (spatial and seasonal) within specified areas. Precipitation-fed pools are easier to model, design, and engineer, though they are prone to instability and construction error, as the WRA report concedes occurred with the Harbor View Subdivision mitigation to date.

It appears that the compensatory mitigation at Harbor View was predicated on the substitution of precipitation-fed depressional (pool) seasonal wetlands lacking groundwater discharge, for groundwater-fed hillslope spring and seep discharge-dependent perennial and seasonal wetlands. I found it misleading that neither the WRA re-assessment of wetlands, nor prior documents related to permitting, identified the explicit types, functions and values of impacted and mitigation wetlands in terms of their fundamental hydrologic and vegetation types. It is conventional (and often required for disclosure and policy evaluation) to explicitly identify an "out of kind" compensatory wetland mitigation plan (substitution of one wetland type and function for another) as such. I have found no reference to the out-of-kind nature of the impact/compensatory mitigation of wetlands in this context. This finding is basic to all other points that follow.

To illustrate the some examples of basic ecological differences between seep-fed perennial and seasonal wetlands of coastal hillslopes and sloping terraces, and depressional wetlands, I offer the following selections intended to highlight contrasts pertinent to CEQA evaluation:

wetland function or resource	perennial to seasonal hillslope and terrace wetland (seep/spring groundwater hydrology prevalent)	seasonal depressional wetland, (precipitation/runoff hydrology prevalent)
<i>Campanula californica</i> (swamp harebell, special-status species)	potential habitat for recovery or occurrence	no potential habitat for recovery or occurrence
<i>California red-legged frog</i> (special-status species)	summer foraging, moisture refuge habitats abundant	estivation habitat only (mammal burrows) in summer
tree frog breeding pool habitat	moderate to low	high
migratory songbirds dependent on riparian wetland scrub	habitat potential significant	no habitat
floodwater mosquito breeding habitat	moderate to low	moderate to high
primary production and standing biomass	high	low (constrained root zone)
groundwater recharge or discharge	high	none or negligible

(2) **Contradiction between artificial impervious clay liner of mitigation seasonal wetland and "groundwater recharge" functions.** The WRA re-assessment letter report states (p. 2 of 8) that potential loss of groundwater recharge was a potential impact identified by the 1994 EIR. It states that the 0.17 acre mitigation wetland was intended to "act as a local watershed" by retaining runoff and direct precipitation, features of a depressional seasonal wetland with perched groundwater above an impermeable (claypan or hardpan) layer. The reconstruction of the failed clay liner (impermeable layer) was described on page 6 of 8. The re-assessment does not reconcile the conflicting hydrological effects of an impervious clay liner over a depressional wetland in an area that has potential groundwater recharge impacts. Depressional seasonal wetlands and groundwater recharge areas are opposed in their influence: depressional wetland store surface water and "discharge" it through evaporation, diverting potential groundwater recharge. WRA cites Balance Hydrologics monitoring reports of groundwater discharge that conclude that detected no change in baseline ground or surface water hydrology "when adjusted for fluctuations in annual precipitation" (in other

words, within the level of error or detection limits, which are masked by background variability). But these monitoring reports were clearly describing conditions under which the clay liner (restricting infiltration and groundwater recharge) in the mitigation site were not functioning. The re-assessment does not discuss the potential effect of a functional, reconstructed liner on groundwater recharge. The location of an impermeable seasonal wetland depression bed in a proposed groundwater recharge zone is unexplained, as are its potential impacts when the 0.17 acre seasonal wetland is actually functioning. You can't have it both ways: if the seasonal wetland is fixed and works, it must restrict groundwater recharge; if groundwater recharge is unaffected, the mitigation wetland can't properly function as a seasonal wetland.

(3) **One-parameter (hydrology) versus 3-parameter (vegetation, soil, hydrology) detection of seep and spring changes.** The WRA letter cites only Balance Hydrology groundwater monitoring and "wetland delineation" to demonstrate no change in groundwater hydrology. WRA does not discuss the precision or repeatability of measurements, thresholds of change detection, or ecological significance (sensitivity) of these monitoring approaches. Wetland delineation is a presence/absence (yes/no) detection method; it is expressly not a wetlands functional assessment tool or technique, and this is explicit in the 1987 Corps of Engineers wetland manual. Significant changes in hydrology, vegetation, and ecological function may occur with no qualitative change in Section 404 jurisdictional status. Similarly, the level of variability in a single physical parameter (such as seasonal fluctuation in groundwater saturation depth and duration) makes it a very poor ecological predictor of vegetation and habitat conditions. Soil and vegetation conditions, in contrast, may respond rapidly and provide sensitive, valid ecological indicators of wetland changes in groundwater. WRA does not address changes in vegetation or soil indicator status of seep wetland margins or the mitigation site. This is an important omission, and I believe it obscures potentially significant changes in hydrology.

(4) **Analysis of buffer distance, indirect impacts to wetlands, and "no impact" threshold.** WRA is correct in stating that "an effective buffer zone can consist of more than an arbitrary distance", but they do not complete the analysis by specifying what local wetland (mitigation site) functions are at risk of impact from adjacent land uses. In a residential setting, acrosol drift and surface runoff of pesticides and surfactants or solvents (carriers) used to disperse them are very important threats to seasonal wetlands that depend on an ephemeral amphibian prey base, such as tree frogs. The "measures" of CC&Rs cited (p. 4 of 8) as mitigation are vague and ineffective with respect to wetland buffering: reference to "proper use" (i.e., use consistent with label), and "carefully controlled" chemical use are ambiguous and unenforceable. Ordinary, routine commercial lawn care chemical applications adjacent to seasonal wetlands may have significant impacts on seasonal wetlands. These are not addressed. Ordinary, routine retail herbicide and pesticide spray applications upwind of seasonal wetlands (even at low wind velocities near ground level) may have significant indirect and cumulative impacts on seasonal wetlands, particularly during spring months. Cumulative nutrient augmentation of surface soils (nitrogen-rich lawn fertilizers) subject to surface runoff or shallow subsurface discharge above the constructed claypan restrictive layer in the mitigation site may contribute significantly to invasive non-native species dominance or nuisance algal blooms.

The severity of such indirect and cumulative chemical impacts would increase with proximity to wetlands, and patterns of drainage or airflow (vectors of chemical dispersal). The nature of the seasonal wetlands (as a closed and impermeable-lined basin, without drainage outlets) makes them a sink for chemical contaminants, and thus a potentially more sensitive receptor of chemical contaminants from the residential setting. This calls into question the long-term feasibility of even out-of-kind seasonal wetlands as mitigation for seep/spring sedge/rush meadow and wetland riparian scrub.

(5) **Human disturbance of mitigation wetlands: screened and unscreened impacts.** Conditions to mitigate human disturbance of mitigation wetlands (pp. 4-6 of 8) appear to be contradictory.

Condition D requires vegetation screening to preclude visual impact of street-side pedestrians on wetland wildlife within the mitigation site, but Condition E refers to the project as "a separate park for use by homeowners", with only CC&Rs (no substantive enforcement mechanism, as required by CEQA) to "keep pets under control at all times and on leashes when in common areas". The WRA assessment does not explicitly identify any effective substantive mechanism for restricting homeowners and pets from approaching (within visual behavioral cue distance of waterbirds) the seasonal wetlands.

The WRA letter report also does not state how long, if ever, the "upland habitat with vegetative screening" (vegetation screen) would take to grow to effective size and continuity. The landscape architecture schematic plan drawing attached to the WRA letter shows pathways or gaps between plantings, as in a park. The non-native "street tree" shown tree *Arbutus unedo* proposed is low and slow-growing. *Arctostaphylos uva-ursi* (misspelled "ura-ursi") is a prostrate shrub, useless as a visual screen. "Native willow" is unlikely to grow or survive in the putative screen plantings without ample subsurface groundwater (not expected or indicated at this location). I can find no substantive protection included to shield waterbirds from human park recreational impacts.

This picture makes no sense in terms of wildlife impacts and buffering, or at least it is very ambiguously stated. It does not make a difference to foraging egrets, herons, dabbling ducks or snipes feeding in seasonal wetlands whether a dog visible to them is on leash and "under control" in a "common area" or not, or whether a human or dog is visible for behavioral cues from non-homeowner street pedestrian approaches. The mitigation buffers must adequately address and enforce restrictions on indirect impacts of "park" use on wildlife, or else forfeit claims to mitigation credit for wetland wildlife.

(5) **Lack of assessment of impacts and mitigation to California red-legged frogs.** Suitable habitat for California red-legged frogs (*Rana aurora draytonii*, the same subspecies as the federally listed amphibian, but before its true geographic range was revealed by molecular genetic markers) appears to occur in Johnson Gulch east of the project site, and at least one red-legged frog was detected on the project site (probably dispersing or foraging; no suitable breeding habitat appears to occur within the project site). Regardless of whether this portion of its range was known at the time of listing has no bearing on the CEQA significance of impacts to this species of concern. The Johnson Gulch riparian wetlands are probably the primary breeding and foraging habitats of the subspecies during winter and spring, but significant terrestrial dispersal and foraging, and moisture refuge habitat, should be expected within the project site's grasslands and remaining seep wetlands. Road kill (during dispersal), pesticide drift and runoff, and loss of mammal burrow moisture refuges are likely impacts of residential development on this special-status amphibian species. Indirect and cumulative impacts of pesticide drift (and surfactants) downslope and downwind are particularly pertinent. The WRA re-assessment does not address this omission of the 1994 EIR and the recent information scientifically published about the correct geographic range of the subspecies.

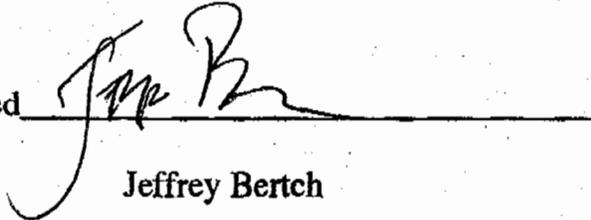
I, Jeffrey Bertch, declare the following to be based upon my own true knowledge:

1. I am a fulltime resident of Bodega Bay, Sonoma County, California and reside in Taylor Tract in close proximity to the site of Harbor View subdivision.
2. I regularly walk around the community including the area above the harbor now referred to as Harbor View subdivision. The area is now being subjected to some construction activity, although it is still open and I see birds and other species of animals attempting to utilize this site. I frequently walk along and into Johnson Gulch which is on the easterly side of the site and I am very familiar with the entire area.
3. On March 10, 2007, I was once again walking at Johnson Gulch with my little girl and spotted a frog I believed to be a red-legged frog which I had observed in this location for the past year. I carefully took it to show my friend who lives adjacent to the site and she took several photographs of it. I then replaced the frog where I had found it, being careful to not harm it in any way.

4. The frog was medium-sized with a definite red tint to its legs. It was located on the ground, above the watercourse in Johnson Gulch.
5. The photos attached are the photos taken of the frog on that day, March 10, 2007 and are a true and correct representation of the frog observed by me and my family on previous occasions.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that I could testify competently thereto if called upon as a witness in this matter.

Signed



Jeffrey Bertch

I Greg Kamman declare that the following is based upon my own knowledge.

I am a Professional Geologist and Certified Hydrogeologist in the State of California and have worked on wetland issues and ground and surface water issues as a private consultant for seventeen years. I have obtained a Master's degree in Geology from Miami University (Oxford, Ohio) in 1989. I have been providing professional hydrology services in California since 1991 and routinely manage projects in the areas of surface- and groundwater hydrology, water supply, water quality assessments, water resources management, and geomorphology. Most of my work is located in the Coast Range watersheds of Northern and Central California. My areas of expertise include: characterizing and modeling watershed-scale hydrologic and geomorphic processes; wetland and creek restoration planning and design; evaluating surface- and groundwater resources/quality and their interaction; assessing hydrologic, geomorphic, and water quality responses to land-use changes in watersheds and causes of stream channel instability; and designing and implementing field investigations characterizing surface and subsurface hydrologic and water quality conditions. Since 2001, I teach an annual 2-day course on hydrology and geomorphology through the University of California Extension (Berkeley) and routinely provide technical talks to professional, community, educational, and non-profit groups. I co-own and operate my own private hydrological consulting business known as Kamman Hydrology & Engineering, Inc. Our firm was founded in 1997.

I am familiar with the wetland and proposed subdivision development site located at 1000 Highway One, Bodega Bay, Sonoma County California. I was employed as a hydrologist by Balance Hydrologics between 1994 and 1997. I was lead author of the May 1996 Balance Hydrologic's report entitled, "*Results of Baseline Hydrologic Investigation and Modifications to Recharge Mitigation Measures, Proposed Harbor View Development, Bodega Bay, California.*"

I have reviewed the pertinent hydrologic and mitigation monitoring reports, wetland delineations, staff documents, declaration of Allan Buckmann of California Department of Fish and Game, dated April 24, 2006, and letter of John Dixon, of California Coastal Commission, dated February 11, 2003.

Based upon my knowledge of the area and after reviewing the relevant documents, it is my opinion that shallow groundwater conditions under the Parcel A wetland and associated wetland habitat have been adversely impacted by infrastructure work performed in 2000 and 2001, in particular the installation of storm drains through and bordering the Parcel A wetland. It is my belief that the interconnected gravel-lined trenches and storm drain pipelines recently installed: a) within the Parcel A wetland; b) bordering Highway One and the Parcel A wetland; and c) under Highway One, have enhanced and accelerated the subsurface drainage of the shallow groundwater off-site and towards Bodega Bay along the western margin of the wetlands. It is hard to quantify what percentage of the project-induced increase in drainage to the beach outfall is attributed to Parcel A wetland dewatering or the capturing/concentrating (funneling) groundwater from a broader area. Regardless, these changes have effectively lowered the local water table and converted the Parcel A wetland from a perennially surface-saturated wetland to a

seasonally surface-saturated wetland. Although total water outflow from the project area has increased (discharging to the beach), this change has effectively reduced the flow-rate and duration of surface water outflow from the Parcel A wetland.

Balance Hydrologic's assumptions, methods, findings and conclusions related to observed and predicted recharge computations should be further evaluated and validated by an independent third-party hydrologist pursuant to the Permit condition calling for an independent hydrological investigation for the following reasons:

- The whole premise behind the "Observed recharge" estimate assumes that replacement piezometers 99-1, 99-3, and 99-4 are screened in corresponding lithologies and respond similarly to groundwater conditions of the original baseline monitoring program wells B4, B5, B7, and B8, which were destroyed during initial site grading. The boring and well construction logs for all of these piezometers/wells should be evaluated to confirm this comparison is valid.
- When evaluated independently, the Observed recharge for well 99-3 is well below the Predicted recharge estimate in 4 of the 5 years analyzed (2000 through 2004). Another anomaly is that Observed recharge ratios in wells 99-1 and 99-4 are 1.02 and 1.31, respectively, in 2002, suggesting a similar to greater volume of recharge occurred during the 2002 normal water-year as occurred in 1995, an extremely wet water year. For comparison, the ratio of Balance Hydrologic's normal to wet year-type Predicted recharge estimate is 0.71.
- There is a steady and continuous rise in specific conductance concentration measured in the Cistern well Z site, located within the Parcel A wetland, over the 2000 to 2004 monitoring period. I was unable to find an explanation for this trend. However, Balance states in their March 2004 Monitoring Report (page 23), "*If recharge were being curtailed by the partially-constructed project, an increase in salinity might be expected in groundwaters flowing into the wetland.*" Balance's 1996 Baseline Monitoring report states that 20-percent of the groundwater inflow to the Parcel A wetland comes from Franciscan bedrock aquifer(s) the remainder comes from the overlying marine terrace deposits. The marine terrace aquifer is recharged by infiltration from the project site. Further explanation for the trend of increased salinity in Cistern well Z is an increased contribution from the bedrock aquifer relative to the overlying marine terrace deposits, suggesting either an increase in bedrock aquifer inflow or, more likely and as stated above, a reduced contribution of inflow from the marine terrace deposits.
- A thorough explanation of data, method(s) and assumptions incorporated into the calculation of Predicted recharge (Balance's Figure 13 in Monitoring Reports) are missing -- I was unable to reproduce the data, findings or recharge estimates with the information provided. For example, how were Bodega Marine Lab annual precipitation totals modified or "scaled upward to USGS values"? Balance's 1996 Baseline Monitoring report reports wet, normal,

and dry year site recharge rates of 22.1-, 12.5, and 5.0-inches, respectively, yet Balance's annual precipitation vs. recharge relationship (curve) presented in Figure 13 in Monitoring Reports uses the same normal and dry year values, but reduces the wet year expected annual recharge to 17.5-inches. This change significantly reduces the Predicated recharge estimate for normal through wet years and may alter conclusions regarding project-induced changes in recharge rates.

It is my opinion that the jurisdictional wetland delineation and aerial photography review relied on to determine that the "wetland envelope was substantially unchanged" (Balance Hydrologics letter to Doug Zanini, December 5, 2005; WRA letter to Doug Zanini, December 1, 2005) does not support the conclusion that wetland hydrology has not been significantly affected by development activity for the following reasons.

- WRA's December 1, 2005 letter states, "*Comparison of wetland delineations conducted in 1990 and 2003 are remarkably similar indicating no significant change to the extent and location of wetland area has occurred.*" Their report continues with, "*Review of historic photographs from 1941 to 2002 indicate that the core wetland area has remained unchanged and that the fringe wetland area fluctuates, probably depending on climatic conditions.*" An important and related finding of these statements is that WRA is comparing wetland conditions in 2003, the second in a pair of consecutive normal water years versus 1990, which was the third driest year in the BML rainfall records (1969-2004; see Table 2 of Balance's Monitoring Reports) and fourth year of the late 1980's drought. The fact that wetland conditions in 2003, a normal year, are reported to mimic those observed near the tail end of a severe multi-year drought suggest that the wetland in 2003 was in a degraded state.
- Based on WRA's description of methods used in the 1990 and 2003 wetland delineations, it appears to me that there was no distinction made between perennial and seasonal wetlands and that both types of wetland are mapped/lumped as jurisdictional wetland. Under this delineation method, even if the wetland is degraded in 2003 (i.e., converted from perennial to seasonal wetland), sufficient wetland indicators would be retained (esp. hydric soils), to classify and map these varying wetland types within the same boundary.
- The conclusion that construction impacts have not altered the quality and extent of wetlands was reportedly evaluated through aerial photograph review. However, this review included comparing only a single post-construction photograph (4-22-02) to up to 14 aerial images of pre-2000 partial-construction period.

I am also familiar with the area set aside for Parcel A mitigation on Parcel B. In my opinion, the designated mitigation area on Parcel B lacks the hydrology and general site characteristics to function as a mitigation wetland for impacts to the Parcel A wetland, even if staff recommendations to install a clay liner and revegetate the area are implemented. This location will not receive the groundwater inflow so critical in establishing and maintaining the Parcel A wetland. Instead, this wetland will rely solely on direct precipitation and runoff (also sources

that augment groundwater supply in the Parcel A wetland) and will function as a seasonal wetland, at best. Small isolated mitigation sites in the midst of a residential development will also experience increased micro-climate driven evaporation rates. Any impermeable liner used to create the wetland will also impede or eliminate groundwater recharge, a function originally intended for this wetland site. Based on my experience in wetland and pond design, the Parcel B mitigation wetland sites will not be as effective in performing the important filtering function of an established wetland, nor could it provide the continuity of habitat lost in Parcel A.

It is highly probable that continued construction activity in the affordable unit within close proximity from the Parcel B mitigation area will inhibit proper hydrologic and ecologic function of this already challenged mitigation site. Additional trenching, laying of pipe/gravel and compacting of soils is likely to disrupt shallow groundwater and surface water flows, the later of which is of special concern given the wetland's dependence on runoff as a primary source of water supply. It is my opinion that until adequate physical, hydrologic, and ecologic conditions necessary to support and sustain the Parcel B wetland can be demonstrated, all construction activities at the project site should be curtailed, regardless of distance from the Parcel B wetland. At the very least, because of the compromised current condition of the primary wetland and questions regarding the adequacy of the Parcel B mitigation site and demonstrated impacts to the Parcel A wetland, larger buffer areas out to 300-feet, in which residential construction is prohibited, should be required or at least considered for both wetland sites, pursuant to Coastal Act and Local Coastal Program provisions, until many of the constraints and questions described above are resolved by an independent investigation

This Declaration is executed on February 13, 2007 at San Rafael, California.

I swear under penalty of perjury under the laws of the State of California, that the foregoing is true and correct to the best of my knowledge and that I could testify competently thereto if called upon as a witness in this matter.

*William R. Kammann*

January 30, 2007

I, Abigail Myers, declare:

I am a professional scientist and hold a Master of Science degree in Water Resources and a Bachelor of Science degree in Geology. I worked for four years as a geologist in the oil industry, four years as an hydrologist and environmental regulator in the aquifer protection permit program of the Arizona Department of Environmental Quality, ten years as a senior environmental scientist in the electric utility industry with responsibility for compliance with water regulations, and three years as a wetlands educator at a coastal wetlands education facility just north of Bodega Bay. I have prepared and reviewed environmental documents for both industry and government agencies.

I am familiar with the wetland located at 1000 Highway One, Bodega Bay, Sonoma County, California, known as Parcel A. I am also familiar with Parcel B. I visited the site on 12/19/06 with Maggie Briare. I have reviewed several memoranda from the file, the draft and final EIR, various hydrologic reports prepared by Balance Hydrologics, Inc., a December 1, 2005 report from wra Environmental Consultants, and two conservation easements held by the Sonoma County Agricultural Preservation and Open Space District related to the parcels.

Prior to construction at the site, Parcel A was described by several sources including the California Department of Fish and Game, as a perennial freshwater wetlands sustained by springs, a seep and groundwater flowing from marine terrace deposits and the Franciscan Formation. As described elsewhere, this wetland provides important wildlife habitat near Bodega Harbor and filters sediment in runoff prior to entering the Harbor. Other values described include scenic and open space values.

This wetland is protected as such by the Coastal Act, the Local Coastal Program and by an Open Space Easement held by the Sonoma County Agricultural Preservation and Open Space District. The EIR written for the development specifies requirements to

protect Parcel A and recharge thereto. Concerns were appropriately raised that the increase in impervious surfaces and the storm water drainage system planned by the developer would result in reduced recharge to the wetland, thus degrading it.

Recommendations to protect the wetland in the EIR and subsequent reports include a variety of mitigations to preserve recharge to Parcel A. These consisted of a recharge basin at Parcel B, or dry wells and infiltration trenches that would direct the inevitable increase of surface runoff to the wetland. Apparently contrary to the above, the landowner installed a storm drain through Parcel A in 2000. This storm drain was apparently not installed as recommended. The storm drain, instead, directs an increased amount of water to the outfall in the Harbor, without benefit of recharging the wetland, thus causing an increase in unfiltered sediment discharge there.

While the various reports appear to indicate that total recharge is the same, the outfall to the harbor is actually greater than pre-construction. This is indicated by summing the data collected at the outflow from the wetland seep and the 24' outflow to the beach. Total pre-construction outflow volumes are less than total post-construction outflow volumes. The increased levels of salinity in the outflow also indicate an increased proportion is coming from the wetland which showed higher salinity levels in the baseline study. Additionally, the Hydrologic Monitoring Report, Water Year 2002, prepared by Balance Hydrologics, Inc. suggests on page 12 that "water levels are progressively declining in the southwestern corner of the wetland, possibly in response to installation of the storm drain, or replacement of the sewer line and culverts beneath the highway."

It is my opinion that the storm drains are draining the wetland as well as preventing groundwater flow from the east from recharging the wetland as it did prior to construction. This recent and unallowable degradation is apparently acknowledged by PRMD in that efforts to construct and increase the size of a wetland at Parcel B are being suggested as mitigation for losses to Parcel A. I believe that the recommendation to line Parcel B so that it will retain runoff and support wetland vegetation in the middle of the development is unsuitable for several reasons: 1.) The Open Space Easement for Parcel

B prohibits "alter[ing] the contour of the land in any manner whatsoever, including but not limited to, excavating or removing soil, sand, gravel, rock, peat, or sod...." (No.5 in Exhibit C: Prohibited Uses and Practices). The easement, rather, is intended to preserve Parcel B "as an aquifer recharge area to assist in maintaining the water supply to the wetland [Parcel A]" (Exhibit "B" – Permitted Uses and Practices); 2) Lining parcel B will preclude the originally intended recharge to Parcel A there from; 3) The wetland so constructed will not serve the same functions for wildlife habitat or filtration that previously existed in Parcel A, and thus cannot be considered a mitigation; 4) The source for the recommended irrigation of Parcel B will presumably be Salmon Creek or other critical source along the coast. Thus for the sake of creating an artificial wetland in the middle of an urban development that will NOT serve to replace the values provided by Parcel A, important habitat will be further degraded and scarce water resources will be wasted. Furthermore, if Parcel B WERE to serve as the mitigating wetland, the street would not serve as an adequate buffer as apparently envisioned by the planning department.

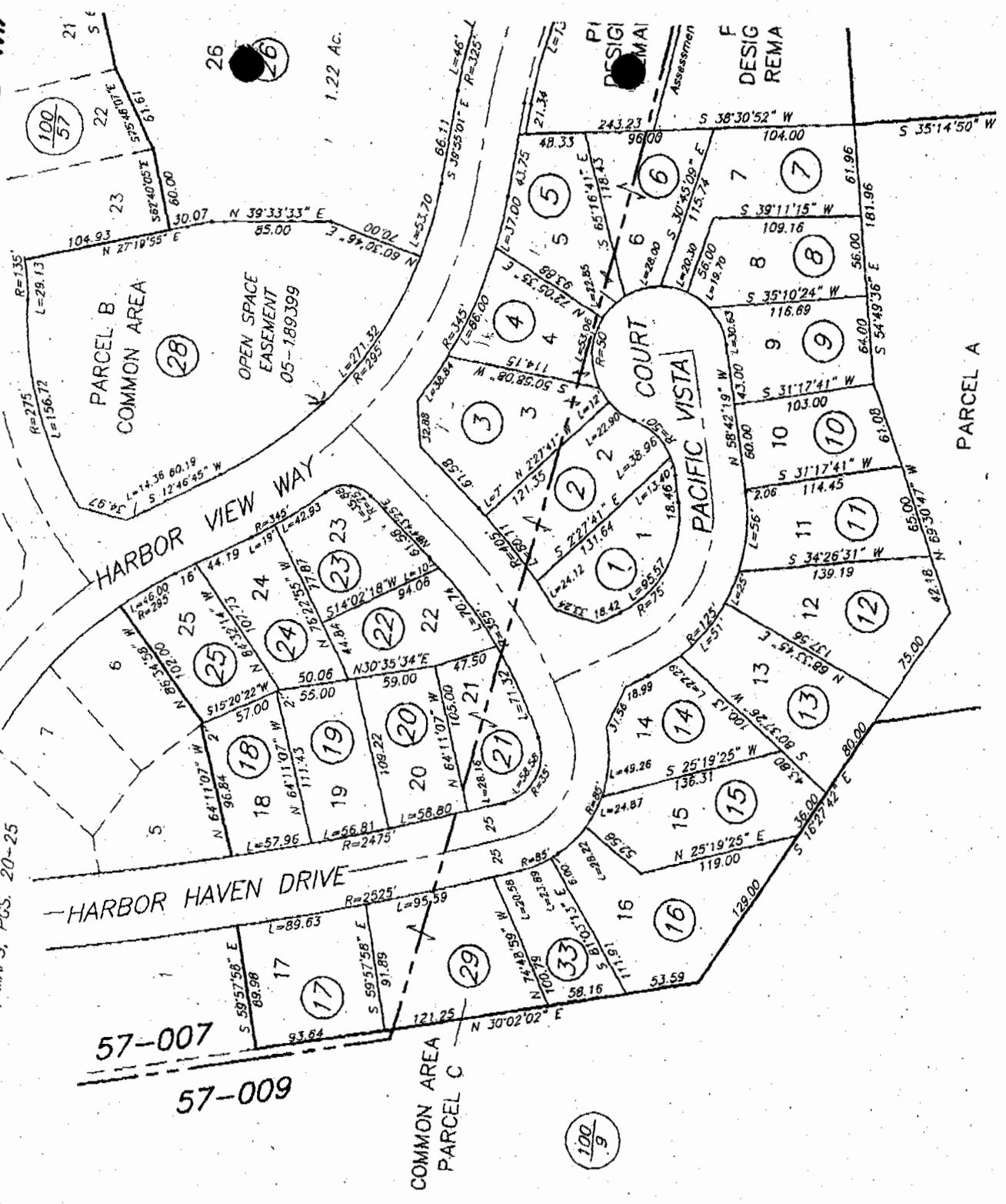
Signed,

A handwritten signature in black ink, appearing to read 'Abigail A. Myers', with a long horizontal flourish extending to the right.

Abigail A. Myers, M.S., B.S.

# COUNTY ASSESSOR'S PARCEL MAP

986 HARBOR VIEW PHASE 1  
PLANNED UNIT DEVELOPMENT  
12-27-05 IN BK. 687, MAPS, PGS. 20-25



57-007

57-009

COMMON AREA  
PARCEL C

PARCEL A

**EXHIBIT "A"**  
**SONOMA COUNTY PLANNING COMMISSION**  
**REVISED CONDITIONS OF APPROVAL (Major Subdivision)**  
MJS/CP 93-289  
TFC Development Co.  
June 13, 2000  
Planner: Melanie Heckel

  ✓    
Supervisors on August 18, 1994

PC recommended conditions to Board of

The mitigations contained in the Harbor View Environmental Impact Report (EIR) and the Mitigation Monitoring Program on file with the Permit and Resource Management Department are herein incorporated by reference. In the event of any inconsistency between the Harbor View EIR and the Mitigation Monitoring Program, the Mitigation Monitoring Program shall control.

**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT - BUILDING AND LAND DEVELOPMENT:**

1. No construction shall be initiated until plans have been approved by the appropriate entity.
2. All construction shall conform with existing County Design and Construction Standards, Subdivision Ordinance, and State Map Act.
3. Street names and location shall be approved by Planning Department Mapping Section and shall occur before the filing of the Final Map.
4. Public utility easements shall be shown on the final map in accordance with the map on file in the Planning Department.
5. All underground utilities within the road right-of-way shall be installed prior to street construction.
6. Utility distribution facilities, except surface mounted transformers, for pedestal mounted terminal boxes, meter cabinets, concealed ducts, fire hydrants, and street lights shall be placed underground. Appropriate easements shall be provided to facilitate these installations.
7. Prior to recording Final Map the applicant shall complete an apportionment of assessment and pay necessary fees to process apportionment to the Sonoma County Treasurer's Office, or the City, or applicant shall pay off in full all special assessments.
8. A grading permit shall be obtained from the Building Inspection Department prior to the start of any earthwork, unless exempted under Chapter 70, Uniform Building Code Appendix, Edition presently adopted. An engineered grading plan shall be submitted to, and approved by, the Building Inspection Department prior to grading permit issuance.
9. Prior to the submission of the Final Subdivision Map, the subdivider shall file with the County Chief Building Official a preliminary soil report, prepared by a civil engineer experienced and knowledgeable in the practice of soil engineering, who is registered in this state. The preliminary soil report shall be based upon adequate test borings or excavations at the subdivision. The preliminary soil report may be waived if the Building Inspection Department shall determine that, due to the knowledge of such department as to the soil qualities of the subdivision, no preliminary analysis is necessary.
10. If any changes to plans, drawings, documents or specifications required pursuant to any conditions here-in specified occur, these changes shall be brought to the appropriate department for review and approval prior to any construction or improvements. Also these changes shall be reviewed by all

departments involved in the initial approval of the subject plans, drawings, documents or specifications that are proposed for change.

11. Project is located within an Alquist Priolo Special Fault Study Zone. A Fault Study pursuant to State Division of Mines and Geology criteria is required.
12. The applicant shall incorporate into the project modern seismic design for resistance to shaking forces. As a minimum, this shall include compliance with the Uniform Building Code, 1991 (Chapter 23, Part III - Earthquake Designs-Seismic Zone 4) and any additional criteria imposed by the Sonoma County Building Inspection Department, including Uniform Building Code, 1991 (Chapter 70, Excavation and Grading).

**PLANNING DIVISION:**

13. **Subdivision,**  
**Coastal Permit** Prior to issuance of grading permits and recordation of the Final Map, a design-level geotechnical investigation shall be undertaken in accordance with the adopted Mitigation Monitoring Program in its entirety with emphases on EIR Mitigation Measures B.2.2, B.2.3, B.2.4, B.3.1, B.3.2, B.6.1, B.6.2, B.7.1 and C.3.6 on file with the Permit Division of the Permit and Resource Management Department which shall address slope failure, lateral spreading and settlement, liquefaction, and recharge measures.
14. **Coastal Permit** In areas to be developed by the construction of cuts or fills (including either of the proposed access road alignments), appropriate earthworks construction design (based on design-level geotechnical investigation) shall be used to reduce the secondary effects of ground shaking (slope failure, lateral spreading, and settlement). As a minimum, this shall include compliance with the Uniform Building Code and requirements of the Sonoma County Engineering and Plan Check Section of the Permit and Resource Management Department. Unless otherwise specified by the project geotechnical engineer this shall include the measures listed in Mitigation Measure B.2.2 on file with the Permit Division of Permit and Resource Management Department.
15. **Subdivision,**  
**Coastal Permit** NOTE ON MAP: "Construction specifications and plans for project earthworks and building foundations shall be based on a detailed, design-level geotechnical investigation in accordance with Mitigation Measure B.2.3 on file with the Permit and Resource Management Department."  
  
Design-level geotechnical investigations shall include subsurface exploration (borings, exploration pits, geophysical surveys), sampling of soil/rock materials, logging of borings/pits, laboratory testing to assess the engineering properties of samples, engineering/geologic analysis and development of conclusions and recommendations which would then be incorporated into the project design.
16. **Subdivision** NOTE ON MAP: "Site preparation and construction activities on individual lots must be carried out in accordance with the Mitigation Monitoring Program and geological/geotechnical reports on file with the Permit Division of the Permit and Resource Management Department.
17. **Coastal Permit** During project grading (site preparation, cut/fill construction, foundation excavation) inspections/observations shall be routinely made by a qualified geotechnician for compliance with the intent of the geotechnical design recommendations as reflected in the geotechnical report and grading plan. Any substantial change from the approved recommendations (approved grading plan) shall require an amendment to

the grading permit. Following completion of grading and before initiation of other on-site improvements, the geotechnician shall submit a report certifying that the grading was completed in conformance with the approved grading plan.

18. Subdivision      The geotechnical investigation shall provide appropriate setback distances from the gulch slope for any structures to be built on proposed lots 25 through 27 and lots 29 and 34 which shall be placed on the Final Map
19. Subdivision,  
Coastal Permit      Prior to approval of the Grading Permit and recordation of the Final Map, the grading plan shall show that the loose backfill material shall be removed from the fault exploration trenches and replaced as compacted backfill or replaced with other materials as compacted backfill. Unless otherwise specified by the project geotechnical engineer and reviewed and approved by the Sonoma County Engineering Division Manager, this shall include compacting the upper four feet of the trench to 90 percent of applicable laboratory maximum density, and compacting below four feet to the bottom of the trenches to 85 percent of applicable laboratory maximum density. The approved plans shall be incorporated into the improvement plans.
20. Subdivision,  
Coastal Permit      Prior to approval of the Grading Permit and recordation of the Final Map, a construction and post-construction erosion control plan shall be developed by the applicant which includes re-vegetation; the diversion of surface runoff away from cut/filled slopes; the placement of protective covering (jute/hydromulch, etc.) on slopes until vegetation is established. The plan shall be reviewed and approved by the Sonoma County Engineering Division Manager.
21. Subdivision      All culvert outfall areas shall be protected from erosion by the placement of rip-rap, or other suitable erosion-resistant material. Actual details/specifications shall be developed by the project civil engineer and shown on project plans to be reviewed and approved by the Sonoma County Engineering Division Manager. The approved plans shall be incorporated into the improvement plans.
22. Subdivision,  
Coastal Permit      In the event that project earthworks are to be left partially completed over a rainy season(s); a temporary, wet-weather erosion control plan shall be developed and implemented by the applicant. The intent of the plan is to minimize wet weather erosion/siltation and to confine to the construction site whatever materials are eroded. Once the plan is developed, it shall be reviewed and approved by the Sonoma County Engineering Division Manager prior to implementation. The approved plans shall be incorporated into the improvement plans.
23. Coastal Permit      During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
24. Coastal Permit      Seeding and planting of the slopes shall be planned to achieve, as rapidly as possible, a well-established and deep-rooted vegetation requiring minimal watering. The type of vegetation and watering schedule shall be determined by a landscape architect or other similar professional familiar with coastal hillside maintenance.
25. Coastal Permit      In areas to be developed (covered by structures/infrastructure) site top soils (one to two feet) shall be separately stockpiled and used as appropriate for post-construction landscaping.

26. Subdivision,

Coastal Permit Parcel B shall be retained as an aquifer recharge area. The Homeowner's Association is responsible for maintaining the area with pervious surfaces and as a passive recreational area in accordance with Open Space Agreement entered into with the Sonoma County Agricultural and Open Space District.

27. Coastal Permit Two dry wells per lot shall be installed to maintain the seasonal component of recharge to the wetland in Parcel A. The dry wells shall be a minimum of 24 inches in diameter, and shall be constructed to depths of 16 to 20 feet, or to bedrock. Depth of the drywells shall be determined by the design-level geotechnical investigation. Runoff from suitably-sized roof areas will be directed into the drywells, such that water of high quality is recharged. The top of the drywell shall be covered, to prevent introduction of fine material capable of clogging the interstices of the crushed rock used to fill the drywells. Sizing and construction criteria are presented in Appendix B of the EIR.

28. Subdivision **NOTE ON MAP: "If required by the pre-construction monitoring program, two dry wells per lot must be installed with residential improvements on all lots.**

29. Subdivision Improvement plans shall show that utility trenches shall not exceed depths of five feet below grade wherever possible to avoid intercepting flows to the wetland. Where trenches must be deeper, measures to preclude interception shall be incorporated in their design. Deeper courses may be used along the proposed Cypress Lane where existing grades are lower than elevation 60 feet.

30. Coastal Permit The effectiveness of the hydrologic mitigation for the wetland shall be ensured through implementation of a comprehensive monitoring and fine-tuning program as outlined below:

- Prior to issuance of any grading or building construction permits, except for restoration of excavation trenches or any special studies required by the Mitigation Monitoring Program, water levels and specific conductance shall be measured monthly for 12 months to establish the pre-project baseline.
- Once the project is under construction and built, water levels should be monitored monthly for the first three years. Specific conductance shall be monitored quarterly. Each year, the recharge mitigation facilities should be inspected and verified as operable. Maintenance staff and/or project engineers shall note the functioning of intakes and facilities during storm events, as well.
- Annual monitoring reports shall be prepared for the baseline year and the initial three years of the project. The monitoring reports shall include all measurements made, and an evaluation of whether water levels and salinities adequately emulate pre-project conditions. Memos describing observations made during storm conditions shall be appended, as shall a statement from a registered geotechnical specialist attesting to whether maximum allowable water levels have been maintained. The annual report shall include recommendations to adjust and adapt the mitigation program. Appreciable adjustment and fine-tuning may be anticipated during the initial years of operation. The monitoring report shall be prepared by a registered engineering or hydrologic professional acceptable to the County of Sonoma, and shall be submitted to the County Permit and Resource Management Department, Planning Division or their designee.

- Because of the hydrologic resiliency of the lower wetland, it is possible that water levels somewhat lower than pre-project levels will permit mitigation of recharge impacts to below a less-than-significant threshold. If biological functions and values in the lower wetland are being sustained, the objective of emulating pre-project water levels and salinities may be re-evaluated. Said re-evaluation shall be done in consultation with a qualified botanist and any modifications to the mitigation monitoring program shall require review and approval by the Sonoma County Permit and Resource Management Department in consultation with the State Department of Fish and Game and the Army Corps of Engineers.

After three years of operations, the need for and elements of the monitoring program shall be re-evaluated in consultation with a qualified botanist at the expense of the applicant or Homeowner's Association. The program may be re-designed to address specific questions, or discontinued. The new monitoring program shall be approved by the County Permit and Resource Management Department in consultation with the State Department of Fish and Game and the Army of Corps of Engineers.

If at any time during construction monitoring results indicate that the water supply to the wetland is being reduced significantly, to the extent that the viability of the wetland is threatened, construction shall cease. An independent analysis by a hydrologist and botanist shall evaluate the situation and recommend mitigation measures for review by the Sonoma County Permit and Resource Management Department in consultation with the State Department of Fish and Game and the Army Corps of Engineers, and consideration and approval by the Board of Supervisors. Upon approval, implementation and evidence of effectiveness of the approved mitigation measures, construction can begin again. If monitoring results indicate that the water supply to the wetland is being reduced significantly after the subdivision is fully built, the Homeowner's Association will be responsible for funding an evaluation as described above for consideration by the Board of Supervisors. The Homeowner's Association shall be responsible for implementing any required mitigation measures. Failure to do so shall subject the Homeowner's Association to civil penalties which shall include, at a minimum, any costs and attorney's fees incurred by the County in enforcing the Association's compliance with this condition.

31. Coastal Permit Should project monitoring show that infiltration trenches have become substantially impaired (i.e. reduction of over 25% in infiltration rates compared with first year infiltration) the trenches shall be cleared or replaced to make them fully functional. This process shall be repeated on a schedule to be established on the basis of the monitoring results, but not less than once every 10 years. The dry wells shall be cleaned or replaced on a similar schedule.
32. Coastal Permit Vehicular use of Parcel B shall be prohibited unless specifically allowed by the Agreement with the Sonoma County Agricultural and Open Space District.
33. Subdivision Improvements at the drainage outfalls at Highway One and the harbor shall be provided to pass the 100-year storm flows from the overall project drainage basin. These improvements shall include pipe enlargement, energy dissipators, and outfall erosion protection. Improvement plans shall be submitted to Caltrans and the County Public Works Department, Engineering Division Manager and Coastal Commission for review and approval prior to recording the Final Map.

34. Subdivision

A construction-level erosion plan shall be submitted to the County at the time of the Final Subdivision Map application. The Plan shall include detailed provisions to control erosion and retain runoff on site during the construction period. Such interim erosion and sedimentation control measures shall include the covering of exposed soil piles at the close of each day, the periodic wetting of exposed graded surfaces to control wind erosion, and the utilization of siltation fences and sediment basins to limit sedimentation of the wetlands or of the harbor. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods. The approved plans shall be incorporated into the improvement plans.

35. Subdivision,

Coastal Permit The storm drains shall include an inlet filter-structures (for sediment, oil, and grease) to be shown on drainage and improvement plans) to assist in the removal of urban pollutants. The inlet filters shall be cleaned as necessary, but not less than semi-annually. The approved plans shall be incorporated into the improvement plans.

36. Subdivision,

Coastal Permit Prior to recording the Final Map, the applicant shall show on drainage plans that the material resulting from trench excavation shall not be placed through the wetland area in such a manner that it is dispersed by wind, rain, or other forces. The area disturbed shall be limited to the minimum necessary to construct the drainage line. The top 6 to 12 inches of topsoil shall be reserved and replaced when the trench is backfilled. Any excess material shall be removed to an upland area upon completion of construction. The approved plans shall be incorporated into the improvement plans.

37. Subdivision

Dedication of parkland or payment of fees, in lieu of dedication, shall be paid prior to recordation of the Final Map or Parcel Map. Alternatively, at the request of the subdivider, fees may be paid prior to issuance of building permits for new residential construction on each lot. If fees are intended to be paid prior to issuance of building permits, the following NOTE shall be placed on all Final Maps and Parcel Maps:

NOTE ON MAP: "New residential construction on these parcels is subject to payment of parkland fees in accordance with Section 25-58 et. seq. of the Sonoma County Subdivision Ordinance. Evidence that fees are paid shall be provided to the Regional Parks Department prior to the issuance of building permits."

38. Subdivision,

Coastal Permit

The applicant shall pay a mandatory Fish and Game fee of \$35 for County Clerk processing within ten days after approval of this project and:

- 1. No additional fee because the project is exempt from Fish and Game fee.
- 2. \$850 because an EIR was prepared for a total of \$885.
- 3. \$1250 because a Negative Declaration was prepared for a total of \$1285.

This fee must be paid to the County Planning Division or the approval of this project is not valid.

39. Subdivision **NOTE ON FINAL MAP: Applicant shall pay to the County of Sonoma or local district those development fees (including Traffic Mitigation Fees) required by the Sonoma County Code. Such fees shall be paid prior to issuance of a building permit.**
40. Subdivision **The subdivider shall prepare any easements or deeds necessary for off-site drainage improvements.**
41. Subdivision **If it is determined by survey prior to recordation of the Final Map (parcel map) that adequate land is not available to meet General Plan and Zoning densities, then the number of lots must be reduced in order to comply with required densities.**
42. Coastal Permit **Applicant shall avoid grading and construction within the lower wetland and buffer area, except as necessary to install the utilities shown on the tentative map and road improvements as required by Caltrans.**
43. Subdivision  
Coastal Permit **Prior to recording the Final Map the applicant shall obtain all necessary permits from the U.S. Army Corps of Engineers.**
44. Coastal Permit **Applicant shall retain both the upper and lower Monterey Cypress groves to the maximum extent feasible, following the guidelines outlined by the report prepared by Horticultural Associates dated June 8, 1990 and as modified in a letter dated June 22, 1992 (retaining trees 2 and 3, 19 through 25) with flexibility to remove other trees if deemed necessary by the arborist in the field, subject to approval of the Director of Permit and Resource Management.**
45. Subdivision **Prior to recording the Final Map the applicant shall hire an arborist to carry out the recommendations of the arborist's report to include the following:**
- a. **Remove trees 1, 4 through 18 and 26.**
  - b. **Canopy cleaning and crown thinning of remaining cypress groves.**
  - c. **Preparation of a landscape plan to replant large container specimens to replace the trees removed in a slightly different configuration, subject to review and approval of the Design Review Committee.**
  - d. **Plant or bond for the planting of cypress trees as approved above.**
  - e. **An analysis of the impact of installing the commercial roadway to the "Ryan" parcel on the cypress grove shall be prepared.**
- The approved plans shall be incorporated into the improvement plans.**
46. Coastal Permit **Prior to recording the Final Map, the applicant shall submit the grading plan, road improvement plans and landscape plans for all common parcels and Parcels "A" and "B" for review and approval of the County Design Review Committee. Applicant shall install or bond for the installation of all landscaping and shall be subject to Design Review Committee review and approval.**
47. Subdivision **NOTE ON FINAL MAP: "Residential construction shall be limited to 16 feet in height or as otherwise allowed by applicable Coastal Design Guidelines."**
48. Subdivision **Prior to recording the Final Map the applicant shall offer land for 14 affordable housing units to Burbank Housing and enter into a joint agreement with Sonoma County Community Development Department and the Burbank Housing Authority guaranteeing construction of the affordable units prior to or concurrently with the other units. Such agreement shall prescribe the mix of affordable housing types, rental or sale prices and rental and re-sale controls.**

49. Subdivision Improvement plans shall be reviewed by the Bodega Bay Fire Protection District, and recommendations forwarded to the Planning Department prior to final map approval.
50. Subdivision Prior to release of subdivision agreement securities, the applicant shall provide to the County Department of Permit and Resource Management a written statement signed by his or her engineer/contractor verifying that the grading and or drainage improvements are completed in accordance with the plans approved by the Sonoma County Water Agency, Sonoma County Building Department, and Public Works Department.
51. Subdivision, Coastal Permit All water and sewer improvements must comply with Bodega Bay Public Utility District standards and requirements.
52. Subdivision Prior to recording the Final Map, the applicant shall enter into an agreement to pay his fair share of school construction costs as determined by the Shoreline Unified School District.
53. Subdivision Prior to recording the Final Map, improvement plans must be submitted to the Bodega Bay Public Utility District for review, comments and approval.
54. Subdivision All necessary water and sewer easements must be reviewed and approved by and conveyed to the Bodega Bay Public Utility District.
55. Subdivision The following water system improvements may be required by the Bodega Bay Public Utility District:
- a. Install an 8 inch water main on Cypress Lane from Highway One to the north end of Cypress Lane.
  - b. Install 6 inch water mains on Wild Iris Circle, Salmonberry Circle and Lupine Court.
  - c. Extend an 8 inch water main from the north end of Cypress Lane to Taylor Street on Canon Street through the Emergency Vehicle Access
  - d. Extend an 8 inch water main from Cypress Lane to the 6 inch water main near the Tides driveway on Highway One.
  - e. Extend a 6 inch water main from Salmonberry Circle to the 4 inch water main on Bodega Avenue through the Pedestrian/Bike & Emergency Access.
56. Subdivision The following sewer system improvements may be required by the Bodega Bay Public Utility District:
- a. Install sewers on Cypress Lane, Wild Iris Circle, Salmonberry Circle and Lupine Court.
  - b. Install a sewer in the driveway to Parcel Nos. 25, 26 & 27.
  - c. Install sewers in easements as required to serve all other parcels.
  - d. Improve access to the existing lift station on Highway One.
57. Subdivision The Bodega Bay Public Utility District may require the prepayment of water and sewer connection or other charges before the improvement plans are approved by the District, before any permit to provide service is issued, and before any agreement relating to installation of utility improvements is entered.
58. Subdivision Prior to recording the Final Map, the applicant shall prepare a Management Plan for Parcel "A" incorporating the recommendations of Bodega Research Associates regarding the Lower Wetland, Wetland Fringe and Hillside Buffer Areas, subject to review and approval of the Permit and Resource Management Department Director in consultation with the

Department of Fish and Game. The approved plans shall be incorporated into the improvement plans.

59. Subdivision,  
Coastal Permit Prior to recording the Final Map, the applicant shall plant or bond for the planting and enhancement of Parcel "A" in accordance with the approved Management and Landscape Plans.
60. Subdivision,  
Coastal Permit Prior to recording the Final Map, the applicant shall enter into an agreement with a landscape maintenance business or other appropriate agency or organization for maintenance of Parcel "A" for a five year period, after planting, in accordance with the approved Management Plan.
61. Coastal Permit The boardwalk into the wetland mentioned in the Bodega Research Associates report shall not be implemented due to the small size of the wetland and because the boardwalk would constitute fill. The restoration plan shall be expanded to include planting techniques, provisions for monitoring; performance standards and success criteria, and recommendations on long-term management (see Bodega Research Associates, Appendix C).
62. Subdivision,  
Coastal Permit Parcels A and B shall be offered for dedication to the Sonoma County Agricultural and Open Space District or other public or non-profit agency acceptable to the County of Sonoma for permanent preservation. If the Sonoma County Agricultural and Open Space District does not accept the dedication of Parcels A and B, the applicant shall place them in an Open Space Easement, and the Homeowner's Association shall be responsible for all aspects of the maintenance of the resources thereon.
63. Subdivision,  
Coastal Permit The applicant shall replace any loss of wetland in kind, on site or as otherwise approved by State and Federal regulatory agencies, at a 1:1 ratio. Implementation of this measure shall be through a wetland mitigation and monitoring plan prepared by a qualified biologist and approved by the County. The mitigation plan shall be based on a currently verified wetland delineation and shall include measures for minimizing construction impacts on the seeps, as well as measures for minimizing construction impacts on the seeps, as well as measures for replacing the filled wetland. The plan shall identify potential mitigation sites and shall discuss goals, methods of implementation and monitoring, and performance standards, including replacement ratios. The plan shall be reviewed and approved by the CDFG and/or any other regulatory agencies having jurisdiction over the wetlands on the project site prior to recording the Final Map.
64. Coastal Permit Parcel A and the southern seep shall be fenced or barricaded to prohibit entry by dirt bikes and off-road vehicles. The barrier shall be constructed so as not to impede the movement of wildlife or to obstruct public viewing of the wetland areas.
65. Subdivision,  
Coastal Permit Prior to the start of construction, a temporary fence shall be constructed at the boundary line of Parcel A and at least 10 feet from the southern freshwater seep to prevent any accidental incursion into the seep area.
66. Subdivision,  
Coastal Permit A specific landscape plan to address lots visible from Highway One and the

LAW OFFICE OF JERRY BERNHAUT  
6535 CHERRY AVE. SONOMA, CA 95476  
TELEPHONE: (707) 935-1815 EMAIL:  
JBERNHAUT@COMCAST.NET

Section 30603 of the Coastal Act states that (a) After certification of its local coastal program, an action taken by a local government on a coastal development permit application may be appealed to the commission for only the following types of developments: "(3) Developments approved by the local government not included within paragraph (1) or (2) that are located in a sensitive coastal resource area." In section 30116, "sensitive coastal resource area" is defined as "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. (a) That the California coastal zone is a distinct and valuable natural resource of vital and enduring interest to all the people and exists as a delicately balanced ecosystem. (b) That the permanent protection of the state's natural and scenic resources is a paramount concern to present and future residents of the state and nation. (c) That to promote the public safety, health, and welfare, and to protect public and private property, wildlife, marine fisheries, and other ocean resources, and the natural environment, it is necessary to protect ecological balance of the coastal zone and prevent its deterioration and destruction. (d) That existing developed uses, and future developments that are carefully planned and developed consistent with the policies of this division, are essential to the economic and social well being of the people of this state and especially to working persons employed within the coastal zone. Exhibit 1 to the Categorical Exclusion E 815 provides that the exclusion order itself may be revoked if violated.

#### DOCUMENTS IN SUPPORT OF APPEAL BY BODEGA BAY CONCERNED CITIZENS

Dear members of the Sonoma County Board Of Supervisors:

The Bodega Bay Concerned Citizens (BBCC) hereby appeals the Resolution Of The Sonoma County Board Of Zoning And Adjustments (BZA), issued September 28, 2006, approving the request for Coastal Permits CPH06-0012 through CPH06-0022 and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. BBCC bases its appeal on the following issues, with supporting facts and analysis presented below.

**APPLICATION OF THE CATEGORICAL EXCLUSION ORDER IS NOT BASED ON AN ADEQUATE DETERMINATION THAT DEVELOPMENT OF EXEMPTED PARCELS WILL NOT AFFECT SENSITIVE RESOURCES.**

Under Section 26C-340 of the Local Coastal Program, a Coastal Permit shall be required for any development occurring in the Coastal Zone of Sonoma County, unless it falls within an exemption or categorical exclusion. Under the Coastal Act of 1976, all parcels within the Harbor View subdivision are within the Coastal Zone of Sonoma County. The BZA has applied Categorical Exclusion Order E-81-5, Section N, to exempt from Coastal Permit requirements all single family dwellings not visible from Highway One or within 100 feet of a wetland. Section N exempts development of single-family dwellings provided the development does not affect sensitive coastal resources. The record raises serious questions about the condition of wetlands at the Harbor View site, protected under conservation easements as a condition of final map approval. The BZA's determination that development of the exempted parcels will not affect sensitive resources is based solely on the presumption that infrastructure work built in 1999 and 2000 was done in conformance with the approved Mitigation Monitoring Program. (Resolution, Finding 6). It is BBCC's basic contention that mitigation conditions have not been complied with, that sensitive wetland resources have been significantly affected, and that any further development activity should be delayed pending an independent hydrological investigation pursuant to Final Map Condition 30, as will be explained in detail below.

**WAIVER OF 100 FOOT SETBACKS FROM WETLANDS AND 300 FOOT ENVIRONMENTAL REQUIREMENT (BUFFER) NEAR WETLANDS IS NOT WARRANTED WHEN SIGNIFICANT WETLAND IMPACTS FROM DEVELOPMENT ACTIVITY HAVE ALREADY OCCURRED.**

BZA proposes to waive the 100 foot setback from the Parcel B wetland (Resolution, Finding 7). Many of the Harbor View building lots are within the 300 foot buffer area of the Parcel B or Parcel A wetland. (Are there lots within 100 feet of Parcel A?). There is no specific discussion of the justification for reduction of the 100 foot setbacks and 300 foot buffer areas beyond a reference on page 12 of the staff report to Attachment of the LCP Administrative Manual, allowing a waiver of the 100-foot set back in Urban Service Areas, and Attach the LCP Administrative Manual, which provides a mechanism for reduced setbacks when the applicant can demonstrate that 100 feet is unnecessary to protect the resources of the habitat area. However, the staff report omits the following language from Attachment M:

The width of the buffer area will vary depending on the analysis. The buffer area should be a minimum of 100 feet for small projects on existing lots (Such as one single family home or one commercial office building) unless the applicant can demonstrate that 100 feet is unnecessary to protect the resources of the

habitat area. If the project involves substantial improvements or increased human impacts, such as a subdivision (emphasis added), a much wider a buffer area should be required. Thus, under the above LCP language, all parcels in the Harbor View subdivision should have an environmental buffer area much wider than 100 feet from adjacent wetlands, rather than proceeding under the piecemealing approach treating each residence as a separate development. There is no analysis specifically related to the width of buffer areas in the staff report, but as with the Categorical Exclusion, the implicit assumption is that the Mitigation Program has been complied with and is adequate to protect wetland resources. As we shall demonstrate below, significant impacts to the Parcel A wetland have occurred, and the adequacy of the wetland replacement program in Parcel B has been questioned based on a recent site visit by PRMD staff. BZA proposes to invoke the administrative waiver of 300 foot buffer areas based on the existence of a road between the proposed development and the wetland, as provided in Attachment J, section a. However, section a also states: This standard shall be used cautiously at the outer edge of the 300 foot limit. If there is any reasonable doubt the proposal would affect the wetlands or riparian area, an environment assessment shall be undertaken and include appropriate mitigation measures. No current environment assessment of waiving the buffer requirement has been undertaken. Any reasonable doubt is a low threshold which has been more than satisfied by the affects of infrastructure development on wetland hydrology. Attachment also states that the determination to waive set backs is subject to review and approval by the Executive Director of the Coastal Commission. There is no indication of any such review and approval.

**THE SUBJECT APPROVALS VIOLATE FINAL MAP CONDITION 30 WHICH MANDATES SUSPENDING CONSTRUCTION UPON INDICATION THAT WATER SUPPLY TO THE WETLAND HAS BEEN SIGNIFICANTLY REDUCED.**

Final Map Condition 30 mandates suspension of construction and an independent analysis by a hydrologist and botanist when monitoring indicates that water supply to the Parcel. A wetland is being significantly reduced. Monitoring has been performed by Balance Hydrologics (BH). BH Monitoring reports interpreting their observations have consistently concluded that there have been no significant hydrological impacts from infrastructure development to date, including creating roads, curbs, gutters, storm drains and utility connections. The conclusion that wetland hydrology remains substantially similar to the base) year is based on an analysis of water table response and a comparison of wetland delineations from 1990 and 2003. The analysis of water table response is based on the observation of similar patterns of ground water level fluctuation relative to rainfall in the past six years as in the baseline monitoring year of 1995. The actual ground water levels in recent years were not as high as the baseline year, because 1995 was a higher rainfall year. There was also an analysis of estimated volume of recharge and groundwater salinity, noting a decrease in salinity

during spring and summer months allegedly indicating dilution of salt concentrations by aquifer recharge. The Baseline Monitoring Report has a much more complex analysis of salinity from different geological sources. There is no clear comparison of rates of dilution as an indication of comparative rates of recharge.

None of this technical analysis of comparative patterns of ground water fluctuation and chemistry directly addresses the widely observed changes in the surface conditions of the Parcel A wetland since the infrastructure work performed in 1999 and 2000. The Declaration of Department Of Fish and Game wildlife biologist Allan Buckmann attests to the virtual draining of the wetland caused by moving the intake of the storm drain down into the wetland where it collected marsh water instead of just collecting subdivision surface runoff, as was intended. He also noted the removal of the berm at the base of the wetland in the course of highway widening, as well as the compacting of soil along the storm drain trench. The lost berm had acted to retain water in the wetland. The compacted soils act as a barrier to water flow. The August 9, 2006 letter from Christopher White of Balance Hydrologics rejects Allan Buckmann's assessment, stating there is no reason to believe that the alignment of the storm drain or the compaction of soil obstructed flow into the wetland, as the trench runs parallel with wetland flow. However, in an October 19, 2006 memo by PRMD Environmental Specialist Crystal Acker, the findings of a recent PRMD site visit concluded that:

Because wetland indicators were either lacking or marginal along the pipeline, this area would likely not meet jurisdictional requirements of the Army Corps. We estimated that an approximately 8 to 10 foot swath would not meet the three parameters. Installation of the pipeline does appear to have had some affect on the overall hydrology of the wetland since the eastern portion appeared to be relatively dryer than the western portion. The memo goes on to conclude that since past efforts to restore the trench area with replanting and irrigation had failed, a better solution would be replacement nearby. These findings clearly call into question the BH analysis and conclusion that the infrastructure work caused no significant change to wetland hydrology. There are other indicators of wetland damage. In BH's Summary Report: Hydrologic Monitoring Water years 2000-2003, page 17: Surface outflow from the wetland have decreased in volume and persistence since fall 2000 (WY2001) following installation of the storm drain through the wetland. The Report went on to conclude that the decline in surface outflows do not reflect reduced wetland recharge, based on the technical analysis of groundwater patterns referenced above. However, a BH internal memo dated May 23, 2000, from Chris White and Gustavo Porras stated: In early October 1999, we worked with Adam and Phil Johannes to develop a modified drain inlet acceptable to Cal Trans that would allow us to measure post construction overflows from the Parcel A wetland. Last week we learned from you that the modifications had inadvertently been left out of the application to Cal Trans and thus are not included on the encroachment permit that is about to be issued. We understand that requesting an amendment to the Cal Trans permit

could be a lengthy process that would delay the project. However, the wetland has a record of sustained, year-round overflows for over 50 years and maintenance of this condition was a condition of project permitting. If the measurement points are obscured such that the outflows are no longer visible or measurable, we would be forced to conclude in our monitoring report that outflows have stopped, perhaps as a result of development and that finding could severely impact the project.

Here is a clear statement of historic surface conditions and what they represent regarding wetland viability. The Summary Report of reduced outflows should have been cited as an indication of reduced water supply, i.e. reduced recharge, to the wetland. Instead, BH engaged in technical gymnastics to obscure the obvious facts.

Pursuant to Final map Condition 62, the Parcel A wetland is under a permanent conservation easement granted to the Sonoma County Agricultural Preservation And Open Space District. Under the terms of the easement, its purpose is to preserve and conserve the protected values of the Easement Area for the benefit of the public generally. The American College Dictionary defines conserve as : To keep in a safe or sound state; preserve from loss, decay, waste, or injury, keep unimpaired . Parcel A has by many historical accounts persisted as a vital, perennially saturated functioning wetland habitat. On page 2 of the Results Of Balance Hydrologics Baseline Hydrologic Investigation, issued May 1996, the authors cite evidence of the wetland's historic condition prior to development activities:

During August 1987 (a year of below normal rainfall), Nancy Harrison, a project biologist responsible for conducting a vegetation survey of the Parcel A wetland tried unsuccessfully to walk across the wetland, becoming mired in the central portion (personal communication 1987). There are no reports in recent years of conditions approaching the level of wetland hydrology indicated in the above quote, describing saturated conditions in late summer of a dry year. By all reports, such conditions were typical prior to the infrastructure work at the Harbor View site. This is the context in which compliance with permit conditions should be assessed, under the principle of conservation embodied in the Conservation Easement. Instead, the monitoring and staff reports evaluate compliance with wetland protection as meeting minimal wetland criteria for soil, vegetation and water, or signs of water under the Coastal Commission or Army Core standards.

Final Map Condition 30 mandates suspension of construction and an independent hydrological investigation when wetland conditions indicate a significant reduction in water supply to the Parcel A wetland. In light of the above, suspension of construction and an independent investigation are warranted. Waiving 100 foot setbacks and 300 foot buffers are clearly not warranted.

Coastal Commission Jurisdiction. Based upon the above documented problems with

the project and problems associated with project construction, BBCC disagrees with the County's determination of which portions of the project can be appealed to the California Coastal Commission.

The legislature has provided clear language as to the high value it and the people of California place on the exquisite natural beauty, biological significance, and marine related economic vitality of California's coastal zone. Phrases like paramount importance careful planning enhance and protect appear throughout the Coastal Act in order to emphasize the utmost priority on preserving coastal resources and the visual qualities that only California has to offer. The decisions to approve single family residences visible from the Highway, to allow development in a sensitive coastal resource area, to allow building within setback areas (cautiously defined), and construction within coastal bluff setbacks are all subject to Coastal Commission appeal. BBCC urges the County to modify its perspective on coastal development to track with the spirit and intent of the Coastal Act and its own LCP. Large-scale coastal development is primarily acceptable for marine dependent activities like the fishing industry, not large residences and second homes not dependent upon the coastal locations for their livelihood. The County's LCP is an offspring of, and is beholden to, the goals and intent of the Coastal Act. The County's LCP, consistent with the Coastal Act calls for cautious application of waivers of protective measures (Attachments J and M of the County's Administrative Manual.) Wetlands are sensitive resources by Coastal Commission County standards. The standard established in the Act and the LCP for their protection is very high. With respect to Harbor View subdivision, waivers of these protections have not been properly approved.

The LCP's Categorical Exclusion Order E815, consistent with the Coastal Act, does not encourage construction of single-family residences that are visible from Highway One. The Coastal Commission approved the Exclusion Order on the condition that the County abides by its terms. Map's the County is aware, the Coastal Commission has, with respect to Local Coastal Programs, permanent responsibilities to ensure the Coastal Act and LCP's are fully and properly implemented and that conditions of approval are enforced. If a County declines to fulfill its duties, the Coastal Commission may be moved to intervene. This is not the ideal outcome, and BBCC is confident that the County will use caution, make the necessary changes to this project at this time, and end up with a project that is appropriate and compatible with the goals and intent of the Local Coastal Program and the California Coastal Act. Changes to the project that are needed in order to fully carry out the LCP are: acknowledgment that the development has and will continue to affect sensitive resources, significant increases in setbacks and buffers from sensitive resources consistent with cautious and careful mandates of Attachments J and M, proper implementation of Exclusion Order with respect to construction of single family residences that are visible from Highway One, adequate replacement, on site, of lost and compromised wetlands including the wetlands at the

eastern side of the development, written approval from the California Geologic survey for the changes to the project, documentation of water availability, and design of homes compatible with adequate setbacks from sensitive areas, adequate mitigation of impacts, and visual constraints imposed by the LCP. For the purpose of exhaustion of administrative remedies, BBCC brings to the County's attention for redress the issues of lack of water availability to the 70 homes due to the failure of recent well development activities by the local water company, lack of water availability to establish and maintain a wetland in Parcel B, the failure of the developer to obtain approvals for propane lines, hook ups or tanks anywhere on the property or elsewhere in the fault zone, lack of adequate public participation in the review of substantive changes to the project, failure of the developer to properly label the wetlands on all the maps filed with the County, improper approval of signage within the setbacks for the wetland in Parcel A especially insofar as it involves the construction of a wall, landscaping of the natural area, and large lighting requirements. In conclusion, in March of 2006, Allan Buckmann of the Department of Fish and Game confirmed, by way of a field inspection, that the sensitive natural area known as Parcel A, and a protected wetland has been adversely impacted by the limited development that occurred on the project site thus far. Mr. Buckmann comments are attached to your package. Dr. Dixon of the Coastal Commission came to a similar conclusion in 2003.

Balance Hydrologics, the consultant for the developer does not even claim unequivocally that the wetland has been impacted by development. Photographs indicate that the wetland has been damaged and is losing valuable water to a newly constructed storm drain during dry periods. The area reserved for a recharge area that was subsequently changed to a wetland mitigation area has failed and appears to be unsuitable for either purpose. Based upon the record in this case which we hereby incorporate fully by reference, the County has not acted, as required or as requested by concerned citizens, to carefully or cautiously approve the placement of this large subdivision. Bodega Bay Concerned Citizens remains hopeful that an open and constructive process will bring this project into full compliance with the laws and regulations governing coastal development of this scale. In light of all of the above, the Board Of Supervisors should overturn the Board Of Zoning And Adjustments Approval of Request for Coastal Permits for 10 homes and subdivision entry landscaping and signage and Design Review for 10 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Given the serious issues, detailed above, regarding compliance with wetland preservation and mitigation conditions of permit approval, including the probable need to create an additional wetland mitigation area, triggering requirements for a number of new Coastal Permits, it is premature at this time to proceed with further development activities. The provision of Final Map Condition 30 calling for an independent hydrological investigation should be invoked. Pending the outcome of such an investigation, a significant reconfiguration of the project could result. All development activity should be suspended until the results and recommendations of the

independent investigation are reviewed.

Respectfully Submitted by,  
Kimberly Burr and Jerry Bernhaut,  
Attorneys for Bodega Bay Concerned Citizens



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-8358

---

**Memorandum**

**To:** Dave Hardy, Supervising Planner  
**From:** Crystal M. Acker  
Environmental Specialist  
cacker@sonoma-county.org  
(707) 565-8357  
**Cc:** Rich Stabler, Environmental Specialist  
**Date:** October 19, 2006  
**Subject:** Harbor View Jurisdictional Determination

---

This technical memorandum summarizes findings of a site visit conducted on the Harbor View project site in Bodega Bay on October 17, 2006. Attendees from PRMD were Dave Hardy, Rich Stabler, and myself. The purpose of the site visit was to investigate the current wetland status of two potential wetland areas within and/or adjacent to Parcel A and Parcel B, and to document any changes that might have occurred since the areas were last evaluated.

The October 17 site assessment was performed as an independent study; however, previous studies conducted on the site were reviewed for comparison, including a 2005 report by WRA, a 2006 declaration by Allan Buckman (DFG), and a 2006 letter by Balance Hydrologics.

**Parcel B Mitigation Wetland**

A small shallow depression within Parcel B was apparently created as a mitigation wetland to compensate for impacts to roadside wetlands during widening of Highway 1. According to Margaret Briare (personal communication, 17-Oct-06), wetland soils were brought in to the site when the wetland was built and an irrigation system set on a timer was also installed at that time. An irrigation timer was observed during our site visit, but we could not determine whether the system was still functioning as designed. Margaret believes that it may no longer be working properly, potentially due to disturbance by small mammals.

The site does not currently appear to be functioning as a wetland, and does not currently meet wetland criteria for any of the three wetland parameters- vegetation, hydrology, or soils. Data were collected at two sample points within the depression. Approximate locations are drawn on the attached plan map. Both were located in what appeared to be the lowest elevation portions of the depression, areas which would be most likely to exhibit wetland characteristics.

Both sample locations were vegetated primarily by a single upland herb, hairy cat's ear (*Hypochaeris radicata*). Some wetland-classified plant species were present, but in minor amounts (see attached datasheets). Most were non-native, weedy, facultative and facultative wetland (FAC and FACW) species that are known to occur in both wetlands and non-wetlands in response to disturbance. The only obligate (OBL) wetland species present was soft rush (*Juncus effusus*), and all individuals appeared to have been planted as part of the original mitigation effort (black weed protection fabric was observed around the base of plants). Spreading rush (*Juncus patens*) also appears to have been planted.

The soil was a fine sandy loam with no visible redoximorphic features, such as mottles or oxidized root channels. Sandy loam soils generally drain too rapidly to support wetland conditions, unless they are underlain by a confining layer (e.g., clay, bedrock) or are very compacted. The soil was compacted, but was apparently not compacted enough to pond surface water and allow wetland formation. No visible indicators of surface hydrology were observed.

### Conclusion

Because none of the wetland parameters are present, the site would not qualify as a wetland under either Army Corps or Coastal Commission jurisdictions. It follows that the area is probably not meeting success criteria as a mitigation wetland either. We recommend that remediation actions be undertaken during construction of the adjacent development project. The lack of hydrology could be corrected by installing a clay liner under the wetland topsoil to capture and hold precipitation and surface runoff. Presence of a confining clay liner may alleviate the need for artificial irrigation. After regrading is completed, the area should be revegetated with native wetland species suitable for the location, and the site should be monitored for a minimum of three years after planting to ensure that success criteria are met.

### **Parcel A Seep Wetland**

Concern has been expressed from various sources that the large seep wetland present in and adjacent to Parcel A has been or is being drained as a result of installation of infrastructure for the Harbor View project. A storm drain pipe was installed through the eastern edge of the wetland in 2000. The pipe was installed in a gravel-filled trench, and backfilled with existing topsoil. It has been suggested that the pipeline has altered hydrology of the wetland sufficiently to result in a degradation of overall wetland condition, and has resulted in a loss of wetland acreage.

Four sample points were taken in the large seep wetland. A pair of sample points (1 in wetland, 1 in upland) were taken on the eastern boundary of the wetland and two were located within the pipeline alignment (1 near the northern extent and 1 near the southern extent of the wetland).

Positive indicators of all three wetland parameters were observed in the eastern portion of the wetland. Dominant vegetation consisted of an OBL herb, wire rush (*Juncus balticus*), and a FAC grass, velvet grass (*Holcus lanatus*). Soils were a fine sandy loam, and were slightly moist in the wetland point, but dry in the upland point. The wetland soil sample exhibited hydric indicators in

the form of common oxidation mottles. Because the site has seasonal hydrology, no direct evidence of hydrology was observed; however, secondary hydrology indicators were observed, including many oxidized root channels and satisfaction of the FAC-neutral test.

Two data points were taken in the pipeline area. Approximate locations are drawn on the attached plan map. The upper point lacked indicators of wetland hydrology and hydric soils, but did have marginal wetland vegetation (see attached datasheets). The lower point had marginal indicators of all three parameters. Because wetland indicators were either lacking or marginal along the pipeline, this area would likely not meet jurisdictional requirements of the Army Corps. We estimated that an approximately 8 to 10-foot wide swath would not meet the three parameters. Although obviously not as robust as adjacent wetland areas, vegetation along the pipeline would likely still be considered to meet requirements for a Coastal Commission wetland.

The western portion of the wetland exhibited obvious wetland indicators upon a cursory visual inspection, therefore, no sample points were taken.

### Conclusion

Installation of the pipeline does appear to have had some affect on the overall hydrology of the wetland since the eastern portion appeared to be relatively dryer than the western portion. However, observed wetland indicators in the east area are still robust and the site meets requirements to be considered a wetland under both Army Corps and Coastal Commission jurisdictions. Furthermore, the overall shape and extent of the seep wetland as of October 17, 2006, appears to be similar to that mapped by WRA in 1990 (before the pipeline) and again in 2003 (after the pipeline). It is important to note that we have not observed the wetland in any past state, and therefore, can only report on its current condition. We agree with WRA that any fluctuation in the area of the fringe wetland may be due to climatic variation, and we can not conclude or deny that any changes are directly attributable to installation of storm drain infrastructure.

The "pipeline swath" does not appear to be functioning as a wetland and would likely not be considered a wetland by the Army Corps, but may be considered a wetland by the Coastal Commission. Both points had very shallow top soils (6-7 inches) over drainage gravel. Due to the fine sandy loam soils, underlying gravel, and slope of the hillside, all of which promote drainage, it would be difficult to maintain wetland hydrology without a constant input of water. An irrigation line was observed running along the pipeline alignment, but it does not appear to be supplying adequate hydrology to support a wetland. Past efforts to restore this area (described in WRA report) have not been successful. Therefore, rather than attempt additional remediation in this area, it may be a better solution to replace the lost wetland acreage in a nearby location, possibly by expanding the seep wetland in another direction, or by creating additional acreage in Parcel B.

The Engineering Geologist  
Since 1969  
RG 3142 CEG 923  
7945 St. Helena Road Santa Rosa, CA 95404  
Phone 707-539-2577  
Fax 707-539-5773  
March 26, 2007

Ms. Kimberly Burr, Attorney at Law  
P.O. Box 1246  
Forestville, CA 95403-2887

**Subject: Status Report of Geologic Issues, Harbor View Subdivision,  
Bodega Bay California.**

**ABSTRACT**

A residential subdivision of 70 detached single family residences and a 14-unit residential complex is proposed on an approximately 25-acre site in the community of Bodega Bay, Sonoma County, California. A portion of the site is located within the active San Andreas fault zone designated on the Bodega Head Quadrangle of the official California Earthquake Fault Zones Maps. A succession of geologic consultants has been employed to investigate the fault hazards affecting the site. Sonoma County planning officials approved the project, although logs of the geologists' trenches were apparently not submitted to the County and none of the County personnel who participated in the review was a licensed geologist. Prior to County approval of the project, California Division of Mines and Geology geologists reviewed the project and found that the developer's geologists did not adequately assess the fault hazards affecting the site. Those inadequacies have not been corrected. The presently available information appears substantially fragmented and leaves future homeowners with nobody to turn to in the event of future fault related property damage, personal injury and/or loss of life. State law governing geologic investigation and geologic review has not been followed in this case.

**INTRODUCTION**

Purpose

In accordance with your request, I have reviewed information in the files of Sonoma County PRMD concerning prior investigations of the earthquake fault hazard affecting the proposed Harbor View subdivision. The purpose of the review was to determine whether the County review process conforms to the requirements of State Law and the standards of care for the practice of geology in the State of California.

The review incorporated my 11 1/2 years of experience as an Engineering Geologic

reviewer in the Los Angeles County Department of Public Works and subsequent approximately 26 1/2 years as a geologic consultant on a variety of projects, including several like proposed Harbor View.

### Scope

The scope of work for preparation of this report included the following tasks:

1. Reconnaissance of the site with a member of Bodega Bay Concerned Citizens.
2. Review of available geologic reports in Sonoma County Planning Department files and memos to Sonoma County Planning from California Division of Mines and Geology Personnel.
3. Discussions with Mr. Dave Hardy of Sonoma County Planning regarding the geologic issues affecting the site.
4. Research of the permit history of the site in Sonoma County Permit and Resource Management Department.
5. Preparation of this report.

### Defining the Problem

The earth's crust consists of huge plates that are in motion and are colliding with each other at their margins. One such plate boundary is the San Andreas fault that forms the boundary between the North American Plate to the east and the Pacific Plate to the west. When movement occurs along this plate boundary, extensive ground rupture and severe ground shaking occur. Both the ground rupture itself and the effects of the ground shaking created by the earthquakes ("secondary effects") cause severe property damage, personal injury and loss of life.

Examples of "secondary effects" are seismically induced landsliding, liquefaction, lateral spreading, settlement, shattering of the ground surface, formation of ground cracks along cut-fill transitions in graded areas and side-hill fill failures. Some of these phenomena are awesome in their severity and destructive effects and they truly have to be seen to be believed.

Proposed Harbor View subdivision is partially within the active San Andreas Fault Zone, as delineated on the Bodega Head Quadrangle of the official California Earthquake Fault Zones Maps. The proposed subdivision is subject to earthquake related distress resulting from future activity on the San Andreas fault.

The potential risk to development is described in *Studies Of The San Andreas Fault In*

Northern California, California Division of Mines and Geology Special Report 140 (Reference 1) as follows:

"The greatest potential source of earthquakes in northern California is the San Andreas fault, not only because earthquakes occur frequently along it but also because the fault has the potential for producing earthquakes as large as the largest that has ever been recorded. Two aspects of earthquakes that are of great concern to the general population are property damage and loss of life".

In other words, this is as dangerous a fault as exists anywhere on earth!

### Defining the Solution

In order to help protect the public health and safety, the California Legislature passed the Geologist Registration Act in 1970 and the Alquist-Priolo Earthquake Fault Zoning Act in 1972.

The intent of the Geologist Registration Act was to bring uniformity to the practice of geology, guaranteeing that the quality of geologic services obtained by the public is uniformly high everywhere in California. Procedures were put into place to test geologists before issuing licenses and to discipline geologists whose work is substandard.

The intent of the Alquist-Priolo Earthquake Fault Zoning Act was to prohibit construction of habitable structures over the traces of active faults and to thereby mitigate the hazard of fault rupture. The Act itself and numerous official guidelines for professional practice issued by the California Board for Geologists and Geophysicists, California Division of Mines and Geology and the California Mining and Geology Board define the required scope of work in assessing earthquake fault hazards affecting building sites.

In addition, state and local officials have a vital role in assuring compliance with the Geologist Registration Act in 1970 and the Alquist-Priolo Earthquake Fault Zoning Act in 1972.

The introduction of *Fault Rupture Hazard Zones In California* (Reference 2) states:

"Under the Act, the State Geologist (Chief of the Division of Mines and Geology (DMG)) is required to delineate "Earthquake Fault Zones" (EFZs) along known active faults in California. Cities and **counties** affected by the zones **must** (emphasis added) regulate certain development "projects" within the zones. They must **withhold development permits** (emphasis added) for sites within the zones until geologic investigations demonstrate that the sites are not threatened by surface displacement from future faulting. The State Mining and Geology Board provided additional

regulations (Policies and Criteria) to guide cities and counties in their implementation of the law (California Code of regulations, Title 14, Div. 2)".

When developers' consultant geologists and local building officials properly implement the requirements of the Alquist-Priolo Earthquake Fault Zoning Act, active fault hazards are effectively mitigated.

## FINDINGS

### Consultants' Site Investigations

The most critical geologic issues on the Harbor View site are the potential for fault rupture of the ground surface and secondary fault effects (seismically induced landsliding, liquefaction, lateral spreading, settlement, shattering of the ground surface, formation of ground cracks along cut-fill transitions in graded areas and side-hill fill failures).

Records in the files of Sonoma County PRMD indicate that there has been a "Revolving door" of consulting geologists on the Harbor View project. Geologic reports by Trans Tech, Field Engineering Associates, Michael Dwyer, and Miller Pacific are in the PRMD files, and there may be other geologic consultants whose reports were not submitted to or retained by PRMD. This turnover of consultant geologists is unprecedented in my 38 years of experience as an Engineering Geologist.

**Field Engineering Associates** performed a geologic investigation of the site in 1987 (Reference 3).

The basic data used in assessing the fault hazard affecting the site should be plotted on the log of a fault trench reportedly excavated "...795 feet in length and from 5 to 13 1/2 feet in depth..." and logged by Field Engineering Associates per Reference 3. This log is not present in Sonoma County PRMD files and has not been obtained from the successor company to Field Engineering Associates despite numerous requests to PRMD.

It is, therefore, not possible for me to complete a review of the Field Engineering Associates site investigations. Bodega Bay Concerned Citizens were able to have CDMG review the work of Field Engineering Associates. A memorandum from Roger C. Martin, CDMG Senior Engineering Geologist to Trinda L. Bedrossian, CDMG Supervising Geologist states the following:

"Analysis of the trench log indicated poor quality, i.e., lack of geologic and soils details, and virtual absence of geologic interpretation and analysis of features, notably the sand-filled fractures that were logged."

This statement is important because the State Geologists review fault investigations of

sites throughout the state and are mindful of the required statewide standards of care.

**Michael J. Dwyer, Inc** performed a geotechnical investigation of the site in 1994 (Reference 4). The 1994 Dwyer investigation included "...the excavation and logging of four separate trenches with a total length of 1,302 linear feet."

It is very important to note that no copies of the Dwyer fault trench logs nor any fault trench logs by any of the geologic consultants who worked on the Harbor View project were present in the PRMD files when I began my review. This means that PRMD approval of the project was granted not only without review of the all-important fault trench logs by appropriately qualified personnel but without any review at all! More detail about this critical issue is presented in a subsequent section of this report, but it serves to show that County review of geologic aspects of this project was perfunctory at best and nonexistent at worst.

At my request, a copy of the Dwyer fault trench logs was obtained and provided for my review. However, no map was provided to show where within the project the trenches were excavated. Such a map is essential. In fact, it is required by State Law in the Alquist-Priolo Earthquake Fault Zoning Act of 1972 (See footnote below). Without such a map it is not possible to verify that the fault trenches are appropriately placed on the ground to adequately verify that active faults are absent in proposed building areas.

The Dwyer logs show abundant "soil tongues" which are depicted as generally vertical soil filled fractures in the topsoil that mantles the site as well as in the underlying terrace deposits. Considerable disagreement in interpreting these features existed between Dwyer and the State Geologists who reviewed the project in behalf of Bodega Bay Concerned Citizens. Correct evaluation of these features is, in my opinion, a critically important aspect of assessing the safety of the site for residential development.

The position of the State Geologists appeared to be that the fractures propagated upward as a result of a mode of seismically induced land failure called "liquefaction". The Dwyer position appears to be that the *filling of the fractures (ie "tongues")* formed from the top down, and therefore cannot be a result of liquefaction. The Dwyer explanation fails to address one of the most important issues on this project, the origin of the fractures themselves, some of which extend to depths of over 10 feet.

#### "CONTENTS OF GEOLOGIC REPORTS ON FAULTS

III. Illustrations - these are essential to the understanding of the report and to reduce the length of the text.

B. Site development map - show site boundaries, existing and proposed structures, graded areas, streets, exploratory trenches, borings, geophysical traverses, locations of faults, and other data; recommended scale is 1:2,400 (1 inch equals 200 feet), or larger."

While Dwyer is adamant regarding what the fractures are not, the Dwyer position begs the question, what are these fractures? Dwyer describes the soil-filled fractures as "...irregularly planar and with an often northwesterly trend". Considering the adjacent northwesterly trending active San Andreas fault, it seems like unnecessary risk taking to regard these features as benign and insignificant. It seems more prudent to regard them as secondary earthquake effects such as en-echelon sympathetic faults or earthquake induced shattering (Definitions in footnote below). Either of the latter interpretations would require appropriate mitigation to protect habitable structures.

In Dwyer's log of Trench 2, four significant fault features are depicted. Each of these fault features is shown on the trench logs as terminating upwards with a question mark. The clear meaning of a question mark in the English language is an actual question or a significant degree of uncertainty. Either way, more investigation of these features is required to assess them. The technique most commonly used by geologists in this situation is to excavate a short "side trench" close to and parallel to the original trench, yielding additional exposure and data regarding the fault in question.

It is my professional opinion that the Dwyer trenching should be considered inconclusive until a map is provided showing the trench locations and until the origin and appropriate mitigation of the "soil tongues" is explained and until the faults terminating upwards in question marks are adequately investigated and assessed.

**Trans Tech Consultants** performed a geotechnical investigation of the site in 1996 (Reference 5). This investigation did not include investigation of the hazard of active fault rupture. Therefore, the greatest hazard affecting the site is not a part of the Trans Tech Consultants scope of work. Instead, reference was made to fault information for the EIR provided by Michael J. Dwyer, Inc. in 1993 with the note "...report by Michael J. Dwyer Inc. was not available for review".

The 1993 Dwyer information is not present in the County files and therefore could not be considered in this review. The Trans Tech Consultants report does state that loose soils unsuitable for support of structures up to 8 feet thick and soils subject to liquefaction are present on the site.

The Trans Tech Consultants report appears to be focused on the potential for secondary earthquake effects and recommends remediation for potential hazards due to the presence of "...weak, loose surficial soils and/or liquefiable sand layers below the water table...".

*en-echelon*: short, sub parallel, overlapping faults

*sympathetic fault*: secondary fault movement induced by nearby movement on a major fault

*shattering*: intense fracturing of the ground surface by seismic energy during an earthquake

The Trans Tech Consultants report does not appear to be sufficiently detailed to delineate the location(s) of active fault trace(s) nor to fully evaluate hazards related to secondary earthquake effects both of which have potentially devastating effects on habitable structures and infrastructure, including underground utilities.

In any event, Trans Tech Consultants have apparently not been the geotechnical consultants of record on the Harbor View subdivision for over 10 years and their findings and recommendations have apparently been superseded by the work of others.

**Miller Pacific** is author of the most recent geotechnical documents in the PRMD files.

On April 16, 1999, Miller Pacific issued a letter (Reference 6) claiming to demonstrate high factors of safety against landsliding. The letter claims to have used a geologic cross section but does not bear the signature of the geologist who reportedly prepared the geologic cross section. The April 16, 1999 letter does not mention that even extraordinarily gentle slopes can fail during an earthquake. An example of this is the San Fernando Juvenile Hall landslide that occurred on a 1% slope during the 1971 San Fernando Earthquake.

Some charts presenting the results of compaction testing in street areas are attached to a transmittal, dated July 2, 1999, to Mr. Bill Riley in Sonoma County Department of Transportation and Public Works. No map data is presented regarding the locations of the fill being tested nor whether permits were obtained for the grading work. More information regarding the status of permits for grading of Harbor View is presented in a subsequent section of this report.

On December 7, 1999, Miller Pacific issued a letter (Reference 7) accepting prior grading recommendations of Trans Tech Consultants and John H. Dailey and stating that site grading had been completed. This letter does not bear the signature of a licensed geologist and makes no mention of the fact that John H. Dailey was a sub-consultant to Dwyer. This is very curious, because on this geologically dangerous and complex site the services of a geologist are critical during grading to confirm that no active fault features are exposed during grading. It is also important to note that Dwyer is a Miller Pacific employee, yet no mention of his involvement in this project is made in the Miller Pacific documents.

On March 21, 2003, Miller Pacific issued a report of geotechnical exploration of Harbor View subdivision (Reference 8). This report is about the ability of soils within the subdivision to support foundations. The report does not explain why it is necessary to "explore" building pads within Phase 1 that Miller Pacific stated were properly graded and suitable for construction of residences in Reference 6, approximately three years earlier. What changed? Reference 7 also states that many of the lots are underlain by "loose ground" and that groundwater depths were not established. Considering the

high probability of a "great" earthquake affecting the proposed residence sites, the presence of "loose ground" and an unknown water table elevation, potential liquefaction appears to be a serious concern that should be addressed before any building construction starts.

On March 23, 2006, Miller Pacific issued a report (Reference 9) concerning foundation design for a housing complex on Lot 26. Lot 26 is within the group of lots underlain by "firm" soil according to Reference 8. As in Reference 7, Reference 9 makes no mention of Dwyer's involvement in this project even though he is a Miller Pacific employee and the geologist whose fault information was used by the County to approve the project.

The sequence of events outlined above leaves unanswered questions about the chain of geologic consulting responsibility on the project, the adequacy of geologic evaluation of fault hazards, the status of geologic inspections during grading to confirm the absence of faults in building areas, and the effectiveness of mitigations in areas of likely secondary fault effects. The presently available information appears hopelessly fragmented and leaves future homeowners with nobody to turn to in the event of future problems related to the geologic and soils conditions on the site. These issues should be resolved to the satisfaction of independent geotechnical reviewers prior to erection of habitable structures.

#### Review by State Geologists

In a highly unusual turn of events, some of the most respected geologists in the California Division of Mines and Geology reviewed some of the consultants' work on Harbor View in behalf of Bodega Bay Concerned Citizens. It is my understanding from reading their memoranda that they found the consultants' work inadequate.

It is important to note that in the normal sequence of fault investigation processing, the consultants' reports are reviewed during the permit application process by cities and counties, not by State Geologists. Again, in the normal sequence of fault investigation processing, the consultants' reports are forwarded to the State Geologists after local geological approval so that the reports can be used to update the Alquist-Priolo maps if new and significant information is generated.

#### Review by Sonoma County PRMD

The geologic review of Harbor View by Sonoma County PRMD can be best described as illegal. The level of investigation required by the Alquist-Priolo Earthquake Fault Zoning Act of 1972 was not required by county personnel.

Furthermore County personnel who reviewed the developer's geologists' reports were not licensed geologists, as required by the Geologists Registration Act of 1970. In

support of this requirement, in the State Mining and Geology Board *General Guidelines For Reviewing Geological Reports*, dated May 9, 1996 (Reference 10), the following statement appears:

"In California, the reviewer must be licensed by the State Board of Registration for Geologists and Geophysicists in order to practice."

County review by non-geologists renders the County approvals meaningless.

It is also essential to point out that PRMD records indicate that no grading permit has been issued for 998 Highway 1, the assigned address of Harbor View. If these records are correct, the street and building pad grading that has been performed was done without the basic requirement for work of this magnitude, a permit!

#### CONCLUSION

It is the conclusion of this review that the Sonoma County PRMD approval of the Harbor View project was improper, inadequate and failed to meet the requirements of the law in critical ways, including geologic review by non-geologists and missing or nonexistent fault trench logs. That renders the County's approvals meaningless.

On a practical level, it appears that the actual geologic conditions underlying Harbor View are incompletely understood. My personal observations after the 1971 San Fernando Earthquake and the 1994 Northridge Earthquake (and those were small earthquakes compared to what the San Andreas fault is likely to generate!) have provided valuable information regarding what can happen at Harbor View during an earthquake on the San Andreas fault. In addition to surface displacement by fault movement, I observed the following secondary effects on graded tracts after the 1971 San Fernando Earthquake and the 1994 Northridge Earthquake:

Property damage due to differential movement along cut-fill transitions ("daylight lines") in graded areas.

Property damage due to downslope movement of hillside fills.

Property damage due to seismically induced "lurch effects" and formation of new fissures.

Property damage due to formation of fissures along the margins of rigid underground concrete structures such as storm drain inlets and electric vaults.

Damage to infrastructure and utilities such as underground propane and water lines.

It is my professional opinion that the revolving door of geologists and geotechnical

engineers on this project makes the history of site investigations, site grading and geologic observations during grading nearly impossible to understand. The site cannot be considered safe for habitable structures until all issues related to fault rupture hazard, secondary fault effects, setbacks from faults, and remedial grading recommended and actually performed are compiled and presented for review.

The compilation must include identification of the actual geologist and geotechnical engineer of record, all investigations, all applicable recommendations, an approved grading plan, documentation of all geologic observations during grading, an as-graded geologic report including an as-graded geologic map and a final compaction report with a final compaction map clearly indicating limits of fills, fill thicknesses, the locations of field moisture-density tests, and the locations of all other relevant structures such as subdrains. These items are not frills, but are the standard for any tract grading in the State of California.

The presently available information appears hopelessly fragmented and leaves future homeowners with nobody to turn to in the event of future problems related to the geologic and soils conditions on the site.

#### RECOMMENDATION

It is recommended that the services of a geologist, highly skilled and experienced in fault investigations, be obtained by the County to review all geologic reports submitted by the applicant. That geologist should be from outside of Sonoma County to avoid any conflict of interest. This is explained in Reference 10 as follows: "A different type of conflict commonly exists in a jurisdiction where the geologic review is performed by a consulting geologist who also is practicing commercially (performing geological investigations) with the same jurisdictional area. Such situations should be avoided, if at all possible".

It is simply not possible to avoid a conflict of interest or an apparent conflict of interest in performing a peer review of a competitor's work done for an entity that is also the reviewer's client or potential client.

Very truly yours,



Raymond Waldbaum  
Registered Geologist 3142  
Certified Engineering Geologist 923

distribution: 2 addressee

enclosure: References

REFERENCES

1. *Estimated Damage Caused By Great Earthquakes On The San Andreas Fault In Northern California*, by Blume and Cunningham, 1980, in *Studies Of The San Andreas Fault In Northern California*, California Division of Mines and Geology Special Report 140
2. *Fault-Rupture Hazard Zones in California*, California Division of Mines and Geology Special Publication 42.
3. *Geologic Investigation, Project Feasibility Study, Bodega Bay Village, Bodega Bay, California*, by Field Engineering Associates, Inc., FEA Project No. 3203.02, dated August 28, 1987.
4. *Report, Investigation For Active Faulting, Harbor View Subdivision, Sonoma County, California*, by Michael J. Dwyer, Inc., dated January 20, 1994.
5. *Geotechnical Investigation, Harbor View Subdivision, Bodega Bay, California*, by Trans Tech Consultants, Job No. 4069.01.01, dated July 3, 1996
6. *Slope Stability Analysis, Harbor View Subdivision, Bodega Bay, California*, by Miller Pacific, dated April 16, 1999.
7. *Geotechnical Plan Review, Harbor View Subdivision, Bodega Bay, California*, by Miller Pacific, dated December 7, 1999.
8. *Geotechnical Exploration, Harbor View Subdivision, Bodega Bay, California*, by Miller Pacific, dated March 21, 2003.
9. *Geotechnical Evaluation and Plan Review, Harbor View Village, Lot 26, Harbor View Subdivision, Bodega Bay, California*, by Miller Pacific, dated March 23, 2006.
10. *General Guidelines for Reviewing Geological Reports*, by State of California Mining and Geology Board, May 9, 1996.

**The Engineering Geologist  
Since 1969  
RG 3142 CEG 923  
7945 St. Helena Road Santa Rosa, CA 95404  
Phone 707-539-2577  
Fax 707-539-5773  
January 30, 2007**

Ms. Kimberly Burr, Attorney at Law  
P.O. Box 1246  
Forestville, CA 95403-2887

**Subject: Preliminary Review of Earthquake Fault Hazard Investigations,  
Harbor View Subdivision, Bodega Bay California.**

**INTRODUCTION**

In accordance with your request, I have reviewed information in your files concerning prior investigations of the earthquake fault hazard affecting the proposed Harbor View Subdivision. The purpose of the review was to determine whether prior investigations of the earthquake fault hazard affecting the proposed project conform to the statewide standards of care for geologic practice required by documents referenced in this report.

The review incorporated my 11 1/2 years of experience as an Engineering Geologic reviewer in the Los Angeles County Department of Public Works and subsequent approximately 26 years as a geologic consultant on a variety of projects, including several like proposed Harbor View. The scope of the review consisted of the following:

- 1) Review of documents in your files.
- 2) Preparation of this report.

**REVIEW FINDINGS**

A portion of the proposed project is located within an active fault zone, as designated on the Bodega Head Quadrangle of the State of California Earthquake Fault Zones Map. The Alquist-Priolo Earthquake Fault Zoning Act was signed into law on December 22, 1972 and prevents construction of habitable structures over the traces of active faults. The detection of active faults in a Alquist-Priolo Zone requires extensive investigation by a qualified geologist.

The Act (Section 3603.5) "Requires cities and counties to review geologic reports for adequacy" (Reference 1). The qualifications of city and county personnel performing

the reviews and the required content of the reports being reviewed are specified in References 2 and 3 respectively. Reference 2 states "In California, the reviewer must be licensed by the State Board of Registration for Geologists and Geophysicists in order to practice".

Any geologic approvals by Sonoma County of the proposed Harbor View project which do not conform to the requirements of References 2 and 3 are meaningless. Unfortunately, Sonoma County personnel chronically disregard the requirements of References 2 and 3. An example is the attached letter of warning regarding unlicensed practice of geology by Planner Segrud Swedenborg, issued by the State Board of Registration for Geologists and Geophysicists in 2005. The impetus for this letter was Swedenborg's intentional misrepresentation of the landslide hazard affecting a proposed winery site under Planning Department review.

The proposed Harbor View project has been the subject of fault hazard investigations by various geologic consultants since the early 1990's. State level reviews of these consultant reports indicate serious reservations by the state geologists about the quality of the consultant reports. Some examples are provided below:

California Division of Mines and Geology Memorandum dated December 16, 1992

In this memo from Trinda Bedrossian, CDMG Supervising Geologist to Dave Beebe, CDMG Principal Geologist, Bedrossian states "Study of the trench logs reveals tensional features that could be of recent tectonic origin, or more likely, evidence of lateral spreading that could recur under strong seismic shaking and mild liquefaction. These and associated sag pond-like features were not analyzed by the consultants. ERP believes that the attached updated letter should be sent to Sonoma County, for it is in their and DMG's best interest to avoid potential liability problems that could result in the next major earthquake".

California Division of Mines and Geology Letter dated December 16, 1992

In this letter from Roger C. Martin, CDMG Senior Engineering Geologist to Melanie Perry, Sonoma County Planning Department, Martin states "The geologic and geotechnical reports reviewed for this project may not provide full feasibility assessment of geologic conditions on the site. They do not clearly explain the above named features, and they do not contain the additional exploration or soil testing needed to assess the liquefaction potential".

California Division of Mines and Geology Memorandum dated March 8, 1993

In this memo from Roger C. Martin, CDMG Senior Engineering Geologist to Trinda Bedrossian, CDMG Supervising Geologist, Martin states, in reference to the geologic consultant's fault trench log, "Analysis of the trench log indicates poor quality, i.e., lack

of geologic and soils details, and virtual absence of geologic interpretation and analysis of features, notably the sand-filled fractures that were logged".

California Division of Mines and Geology Letter dated July 20, 1993

In this draft letter from Stephen E. Oliva, CDMG Acting Environmental Program Coordinator to Melanie Perry, Sonoma County Planning Department, Oliva states "We feel that the fault rupture trench study was **primitive and inconclusive** (emphasis added) and that a new Special Studies Zones investigation, preferably by a registered geologist experienced in Quaternary geology, is appropriate to explain the significance of the sand filled fractures and also the geomorphic depressions at the site".

CONCLUSION

The California Division of Mines and Geology has raised some major red flags concerning the potential earthquake fault and stability hazards affecting the site. As stated above, any geologic approvals by Sonoma County of the proposed Harbor Vista project which do not conform to the requirements of References 2 and 3 are meaningless.

RECOMMENDATION

It is recommended that the services of a geologist, highly skilled and experienced in fault investigations, be obtained by the County to review all geologic reports submitted by the applicant. That geologist should be from outside of Sonoma County to avoid any conflict of interest. This is explained in Reference 2 as follows: "A different type of conflict commonly exists in a jurisdiction where the geologic review is performed by a consulting geologist who also is practicing commercially (performing geological investigations) with the same jurisdictional area. Such situations should be avoided, if at all possible". It is simply not possible to avoid a conflict of interest or an apparent conflict of interest in performing a peer review of a competitor's work done for an entity that is also the reviewer's client or potential client.

Very truly yours,

*Raymond Waldbaum*

Raymond Waldbaum  
Registered Geologist 3142  
Certified Engineering Geologist 923

tribution: 2 addressee

res: References

Board for Geologists letter to Swedenborg dated July 29, 2005

**The Engineering Geologist  
Since 1969  
RG 3142 CEG 923  
7945 St. Helena Road Santa Rosa, CA 95404  
Phone 707-539-2577  
Fax 707-539-5773**

June 9, 2005

Ms. Valerie Brown  
Mr. Mike Kerns  
Mr. Tim Smith  
Mr. Paul Kelly  
Mr. Mike Reilly

Sonoma County Board of Supervisors  
575 Administration Drive, Room 100-A  
Santa Rosa, California 95403

**Subject: Source and Validity of "Geologic Map" Presented by Planner  
Swedenborg, Cornell Winery Appeal Hearing, June 7, 2005**

Dear Supervisors of Sonoma County:

In her opening remarks, Planner Swedenborg stated that the most significant issue affecting the winery site is geology. She then displayed a map which she represented as being a geologic map of the proposed winery site that demonstrates that the proposed winery is not affected by landslides.

It is obvious to me that the map displayed by Swedenborg is not a geologic map and contains no geologic or landslide data. I hereby call that fact to your attention. The actual geologic and landslide maps of the winery site and all of Sonoma County are in Geology For Planning In Sonoma County, California Division Of Mines And Geology Special Report 120. This document, published in 1980, is the result of a joint effort of the California Division Of Mines And Geology and the Sonoma County Planning Department.

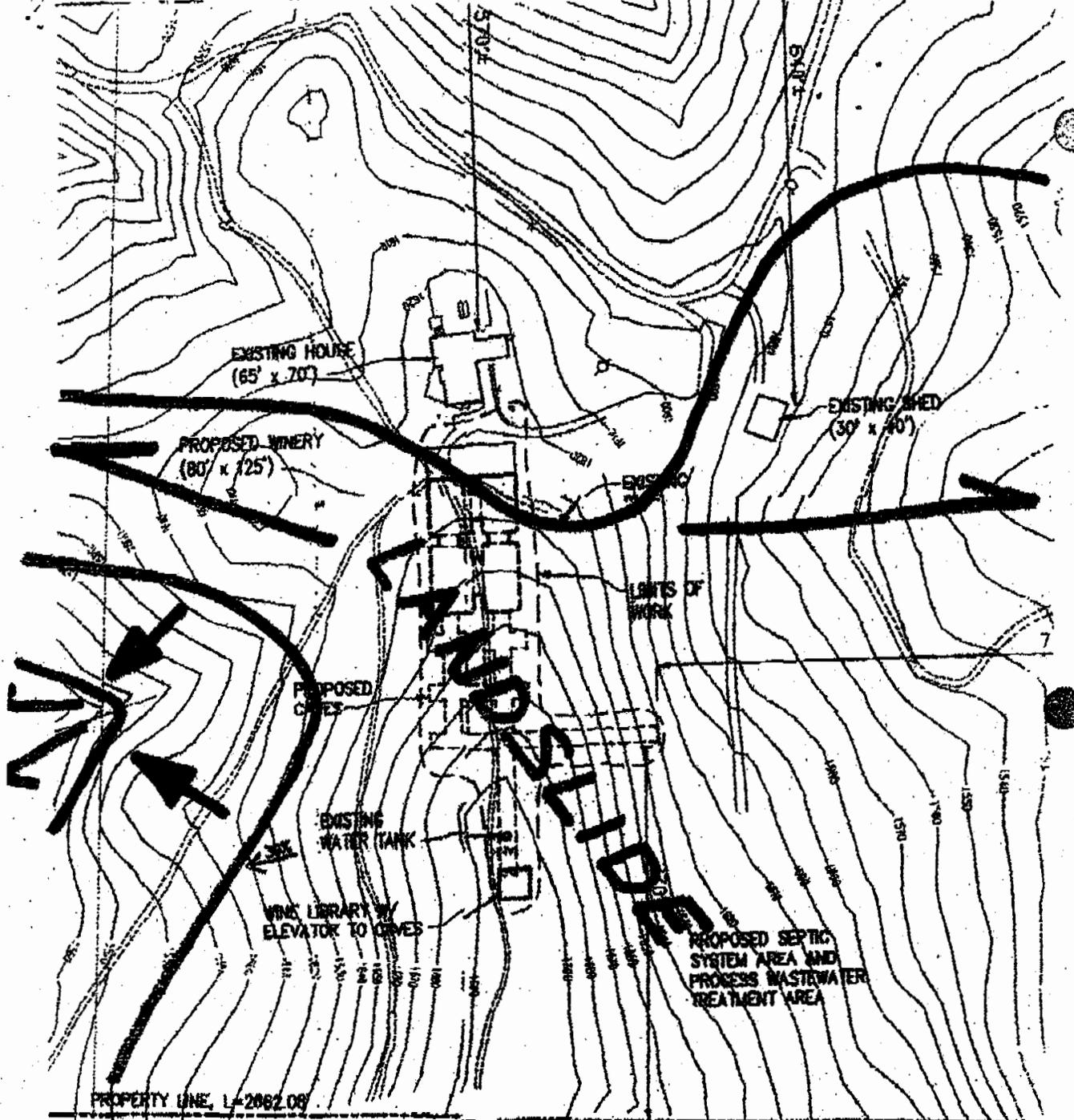
I respectfully request that each member of the Board question the source and validity of Swedenborg's map before it calls for and/or takes a final vote on this significant/critical land use issue, which could place the County of Sonoma and the taxpayers in a vulnerable position and put downstream property owners at risk. In conclusion, if you "believe" that existing geologic data indicate that there is no landslide problem in the Cornell Winery site vicinity, you are either willfully being misinformed by Swedenborg or know of and are ignoring the information in Special

Report 120, which clearly delineates that the proposed project is within a designated landslide area. Please refer to the attached map which depicts, on a winery site map obtained from the County files, landslide data from Special Report 120.

Very truly yours,



Raymond Waldbaum  
Registered Geologist 3142  
Certified Engineering Geologist 923



 General direction of landslide movement

 Landslide or severe soil creep too small to be outlined at the map scale

**TE PLAN**

APPLICANT: HENRY CORNELL



## BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926

TELEPHONE: (916) 263-2113

FAX: (916) 263-2099

E-mail: geology@dca.ca.gov

Website: www.dca.ca.gov/geology



July 29, 2005

Ms. Sigrid Swedenborg  
 Solano County Planning Department  
 2550 Ventura Avenue  
 Santa Rosa, CA 95403

Dear Ms. Swedenborg:

**Subject: Compliance with Business and Professions Code Section 7800 et seq.  
 (Geologist and Geophysicist Act)**

The Board for Geologists and Geophysicists (Board) is responsible for regulating the practice of geology and geophysics in the state of California. The Board's mission is to continuously enhance the quality, significance and availability of geological and geophysical services offered to the people of California. The Board's goal is to protect the health, safety and welfare of California consumers who utilize the services of geologists and geophysicists.

The Board has received a copy of a report entitled "Source and Validity of 'Geologic Map' Presented by Planner Swedenborg, Cornell Winery Appeal Hearing", by Mr. Raymond Waldbaum, PG No. 3142, CEG No. 923 and dated June 7, 2005. This report includes a copy of a map presented by you in the June 7, 2005 hearing which appears to be the professional practice of geology (report and map attached).

Section 7832 of the Business and Professions Code requires an individual to be licensed as a Professional Geologist if he or she practices or offers to practice geology for others. Section 3003(f)(2) of Article 1, Division 29 Title 16 of the California Code of Regulations states:

"The practice of geology or geophysics "for others" includes but is not limited to the performance of geological or geophysical services by any individual, firm, partnership, corporation or other association or by the employees or staff members thereof, whether or not the principal business of such organization is the practice of geology or geophysics, when the geological or geophysical reports, documents or exhibits constituting the practice of geology or geophysics are disseminated or made available to the public or any individual or combination of individuals other than the employees or staff of such organization in such a manner that the public or said individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby."

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California.*

Ms. Sigrid Swedenborg  
July 29, 2005

In addition, Section 7835 of the Business and Professions Code states:

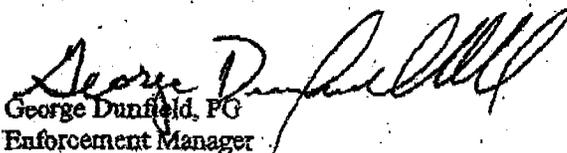
"All geologic plans, specifications, reports or documents shall be prepared by a Professional geologist, or registered certified specialty geologist, or by a subordinate employee under his direction. In addition, they shall be signed by such Professional geologist or registered certified specialty geologist or stamped with his seal, either of which shall indicate his responsibility for them."

Activities that constitute the professional practice of geology include the use of initiative, skill, and independent judgment regarding determination of site geologic parameters such as evaluation of the existence or non-existence of possible landsliding and faulting. Further, independent evaluations involving geology must be certified by a licensed Professional Geologist who maintained responsible charge of the interpretive work defined in section 7835. Your mapping constituted the professional practice of geology and must therefore be performed by, or under the direction of, an appropriately California licensed Professional Geologist.

Under the facts presented to the Board, it appears that the review process in this case is not yet complete; please understand that all geologic documents on which public land-use decisions are made shall be certified by a Professional Geologist licensed with the Board. You are hereby advised that proper responsible charge maintenance and certification measures are mandatory.

A copy of the Geologist and Geophysicist Act and Rules and Regulations is posted on the Board's website at [www.geology.ca.gov](http://www.geology.ca.gov). If you need more information, clarification or have any other questions, please feel free to call me at (916) 263-0341.

Sincerely,

  
George Dunfield, PG  
Enforcement Manager

cc: Mr. Gary Duke, Senior Board Counsel, Department of Consumer Affairs, Legal Office  
Mr. Casey Caplinger, Complainant

Attachment: "Source and Validity of 'Geologic Map' Presented by Planner Swedenborg,  
Cornell Winery Appeal Hearing", dated June 7, 2005

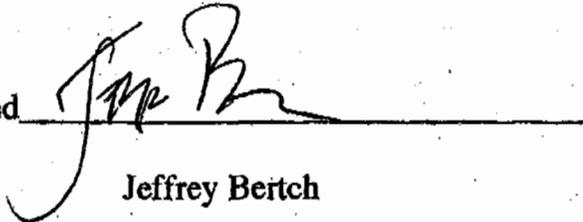
I, Jeffrey Bertch, declare the following to be based upon my own true knowledge:

1. I am a fulltime resident of Bodega Bay, Sonoma County, California and reside in Taylor Tract in close proximity to the site of Harbor View subdivision.
2. I regularly walk around the community including the area above the harbor now referred to as Harbor View subdivision. The area is now being subjected to some construction activity, although it is still open and I see birds and other species of animals attempting to utilize this site. I frequently walk along and into Johnson Gulch which is on the easterly side of the site and I am very familiar with the entire area.
3. On March 10, 2007, I was once again walking at Johnson Gulch with my little girl and spotted a frog I believed to be a red-legged frog which I had observed in this location for the past year. I carefully took it to show my friend who lives adjacent to the site and she took several photographs of it. I then replaced the frog where I had found it, being careful to not harm it in any way.

4. The frog was medium-sized with a definite red tint to its legs. It was located on the ground, above the watercourse in Johnson Gulch.
5. The photos attached are the photos taken of the frog on that day, March 10, 2007 and are a true and correct representation of the frog observed by me and my family on previous occasions.

I swear under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and that I could testify competently thereto if called upon as a witness in this matter.

Signed



Jeffrey Beitch



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**DATE:** January 30, 2007  
**TO:** Board of Supervisors  
**FROM:** David Hardy, Project Planner  
**SUBJECT:** PLP 05-0083, Harbor View Subdivision  
Appeal of Board of Zoning Adjustments Approval of Coastal Permits and  
Design Review for New Homes and Entry Signage  
1000 Highway 1, Bodega Bay

This memorandum is a supplement to the staff report presented to the Board of Supervisors for the December 12, 2006, hearing.

At that meeting, the Board of Supervisors opened the public hearing on the appeal and, at the recommendation of staff, continued the matter to January 30, 2007. Staff recommended the continuance because, in response to some of the analysis and recommendations of the staff report, the applicant indicated that he was considering a design revision of the small wetland on Parcel B of the subdivision. Neither staff nor the appellants had a chance to review the prospective revision prior to the hearing. After opening the hearing, the Board voted to take original jurisdiction over the matter.

On December 18, 2006, the applicants filed a grading permit to revise the Parcel B wetland, and to add 0.5 acre of wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland, making the wetland 0.22 acres in size. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with Local Coastal Plan (LCP) Environmental Resource Management Policy No. 25 which states: "Prohibit construction of ...residential structures within 100 feet of wetlands." The buffer between the revised Parcel B wetland and the proposed single family dwellings consists of the already developed street, which has low curbs and gutters with storm drain inlets on both sides, and landscaping with a berm and fencing.

The Resolution approving the Coastal Permits also contains a Board finding regarding LCP Policy No. 26, which states "between 100 feet and 300 feet of wetlands, prohibit...residential structures unless an environmental assessment finds the wetland would not be affected by such construction." This policy was included in the County's 1980 Local Coastal Plan. Staff considers this policy to be inapplicable to the present situation because the policy seems intended to address potential new construction in the watershed of an existing wetland. In contrast, the Parcel B wetland is a created wetland within an existing urban setting, located after the grading for homes and actual construction of the roads that surround it. Parcel B's watershed is limited to Parcel B itself. Staff does not believe that it is the intention of the Local Coastal Program to preclude construction on existing legal lots when a new wetland is created in the middle of them.

Staff believes that the revised Parcel B wetland carefully balances the applicant's obligation to mitigate wetland losses on Parcel A while maintaining a sufficient buffer adequate to protect the development of the Parcel B wetland over time. The created Parcel B wetland is unusual in that it was developed after the roads and infrastructure were created, whereas the entire wetland policy structure of the Local Coastal Program is designed with the intent of protecting pre-existing wetlands. There is no LCP text that addresses the intentional creation of wetlands, and staff does not believe that the LCP intended to eliminate housing sites in approved subdivisions by creating wetlands.

#### STAFF RECOMMENDATION

1. Pursuant to the findings of the attached Resolution, approve Coastal Permits CPH06-0012 through CPH06-0021 with a condition that requires as follows: prior to issuance of building permits for the homes and front entry signage subject to these Coastal Permits, the applicant shall commence physical restoration of the Parcel "B" wetland, including additional wetland area to replace the wetland lost because of the storm drain construction through Parcel "A".
2. Pursuant to the findings of the attached Resolution, approve Coastal Permit CPH06-0022, as amended, to allow reconstruction of the Parcel B wetland as designed by WRA Environmental Consultants and the development of the subdivision signage along Highway 1 as approved by the Board of Zoning Adjustments.

#### List of Attachments:

Revised Draft Board of Supervisors Resolution  
Exhibit A: Revised CPH06-0022 Conditions of Approval  
Exhibit B: Amended Project Description for PLP05-0083 (CPH06-0022) with Site Plan  
Exhibit C: Letter to the Board of Zoning Adjustments from Jerry Bernhaut.

---



**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

**DATE:** March 20, 2007  
**TO:** Board of Supervisors  
**FROM:** David Hardy, Project Planner  
**SUBJECT:** PLP05-0083, Harbor View Subdivision  
Appeal of Board of Zoning Adjustments Approval of Coastal Permits and  
Design Review for New Homes and Entry Signage  
1000 Highway 1, Bodega Bay

**BACKGROUND**

This memorandum is a supplement to the staff report presented to the Board of Supervisors for the December 12, 2006, and January 30, 2007, hearings.

At the Board of Supervisor's meeting of January 30, 2007, the Board requested preparation of an environmental assessment of the proposed Parcel B wetland, pursuant to Policy 26 of the Local Coastal Plan. As required by Condition 60 of Coastal Permit CP93-289 governing the Harbor View project as a whole, the Parcel B wetland was proposed to mitigate the loss of wetland in Parcel A as a result of Highway 1 widening and project storm drain construction.

On February 20, 2007, Doug Spicher of WRA Inc., formerly Wetlands Research Associates, provided that environmental assessment to PRMD. WRA staff were among the County-selected environmental consultants who participated in preparation of the project's EIR that was certified in 1994. Staff distributed the WRA document to the California Department of Fish and Game, to the U.S. Army Corps of Engineers, to the biologist and staff of the California Coastal Commission, to the biologists in PRMD's Environmental Review section, and to the Bodega Bay Concerned Citizens, with a request for comment on the assessment in time for the continued Board hearing on March 20, 2007.

As of this writing, staff has received responses only from PRMD biologist Richard Stabler, who suggested some revisions to the wetland design. The Bodega Bay Concerned Citizens responded that they would not be asking their biologist to review the assessment. PRMD staff biologist's comments have been incorporated into CPH06-0022 as a condition of approval.

PLP05-0083  
March 8, 2007  
Page 2

**RECOMMENDATION**

Staff recommends that the Board of Supervisors accept the Environmental Assessment of the proposed re-design of the Parcel B wetland and approve Coastal Permit CPH06-0022 as conditioned.

**Attachments:**

Draft Board of Supervisors Resolution

EXHIBIT A: Environmental Assessment prepared by WRA Inc.

EXHIBIT B: Email from Rich Stabler, PRMD biologist, dated March 9, 2007

EXHIBIT C: Email from Maggie Briare, Bodega Bay Concerned Citizens, dated February 26, 2007

EXHIBIT D: Draft Conditions of Approval

County of Sonoma  
Santa Rosa, California

, 2007

PLP05-0083 David Hardy

RESOLUTION OF THE BOARD OF SUPERVISORS, COUNTY OF SONOMA, STATE OF CALIFORNIA, APPROVING THE REQUEST BY CARLILE MACY FOR 10 COASTAL PERMITS FOR 10 HOMES, FOR A MODIFICATION OF THE "PARCEL B WETLAND," AND FOR SUBDIVISION ENTRY LANDSCAPING AND SIGNAGE, AND DESIGN REVIEW FOR 70 NEW SINGLE FAMILY DWELLINGS LOCATED ON 70 SEPARATE PARCELS WITHIN THE RECORDED HARBOR VIEW SUBDIVISION FOR APN'S 100-560-001 to -033; 100-570-001 to -025; AND 100-580-001 TO -023; SUPERVISORIAL DISTRICT NO. 5

WHEREAS, the applicant, Carlile Macy, filed an application with the Sonoma County Permit and Resource Management Department for Coastal Permits and Design Review for 10 homes and subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision. Home sizes range from a 1,270 SF single story, three-bedroom, two-bath unit to a 2,500 SF two-story, four-bedroom, two-bath unit. Building height limits vary from 11'-6" to 24' tall, depending upon location, for property located at 1000 Highway 1, Bodega Bay; APNs 100-560-001 to -033; 100-570-001 to -025; and 100-580-001 to -023; Zoned PC (Planned Community), CC (Coastal Combining), SR (Scenic Resource); Supervisorial District No. 5; and

WHEREAS, a Draft Environmental Impact Report (EIR) was prepared and posted for the proposed project in accordance with the appropriate law and guidelines; and

WHEREAS, at its regularly scheduled meeting on December 6, 1994, the Board of Supervisors certified the EIR for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 70 homes; and

WHEREAS, the adequacy of the EIR was challenged and the Court of Appeal found the EIR to be adequate and upheld the decision of the Board of Supervisors to certify the EIR, and

WHEREAS, on June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and re-adopted the Mitigation Monitoring Program; and

WHEREAS, on December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded; and

WHEREAS, in accordance with the provisions of law, the Board of Zoning Adjustments held a public hearing to consider the Coastal Permits and Design Review of the houses on September 28, 2006, at which time all interested persons were given an opportunity to be heard; and the Board of Zoning Adjustments approved the applicant's request with conditions; and

WHEREAS, the Concerned Citizens of Bodega Bay filed a timely appeal of the action of the Board of Zoning Adjustments; and

WHEREAS, in accordance with the provisions of law, the Board of Supervisors opened the public hearing on the appeal on December 12, 2006, at which time all interested parties were given an opportunity to speak. Staff recommended that the matter be continued because of

prospective project changes in response to the staff report, and no one in attendance at the hearing chose to speak, and the Board elected to take original jurisdiction of the project and continued the matter until January 30, 2007; and

WHEREAS, on January 5, 2007, the applicant amended the Coastal Permit application to include modification of the Parcel B wetland design, changing the configuration of the replacement wetland design previously approved with the 2003 subdivision Improvement Plans; and

WHEREAS, on January 30, 2007, the Board of Supervisors conducted a public hearing on the appeal and the amended project, at which time all interested parties were given an opportunity to speak. Attorneys Kimberly Burr and Jerry Bernhaut spoke on behalf of Bodega Bay Concerned Citizens; Philip Young and attorney Judy Davidoff spoke on behalf of the applicant; and biologist Doug Spicher of WRA Inc. spoke regarding the wetlands. At the conclusion of the hearing, the Board requested an environmental assessment of the proposed Parcel B wetland pursuant to Environmental Resources Management Policy 26 of the Local Coastal Plan; and

WHEREAS, on February 20, 2007, Doug Spicher submitted an environmental assessment of the proposed Parcel B wetland, which PRMD circulated to other agencies, including the California Department of Fish and Game, the U.S. Army Corps of Engineers, the appellants, and the California Coastal Commission. The assessment concluded that development within 100 to 300 feet of the proposed wetland would not affect the proposed Parcel B wetland.

WHEREAS, in accordance with the provisions of law, the Board of Supervisors held a public hearing on \_\_\_\_\_, 2007, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, the Board of Supervisors does make the following findings:

1. On December 6, 1994, the Board of Supervisors certified the Environmental Impact Report (EIR) for the Harbor View Subdivision and approved the Tentative Map and Coastal Permit for the subdivision of 25 acres into 70 single family residential parcels, one multi-family parcel intended for the construction of 14 multi-family units, open space parcels totaling 4.2 acres and a designated remainder with conditions of approval and a mitigation monitoring program. The Board of Supervisors found that the project as approved was consistent with the Sonoma County General Plan, the Local Coastal Program, and the Coastal Zoning Ordinance. The EIR included analyses of the biological conditions and constraints of the property, including the use of Parcel B for a groundwater recharge area, which would entail a potential wetland creation at the site, and the build out of structures within the subdivision.
2. On March 4, 1997, the Board of Supervisors denied an appeal of a Design Review Committee approval of the proposed 70 homes, and the Board approved building locations and heights for the detached single family units as shown on the "View Corridor and Elevation Plan" prepared by JMA Architects.
3. On June 13, 2000, the Board of Supervisors approved revisions to the project's Conditions of Approval and Mitigation Monitoring Program, relying upon the previously certified EIR.
4. On December 13, 2005, the Board of Supervisors accepted the Final Map of the subdivision, and on December 27, 2005, the subdivision's Final Map was recorded at

the County Recorder's Office (Book 687, Page 20 et seq.). The Board of Supervisors' action was a ministerial action and not subject to CEQA. The principal action herein is limited to Design Review of the proposed structures and landscaping and consistency of the design of those structures with the Local Coastal Program. All issues regarding the project type, scope, density, public access and coastal resources were addressed with the approval of the subdivision, which is subject to the separately enforceable provisions of PRMD file MJS/CP 93-289.

5. The project as described substantially conforms with the plans, drawings, and elevations considered previously in the EIR, and the homes facing Highway 1 on Lots 7-12 of the Tentative Map (now 124 through 160 Pacific Vista Court) are substantially similar to the generic 16-foot homes used for the visual analysis in the EIR. In addition, the homes that are the subject of this approval are substantially the same as those approved in 1997 by the Board of Supervisors and in 2002 and 2005 by the Design Review Committee. The Board finds that the home designs and colors conform to the standards set forth for the Taylor Tract in the Local Coastal Plan. The Board of Supervisors certifies that it has reviewed and considered the EIR dated July 27, 1994, and prepared by LSA Associates as a basis for determining the environmental impacts of the proposed project.
6. Pursuant to the approved Tentative Map and Improvement Plans, project infrastructure was built in 1999 and 2000, creating the roads, curbs, gutters, storm drains, and utility connections to serve each parcel of the subdivision. Inasmuch as this infrastructure work has been completed and all work must be in conformance with the approved Mitigation Monitoring Program, no significant disturbance to environmentally sensitive habitat or to riparian habitat would occur as a result of this project, which is the construction of new residences on the existing parcels and a modification of the wetland on Parcel B. Any and all possible environmentally sensitive habitat and riparian habitat potentially impacted by the project has been comprehensively studied as part of the extensive environmental review process and all potential impacts have been mitigated. Subsequent environmental review since the 1994 certification of the EIR has determined that there are no significant changes to the biological conditions of the property. Project conditions for the Coastal Permits reflect and incorporate the relevant Conditions of Approval of PLP93-289.
7. A new wetland was created on Parcel B to compensate for the loss of 0.17 acre on the Parcel A wetland in association with Highway 1 frontage improvements, pursuant to Mitigation Measure D.4.3 of the Mitigation Monitoring Program, which requires that the applicant "shall replace any loss of wetland in kind, on site (or in the close vicinity of the site), at a 1:1 ratio...." The Parcel B wetland was included on the Improvement Plans for the subdivision and was installed in 2003, although it does not appear to have become fully established as a wetland. On December 18, 2006, the applicants filed a grading permit application to revise the Parcel B wetland, and to add wetland area to compensate for areas not fully restored in the construction of the stormwater line through the Parcel A wetland. On January 5, 2007, the applicants amended their pending Coastal Permit (CPH06-0022) application to include reconfiguration of the Parcel B wetland. The revised configuration has been prepared by WRA environmental consultants, including the biologist who performed the original EIR wetland analysis for the project. The revised wetland has been designed to perform as a wetland in an urbanized environment. The revised configuration places the foundations of the new houses at least 100 feet from the edge of the wetland, according to the "Setback Exhibit" dated December 8, 2006, prepared by WRA environmental consultants.

On February 20, 2007, in compliance with LCP Environmental Resource Management Policy No. 26, WRA Inc. provided an environmental assessment of the proposed wetland that shows how the wetland will be protected from surrounding development and that has been sent to public agencies for review. The Board hereby accepts the report and its conclusions.

Therefore, the construction of the homes on lots 1-23, 1-24, 1-25, 2-6, 2-11, 2-12, 2-13, 2-14, 2-15, and 2-23, in addition to the affordable housing units for which building permits have been previously issued, are in compliance with LCP Environmental Resource Management Policy No. 25 that prohibits construction of residential structures within 100 feet of wetlands and Policy No. 26 that requires an assessment of construction within 100 to 300 feet of a wetland.

8. The project, as described in the application and accompanying materials and as conditioned, conforms with the plans, policies, requirements and standards of the Sonoma County Local Coastal Program applicable to the project.
9. The use as conditioned is consistent with the Urban Residential General Plan land use designation and with the PC (Planned Community), CC (Coastal Combining) zoning districts. The development proposed is consistent with General Plan Policy LU-10c in that the property is not dependent upon construction of the Highway 1 bypass contemplated in the Local Coastal Plan.
10. The proposed structures conform to the Bodega Bay Core Area Design Guidelines of the LCP in that they consist of homes of the California Craftsman style with a variety of roofs and colors and textures that conform to the character of homes in the adjacent Taylor Tract. The approved colors of the proposed buildings include beige, brown, green, and white, with contrasting trim, as called for by the LCP. The buildings conform to the height limits specified in the View Corridor and Elevation Plan approved by the Board of Supervisors in 1997.
11. According to the visual simulation prepared by the applicant, development of Tentative Map lots 1-6 and 14 through 70 would not be visible from Highway 1 and are not required to obtain Coastal Permits. Development of Tentative Map lots 7-13 (Lots I-7 through I-12 of Phase I of the recorded Final Map) are the only structures visible from Highway 1 and therefore the only units that are not exempt from the requirement for Coastal Permits. These structures are the subject of CPH06-0012 through CPH06-0022.
12. All structures approved by this action are located a minimum of 100 feet from the delineated wetland area on Parcel A (other than the landscaping and sign in CPH06-0022) and from the Parcel B wetland and therefore are not subject to appeal to the Coastal Commission pursuant to section 26C-347 of the Coastal Zoning Ordinance. CPH06-0022 is appealable. CPH06-0017, -0018, -0020, and -0021 are appealable because they are located within 300 feet of the top of the bluff of Bodega Bay. All lots have two dry wells to convey water into the ground to recharge the Parcel A wetland area as required by the conditions of the Final Map, and construction of the homes with the dry wells will further enhance the Parcel A wetland.

NOW THEREFORE BE IT RESOLVED that the Sonoma County Board of Supervisors hereby approves the request for Coastal Permits CPH06-0012 through CPH06-0022, including the

reconfigured Parcel B wetland, and Design Review for subdivision entry landscaping and signage and Design Review for 70 new single family dwellings located on 70 separate parcels within the recorded Harbor View subdivision.

BE IT FURTHER RESOLVED that the Sonoma County Board of Supervisors action shall be final on the 10th working day after the date of the resolution unless an appeal is taken.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based. These documents may be found at the office of the Sonoma County Permit and Resource Management Department, 2550 Ventura Avenue, Santa Rosa, CA 95403.

**SUPERVISORS VOTE:**

Kerns:

Smith:

Kelley:

Reilly:

Brown:

Ayes:

Noes:

Absent:

Abstain:

SO ORDERED.



February 20, 2007

Valerie Brown, Chair  
Sonoma County Board of Supervisors  
575 Administration Drive  
Santa Rosa, CA 95403

RE: Harbor View Subdivision Project

Dear Supervisor Brown:

During the Board of Supervisors hearing on January 30, 2007, concerns were raised about the a mitigation wetland with regard to Sonoma County LCP Environmental Policy 25 and Policy 26, and its successful creation in Parcel B of the Harbor View project. This letter addresses those concerns.

**Introduction:**

Sonoma County LCP Environmental Policy 25 states:

Prohibt construction of agricultural, commercial, industrial and residential structures within 100 feet of wetlands.

LCP Environmental Policy 26 states:

Between 100 and 300 feet of wetlands, prohibit construction of agricultural, commercial, industrial and residential structures unless an environment [sic] assessment finds the wetland would not be affected by such construction.

WRA has prepared an environmental assessment of Parcel B and the mitigation wetland that will be created as proposed in the Coastal Development Permit application and has assessed effects that construction within 300 feet of Parcel B could potentially cause. The mitigation wetland was designed to be more than 100 feet away from any structure in the Project, which meets the conditions of Environmental Policy 25. Project structures will be within 300 feet of the mitigation wetland; however, the mitigation wetland will not be adversely affected by the use, type and scale of the Harbor View homes because habitat functions and values will be protected by biological, topographic, and cultural attributes by design of both the mitigation area and the Project.

**Background: Existing Environmental Analysis, Studies and Recommended Mitigations**

The Harbor View development has had a long history of environmental studies including preparation of a draft EIR in 1994 for the Harbor View project to build 84 residential units on a

+/- 27 acre vacant site bounded on the north by Taylor Tract, on the south by the Inn at the Tides, on the east by grazing land and Johnson's Gulch, and on the west by Highway 1. EIR preparers, in preparation of a draft EIR, must consider all possible potential environmental impacts; however during the course of investigation, an effect can be dismissed if it is clearly insignificant and unlikely to occur, and need not be discussed again in the EIR unless the Lead Agency receives information that is inconsistent with results of the investigation. The 1994 EIR addressed all potential impacts that could have had an effect, and all potential effects were reduced to a level of insignificance by mitigation measures incorporated into the Mitigation Monitoring Plan and into the project conditions. The Board of Supervisors certified the 1994 Final EIR on December 6, 1994. The 1994 Final EIR was later upheld by the State Court of Appeal.

Among the various categories addressed in preparing the 1994 EIR such as Geology, Traffic, and Noise, studies to address potential adverse impacts to Hydrology and Water Quality and Biological Resources were thoroughly reviewed, analyzed, and discussed<sup>1</sup>. The 1994 EIR cited two potential impacts to the existing wetland in Parcel A: (1) potential loss of ground water recharge on the terrace above the wetland; (2) loss of seep wetlands caused by the widening of Highway 1 and installation of a bicycle lane and sidewalk. Mitigation measures in the EIR for ground water recharge issues were to construct a recharge basin in Parcel B, to conduct surface and ground water monitoring studies in Parcel A wetland, and to install dry wells on home sites for ground water recharge. Mitigation for lost wetlands was to dedicate Parcels A and B as open space and replace wetlands in-kind and on-site at a 1:1 ratio.

Ground and surface water monitoring, as recommended mitigation in the EIR and county conditions of approval, was conducted by Balance Hydrologics beginning with baseline monitoring in 1995. Annual construction phase monitoring was begun in 1999, has continued to the present, and monitoring reports have been submitted annually. Those monitoring studies have indicated that there has been no change in baseline ground or surface water hydrology when adjusted for fluctuations in annual precipitation. In 2004, a follow up wetland delineation was conducted. That delineation showed that, notwithstanding installation of streets and utilities, and prior to the installation of dry wells as recharge mitigation, there were no changed circumstances to the Parcel A wetland since the 1991 delineation.

The monitoring studies also suggested that a preferred mitigation for potential loss of groundwater recharge was to install additional dry wells instead of developing Parcel B as a recharge area. Parcel B was to remain as a one acre passive park for the residential development. This change was approved by the Board of Supervisors on June 13, 2000 with revised project conditions and the re-certified EIR and re-adopted mitigation plan.

---

<sup>1</sup> Potential impacts to surface and ground water were thoroughly studied as were sensitive habitats (wetlands), sensitive plant species, and sensitive wildlife species. Lists of plants and wildlife species observed on the project site included common species of native and non-native plants, such as wild barley, coyote brush and rushes, and common species of wildlife, including amphibians (California slender salamander and Pacific tree frog), birds (Turkey vulture, American robin, Brewer's blackbird), and small mammals (Botta's pocket gopher and black-tailed jack rabbit). Special status species that were identified to potentially be present included two plants (swamp harebell and yellow larkspur) and two animals (monarch butterfly and northern harrier). Subsequent habitat analysis and focused surveys determined that none of these species were present on the 27 acre site.

In 2001, when it was determined that the Caltrans-required Highway 1 road widening would result in the loss of 0.17 acre of seasonal wetland, Sonoma County requested Wetlands Research Associates, Inc. (now WRA, Inc.) to prepare a wetlands mitigation plan consistent with the EIR mitigation measure and project conditions of approval. Parcel B was identified as a suitable on-site area available for wetland mitigation purposes because:

1. Wetlands would have developed in the Parcel B when it was being considered as a recharge basin
2. Water captured by the mitigation wetland, although subject to slower infiltration rates, would augment ground water recharge and maintain a connection with Parcel A wetland
3. Parcel B was of sufficient size (over 1 acre) to contain both the mitigation wetland (0.17 acre) and have surrounding upland area that would act as a local watershed and provide additional source of water to the wetland (additional to direct precipitation)
4. Water from the local watershed would be clean because runoff from areas of the development (e.g., homes or streets) would not be diverted onto Parcel B because of existing streets with curbs and gutters and a storm drain system
5. Creation of a mitigation wetland on-site is considered preferable to off-site creation by policy and it is the closest area available to the applicant

A wetlands mitigation plan was prepared for 0.17 acre of created seasonal wetlands to replace 0.17 acre of wetlands lost by widening of Highway 1, installation of a bicycle lane, and sidewalks. The mitigation plan was prepared in 2002 and implemented with construction of the mitigation wetland in Parcel B in 2003. Subsequent monitoring was not conducted until 2005-2006 when it was determined that wetlands criteria had not developed and the site was not functioning adequately as a wetland. Battaglia is prepared to re-construct the mitigation wetland in Parcel B with an additional 0.05 acre of wetland area to mitigate for disturbance to vegetation over the storm drain that was installed in Parcel A, and a revised re-construction plan has been submitted in an application for a Coastal Development Permit (see more information below).

#### **Parcel B Environmental Assessment of 100-foot and 100 to 300-foot Buffer Zones**

As noted in the Introduction, Environmental Policy 25 of the Sonoma County LCP prohibits construction within 100 ft of a wetland, and Policy 26 precludes such construction between 100 and 300 ft. of the wetland unless an environmental assessment finds the wetland would not be affected by such construction. The assumption for needing a buffer zone between development and wetlands is that surrounding areas may be necessary to provide a protective barrier from potential development effects, such as human disturbance or pollutants, or may provide habitat features that support the wetland, such as a watershed that drains to the wetland.

The width of a buffer zone is the usual initial protective factor required by most agency related mitigation policies. But an effective buffer zone can consist of more than an arbitrary distance, and other factors can contribute to providing protection for a sensitive resource including topographic barriers, visual screens provided by vegetation, and human constructed features, such as roads and fences.

The design of the wetland in Parcel B includes a minimum 100-foot setback to structures on all sides, thereby satisfying conditions of Policy 25. The buffering factors within this first 100 feet will be the most important to the mitigation wetland in Parcel B because the first row of homes

will provide an additional buffer between the mitigation area and development beyond 100 feet. The following assessment describes the potential impacts of the development on the mitigation wetland and how other factors within the 100-foot buffer provide protection to the wetland in addition to the 100-foot wide buffer zone.

**1. Potential Pollutants.** Pollutants that potentially could adversely affect the mitigation wetland are sediments from surrounding areas caused by erosion during storms or harmful substances, such as fuels and lubricants, fertilizers and pesticides used in landscaping, detergents (from washing vehicles), or trash.

The mitigation wetland will be protected from potential pollutants by factors in addition to the 100-foot width that include:

a. Harbor View Way and Harbor Haven Drive are existing streets that provide a physical barrier to potential pollutants from reaching Parcel B on the west and north. In the unlikely event that runoff carrying potential pollutants reaches either of these streets, it would not be able to flow into Parcel B because once in the street the runoff would flow to storm drains.

b. As required in the EIR, best management practices during construction activities reduce the possibility of erosion and storm drains are equipped with cleaning devices that are regularly maintained in excess of the maintenance required in the Mitigation Monitoring Plan.

c. From the east and south, a full 100-foot of buffer width vegetated with grasses, shrubs, and trees will provide an effective biological filter for the remote possibility that runoff with pollutants could reach the mitigation wetland. In addition, storm drains collect runoff from areas adjacent to homes and the affordable housing area that do not allow runoff to enter Parcel B.

d. The Harbor View Covenants, Conditions, and Restrictions (CC & Rs) further add to the remote potential that pollutants would enter Parcel B. CC & Rs require the following measures that will provide additional protection:

- restrict storage of materials or vehicles in common areas, which would preclude potential pollutants from oil leaks from vehicles, sediment from landscaping materials (topsoil, manure, etc.), or other potentially harmful substances
- require that refuse be kept in clean and sanitary conditions, not be allowed to accumulate, and must be removed regularly
- no toxic or hazardous materials shall be disposed of within the project within garbage containers, down drains, or otherwise
- chemical use must be carefully controlled on site and oil, anti-freeze, and other chemicals and hazardous waste materials must be properly disposed of to protect the quality of waters on or below the project. The homeowners association will distribute annually a flyer or brochure on the proper use and disposal of pesticides, herbicides, oils, anti-freeze and household wastes. This program will be combined with the County's Household Hazardous Waste public information process.
- No car maintenance (other than emergency work) or boat maintenance shall be permitted on the property except within enclosed garages or except without prior written approval of the homeowners association board.

**2. Potential Human Disturbance.** Human disturbance can potentially adversely affect the wetland by disturbance to wildlife that utilize the habitat or by entry into the area that causes destruction of habitat, such as from vehicles.

Parcel B will be protected from human disturbance by the following factors:

- a. A post and rail fence around the perimeter of Parcel B backed by a wire mesh fence will prevent entry by individuals, pets, and vehicles.
- b. Signs will be posted advising occasional pedestrians passing by that the area is sensitive habitat and that entry by humans or pets is not allowed.
- c. Sidewalks and streets provide a buffer distance between regular human activities occurring in homes across the street.
- d. Vegetation screening that precludes visual contact between humans who occasionally will be on the street and sidewalks and wildlife in the mitigation wetland area.
- e. With visual screening, there will be no interest for the human occasionally walking by the mitigation area to stop which will further reduce disturbance to wildlife. In addition, the project provides a separate park for use by homeowners.
- f. A topographic elevation difference that places the mitigation wetland several feet lower in elevation than the surrounding areas, further creating a visual disconnect between human activities and wildlife that is especially enhanced by shrub and tree vegetation.
- g. Low mound created in upland area of Parcel B creates a topographic visual barrier between human activities on the back side of affordable housing and a portion of lot 2-23.
- h. CC & Rs require that homeowners keep pets under control at all times and on leashes when in common areas.

**3. Potential Loss of Supporting Upland Habitat.** Policy 26 is intended to address whether the area within the 100 to 300 foot zone around the mitigation wetland has habitat that would support the future wetland and whether its loss could potentially affect the success of the wetland. It must be remembered that the mitigation wetland with the upland area around it in Parcel B has been designed to function as habitat without support from surrounding areas. The project does not now have, nor did it at any time have habitat conditions that would support a future wetland in Parcel B because of the following:

- a. The project site has been graded in preparation for home development with typical features such as level pads and earth embankments, and these areas are maintained on a regular basis by mowing and other activities. This level of disturbance does not allow or create habitat features that would be of benefit to the future wetland.
- b. Paved streets have been installed along two sides of the parcel. Streets act as a barrier between the future wetland and any potential supporting habitat, including a contributing watershed because runoff from the watershed would be intercepted by the streets.
- c. The 1994 EIR determined that there were no special status flora or fauna in this area and there have been no changed circumstances that would have established such environment for any. If anything, the existing level of partial development on the project site (i.e., graded pads, streets and other infrastructure) has lessened the possibility.

In addition, the design of the mitigation wetland in Parcel B has taken all of these factors into account. After the mitigation wetland has been created and is functioning, the wetland and surrounding open space uplands in Parcel B will be a self sustaining habitat that will augment the coastal environment and increase biological diversity of the area.

Based on the assessment of potential impacts, the development of homes within the 100-300 area around the mitigation wetland that will be created in Parcel B will not adversely affect the creation of a mitigation wetland in Parcel B.

#### **Re-construction of Mitigation Wetland in Parcel B**

Battaglia, Inc. is committed to fulfilling the obligation of creating a mitigation wetland on-site as required by recommendations in the EIR and conditions of approval. Specifications to create a seasonal wetland in Parcel B were developed in the 2002 mitigation plan using proven specifications and techniques developed by the U.S. Army Corps of Engineers for creating seasonal wetlands at its Waterways Experiment Station. The plan consisted of laying down a clay soil tested for clay content properties (obtained on-site or imported from off-site) with sufficient thickness and compaction to create a slow infiltration rate layer capable of ponding water for several weeks. Studies over the past year indicate that the clay layer was not constructed to proper specifications in 2003. Battaglia has assured WRA that when the mitigation wetland is reconstructed in Parcel B in 2007 that WRA will have full oversight of construction, will be responsible for testing the clay soil material to be used, and will monitor placement of the clay soil including thickness and compaction. In addition, a contractor with proven experience in creating mitigation wetlands will be hired for construction. Once the wetland is constructed, WRA will be responsible for uninterrupted annual monitoring of the performance criteria outlined for the wetland including wetland hydrology, plants, and hydric soils for a period of five years and will provide annual reports to Sonoma County staff.

The Parcel B mitigation wetland will be re-constructed in 2007 according to the plans provided in the Coastal Development Permit application. A copy of the plan is attached to this letter. The reconstructed Parcel B will include an additional 0.05 acre of wetland to replace that amount of wetland in Parcel A that county staff recently determined should be mitigated for disturbance of wetland plants over the storm drain area.

The design of the mitigation wetland and surrounding upland in Parcel B will allow the mitigation area to develop into a meaningful and sustainable habitat with values that are greater than or equal to the impacted habitat lost to road widening. This impacted area was located immediately adjacent to Highway 1 and was in a zone of continuous disturbance from passing highway traffic and access to the Bodega Sanitary District Pump Station. The mitigation site will be fully protected from human disturbances with:

1. Protective fencing around the perimeter that will include a post and rail fence backed by wire mesh fencing. The post and rail fence will provide a clear barrier to prevent human intrusion into the mitigation area. The wire fencing at the back of the fence will be hidden by the post and rail fence, but it will deter domestic pets from entering.
2. Signs that will identify the open space area as a protected habitat and that no admittance is allowed.
3. Vegetation screening using native shrubs and low growing trees to naturally provide.

visual barriers into or out of the wetland mitigation area. With no visual connection, the mitigation wetland will be a habitat attractive to wildlife with little disturbance from outside sources. The native vegetation will provide cover, nesting sites, and food sources for wildlife.

4. Topographic features that create visual and physical barriers and varied topographic characteristics for the site. The mitigation wetland will be lower in elevation than surrounding streets and homes, and in conjunction with native plants, this will prevent a visual connection with humans and/or human activities. Cars driving by on the street, people walking on sidewalks, or activities occurring around homes will all be oblivious to wildlife in and around the mitigation wetland. Also, low mounds created in adjacent uplands areas using soils excavated to construct the wetland will provide additional visual barriers into the open space area and mitigation wetland.
5. No destinations for humans into or around the site. Because no boardwalks, viewing areas, park benches, etc., are included in the design, there is no reason for people to approach or stop at the mitigation area. The project provides a park that people will be able to use.
6. CC & Rs require that homeowners minimize use and properly handle hazardous substances to prevent contamination on their property and common areas (see part 1d above) and keep pets under control at all times and on leashes when in common areas.

#### Conclusion

Based on my experience as a wetlands scientist for more than 20 years, the surrounding area in the 100 to 300 foot zone would not contribute to the functioning or sustainability of a wetland created in Parcel B. Existing conditions preclude hydrological connectivity and there are no plants or animals on-site that would benefit from or contribute to the wetland habitat. The mitigation has been designed to develop its own unique habitat attributes without support from areas outside of Parcel B. However, the functions and values that it does develop will represent the best mitigation for loss of wetlands in Parcel A as recommended in the certified EIR and conditions of approval.

Sincerely,

Douglas Spicher PWS

encl.

## Sources

- Wetlands Research Associates, Inc. 1990. Wetland delineation, Bodega Bay Village, Bodega Bay, CA. Prepared for Brady and Associates, Berkeley, CA.
- Wetlands Research Associates, Inc. 1991. Rare plant surveys, Bodega Bay Village, Bodega Bay, CA. Prepared for Brady and Associates, Berkeley, CA.
- LSA Associates, Inc. 1994. Draft EIR for the Harbor View Tentative Subdivision Map. Prepared for Sonoma County.
- LSA Associates, Inc. 1994. Harbor View Final EIR: Revisions to the Draft EIR. Prepared for Sonoma County.
- Balance Hydrologics, Inc. 1995-Present. Summary Reports of Hydrologic Monitoring for the Harbor View Project, Bodega Bay, CA.
- Wetlands Research Associates, Inc. 2002. Wetlands Mitigation Plan for the Romancia Project, Bodega Bay, CA.
- Sonoma County. October 2006. Staff memorandum on Parcel A wetland and Parcel B mitigation area.
- RJB-GP Group. December 2006. Coastal Development Permit Application for re-construction of Parcel B mitigation wetland.

**Douglas Spicher, M.A.**  
**Principal - Wetland Ecologist**  
**Certified Professional Wetland Scientist**

Mr. Spicher has more than 20 years of experience as an ecologist in a variety of wetland habitats including tidal, seasonal, inland freshwater wetlands and riparian woodlands on the east and west coasts. In addition to ecological knowledge, he is experienced in project analysis to determine regulatory permitting strategy with follow through preparation and submission of appropriate permit applications.

Over the years Mr. Spicher's responsibilities have included habitat assessment, mitigation and restoration planning, mitigation implementation and monitoring, wetland delineation, wetlands functions and values assessment, permit analysis and application preparation, and responding to comments on permit applications and environmental documents (CEQA/NEPA). He has conducted numerous jurisdictional wetlands determinations under Section 404 (Corps of Engineers), California Coastal Act (California Coastal Commission), and McAteer-Petris Act (Bay Conservation and Development Commission) and has successfully completed permit applications with these and other regulatory agencies, including the Regional Water Quality Control Board and California Department of Fish and Game.

Mr. Spicher has taught courses in wetland delineation, salt marsh ecology, and habitat evaluation, published articles, and advised public agencies concerning invasive non-native plants. Mr. Spicher is affiliated with the Society of Wetland Scientists, Society for Ecological Restoration, California Native Grass Association, and the California Invasive Plant Council.

# Planning Application

PJR-001

File#: \_\_\_\_\_

**Type of Application:**

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> Admin Cert. Compliance | <input type="checkbox"/> Design Review Comm./Ind.  | <input type="checkbox"/> Minor Subdivision            | <input type="checkbox"/> Variance                                |
| <input type="checkbox"/> Ag./Timber Preserve    | <input type="checkbox"/> Design Review Residential | <input type="checkbox"/> Mobile Home Zoning Permit    | <input type="checkbox"/> Zone Change                             |
| <input type="checkbox"/> Cert. of Compliance    | <input type="checkbox"/> Design Review Signs       | <input type="checkbox"/> Ordinance Interpretation     | <input type="checkbox"/> Zoning Permit                           |
| <input type="checkbox"/> Cert. of Modification  | <input type="checkbox"/> General Plan Amendment    | <input type="checkbox"/> Second Unit Permit           | <input checked="" type="checkbox"/> Other: <b>Grading Permit</b> |
| <input type="checkbox"/> Coastal Permit         | <input type="checkbox"/> Lot Line Adjustment       | <input type="checkbox"/> Specific/Area Plan Amendment |  |
| <input type="checkbox"/> Design Review Admin.   | <input type="checkbox"/> Major Subdivision         | <input type="checkbox"/> Use Permit                   |  |

**Applicant (Contact Person):**

**RJB-GP, Inc. (Philip Young)**  
 Name  
**3366 Via Lido**  
 Mailing Address  
**Newport Beach CA 92663**  
 City/Town State Zip  
**949/723-8900 949/723-8915**  
 Phone Fax  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

**Owner, if other than Applicant:**

Name \_\_\_\_\_  
 Mailing Address \_\_\_\_\_  
 City/Town State Zip \_\_\_\_\_  
 Phone Fax \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

**Other Persons to be Notified:** (Specify: Other Owner(s), Agent, Lender, Architect, Engineer, Surveyor)

<b>Carol Whitmire</b> Name <b>PO Box 319</b> Mailing Address <b>Woodacre, CA 94973</b> City/Town State Zip Title _____ <b>415/388-0955</b> Phone Fax	<b>Doug Spicher</b> Name <b>2169-G E. Francisco Blvd.</b> Mailing Address <b>San Rafael, CA 94901</b> City/Town State Zip Title _____ <b>415/454-8868</b> Phone Fax	 Name _____ Mailing Address _____ City/Town State Zip _____ Title _____ Phone Fax _____
--	---	--

**Project Information:**

**Lot 28, Harbor View Way** Address(es)  
**100-056-28** Assessor's Parcel Number(s)  
**Bodega Bay, CA** City/Town  
**0.95 acre** Acreage

**Regrading of failed mitigation seasonal wetland area to re-create conditions for a successful mitigation.**  
Project Description: (Please attach additional sheet if needed)

Site Served by Public Water?  Yes  No      Site Served by Public Sewer?  Yes  No      Number of new lots proposed **NA**

DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff

Planning Area: \_\_\_\_\_ Supervisorial District: \_\_\_\_\_ Current Zoning: \_\_\_\_\_ General Plan Land Use: \_\_\_\_\_  
 Specific Plan: \_\_\_\_\_ S.P. Land Use: \_\_\_\_\_ Needs CEQA Review?  yes  no

**Commercial/Industrial Uses:** (Enter numbers where applicable)

Bldg. sq. ft. Existing: \_\_\_\_\_ Proposed: \_\_\_\_\_ Existing Employees: \_\_\_\_\_ New Employees: \_\_\_\_\_

**Residential Uses:** (Enter numbers where applicable)

New Single Family Homes: \_\_\_\_\_ New Multi-Family Units: \_\_\_\_\_ New Second Units: \_\_\_\_\_  
 New Manufactured Homes: \_\_\_\_\_ New Units For Sale: \_\_\_\_\_ New Units For Rent: \_\_\_\_\_ Density Bonus Units: \_\_\_\_\_

Violation?  yes  no; Application resolve planning violation?  yes  no; Penalty applicable?  yes  no; Civil Penalty Factor \_\_\_\_\_

Previous Files: \_\_\_\_\_

Application accepted by \_\_\_\_\_ Date \_\_\_\_\_

**Sonoma County Permit and Resource Management Department**  
 2550 Ventura Avenue ♦ Santa Rosa, CA ♦ 95403-2829 ♦ (707) 565-1900 ♦ Fax (707) 565-1103

# Development Submittal Information for Drainage Review

DRN-002

Please type or print the following information.			
Name of Development: <b>Harbor View Subdivision</b>			
Property Address: <b>Harbor View Way (Parcel B)</b>		City, Zip <b>Bodega Bay, CA</b>	
Nearest Cross Street: <b>Harbor Haven Way</b>			
Assessor's Parcel Number: <b>100-056-28</b>		Developer: <b>RJB-GP, Inc.</b>	
Design Engineer: <u><b>George Salvaggio, LLA</b></u>		Applicant Name: <u><b>RJB-GP, Inc.</b></u>	
Address: <u><b>WRA, Inc., 2169-G E. Francisco Blvd</b></u>		Address: <u><b>3366 Via Lido</b></u>	
City, State, Zip: <u><b>San Rafael, CA 94901</b></u>		City, State, Zip: <u><b>Newport Beach, CA 92663</b></u>	
Phone No.: <u><b>415-454-8868</b></u>		Phone No.: <u><b>949-723-8900</b></u>	
Land Use (Planning) File #:		Permit Application #	
Number of Units: <b>N/A</b>		Disturbed Area: <b>0.95 acre</b>	
To Be Completed by Drainage Review			
File/Unique #:		Quad Maps:	
Major Dev. (MJS/UP/DR):	Permit Referral:	Flood Zone:	
Minor Dev. (MNS/UP/DR):	Public Project:		
Fee based on: _____ base fee, _____ Units @ _____ per unit = _____			
Permit Referral Fee: _____ Flood Zone Fee _____ Date: _____ Receipt #: _____			
MJS/UP/DR Fee:	Amount	Date	Receipt #:
Base/minimum	_____	_____	_____
Balance or Total	_____	_____	_____
Review Engineer/Technician:		Final Letter Date:	
Comments:			

**Sonoma County Permit and Resource Management Department**  
 2550 Ventura Avenue ❖ Santa Rosa, CA ❖ 95403-2829 ❖ (707) 565-1900 ❖ Fax (707) 565-1103

# Required Cut/Fill Table For Grading Permits

BPC-008

Applicant  Owner  Architect \ Engineer

**Project Site Information**

Name George Salvaggio

Address(es) Harbor View Way

Mailing Address WRA, Inc. 2169-G E. Francisco

City/Town Bohemia Bay, CA

City/Town San Rafael State/Zip CA 94901

Assessor's Parcel Number(s) 100-056-28

Phone 415 454-8868 Fax 415 454-0129

Project Name (if applicable) Harbor View Subdivision

Signature Douglas Eicher Date 12/18/2006  
Principal

Please do not write in the shaded areas.

Cut	-		839	Cu. Yds.
Fill	+	407	Cu. Yds,	
Export	-		418	Cu. Yds.
Import	+	0	Cu. Yds.	
Shrinkage	-		14	Cu. Yds.
<b>Totals</b>		<b>407</b>	<b>1272</b>	<b>Cu. Yds.</b>

Purpose or use of grading:

Grading to reconstruct a 0.22 seasonal wetland for mitigation that failed and recreate conditions for a successful mitigation

Geotechnical report available?      Yes       No

Geotechnical report included with application?      Yes       No

Will more than 1 acre be denuded?      Yes       No

----- DO NOT WRITE BELOW THIS LINE - To Be Completed by PRMD Staff U -----

Total volume used for fee calculations	Cu. Yds.
--	----------

For excavation and fill on the same site, the fee shall be based on the volume of excavation or fill, whichever is greater. (Reference is 1998 California Building Code Section 3310.2)

Activity No. \_\_\_\_\_

**Sonoma County Permit and Resource Management Department**  
2550 Ventura Avenue ♦ Santa Rosa, CA ♦ 95403-2829 ♦ (707) 565-1900 ♦ Fax (707) 565-2210

sue waxman S:\Handouts\BPC\BPC-008 Required Cut\_Fill Table For Grading Permits.WPD 03/11/05

**COUNTY OF SONOMA PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**  
 2550 Ventura Avenue Santa Rosa, CA 95403 (707) 565-1900 FAX (707) 565-1933

Please Print Your Name: Philip Young Date Applied: 12/10/2006

INFORMATION WITHIN HEAVY LINE TO BE COMPLETED BY APPLICANT

**SITE LOCATION INFORMATION - PRINT CLEARLY**

Site Address: Harbor View Way City: Bodega Bay ZIP: \_\_\_\_\_  
 Cross Street: Harbor Haven Way APN: 100-056-28 Project Area: 699.723-8915 Project File: 999.723-8915  
 Direction: From CA State Rtl 1, turn onto Harbor View Sub Area: \_\_\_\_\_  
 Describe Project: Grading to reconstruct a 0.22 acre Seasonal wetland for mitigation Lining Area: N/A Contract Price: \_\_\_\_\_  
 Garage: \_\_\_\_\_ Decks: \_\_\_\_\_

**OWNER NAME AND ADDRESS** Name: RJB-GP, Inc  
 Mailing Address: 3366 Via Lido  
 City: Newport Beach State: CA ZIP: 92663  
 Day Phone: 949 723-8900 Fax: 949 723-8915

**APPLICANT NAME AND ADDRESS** Name: Same as Owner  
 Mailing Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_  
 Day Phone: ( ) Fax: ( )

**CONTRACTOR INFORMATION**

Company Name: \_\_\_\_\_ Name: George Silvestro  
 Address: WPA, Inc. 2769 G E. Francisco  
 City: San Rafael State: CA ZIP: 94901  
 Day Phone: ( ) Fax: ( )  
 License No: 4707 Exp. Date: 4/30/2008

**WORKER'S COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:  
 I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.  
 I have and will maintain worker's compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My worker's compensation insurance carrier and policy number are:  
 Carrier: \_\_\_\_\_  
 Policy No.: \_\_\_\_\_  
 (This section need not be completed if the permit is for one hundred dollars (\$100) or less.)  
 I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California, and agree that if I should become subject to the worker's compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

**CONSTRUCTION LENDING DECLARATION**

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued. (Sec. 3007, Civ. C.)

Lenders Name: \_\_\_\_\_  
 Lenders Address: \_\_\_\_\_

**OWNER-BUILDER DECLARATION**

I hereby affirm under penalty of perjury that I am exempt from the Contractor's License Law for the following reason (Sec. 7031.5, Business and Professions Code): Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractor's License Law (Chapter 9 commencing with Section 7000) of Division 3 of the Business and Professions Code) or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by any applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500). :-

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044 Business and Professions Code). The Contractor License Law does not apply to an owner of property who builds or improves thereon, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale.)  
 I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code). The Contractor's License Law does not apply to an owner of property who builds or improves thereon, and who contracts for such projects with a contractor(s) licensed pursuant to the Contractor's License Law.)  
 I am exempt under Sec. \_\_\_\_\_ B & P.C. for this reason:  
 Date: \_\_\_\_\_ Owner: \_\_\_\_\_

**FOR DEPARTMENT USE**

Zoning: \_\_\_\_\_ File No. \_\_\_\_\_ Area: \_\_\_\_\_  
 Existing Use/Structure: \_\_\_\_\_  
 Proposed Use/Structure: \_\_\_\_\_  
 Zoning Min. Yard Requirements: Front \_\_\_\_\_ Left \_\_\_\_\_ Right \_\_\_\_\_ Back \_\_\_\_\_  
 NOTE: Fire Safe Stations require all permits greater than 1 Acre to have a min. 20' setback unless mitigated.  Mitigation Required  Address subject to change  
 Approval for Permit Issuance: \_\_\_\_\_ Approval for Occupancy: \_\_\_\_\_  
 By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Conditions: \_\_\_\_\_

**LICENSED CONTRACTOR'S DECLARATION**

I hereby affirm under penalty of perjury that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

Lic. Class: \_\_\_\_\_ Lic. No.: \_\_\_\_\_  
 Exp. Date: \_\_\_\_\_ Contractor: \_\_\_\_\_

**SEWER CONNECTION**  Available  Fees Paid  
 Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
**ROAD ENCROACHMENT**  Fees Paid  
 Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
**SEPTIC SYSTEM PERMITS/CLEARANCE**  
 Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
**FLOOD ZONE**  Yes  No 100 Year Flood Elevation: \_\_\_\_\_  
**SITE REVIEW**  
 Drainage Review: \_\_\_\_\_ Date: \_\_\_\_\_  
 Fire: \_\_\_\_\_  
 Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
**CODE ENFORCEMENT VIOLATION**  Yes  No Violation # \_\_\_\_\_  
 This permit is limited to \_\_\_\_\_ days.

**ASBESTOS DECLARATION**

Written asbestos notification pursuant to Part 61 of Title 40 of the Code of Federal Regulations is required when asbestos exists in leadings, or portions thereof, undergoing demolition. I hereby declare that demolition activities for this permit is from construction that  does  does not contain asbestos, or that  no demolition is authorized by this permit.

I certify that I have read this application and affirm under penalty of perjury that the above information is correct. I agree to comply with all local Ordinance and State laws relating to building construction. I hereby authorize representatives of the County of Sonoma to enter upon the above-mentioned property for inspection purposes. If, after making the Certificate of Exemption for the Worker's Compensation provision of the Labor Code I should become subject to such provisions, I will forthwith comply. In the event I do not comply with the Workman's Compensation law, this permit shall be deemed revoked.

**PERMITTEE SIGNATURE**  
 ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ ZIP: \_\_\_\_\_  
 Contractor  Owner  Other Licensed Professional

**PERMIT CHECKLIST**

Plans approved  Final PRRM  Request Plans Reprint Available  
 No Plans Subject to Field Inspection  Pre-PRM  Geotechnical Report Available

Checked By	Date	Type of Construction	Occupancy	No. of Stories	No. of Workdays

Permit Granted for Issuance By: \_\_\_\_\_ Date: \_\_\_\_\_  
 Act's Fee: \_\_\_\_\_  
 Site Specifics Fee: \_\_\_\_\_  
 No. of Units: \_\_\_\_\_  
 Certificate of Occupancy: \_\_\_\_\_

Machine Space for Permit Fee: \_\_\_\_\_

Final Date: \_\_\_\_\_ Inspector: \_\_\_\_\_

**INSPECTION AREA**

Work Authorized: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

THIS PERMIT SHALL EXPIRE IN THREE(3) YEARS FROM DATE FEES ARE PAID UNLESS OTHERWISE NOTED BY CODE ENFORCEMENT

Distribution: White - File, Clear - Applicant, Pink - Audit Copy, Blue - Asst. Sec., Carbon - Inspector

21

**PLANT LEGEND**

- STREET TREES: FRAXUS, CORYLORUA AND ARBUTUS UNEDO
- NATIVE WILLOW
- JUNCUS EFFRUSUS AND JUNCUS PAETENS
- TOYON & BACCHARIS
- MANIZANITA UVA URSA
- NATIVE GRASS SEED
- WETLAND SEED

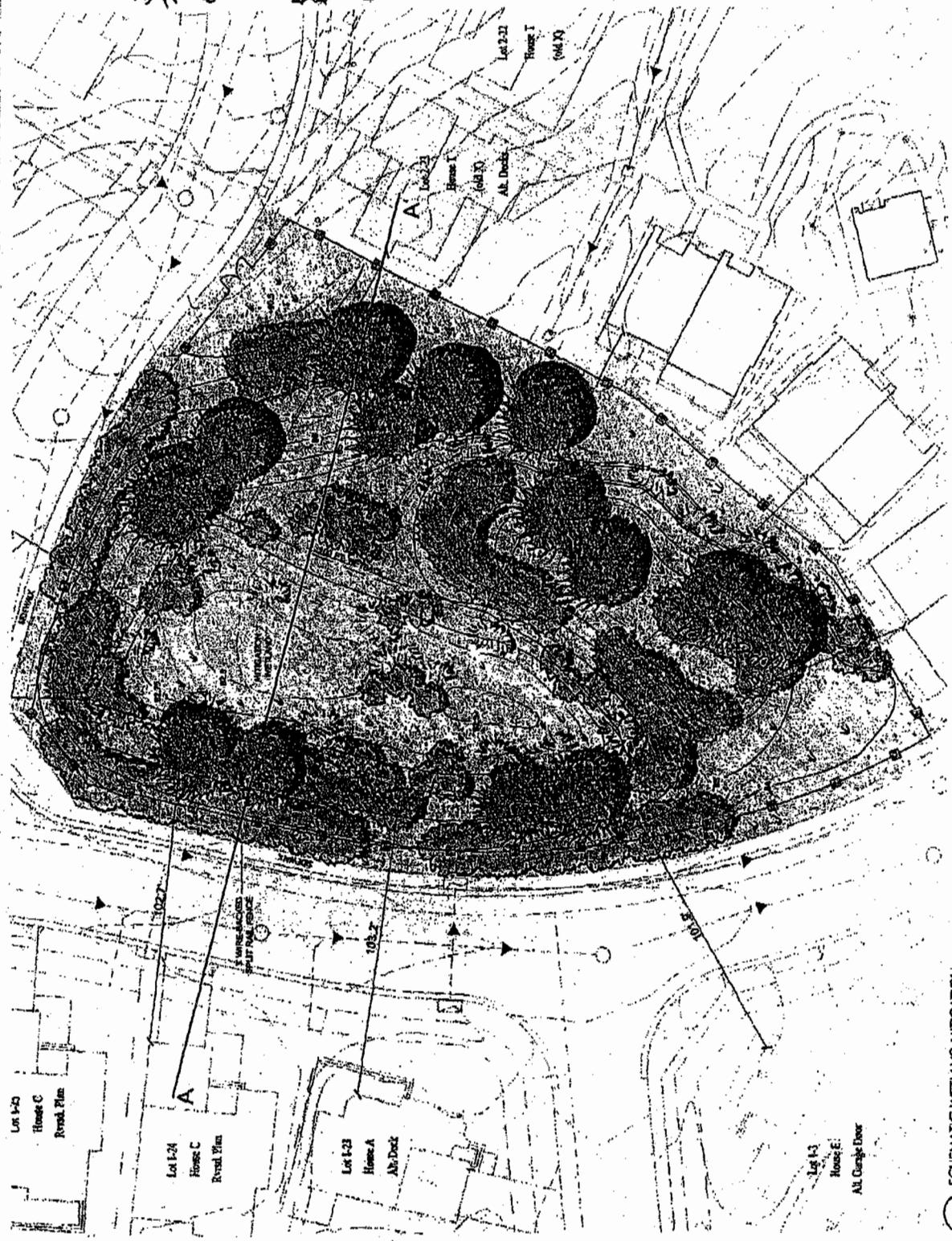
**PROGRAM ELEMENTS**

- 100 FT. SETBACK BETWEEN MITIGATION WETLAND AND BUILDINGS
- MITIGATION WETLAND SHIELDED FROM DISTURBANCE WITH VEGETATIVE SCREEN
- NATIVE WETLAND AND UPLAND PLANTS ENHANCE HABITAT VALUE
- WETLAND TO BE PLACED IN CONTACT WITH NATIVE SOIL STRUCTURE AND GROUNDWATER

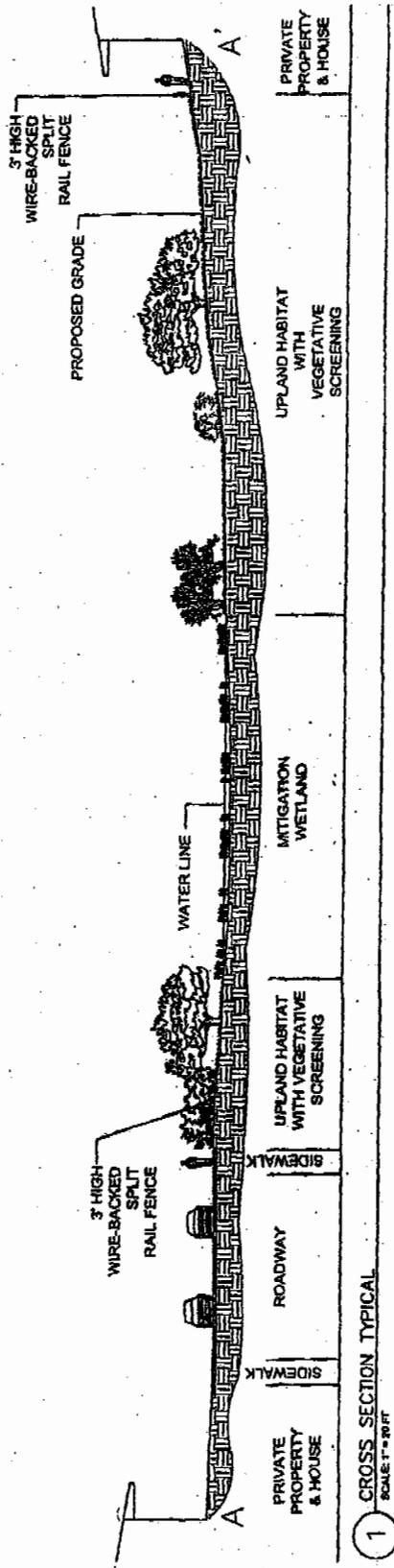


**HARBOR VIEW**  
WETLAND MITIGATION  
BODEGA BAY, CALIFORNIA

SCALE: AS INDICATED



1 SCHEMATIC WETLAND MITIGATION  
SCALE 1" = 50'



1 CROSS SECTION TYPICAL  
SCALE: 1" = 20' FT



**HARBOR VIEW**  
WETLAND MITIGATION  
BODEGA BAY, CALIFORNIA

PARCEL B WETLAND  
MITIGATION  
WETLAND PROTECTION  
MEASURES

SCALE: AS INDICATED



# HARBOR VIEW WETLAND MIGRATION NOODUBAUL, CALIFORNIA



1" EQUALS 50' HORIZONTAL DISTANCE  
1" EQUALS 10' VERTICAL DISTANCE

PROJECT NO. 97-01  
DATE: 05/11/00  
DRAWING NO. 97-01-24-134

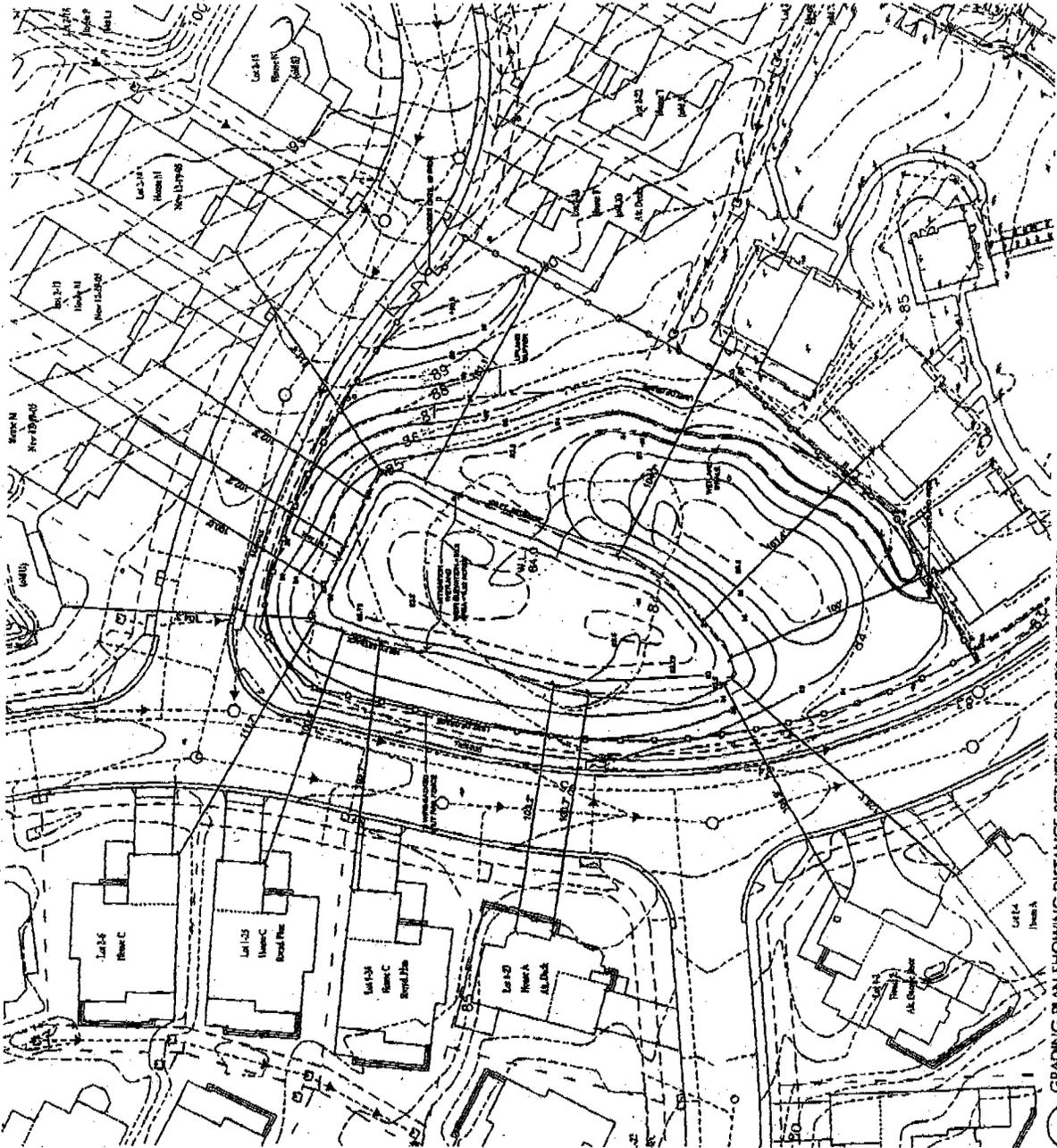
SCALE: AS INDICATED



SETBACK EXHIBIT

# 1

SYMBOL	DESCRIPTION
---	EXISTING CONTOUR LINE
- - - -	PROPOSED CONTOUR LINE
---	GLASS TREK
- - - -	PROPOSED POOL EXTENSION
- - - -	HAUT OF GRADE
- - - -	CENTERLINE OF PAVE
- - - -	SLOPE INDICATION
- - - -	SOIL TEST WPT



GRADING PLAN SHOWING DISTANCE BETWEEN BUILDINGS AND WETLAND

SCALE: 1" = 20'

1

24

# HARBORVIEW PROJECT WETLAND MITIGATION BODEGA BAY, CALIFORNIA

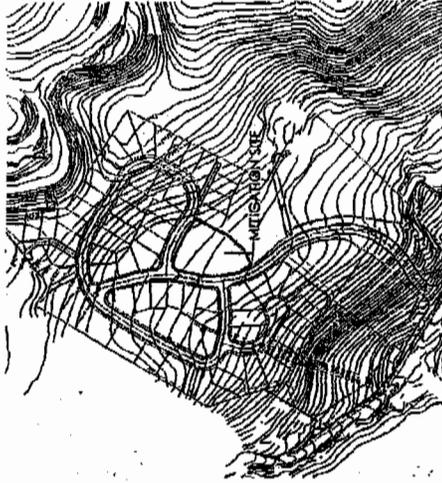


**HARBOR VIEW**  
WETLAND MITIGATION  
BODEGA BAY, CALIFORNIA

LOCATION MAP



SITE MAP



PERSON: GABRIEL FELIX  
Date: \_\_\_\_\_

PROJECT: M-1  
Client: WTRC  
Contract No.: 10000  
Contract Drawing No.: M-1-1.1.1.1



INDEX SHEET

**M-1**

Copyright © 2000 by Gabriel Felix, P.E. All rights reserved. Printed in the United States of America.

**SHEET INDEX**  
M-1  
M-2  
M-3  
M-4  
M-5  
M-6  
M-7  
M-8  
M-9  
M-10  
M-11  
M-12  
M-13  
M-14  
M-15  
M-16  
M-17  
M-18  
M-19  
M-20  
M-21  
M-22  
M-23  
M-24  
M-25  
M-26  
M-27  
M-28  
M-29  
M-30  
M-31  
M-32  
M-33  
M-34  
M-35  
M-36  
M-37  
M-38  
M-39  
M-40  
M-41  
M-42  
M-43  
M-44  
M-45  
M-46  
M-47  
M-48  
M-49  
M-50  
M-51  
M-52  
M-53  
M-54  
M-55  
M-56  
M-57  
M-58  
M-59  
M-60  
M-61  
M-62  
M-63  
M-64  
M-65  
M-66  
M-67  
M-68  
M-69  
M-70  
M-71  
M-72  
M-73  
M-74  
M-75  
M-76  
M-77  
M-78  
M-79  
M-80  
M-81  
M-82  
M-83  
M-84  
M-85  
M-86  
M-87  
M-88  
M-89  
M-90  
M-91  
M-92  
M-93  
M-94  
M-95  
M-96  
M-97  
M-98  
M-99  
M-100



**HARBOR VIEW**  
WETLAND MITIGATION  
TERRASAVY, CALIFORNIA



11/20/04, GRADING PLAN  
PROJECT NO. 04-001  
CADD FILE: 04-001-01  
ORIGINAL DRAWING SIZE: 24" X 36"  
SCALE: AS INDICATED

GRADING PLAN &  
DETAILS

**M-2**

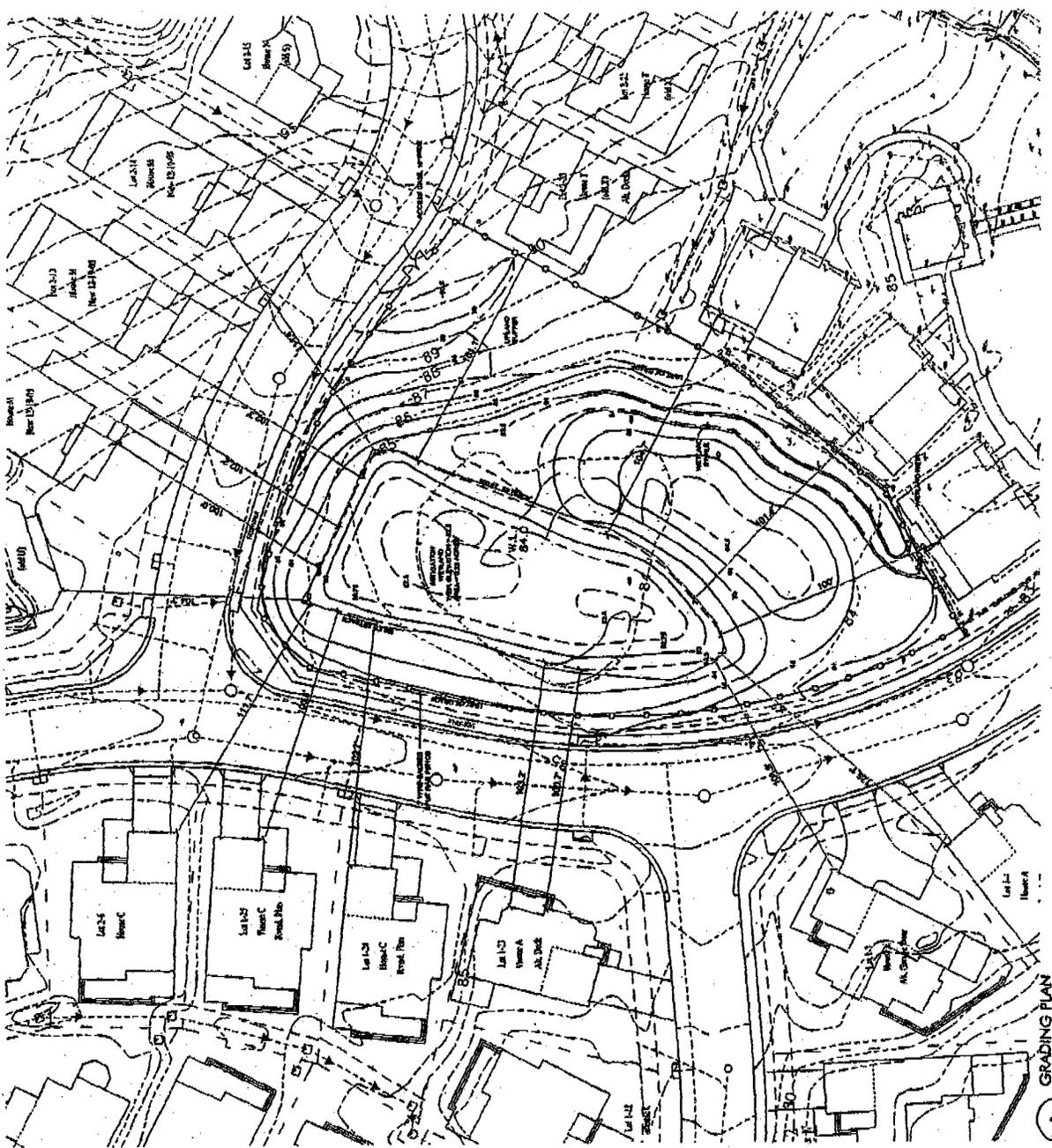
**GRADING LEGEND**

SYMBOL	DESCRIPTION
--- (31) ---	EXISTING CONTOUR LINE
- - - (31) - - -	PROPOSED CONTOUR LINE
- - - (31.5) - - -	GRADE BREAK
- - - (31.5) - - -	PROPOSED SPOT ELEVATION
- - - (31.5) - - -	LINE OF GRADE
- - - (31.5) - - -	CENTER LINE OF SWALE
- - - (31.5) - - -	SLOPE INDICATION
- - - (31.5) - - -	SON TEST SITE

**CUT & FILL ESTIMATES**  
CUT = 897 C.Y.  
FILL = 497 C.Y.  
TOTAL EARTH MOVED = 1,394 C.Y.

**GRADING NOTES**

1. MITIGATION WETLAND LOCATED ON PLANS WITH AN AREA OF 1.00 AC. TERRACE FROM ALL BUILDINGS.
2. ANY AREA SUBJECT TO BEING THE WETLAND BOUNDARY SHALL BE 19.25' TO 75' FT.
3. EXCAVATE AND STOCKPILE AT TOPSOIL AND ENTIRE AREA COVERED BY THE LINE OF GRADING, STOCKPILE AND LABEL "TOPSOIL".
4. LOCATIONS OF STOCKPILE AREAS ARE SHOWN ON PLANS. ANY CHANGES TO LOCATIONS SHALL BE DETERMINED BY THE WETLAND CONSULTANT.
5. THE FINAL SURFACES SHALL BE BUILT SMOOTH AND FREE OF JOISTS THAT HAVE A DIAMETER GREATER THAN TWO (2) INCHES.



1 GRADING PLAN  
SCALE: 1" = 20'





**COUNTY OF SONOMA**  
**PERMIT AND RESOURCE MANAGEMENT DEPARTMENT**

2550 Ventura Avenue, Santa Rosa, CA 95403  
(707) 565-1900 FAX (707) 565-1103

---

**To:** David Hardy  
**From:** Richard Stabler  
**Subject:** Harbor View Project Wetland Creation Review  
**Date:** March 9, 2007

Dear David:

Crystal and I took some time after our discussion on Wednesday and reviewed the proposal by WRA (dated Feb 8, 2007). Overall, we agreed that the plan would be adequate to create the desired total acreage of wetland required and would provide habitat that would be basically appropriate for the general area. While this is the case, we have the following issues:

1. We were unsure of what performance criteria would be used by WRA in their five year monitoring program. We suggest that, at minimum, by year five they be required meet the Corps requirements contained in the 1987 Corps of Engineers Wetlands Delineation Manual.
2. We are a bit concerned of the use of willows on site. The concern is that over even a relatively short duration of time, depending largely on the hydrology, willows could dominate this feature. We suggest that willows be excluded from the planting and herbaceous plants be used as a substitute.

I hope that helps.

EXHIBIT B

28

**David Hardy - Harbor View Transmittal**

---

**From:** <BriarePach@aol.com>  
**To:** <dhardy@sonoma-county.org>  
**Date:** 02/26/2007 8:55 AM  
**Subject:** Harbor View Transmittal

---

Dave,

The BBCC received two copies of a transmittal dated February 22, 2007 to be forwarded to Dr. Peter Baye and Abigail Meyers with regard to the proposed Parcel B wetland. Both copies were incomplete as to the possible second (+) page(s) of the Transmittal. The cover page ends in "The revised wetland has been..." with no continuation.

In addition, the BBCC has no intention of paying for the time spent in commenting on this transmittal by these individuals. Comments have already been made in their legal declarations submitted earlier. Any further work they may do for this submittal will be at the cost of the County.

No copies of this transmittal were forwarded to our attorney(s). Please forward completed copies to them asap.

I will be in the County offices later on today and would be glad to pick up corrected copies at that time. I will call you later this morning to arrange this.

Maggie Briare  
Bodega Bay Concerned Citizens

\*\*\*\*\*

AOL now offers free email to everyone. Find out more about what's free from AOL at <http://www.aol.com>.

EXHIBIT C

Board of Supervisors Draft Conditions of Approval

Date: March 20, 2007  
Applicant: Carlile Macy for RJB-GP, LLC

File No.: CPH06-0022  
APN: (Adjacent) 100-560-030  
and 100-560-028

Address: 1000 Highway 1, Bodega Bay

**Project Description:** Request for a Coastal Permit to landscape and to construct a new entry sign for the Harbor View Subdivision entry at the intersection of Harbor View Way with Highway 1, within a County of Sonoma dedicated right-of-way; and to re-grade the Parcel B wetland to create a wetland mitigation area to compensate for disturbances to the Parcel A wetland.

---

Prior to commencing the use, evidence must be submitted to the file that all of the following non-operational conditions have been met.

**BUILDING:**

1. The applicant shall apply for and obtain grading and building related permits from the Permit and Resource Management Department. The necessary applications appear to be, but may not be limited to, site review, building permit, grading permit, and drainage review permit.

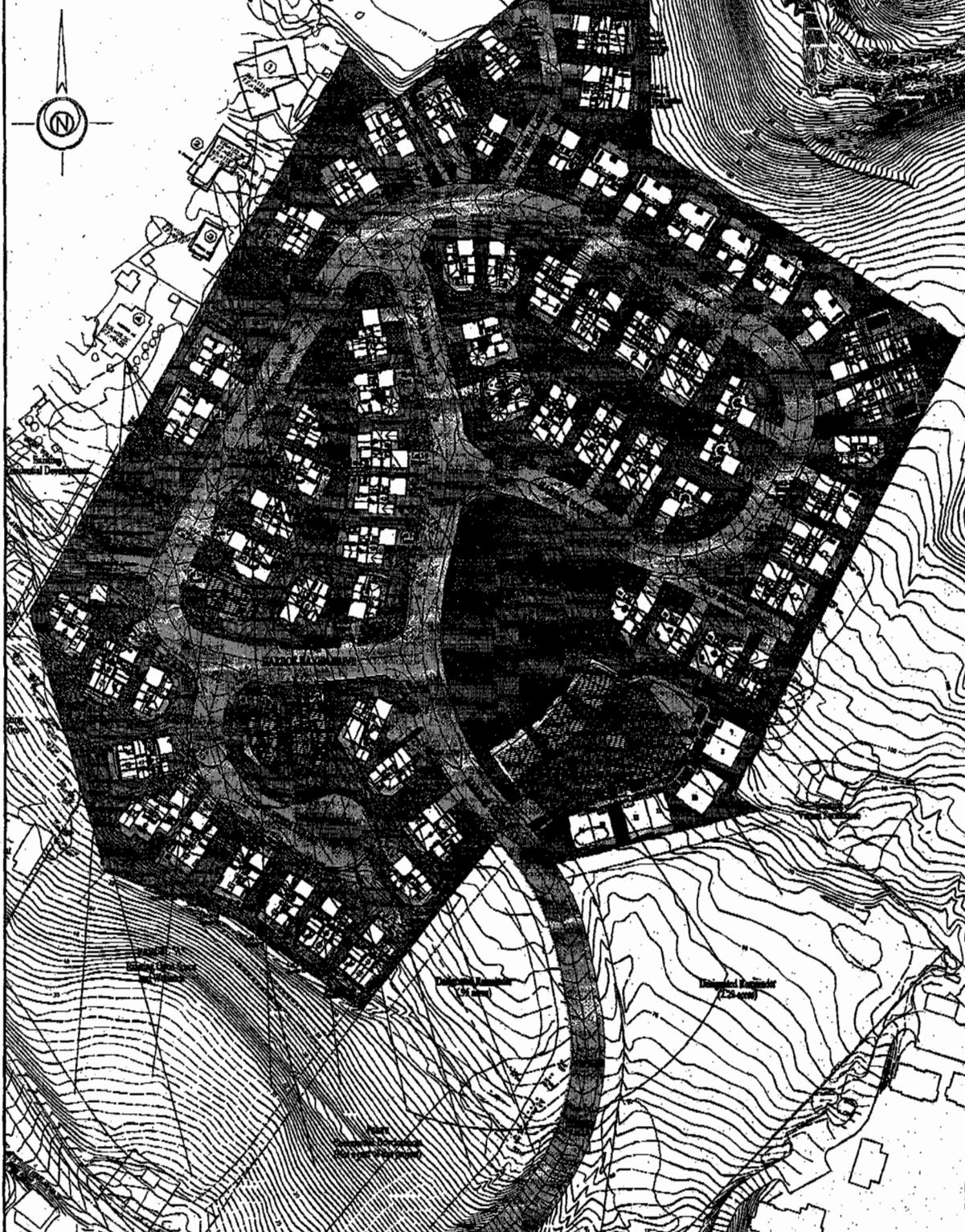
**PLANNING:**

2. This Coastal Permit allows for the construction of a subdivision entry sign and landscaping as shown on the plans by Quadriga dated March 8, 2004, as modified at the September 28, 2006, Board of Adjustments hearing. This permit also allows for revision of the Parcel B wetland pursuant to the drawings and plans prepared by WRA dated December 8, 2006, and the project description dated January 5, 2007. The use shall be operated in accordance with the proposal statements and site plans located in File# PLP05-0083, unless otherwise modified by these conditions.
3. During the period of construction, all dust generation areas, including all construction site roadways, shall be sufficiently water moistened to an absolute minimum of dust generation.
4. Applicant shall avoid grading and construction within the lower wetland and buffer area. All work shall conform to the construction-level erosion control plan submitted to the County at the time of the Final Subdivision Map application and in the Improvement Plans. All construction-related activities that would expose the site to erosion hazards shall be limited to the period between April 15 and October 15, when rains are infrequent, unless this period is extended by the Engineering Division Manager during low rain periods.
5. Prior to the start of construction of the entry sign, a temporary fence shall be constructed at the boundary line of Parcel A and at least 10 feet from the southern freshwater seep to prevent any accidental incursion into the seep area, to the extent that such fencing can be accomplished on the applicant's property.
6. The applicant shall carry out mitigation measures G.3.1, G.3.2, G.3.3, G.3.4, G.3.5, and G.3.6 to mitigate potential construction noise impacts. Specifically, construction hours shall be limited to non-holiday, weekday daytime hours (8 a.m. to 5 p.m.), and this includes truck traffic to and from the site for any purpose. Mufflers and muffler maintenance on construction vehicles shall be required.

7. All utilities shall be placed underground.
8. All exterior light fixtures shall be low mounted, downward casting and fully shielded to prevent off-site light and glare. Exterior light fixtures shall not directly shine off the subject property. All exterior fixtures shall be limited to lamps (light bulbs) not exceeding 100 watts.
9. The applicant shall include these conditions of approval on a separate sheet(s) of blueprint plan sets to be submitted for building permit applications.
10. The Parcel B wetland shall be constructed in conformance with the recommendations of PRMD biologist as set forth in the memorandum dated March 9, 2007. Success of the wetland shall be measured using the performance criteria of the requirements of the U.S. Army Corps of Engineers contained in the 1987 Corps of Engineers Wetlands Delineation Manual.
11. The owner/operator and all successors in interest, shall comply with all applicable provisions of the Sonoma County Code and all other applicable local, state and federal regulations. Any proposed modification, alteration, and/or expansion of the use authorized by this Coastal Permit shall require the prior review and approval of the Permit and Resource Management Department or the Board of Zoning Adjustments, as appropriate pursuant to Section 26C-349 of the Sonoma County Code. Such changes may require a new or modified Coastal Permit and full environmental review.
12. The Director of PRMD is hereby authorized to modify these conditions for minor adjustments to respond to unforeseen field constraints provided that the goals of these conditions can be safely achieved in some other manner. The applicant must submit a written request to PRMD demonstrating that the condition(s) is infeasible due to specific constraints (e.g. lack of property rights) and shall include a proposed alternative measure or option to meet the goal or purpose of the condition. PRMD shall consult with affected departments and agencies and may require an application for modification of the approved permit. Changes to conditions that may be authorized by PRMD are limited to those items that are not adopted standards or were not adopted as mitigation measures or that were not at issue during the public hearing process. Any modification of the permit conditions shall be documented with an approval letter from PRMD, and shall not affect the original permit approval date or the term for expiration of the permit.
13. This permit shall be subject to revocation or modification by the Board of Zoning Adjustments if:  
(a) the Board finds that there has been noncompliance with any of the conditions or (b) the Board finds that the use for which this permit is hereby granted constitutes a nuisance. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to Section 26C-335 and 26C-335.2 of the Sonoma County Code.
14. This Coastal Permit shall expire within two (2) years from its date of approval unless the permit has been used; provided however, that upon written request by the applicant prior to the expiration of the two (2) year period, the permit approval may be extended for not more than one (1) year by the authority which granted the original permit pursuant to Section 26C-348 of the Sonoma County Code.

# HARBOR VIEW

0 60 120 180 240 300 600



NOT FOR CONSTRUCTION  
**SITE**

Ass. Number: 0000  
 Project Number: 0000  
 Date: 00/00/00  
 Scale: 1" = 100'  
 Drawn By: [Name]  
 Check By: [Name]  
 Date: 00/00/00

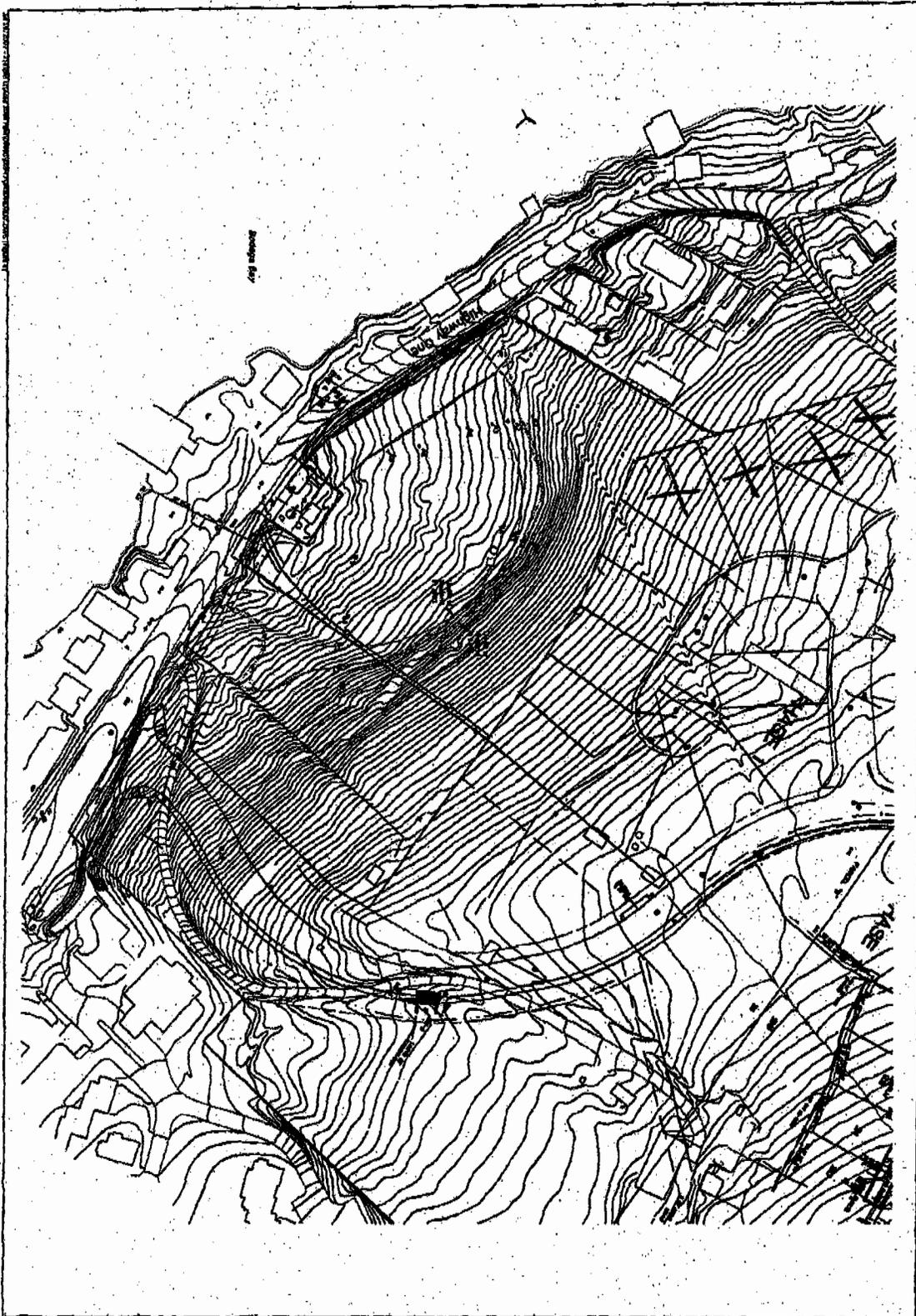


**DEVELOPMENT PLAN**  
**WITH VIEW CORRIDORS**  
**AND HEIGHT LIMITS**

**HARBOR VIEW DEVELOPMENT**  
**BODEGA BAY, CALIFORNIA**

RJP-GP, LLC  
 1000 BAY STREET, SUITE 100  
 BODEGA BAY, CALIFORNIA 94923

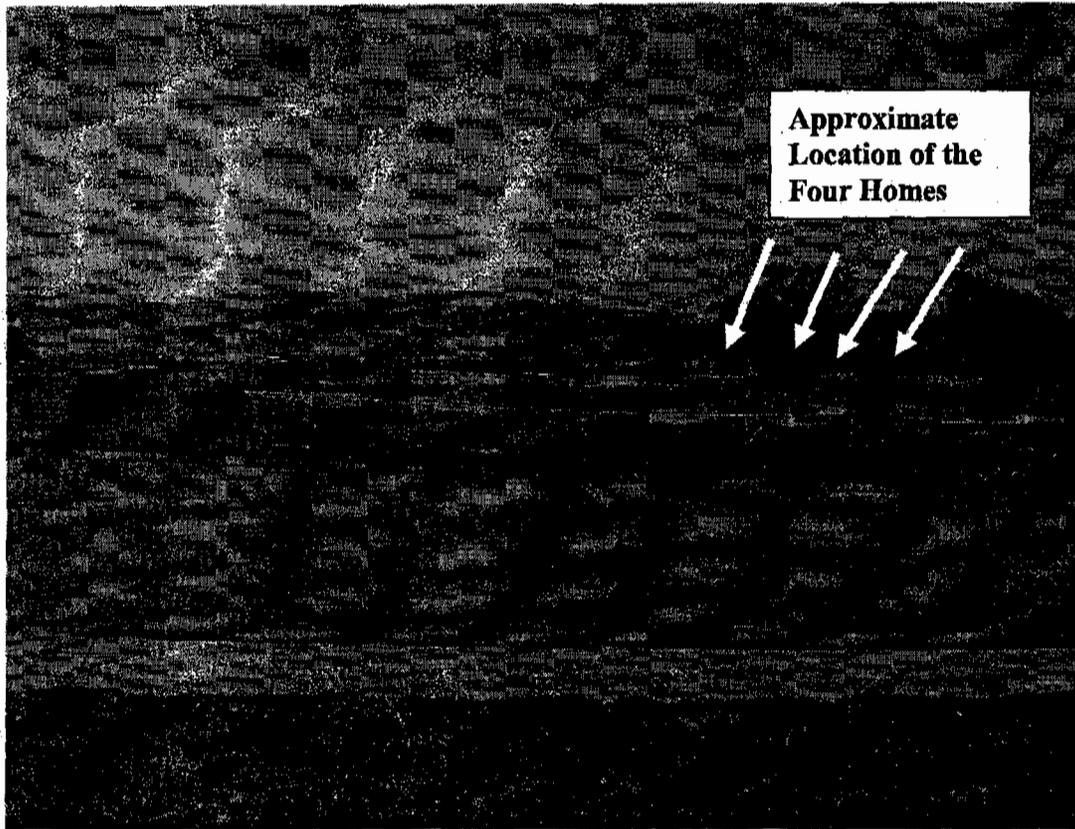
Exhibit No. 4  
 Application No. A-2-SON-07-009 to 012  
 RJP-GP, LLC  
 Subdivision Site Plan



<p>OWI          Oregon Wetland          Inventory          1000 NE Oregon Street          Portland, OR 97232          Phone: 503-281-1111          Fax: 503-281-1112          www.owid.com</p>	<p>Harbor View Pro          Bodogs Bay, C</p>	<p>Parcel A Wetlands          Containing          1998 and 2003 Boundary          of Parcel A Wetlands          Wetlands</p>	<p><b>LEGEND</b></p> <p>FS Sampling Point</p> <p>Contour Interval: 100'</p> <p>Source of Contour: 2009</p>	<p>Scale: 1" = 100'</p> <p>North Arrow</p>	<p>Figure 4</p>
--	---	--	--	--	-----------------

Exhibit No. 5  
 Application No. A-2-SON-07-009 to 012  
 RJP-GP, LLC  
 Location of Four Approved Residences in Relation  
 to Wetland

# Site Photos



Overview of the Subdivision Site



**Location of the Four  
Lots for the Single-  
Family Homes**

**RECEIVED**

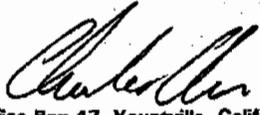
MAY 24 2007

CALIFORNIA  
COASTAL COMMISSION

**M e m o r a n d u m**

To: YinLan Zhang  
Coastal Program Analyst  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105

Date: May 22, 2007

From: Charles Armor, Acting Regional Manager   
Department of Fish and Game - Bay Delta Region, Post Office Box 47, Yountville, California 94599

Subject: Department of Fish and Game Comments on Harbor View Subdivision,  
Bodega Bay, Sonoma County

This is in response to your email dated May 10, 2007, requesting the Department of Fish and Game (DFG) to provide comments on the Harbor View subdivision in Bodega Bay, Sonoma County. Your request for DFG input relates to an appeal to the California Coastal Commission regarding Sonoma County's approval of houses and wetland creation within the subdivision, and a complaint that the proposed development would impact California red-legged frogs and onsite wetlands.

On April 24, 2007, two DFG staff members visited the Harbor View site with you, Sonoma County Permit and Resource Management Department staff, the developer, and a planner and wetland consultants working for the developer. The purpose of the site visit was to assess impacts to the historic wetlands on the site due to development which has already occurred, look at the wetland mitigation site, look for potential red-legged frog habitat, and assess potential impacts to the red-legged frog or its habitat.

During this site visit, DFG staff made the following observations:

- 1) The installation of the storm drain that runs from east to west down the hill and through the wetland had resulted in some impacts to the wetland and associated wetland vegetation. As the storm drain was located along the edge of the wetland, only marginal habitat was disturbed. The disturbed area was confined to a narrow strip that matched the width of the storm drain. The storm drain was constructed in a manner which should avoid any significant draining of the wetland. There was no evidence that construction of the storm drain, or anything else, had resulted in the draining of the wetland. From the review of historic aerial photographs, it appeared that the wetland today is approximately the same as it was in the 1940s and 1950s. Vegetation has reoccupied the area over the buried storm drain and, within a few years, will likely provide a nearly complete recovery of habitat values present prior to the installation of the storm drain.

- 2) The mitigation wetland (Parcel "B") should serve to mitigate any lost habitat values due to construction of the storm drain and most other elements of the project. The specific character of the developed wetland may differ from that of the historic wetland, or the portion of the historic wetland disturbed by the storm drain, due to differences in soil type, moisture level, or the ability of the soil to hold moisture through the dry season. Since this mitigation site is located immediately adjacent to an access road and several home sites, there is a high potential that it could be subject to significant disturbance if it is used as a recreational site by members of the adjacent community. The developer has proposed fencing the site to prevent access, but the proposed fence may be too low to effectively prevent access. The developer was willing to increase the fence height of approximately 5 feet to make the site less accessible.
- 3) The dry wells designed to ensure recharge of subsurface flows feeding the wetland have not yet been constructed as the homes that they serve have not been constructed. Impervious surfaces on the site are now minimal and restricted to the single access road. When the houses are constructed, the dry wells will be activated to capture roof run-off for ground-water recharge.
- 4) Red-legged frogs have been reported at, or near, the Harbor View site. It is not clear whether these red-legged frogs would be northern red-legged frogs, California red-legged frogs, or a cross between the two subspecies. In the past, red-legged frogs along the Sonoma coast were designated as the Northern sub-species. More recent genetic work indicates that they may be the California subspecies. Both sub-species are a California Species of Special Concern, which places them on a DFG watch list of species that may be in decline. The California red-legged frog is listed as an Endangered Species under the Federal Endangered Species Act (FESA), but only in drainages that flow to San Francisco Bay or in coastal drainages from Walker Creek, in Marin County, south. California red-legged frogs in the Bodega Bay area are not listed under FESA. If there are red-legged frogs in the Harbor View development area, they would likely be found along the small water course that flows in Johnson Gulch along the east or northeast side the property, well removed from the developed site. If red-legged frogs are using Johnson Gulch, they would likely remain close to the channel where there is a higher moisture level and where riparian vegetation would provide more shade and cover than what currently exists where the development is located. We also find it unlikely that the red-legged frog would use the historic wetland adjacent to Highway 1 for breeding due to the expected lack of adequate water and/or water quality.

It is our determination that: 1) no significant, unanticipated impact from the development has occurred to date; 2) the mitigation wetland on Parcel B will adequately mitigate the minor impact resulting from the installation of the storm drain;

3) there is no need for any additional setbacks from the Parcel B mitigation area beyond that provided by the adjoining road; and 4) there is no significant threat to red-legged frogs, or their habitat, in the project area due to the development of Harbor View subdivision.

If you have any further questions about our assessment of the Harbor View subdivision or its potential impacts, please contact Mr. Bill Cox, Associate Fishery Biologist, at (707) 823-1001; or Scott Wilson, Acting Environmental Program Manager, at (707) 944-5584.

cc: Dave Hardy  
Sonoma County  
Permit and Resource Management Department  
2550 Ventura Avenue  
Santa Rosa, CA 95403

**Kimberly Burr**  
Attorney at Law  
Post Office Box 1246  
Forestville, California 95436  
707.887.7433 • 707.887.0947 facsimile

**RECEIVED**

JUL 09 2007

CALIFORNIA  
COASTAL COMMISSION

July 6, 2007

Yinlan Zhang, Program Analyst  
California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219  
Fax 415-904-5400

RE: Harbor View Subdivision Development

Dear Ms. Zhang:

By now you have received a letter from the Department of Fish and Game's Bill Cox outlining the observations that he made on the May 10, 2007 site visit.

Of particular significance in the letter is the statement that the wetland in Parcel B is not the same as the wetlands destroyed in Parcel A due to the storm drain placement. Mr. Cox apparently does not understand that the wetland lost due to the road widening activity must also be replaced. As you know, wetlands are to be replaced in-kind and on-site. The result described is not acceptable. In addition, Mr. Cox's observations led him to believe that the eight to ten foot wide dead zone along the pipeline was recovering and the County's own biologist said it was not and should be mitigated elsewhere.

After a hotly contested review of this project, the developer agreed to protect the rare Parcel A wetland and replace the wetlands, that were lost, on-site and in-kind. In so promising, the developer got the project through. The public knew at the time that this agreement was extremely risky at best and simply a desperate measure by the developer to get the project approved. The developer got the project, but the wetlands lost have not been replaced as promised. The County and Mr. Cox would just a soon forget about the promise and move forward. That would be to reward empty promises and set an incredibly harmful precedent for development in the Coastal Zone

At its June meeting in Santa Rosa, Commission staff and the Commission itself indicated that replacing wetlands is a myth and wetlands should not be permitted to be destroyed in the first place. Given this strong policy on the part of

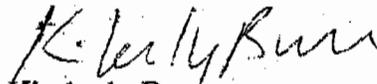
the Commission, the lost wetlands at Harbor View cannot be forgotten and every effort to relocate this failed mitigation wetland and habitat must be made prior to **further destruction** of this 25-acre site.

In addition, Mr. Cox admits that red-legged frogs are Species of Special Concern and could occur in the gulch that constitutes the border of the subdivision. The dispersal of frogs to small mammal burrows to survive dry periods is well known and confirmed by Dr. Baye in his sworn declaration. The Harbor View site is just such a dispersal area. These frogs have been identified at this site.

Although Mr. Cox states that the frogs are merely on a watch list for Fish and Game, Fish and Game's website says much more. The website created to inform the public including developers states that, "[t]his designation is intended to result in special consideration of these animals **by the Department**, land managers, consulting biologists, and others and is intended to focus attention on the species to help avert the need for costly listing under federal and State endangered species laws and cumbersome recovery efforts that might ultimately be required."

It is very disappointing that Mr. Cox has chosen to see the effects of a large subdivision, in close proximity to these rare frogs, as minimal instead of heeding the caution of the small animals new label - Species of Special Concern. Fortunately, it is the Coastal Act that governs the treatment of rare animals, dependent upon rare wetlands, and facing the lethal perils of large-scale development in the coastal zone.

Thank you so much for your attention to this matter.



Kimberly Burr

Attorney for Appellant

cc: Michael Endicott

## YinLan Zhang

From: Bill Cox [bcox@dfg.ca.gov]  
Sent: Tuesday, July 24, 2007 2:53 PM  
To: YinLan Zhang  
Subject: Re: Harbor view

YinLang,

You asked about red-legged frogs and the possibility of their using the area in the northwest corner of the Harbor View subdivision in Bodega Bay, Sonoma County. Specifically, you asked if the red-legged frogs might use mammal burrows in this area. It is my opinion that red-legged frogs would be very unlikely to ever use this area. Red-legged frogs are a highly aquatic species that rarely move away from streamside habitats. They want ponds, perennial streams, and lush riparian woodland habitats.

Within the Harbor View area red-legged frogs might use Johnson Gulch as a distribution corridor, but for much of the year Johnson Gulch is going to be too dry for the frogs. They might find potential breeding habitat in the wetland area where the gulch discharges into Bodega Bay. There could also be potential breeding habitat further inland if the landscape is conducive to the formation of ponds or large pools. For Johnson Gulch to serve as migration corridor it must have a lush riparian corridor to keep the frogs cool and moist. In the Harbor View area Johnson Gulch might, marginally, provide this habitat in the winter or early spring, but in late spring, summer, and fall it appears to be much too dry to support the red-legged frogs.

In the dry season the red-legged frogs may aestivate underground in mammal burrows, or other openings. These aestivation sites are generally going to be close to streams or ponds, or within lush woodland habitats close to streams, where the ground will stay moist. In establishing Critical Habitat for the red-legged frog, the Fish and Wildlife Service defined the likely maximum extent of dispersal away from the stream, or its associated riparian vegetation, as 200 feet. Thus, the chance of even the widest ranging of red-legged frogs entering the Harbor View area is very small.

It remains my opinion that potential for red-legged frog habitat on the Harbor View site is very low, and that the highest potential habitat in the area is along Johnson Gulch. The top-of-hill area at Harbor View where development is proposed has no potential for red-legged frog breeding, and extremely low habitat potential for red-legged frog distribution, or summer aestivation. The upland portions of Harbor View, including the area in the northwest corner, is simply too dry to support red-legged frogs and too far removed from any potential habitats. The nearest potential distribution or summer aestivation habitats are about 800 to 1000 feet away along Johnson Gulch, and that area is marginal, at best.

Bill Cox  
District Fishery Biologist  
Sonoma / Marin  
California Department of Fish and Game

>>> "YinLan Zhang" <yzhang@coastal.ca.gov> 7/23/2007 11:36 AM >>>  
Dear Bill,

Your May 22, 2007 letter states, among other things, that red legged frogs would not likely be found on site of Harbor View subdivision and would stay close to Johnson's Gulch. Attached is a letter from Kimberly Burr of Concerned Citizens. Specifically, can you please respond to the issue of use of mammal burrows by the frogs and whether that would be an issue. The Commission is currently reviewing only the 4 houses on the lots marked with x on the attached map on appeal, not the subdivision. It would be great if you can provide response specific to those four lots. I am trying to get this out for our August hearing, your prompt response is greatly appreciated. Thanks in advance for your help. <<Harbor\_View\_lots.pdf>>  
<<Letter from Kim Burr 7\_09.pdf>>

---

YinLan Zhang  
Coastal Program Analyst  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94105  
phone 415.904.5267  
fax 415.904.5400

**CALIFORNIA COASTAL COMMISSION**

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



21 August 2007

**GEOTECHNICAL REVIEW MEMORANDUM**

To: YinLan Zhang, Coastal Program Analyst  
From: Mark Johnsson, Staff Geologist  
Re: A-2-SON-07-09-012 (Appeal of 4 SFR's in Harbor View subdivision)

With regard to the above-referenced appeals, I have reviewed the following documents:

- 1) Field Engineering Associates, 1987, "Geologic investigation project feasibility study, Bodega Bay Village, Bodega Bay, California", 20 p. geologic report dated 28 August 1987 and signed by S.J. Hickey and E.E. Olsborg (CEG 1072).
- 2) California Department of Mines and Geology, 1992, "Bodega Bay Village Precise Development Plan, SCH# 89062008", 1 p. letter to Melanie Perry dated 14 October 1992 and signed by R.C. Martin.
- 3) California Regional Water Quality Control Board, 1992, 1 p. letter to Melanie Perry dated 21 October 1992 and signed by C.T. Vath, Jr.
- 4) Alan Kropp and Associates, 1992, "Geotechnical evaluation, sink hole area, Bodega Bay Village, Bodega Bay, California", 2 p. letter to Richard Lehtinen dated 23 October 1992 and signed by A. Kropp (GE 487).
- 5) Bodega Bay Public Utility District, 1992, "Providing for water and sewer service to the entire Bodega Bay community by the Public Utility District", 2 p. Open letter to Bodega Harbor Lot Owners dated 29 October 1992 and signed by H. Ames.
- 6) California Department of Mines and Geology, 1992, "Final Environmental Impact Report (FEIR) for the Bodega Bay Village, SCH # 89062008 -- Supplemental geologic review", 3 p. letter to Melanie Perry dated 16 December 1992 and signed by R.C. Martin (CEG 705).
- 7) BACE Geotechnical, 1993, "Response to comments from "Bodega Bay Concerned Citizens" and the California Division of Mines and Geology, Bodega Bay Village, Bodega Bay, California", 6 p. response letter dated 10 February 1993 and signed by E.E. Olsborg (CEG 1072).
- 8) Soil Tectonics, 1993, "Pedochronological report for Harbor View subdivision, Bodega Bay, Sonoma County, California", 42 p. pedochronological report dated 13 December 1993 and signed by G. Borchardt.
- 9) John H. Dailey, 1993, "Report geotechnical investigation liquefaction potential Harbor View subdivision, Bodega Bay, California", 7 p. geotechnical report dated 14 December 1993 and signed by J.H. Dailey (GE 256).

- 10) Michael J. Dwyer, 1994, "Report investigation for active faulting, Harbor View subdivision, Bodega Bay, California", 14 p. geologic report dated 20 January 1994 and signed by M.J. Dwyer (CEG 782).
- 11) Michael J. Dwyer, 1994, "Geologic Review, Harbor View EIR, Sonoma County, California, for the County of Sonoma", 2 p. letter to Roger Martin dated 26 March 1994 and signed by M.J. Dwyer (CEG 782).
- 12) Sonoma County Permit and Resource Management Department, Planning Division, 1994, "Harbor View EIR, 1000 Highway One, Bodega Bay, APN 100-180-30 & 53", 1 p. letter to Roger Martin dated 29 March 1994 and signed by M. Heckel.
- 13) Department of Conservation, Office of Governmental and Environmental Relations, 1994, "Draft Environmental Impact Report (DEIR), for the Harbor View Subdivision, A.P.N. 100-180-30, 53. SCH# 94033069", 4 p. letter to Douglas P. Wheeler dated 2 May 1994 and signed by J.R. Marshall.
- 14) Department of Conservation, 1994, 2 p. letter to Melanie Heckel dated 17 August 1994 and signed by J.R. Marshall.
- 15) M.J. Dwyer (CEG 782) and G. Borchardt, 1994, Paleoseismicity and liquefaction potential of a Sangamon marine terrace near the San Andreas Fault, Sonoma County, California, Proceedings of the workshop on paleoseismology, 18-22 September 1994, Marshall, California, U.S. Geological Survey Open File Report 94-569, p. 59-61.
- 16) Sonoma County Permit and Resource Management Department, Planning Division, 1994, "Harbor View EIR, MJS/CP 93-289", 1 p. letter to Jason Marshall dated 30 September 1994 and signed by M. Heckel.
- 17) Balance Hydrologics, 1996, "Results of baseline hydrologic investigation and modifications to recharge mitigation measures, proposed Harbor View development, Bodega Bay, California", 19 p. hydrologic report dated 1 May 1996 and signed by G.R. Kammon (CHG 360) and B. Hecht (CHG 50).
- 18) Trans Tech Consultants, 1996, "Geotechnical investigation, Harbor View subdivision, Bodega Bay, California", 14 p. geotechnical report dated 3 July 1996 and signed by J.H. Dailey (GE 256) and D.H. Peterson (CEG 1186).
- 19) Sonoma County Permit and Resource Management Department, Planning Division, 1997, "Harbor View subdivision MJS/CP 93-289", 1 p. Memo to Mike Enright dated 2 April 1997 and signed by M. Heckel.
- 20) Sonoma County Permit and Resource Management Department, 1997, "Harbor View subdivision, Geotechnical Issues - MJS/CP 93-289", 2 p. Memo to Melanie Heckel dated 14 May 1997 and signed by M.W. Enright.
- 21) Trans Tech Consultants, 1997, "Geotechnical consultation, slope setback recommendations, recharge measures evaluation, Harbor View subdivision, Bodega Bay, California", 2 p. letter report dated 27 May 1997 and signed by J.H. Dailey (GE 256) and D.H. Peterson (CEG 1186).
- 22) Sonoma County Permit and Resource Management Department, 1997, "Harbor View subdivision, Geotechnical Issues update - MJS/CP 93-289", 1 p. Memo to Melanie Heckel dated 8 August 1997 and signed by M.W. Enright.

- 23) Sonoma State University, 1998, 3 p. letter to James F. Davis dated 9 December 1998 and signed by S.A. Norwick.
- 24) Sonoma State University, 1998, 1 p. letter to Chris Arnold dated 9 December 1998 and signed by S.A. Norwick.
- 25) Permit and Resource Management Department, 1998, 1 p. Memo to Melanie Heckel dated 18 December 1998 and signed by E. Scott.
- 26) California Department of Mines and Geology, 1999, 1 p. letter to County of Sonoma Department of Planning dated 29 January 1999 and signed by J.F. Davis.
- 27) Sonoma State University, 1999, 2 p. letter to Melanie Heckel dated 8 April 1999 and signed by S.A. Norwick.
- 28) Michael J. Dwyer, 1999, "Location of 1987 and 1993 fault trenches, Harbor View project, Bodega Bay, California", 2 p. Letter to Gregory Koepf dated 12 April 1999 and signed by M.J. Dwyer (CEG 782).
- 29) Miller Pacific Engineering Group, 1999, "Slope stability analyses, Harbor View subdivision, Bodega Bay, California", 2 p. Letter report to Gregory Koepf dated 16 April 1999 and signed by S.A. Stephens (GE 2398).
- 30) Michael J. Dwyer, 1999, "Field staking of fault trenches, Harbor View subdivision, Bodega Bay, California", 2 p. Letter to Robert Skinner dated 19 April 1999 and signed by M.J. Dwyer (CEG 782).
- 31) Miller Pacific Engineering Group, 2002, "Geotechnical review, wetland mitigation plan, Harbor View subdivision, Bodega Bay, California", 1 p. Letter report to James Carstensen dated 11 October 2002 and signed by S.A. Stephens (GE 2398).
- 32) Miller Pacific Engineering Group, 2003, "Geotechnical report (update), Harbor View subdivision, Bodega Bay, California", 14 p. geotechnical report dated 13 March 2003 and signed by S.A. Stephens (GE 2398).
- 33) Miller Pacific Engineering Group, 2003, "Geotechnical exploration, Harbor View subdivision, Bodega Bay, California", 3 p. geotechnical letter report dated 21 March 2003 and signed by L.S. Pearce and S.A. Stephens (GE 2398).
- 34) Miller Pacific Engineering Group, 2005, "Final report, Construction observations and testing, subdivision improvements, Harbor View subdivision, Sonoma County PLP 93-0289, Bodega Bay, California", 6 p. geotechnical report dated 26 April 2005 and signed by B.S. Pappas (PE C63940) and S.A. Stephens (GE 2398).
- 35) The Engineering Geologist, 2007, "Preliminary review of earthquake fault hazard investigations, Harbor View subdivision, Bodega Bay, California", 3 p. geologic report dated 30 January 2007 and signed by R. Waldbaum (CEG 923).
- 36) The Engineering Geologist, 2007, "Status report of geologic issues, Harbor View subdivision, Bodega Bay, California", 11 p. geologic report dated 26 March 2007 and signed by R. Waldbaum (CEG 923).
- 37) The Engineering Geologist, 2007, "Feasibility of additional fault hazard investigation, Harbor View subdivision, Bodega Bay, California", 1 p. geologic letter report dated 26 July 2007 and signed by R. Waldbaum (CEG 923).

38) Sonoma County Permit and Resource Management Department, 2007, "Harbor View Subdivision, Your letter of 12 April 2007", 1 p. letter to John G. Parrish dated 1 August 2007 and signed by D.B. Hardy.

There is a long history attached to these projects, and many geologic issues have been raised over the past 20 years. These include the possibility of fault rupture, severe ground shaking, liquefaction, lateral spread, and slope stability. In addition, concerns about the continued viability of a wetland have been raised, requiring hydrogeologic monitoring and mitigation. All of these issues have been dealt with extensively by consultants for the developer, staff of the California Department of Mines and Geology, and staff at the County level during review and certification of the EIR, and during Coastal Development Permit application, and subsequent appeal of the subdivision. Nevertheless the appellants have raised continued concerns about the geologic safety of the subdivision, and have appealed the County's permits for the four residences that are appealable to the Coastal Commission. The purpose of this memo is to provide a concise summary of my assessment of the geologic hazards at the site. Although I have carefully reviewed all of the cited documents, this memo is not intended to represent a point-by-point critique of the individual assessments of site stability contained in these references.

The site is underlain by sandstones and shales of the Jurassic-Cretaceous Franciscan Formation. These rocks have been shaped into wave-cut terraces separated by small slopes. These terraces formed at periods of relative sea level stability, and the slopes between them represent periods when relative sea level fell, as a result both of global changes in sea level and tectonic uplift of the land. Overlying these surfaces are marine and non-marine terrace deposits that range in thickness from approximately 20 feet in the western part of the site to some 45 feet in the east (reference 10). The terrace deposits consist primarily of interbedded clayey sands and sandy clars. The near-surface terrace deposits have been weathered into soils of the Rohnerville Series. Soil development is to depths of 10-12 feet (reference 8).

The site lies only a few hundred feet east of the main trace of the San Andreas Fault as it ruptured in 1906. Approximately half of the site lies in an Alquist-Priolo Earthquake Fault Zone as identified on official maps of the California Geological Survey. Because of this, fault hazard studies were undertaken in the earliest stages of planning for the project. Reference (1) reports on a study that consisted of limited trenching across the site undertaken to support a previous project. Reference (10) reports on more extensive trenching undertaken for the EIR of the Harbor View subdivision. No faults were observed in the trench reported on in reference (1), but four faults with limited offset were observed in one of the trenches reported on in reference (10). Detailed soil studies (reference 8) demonstrate that these are confined to the marine terrace deposits that are approximately 120,000 years old, and do not offset the soil horizons in the overlying soils. Because these soils require many thousands of years to form, it is concluded that these faults are older than 11,000 years old, and so are defined as "potentially active" rather than "active" by the California Geological Survey. I concur with this assessment. Accordingly, no setback is necessary from these fault traces under the Alquist-Priolo Act.

Reference (1) identified numerous "sand-filled fractures." These raised concerns among reviewing California Department of Mines and Geology geologists (reference 6) and a local

citizen group (Bodega Bay Concerned Citizens), because sub-vertical sand-filled fractures are a common result of previous episodes of earthquake-induced liquefaction. Further, reference (1) did identify loose sands in fault investigation trench that could be susceptible to liquefaction. When the Harbor View subdivision was proposed, extensive attention was directed at the liquefaction hazard during preparation of the EIR. Reference (9) performed a computer analysis based on, among other things, Standard Penetration Test readings collected from borings at the site. The report concluded that, based on the analysis, up to 10 feet of terrace deposits have a potential for liquefaction during a maximum credible earthquake on the San Andreas Fault. However, the report noted that there was no reported liquefaction observed at the site as a result of the 1906 earthquake. The report finally concluded that liquefaction could result in settlement of 2.5 to 3.5 inches, and that foundations should be designed to accommodate this. Reference (10), drawing from references (8) and (9) further evaluated the liquefaction potential. Reference (8) examines in detail the "sand-filled fractures" identified on the trench logs in reference (1) and concludes that they are "soil tongues" and clearly not clastic dikes associated with liquefaction. The soil tongues contain clay or clayey silt/sand, not clean sands as would be expected from clastic dikes. Further, reference (8) shows evidence that clay grains have moved downward in these features, rather than upward from liquefied layers. The EIR and subsequent documents does not do a good job of explaining what these features are, but does present evidence that they are not of liquefaction origin. The California Division of Mines and Geology remained unconvinced, and in reference (14) indicates that further investigation should be undertaken at the design-level stage of geologic investigation, and further foundation recommendations be made at that time. In the meantime, the authors of references (8) and (10) maintained that the dichotomy between the computed liquefaction susceptibility and the field evidence at the site was a good example of why further geologic considerations need to be considered when modeling liquefaction susceptibility, going so far as publishing a paper in the proceedings of a workshop on paleoseismology published by the U.S. Geological Survey (reference 15). They conclude that because the computer modeling does not consider stress history nor possible cementation by clays or oxides (as at the subject site) the models may be overly conservative. Nevertheless, when the Department of Conservation (of which the California Division of Mines and Geology is a part) commented on the final EIR (reference 14) they stated:

"The FEIR raises issues of computer modeling and historical evidence of liquefaction, attempts to balance those apparently conflicting results, and concludes that liquefaction hazards are low for the site. The Department's analysis, based upon the data provided in the FEIR and associated documents, does not concur with that conclusion for the site. However, the Department believes that liquefaction hazards within the overall boundaries of the project can be specifically identified and mitigated. Again, we expect that the site-specific investigations prior to subdivision will accomplish that goal"

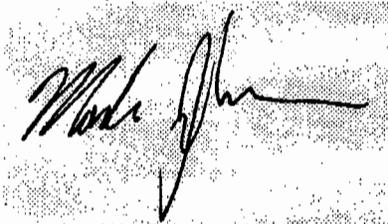
Reference (18) was prepared to evaluate design-level geotechnical conditions, and to provide recommendations for foundation design to accommodate liquefaction settlement. After slope setback issues were addressed (reference 21) and recommendations for ground water recharge were made (reference 17), the County of Sonoma determined that the mitigation

measures outlined in the EIR and conditions of the subdivision approval had been met (reference 22). I concur, and feel that the liquefaction hazard has been adequately mitigated by foundation design criteria.

There has been continued concern over slope stability at the site. Quantitative slope stability analyses have demonstrated the overall global stability of the site (reference 29). However, a swale, variously described as a "sinkhole" or a closed depression has been the subject of much debate. Local residents indicated that this swale had deepened through time (reference 1, 7), and the California Division of Mines and Geology had early concerns that this feature might represent a sagpond, a feature associated with active faulting (reference 3). These issues were addressed in reference (7) and (8) as well as in the final EIR. I believe that these references demonstrate that the swale is not, in fact, a closed depression, but an indistinct drainage swale. Some settlement of artificial fill in the swale may have occurred, but the swale does not present future stability concerns following mass grading at the site.

I hope that this review is helpful. Please do not hesitate to contact me if you have further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Johnsson", is written over a rectangular area with a light gray halftone background.

Mark Johnsson, Ph.D., CEG, CHG  
Staff Geologist

**LAW OFFICE OF JERRY BERNHAUT**  
535 CHERRY AVE.  
SONOMA, CA 96476  
TELEPHONE: (707) 935-1815  
EMAIL: jbernhaut@comcast.net

RECEIVED

AUG 21 2007

CALIFORNIA  
COASTAL COMMISSION

August 21, 2007

*Via Facsimile*

YinLan Zhang, Analyst  
Michael Endicott, Manager  
California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219

*Re: Harbor View Appeal A-2-SON-07-009 thru 012)*

Dear Ms. Zhang:

It has come to my attention that the items for appeal regarding the Harbor View Development, listed on the Agenda for the September 6 meeting of the Coastal Commission, do not include the recently issued Coastal Permit for the re-grading of the Parcel B wetland mitigation site. As I explained in my recent letter regarding this matter, the rationale for excluding the Parcel B reconfiguration from Coastal Commission appeal jurisdiction, offered by Dave Hardy of Sonoma County PRMD, is that it is undisputed that the developer's prior mitigation efforts have failed to create a functioning wetland on Parcel B, and therefore Parcel B does not fall within the 100-foot of a wetland definition of appeal jurisdiction. It would appear that this questionable rationale has been accepted by Commission staff, despite its obvious conflict with the intent of the Coastal Act to retain appeal jurisdiction over development activities in and adjacent to wetlands.

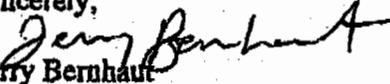
Parcel B has been designated as a wetland site in numerous PRMD staff documents. For example, in the Technical Memorandum, dated October 19, 2006, from Crystal M. Acker, PRMD Environmental Specialist, there is a section heading on page 1: "Parcel B Mitigation Wetland". On page 1 of the January 30, 2007 memorandum from Dave Hardy of PRMD to the County Board of Supervisors: "On December 18, 2006, the applicants filed a grading permit to revise the Parcel B wetland". As I noted in my prior letter, the recently issued revised Coastal Permit refers to "the Parcel B wetland" as "a wetland mitigation area to compensate for the disturbances to the Parcel A wetland".

The Coastal Commission has apparently accepted PRMD's designation of the Permit for reconfiguration of the Parcel B wetland mitigation site as non-appealable, even though PRMD is hardly a neutral source of legal opinion. This new opinion reverses the opinion of the Commission and removes protections from important replacement wetlands. As we have pointed out, the site is habitat of California Red-legged Frog and is important to their dispersal and survival during the long hot summers. We respectfully urge the Commission to retain jurisdiction over this area insofar as the Parcel A wetland has already been damaged and every

attempt to replace the valuable habitat must be made and supervised by the Commission. The project is in the Coastal Zone and the wetland is within 100-feet of intense development.

We urge you to amend the September 6 Agenda to include our appeal of the environmental assessment of the proposed reconfiguration of Parcel B, as reflected in the revised Coastal Permit referenced above.

Sincerely,



Jerry Bernhaut  
Attorney for Rodega Bay Concerned Citizens

**Kimberly Burr**  
Attorney at Law  
Post Office Box 1246  
Forestville, California 95436  
707.887.7433 • 707.887.0847 facsimile

August 21, 2007

RECEIVED  
AUG 21 2007  
CALIFORNIA COASTAL COMMISSION

*Via Facsimile*  
YinLan Zhang, Analyst  
Michael Endicott, Manager  
California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219

*Re: Statewide Interpretive Guidelines Concerning Geologic Stability of Bluff-top Development (May 5, 1977); Harbor view subdivision; Alquist-Priolo Zone*

Dear Ms. Zhang and Mr. Endicott:

It has come to my attention that development near coastal bluffs is governed by the *Statewide Interpretive Guidelines Concerning Geologic Stability of Bluff-top Development*. The guidelines state that where there is a dispute over the adequacy of a geologic report the Commission may request that the report be reviewed by a state geologist from the Division of Mines and Geology [now called the California Geologic Survey]. We formally request that the Commission consult with the California Geologic Survey in this case.

Geologic reports filed in this case must be reviewed as to their adequacy specifically with respect to items 3, 4, 6 and 9 of the Guidelines. These sections of the Guidelines address geologic conditions including soils, faults, landslides, ground and surface water issues, and potential effects of seismic forces resulting from a maximum credible earthquake.

Concerned Citizens has determined that the geologic record in this case is grossly incomplete, inadequate, and fails to satisfy the requirements of the Alquist-Priolo Earthquake Fault Hazard Act and consultation is indicated.

Once again, the Concerned Citizens greatly appreciate your time and interest in this important coastal matter.

Very truly yours,

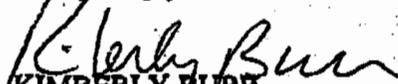
  
KIMBERLY BURR  
Attorney at Law

Exhibit No. 12  
Application No. A-2-SON-07-009 to 012  
RJP-GP, LLC  
August 21, 2007 Letter from Kimberly Burr Re:  
Statewide Interpretive Guidelines

**Kimberly Burr**  
Attorney at Law  
Post Office Box 1246  
Forestville, California 95436  
707.887.7433 • 707.887.0847 facsimile

**RECEIVED**

**AUG 22 2007**

CALIFORNIA  
COASTAL COMMISSION

August 21, 2007

*Via FedEx Mail*

YinLan Zhang, Analyst  
Michael Endicott, Manager  
California Coastal Commission  
45 Fremont Street, Ste. 2000  
San Francisco, CA 94105-2219

*Re: Important geologic background on Bodega Bay Concerned Citizens Appeal; Harbor view subdivision; Alquist-Priolo Zone*

Dear Ms. Zhang and Mr. Endicott:

The enclosed information is necessary to a true investigation of the concerns raised by Bodega Bay Concerned Citizens in its pending appeal and in our meeting earlier this year.

**“CGS is not aware of the development activities of the Harbor View subdivision. Although a lead agency is required by the Alquist-Priolo Act to have geologic site investigations performed prior to permitting a project, and to provide a copy of the investigation’s results to the Survey, CGS has no regulatory authority to ensure that this activity occurs.” (Dr. John Parrish, State Geologist 4-12-07; Exhibit 8)**

The proposed subdivision is located squarely in the Coastal Zone of Sonoma County over which the Commission has jurisdiction. If a lead agency fails to properly and fully implement local and state law in this zone, the Commission has the duty and authority to review these acts and ensure that any inadequacies are corrected in the interest of all the people of California. Dr. Parrish, quoted above, is in effect asking for another state agency to respect his opinion and the limits of his authority and to exercise its legitimate regulatory and enforcement authority in this case. We, respectfully, maintain that it is the Commission that must fulfill its duty in this case.

**The “[Sonoma County] planning commission has long been noncompliant with the A-P Act...” ((California Division of Mines and Geology staff – Exhibit - 5, page 4).**

Other disturbing statements from employees of the state of California are included here as gleaned from drafts of letters by state geologists, internal memos, and contemporaneous notes of professional state geologists.

**“The developer’s attorney and geologist were phoning to discourage and subtly threaten us for our apparent change in position, to opposition to the project.” (California Division of Mines and Geology staff - Exhibit 5 - page 2, 3)**

**“We feel that the fault rupture trench study was primitive and inconclusive...”(California Division of Mines and Geology staff – Exhibit - 1 – page 3)**

As the documents show, neutral state geologists were pressured by non-geologists, developers, and county personnel to fudge the facts in the case of Harbor View and that situation has left a broken trail of so called studies, reports and approvals in its wake. The documents enclosed do not represent all the documents that exist relevant to this issue. The Harbor View reviews and approvals were not proper, as evidenced most recently by the letter from Dr. Parrish, and should not be allowed to stand as is at the expense of the public, future home owners, and the professional state geologist involved.

I have also included several recent examples of enforcement actions with respect to the County's inadequate geologic review processes for your information. As you will see, the situation in Sonoma County has not changed since the highly controversial geologic reviews conducted by DMG in the 1990s.

Once again, the Concerned Citizens greatly appreciate your time and interest.

Very truly yours,

  
KIMBERLY BURR  
*Attorney at Law*

Ms. Melanie Perry  
Sonoma County Planning Dept.  
575 Administration Drive, Room  
Santa Rosa, CA 95403-2885

Subject: Notice of Preparat  
Impact Report (DEII  
A.P.N. 100-180-30 &  
FORMER SCH# 89062008 - PROPER # 93071064

Thank you for forwarding the N  
an 84-unit residential subdiv  
Bodega Bay Village project. T  
project has been deleted and left as a remnant parcel for future  
land use determination.

The Department of Conservation's Division of Mines and Geology  
(DMG) has examined the NOP and Tentative Map for this project, and  
reviewed the geologic report and associated documents prepared for  
the former Bodega Bay Village project. Some geologic hazard issues  
for this site had been raised but not satisfactorily resolved. DMG  
believes that the following issues should be investigated and  
addressed in the Draft EIR:

Potential for Seismic Liquefaction. DMG's primary concern is  
the potential for strong earthquake shaking to induce  
liquefaction of sediments within or at the base of the marine  
terrace sediments that underlie the site. Liquefaction can  
occur in saturated, low density sands and silts during strong  
earthquakes as soil particles are re-arranged and pore water  
pressure increases to the point that the bearing capacity is  
diminished. This can occur at depths as great as 50 feet. *or more*

Extreme liquefaction could cause the terrace material to break  
up and drift downslope as slabs, a phenomena called lateral  
spreading. This could occur over a wide area, on which homes  
would be displaced and tilted, and connecting roads and  
utility lines broken up. This possibility may be remote, but  
geologic evidence suggests that it may have happened in the  
past, and no geotechnical investigations have been done to  
prove or disprove the possibility of it occurring in the  
future.

*(I know  
of widows  
in 1906 eq  
for lig. @ 80  
generally  
not shown  
but doesn't  
mean it  
doesn't happen  
but if lat.  
spread...  
Such an  
example  
occurred  
in 1971 S.F.  
EQ w/  
lig. @ 55*

To determine if a soil has the potential for liquefaction, a  
number of tests are performed. Typical of these are the  
determination of ground water level, laboratory determination  
of particle size distribution and soil density, and field  
determinations of firmness, as indicated by penetration  
resistance measured by hammer blows required to drive a  
standard soil sampling device or cone penetrometer. According  
to the previous (Bodega Bay Village) geology and geotechnical  
reports, the critical zone of potential soil liquefaction  
between 15 and 50 feet depth was not explored or analyzed for  
this site.

*Refer -  
parts of this  
sound like a  
complaint to  
the Board of Registratn  
- probably over the  
head of Ms. Perry.  
Condense?*

*7/20/93*

*JRF*

*mental  
ision,*

*oject,  
former*

*of the former*

limitations of trench & analysis

to trench

Fault Rupture Investigations. DMG believes that an accurate evaluation of active or recent fault activity may be undeterminable without further investigation because of flawed trench logging and insufficient analysis in the geologic feasibility study for this project. In that report the materials are described only in engineering terms, the purely descriptive Unified Soil Classification System (USCS), which provides virtually no genetic or other scientific information. Pedological (soil development) features are not recognized or discussed; "topsoil" is mentioned in the report but is not shown in the trench log or exploration pit logs, nor is it differentiated from terrace deposits; therefore, no evidence is presented nor are attempts made to estimate relative ages of the materials depicted in the trench logs.

trench  
is for  
soil  
analysis

Sand filled fractures are shown in the trench log, but because of the lack of pedologic information and geologic interpretation and the informational masking effect of the USCS soil descriptions, it is unclear if the sand filled fractures are truncated by bedded marine terrace deposits, or if their upward extent is obscured by soil forming processes that may also have produced the color differences of layers A, B, and C in the trench log. The report offers no observations or interpretations that would indicate the source of the sand within the fractures; i.e. whether it is infilling of soil material from above, or whether it was injected from below in a fluidized condition. Downward infilling of the sand is inconsistent with the trench logs. In a subsequent letter/report of February 10, 1993, the project geologist stated that he had seen such sand fissures elsewhere in the marine terrace materials. He expressed the opinion that they were not due to lateral spreading, but again, offered no explanation of how the sand might otherwise have been emplaced in the fissures.

meaning?  
silt vs.  
soil (liquid state)  
or...?

since  
wouldn't  
understand  
all this

5. 7 or 7

why?  
source  
unknown

In the absence of specific geologic observations or analysis of the features, DMG is inclined to adopt the conservative interpretation that the sand filled fractures are of tectonic origin, in which severe seismic shaking caused liquefaction of water saturated sand which was injected upward into fissures as the terraces were broken and shifted laterally. The tectonic conditions for recurring earthquakes still exists; the presence of liquefiable sands below a depth of 15 feet at the project site has not been explored.

Loose, Surficial Soils. <sup>Near surface</sup> [Surficial] liquefiable soils were reported by the geotechnical engineer (Final EIR, Appendix D) at this site in the upper five feet or so of the soil. We feel this is not a serious concern, for that condition can be mitigated relatively easily by grading or by the use of deep foundations.

Unusual Geomorphic Depressions. Unusual topographic swales at the site have become a topic of concern at the project site from the standpoint of wetland ecology and also geologic stability. Some local residents allege that one swale has deepened in recent time. In correspondence, DMG noted their proximity to the San Andreas fault, suggesting a sag pond type origin in which subsurface voids are created. In the Bodega Bay Village project area the project geologist (1993) noted the northwest alignment and apparent continuity of the upper swale and the filled depression and former pond south of the dairy barn. This alignment is approximately parallel to the fault and consistent with sag pond formation. At a public meeting, December 17, 1992, geotechnical engineer Alan Kropp disputed the likelihood of sag ponds at the site, and referred to at least one of the features as a "sink hole". This implies that the soil was partially soluble or possible susceptible to hydrocompaction.

DMG has not made a study of the site and therefore does not advocate an origin for these features. We do however, point out that they are unexplained inhomogeneities at the site and none of the suggested explanations regarding them suggest earth stability. Aerial photographs show similar geomorphic depressions on the marine terrace elsewhere in the region.

Recommendations: DMG recommends that the issue of deep liquefaction be investigated early in the permitting process because it could affect the feasibility of the project. This would require a conventional subsurface liquefaction investigation with borings to a depth of 50 feet or bedrock, whichever is less.

We feel that the fault rupture trench study was primitive and inconclusive and that a new Special Studies Zones investigation, preferably by a registered geologist experienced in Quaternary geology, is appropriate to explain the significance of the sand filled fractures and also the geomorphic depressions at the site. Mechanical and chemical analyses of the terrace materials at the base and adjacent to the depressions would be instructive to evaluate the stability of the depressions and adjacent areas.

If you have any questions regarding these comments, please contact Roger Martin, Environmental Review Project Manager, at (916) 322-2562.

Stephen E. Oliva  
Acting Environmental Program Coordinator

cc: Roger Martin

# Memorandum

To : Douglas P. Wheeler  
Secretary for Resources

Date : February 20, 1991

Mr. Richard Lehtinen  
Sonoma County Planning  
575 Administration Drive  
Sonoma, CA 95403

Subject: Draft Environmental  
Impact Report for the  
Bodega Bay Village  
Precise Development  
Plan, SCH# 89062008

From : Department of Conservation—Office of the Director

The Department of Conservation's Division of Mines and Geology (DMG) has reviewed the Draft Environmental Impact Report (EIR) for the Bodega Bay Village Precise Development Plan. The project is located in the unincorporated town of Bodega Bay, east of Highway 1 and southeast of the oldest portion of the town. The Draft EIR analyzes the environmental impacts that will result from the development of a residential and commercial mixed-use community on approximately 27 acres. The following report was reviewed by DMG:

- o Bodega Bay Village Precise Development Plan, Draft Environmental Impact Report, prepared for Sonoma County, prepared by Brady and Associates, Inc., dated December 1990.

Based on our review of this report, we offer the following comments:

1. The project site lies partially within the Alquist-Priolo Special Studies Zone of the San Andreas Fault, which has been historically active. Strong ground shaking should be expected at the project site from earthquakes along this fault. The Draft EIR states that a geologic/seismic hazard investigation was conducted on the project site. The report of this investigation was not appended to the Draft EIR and could not be reviewed for adequacy. The Draft EIR does not provide a map showing either the location of the Alquist-Priolo Special Studies Zone, which according to our investigation, appears to cover a significant portion of the project site, or the areas of the geologic/seismic investigation. However, the Draft EIR states that the field investigation found no evidence of Holocene fault displacement on the project site. Nevertheless, high ground acceleration should be expected from a major earthquake on the portion of the San Andreas Fault adjacent to the project site. The Draft EIR does not discuss the potential level of strong ground motion at the project site or provide mitigation measures. The level of strong ground motion may exceed that anticipated by the Uniform Building Code (UBC) for Seismic Zone 4.

Therefore, an additional geologic and seismic study is needed for the project site which addresses the seismic

Mr. Wheeler/Mr. Lehtinen  
February 20, 1991  
Page Two

hazards for the project in greater detail. This study should be included in the Final EIR and should determine values for ground motion parameters expected on the site from a large earthquake on nearby active faults. These parameters should include peak ground acceleration, duration of strong shaking, and the potential for ground amplification. If methods of mitigation are needed, they should be included in the Final EIR, so that they can be reviewed. The design engineer and architect should be provided with information on the seismic setting of Bodega Bay Village so that they may properly evaluate whether UBC design is adequate for the site conditions. Data to support the analysis should be appended to the Final EIR.

2. The Draft EIR states that the clean sands underlying portions of the project site may be subject to liquefaction and differential settlement. No maps are provided which show the extent of these liquefiable soils. Liquefaction at the project site would have a significant impact on the proposed development and structures. No specific methods for mitigating liquefiable soils are given in the Draft EIR. Instead, the Draft EIR proposes to mitigate these potentially unstable soils with future site-specific studies by engineering professionals. The proposal to use future studies to determine the methods of mitigation for geologic hazards is inconsistent with the California Environmental Quality Act (CEQA). A recent court ruling (*Sundstrom v. County of Mendocino*, 202 Cal. App. 3d 296, 1988) determined that future studies are not considered appropriate mitigation under CEQA, for the reliance on future studies improperly removes review of the studies from the CEQA process and precludes public scrutiny and review by other agencies.

In conclusion, because the effects of strong ground motion and liquefaction have not been adequately addressed in the Draft EIR, DMG cannot adequately assess seismic safety for this project.

DMG recommends the proposed additional soils engineering investigation should be completed before approval of the Final EIR.

If you have any questions regarding these comments, please contact me at (916) 322-5873.

Mr. Wheeler/Mr. Lehtinen  
February 20, 1991  
Page Three

*Barbara L. Prosser*  
for Dennis J. O'Bryant  
Environmental Program Coordinator

cc: Roger Martin, Division of Mines and Geology  
Kit Custis, Division of Mines and Geology

---

DEPARTMENT OF CONSERVATION

## DIVISION OF MINES AND GEOLOGY

801 K STREET, MS 12-32  
SACRAMENTO, CA 95814-3531  
PHONE: (916) 323-8554*2nd Review letter  
on the FEIR*

December 16, 1992

Ms. Melanie Perry  
Sonoma County Planning Dept.  
575 Administration Drive, Room 105A  
Santa Rosa, CA 95403-2885

Subject: Final Environmental Impact Report (FEIR) for the Bodega Bay Village, SCH # 89062008 - Supplemental Geologic Review

Analysis of new information on geologic conditions at the Bodega Bay Village site makes it necessary for me to clarify and augment my letter of October 14, 1992, in which I stated that "...it appears that DMG concerns about the liquefaction and strong ground motion hazards have been addressed", as well as the role of the Division of Mines and Geology (DMG) in the environmental review process.

Specifically, DMG is a commenting agency under the California Environmental Quality Act (CEQA) for issues within its areas of expertise (including, but not limited to, geohazards issues), and as such provides advisory comments to lead agencies for their use in the decisionmaking process. During the Notice of Preparation (NOP) and Draft Environmental Impact Report (DEIR) phases of review for the above-referenced project, DMG expressed concerns about the liquefaction and strong ground motion potential of the project site. The October 14, 1992 letter was intended to convey the message that we believe the lead agency (Sonoma County) had all of the information needed before it, from which to make an informed decision.

Subsequent citizen-initiated telephone conversations (from the "Bodega Bay Concerned Citizens"), in addition to our concern that an office review may not have been sufficient for this project, triggered additional DMG review of this project. DMG contacted Sonoma County staff to discuss the possibility of making a site visit. DMG made a site visit to Bodega Bay on December 2, 1992 and obtained supplemental geologic information from the consultant. After examining the site, re-reading the geologic report, and studying the trench log (which was not included in the material formerly reviewed), we concluded that my October 14, 1992, letter may have been premature.

Certain features at the site may indicate recent surface rupture, subsidence, and/or lateral spreading. Specifically, the trench log indicates numerous sand-filled fractures. It is possible that these fractures were formed by direct tectonic rupture or by lateral spreading. Geomorphic swales and closed depressions

Ms. Melanie Perry  
December 16, 1992  
Page Two

at the site resemble unstable sag pond features, unsuitable as building sites within an active fault zone. There is an unexplored potential for liquefaction which should be assessed because of the severe seismic shaking that can be expected adjacent to the San Andreas fault. In light of the above evidence of ground instability, the unexplored potential for liquefaction takes on increased importance.

The geologic and geotechnical reports reviewed for this project may not provide full feasibility assessment of the geologic conditions of the site. They do not clearly explain the above-named features, and they do not contain the additional exploration or soil testing needed to assess the liquefaction potential. Soils below the groundwater table apparently were not sampled or tested. Subsurface information from water well logs or offsite exposures were not used in site analysis. Consequently, there is insufficient information concerning the subsurface soils below 15 feet and depth to bedrock to fully assess the liquefaction potential of the terrace deposits.

An investigation of the deeper, saturated soil material is advisable to determine the feasibility and safety of the project in such a seismically active area. That investigation should include subsurface sampling to a depth of at least 50 feet and determine conventional soil parameters such as particle size analyses, bulk density and penetration resistance to properly assess liquefaction potential. Anomalous topographic features should be studied and possibly investigated by trenching; and findings scientifically analyzed to determine their origin.

We recognize that these advisory comments have come late in the project development, and regret if the late-appearing information and consequent re-analysis has delayed the project schedule. However, if the recommended investigations reveal or confirm our perceived geologic problems, mitigation measures may be devised to address these issues. If you have any questions, please contact me at (916) 322-2562.

Sincerely,



Roger C. Martin  
Senior Engineering Geologist  
Environmental Review Project  
RG 2421, CEG 705

cc: Deborah Herrmann, Department of Conservation  
Trinda L. Bedrossian, Division of Mines and Geology

Ms. Melanie Perry  
December 16, 1992  
Page Three

Documents Reviewed by DMG:

1. NOP for Molinaro Bodega Bay Planned Development Project, SCH# 89062008 (Review letter July 18, 1989).
2. DEIR for Bodega Bay Village Precise Development Plan, SCH# 89062008 (Review letter February 19, 1991)
3. Geologic Investigation: Project Feasibility Study, Bodega Bay Village by Erik Olsborg, Field Engineering Associates, Inc., August 28, 1987.
4. Final EIR Addendum, Bodega Bay Village Precise Development Plan EIR, August 1991.
5. Final EIR Appendix D, Responses 4-3 and 4-4 by Alan Kropp and Associates.\*
6. Appendix D, Exhibits B,C, and Figure VII-7.\*
7. Trench log for document #3.

\* No conventional report or text for a report by Alan Kropp Associates was submitted to DMG. The Kropp materials we have seen essentially summarize the 1987 geologic report and contain little or no additional data.

**Memorandum**

To : Dave Beeby  
Principal Geologist

Date December 16, 1992

From : Department of Conservation  
Division of Mines and Geology  
801 K Street, MS 12-32  
Sacramento, CA 95814-3531

Subject Bodega Bay Post or Late CEQA Review

**ISSUE:** ERP is preparing a critical response to the Final EIR for a residential development at Bodega Bay, adjacent to the San Andreas fault. Our critical response was spurred by appeals from Bodega Bay Concerned Citizens group and is based upon a late stage site visit and analysis of newly supplied trench logs that had not been made available to us during the CEQA review process.

The project applicant feels our response is an unfair change in position, for we formerly advised the lead agency that we believed that they had sufficient information to make a decision on the project.

**BACKGROUND:** ERP reviewed the NOP and DEIR for this project 7/8/89 and 2/19/91. Our EIR review stated we could not assess the stability of the site for lack of sufficient data. Eighteen months later the lead agency, Sonoma County, sent us an additional geotechnical report and Final EIR comments for our further review.

Our reviewer was instructed to study the material for completeness and accuracy and prepare a letter for the county. The letter (attached) indicated that the new information appeared to be sufficient for the County to make a decision.

Approximately a month later, a representative of the Bodega Bay Concerned Citizens phoned regarding the letter. He indicated that topographic changes during the past 50 years (deepening of a swale) indicated instability. He also quoted opinions of a certified engineering geologist, who disparaged the project's geologic report.

ERP's reviewer then contacted Sonoma County staff and inspected the site with Bill Bryant and the geologic consultant, who then supplied us with the trench logs for the site. Subsequent review of the trench log led to more critical field observations and the newly obtained log indicated to us potential ground stability problems. Our concerns are expressed in the attached draft letter.

Dave Beeby  
December 16, 1992  
Page Two

**RECOMMENDATIONS:** Study of the trench logs reveals tensional features that could be of recent tectonic origin, or more likely, evidence of lateral spreading that could recur under strong seismic shaking and mild liquefaction. These and associated sag-pond-like features were not analyzed by the consultants. ERP believes that the attached updated letter should be sent to Sonoma County, for it is in their and DMG's best interest to avoid potential liability problems that could result in the next major earthquake.

Trinda L. Bedrossian  
Supervising Geologist  
Environmental Protection Program

**Attachments**

cc: Roger Martin, Division of Mines and Geology  
Jack McMillan, Division of Mines and Geology

## Memorandum

*Internal Memo*

To : Trinda L. Bedrossian  
Supervising Geologist

Date : March 8, 1993

From : Department of Conservation  
Division of Mines and Geology  
801 K Street, MS 12-32  
Sacramento, CA 95814-3531

Subject: Critique and history of our involvement with the Bodega Bay Village Project, SCH# 89062008

- The NOP for this project, then called the "Molinaro Bodega Bay Planned Development Project, SCH# 89062008, was reviewed by ERP (John Schlosser) in July, 1989. The review included a geologic investigation report by Field Engineering Associates (apparently the long-standing Eric Oldsberg report of August 28, 1987). The NOP review did not object to the proposal to perform "additional geotechnical study" "prior to project construction" to further evaluate site liquefaction potential. Schlosser suggested that mitigation measures for liquefaction be proposed in the EIR in the event that the risk of liquefaction turns out to be greater than the consultant presently believes.
- The DEIR, for the "Bodega Bay Precise Development Plan" was reviewed February 20, 1991 by ERP (Kit Custis). This review addressed the following points:
  - 1) The lack of a map showing location of the Alquist-Priolo Zone.
  - 2) The lack of liquefaction data or a map showing its extent, and the lack of appropriate mitigation measures "if needed".
  - 3) That DMG cannot adequately assess the seismic safety of the project because of lack of ground motion data. We requested an additional geologic and seismic study addressing ground motion.
  - 4) The review further stated that the proposal to perform future site-specific studies was inconsistent with CEQA goals and concludes by recommending that the proposed additional soils engineering investigation should be completed before approval of the FEIR.
- September 1992. FEIR material arrived via OGER for DMG approval. Unusually busy time period. DMG rarely comments on FEIR responses and normally attaches little importance to

Trinda L. Bedrossian  
March 8, 1993  
Page Two

them except as a vehicle for effectiveness studies. I checked the file, read Custis' review, and asked Jack to check the material to see if the review comments, particularly the liquefaction issue, had been satisfied.

FEIR response material was written by Allen Kropp, much respected by us because of his association with David Rogers and the University of Wisconsin slope stability course. Kropp's new material addressed seismic/ground motion issues and discussed the liquefaction with apparent confidence. Jack then prepared the October 14 "sufficient information to make a decision letter" which I signed.

- November 1992. Ron Lazar of the Bodega Bay Concerned Citizens phoned to complain of our approval. He related information about swales and a sink hole that had deepened during the past 50 years, and comments by an independent CEG (Noguchi), who said the A-P report contained errors and misinformation. The comments seemed plausible to me and worthy of our attention.
- December 2nd, Jack McMillan and Bill Bryant visited the site. They met the developer's geologist, Eric Oldsborg on site, who gave them a copy of the (previously missing) trench log.
- Analysis of the trench log indicated poor quality, i.e., lack of geologic and soils details, and virtual absence of geologic interpretation and analysis of features, notably the sand-filled fractures that were logged.
- Swales and pock-marked terrain, seen on air photos were also not noted or interpreted in the air photos. These plus the sand-filled fractures suggested secondary seismic hazards, e.g., liquefaction and lateral spreading as potential hazards.
- Letter of December 16 was prepared by Jack and much altered by me and others. I believe the County extended the normal FEIR certification date to receive our input. Because of the lateness and the contradictory nature of this letter with our previous one of October 14, we, with specific encouragement from OGER, softened many statements in the letter, changing strong, definite statements to conditional ones, and suggesting (in the last paragraph) that mitigations could remediate our concerns.

While the December 16 letter was being processed and approved by HQ, OGER, and Pat Meehan (for Michael Bryne), the developer's attorney and geologist were phoning to

Trinda L. Bedrossian  
March 8, 1993  
Page Three

discourage and subtly threaten us for our apparent change in position, to opposition to the project.

- At the December 16 evening meeting of the Sonoma County Planning Commission, our letter apparently did not present our case as clearly or strongly as it could. The developer's attorney, Mizzoni, and Alan Kropp belittle the letter and denied some of our statements. For example, Attorney Mizzoni stated "the letter is filled with conditional language...based upon suppositions". Mizzoni quoted Oldsborg in denying the existence of closed depressions on the site, and the Geotechnical Engineer Kropp, argued that they were not sag ponds, but sink holes!!! Kropp also misrepresented the depth to bedrock and the zone of potential liquefaction.
- The letter was apparently discredited, and the Planning Commission then certified the EIR. The project was not approved however, because of the issue of traffic, which was also pressed by the homeowners.
- The County Board of Supervisors met to deal with two appeals to disapprove the project, on Tuesday, February 23. The homeowners visited me a week earlier, asking that DMG appear to address the geologic issues. I informed them that DMG could not act as a consultant for advocacy groups, and that the State could not take a position such as advocating use of the property as a greenbelt. I advised them to hire a geologic consultant to challenge the 1987 Oldsborg geology report.
- The February 23 Supervisors meeting was continued (unresolved) to March 2. Meanwhile, I was informed by the homeowners of the statements in opposition to our December 16 letter made by Mizzoni and Kropp at the December Planning Commission meeting and proceeded to seek internal (DMG) approval to attend the March 2 meeting and clarify DMG's position.
- On your advice, I called Melanie Perry, planning commissioner, for an invitation to attend. I perceived her reaction as cool and reserved, but after consultation with her boss, it was evident that she could not to advise us not to attend.
- On further discussion with Dave Beeby, afternoon of March 2, it was decided that, since the County had made their decision to approve the project, DMG's appearance would be viewed as an advocate and/or an ally of an advocacy group. Consequently, it was deemed best not to attend the meeting,

Trinda L. Bedrossian  
March 8, 1993  
Page Four

but that DMG nevertheless maintained the position expressed in our December 16 letter. I phone Melanie Perry's office, she later returned the call and learned from Jack, that we would not attend, but that our concerns were nevertheless, unchanged. Jack also informed the project property owner that we would not attend. and our position expressed in the December 16 letter was unchanged.

- During the meeting, Melanie phoned Trinda to confirm that we were not attending, but that our concerns remained the same.
- We learned the next day (March 3) that attorney Mizzoni misrepresented DMG's position, stating that DMG had dismissed McMillan from the case and now had no objections to the project. One Supervisor, Ernie Carpenter, asked if McMillan was dismissed "because he told the truth?", and Mizzoni replied, "no, because he was inaccurate". Homeowners attorney, Susan Brandt-Holly questioned Melanie Perry if she was aware of DMG's position. Perry replied, yes, but she didn't contradict Mizzoni or inform the Supervisors because she wasn't asked.
- Later, attorney Brandt-Holly phone me, repeating the above information. When she suggested that she might better question our legal counsel, I gave her Marcie Steinberg's number, then informed you, along with Jim Davis and Dave Beeby, of her phone call.
- In retrospect, the reason this case is different from other projects we have reviewed is that the Sonoma County Planning Department has not hired its own geologist or geologic consultant to review geologic reports. They apparently were not confident that our EIR review comments had been adequately addressed, and unknown to us, they were apparently relying on DMG to serve as their approving agent, hence, their request for written approval of the FEIR material.

Earl Hart reports that that planning commission has long been noncompliant with the A-P Act (in contrast to the Sonoma County Public Works Department). Most of the Sonoma County A-P reports in Earl's A-P files show no evidence of ever being approved by a Registered Geologist.

Roger C. Martin  
Senior Engineering Geologist  
Environmental Review Project

Roger - FYI  
may be changed  
by Hydro(?)

To: Luree Stetson  
Office of Governmental and  
Environmental Relations

Date: March 3, 1993

From: James F. Davis  
Division of Mines and Geology

Prepared by: Trinda L. Bedrossian

<input type="checkbox"/> Request for Signature	<input type="checkbox"/> Director's Office Control
<input type="checkbox"/> Request for Action	<input type="checkbox"/> Request for Review/ Discussion
<input type="checkbox"/> Request for Approval	<input checked="" type="checkbox"/> For Your Information

SUBJECT: EIR Review, Bodega Bay Village, SCH# 89062008

ISSUE: DMG staff comments on the above project were misrepresented by the plan applicant's attorney during the March 2, 1993 appeals hearing before the Sonoma County Board of Supervisors.

PROBLEM: Controversy over the project could result in a lawsuit that includes geologic issues.

BACKGROUND: DMG reviews of the NOP for the project in 1989, the DEIR in 1991, and the FEIR in 1992 addressed the need for additional information related to liquefaction and faulting at the site, as part of the feasibility study for the project. In spite of DMG comments, the Sonoma County Planning Department approved the FEIR on the basis that liqefaction concerns would be addressed in future studies at individual sites within the project area. Local citizen groups filed two appeals, one related to traffic and one related to geology, which were heard before the Board of Supervisors on March 2. DMG did not attend the meeting because the meeting occurred outside of the CEQA process and there was no direct request from the County to attend.

Early on the morning of March 2, DMG received an "unofficial" copy (oldsborgs 2nd geol rep) of the geologic consultant's response to DMG comments from Sonoma County, i.e., there was no request for us to comment or respond. Although DMG staff felt even more strongly that liquefaction issues had not been resolved, no response was prepared for the same reasons DMG did not attend the meeting. An hour prior to the meeting, the geologic consultant contacted DMG to "arrange a settlement beforehand so that the project could be approved". DMG notified the both the consultant and the County that, even though DMG comments had not been addressed in the consultant's response, noone would attend the meeting because it was not part of the CEQA process. During the meeting, the applicant's attorney stated that Jack McMillan, who had done the review of the FEIR, had been relieved of the project and that DMG was in agreement with the consultant's response to comments. According to the local citizens group's attorney, the applicant's attorney's comment was not disputed by the County representative, because "noone from the Board of Supervisors asked for her to comment".

ANALYSIS OF PROBLEM: It appears that both County staff and the local citizens group(s) are aware that DMG comments have not been fully addressed either by the County Planning Department or the geologic consultant. The Board of Supervisors apparently delayed a decision on the project for at least one week. It is possible that a written request for clarification could come to DMG during this time, or, if the project is approved without DMG clarification, the local citizens could file a lawsuit that includes geologic issues.

*Redacted: Atty -  
Client Communication  
& Work Product*

*ZETAK*

APPROVED:

\_\_\_\_\_  
State Geologist    Date

\_\_\_\_\_  
Deputy Director    Date

\_\_\_\_\_  
Director            Date

DEPARTMENT OF CONSERVATION  
DIVISION OF MINES AND GEOLOGY  
801 K STREET, MS 12-32  
SACRAMENTO, CA 95814-3531  
PHONE: (916) 323-8554

*FINAL Correspondence*



March 9, 1993

Melanie Perry  
Chief, Current Planning - North  
Sonoma County Department of Planning  
575 Administration Drive, Room 105A  
Santa Rosa, CA 95403

Dear Ms. Perry:

This is in response to your letter of March 8, 1993, requesting information from the Department of Conservation, Division of Mines and Geology (DMG) regarding the adequacy of the geologic component of the Environmental Impact Report (EIR) for the Bodega Bay Village Project. Because you have asked for this response in less than 24 hours, I will address only the adequacy issues of the EIR and not the chronology you outlined in your letter.

DMG has concluded that the potential for liquefaction of sediments within or near the base of the marine terrace deposits at the Bodega Bay Village site is an open question. Previous DMG reviews of the Notice of Preparation for the project in 1989, the Draft EIR in 1991, and the Final EIR in 1992 addressed the need for additional information related to liquefaction and faulting at the site, as part of the feasibility study for the project. Based on these reviews, DMG concluded that (1) the geologic and geotechnical documents submitted as part of the EIR do not contain sufficient information regarding subsurface soils below 15 feet and depth to bedrock to fully assess the liquefaction potential of the terrace deposits, and (2) additional geotechnical data and analyses could further clarify this safety issue. These conclusions are clearly stated in our letter of December 16, 1992.

Specifically, the geologic report for the Bodega Bay Village Project indicates that bedrock at the site is overlain by 12 to about 30 feet of semi-consolidated terrace deposits (p. 9) and that water was found ~~at~~ at depths of 10-1/2 to 14 feet in test pits and in the trench in the middle terrace (p. 6). Although the geologic report for the project site identifies a potential for liquefaction (p. 14), and the geotechnical evaluation (Appendix D) addresses liquefaction within the upper 5 feet across the entire site, trench log and test pit data are not

available below a depth of 15 feet. Because liquefaction can occur near the surface and to depths as great as 50 feet, DMG considers the potential for liquefaction below a depth of 15 feet to be an open question that remains to be addressed in the EIR.

I hope the above information clarifies DMG conclusions regarding the Bodega Bay Village Project site reports to date.

Sincerely,

*Trinda L. Bedrossian*

Trinda L. Bedrossian  
Supervising Geologist

cc: James Davis  
David Beeby

**DEPARTMENT OF CONSERVATION**

801 K Street, MS 12-30  
Sacramento, CA 95814-3531  
916/445-1825  
FAX: 916/445-5718  
TDD: 916/324-2555

January 29, 1999



County of Sonoma  
Department of Planning  
575 Administration Drive, #105A  
Santa Rosa, CA 95403

Attn: Chief, Current Planning - North

To whom it may concern:

Recently, the Division of Mines and Geology received a letter (attached) from Professor Stephen Norwick of the Department of Environmental Studies and Planning at Sonoma State University. Professor Norwick has raised an issue of geologic safety at a potential development near Bodega Bay, specifically, Bodega Bay Village, Molinaro Bodega Bay Planned Development and/or Harbor View Subdivision.

As reviewers of environmental documents that are sent to the State Clearinghouse, we reviewed EIRs for development at this site several times during the past eight years and, after several meetings with opponents and the project's consultants, we concluded that the EIR sufficiently addressed potential geologic problems at the site.

Professor Norwick has raised the issue of some ground cracks that appear to be recent and probably did not exist at the time of the previous study. He has requested that the Division examine these cracks to see if they indicate a potential hazard to development. Division staff have not visited the site to examine the reported cracks.

For review of potential geologic hazards addressed environmental documents and related to development, the Division acts as a consultant to the local lead agency. If the county would like us to examine the area, we offer to determine the need for further evaluation of these cracks by the developer. We may be able to advise you regarding their significance and to comment on the usefulness of further evaluation of these cracks by the developer.

Please advise us if the county feels that this activity would be of use to you in your development decisions in Bodega Bay. You may contact Dr. Michael Reichle, Supervising Geologist for our Regional Geologic and Hazards Mapping Program, at 916-323-8553.

Sincerely,

James F. Davis  
State Geologist

cc: Professor Stephen Norwick  
Attachment

**DEPARTMENT OF CONSERVATION****CALIFORNIA GEOLOGICAL SURVEY**

801 K STREET • MS 12-30 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 445-1825 • FAX 916 / 445-5718 • TDD 916 / 324-2555 • WEBSITE [conservation.ca.gov](http://conservation.ca.gov)

April 12, 2007

Kimberly Burr, Esq.  
Attorney at Law  
P. O. Box 1246  
Forestville, California 95436

**Re: 998 and 1000 Highway One, Bodega Bay, Sonoma County, Harbor View  
Subdivision**

Dear Ms Burr:

We are in receipt of your letter of April 11, 2007 and the attached geological status report by Mr. Raymond Waldbaum (via facsimile).

In response to your inquiry about geological investigative reports for the above referenced Harbor View Subdivision, the California Geological Survey (CGS) has received no other geological reports for this site from Sonoma County per the provisions of the Alquist-Priolo Earthquake Fault Zoning Act since the "Molinaro Report" of 1987 (your reference name). In response to a Public Records Act request from you about mid-December, 2006, CGS provided you with copies of its existing records through Ms Cindy Traxler, attorney for the Department of Conservation. Since that time, CGS has received no further documents regarding this development.

CGS is not aware of the development activities of the Harbor View Subdivision. Although a lead agency is required by the Alquist-Priolo Act to have geological site investigations performed prior to permitting a project, and to provide a copy of the investigation's results to the Survey, CGS has no regulatory enforcement authority to ensure this activity occurs.

If we can be of any further service, please do not hesitate to contact us.

Sincerely,



John G. Parrish, Ph. D.  
State Geologist

cc: Cindy Traxler, Staff Counsel, Department of Conservation

---

*The Department of Conservation's mission is to protect Californians and their environment by:  
Protecting lives and property from earthquakes and landslides; Ensuring safe mining and oil and gas drilling;  
Conserving California's farmland; and Saving energy and resources through recycling.*

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926

TELEPHONE: (916) 263-2113

FAX: (916) 263-2099

E-mail: geology@dca.ca.gov

Website: www.geology.ca.gov



## Enforcement Action

**Christopher Kramer**  
**Registered Geologist No. 3842**  
**Certified Engineering Geologist No. 1231**

The Board for Geologists and Geophysicists (Board) issued a citation and fine of \$2,500.00 to Christopher Kramer, Registered Geologist No. 3842, Certified Engineering Geologist No. 1231, in part for violations of Business and Professions Code sections 7860 (negligence and incompetence in professional practice).

Christopher Kramer signed reports entitled "Report Geotechnical Investigation Planned Roadway Improvements Saddle Mountain Ranch Subdivision Santa Rosa, California", dated June 29, 2001 and "Report Geotechnical Investigation Saddle Mountain Ranch Subdivision Building and Leachfield Envelopes Santa Rosa, California", dated April 30, 2002 in Sonoma County.

The aforementioned reports signed and certified by Christopher Kramer as "Engineering Geologist", demonstrate the above referenced reports lack geologic data and associated interpretation, including, but not limited to, adequate geologic unit contact characterization, proper symbology representing areas of significant colluvial deposits and underlying bedrock, strike and dip of bedding and geologic cross-section lines (adequate structural characterization of rock and soil materials), adequate locations of seeps and springs, and therefore departed from the standard of practice of a Registered Geologist or Certified Engineering Geologist<sup>1</sup>.

In accordance with section 125.9(d) of the Business and Professions Code which specifies that payment of the fine does not constitute admission of the violation charged and represents satisfactory resolution of the matter, Christopher Kramer agreed to pay the fine and the case was closed on November 21, 2003.

<sup>1</sup> The standard of practice of a Registered Geologist or Certified Engineering Geologist working under similar circumstances requires that a reasonable professional submit a complete report of geologic (and/or engineering geologic and/or hydrogeologic) conditions which include factually accurate representations of geologic datum and conditions so that technically defensible opinions, conclusions and recommendations are substantiated and logically documented in the reporting record.

**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926

TELEPHONE: (916) 263-2113

FAX: (916) 263-2099

E-mail: [geology@dca.ca.gov](mailto:geology@dca.ca.gov)Website: [www.dca.ca.gov/geology](http://www.dca.ca.gov/geology)

July 29, 2005

Ms. Sigrid Swedenborg  
Solano County Planning Department  
2550 Ventura Avenue  
Santa Rosa, CA 95403

Dear Ms. Swedenborg:

**Subject: Compliance with Business and Professions Code Section 7800 et seq.  
(Geologist and Geophysicist Act)**

The Board for Geologists and Geophysicists (Board) is responsible for regulating the practice of geology and geophysics in the state of California. The Board's mission is to continuously enhance the quality, significance and availability of geological and geophysical services offered to the people of California. The Board's goal is to protect the health, safety and welfare of California consumers who utilize the services of geologists and geophysicists.

The Board has received a copy of a report entitled "Source and Validity of 'Geologic Map' Presented by Planner Swedenborg, Cornell Winery Appeal Hearing", by Mr. Raymond Waldbaum, PG No. 3142, CEG No. 923 and dated June 7, 2005. This report includes a copy of a map presented by you in the June 7, 2005 hearing which appears to be the professional practice of geology (report and map attached).

Section 7832 of the Business and Professions Code requires an individual to be licensed as a Professional Geologist if he or she practices or offers to practice geology for others. Section 3003(f)(2) of Article 1, Division 29 Title 16 of the California Code of Regulations states:

"The practice of geology or geophysics "for others" includes but is not limited to the performance of geological or geophysical services by any individual, firm, partnership, corporation or other association or by the employees or staff members thereof, whether or not the principal business of such organization is the practice of geology or geophysics, when the geological or geophysical reports, documents or exhibits constituting the practice of geology or geophysics are disseminated or made available to the public or any individual or combination of individuals other than the employees or staff of such organization in such a manner that the public or said individual or combination of individuals may reasonably be expected to rely thereon or be affected thereby."

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California.*

Ms. Sigrid Swedenborg  
July 29, 2005

In addition, Section 7835 of the Business and Professions Code states:

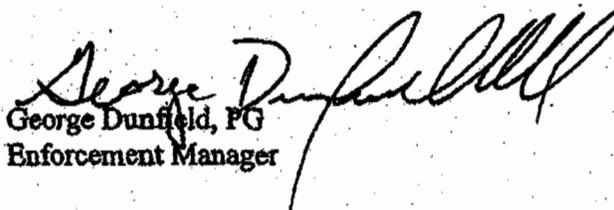
"All geologic plans, specifications, reports or documents shall be prepared by a Professional geologist, or registered certified specialty geologist, or by a subordinate employee under his direction. In addition, they shall be signed by such Professional geologist or registered certified specialty geologist or stamped with his seal, either of which shall indicate his responsibility for them."

Activities that constitute the professional practice of geology include the use of initiative, skill, and independent judgment regarding determination of site geologic parameters such as evaluation of the existence or non-existence of possible landsliding and faulting. Further, independent evaluations involving geology must be certified by a licensed Professional Geologist who maintained responsible charge of the interpretive work defined in section 7835. Your mapping constituted the professional practice of geology and must therefore be performed by, or under the direction of, an appropriately California licensed Professional Geologist.

Under the facts presented to the Board, it appears that the review process in this case is not yet complete; please understand that all geologic documents on which public land-use decisions are made shall be certified by a Professional Geologist licensed with the Board. You are hereby advised that proper responsible charge maintenance and certification measures are mandatory.

A copy of the Geologist and Geophysicist Act and Rules and Regulations is posted on the Board's website at [www.geology.ca.gov](http://www.geology.ca.gov). If you need more information, clarification or have any other questions, please feel free to call me at (916) 263-0341.

Sincerely,

  
George Dunfield, PG  
Enforcement Manager

cc: Mr. Gary Duke, Senior Board Counsel, Department of Consumer Affairs, Legal Office  
Mr. Casey Caplinger, Complainant

Attachment: "Source and Validity of 'Geologic Map' Presented by Planner Swedenborg,  
Cornell Winery Appeal Hearing", dated June 7, 2005


**BOARD FOR GEOLOGISTS AND GEOPHYSICISTS**

2535 CAPITOL OAKS DRIVE, SUITE 300A, SACRAMENTO, CA 95833-2926

TELEPHONE: (916) 263-2113

FAX: (916) 263-2099

E-mail: geology@dca.ca.gov

Website: www.dca.ca.gov/geology



September 15, 2005

Messrs. Neal Mace and Gary Russey  
 RGH Environmental  
 1305 North Dutton Avenue  
 Santa Rosa, CA 95401

Dear Messrs. Mace and Russey

**Subject: Compliance with Business and Professions Code Section 7800 et seq.  
 (Geologist and Geophysicist Act)**

The Board for Geologists and Geophysicists (Board) is responsible for regulating the practice of geology and geophysics in the state of California. The Board's mission is to continuously enhance the quality, significance and availability of geological and geophysical services offered to the people of California. The Board's goal is to protect the health, safety and welfare of California consumers who utilize the services of geologists and geophysicists.

The Board has received a complaint against you regarding your geologic report, dated July 15, 2005, characterizing the extent and quality of ground water resources for a proposed winery at 420 Wappo Road in Sonoma Country California.

Pursuant to Title 16, California Code of Regulations section 3063, the Board for Geologists and Geophysicists is authorized to issue citations containing an order of abatement or an administrative fine against a professional geologist, geophysicist, or certified specialist who has committed any act or omission which constitutes a violation of the Geologist and Geophysicist Act or regulations. An order of abatement requires the cited person to cease the violation. Where appropriate, an administrative fine may be assessed which requires the cited person to pay a monetary fine of up to \$2,500.00.

Section 7860 of the Business and Professions Code empowers the board to investigate the professional actions of any Professional Geologist and make findings thereon. In part, Section 3065 of Title 16, California Code of Regulations (CCR) states:

"A violation of any of the following professional standards in the practice of geology or geophysics constitutes a ground for disciplinary action:

(a) Competence:

(1) A geologist or geophysicist shall undertake to perform professional services only when he or she, together with those whom the registrant may engage as consultants, are qualified by education, training, and experience in the specific technical and

*The Mission of the Board for Geologists and Geophysicists is to Continuously Enhance the Quality, Significance, and Availability of Geological and Geophysical Services Offered to the People of California*

September 15, 2005

Messrs. Neal Mace and Gary Russey

Page 2 of 3

scientific areas involved. (2) When practicing geology or geophysics, a registrant shall act with competence and reasonable care and shall apply the technical knowledge and skill which is ordinarily applied by registrants of good standing, practicing in this state under similar circumstances and conditions.

**(b) Misrepresentation:**

(1) A registrant shall not misrepresent nor permit the misrepresentation of his or her professional qualifications, affiliations, or purposes or those of the institutions, organizations or other businesses with which he or she is associated. (2) A registrant may advertise or solicit for any services for which he or she is authorized by registration provided such services are within his or her field of competence. (3) A registrant shall accurately represent to a prospective or existing client or employer his or her qualifications and the scope of his or her responsibility in connection with projects or services for which he or she is receiving or will receive compensation. (4) A registrant shall only express professional opinions that have a basis in fact or experience. (5) A registrant shall not plagiarize the professional work of others and shall attribute proper credit to others for their work or contribution. (6) A registrant shall not knowingly permit the publication or use of his or her data, reports or maps for unlawful purposes. (7) A registrant shall not falsely or maliciously attempt to injure or in fact injure the reputation or business of others. (8) A registrant shall not misrepresent data and its relative significance in any geologic or geophysical report.

**(c) Conflict of Interest:**

(1) A registrant shall not concurrently engage in any other business of occupation which impairs the registrant's independence, objectivity, or creates a conflict of interest in rendering professional services. (2) A registrant shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to by all such parties. Such disclosure and agreement shall be in writing. (3) If a registrant has any business association or financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the registrant shall fully disclose in writing to his or her client(s) or employer(s) the nature of the business association or financial interest. If the client(s) or employer(s) object(s) to such association or financial interest, the registrant shall either terminate such association or interest or offer to give up the project or employment. (4) A registrant shall not solicit or accept payments, rebates, refunds or commissions whether in the form of money or otherwise from material or equipment suppliers in return for specifying their products or services to a client or employer of the registrant.

Therefore, a licensee's professional services that fail to meet the standard of care of a competent Professional Geologist operating under similar circumstances in this state is subject to disciplinary action by the Board. The report presented to the Board indicate that you may be practicing geology under the standard of care of a competent Professional Geologist relating to the proposed winery project at the subject site.

September 15, 2005

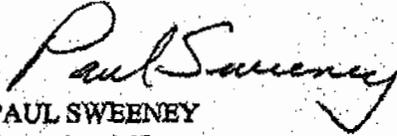
Messrs. Neal Mae and Gary Russey

Page 2 of 3

The Board will not take further action on this case at this time as the internal report review dialogue with the Solano County Planning Department has not been finalized. Please submit written confirmation that you are in compliance with the terms of the Act and the Board's Regulations presented herein within 20 days of receipt of this notice.

A copy of the Geologist and Geophysicist Act and Rules and Regulations is posted on the Board's website at [www.dca.ca.gov/geology](http://www.dca.ca.gov/geology). If you need more information, clarification or have any other questions, please call George Dunfield, the Board's Enforcement Manager, at (916) 263-0341

Sincerely,



PAUL SWEENEY  
Executive Officer

cc: Mr. Gary Duke, Department of Consumer Affairs, Legal Office  
Ms. Sigrid Swedenborg, Solano County Planning Department

STATE OF CALIFORNIA - THE RESOURCES AGENCY

**DEPARTMENT OF CONSERVATION**

801 K Street, MS 12-30  
Sacramento, CA 95814-3531  
916/445-1825  
FAX: 916/445-5718  
TDD: 916/324-2555

January 29, 1999



County of Sonoma  
Department of Planning  
575 Administration Drive, #105A  
Santa Rosa, CA 95403

Attn: Chief, Current Planning - North

To whom it may concern:

Recently, the Division of Mines and Geology received a letter (attached) from Professor Stephen Norwick of the Department of Environmental Studies and Planning at Sonoma State University. Professor Norwick has raised an issue of geologic safety at a potential development near Bodega Bay, specifically, Bodega Bay Village, Molinaro Bodega Bay Planned Development and/or Harbor View Subdivision.

As reviewers of environmental documents that are sent to the State Clearinghouse, we reviewed EIRs for development at this site several times during the past eight years and, after several meetings with opponents and the project's consultants, we concluded that the EIR sufficiently addressed potential geologic problems at the site.

Professor Norwick has raised the issue of some ground cracks that appear to be recent and probably did not exist at the time of the previous study. He has requested that the Division examine these cracks to see if they indicate a potential hazard to development. Division staff have not visited the site to examine the reported cracks.

For review of potential geologic hazards addressed environmental documents and related to development, the Division acts as a consultant to the local lead agency. If the county would like us to examine the area, we offer to determine the need for further evaluation of these cracks by the developer. We may be able to advise you regarding their significance and to comment on the usefulness of further evaluation of these cracks by the developer.

Please advise us if the county feels that this activity would be of use to you in your development decisions in Bodega Bay. You may contact Dr. Michael Reichle, Supervising Geologist for our Regional Geologic and Hazards Mapping Program, at 916-323-8553.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Davis".

James F. Davis  
State Geologist

cc: Professor Stephen Norwick  
Attachment

Exhibit No. 14  
Application No. A-2-SON-07-009 to 012  
RJP-GP, LLC  
January 29, 1999 Letter from James Davies, State  
Geologist