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W 17b

MEMORANDUM

Date: November 10, 2008

To: Commissioners and Interested Parties

From: Peter Douglas, Executive Director
Robert S. Merrill, District Manager – North Coast District
Melissa B. Kraemer, Coastal Program Analyst – North Coast District

Subject: **Addendum to Commission Meeting for Wednesday, November 12, 2008**
North Coast District Item W 17b, Appeal No. A-1-MEN-07-044
(Arena Union Elementary School District)

STAFF NOTE

Staff is proposing to make certain changes to the staff recommendation on Appeal No. A-1-MEN-07-044, the appeal of the Arena Union Elementary School District's proposal to construct a new kindergarten through fifth grade elementary school complex on a 10.5-acre parcel located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County. Since the October 30, 2008 staff recommendation was written, staff received a copy of a draft Cease and Desist Order (CDO) issued by the Division of Water Rights to the North Gualala Water Company on October 24, 2008, which orders the NGWC to cease adding new service connections to its existing water system due to repeated violations of the NGWC's water rights permit. The draft CDO finds that the potential for additional violations is very high. The NGWC's current source of water is the Gualala River, and certain bypass flows in the river must be maintained during low river flows in the fall to protect migrating sensitive salmonid species. The NGWC has almost no additional sources of acceptable quality water on which to rely when the bypasses required by the water rights permit cannot be met. Additionally, the draft CDO states that on September 9, 2008, the Department of Public Health issued a Compliance Order, finding that NGWC does not have sufficient water rights to provide a reliable and adequate supply of pure, wholesome, healthful, and potable water in accordance with California Health and Safety Code and cannot provide source capacity to meet maximum daily demand requirements in accordance with California Code of Regulations.

Since it is no longer clear that the NGWC will be able to serve the proposed development or that an alternate water supply is available, staff is revising Special Condition No. 1 to require that the

applicant submit evidence, prior to permit issuance for the review and approval of the Executive Director, that the applicant has obtained either (a) all legally required approvals to obtain sufficient service from the NGWC to serve the school, or (b) all necessary approvals for the development and use of an alternate water supply.

Staff continues to recommend that the Commission approve the project with the special conditions included in the staff recommendation of October 30, 2008, as modified by the revisions described below.

This addendum also contains written correspondence about the October 30, 2008 staff recommendation since its publication.

I. REVISIONS TO STAFF RECOMMENDATION

The revisions to the staff report dated October 30, 2008, including the modification of special condition language and related findings, are shown below. Text to be deleted is shown in ~~strikethrough~~; text to be added appears in **bold double-underline**.

- ***Add the following text to Special Condition No. 1 on pages 27-28:***

1. Proof of Adequate Services

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit evidence for the review and written approval of the Executive Director that **(1)** the Gualala Community Services District has obtained all necessary permits for construction of the sewer line extension proposed to serve the new school **and (2) the applicant has obtained either (a) all legally required approvals to obtain sufficient water service from the North Gualala Water Company to serve the approved school or (b) all required approvals for the development and use of an alternate water supply sufficient to serve the approved school**.

B. **PRIOR TO OCCUPANCY OF THE NEW SCHOOL**, the applicant shall submit evidence for the review and approval of the Executive Director that the sewer line extension has been successfully installed and that a hook-up to the Gualala Community Services District is available.

- ***Modify the corresponding findings (Section IV-C) beginning with the second full paragraph on page 38 as follows:***

The proposed project is located within the service area of the North~~ern~~ Gualala Water Company**, which, the local record indicates, is able to accommodate the proposed school** ~~and is able to be accommodated by the Company~~ for both regular use and fire flows. In approving the conditional use permit for the project, the County attached conditions requiring that the applicant submit a letter to the County Department of Planning Building Services from the water company confirming that water service has been provided to the company's satisfaction, and that water lines comply with pertinent County and/or State standards and be adequately separated from other utilities (see Condition Nos. B-23 and B-24 of County CDU No. 10-2004).

The North Gualala Water Company (NGWC) provides municipal water service to the greater Gualala area via diversions from the North Fork Gualala River and other subterranean sources that are subject to the permitting authority of the State Water Resources Control Board (Board). The Board issued a water rights permit to the NGWC for the diversions in 1965 (Permit No. 14853). The water rights permit contains terms and conditions requiring, among other things, that the NGWC bypass certain minimum stream flows, with different rates specified for varying periods of the calendar year. The permit requires that the NGWC cease diversion when minimum bypass flows are unavailable. The permit also requires that the NGWC take flow measurements of the North Fork Gualala River by a prescribed schedule and report the measured results to the Board's Division of Water Rights (DWR) branch.

Since 1988, through the course of several investigations either for alleged complaints or routine compliance, the NGWC has been found to be noncompliant with various permit terms and conditions, including unauthorized diversion of water when minimum bypass flows could not be met, unauthorized wells, and other alleged violations. As a result, the Board adopted an Order in 1999 (WR 99-011) requiring, among other things, that the NGWC produce a water supply contingency plan to address how the NGWC will meet municipal water demands when the flows in the North Fork Gualala River fall below the minimum bypass requirements specified in the water rights permit. To date, the NGWC does not have an approved contingency plan, and the Company is currently seeking financing to prepare a planning study on the NGWC water system. In September of 2008, the Department of Public Health issued a Compliance Order (#02-03-09CO-002) finding that NGWC does not have sufficient water rights to provide a reliable and adequate supply of pure, wholesome, healthful, and potable water in accordance with California Health and Safety Code Section 116555(a)(3) and cannot provide source capacity to meet maximum daily demand requirements in accordance with California Code of Regulations, Title 22, Section 64554. The Order requires NGWC to submit a Source Capacity Planning Study by October 1, 2009 that includes, among other things, information concerning the Company's ability to reliably and adequately serve the existing service connections in compliance with all applicable laws and regulations and a requirement to address or resolve source capacity deficiencies including, but not limited to, increased water conservation, acquisition of additional source capacity and water rights, and/or restrictions on new service connections.

On October 24, 2008, the DWR issued a draft Cease and Desist Order (CDO) to the NGWC, which gives notice to the Company that it is in violation of one or more of the terms and conditions of its water rights permit. The draft CDO finds that, despite reports of measurements taken from 2004 through 2007 showing measured flows below the required minimum bypass flows, the NGWC continued its daily diversions throughout that time period. The draft CDO states that "The potential for additional violations is very high as the NGWC has almost no additional sources of acceptable quality water on which to rely when the bypasses cannot be met." Thus, the draft CDO orders the NGWC to submit, among other things, a revised water supply contingency plan within 120 days from the Order's effective date, which, among other things, addresses how municipal water demands will be met when flows in the North Fork Gualala River fall below the bypass flow requirements specified in the water rights permit. The draft CDO further orders that the NGWC not make any new service connections to its existing water supply system unless such connections were the subject of an "intent to serve" letter dated prior to issuance of the draft CDO. The NGWC may request a hearing on the draft CDO before the Board, but according to DWR staff, it potentially could take at least a year or more for the matter to be scheduled.

To ensure that the applicant has adequate water service available to serve the proposed development, the Commission attaches Special Condition No. 1. This condition requires that the applicant submit evidence, prior to permit issuance for the review and approval of the Executive Director, that the applicant has obtained either (a) all legally required approvals to obtain sufficient water service from the NGWC to serve the approved school or (b) all required approvals for the development and use of an alternate water supply sufficient to serve the approved school.

As discussed above, sewer services for the proposed school are proposed to be provided via a hookup to a sewer line extension proposed by the Gualala Community Serviced District (see agenda item W-18a). The GCSD applied separately for a coastal development permit for an approximately 1.25-mile-long extension of a 6-inch-diameter wastewater main from the existing GCSD system to the proposed school. The County's approval of the sewer line extension was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed. Because there are no guarantees that final regulatory approvals and project financing will be obtained and that construction of the 1.25-mile-long sewer line extension will be physically completed in time to serve the school when it opens, the Commission attaches Special Condition No. 1. This condition requires that prior to permit issuance, the applicant shall submit evidence that the GCSD has obtained all necessary permits for construction of the proposed sewer line extension. The condition further requires that prior to occupancy of the new school, the applicant shall submit evidence that the sewer line extension has been successfully installed, and that a hook-up to the GCSD is available.

Therefore, the Commission finds that the development, as conditioned, is consistent with CZC Section 20.532.095(A)(2) and with LUP Policy G3.10-3, which require that findings of approval

for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve the new development, and the development will not proceed until adequate services are available.

LUP Policy 3.9-1 requires new development to be regulated to prevent significant adverse cumulative impacts on coastal resources. As discussed above and in the findings below, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts. Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.8-1, 3.9-1, G3.10-3, and with CZC Sections 20.380.015 and 20.532.095(A)(2), because (1) the proposed school use is consistent with the certified LUP and zoning designation for the site, (2) there will be adequate services on the site to serve the proposed development, and (3) as discussed further below, the project will not contribute to adverse cumulative impacts on highway capacity, scenic values, environmentally sensitive habitat areas, water quality, or other coastal resources.

II. ADDITIONAL CORRESPONDENCE RECEIVED

Since the staff report dated October 30, 2008, staff has received the following items of correspondence: (1) a copy of the draft Cease and Desist Order issued by Division of Water Rights staff to the North Gualala Water Company (Attachment A), (2) a letter from the applicant dated November 10, 2008, with various attachments, objecting to various special conditions included in the October 30, 2008 staff recommendation (Attachment B), and (3) a letter from Coast Action Group stating its opposition to the proposed project (Attachment C).

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

ORDER WR 2008 –00XX-DWR

CEASE AND DESIST ORDER

In the Matter of Violation of Terms and Conditions of Permit 14853 by the

NORTH GUALALA WATER COMPANY

Enforcement Action 70

SOURCE: North Fork Gualala River tributary to Gualala River thence Pacific Ocean

COUNTY: Mendocino County

YOU ARE HEREBY GIVEN NOTICE THAT:

The State Water Resources Control Board (State Water Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) when it determines that any person is violating or threatening to violate any of the following:

(1) The prohibition set forth in section 1052 against the diversion or use of water subject to division 2 (commencing with section 1000) of the Water Code other than as authorized by division 2.

(2) Any term or condition of a permit, license, certification, or registration issued under division 2 of the Water Code.

(3) Any decision or order of the board issued under part 2 (commencing with section 1200) of division 2 of the Water Code, section 275, or article 7 (commencing with section 13550) of chapter 7 of division 7 of the Water Code, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

On {ADD DATE}, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the proposed CDO against the North Gualala Water Company (NGWC) for the violation and threatened violation of terms and conditions contained in Permit 14853 (Application 21883).

FACTS AND INFORMATION

The facts and information upon which this CDO is based are as follows:

1. On August 26, 1964, NGWC filed Application 21883 with the Division of Water Rights (Division). NGWC sought to directly divert water at a rate of 2 cubic foot per second (cfs) year-round from the North Fork Gualala River. The water would be used for municipal purpose.

2. The California Department of Fish and Game (DFG) filed a protest against A21883 on the basis of injury to the instream resources of steelhead and silver salmon. The protest was resolved when both parties agreed to the inclusion of a permit term (Term 9) requiring NGWC to bypass the following minimum stream flows:

   5 cfs, or the natural flow if it is less, during the period of November 1 to June 1
   1 cfs, or the natural flow if it is less, during the period of June 1 to November 1

   On September 3, 1965 Permit 14853 (P14853) was issued to NGWC with the above minimum bypass requirements.

3. In 1974, NGWC petitioned the State Water Board for a change in the place of use authorized under P14853. DFG protested the change petition, and as a dismissal condition, requested that the minimum bypass flows of Term 9 be increased. The State Water Board did not receive an objection by NGWC to DFG's proposal. On December 13, 1978, the State Water Board issued an order approving NGWC's petition. The order also added a requirement for a stream flow measuring device (Term 10) and modified Term 9 by increasing the minimum bypass flow requirements to the following:

   40 cfs, or the natural flow if it is less, during the period of November 15 to February 29
   20 cfs, or the natural flow if it is less, during the period of March 1 to May 31
   4 cfs, or the natural flow if it is less, during the period of June 1 to November 14

4. In 1988, Division staff conducted a complaint investigation into allegations by two separate parties that NGWC violated its permit by diverting when minimum bypass flows could not be met. A report of the investigation, dated January 17, 1989, contained staff's finding that there was insufficient evidence to conclude that a violation of the permit occurred, however staff found NGWC's stream flow measuring device to be deficient. A follow-up inspection by Division staff on May 8, 1989 found that the deficiency had been corrected.

5. Due to concerns regarding drinking water quality from the permitted diversion point, NGWC drilled wells in the alluvial aquifer of the Gualala River. Well 4 proved to be sufficiently productive to prompt NGWC to suspend its diversion of surface water from North Fork Gualala River. In submitting its progress reports for the years 1990 through 1992, NGWC stated that no water had been used under P14853. NGWC believed that its diversion from Well 4 was from percolating groundwater and outside the State Water Board's permitting authority. On December 21, 1992 Division staff notified NGWC that, consistent with the findings of a November 5, 1992 Hydrogeologic Assessment Report, prepared by Richard C. Slade, R.G., the Division considered the source of Well 4 to be a subterranean stream, and therefore subject to the permitting authority of the State Water Board. Reserving the right to provide evidence contradicting the Division's position, NGWC filed a petition with the State Water Board in February 1993 to add Well 4 and future Well 5 as points of diversion under P14853[1]. The petition was noticed to the public and numerous parties submitted protests based on environmental and public trust considerations.

6. In 1993, Division staff conducted a compliance inspection regarding the diversion facilities under P14853. In a report dated November 18, 1993, staff found that the permitted point of diversion had been abandoned in favor of an alternative unauthorized well. NGWC had already filed a change petition for this new point of diversion. NGWC also did not have a stream flow measuring device as required by Term 10 of the permit. Staff agreed that the physical conditions of the river make a permanent and readable piece of equipment nearly impossible to maintain, although other methods of determining stream flow measurements are available. Staff also concluded there was a relatively small potential for adverse impacts to fisheries due to diversions at that time.

[1] The change petition also included a request to add 13 parcels to the place of use. Because it has no bearing on this enforcement action, all references to action involving the change in place of use have been omitted for brevity.

7. In response to another complaint filed against NGWC for unauthorized diversions (also at Well 4) under P14853, Division staff conducted a complaint investigation in 1994. In a report dated September 28, 1994, staff concluded that NGWC was diligently pursuing its change petition, and that the concerns of the complainant would be addressed through the petition process. On November 2, 1994, NGWC requested amending the change petition to delete all points of diversion except existing Well 4 and future Well 5. Although NGWC and the protestants formed a conflict resolution group which, for several years, attempted to resolve the protests against the change petition, a resolution was never reached.

8. By Memo dated January 15, 1998, Luhdorff and Scalmanini, Consulting Engineer for NGWC, released a final report entitled *Investigation of Ground-Water Occurrence and Pumping Impacts at Elk Prairie*. The report summarized the investigation to determine the classification of groundwater pumped from Well 4. The report concluded that the groundwater pumped from Well 4 was percolating groundwater and not subject to the permitting authority of the State Water Board. By letter dated May 4, 1998, the Chief of the Division of Water Rights[2] (Division Chief) notified NGWC that the Division disagreed with Luhdorff and Scalmanini's findings.

9. Division staff conducted a field investigation on October 7, 1998 to gather information necessary to resolve the protests to NGWC's change petition. Staff concluded that the petition should be approved and that additional conditions be added to the permit. On August 27, 1999, the Division Chief signed State Water Board Order WR 99-09-DWR, which included the following amendments to P14853:

   - Delete the original point of diversion and add Wells 4 and 5 as points of diversion, and
   - Replace Term 10 with terms requiring NGWC to measure the flow of the North Fork Gualala River per a schedule provided for in the order and a method to be approved by the Division Chief.

10. NGWC did not challenge Order WR 99-09-DWR, but two other parties filed petitions for reconsideration by the State Water Board. In response to these petitions, the State Water Board adopted State Water Board Order WR 99-011, which dismissed the petitions for reconsiderations and added a requirement for a water supply contingency plan to address how NGCW will meet municipal water demands when the flows in the North Fork Gualala River fall below the minimum bypass requirements of Term 9.

11. NGWC submitted to the Division Chief a Surface Flow Measurement Plan (Measurement Plan) on October 26, 1999, and a Water Supply Contingency Plan (Contingency Plan) on May 18, 2000. The Division Chief found both plans to be inadequate. Several attempts were made by both parties to reach an agreement on the plans. Finally, by letter dated April 2, 2001, the Division Chief advised NGWC that it could file a petition for reconsideration with the State Water Board if it disagreed with the Division's action disapproving the plans. NGWC filed a petition on May 1, 2001, requesting the State Water Board to hold a hearing not only on the adequacy of the plans, but also on the legal classification of the water pumped by Wells 4 and 5 and the correct interpretation of Term 9 (whether bypass flows must be met so long as operation of the wells do not affect surface flow). The State Water Board held a hearing on the petition, and on June 21, 2001 adopted State Water Board Order WR 2001-14 denying reconsideration, affirming the decision of the Division, and amending the requirements of the Contingency Plan including authorization for the Division Chief to approve a variance in the bypass flow requirements for the purpose of studying the effects of pumping from Wells 4 and 5 on surface flows.

12. On July 19, 2001, NGWC filed a lawsuit against the State Water Board in the Mendocino County Superior Court to seek a judicial determination on the legal classification of the groundwater pumped by Wells 4 and 5. In consultation with the presiding judge, NGWC and the State Water Board agreed that if NGWC made a proper request for hearing on the issue the State Water Board would follow through and issue a decision or order by the end of 2002. On January 11, 2002,

[2] Currently Deputy Director for Water Rights.

NGWC made such a request of the Board. The State Water Board held a hearing on the request, and on February 19, 2003 adopted State Water Board Order WR 2003-0004, which determined that the groundwater pumped by NGWC's Wells 4 and 5 (along with the proposed Wells 6 and 7) is extracted from a subterranean stream and is therefore under the permitting authority of the State Water Board. NGWC's petition for reconsideration of the order was denied by the State Water Board on May 6, 2003.

13. NGWC pursued its lawsuit against the State Water Board. In 2004, the Mendocino County Superior Court upheld the State Water Board's determination, ruling that NGWC's wells fell under the permitting authority of the State Water Board. NGWC appealed the case, and in 2006 the Appellate Court upheld the ruling of the Superior Court. In August 2006, the California Supreme Court denied review of the litigation.

14. As of this date, NGWC does not have an approved Contingency Plan or Measurement Plan. In a December 14, 2006 letter to Division staff, NGWC stated that they have received an estimate from an engineering firm of $700,000 to prepare a report that will contain all the information required by Orders WR 99-011 and WR 2001-14. Because NGWC did not have the funds to cover this expense, it sought authorization with the California Public Utilities Commission (PUC) for a rate increase to cover the costs of the report. NGWC estimates that, if the rate increase is approved, the report will be completed by the end of 2008. On March 13, 2008, the PUC approved Resolution W-4678, giving NGWC the authority to borrow $100,000 from the Departments of Public Health (DPH) and Water Resources (DWR) for the purpose of financing a planning study on NGWC's water system. This loan amount appears to be inadequate to fund the cost of the report so additional loans from DPH, DWR, or other sources will be necessary.

    DPH issued Compliance Order No. 02-03-08CO-002 on September 9, 2008. This order contains a finding that NGWC does not have sufficient water rights to provide a reliable and adequate supply of pure, wholesome, healthful and potable water in accordance with California Health and Safety Code section 116555, subdivision (a) (3), and cannot provide source capacity to meet maximum daily demand requirements in accordance with California Code of Regulations, title 22, section 64554. This order is based on the following:

    - The maximum daily demand in 2003 and 2004 was 299 gallons per minute (gpm) and the maximum daily demand with the current 1,033 service connections is 313 gpm.
    - The maximum available supply from all surface sources is 100 gpm.
    - The maximum reliable supply from Wells 4 and 5 is zero (0) gpm as diversions from these wells must be terminated when the bypass flows cannot be met.

    The order further requires NGWC to submit a Source Capacity Planning Study by October 1, 2009 that includes information concerning NGWC's ability to reliably and adequately serve the existing service connections in compliance with all applicable laws and regulations and a discussion of NGWC's water rights. The order also requires NGWC to submit a plan of action by March 1, 2010, to address or resolve source capacity deficiencies including, but not limited to, increased water conservation, acquisition of additional source capacity and water rights, and/or restrictions on new service connections.

15. Regardless of whether NGWC is in compliance with the term requiring approved Contingency and Measurement Plans, P14853 is explicit in its requirement to cease diversion when minimum bypass flows are not available. To ensure that adequate flows are available, P14853 requires NGWC to take flow measurements of the North Fork Gualala River by a prescribed schedule and to report the measured results to the Division. Between June 1 and December 15, the schedule requires a minimum of weekly measurements, and daily measurements if the flow falls below the bypass minimum.

16. Based on reports of measurements taken from 2004 through 2007, there were at least 11 days in which the flows measured by NGWC were below the required minimum bypass flows. In addition, there was one day in which Division staff measured a flow that was below the required minimum bypass. NGWC has admitted that diversions from Well 4 have continued daily throughout the years 2004 through 2007.

17. Based on rainfall data recorded at the nearby Yorkville station, Division staff determined that an additional 46 days of diversion almost certainly occurred during 2004 through 2007 when, flows in the North Fork Gualala River were less than the required minimum[3].

18. The potential for additional violations is very high as the NGWC has almost no additional sources of acceptable quality water on which to rely when the bypasses cannot be met.

IT IS HEREBY ORDERED, pursuant to sections 1831 through 1836 of the Water Code, NGWC shall cease and desist from violating the terms and conditions of permit 14853 and comply with the following corrective actions pursuant to the schedules specified:

1. NGWC shall submit a revised version of the water supply contingency plan that was submitted to the Division by cover letter of May 18, 2000 within 120 days from the effective date of this order. The revised plan shall correct the deficiencies to the original plan as specified in the August 23, 2000 letter from the Division, and shall address how municipal water demands will be met when flows in the North Fork Gualala River fall below the bypass flow requirements specified in P14853. The plan shall include the following elements:

    - Information on present and anticipated municipal water demand on a monthly basis, and anticipated peak daily demand and peak demand averaged over 30 day period;
    - Identification of the minimum amount of water needed to maintain the health and safety of those served by the NGWC;
    - Availability of water from the North Fork Gualala River to meet municipal demand while complying with applicable bypass flow requirements;
    - Availability of water from other sources to meet municipal water demand when flows in the North Fork Gualala River fall below the minimum bypass flow;
    - Evaluation of alternative water supply projects if needed to meet current and/or anticipated municipal water demand; and
    - A conservation plan to be implemented if curtailment of diversions is needed in order to comply with bypass flow requirements and other water right permit conditions. The plan should include a description and analysis of current and proposed measures to limit or reduce water demand. The analysis shall include contingency plans to limit new service connections if other measures are insufficient to reduce anticipated demand to the level of reliable water supplies available to NGWC.

2. Until such time as a contingency plan is submitted by NGWC and approved by the Deputy Director for Water Rights[4] (Deputy Director), NGWC shall not make any new service connections to its existing water supply system, unless such connections were the subject of an intent to serve letter dated prior to *{the date that this draft Cease & Desist Order is received by the NGWC}*. NGWC shall provide the Deputy Director with a 30-day written notification prior to making any service connection pursuant to an intent to serve letter dated prior to *{the date that this draft Cease & Desist Order is received by the NGWC}*.

[3] Days in which insignificant rainfall followed days of measured violations.
[4] Formerly Chief of the Division of Water Rights.

3. NGWC shall submit a revised version of the surface streamflow measurement plan that was submitted to the Division by cover letter of October 31, 2000 within 15 days from the effective date of this order. The plan will correct the deficiencies to the original plan as specified in the April 2, 2001 letter from the Division, and will describe the proposed method to measure the surface flow of the North Fork Gualala River. The plan shall include the following elements:

   - The dates and frequency of measurements, including but not limited to the minimum dates specified in Term 3 of Order WR 99-09-DWR;
   - The location below the influence of NGWC's diversion point where measurements shall be taken;
   - The method by which measurements shall be taken;
   - The method by which the DFG and other interested parties shall be notified of proposed measurements;
   - The method by which staff or consultants will be trained in the particular measurement method proposed; and
   - The method by which measurement records will be made and the results reported to the Division.

Upon the failure of any person or entity to comply with a CDO issued by the State Water Board pursuant to chapter 12 of the Water Code (commencing with section 1825), and upon the request of the State Water Board, the Attorney General shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction. (Wat. Code, § 1845, subd. (a).) Section 1845, subdivision (b) of the Water Code provides:

(1) Any person or entity that violates a cease and desist order issued pursuant to this chapter may be liable for a sum not to exceed one thousand dollars ($1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court. The Attorney General, upon request of the [board], shall petition the superior court to impose, assess, and recover those sums.

(3) Civil liability may be imposed administratively by the [board] pursuant to section 1055.

STATE WATER RESOURCES CONTROL BOARD

James W. Kassel
Assistant Deputy Director for Water Rights

Dated:

Point Arena Schools

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November 10, 2008

and email: mkraemer@coastal.ca.gov, bmerrill@coastal.ca.gov

RE: APPEAL # A-MEN-07-044; ARENA UNION ELEMENTARY SCHOOL DISTRICT, GUALALA, MENDOCINO COUNTY; RECOMMEND "YES" VOTE ON SUBSTANTIAL ISSUE MOTION

Dear Commissioners:

Regarding the substantial issue action on our school project, we object to the reasons for the appeal and feel the County of Mendocino has prepared a defensible staff report and mitigated negative declaration. The County's letter to Coastal Commission staff of April 1, 2008 defends their Coastal Act consistency analysis and deserves to be considered by the Commission. We urge the Commission to vote "yes" on the substantial issue motion.

Should the Commission vote "no" regarding substantial issue, we offer the following comments and requests with regard to the Special Conditions beginning on page 27 of the staff report:

Special Condition 2. Minimization of Geologic Hazards (p. 28)

Special Condition 2 is based on a geological and environmental hazards screening report prepared in September, 2000. Subsequent to that report, in 2004, an in-depth subsurface geotechnical investigation was conducted by Rau and Associates, followed by an engineering geology study in 2005 by Blackburn Consulting. The California Geological Survey (CGS) reviewed these documents and issued a letter to the Division of the State Architect (DSA) dated December 15, 2005 stating that "the engineering geology and seismology issues at this site have been adequately assessed in the reference report..." (letter attached). In their letter CGS makes one recommendation: that a consultant evaluate "the geologic subgrade for the potential of corrosive soils and the resulting adverse effect on reinforcing steel and concrete..." We do not believe that staff reviewed these documents, and that Special Condition 2 is based on a preliminary report that has been superceded by more in-depth studies. DSA requires that grading and footings be inspected by a geotechnical engineer, so this has already been addressed. We ask that the Commission recognize the detailed studies that have been prepared for the project subsequent to the 2000 screening report, that recommendations have been incorporated into the project's design and construction, that the required geotechnical inspections will be conducted as required by the office of the State Architect, and that CGS approval and DSA's oversight is sufficient to ensure safe construction of the school. For these reasons we ask that Special Condition 2 be eliminated.

Susan tes

Special Condition 3. Building Design & Lighting Standards (p. 28)

Conditions B-12, B-13 and B-28 of the mitigated negative declaration prepared by the County of Mendocino address the issues of lighting and building design standards. Special Condition 3 is redundant and should be removed.

Special Condition 5. Final Grading and Drainage Plan (p. 30)

Conditions B1-3 of the County's mitigated negative declaration address grading, drainage and erosion control. Special Condition 5 is unnecessary and should be removed.

Special Condition 7G. Protection of Sensitive Plant Habitat (p. 31)

Special Condition 7G does not specify the level of monitoring that must be conducted by a qualified botanist, however the monitoring of "all project activities" sounds like it would require the botanist to be present for the duration of the entire project. Again, this is a costly and frivolous requirement. The forester who is preparing the timber harvest plan has been involved from the time rare plants were found on the project site and is fully aware of the need and the requirement to protect these areas. Kjeldsen Biological Consulting was contracted by the forester to conduct the botanical studies. We feel confident that the rare plant ESHAs will be protected under the oversight of the forester who will be consulting with Kjeldsen in the implementation of timber harvest activities. In addition, Special Condition 7A requires exclusionary fencing around all rare plant ESHAs. County Condition B-10 requires that mitigation recommended in the botanical report be followed. Once the site has been cleared, we believe it is sufficient to have the botanist consult with the grading and building contractors to emphasize the importance of protecting the fenced areas, however continual monitoring during construction is overkill and should not be required. We ask that you eliminate Special Condition 7G, or at least require a more realistic monitoring schedule.

Special Condition 9. Deed Restriction (p. 32)

The District recognizes the need for full disclosure of development restrictions on the property and is willing to record a deed restriction stating that the property is encumbered by certain restrictions required by the Coastal Commission and to include a copy of the most recent rare plant exhibit. However, the conditions that have been placed on the property have been selected for this specific project and based on a botanical study conducted in 2005. Should the District sell the property in the future, site conditions will likely change as we have witnessed over the past several years, and the new ownership will have different ideas for development of the property. Conditions placed on development will be different as a result. It does not make sense to require a future owner to comply with the site specific conditions of the school project; rather any new project should be reviewed on its own merit. We ask that Special Condition 9 be modified to require disclosure only of Coastal Commission conditions in the deed restriction.

Condition 10. Protection of Sensitive Species Nesting & Roosting Sites (p. 32)

A biological study has already been conducted on this project, and a requirement that the same study be conducted again is redundant. The study prepared by BioConsultant in 2005 concluded that suitable habitat for Townsend's big-eared bat did *not* exist on the site. The biologist identified a stand of snag-top redwoods which was recommended for protection if possible, along with other recommendations to

enhance the habitat quality on the site. A portion of this report is enclosed for your review. County Condition B-10 requires that we follow the recommendations of the biological report, which did not include any further studies. Special Condition 10 is unnecessary based on the findings of the biological survey, and would incur additional costs without benefit. We ask that this condition be eliminated.

Condition 11. Protection of Archaeological Resources (p. 33)

An Archaeological study has already been conducted on this project, and a requirement that the same study be conducted again is redundant. The study prepared by Archaeological Services, Inc. in 2005 concluded that **no cultural resources were discovered within the project boundaries**. Special Condition 11 is unnecessary based on the findings of the Archaeological Study, and would incur additional costs without benefit. We ask that this condition be eliminated.

In summary, we ask that you find that no substantial issue exists by voting "yes" on the substantial issue motion and uphold the action of Mendocino County. Should the appeal go forward, we ask that you review the attached letter which lists all of the studies and plans we have prepared for this project to date. Requirements for additional studies are redundant and will further burden the District with unnecessary costs. We ask that you recognize the considerable breadth and depth of study that has already been conducted on the site in addition to comprehensive mitigation, and please eliminate the requirements for these additional studies and restrictions. Thank you for your consideration.

Sincerely,

Mark Iacuaniello
Secretary to the Board of Trustees

Attachments: Letter from Mendocino County to Coastal Commission dated April 1, 2008
Letter from Rau and Associates to Coastal Commission dated November 15, 2007
Excerpt from Biological Survey dated December 2005
Archeological Report dated June 2005

RECEIVED APR 0 2 2008

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

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April 1, 2008

Robert Merrill
California Coastal Commission
North Coast District Office
PO Box 4908
Eureka, CA 95502-4908

Subject: Coastal Development Use Permit 10-2004 & Coastal Development Variance 10-2004
Construction of an Elementary School in Gualala.

Dear Mr. Merrill,

Mendocino County has reviewed the Commission Notification of Appeal dated October 31, 2007, including Attachment B stating the reasons why the Commission staff finds the local project approval to be inconsistent with our certified Local Coastal Plan (LCP). We believe the LCP does provide the ability to approve the proposed project.

The project is tremendously important to the Gualala community and is an integral part of their collective vision for the future. Local schools are the foundation to a sense of place, provide a common identity and bring a community closer together. We urge the Commission staff to take a broader view of the project in light of the tremendous effort and financial resources expended by the school district to make this community dream become a reality. The proposed school location makes sense from many standpoints, including but not limited to, reducing traffic volumes on State Highway One and being situated close to the residential areas east of Highway One where many school-aged children from Gualala live. Faced with growing global environmental issues such as climate change, establishing local schools make sense.

Attachment B of the appeal letter explains that the Commission staff finds three reasons why the approved project is not consistent with the LCP: (1) environmentally sensitive habitat areas (ESHAs), (2) geologic hazards, and (3) the adequacy of utilities available to serve the development. We believe all these potential inconsistencies can be overcome upon further review.

The purpose of this letter is to confirm that the County maintains that the project is consistent with the LCP and the intent of the Coastal Act relative to points cited by the Commission staff, and, in fact, would improve the quality and protection of natural resources on the site.

The California Coastal Act declares the basic goals of the state for the coastal zone in Section 30001.5, particularly:

(a) Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

(b) Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

This project provides the perfect marriage of these two overarching goals, goals we must strive to meet. LUP Policy 3.1-7 and Coastal Zoning Code (CZC) Section 20.496.020, require that a buffer area with a

minimum width of 50 feet be established around environmentally sensitive habitat areas and that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA (emphasis added).

According to the project agent, RAU and Associates (RAU), the Coastal Commission staff contends that the project is likely to be denied by the Commission due to inconsistency with Coastal Element Policy 3.1-7, and Mendocino County Coastal Zoning Code Section 20.496.020, and that this is not a matter open to interpretation. We fundamentally disagree with such dire sentiments and offer the following alternative viewpoint.

Both the LCP and implementing ordinances cited by Commission staff in Attachment B of the appeal could provide the potential for development within a rare plant ESHA. The biological analysis and Department of Fish and Game (DFG) recommended mitigation measures were based on sound scientific logic and provide greater rare plant habitat (ESHA) protection than would exist on the subject parcel without the proposed development. CZC Section 20.496.020(A)(1) states that development within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA. County staff finds that uses allowed in rare plant habitats are not specifically identified or listed anywhere in the LCP in the manner that wetlands and estuaries (Sec. 20.496.025), open coastal waters, lakes, streams, rivers (Sec. 20.496.030), riparian corridors and other riparian resource areas (Sec. 20.496.035), dunes (Sec. 20.496.040), and pygmy forests (Sec. 20.496.045) are called out. Section 20.496.050 (other resource areas), is the only additional category provided. Even if one could argue that this "catch all" section covers rare plant habitats, there is no list of acceptable activities as there are with the other specified ESHAs. For this reason, Mendocino County contends that the strict interpretation of CZC Section 20.496.020 (A) (1) by Commission staff is contrary to the intent of the LCP policies intended to provide flexibility and reasoned logic in application of the numerous policies and codes that comprise our certified LCP. This lack of specificity allows the County and the Commission to utilize the best available scientific information to "protect, maintain, and where feasible enhance...natural resources."

The "habitat" in which some of the individual plants are present are ditches or other disturbed areas. A plant that has adapted to disturbance does not warrant protection as a "sensitive" species: The definition of an Environmentally Sensitive Habitat Area, as outlined in Section 3.1 of the Coastal Element is as follows:

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

Please note that by strict interpretation of the above definition, the plant life/habitats are considered sensitive only if they could be easily disturbed or degraded by human activities and developments. These are plants that exist where they are **because** of disturbance, which is obviously in conflict with the definition.

The ESHA buffer exhibit submitted by RAU dated January 7, 2008 includes a significantly larger area than Plate IV of the Botanical Resources Report prepared by Kjeldsen, apparently due to the inclusion of individual plants outside the primary habitat area. Since the definition of ESHA includes rare plant habitat, and not necessarily individual plants, the expanded buffer area shown in the 1/7/08 exhibit may include areas that are not true ESHAs. The location and extent of the rare plant habitat that warranted avoidance, shown in Plate IV as "Conservation/Study Area," was selected based on consultation with DFG staff botanist. DFG and the biologists did not find that the ditches warranted protection, and agreed

that moving the plants to a designated habitat area to be protected would be appropriate

Section 3.1-2 of the Mendocino County Coastal Element for ESHA boundary extent states:

3.1-2 Development proposals in environmentally sensitive habitat areas such as wetlands, riparian zones on streams or sensitive plant or wildlife habitats (all exclusive of buffer zones) including, but not limited to those shown on the Land Use Maps, shall be subject to special review to determine the current extent of the sensitive resource. Where representatives of the County Planning Department, the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain about the extent of sensitive habitat on any parcel such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, County Planning Department staff member, a representative of California Department of Fish and Game, a representative of the California Coastal Commission. The on-site inspection shall be coordinated by the County Planning Department and will take place within 3 weeks, weather and site conditions permitting, of the receipt of a written request from the landowner/agent for clarification of sensitive habitat areas.

If all of the members of this group agree that the boundaries of the resource in question should be adjusted following the site inspection, such development should be approved only if specific findings are made which are based upon substantial evidence that the resource as identified will not be significantly degraded by the proposed development. If such findings cannot be made, the development shall be denied. Criteria used for determining the extent of wetlands and other wet environmentally sensitive habitat areas are found in Appendix 8 and shall be used when determining the extent of wetlands.

Perhaps a site view with DFG, Coastal Commission staff, agents/land owners and County staff would help to put the issue into perspective.

Simply stated, the approved project was carefully designed and mitigated in consultation with DFG to protect the identified ESHAs on the school site in a manner consistent with Policy 3.1-7. Furthermore, CZC Section 20.532.100 (A) (1) provides supplemental findings for projects approved in an ESHA. The certified LCP obviously provided an avenue for development approvals within certain ESHAs under certain circumstances or else this language would not be included in the document. Given the failure to identify a specific list of allowable developments in a rare plant habitat under CZC Chapter 20.496 we do not understand how the project could be summarily dismissed as inconsistent with LUP Policy 3.1-7 and CZC Chapter 20.496. The merits of the project and the approved rare plant mitigation measures deserve further review by the Commission.

In regard to the other two grounds for appeal, hazards and adequate utilities, please accept the following. While Mendocino County's approval did not to include a condition requiring the building safety features recommended in the geologic report (that were intended to mitigate potential earthquake-induced severe ground shaking at the site), this situation is easily overcome by simply including a condition that the final building plans include these recommended safety measures. We were confident that these recommended measures, which are not uncommon in California, would be implemented by the school district and applied at the time of the building permit review.

The school project is to be served by the Gualala Community Services District (GCSD). The extension of sewage disposal service to the proposed school project was the subject of Coastal Development Use (CDU) Permit 9-2005. The Coastal Commission has also appealed this locally approved project. Changes could be made to the local approval that would ensure the project would not provide a growth inducing impact outside of the urban/rural boundary. The intention of CDU 9-2005 was to provide sewer service to the proposed school site. A few modifications and/or conditions to the project could allow for

Commission approval and determination that the sewer line extension project is consistent with LUP Policies G3.1-2, G3.7-5 and G3.7-8. Approval of CDU 9-2005 would therefore eliminate the third reason the school project was found unacceptable – lack of adequate utilities to serve the proposed school development.

In conclusion, the social and economic needs of the Gualala community must be taken into account. The benefits of the proposed project, even in relationship to ESHA protection, far outweigh any costs. We find the project to be consistent with the LCP and the Coastal Act in that the project as designed and mitigated meets the needs of the community while protecting sensitive resources. We strongly recommend that you reevaluate your reasons for appeal and either rescind the appeal or develop the appropriate findings and conditions for approval of the project. We welcome the opportunity to work with you towards this end.

Sincerely,

Frank Lynch
Chief Planner

cc: CDU 10-04
David Colfax, Fifth District Supervisor
Jeanine Nadel, County Counsel
Arena Union Elementary School District
Raymond Hall, Director
Rau and Associates
Rick Miller, Senior Planner

GEORGE C. RAU, P.E.
PRESIDENT
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CATHY A. McKEON, P.E.

RAU AND ASSOCIATES INC.
CIVIL ENGINEERS • LAND SURVEYORS

November 15, 2007

Melissa Kraemer
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

Job Number R05223

RE: Commission Appeal No. A-1-MEN-07-044
Gualala Elementary School Project
Arena Elementary School District, applicant

Dear Ms. Kraemer:

In response to the above referenced appeal, we are working on providing the Coastal Commission with information that should provide the findings for consistency with the Mendocino County LCP. This letter addresses two of the three reasons for appeal as described in Attachment B of the appeal notification. I am working with the botanists to address the ESHA issue, which will be provided under separate cover.

Geologic Hazards (page 8)

The original staff report included the following condition of approval which was deleted by the Planning Commission:

> Condition B-5: "Prior to commencement of construction and prior to permit issuance, a geotechnical engineer shall review the proposed building's anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems."

Because the Department of the State Architect (DSA) has jurisdiction over public school construction and DSA standard practices include inspections for seismic safety, we requested that the above condition be removed to avoid duplication of inspections. However, we understand that re-instating the condition would not result in the duplication of inspections, but rather would require the District to conduct inspections it will be conducting anyway, regardless of the condition's existence. It makes sense to re-instate the condition, or an equivalent condition, in order to demonstrate internal consistency within the negative declaration.

Utilities (page 9)

Consistency with the noted codes and policies requiring adequate utilities to serve the new development is achievable by adding a condition to the permit stating that construction of the school shall not commence until adequate sewerage is available at the site.

Project History

It may assist Commission staff to have some background regarding the school project. The following is a schedule of events and documents relating to the project, including consultant information where applicable.

DATE	ACTIVITY/DOCUMENT	DOCUMENT PREPARED BY
1998	Property was donated to the school district by a local family. The California Department of Education (CDE) visited the property and rejected it as a school site.	
2000	The donated property was exchanged with the donor for the current Bowers Field property. CDE visited the new site and granted preliminary approval.	
2000	Boundary survey and topographic mapping conducted	Rau and Associates, Inc., Ukiah, CA
9/2000	Per State law, a Phase I environmental site assessment was conducted.	IT Corporation, Sacramento, CA
9/2000	Geological and Environmental Hazards Screening Report was prepared.	IT Corporation, Sacramento, CA
10/2000	The School District prepared a Draft Negative Declaration for a 70-student elementary school and submitted it to the State Clearinghouse for circulation to State agencies (SCH # 2000102089). Comments were received from the Department of Toxic Substances Control (DTSC), Caltrans Aeronautics Program, Mendocino County Division of Environmental Health, and Mendocino County Air Quality Management District.	Arena Union Elementary School District (AUESD), Point Arena, CA
11/2000	The Phase I environmental site assessment was cleared by DTSC	
11/2000	First school bond (for new school construction) attempt failed	
2001-2003	Project Design	Aspen Street Architects, Inc., Angels Camp, CA
2003	Funds granted by the State for the new school.	
2/2003	Sewer Feasibility Study – Expansion of Sewage Collection System & Evaluation of Wastewater Treatment Facility	Winzler and Kelly Consulting Engineers, Eureka, CA
11/2003	Second school bond measure passed.	
2004-2005	Preliminary geotechnical investigation and geologic reconnaissance	Rau and Associates, Inc., Ukiah, CA & Blackburn Consulting, Auburn, CA
10/12/2004	Botanical Resources and Pygmy Vegetation Report	Environmental Resource Solutions, Santa Rosa, CA
12/2004	Application for a coastal development use permit submitted to County of Mendocino Department of Planning & Building Services (MCPBS)	Aspen Street Architects, Inc., Angels Camp, CA
1/2005	Application referred to agencies for review/comment	
6/08/2005	Archaeological Survey prepared	Jay Flaherty, Kelseyville, CA
7/07/2005	Botanical Survey prepared	Environmental Resource Solutions, Santa Rosa, CA
12/2005	Wildlife Survey prepared	BioConsultant LLC, Santa Rosa, CA

DATE	ACTIVITY/DOCUMENT	DOCUMENT PREPARED BY
2005-2006	On-Site Agency Consultation with North Coast Regional Water Quality Control Board, Department of Fish and Game, Mendocino County Dept. of Transportation, and Mendocino County Dept. of Planning & Building Services	
1/3/2006	Proposed Mitigation Measures for the Protection of Botanical Resources	Kjeldsen Biological Consulting, Santa Rosa, CA
2/27/2006	Traffic Impact Study	Whitlock & Weinberger Transportation, Inc. (W-Trans), Santa Rosa, CA
4/11/2006	Vegetated Swale – Recommended Plantings	Kjeldsen Biological Consulting, Santa Rosa, CA
4/21/2006	Drainage and Bio-Swale Plans	Aspen Street Architects, Inc., Angels Camp, CA
9/19/2006	Botanical Resources Report	Kjeldsen Biological Consulting, Santa Rosa, CA
1/17/2007	Improvement Plans for Off-Site Pedestrian Facilities	Green Valley Consulting Engineers, Santa Rosa, CA
8/08/2007	Draft Negative Declaration mailed to agencies for comment	
9/20/2007	Use permit and mitigated negative declaration approved by Mendocino County Planning Commission	

As you can see, it has been a long and involved process for the School District. Due to the complexity of coastal issues, the District elected not to exempt themselves from local zoning codes but rather to have the County prepare the environmental document to ensure that coastal policies were appropriately addressed. County staff required a number of additional studies and plans, with a stated intent to leave no stone unturned so that the Coastal Commission would be satisfied that the project was adequately analyzed. In addition to County Planning and Transportation staff, we invited staff from the North Coast Regional Water Quality Control Board and the California Department of Fish and Game for an on-site consultation to discuss biological resources, water quality, and post-construction stormwater treatment. Their recommendations were incorporated into the mitigation plan for the ESHAs and the bioswale plans.

As you can imagine from the amount of study and planning for this project, the District and the community of Gualala was extremely surprised and upset by the Commission's appeal of their use permit. We hope you will work with us to find solutions to the LCP inconsistencies identified by the Commission without requiring the District to start the entire coastal development permit process over again.

Please let me know if there is any additional information you need in order to make the required findings. In addition to the contact information provided on the letterhead above, please feel free to contact me by email at: julie@rauandassoc.com. Thank you in advance for working with us on this project.

Very truly yours,

Julie Price
Environmental Planner

CC: Arlene Taeger, AUESD

FROM: Biological Survey, Dec. 2005

A survey protocol for the Sonoma tree vole is being developed; therefore the survey was conducted in adherence to the red tree vole (*Arborimus longicaudus*) protocol guidelines.

An emergent survey was conducted on November 10th for bats; although most bats are generally torpid during this time of the season, leaving the roost every third night or so for water.

Wildlife Survey Results
The two day survey effort did not locate any special-status species. The high intensity tree search did not detect any raptor or Sonoma tree vole nests and no Monarch butterflies or bats were observed.

However, a few individual trees and areas had some significance; these are mapped on Figure 2 and described below.

One medium sized (16" DBH) Bishop pine (A) contained a circular nest thought to be a gray squirrel (*Sciurus griseus*) nest. The nest was composed of small twigs and dried needle sprigs and located in the top ¼ of the canopy. This tree was double flagged with orange tape and located in the area of planned development (**Figure 11).**

A possible nest may occur at the crown of a deformed-topped redwood (B). This tree is within a stand of small diameter 10-12" DBH redwoods and located in the northeast end of the parcel along a foot trail. We double flagged the tree with orange tape. Due to the weather and height of the tree nest confirmation was not possible. Examination of the ground surface and canopy was inconclusive, no evidence of nesting, roosting, or raptor pellets were seen. From our review of the current building plans, it appears that no construction is planned for this area.

The stand of large diameter snag-topped redwoods (C) contains cavities and offers important wildlife resources for both common and special-status species. Several acorn woodpeckers were observed working the snag tops and the cavities and hollows in these trees can provide tree roosting opportunities for bats. It appears that this stand is also not within an area to be developed.

A notable large (34.4 DBH) Douglas-fir (D) was double flagged with orange tape as a possible retention tree within the school proper. This tree is a stately, healthy tree that already has some tree clearing around it. It appears to be located in the area of development, but may be avoidable.

CONCLUSIONS

Based upon the literature review, site assessment, and our survey results it is our conclusion that the Project Site currently does not support special-status wildlife species. Our survey results for the target species was negative and the site contained low quality habitat with limited resources for all 4 species. It is our determination that the project as proposed is unlikely to impact special-status species.

A Caltrans storage building does occur offsite and may provide bat roosting opportunities; however, this structure is not part of the Project Site and no plans for its impact are known.

RECOMMENDATIONS

The following recommendations are offered to assist project planners and others to protect on-site resources for common wildlife species in a manner that will enhance the overall habitat quality of the site.

- The potential squirrel nest (A) should be humanely removed prior to logging.
- Retain the stand of redwoods that contain the possible nest tree (B). If this is not feasible, the tree should be surveyed by a qualified biologist during the breeding season (no later than June 15) to insure that raptors have not begun nesting. However, several local owls breed as early as February. As a second option, an examination by a skilled climber could be conducted prior to tree removal.
- Retain the stand of snag-top redwoods (C) for common cavity-dependant species and potentially occurring bats.
- Preserve and prune the natural native area within the inside curve of the access road for native wildlife and to enhance the natural scenic entrance to the school.
- Remove the invasive exotic broom plants that occur along the access road. Remove plants by pulling (a heavy duty weed wrench works well) or digging and carry them off-site to be disposed of at an appropriate location (local landfill). The best time for hand pulling is after the onset of the rainy season when soils are moist and prior to seed production. Cut larger plants with a brush cutter or similar tool to gain access to the stem for uprooting. If needed, use a focused application of Round-up directly on the freshly cut stump. The removal process will be long-term. After the initial clearing, follow up in subsequent years by continuing to remove newly sprouted plants and resprouting stems. Both broom species produce an abundance of long-lasting seed that will continue to germinate until the seed bank is exhausted.
- If feasible retain the large diameter Douglas-fir tree (D). This tree is a healthy and beautiful tree that would add to the beauty and natural quality of the school site.

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

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ARCHAEOLOGICAL COMMISSION ACTION SHEET

CASE NUMBER: CDU 10-04/CDV 10-04 **HEARING DATE:** Oct. 12, 2005

OWNER: Arena Union Elementary School Dist **PROJECT COORDINATOR:** ~~JP/Gary Pedroni~~ Rick Miller

☐ **SURVEY REQUIRED (CONSULTANT LIST ATTACHED)**

Until a survey has been prepared, submitted to, and found to be complete by the Archaeological Commission, the time limits specified by State law relative to the processing of application are suspended.

☐ **NO SURVEY REQUIRED (APPLICANT ADVISED OF THE DISCOVERY CLAUSE)**

☑ **SURVEY ACCEPTED** 5-0

Jay Flaherty - June 8, 2005
No sites identified

Section 22.12.090 Discoveries. (Portion of)

(A) Any person who in the preparation for or in the process of excavating or otherwise disturbing earth, discovers any archaeological site shall take all of the following actions:

(1) Cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery;

(2) Make notification of the discovery to the Director of Planning and Building Services...

Sec. 22.12.100 Discoveries of Human Remains. (Portion of)

(A) The provisions of this section shall apply in addition to the provisions of Section 22.12.090 of this Chapter whenever any human remains are discovered.

(B) Any person who, while excavating or otherwise disturbing earth, discovers any bones or other human remains, whether or not as part of an archaeological site, shall immediately cease and desist from all further excavation and disturbance and shall immediately telephone or otherwise notify the Sheriff-Coroner of Mendocino County. If an archaeological site is involved, the Sheriff-Coroner shall thereupon notify a designated representative of the Commission and if the remains are considered to be those of a Native American Indian, the Sheriff-Coroner shall also make notification as required by Section 7050.5 of the California Health and Safety Code...

NOTE: The above-referenced code sections represent only a portion of the Archaeological Resources Chapter of the Mendocino County Code. Other sections address such matters as granting permission to authorized officials to enter onto lands containing discoveries, site disturbance restrictions, site protection methods, etc. Please contact the Department of Planning and Building Services for further information.

(7)

Archaeological Services, Inc.

9467 Chippewa Trail • Kelseyville, CA 95451
(707) 277-9533 • Fax (707) 277-7790

CULTURAL RESOURCE RECONNAISSANCE OF 10.5+/- ACERS NEAR, GUALALA, MENDOCINO COUNTY, CALIFORNIA

(APN 145-091-22)

By
Jay M. Flaherty

June 8, 2005

Prepared for
Aspen Street Architects, Inc.
P.O. Box 370
Angles Camp, CA 95222

RESULTS: **Negative**
ACRES: **10.5+/-**
SITES: **0**
LEAD AGENCY: **County of Mendocino**
CONTACT PERSON: **Planning and Building Services, CDU 10-2004/CDV 10-2004**

CULTURAL RESOURCE RECONNAISSANCE OF 10.5 ACRES
NEAR GUALALA, MENODOCINO COUNTY, CALIFORNIA
(Arena Union Elementary School APN 145-091-22)

INTRODUCTION

This report presents the results of a cultural resources survey conducted on 24 May, 2005, by Jay M. Flaherty, Archaeological Services, Inc. **No cultural resources were discovered within the project boundaries.** The survey area consisted of 10.5 acres situated near Gualala, California. The investigation was mandated by the National Historic Preservation Act (NHPA), Section 106, the Secretary of Interior's Standards and Guidelines for Archaeology, and California Environmental Quality Act (CEQA). The reconnaissance was required after a determination by the Historic Resources Information System Northwest Information Center that the project was situated in an archaeologically sensitive zone. The County of Mendocino/Mendocino County Archaeological Commission, as the designated lead agency for approval of this project, is responsible for compliance with requirements regarding the identification and treatment of historic and prehistoric cultural resources.

State Regulations

CEQA requires public or private projects financed or approved by public agencies to assess the effects of the project on cultural resources (Public Resources Code Section 21082, 21083.2, and 21084.1 and California Code of Regulations 15064.5). Cultural resources are defined as buildings, sites, structures, or objects that may have historical, architectural, archaeological, cultural, or scientific importance. CEQA states that if a project results in significant impacts on important cultural resources, then alternative plans or mitigation measures must be considered.

The CEQA Guidelines define significant historical resources as "resources listed or eligible for listing on the California Register of Historical Resources (CHR)" (Public Resources Code Section 5024.1). An historical resource may be eligible for inclusion in the CHR if it:

A. is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
B. is associated with the lives of persons important in our past;
C. embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
D. has yielded, or may be likely to yield, information important in prehistory or history.

In addition, Section 15064.5(c)(3) of the CEQA Guidelines also requires consideration of an archaeological site that does not meet the criteria defined in subsection (a), but does meet the definition of "an unique archaeological resource" described in Section 21083.2 of the Public Resource Code.

Public Resources Code Section 5097 specifies procedures to be followed in the event that human remains are discovered. The disposition of Native American burials falls within the jurisdiction of the California Native American Heritage Commission (NAHC). California Code of Regulations Section 15064.5 (f) identifies the need to establish procedures to be followed in the event of the discovery during construction of buried cultural resources other than human bone on nonfederal land.

Federal Regulations

The National Register of Historic Places lists properties that are important to our nation's past. To be eligible for listing, a property must be 50 years of age or more; it must possess historic significance, and it must possess integrity of location, design, setting, materials, workmanship, feeling, and association. Historic significance is the importance of a property to the history, architecture, archaeology, engineering, or cultural aspects of a community. To qualify for the NRHP, a property must have significance in American history at the local, state, or national level. This importance can be present in districts, sites, buildings, structures, and objects that possess integrity and meet one of the following criteria:

A) association with events that have made a significant contribution to the broad patterns of history;
B) associated with the lives of persons significant to our past;
C) embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that posses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
D) have yielded, or may be likely to yield, information important in prehistory or history.

Section 106 of the NHPA requires that before beginning any undertaking, a federal agency must take into account the effects of the undertaking on historic properties and afford the Office of Historic Preservation (OHP) an opportunity to comment on these actions. Specific regulations regarding compliance with Section 106 state that, although the tasks necessary to comply with Section 106 may be delegated to others, the federal agency is ultimately responsible for ensuring that the Section 106 process is completed according to statute. For the purposes of Section 106 the area of potential effects (APE), will be a 10.5 acre parcel APN 145-091-22 (see map).

PROJECT LOCATION AND DESCRIPTION

The survey area was situated within T.11 N., R. 15 W., Section 22, Gualala, California 7.5' USGS topographic quadrangle (1993) (see map). Boundaries were determined by the use of a project map, USGS topographic map, GPS, and prominent natural and manmade features.

The subject property's terrain was relatively flat. Vegetation at the time of the survey consisted of grass, brush, and Pine and Fir trees. The project area had been disturbed in the past by road construction, power line construction, and the abandoned airstrip. The

nearest water was Robinson Gulch, which was located 1360 feet west of the project boundary. Native vegetation would have been a Redwood Forest. The proposed project consists of development of the Arena Union Elementary School.

METHODS

The method employed in the cultural resources investigation consisted of two steps. Initially, the ethnographic literature, archaeological base maps, site records, and prior survey reports on file at the Historical Resources Information System Northwest Information Center, housed at Sonoma State University, were reviewed to determine whether recorded archaeological or ethnographic sites were situated within the project area. As a result of the records searches, 04-879, it was determined that no archaeological or ethnographic sites had been recorded within the boundaries of the project. Several prehistoric archaeological sites had been recorded in the general vicinity and in similar environmental settings to that of the study area. On the basis of the records search and past surveys in the area, the author formed the opinion that the probability of archaeological sites being situated within the boundaries of the current study area was moderate.

The Native American Community was contacted to determine the possibility of any sacred sites being located within the project area. It appears that no sacred sites were located within the project area (see attached correspondence).

The second part of the investigation consisted of a complete on-foot survey of the project area. Ground visibility was generally poor throughout the survey area due to grass and duff cover.

RESULTS AND RECOMMENDATIONS

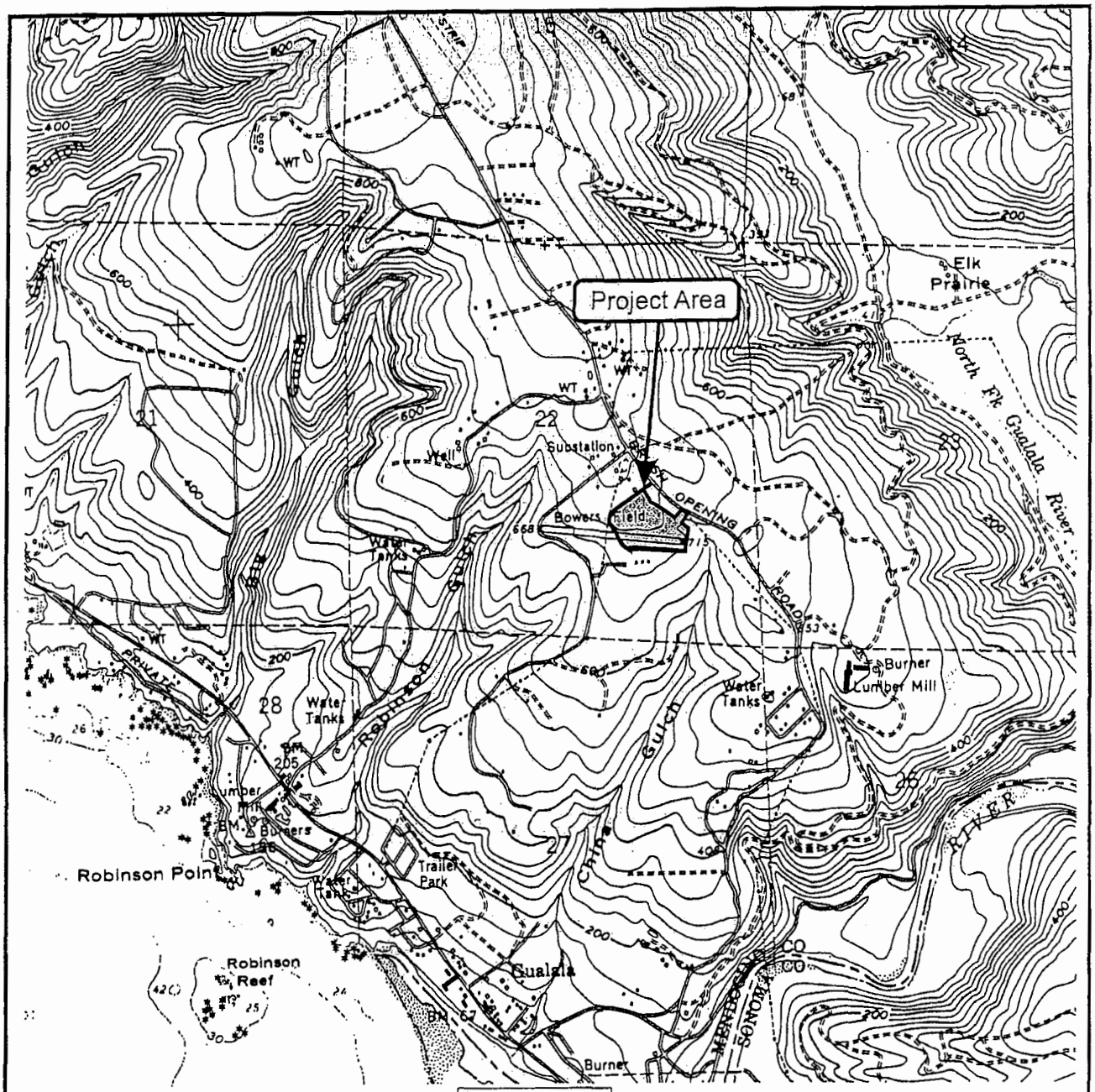
No cultural resources were discovered as a result of the survey; however, the possibility of buried or obscured cultural resources does exist. Should archaeological materials be discovered during future development, we recommend that all activity be temporarily halted in the vicinity of the find(s), and that a qualified archaeologist be retained to evaluate the find(s) and to recommend mitigation procedures, if necessary.

Prehistoric archaeological materials include, but are not limited to, obsidian, chert, and basalt flakes and artifacts, groundstone (such as mortars and pestles) and human graves. Historic archaeological materials include, but are not limited to, glass bottles, privys, and ceramics.

It is unlikely that human remains will be discovered during project construction. If, however, human remains of any type are encountered it is recommended that the project sponsor contact a qualified archaeologist to assess the situation. We also suggest that Section 15064.5 of the CEQA Guidelines be reviewed, as it details the legal procedure to follow in case of the accidental discovery of human remains during excavation or construction.

Jay M. Flaherty, RPA
Archaeological Services, Inc.

cc: Northwest Information Center



Arena Elementary School APN 145-091-22

UTM GRID AND 1977 MAGNETIC NORTH DECLINATION AT CENTER OF SHEET

Archaeological Services Inc., Kelseyville, California

PROJECT LOCATION Map

Source of Base Map: USGS, Gualala, Calif. 1960, Photorevised 1977

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STATE OF CALIFORNIA Arnold Schwarzenegger, Governor

NATIVE AMERICAN HERITAGE COMMISSION
916 CAPITOL MALL, ROOM 364
SACRAMENTO, CA 95814
(916) 653-4082
Fax (916) 657-5390
Web Site www.nahc.ca.gov

May 18, 2005

Jay Flaherty
Archaeological Services, Inc.
9467 Chippewa Trail
Kelseyville, CA 94541

Sent by Fax: 707-277-7790
Number of Pages: 4

RE: Proposed Arena School, Gualala, Mendocino County

Dear Mr. Flaherty:

A record search of the sacred land file has failed to indicate the presence of Native American cultural resources in the immediate project area. The absence of specific site information in the sacred lands file does not indicate the absence of cultural resources in any project area. Other sources of cultural resources should also be contacted for information regarding known and recorded sites.

Enclosed is a list of Native Americans individuals/organizations who may have knowledge of cultural resources in the project area. The Commission makes no recommendation or preference of a single individual, or group over another. This list should provide a starting place in locating areas of potential adverse impact within the proposed project area. I suggest you contact all of those indicated, if they cannot supply information, they might recommend others with specific knowledge. By contacting all those listed, your organization will be better able to respond to claims of failure to consult with the appropriate tribe or group. If a response has not been received within two weeks of notification, the Commission requests that you follow-up with a telephone call to ensure that the project information has been received.

If you receive notification of change of addresses and phone numbers from any of these individuals or groups, please notify me. With your assistance we are able to assure that our lists contain current information. If you have any questions or need additional information, please contact me at (916) 653-4038.

Sincerely,

Debbie Pilas-Treadway
Environmental Specialist III

for:

Archaeological Services, Inc.

9467 Chippewa Trail • Kelseyville, CA 95451
(707) 277-9533 • Fax (707) 277-7790

May 9, 2005

Ms. Debbie Pilas-Treadway
Associate Governmental Program Analyst
Native American Heritage Commission
915 Capitol Mall, Room 364
Sacramento, CA 95814

RE: Sacred Lands File Information for 10ac+/- for the Proposed Arena School, Gualala, CA

Our company will be conducting a cultural resources study for the above project, in Gualala, CA (see map). The project is located in Townships 11, North, Range 15 West, Section 22, Gualala 7.5, Mount Diablo Base Meridian. A search has been conducted by the Northwest Information Center at Sonoma State University with negative results on the project site. We would like to request a search of the NAHC Sacred Lands File to determine whether any places of Native American concern might be located within, or adjacent to the project area. Also please include a list of Native American organization we should contact in this area.

Any information you may have will be greatly appreciated. If you have any questions please do not hesitate to call at 707-277-9533 or Fax at 707-277-7790.

Sincerely,

Jay M. Flaherty (RPA)
Archaeological Services, Inc.

encl.

Archaeological Services, Inc.

9467 Chippewa Trail • Kelseyville, CA 95451
(707) 277-9533 • Fax (707) 277-7790

May 9, 2005

Manchester Band of Pomo Indians
Rick Poe, Chairperson
P.O. Box 623
Point Arena, CA 95468

RE: Sacred Lands or archaeological site Information for 10ac+/- for the Proposed Arena School, Gualala, CA

Our company will be conducting a cultural resources study for the above project, in Gualala, CA for the Arena Union Elementary School District (see map). The project is located in Townships 11, North, Range 15 West, Section 22, Gualala 7.5, Mount Diablo Base Meridian. A records search has been conducted by the Northwest Information Center at Sonoma State University with negative results. At the suggestion of the Native American Heritage Commission we are contacting you to see if you have any concerns regarding possible impacts to Native American cultural resources within the project area.

Any information you may have will be greatly appreciated. If you have any questions please do not hesitate to call at 707-277-9533.

Sincerely,

Jay M. Flaherty (RPA)
Archaeological Services, Inc.

encl.

COAST ACTION GROUP
P.O. Box 215
Point Arena, CA 95468

November 6, 2008

RECEIVED
NOV 0 7 2008
CALIFORNIA
COASTAL COMMISSION

California Coastal Commission
North Coast District
710 E Street, Suite 200
Eureka, CA 95501

Subject: Appeal No. A-1-MEN-07-044, Arena Elementary School District, proposed Gualala School

General

There are numerous reasons for withhold a Coastal Development Permit on the proposed Gualala Elementary School. These reasons include (but are not limited to): 1) Failure to demonstrate need as there is an existing plant and programs in Point Arena, 2) Diminishing population of age class of children needing such a facility in the Gualala/Sea Ranch area, 3) Bifurcation of resources for existing age class of elementary aged students, 4) Ethnic segregation of children in the elementary age class, 5) Overloading of sewer and water supply resources.

Water Availability

It has been noted in the Gualala Area LCP that proposed school plant facility is in a critical water availability area. It has also been noted that water supply available from the North Gualala Water Company, using the source of the North Fork of the Gualala River, is limited. Water hookups under the LCP are limited as is water diversion from the North Fork of the Gualala River during periods of low flow (See NGWC diversion License conditions). For years the North Gualala Water Company has been violating their Licensed conditions of diversion.

As a result of ongoing violations the State Water Resources Control Board (Division of Water Rights) issued an Administrative Civil Liabilities Complaint on North Gualala Water Company, Enforcement Action 70, October 24, 2008, and Notice of Cease and Desist. (These SWRCB Orders are at their web-site under Enforcement Actions). The California Department of Public Health issued a Public Health Compliance Order No. 02-03-08C0-002 finding that there is insufficient water rights to meet required supply for health and safety needs.

This suggests that there are insufficient water supplies to meet the needs of the community and the needs of the proposed school project.

Approval of any Coastal Development Permit should be withheld pending further investigation and determination of available water and the need for this project.

Sincerely,

For Coast Action Group.

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

W 17b

Filed:	October 30, 2007
49th Day:	Waived
Staff:	Melissa B. Kraemer
Staff Report:	October 30, 2008
Hearing Date:	November 12, 2008
Commission Action:	

STAFF REPORT: APPEAL

SUBSTANTIAL ISSUE & *DE NOVO*

APPEAL NO.:	**A-1-MEN-07-044**
APPLICANT:	**Arena Union Elementary School District**
AGENTS:	Aspen Street Architects, Inc. (Attn: Robert Bliss) Rau & Associates, Inc. (Attn: Julie Price)
LOCAL GOVERNMENT:	County of Mendocino
DECISION:	Approval with Conditions
PROJECT LOCATION:	Approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County (APN 145-091-010).
PROJECT DESCRIPTION:	Development of a new K-through-5 elementary school complex totaling 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 ft^2 of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of redwood forest vegetation, grading (~5,400 cubic

	yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage.
APPELLANTS:	Commissioner Mary K. Shallenberger Commissioner Sara J. Wan
SUBSTANTIVE FILE DOCUMENTS:	1) Mendocino County CDU/CDV Nos. 10-2004; 2) Appeal No. A-1-MEN-07-043; 3) *Gualala Elementary School Traffic Impact Study,* February 27, 2006, W- Trans, Inc., Santa Rosa; 4) *Botanical Resources Report, Proposed Gualala Elementary School, 39290 Old Stage Road, Gualala, Mendocino County, California,* September 19, 2006, Kjeldsen Biological Consulting, Santa Rosa; 5) *Arena Union Elementary School District – Biological Survey, APN 145-091-22,* December 2005, BioConsultant LLC, Santa Rosa; 6) *Geological And Environmental Hazards Screening Report,, Proposed Arena Union Elementary School Site, Gualala, California,* September 15, 2000, IT Corporation, Sacramento; 7) Mendocino County Local Coastal Program.

SUMMARIES OF STAFF RECOMMENDATIONS

1. Summary of Staff Recommendation: Substantial Issue

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

The development, as approved by the County, consists of development of a new K-through-5 elementary school complex totaling 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 $ft^2$of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of redwood forest vegetation, grading (~5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage.

The approved development is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road (APN 145-091-22). The property is designated and zoned Remote Residential (RMR) under the certified LCP. The property is not located in a designated "highly scenic area," nor is it visible from any public vantage points. The area surrounding the subject parcel is largely characterized by forest vegetation and rural residential development with minimum parcel sizes of 5 acres or 40 acres.

The subject property historically was logged and graded with an access road, which skirts the northern and western property boundaries, and an old private landing strip, which occupies the southern approximately one third of the parcel. The old landing strip area currently houses the applicant's school buses. The majority of the 10.5-acre parcel (between the existing access road to the north and west, the landing strip area to the south, and the residential parcels to the east) consists of second-growth coniferous forest vegetation.

Two rare plant species and one potentially rare vegetation community occur on the subject parcel. Thin-lobed horkelia (*Horkelia tenuiloba*), Coast lily (*Lilium maritimum*), and Northern Bishop Pine Forest.

The primary issue raised by the appeal is an allegation that the subject development is inconsistent with the environmentally sensitive habitat area (ESHA) policies of the certified LCP including certified Land Use Plan (LUP) Policy 3.1-7 and certified Coastal Zoning Code (CZC) Section 20.496.020, because (a) the development would be constructed within and directly adjacent to rare plant ESHA without maintaining the mandatory minimum 50-foot buffer, and (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA or ESHA buffer. Additionally, the appeal contends that the County's approval of the project is inconsistent with the geologic hazard policies and standards of the certified LCP including, but not limited to, LUP Policy 3.4-1 because, although mitigation measures were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development, or even to require that the geologist's mitigation measures be incorporated into the project at all. Lastly, the appeal contends that the County's approval of the project is inconsistent with the LCP policies and standards requiring that adequate utilities be available to serve new development including, but not limited to, Gualala Town Plan Policy G3.10-3 and CZC Section 20.532.095(A)(2), as the school development is permitted to be fully constructed without assurance that the successful installation of a needed 1.25-mile-long sewer line extension will be completed.

With regard to the appeal's contention alleging an inconsistency of the approved development with the ESHA policies of the certified LCP, the County's approval is based on a determination of the botanical impact analysis prepared for the project that (1) the majority of the rare plants and a portion of the sensitive plant community habitat on the subject property can be retained in the "Conservation/Study Area," (2) those rare plant individuals that occur within the project footprint can be transplanted into the "Conservation/ Study Area" where they will be protected, and (3) therefore, the loss of rare plant specimens and sensitive plant community habitat resulting from the development would not compromise the plants' or habitat's continued

existence in the area. In its findings for approval of the project, the County fails to address the consistency of the project with the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020 including (1) why a buffer width less than 100 feet may be appropriate, (2) how a reduced buffer is allowable based on analysis of the seven criteria specified in CZC Section 20.496.020(A)(1) that must be applied in determining whether a potential reduction of the ESHA buffer is warranted, and (3) how a buffer less than the minimum of 50 feet required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) is allowable at all under the LCP. Furthermore, the County did not acknowledge that a portion of the development would be located within the 50-foot rare plant buffer area proper and that an unspecified number of rare plant individuals would be directly impacted by the development. Because (a) ESHA buffers are not allowed to be reduced to less than 50 feet, and (b) development is allowed within a buffer area only if it is demonstrated that there is no other feasible site available on the parcel, the degree of legal and factual support for the local government's decision that the development is consistent with the ESHA protection policies of the certified LCP is low. Therefore, staff believes that the project, as approved by the County, raises a substantial issue with respect to conformance with the ESHA protection provisions of the certified LCP including LUP Policy 3.1-7 and CZC Section 20.496.020.

With regard to the appeal's contention alleging an inconsistency of the approved development with the geologic hazard policies of the certified LCP, the County failed to include a condition requiring the recommendations of the geotechnical engineer be carried out for the development, as the subject property is located in a seismically active area, with the San Andreas Fault being located less than one mile northeast of the project site. The geologic report recommended "that a geotechnical engineer review the proposed building(s) anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems." LUP Policy 3.4-1 requires that where mitigation measures are determined to be necessary by the consulting geologist or engineer, the County shall require that the foundation construction and earthwork be supervised and certified by a licensed geologist or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development. Thus the degree of legal and factual support for the local government's decision that the development is consistent with the geologic hazard policies of the certified LCP is low because, although mitigation measures were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development, or even to require that the geologist's mitigation measures be incorporated into the project at all. Therefore, staff believes that the County's approval of the project raises a substantial issue with respect to conformance of the approved project with the geologic hazard policies and standards of the certified LCP including LUP Policy 3.4-1.

With regard to the appeal's contention alleging an inconsistency of the approved development with the adequacy of utilities policies of the certified LCP, the approved development proposes to use an extension of the wastewater collection system of the Gualala Community Services District (GCSD) to serve its sewage disposal needs. The GCSD sewer extension was processed under a separate permit by the County, approved by the County Planning Commission on September 20, 2007 and appealed to the Coastal Commission on October 30, 2007. On

December 14, 2007, the Commission found that that a "substantial issue" exists with respect to the grounds on which that appeal was filed. The County, in its approval of the new school that is the subject of this appeal, failed to include a condition requiring that the service extension be installed prior to development of the school. As approved, the new school development is permitted to be fully constructed without the assurance that successful installation of the service extension is achievable. Approval without such a condition raises a substantial issue of conformance with CZC Section 20.532.095(A)(2), which requires that findings of approval for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve new development. Furthermore, the County's action raises a substantial issue of conformance with LUP Policy G3.10-3, because neither a hook-up to the GCSD nor an adequate on-site sewage disposal system are currently available to serve the new development, and there is no condition precluding development unless adequate sewage service is available. Thus, the degree of legal and factual support for the local government's decision that the development is consistent with the adequacy of utilities policies of the certified LCP is low, and staff believes that the approved development raises a substantial issue with respect to the project's conformance with the LCP policies and standards regarding the adequacy of utilities available to serve new development including Gualala Town Plan Policy G3.10-3 and CZC Section 20.532.095(A)(2).

For all of the above reasons, staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the project as approved by the County with the certified LCP policies with respect to the contentions raised concerning the protection of ESHA, geologic hazards, and adequacy of utilities available to serve the new development.

The Motion to adopt the staff recommendation of Substantial Issue is on page 9.

2. Summary of Staff Recommendation *De Novo*: Approval with Conditions

Staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that, as conditioned, the proposed development would be consistent with the policies and standards of the Mendocino County LCP.

The project site is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County (Exhibit No. 1). The subject property consists of approximately 10.5 acres situated along a generally southwesterly-facing hillside at an approximate elevation of 720 feet (Exhibit Nos. 2 and 3). The northeastern corner of the parcel – the access entrance to the property – abuts the inland coastal zone boundary. The property is not located in a designated "highly scenic area," nor is it visible from any public vantage points. The area surrounding the subject parcel is largely characterized by forest vegetation and rural residential development with minimum parcel sizes of 5 acres or 40 acres.

The subject property historically was logged and graded with an access road, which skirts the northern and western property boundaries, and an old private landing strip, which occupies the southern approximately one third of the parcel (Exhibit No. 4). The old landing strip area

currently houses the applicant's school buses. The majority of the 10.5-acre parcel (between the existing access road to the north and west, the landing strip area to the south, and the residential parcels to the east) consists of second-growth coniferous forest dominated by coast redwood, Douglas-fir, tanoak, Bishop pine, Pacific madrone, and chinquapin.

The proposed project involves development of a new phased kindergarten through fifth grade elementary school complex. Development of a new school in Gualala is envisioned in Goal G2.8-1 of Gualala Town Plan (GTP) portion of the certified LCP. The existing elementary school and high school serving the Gualala area are in Point Arena, approximately 15 miles to the north. The GTP states that as of 1997, the elementary school was approaching maximum capacity, and at that time the Gualala area already had the largest population of school-aged children attending the Point Arena schools. The fact that most children take the bus to and from school is a significant expense to the school district. The proposed school complex would include 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 $ft^2$of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of forest vegetation, grading (~5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage. As proposed, the school building complex would be situated south of the access road, west of a row of homes that front onto Old Stage Road, and east of the old air strip. Parking would be provided in two locations, including between the school building complex and the access driveway and at the former airstrip at the west end of the development. The existing access road that skirts the northern and western property boundaries and winds down to the old air strip would be widened to accommodate school bus safety standards. The proposed site plan is attached as Exhibit No. 5, and the proposed preliminary grading plan is attached as Exhibit No. 6. Overall, the project site would remain surrounded by forest vegetation both on site and off site, which would help shield the new development from view. As mentioned above, the property is not located in a designated "highly scenic area," nor is it visible from any public vantage points.

Because the soils of subject property are not suitable for on-site sewage treatment, the project is proposed to be connected to an extension of the sewer line proposed (under separate permit application) by the Gualala Community Services District (GCSD). On September 20, 2007, the County approved the GCSD's proposed extension of a 6-inch diameter wastewater main approximately 1.25 miles within the County road right-of-way from an existing GCSD system to the proposed school. However, the sewer line extension project was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which the appeal was filed. The GCSD appeal is agendized as Item W-18a, and a separate staff report has been prepared for that project. If the Commission finds that Appeal No. A-1-MEN-07-044 raises a substantial issue of conformance with the policies and standards of the certified Mendocino County LCP, the Commission may decide to hold a joint continued public hearing on the Commission's *de novo* review of both appeals.

The principal issue raised on appeal concerned whether the proposed school development would encroach into environmentally sensitive habitat area (ESHA) or buffer area needed to protect the ESHA. The botanical report prepared for the project identified two rare plant species on the subject parcel (Thin-lobed horkelia and Coast lily). The report also discussed whether a rare Northern Bishop Pine Forest community exists on the site. Staff believes that the large concentration of Thin-lobed horkelia within the forested habitat on the western side of the property as shown on Exhibit No. 14 meets the two part test under Coastal Act Section 30107.5 (Section 3.1 of the certified LUP) for determining ESHA because the rare plant habitat is rare, and it could be easily disturbed or degraded by human activities and developments. However, staff does not believe that the few scattered Thin-lobed horkelia plants that occur along the roadsides and within the old landing strip are rare Thin-lobed horkelia habitat, because these areas are so altered, small, discontinuous, and contain so few individual specimens of the plant relative to the distribution and abundance of the Thin-lobed horkelia found elsewhere on the property that they no longer fit the definition of their historical habitat type. Staff also believes that the two Coast lily "clumps" that occur on the north side of the property within an intact, relatively undisturbed, natural habitat constitute rare Coast lily habitat pursuant to the two part test for determining ESHA. However, staff does not believe that the single Coast lily clump occurring within a roadside ditch is rare Coast lily habitat because it is such an altered environment that it no longer fits the definition of its historical habitat type. Finally, staff believes that the habitat that occurs on the property that contains Bishop pine does not qualify as ESHA under Coastal Act Section 30107.5 (LUP Section 3.1), because the habitat is neither rare nor especially valuable because of its special nature or role in an ecosystem. Staff recommends various mitigation measures to ensure protection of ESHA on the subject site including the following:

- Special Condition No. 4 would require submittal, prior to permit issuance, of a revised site plan that demonstrates that minimum 50-foot buffers will be established between the Coast lily ESHA and the proposed upper parking lot and day-care/preschool facility;
- Special Condition No. 5 would require submittal, prior to permit issuance, of final erosion control plan(s) demonstrating that Best Management Practices (BMPs) will be implemented to control erosion and sedimentation both during and following construction and timber harvesting;
- Special Condition No. 6 would require submittal of a final grading and drainage plan for the school that demonstrates, among other things, that (a) grading shall not significantly disrupt rare plant ESHA, ESHA buffer, and natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff; (b) existing vegetation shall be maintained on site to the maximum extent feasible; (c) native vegetation shall be replanted pursuant to Special Condition No. 7 to help control sedimentation; and (d) all storm water runoff shall be encaptured or treated using relevant best management practices;
- Special Condition No. 7 would require implementation of various other ESHA protection measures including (a) installation of a temporary exclusion/construction fencing between the rare plant ESHA and the proposed timber harvesting and construction areas during all timber harvesting and construction activities; (b) creation and maintenance of the Conservation/Study Area around the Thin-lobed horkelia ESHA proposed by the

applicant (c) manual removal of invasive weeds; (d) allowing only native and/or non-invasive plant species of native stock shall be planted at the site; (e) prohibiting planting of other *Lilium* species on the property to guard against hybridization and to protect the long-term genetic integrity of the Coast lily in the area; (f) prohibiting the use of specified rodenticides on the subject property; and (g) monitoring of all project activities by a qualified botanist to minimize adverse impacts to sensitive plants during timber harvesting and project construction;

- Special Condition No. 8 would restrict the use of the ESHA and ESHA buffer area on the property to open space; and
- Special Condition No. 9 would require that prior to permit issuance, the applicant submit a written agreement that prior to any conveyance of the property, the applicant shall execute and record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

Staff believes that the proposed development, as conditioned, is consistent with CZC Section 20.532.095(A)(2) and with LUP Policy G3.10-3, which require that findings of approval for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve new development, and the development will not proceed until adequate services are available. Staff recommends Special Condition No. 1 to require that prior to permit issuance, the applicant submit evidence that the GCSD has obtained all necessary permits for construction of the proposed sewer line extension. The condition further requires that prior to occupancy of the new school, the applicant shall submit evidence that the sewer line extension has been successfully installed, and a hook-up to the GCSD is available.

Staff further believes that the proposed development, as conditioned, is consistent with the geologic hazards policies of the certified LCP. Staff recommends Special Condition No. 2 to require that prior to permit issuance, a geotechnical engineer shall approve all final design, construction, foundation, grading and drainage plans, and shall review the anchoring systems and anticipated seismic loading of the proposed buildings and provide recommendations, as necessary, for appropriate restraint systems, as recommended by the geologic report. The condition further requires that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise, to ensure that the geologic hazard mitigation measures are properly incorporated into the development.

As mentioned above, the property is not located in a designated "highly scenic area," and the parcel is located almost a horizontal mile from the coast, on the inland edge of the coastal zone, on a forested hillside that is not readily apparent from any public beaches. Overall, the project site would remain surrounded by forest vegetation both on site (by not disturbing a portion of the existing forest vegetation, as described in more detail below) and off site (as most of the surrounding rural residential parcels remain primarily forested). Staff recommends Special Condition No. 3-A to require that roof angles and exterior finish blend with the hillside, and that all exterior materials, including roof, windows, and doors, shall not be reflective to minimize glare. Staff recommends Special Condition No. 3-B to require that all exterior lighting be the minimum necessary for the safe ingress, egress, and use of the structures, and be low-wattage,

non-reflective, shielded, and have a directional cast downward. As conditioned, staff believes that the proposed project minimizes the alteration of natural land forms and will be visually compatible with the character of the surrounding area consistent with LUP Policy 3.5-1, and includes lighting that will not glare beyond the limits of the parcel consistent with LUP Policy 3.5-15.

Staff believes that the proposed project, as conditioned to include the conditions summarized above, among others, is consistent with all applicable policies of the certified Mendocino county LCP.

The Motion to adopt the Staff Recommendation of Approval with Conditions is on page 10.

I. STAFF RECOMMENDATION, MOTION & RESOLUTION ON SUBSTANTIAL ISSUE

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

Motion:

I move that the Commission determine that Appeal No. A-1-MEN-07-044 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation:

Staff recommends a **NO** vote. Following the staff recommendation will result in the Commission conducting a *de novo* review of the application, and adoption of the following resolution and findings. Passage of this motion via a Yes vote will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

Resolution to Find Substantial Issue:

The Commission hereby finds that Appeal No. A-1-MEN-07-044 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved project with the Certified Local Coastal Plan.

II. STAFF RECOMMENDATION, MOTION & RESOLUTION ON *DE NOVO*

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-07-044, subject to conditions.

Staff Recommendation of Approval:

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

Resolution to Approve Permit:

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

PART ONE – SUBSTANTIAL ISSUE

STAFF NOTES

1. Appeal Process

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area, such as designated "special communities." Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local

coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is not designated the "principal permitted use" under the certified LCP. Schools are a conditional use in the Remote Residential (RMR) land use classification and zoning district, and the County granted a Coastal Development Use Permit for the approved project on this basis (Exhibit No. 11).

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

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

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

Unless it is determined that there is no substantial issue, the Commission will proceed to the *de novo* motion of the appeal hearing and review the merits of the proposed project. If the Commission were to conduct a *de novo* hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program.

2. Filing of Appeal

One appeal was filed by Commissioner Mary K. Shallenberger and Commissioner Sara J. Wan (Exhibit No. 12). The appeal was filed with the Commission in a timely manner on October 30, 2007, within 10 working days of receipt by the Commission of the County's Notice of Final Action on October 16, 2007 (Exhibit No. 11).

3. 49-Day Waiver

Pursuant to Section 30621 of the Coastal Act, an appeal hearing must be set within 49 days from the date an appeal of a locally issued coastal development permit is filed. On, November 26, 2007, prior to the 49th day after the filing of the appeal, the applicant submitted a signed 49-Day Waiver waiving the applicant's right to have a hearing set within 49 days from the date the appeal had been filed.

4. Related Agenda Item

At the November 12, 2008 Commission meeting, the Commission will also hold a continued public hearing and conduct a *de novo* review on related Appeal No. A-1-MEN-07-043 (Gualala Community Services District) to extend a 6-inch diameter wastewater main approximately 1.25 miles beneath Old Stage Road to serve the school approved by the County under Appeal No. A-1-MEN-07-044. The Gualala Community Services District appeal is agendized as Item W-18a, and a separate staff report has been prepared for that project that may be obtained from the Commission's North Coast office or downloaded from the Commission's website. If the Commission finds that Appeal No. A-1-MEN-07-044 raises a substantial issue of conformance with the policies and standards of the certified Mendocino County LCP, the Commission may decide to hold a joint continued public hearing on the Commission's *de novo* review of both appeals.

III. FINDINGS & DECLARATIONS

The Commission hereby finds and declares the following:

A. APPEAL CONTENTIONS

The Commission received one appeal of the County of Mendocino's decision to approve the development from Commissioner Mary K. Shallenberger and Commissioner Sara J. Wan. The development, as approved by the County, consists of a new K-through-5 elementary school complex totaling 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 $ft^2$of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of redwood forest vegetation, grading (~5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage. The County conditioned its approval of the overall project to require that the proposed development be established in conformance with all mitigation measures contained in the Biological Survey (BioConsultants LLC, December 2005, Exhibit No. 7) and Botanical Resources Report (Kjeldsen Biological Consulting, September 16, 2006, Exhibit No. 8). The project site is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County (APN 145-091-22)

The appeal contends that the County's approval of the project is inconsistent with the provisions of the certified Local Coastal Program (LCP), including policies and standards regarding (1) environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) the adequacy of utilities available to serve the development. The appeal's contentions are summarized below, and the full text of the contentions are included as Exhibit No. 12.

1. Protection of Environmentally Sensitive Habitat Areas

Two rare plant species occur on the subject property: Thin-lobed horkelia (*Horkelia tenuiloba*) and Coast lily (*Lilium maritimum*). Both species are considered rare by the California Native Plant Society (CNPS 2008[1]) and the Department of Fish and Game (California Natural Diversity Database, CNDDB[2]). Additionally, the applicant's botanist identified one sensitive plant community on the property: Northern Bishop Pine Forest, which is listed as sensitive in the CNDDB. The botanist also identified "native perennial bunch grasses" on the property comprised of tufted hairgrass (*Deschampsia cespitosa* ssp. *holciformis*), vanilla grass (*Hierochloe occidentalis*), and witchgrass (*Panicum capillare*). However, none of these grasses are considered rare by CNPS or the CNDDB at either the species or plant community levels.

The appeal contends that approval of the subject development is inconsistent with the environmentally sensitive habitat area (ESHA) policies of the certified LCP including certified Land Use Plan (LUP) Policy 3.1-7 and certified Coastal Zoning Code (CZC) Section 20.496.020, because (a) the development would be constructed within and directly adjacent to rare plant ESHA without maintaining the mandatory minimum 50-foot buffer, and (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA or ESHA buffer.

2. Geologic Hazards

The County's staff report for the development states that the subject property is located in a seismically active area, with the San Andreas Fault being located less than one mile northeast of the project site. The County notes that the applicant's geologic report concluded that, due to the proximity of active faults to the site, the potential for earthquake-induced severe ground shaking at the site is high, but the report indicated that the hazard can be mitigated by proper design and construction techniques. The geologic report recommended "that a geotechnical engineer review the proposed building(s) anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems." The appeal contends that the County's approval of the project is inconsistent with the geologic hazard policies and standards of the certified LCP including LUP Policy 3.4-1 because, although mitigation measures were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development, or even to require that the geologist's mitigation measures be incorporated into the project at all.

3. Adequacy of Utilities Available to Serve New Development

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[1] California Native Plant Society (CNPS). 2008. *Inventory of Rare and Endangered Plants* (online edition, v7-08d). California Native Plant Society. Sacramento, CA. Accessed on Wed, Oct. 8, 2008 from http://www.cnps.org/inventory.

[2] California Department of Fish & Game, Biogeographic Data Branch, Natural Diversity Database *RareFind* Version 3.1.1, March 3, 2007.

The approved development proposes to use an extension of the wastewater collection system of the Gualala Community Services District (GCSD) to serve its sewage disposal needs, as seasonally high ground water levels and low permeable soils inhibit the development of an on-site private sewage disposal system. The GCSD service extension, which includes extending a 6-inch diameter wastewater main for approximately 1.25 miles from an existing GCSD system to the new school, was processed under a separate coastal development use permit (which also was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which the appeal was filed). The County, in its approval of the new school, failed to include a condition requiring that the service extension be installed prior to development of the school. As approved, the new school development is permitted to be fully constructed without the assurance that successful installation of the service extension is achievable. The appeal contends that approval without such a condition is inconsistent with CZC Section 20.532.095(A)(2), which requires that findings of approval for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve new development. The appeal further contends that the County's action conflicts with LUP Policy G3.10-3, because neither a hook-up to the GCSD nor an adequate on-site sewage disposal system are currently available to serve the new development, and there is no condition requiring that the development not proceed until adequate sewage service is available.

B. LOCAL GOVERNMENT ACTION

On September 20, 2007, the Mendocino County Planning Commission approved a Coastal Development Use Permit and Coastal Development Variance (CDU/CDV #10-2004) for the project with 30 special conditions included in their entirety in Exhibit No. 11.

Of particular relevance to the ESHA-related contentions of the appeal is County Condition No. B-10 and B-27. County Condition No. B-10 requires that the proposed development be established in conformance with all mitigation measures contained in the Biological Survey (BioConsultants LLC, December 2005, Exhibit No. 7) and Botanical Resources Report (Kjeldsen Biological Consulting, September 16, 2006, Exhibit No. 8). County Condition No. B-27 requires that all proposed landscaping consist of native species that blend with the surrounding natural environment and that a detailed landscaping plan be submitted to the County for review and approval.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on October 16, 2007 (Exhibit No. 11). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals. Section 13573 also provides that where a project is appealed by any two Commissioners, as here, there shall be no requirement for exhaustion of local appeals. The County's approval of the project was appealed to the Coastal Commission in a timely manner on October 30, 2007, within ten working days after receipt by the Commission of the Notice of Final Local Action on October 16, 2007.

C. COMMISSION'S APPEAL JURISDICTION OVER PROJECT

Coastal Act Section 30603(a)(4) and certified Mendocino County Coastal Zoning Code (CZC) Section 20.544.020(B)(4) include in the list of appealable development those developments approved by a coastal county that are not designated as the principal permitted use under the certified zoning ordinance. CZC Section 20.380.015 includes "Educational Facilities" as one of the Coastal Civic Use Types allowed by conditional use permit in the Remote Residential (RMR) zoning district, rather than as a principal permitted use. The County granted a Coastal Development Use Permit for the approved school complex on this basis.

Therefore, the Commission finds that as the approved development is not designated as the principal permitted use under the certified Mendocino County Coastal Zoning Code, the County's approval of CDU/CDV No. 10-2004 for the applicant's proposed new K-through-5 elementary school complex is appealable to the Commission pursuant to Section 30603(a)(4) of the Coastal Act and CZC Section 20.544.020(B)(4).

D. SITE DESCRIPTION

The project site is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County (see Exhibit No. 1). The subject property consists of approximately 10.5 acres situated along a generally southwesterly-facing hillside at an approximate elevation of 720 feet (Exhibit Nos. 2, 3, and 4). The property is located just below the top of a northwest/southeast trending ridge (marine terrace) that is situated between the ocean (1.4 miles westward) and the San Andreas Fault Zone (0.8 miles eastward). The site is generally flat to gently sloping.

The northeastern corner of the parcel – the access entrance to the property – abuts the inland coastal zone boundary (which follows the inland right-of-way of Old Stage Road). The property is designated and zoned Remote Residential (RMR), with a maximum dwelling density of 1 unit per 40 acres, under the certified LCP (Exhibit No. 3). The property is not located in a designated "highly scenic area," nor is it visible from any public vantage points. Except for the driveway entrance, a band of residential parcels lies between the eastern edge of the subject parcel and Old Stage Road. Furthermore, because the parcel is located almost a horizontal mile from the coast on a forested hillside, it is not readily apparent from any public beaches. The area surrounding the subject parcel is largely characterized by forest vegetation and rural residential development with minimum parcel sizes of 5 acres or 40 acres (Exhibit Nos. 3 and 4).

The subject property historically was logged and graded with an access road, which skirts the northern and western property boundaries, and an old private landing strip, which occupies the southern approximately one third of the parcel (Exhibit No. 4). The old landing strip area currently houses the applicant's school buses. The majority of the 10.5-acre parcel (between the existing access road to the north and west, the landing strip area to the south, and the residential parcels to the east) consists of second-growth coniferous forest dominated by coast redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii* var. *menziesii*), tanoak (*Lithocarpus densiflora* var. *densiflora*), Bishop pine (*Pinus muricata*), Pacific madrone (*Arbutus menziesii*), and chinquapin (*Chrysolepis chrysophylla* var. *minor*). The forest understory layer consists

primarily of various manzanitas (*Arctostaphylos* spp.), evergreen huckleberry (*Vaccinium ovatum*), salal (*Gaultheria shallon*), bracken fern (*Pteridium aquilinum* var. *pubescens*), and other species.

According to "Soil Survey of Mendocino County, Western Part," the soils of the project site are classified as Shinglemill-Gibney Complex, 2 to 9 percent slopes. These soils are characteristic of marine terraces in the region and are classified as "capable of producing pygmy type vegetation," though no pygmy vegetation occurs on the subject property. The soils of the property are deep, poorly drained, slowly permeable, and seasonally saturated. Thus, the subject parcel is not suitable for on-site sewage treatment.

Two rare plant species and one potentially rare vegetation community occur on the subject parcel. Thin-lobed horkelia (*Horkelia tenuiloba*) is listed by the California Native Plant Society (CNPS) as 1B.2[3] and by the Department of Fish and Game's Natural Diversity Database (CNDDB) as G2/S2.2[4]. The species occurs primarily near the edge of the forested habitat on the western side of the property (see Exhibit No. 14). Coast lily (*Lilium maritimum*) is listed by CNPS as 1B.1[3] and by the CNDDB as G2/S2.1[4]. The species occurs near the edge of the forested habitat on the northern side of the property (Exhibit No. 14). Northern Bishop Pine Forest is listed by the CNDDB as G2/S2.2[4]. The bulk of the project site is forested with redwood, Douglas-fir, tanoak, Bishop pine, and other species.

E. PROJECT DESCRIPTION

The project as approved by the County involves development of a new kindergarten-through-fifth grade elementary school complex totaling 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 $ft^2$of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of forest vegetation, grading (~5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage. As approved, the school building complex would be situated south of the access road, west of a row of homes that front onto Old Stage Road, and east of the old air strip. Parking would be provided in two locations, including between the school building complex and the access driveway and at the former airstrip at the west end of the development. The existing access road that skirts the northern and western property boundaries and winds down to the old air strip would be widened to accommodate school bus safety standards. The approved site plan is attached as Exhibit No. 5, and the approved preliminary grading plan is attached as Exhibit No. 6.

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[3] **LIST 1B** = Rare, threatened, or endangered in California and elsewhere; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California

[4] **G** = Global ranking; **S** = State ranking. For each ranking, **1** = Less than 6 occurrences OR less than 1,000 individuals OR less than 2,000 acres; **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California.

Because the subject property is not suitable for on-site sewage treatment (see above), the project as approved by the County is permitted to connect to an extension of the sewer line proposed (under separate permit application) by the Gualala Community Services District (GCSD). On September 20, 2007, the County approved the GCSD's proposed extension of a 6-inch diameter wastewater main approximately 1.25 miles (~6,500 feet) within the County road right-of-way from an existing GCSD system to the new school. However, the sewer line extension project was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed.

F. SUBSTANTIAL ISSUE ANALYSIS

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

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

All of the contentions raised in this appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP. These contentions allege that the approval of the project by the County is inconsistent with (1) LCP provisions regarding the protection of environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) the adequacy of utilities available to serve the development.

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

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

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

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the appeal raises a substantial issue of conformance of the approved project with the certified Mendocino County LCP.

1. Protection of Environmentally Sensitive Habitat Areas

The appellants contend that approval of the subject development is inconsistent with the environmentally sensitive habitat area (ESHA) policies of the certified LCP including certified Land Use Plan (LUP) Policy 3.1-7 and certified Coastal Zoning Code (CZC) Section 20.496.020, because (a) the development would be constructed within and directly adjacent to rare plant ESHA without maintaining any buffer, and (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA or ESHA buffer.

LCP Policies and Standards:

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

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

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

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

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

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

uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

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

(A) Buffer Areas. *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

(1) Width. *The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

Standards for determining the appropriate width of the buffer area are as follows:

(a) Biological Significance of Adjacent Lands. *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*
Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

(b) Sensitivity of Species to Disturbance. *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion

Two rare plant species and one potentially rare vegetation community occur on the subject parcel. Thin-lobed horkelia (*Horkelia tenuiloba*) is listed by the California Native Plant Society (CNPS) as 1B.2[5] and by the Department of Fish and Game's Natural Diversity Database (CNDDB) as G2/S2.2[6]. The species occurs primarily near the edge of the forested habitat on the western side of the property (see Exhibit No. 14). Coast lily (*Lilium maritimum*) is listed by CNPS as 1B.13 and by the CNDDB as G2/S2.1[4]. The species occurs near the edge of the forested habitat on the northern side of the property (Exhibit No. 14). Northern Bishop Pine Forest is listed by the CNDDB as G2/S2.2[4]. The bulk of the project site is forested with redwood, Douglas-fir, tanoak, Bishop pine, and other species.

As approved, the locations of some specimens of Thin-lobed horkelia and Coast lily would be obliterated by grading, and portions of the approved development would be located within 50 feet of rare plant individuals and the area of Northern Bishop Pine Forest.

The County's approval is based on a determination of the botanical impact analysis prepared for the project that (1) the majority of the rare plants and a portion of the sensitive plant community habitat on the subject property can be retained in the "Conservation/Study Area," (2) those rare plant individuals that occur within the project footprint can be transplanted into the "Conservation/ Study Area" where they will be protected, and (3) therefore, the loss of rare plant specimens and sensitive plant community habitat resulting from the development would not compromise the plants' or habitat's continued existence in the area. In its findings for approval of the project, the County fails to address the consistency of the project with the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020 including (1) why a buffer width less than 100 feet may be appropriate, (2) how a reduced buffer is allowable based on analysis of the seven criteria specified in CZC Section 20.496.020(A)(1) that must be applied in determining whether a potential reduction of the ESHA buffer is warranted, and (3) how a buffer less than the minimum of 50 feet required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) is allowable at all under the LCP. Furthermore, the County did not acknowledge that a portion of the development would be located within the 50-foot rare plant buffer area proper and that an unspecified number of rare plant individuals would be directly impacted by the development.

LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020 (A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent environmentally sensitive habitat area, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. The LCP sets forth uses permitted in wetland and riparian ESHAs, but is silent with regard to allowable uses within rare plant ESHA, and thus allowable uses within the rare plant buffer.

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[5] **LIST 1B** = Rare, threatened, or endangered in California and elsewhere; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California

[6] **G** = Global ranking; **S** = State ranking. For each ranking, **1** = Less than 6 occurrences OR less than 1,000 individuals OR less than 2,000 acres; **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California.

LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4) require permitted development within an ESHA buffer to comply with several standards. These standards include that structures be allowed within a buffer area only if there is no other feasible site available on the parcel, and that the development be sited and designed to prevent impacts that would significantly degrade the ESHA. The County's findings do not analyze alternative sites or project designs or demonstrate that the project as approved was sited and designed on the 10.5-acre parcel in a manner that would best protect the rare plant ESHA.

Thus, because (a) ESHA buffers are not allowed to be reduced to less than 50 feet, and (b) development is allowed within a buffer area only if it is demonstrated that there is no other feasible site available on the parcel, the degree of legal and factual support for the local government's decision that the development is consistent with the ESHA protection policies of the certified LCP is low. Furthermore, as Section 30240 of the Coastal Act requires that environmentally sensitive habitat areas of the coastal zone be protected from the impacts of development, and the cumulative impact of the loss of sensitive habitat over time throughout the coastal zone has been significant, the appeal raises issues of statewide significance rather than just a local issue. Therefore, the Commission finds that appeal raises a substantial issue with respect to conformance of the approved project with the ESHA protection provisions of the certified LCP including LUP Policy 3.1-7 and CZC Section 20.496.020.

2. Geologic Hazards

The appellants contend that the County's approval of the project is inconsistent with the geologic hazard policies and standards of the certified LCP including LUP Policy 3.4-1 because, although mitigation measures to minimize threats from and impacts on geologic hazards were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development.

LCP Policies and Standards:

- LUP Policy 3.4-1 states the following (emphasis added):

  The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.

Discussion

The County's staff report for the development states that the subject property is located in a seismically active area, with the San Andreas Fault being located less than one mile northeast of the project site. The County notes that applicant's geologic report concluded that, due to the proximity of active faults to the site, the potential for earthquake-induced severe ground shaking at the site is high, but the hazard can be mitigated by proper design and construction techniques. The geologic report recommended "that a geotechnical engineer review the proposed building(s) anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems" (as was discussed in the September 6, 2007 County staff report). LUP Policy 3.4-1 requires that where mitigation measures are determined to be necessary by the consulting geologist or engineer, the County shall require that the foundation construction and earthwork be supervised and certified by a licensed geologist or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development. The County, in its approval of the project, failed to include a condition requiring the recommendations of the geotechnical engineer be carried out. Thus, the degree of legal and factual support for the local government's decision that the development is consistent with the geologic hazard policies of the certified LCP is low because, although mitigation measures were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development. Therefore, the Commission finds that the appeal raises a substantial issue with respect to conformance of the approved project with the geologic hazard policies and standards of the certified LCP including LUP Policy 3.4-1.

3. Adequacy of Utilities Necessary to Serve New Development

The appellants contend that the project, as approved by the County, is permitted to be fully constructed without the assurance that sewer service necessary to serve the development is achievable. Sewer service is proposed to be provided by the Gualala Community Services District (GCSD), which under a separate coastal development permit, applied for an extension of its sewer line to the school site. The GCSD project also was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed. This appeal contends that approval of the school complex without a condition requiring that the service extension be installed prior to development of the school is inconsistent with the certified LCP.

LCP Policies and Standards:

- CZC Section 20.532.095(A)(2) states the following:

> *(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
>
> …
>
> *(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities.…*

…

- LUP Section 4.14 – Gualala Town Plan, Policy G3.10-3 states the following:

  Either a hook-up to the Gualala Community Services District or an adequate on-site sewage disposal system, as approved by the Division of Environmental Health, shall be available to serve any new development.

Discussion

The approved development proposes to use an extension of the wastewater collection system of the Gualala Community Services District (GCSD) to serve its sewage disposal needs, as seasonally high ground water levels and low permeable soils inhibit the development of an on-site private sewage disposal system. The GCSD service extension, which includes extending a 6-inch diameter wastewater main for approximately 1.25 miles from an existing GCSD system to the new school, was processed under a separate coastal development use permit (CDU No. 9-2005), which was approved by the Planning Commission on September 20, 2007 and appealed to the Coastal Commission on October 30, 2007. On December 14, 2007 the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed.

As approved, the subject school development is permitted to be fully constructed without the assurance that the sewer line extension will actually be successfully installed and available when needed to serve the school. The County's approval of the subject development predicated its findings on the assumption that the GCSD service extension permit would be approved and the wastewater main successfully installed. However, there are no guarantees that final regulatory approvals and project financing will be obtained in the future and that construction of the 1.25-mile-long sewer line extension will be physically completed in time to serve the school when it opens. The installation of the line will entail substantial cost and will require the successful implementation of the project by the GCSD contractors and other parties not under the direct control of the school district. Construction of the school without successful installation of the sewer line extension would result in unnecessary impacts to the coastal zone from a school that cannot be used for its intended purpose. The County, in its approval of the new school, failed to include a condition requiring that the service extension be installed prior to development of the school. Approval without such a condition raises a substantial issue of conformance with CZC Section 20.532.095(A)(2), which requires that findings of approval for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve new development. Furthermore, the County's action raises a substantial issue of conformance with LUP Policy G3.10-3, because neither a hook-up to the GCSD nor an adequate on-site sewage disposal system are currently available to serve the new development, and there is no condition precluding development unless adequate sewage service is available. Thus, the degree of legal and factual support for the local government's decision that the development is consistent with the adequacy of utilities policies of the certified LCP is low. Therefore, the Commission finds that the approved development raises a substantial issue with respect to the project's conformance with the LCP policies and standards regarding the adequacy of utilities available to serve new development including Gualala Town Plan Policy G3.10-3 and CZC Section 20.532.095(A)(2).

CONCLUSION OF PART ONE: SUBSTANTIAL ISSUE

The Commission finds that for all of the reasons stated above, the project as approved by the County raises a substantial issue with respect to the conformance of the approved project with respect to the policies of the certified LCP regarding the following:

- LUP Policy 3.1-7 and CZC Section 20.496.020, which require that a buffer area of a minimum width of 50 feet be established around environmentally sensitive habitat areas, that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel; and

- LUP Policy 3.4-1, which requires that, in areas of geologic hazard where mitigation measures are determined to be necessary, the County incorporate into its permit conditions of approval the requirement that construction and earthwork be supervised and certified by a licensed geologist or engineer to ensure that mitigation measures are properly incorporated into the development; and

- CZC Section 20.532.095(A)(2) and Gualala Town Plan Policy G3.10-3, which require that adequate services and utilities be available to serve new development, including adequate sewage disposal systems.

PART TWO – *DE NOVO* ACTION ON APPEAL

STAFF NOTES

1. Procedure

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program, but not between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program (LCP). Testimony may be taken from all interested persons at the *de novo* hearing.

2. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings above into its findings on the *de novo* review of the project.

3. Additional Information Submitted by the Applicant for *De Novo* Review

Since the appeal was filed on October 30, 2007, the applicant has submitted additional information (Exhibit Nos. 9 and 10) including a (1) buffer zone analysis concluding that a reduced buffer will not have a significant adverse impact on rare plant ESHA on the site and demonstrating that there is no other feasible site available on the parcel for the proposed development, and (2) a discussion on why the site's forest vegetation does not meet the criteria for classification as Northern Bishop Pine Forest, which is a sensitive plant community.

This additional information was not a part of the record when the County originally acted to approve the coastal development permit.

II. STANDARD CONDITIONS See Appendix A.

III. SPECIAL CONDITIONS

1. Proof of Adequate Services

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit evidence for the review and written approval of the Executive Director that the Gualala Community Services District has obtained all necessary permits for construction of the sewer line extension proposed to serve the new school.

B. **PRIOR TO OCCUPANCY OF THE NEW SCHOOL**, the applicant shall submit evidence for the review and approval of the Executive Director that the sewer line extension has been successfully installed and that a hook-up to the Gualala Community Services District is available.

2. Minimization of Geologic Hazards

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit evidence for the review and written approval of the Executive Director that (1) a geotechnical engineer has reviewed the anchoring systems and anticipated seismic loading of the proposed buildings and that any recommendations for appropriate restraint systems have been incorporated into the final project design, (2) a geotechnical engineer has approved all final design, construction, foundation, grading and drainage plans, and (3) a licensed engineering geologist, or a registered civil engineer with soil analysis expertise, has been retained to supervise the foundation construction and earthwork to ensure that the mitigation measures are properly incorporated into the development.

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

3. Building Design & Lighting Standards

A. The roof angles and exterior finish of the approved buildings shall blend with the surrounding hillside. In addition, all exterior materials, including roof, windows, and doors, shall not be reflective to minimize glare; and

B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

4. Revised Site Plan

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit for the review and written approval of the Executive Director a revised site plan that substantially conforms to the proposed site plan (Exhibit No. 5), except that the plan shall be revised as follows:

(1) The proposed upper parking lot shall be reconfigured to provide for a minimum 50-foot buffer area between the lot and Coast lily ESHA as generally shown on Exhibit No. 14;

(2) The proposed day-care and pre-school facilities shall be relocated to provide for a minimum 50-foot buffer between the facilities and Coast lily ESHA as generally shown on Exhibit No. 14; and

(3) All improvements to the existing driveway within 50-feet of rare plant ESHA on the site as generally shown on Exhibit No. 14 shall be developed away from the rare plant ESHA.

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

5. <u>Final Erosion Control Plans for Construction and Timber Harvesting Activities</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit for the review and written approval of the Executive Director a final plan(s) for erosion and sediment control during construction and timber harvesting activities:

(1) The plan(s) shall demonstrate that:

a. Straw bales, coir rolls, or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants into any rare plant ESHA, rare plant ESHA buffer area, and the natural drainage at the southeastern corner of the parcel;

b. Existing vegetation shall be maintained on site to the maximum extent feasible during construction and timber harvesting activities;

c. Any disturbed areas shall be replanted or seeded as soon as possible following completion of timber harvest and construction activities, consistent with the planting limitations required by Special Condition No. 7, and there shall be no less than 100 percent coverage by 90 days after seeding;

d. All on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff;

e. Temporary exclusion/construction fencing shall be installed between the rare plant ESHA and the proposed timber harvesting and construction areas during all timber harvesting and construction activities;

f. Adjoining property shall be protected from excavation and filling operation and potential soil erosion; and

g. The post-development erosion rate shall not exceed the natural or existing pre-development level.

(2) The plans shall include, at a minimum, the following components:

a. A description of the best management practices (BMPs) and temporary fencing to be installed;

b. A schedule for installation, maintenance, and ultimate removal of appropriate source control BMPs;

c. An on-site spill prevention and control response program, consisting of BMPs for the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the project to capture and clean-up any accidental releases of oil, grease, fuels, lubricants, or other hazardous materials from entering any ESHA; and

d. A site plan map that shows the locations of BMPs and temporary protective fencing to be installed;

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

6. <u>Final Grading & Drainage Plan</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit a final grading and drainage plan for the review and written approval of the Executive Director. The plan shall demonstrate that:

(1) Grading shall avoid and in no way disrupt rare plant ESHA, ESHA buffer, or natural drainage patterns. Grading shall not significantly increase volumes of surface runoff, and adequate measures shall be taken to ensure there is no increase in surface runoff off-site;

(2) Adjoining property shall be protected from excavation and filling operations and potential soil erosion;

(3) Existing vegetation shall be maintained on site to the maximum extent feasible; trees shall be protected from damage by proper grading techniques;

(4) Native vegetation shall be replanted consistent with the planting limitations of Special Condition No. 7 to help control sedimentation;

(5) The post-development release rate of storm water shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of the release;

(6) All storm water runoff shall be encaptured or treated using relevant best management practices.

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

7. <u>Protection of Sensitive Plant Habitat</u>

The permittee shall comply with the following requirements to protect sensitive plant habitat:

A. Temporary exclusion/construction fencing shall be installed between the rare plant ESHA and the proposed timber harvesting and construction areas during all timber harvesting and construction activities;

B. The Conservation/Study Area proposed by the applicant shall be created and maintained consistent with the recommendations of Section 4.2 of the Botanical Resources Report dated September 19, 2006 prepared by Kjeldsen Biological Consulting (see Exhibit Nos. 8 and 14);

C. Manual removal of invasive plants, including, but not limited to, Pampas grass (*Cortaderia* spp.), Acacia (*Acacia* sp.), Scotch broom (*Cytisus scoparius*), and French broom (*Genista monspessulana*), from all areas of the parcel in a manner consistent with the recommendation of Section 4.2 of the Botanical Resources Report dated September 19, 2006 and prepared by Kjeldsen Biological Consulting included as Exhibit No. 8;

D. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

E. No other species of the genus *Lilium* shall be planted on the parcel, except for the existing native Coast lily, *Lilium maritimum*. If plantings of the native Coast lily are installed on the property at any time, plantings shall only be of local genetic stock from the Gualala area.

F. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

G. A qualified botanist familiar with the sensitive plant species found on the property, including *Horkelia tenuiloba* (Thin-lobed horkelia) and *Lilium maritimum* (Coast lily), shall monitor all project activities, including timber harvesting activities and all phases of construction activities, to prevent impacts which would significantly degrade sensitive plants during timber harvesting and project construction.

8. ESHA and ESHA Buffer Open Space Area Restrictions

No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area generally depicted on Exhibit No. 14, which includes the proposed Conservation/Study Area, the Coast lily ESHAs, and the ESHA buffers as shown on Exhibit No. 14, except for:

A. Manual removal of non-native vegetation, and nature study.

B. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: planting of native vegetation to improve the habitat value of the ESHA buffer, vegetation removal for fire-safe compliance purposes, installation and maintenance of utility lines, and the removal of debris and unauthorized structures.

9. Deed Restriction

A. **PRIOR TO ANY CONVEYANCE OF THE PROPERTY THAT IS THE SUBJECT OF COASTAL DEVELOPMENT PERMIT NO A-1-MEN-07-044**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the Property. The restriction shall include a legal description of the applicant's entire parcel or parcels, and a formal legal description and graphic depiction of the portion of the subject property to be restricted as open space as generally described in Special Condition No. 8 and shown on Exhibit No. 14 attached to the staff recommendation. It shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the Standard and Special Conditions of this permit shall continue to restrict the use and enjoyment of the subject property, so long as either this permit or the development it authorizes – or any part, modification, or amendment thereof – remains in existence on or with respect to the subject property.

B. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044**, the applicant shall submit a written agreement, in a form and content acceptable to the Executive Director, agreeing to be bound by all of the above terms of this condition.

10. Protection of Sensitive Species Nesting & Roosting Sites

A. **PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the permittee shall submit, for the review and approval of the Executive Director, the results of a survey of the proposed construction site and timber harvesting area performed at the

seasonally appropriate time period(s) of the last nesting and/or roosting season prior to commencement of timber removal and construction for the presence of active nesting habitat of sensitive raptor species and active roosting habitat of Townsend's big-eared bat. The survey shall be conducted by a qualified biologist in consultation with the California Department of Fish and Game. The survey results to be submitted shall include, at a minimum, the following components:

(1) Seasonally appropriate surveys conducted by a qualified biologist for active nesting and/or roosting sites for Townsend's big-eared bat and sensitive raptor species with the potential for occurrence in the project area;

(2) A map that locates any sensitive habitat identified by the survey;

(3) A narrative that describes all necessary avoidance measures; and

B. All sensitive species habitat located in areas of potential impact shall be avoided, and a minimum 100-foot ESHA buffer shall be established. Any trees or snags that are found to contain sensitive species habitat shall not be removed unless the permittee obtains an amendment to this coastal development permit authorizing removal of the trees or snags in a manner consistent with the ESHA protection provisions of the certified LCP.

11. <u>Protection of Archaeological Resources</u>

A. If an area of historic or prehistoric cultural resources or human remains are discovered during the course of the project, all construction shall cease and shall not recommence except as provided in subsection (B) hereof, and a qualified cultural resource specialist shall analyze the significance of the find.

B. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit an archaeological plan for the review and approval of the Executive Director.

(1) If the Executive Director approves the Archaeological Plan and determines that the Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.

(2) If the Executive Director approves the Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.

12. <u>Regional Water Quality Control Board Approval</u>

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-044, the applicant shall submit for the review and written approval of the Executive Director a copy of a permit issued by the Regional Water Quality Control Board, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by the Board. Such changes shall not be

incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

13. Conditions Imposed By Local Government

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

IV. FINDINGS & DECLARATIONS

The Commission hereby finds and declares the following:

A. SITE DESCRIPTION

The project site is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field private landing strip, at 39290 Old Stage Road, Gualala, Mendocino County (Exhibit No. 1). The subject property consists of approximately 10.5 acres situated along a generally southwesterly-facing hillside at an approximate elevation of 720 feet (Exhibit Nos. 2 and 3). The property is located just below the top of a northwest/southeast trending ridge (marine terrace) that is situated between the ocean (1.4 miles westward) and the San Andreas Fault Zone (0.8 miles eastward). The property is not located within the Alquist-Priolo Special Studies Zone. The site is generally flat to gently sloping.

The northeastern corner of the parcel – the access entrance to the property – abuts the inland coastal zone boundary (which follows the inland right-of-way of Old Stage Road). The property is designated and zoned Remote Residential (RMR), with a maximum dwelling density of 1 unit per 40 acres, under the certified LCP (Exhibit No. 3). The property is not located in a designated "highly scenic area," nor is it visible from any public vantage points. Except for the driveway entrance, a band of residential parcels lies between the eastern edge of the subject parcel and Old Stage Road. Furthermore, because the parcel is located almost a horizontal mile from the coast on a forested hillside, it is not readily apparent from any public beaches. The area surrounding the subject parcel is largely characterized by forest vegetation and rural residential development with minimum parcel sizes of 5 acres or 40 acres.

The subject property historically was logged and graded with an access road, which skirts the northern and western property boundaries, and an old private landing strip, which occupies the southern approximately one third of the parcel (Exhibit No. 4). The old landing strip area currently houses the applicant's school buses. The majority of the 10.5-acre parcel (between the existing access road to the north and west, the landing strip area to the south, and the residential parcels to the east) consists of second-growth coniferous forest dominated by coast redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii* var. *menziesii*), tanoak (*Lithocarpus densiflora* var. *densiflora*), Bishop pine (*Pinus muricata*), Pacific madrone (*Arbutus menziesii*), and chinquapin (*Chrysolepis chrysophylla* var. *minor*). The forest understory layer consists primarily of various manzanitas (*Arctostaphylos* spp.), evergreen huckleberry (*Vaccinium*

ovatum), salal (*Gaultheria shallon*), bracken fern (*Pteridium aquilinum* var. *pubescens*), and other species.

According to "Soil Survey of Mendocino County, Western Part," the soils of the project site are classified as Shinglemill-Gibney Complex, 2 to 9 percent slopes. These soils are characteristic of marine terraces in the region and are classified as "capable of producing pygmy type vegetation," though no pygmy vegetation occurs on the subject property, according to the botanical report. The soils of the property are deep, poorly drained, slowly permeable, and seasonally saturated. Thus, the subject parcel is not suitable for on-site sewage treatment.

Two rare plant species and potentially one rare vegetation community occur on the subject parcel. Thin-lobed horkelia (*Horkelia tenuiloba*) is listed by the California Native Plant Society (CNPS) as 1B.2[7] and by the Department of Fish and Game's Natural Diversity Database (CNDDB) as G2/S2.2[8]. The species occurs primarily near the edge of the forested habitat on the western side of the property (see Exhibit No. 14). Coast lily (*Lilium maritimum*) is listed by CNPS as 1B.1[3] and by the CNDDB as G2/S2.1[4]. The species occurs near the edge of the forested habitat on the northern side of the property (Exhibit No. 14). Northern Bishop Pine Forest is listed by the CNDDB as G2/S2.2[4]. The bulk of the project site is forested with redwood, Douglas-fir, tanoak, Bishop pine, and other species.

B. PROJECT DESCRIPTION

The proposed project involves development of a new phased kindergarten through fifth grade elementary school complex totaling 29,447 square feet (ft^2) of gross building area, 105,453 ft^2 of paved area, and 50,100 $ft^2$of landscaped area on an approximately 10.5-acre parcel in three phases: Phase 1 consists of a 3,118-ft^2 library/administration building and four 2,215-ft^2 classroom buildings to serve up to 125 students, a parking lot, and a playground; Phase 2 consists of four 2,215-ft^2 classroom buildings and a playground to serve an additional 125 students; and Phase 3 consists of an 8,607-ft^2 multipurpose building and parking lot. The project also includes removal of approximately 5 acres of forest vegetation, grading (~5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage. As proposed, the school building complex would be situated south of the access road, west of a row of homes that front onto Old Stage Road, and east of the old air strip. Parking would be provided in two locations, including between the school building complex and the access driveway and at the former airstrip at the west end of the development. The existing access road that skirts the northern and western property boundaries and winds down to the old air strip would be widened to accommodate school bus safety standards. The proposed site plan is attached as Exhibit No. 5, and the proposed preliminary grading plan is attached as Exhibit No. 6.

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[7] **LIST 1B** = Rare, threatened, or endangered in California and elsewhere; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California

[8] **G** = Global ranking; **S** = State ranking. For each ranking, **1** = Less than 6 occurrences OR less than 1,000 individuals OR less than 2,000 acres; **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California.

The proposed library/administration building would be a two-story building stepped into the hillside, with the maximum height of the second floor at approximately 33 feet (located at an elevation of 744 feet). The proposed multipurpose building would be a maximum of 39.5 feet high. Because there is a 28-foot height limit for the site's zoning designation, the applicant obtained a variance from the County for the two buildings (CDV No. 10-2004). Overall, the project site would remain surrounded by forest vegetation both on site and off site, which would help shield the new development from view. As mentioned above, the property is not located in a designated "highly scenic area," nor is it visible from any public vantage points.

The proposed project is located within the service area of the Northern Gualala Water Company. Because the soils of subject property are not suitable for on-site sewage treatment (see above), the project is proposed to be connected to an extension of the sewer line proposed (under separate permit application) by the Gualala Community Services District (GCSD). On September 20, 2007, the County approved the GCSD's proposed extension of a 6-inch diameter wastewater main approximately 1.25 miles (~6,500 feet) within the County road right-of-way from an existing GCSD system to the new school. However, the sewer line extension project was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed.

C. PLANNING & LOCATING NEW DEVELOPEMENT

1. Applicable LCP Policies & Standards:

- LUP Policy 3.8-1 states the following:

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

  On the rural side of the Urban/Rural Boundary, consideration shall be given to Land Use Classifications, 50% buildout, average parcel size, availability of water and solid and septage disposal adequacy and other Coastal Act requirements and Coastal Element policies…

- LUP Policy 3.9-1 states the following:

  An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:

  - *each community's desired amount and rate of growth.*
  - *providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.*

  In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

  One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists and proposed development is consistent with all applicable policies of this Coastal Element and is in

compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit.

- CZC Section 20.380.015 states the following, in applicable part (emphasis added):

Sec. 20.380.015 Conditional Uses for RMR Districts.

The following are permitted uses upon the issuance of a coastal development use permit:

…

(B) Coastal Civic Use Types.

Alternative Energy Facilities: On-site;
Cemetery Services;
Community Recreation;
Educational Facilities;
Group Care;
Lodge, Fraternal and Civic Assembly;
Major Impact Services and Utilities;
Minor Impact Utilities;
Religious Assembly.

- CZC Section 20.532.095(A)(2) states the following, in applicable part:

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

…

(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities…

…

- LUP Section 4.14 – Gualala Town Plan, Policy G3.10-3 states the following:

Either a hook-up to the Gualala Community Services District or an adequate on-site sewage disposal system, as approved by the Division of Environmental Health, shall be available to serve any new development.

2. Consistency Analysis:

Development of a new school in Gualala is envisioned in Goal G2.8-1 of Gualala Town Plan portion of the certified LCP, which reads: "To provide for development of needed educational facilities for the anticipated growth in the student population." The Gualala Town Plan (GTP) acknowledges that the substantial additional residential development proposed within the Town Plan area could result in a significant increase in the population of school-age children. The existing elementary school and high school serving the Gualala area are in Point Arena, approximately 15 miles to the north. The GTP states that as of 1997, the elementary school was approaching maximum capacity, and at that time the Gualala area already had the largest population of school-aged children attending the Point Arena schools. The fact that most children take the bus to and from school is a significant expense to the school district.

The subject parcel is planned and zoned in the Land Use Plan (LUP) and Coastal Zoning Code (CZC) as Remote Residential (RMR). CZC Section 20.380.015 allows "Educational Facilities"

as one of the Coastal Civic Use Types allowed by conditional use permit in the RMR zoning district. The County granted a conditional use permit (County CDU No. 10-2004) for the school complex on this basis. Therefore, the proposed new K through 5 school complex is consistent with the LUP and zoning designation for the site.

The County completed a traffic impact study for the project (W-Trans, Inc. 2006), which examined, among other things, the impacts of the proposed project on traffic capacity of Highway 1 at its intersections with Pacific Woods Road and with Old State Highway. The report concluded that there are no obvious collision patterns at any of the study intersections, the addition of the estimated number of new daily trips expected to be generated by the proposed new school would have less than significant impacts on level of service, and operation at the study intersections is expected to remain at acceptable levels under the proposed project. The County required inclusion of the report's recommendations, among others, as conditions of approval of the conditional use permit issued for the project (see Condition Nos. B-16 through B-21 and B-29 of County CDU No. 10-2004). Therefore, the proposed school is located in an area able to accommodate traffic generated by the proposed development and will not result in adverse impacts to the traffic capacity of Highway 1, consistent with the applicable provisions of LUP Policy 3.8-1.

The proposed project is located within the service area of the Northern Gualala Water Company and is able to be accommodated by the Company for both regular use and fire flows. In approving the conditional use permit for the project, the County attached conditions requiring that the applicant submit a letter to the County Department of Planning Building Services from the water company confirming that water service has been provided to the company's satisfaction, and that water lines comply with pertinent County and/or State standards and be adequately separated from other utilities (see Condition Nos. B-23 and B-24 of County CDU No. 10-2004).

As discussed above, sewer services for the proposed school are proposed to be provided via a hookup to a sewer line extension proposed by the Gualala Community Serviced District (see agenda item W-18a). The GCSD applied separately for a coastal development permit for an approximately 1.25-mile-long extension of a 6-inch-diameter wastewater main from the existing GCSD system to the proposed school. The County's approval of the sewer line extension was appealed to the Commission on October 30, 2007, and on December 14, 2007, the Commission found that a "substantial issue" exists with respect to the grounds on which that appeal was filed. Because there are no guarantees that final regulatory approvals and project financing will be obtained and that construction of the 1.25-mile-long sewer line extension will be physically completed in time to serve the school when it opens, the Commission attaches Special Condition No. 1. This condition requires that prior to permit issuance, the applicant shall submit evidence that the GCSD has obtained all necessary permits for construction of the proposed sewer line extension. The condition further requires that prior to occupancy of the new school, the applicant shall submit evidence that the sewer line extension has been successfully installed, and that a hook-up to the GCSD is available.

Therefore, the Commission finds that the development, as conditioned, is consistent with CZC Section 20.532.095(A)(2) and with LUP Policy G3.10-3, which require that findings of approval

for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve the new development, and the development will not proceed until adequate services are available.

LUP Policy 3.9-1 requires new development to be regulated to prevent significant adverse cumulative impacts on coastal resources. As discussed above and in the findings below, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts. Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.8-1, 3.9-1, G3.10-3, and with CZC Sections 20.380.015 and 20.532.095(A)(2), because (1) the proposed school use is consistent with the certified LUP and zoning designation for the site, (2) there will be adequate services on the site to serve the proposed development, and (3) as discussed further below, the project will not contribute to adverse cumulative impacts on highway capacity, scenic values, environmentally sensitive habitat areas, water quality, or other coastal resources.

D. GEOLOGIC HAZARDS

1. Applicable LCP Policies & Standards:

- LUP Policy 3.4-1 states the following (emphasis added):

  The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.

- CZC Section 20.500.010(A) states that development in Mendocino County's Coastal Zone shall:

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

  (2) Assure structural integrity and stability; and

  (3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

2. Consistency Analysis:

The subject property is located on a northwest/southeast trending ridge located between the ocean (1.4 miles westward) and the San Andreas Fault Zone (0.8 miles eastward). Geologic

hazards for the site were examined in a Geological and Environmental Hazards Screening Report (prepared by IT Corporation, September 15, 2000). The report concludes that due to the proximity of active faults to the site, the potential for earthquake-induced severe ground shaking at the site is considered to be high. The report indicates that this hazard can be mitigated however by proper design and construction techniques. Therefore, the Commission attaches Special Condition No. 2. This condition requires that prior to permit issuance, a geotechnical engineer shall approve all final design, construction, foundation, grading and drainage plans, and shall review the anchoring systems and anticipated seismic loading of the proposed buildings and provide recommendations, as necessary, for appropriate restraint systems, as recommended by the geologic report. The condition further requires that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise, to ensure that the geologic hazard mitigation measures are properly incorporated into the development. The Commission finds that as conditioned to ensure that the mitigation measures are properly incorporated into the development, the project is consistent with LUP Policy 3.4-1 and CZC Section 20.500.010(A).

E. PROTECTION OF VISUAL RESOURCES

1. Applicable LCP Policies & Standards:

- LUP Policy 3.5-1 states the following, in applicable part (emphasis added):

…

> *The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a protected resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.*

- LUP Policy 3.5-15 states the following, in applicable part (emphasis added):

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

2. Consistency Analysis:

As discussed above in Finding IV-A, the property is not located in a designated "highly scenic area," nor is it visible from any public vantage points. Except for the driveway entrance, a band of residential parcels lies between the eastern edge of the subject parcel and Old Stage Road, which is a County road. Furthermore, because the parcel is located almost a horizontal mile from the coast, on the inland edge of the coastal zone, and on a forested hillside, it is not readily apparent from any public beaches. Overall, the project site would remain surrounded by forest vegetation both on site (by not disturbing a portion of the existing forest vegetation, as described

in more detail below) and off site (as most of the surrounding rural residential parcels remain primarily forested).

The two-story library/administration building, as proposed, has been designed to fit the hillside setting by being stepped into the hillside with the maximum height of the second floor at approximately 33 feet (located at an elevation of 744 feet). As discussed above in Finding IV-B, because there is a 28-foot height limit for the site's zoning designation, the County issued a variance for the building (as well as for the proposed 39.5-foot-high multipurpose building) on September 20, 2007 (CDV No. 10-2004). The applicant offered various justifications for exceeding the height standard, including (1) that the more compact design reduces the area of vegetation to be cleared, thereby maintaining the visual screening provided; (2) that the buildings will appear one-story due to the stepped design, and (3) that the stepped design facilitates ADA compliance. The eight classroom buildings all will be one-story and will conform to the maximum height standard for the zone.

The applicant has not submitted design plans for the proposed school, so it is unknown whether or not the finished buildings will blend with the hillside as is required by the visual resources protection policies of the certified LCP. Therefore, the Commission attaches Special Condition No. 3-A. This condition requires that roof angles and exterior finish blend with the hillside, and all exterior materials, including roof, windows, and doors, shall not be reflective to minimize glare.

The applicant has submitted a preliminary grading plan (Exhibit No. 6). Consistent with LUP Policy 3.5-4, grading generally follows the natural contours of the site, and the natural slope of the hillside will not be significantly altered. The plan attempts to balance cut (estimated at 5,400 cubic yards) and fill (estimated at 3,800 cubic yards) on the site. Excess dirt is proposed to be disposed of on the old landing strip for use in construction of the proposed playing fields and playground area.

If not restricted, exterior lighting associated with the proposed development could adversely affect visual resources in the area if the lighting were allowed to shine skyward and beyond the boundaries of the parcel. A glow of lighting emanating above the subject property would be inconsistent with LUP Policy 3.5-15, which requires, in part, that lights be shielded so that they do not shine or glare beyond the limits of the parcel. Furthermore, as discussed below, exterior lighting associated with the proposed development could adversely affect nocturnal wildlife using the adjacent forest habitats, as many species avoid areas with excessive lighting, and some species simply stop reproducing if habitat destruction from overly bright lights becomes too severe. The applicant proposes to install seven freestanding 25-foot-high Lithonia Box light standards (three in the northern parking lot, two in the parking area adjacent to the multipurpose building, and two in the lower parking lot adjacent to the playing fields). The proposed light fixtures will be mounted at a 90-degree angle on mounting poles designed to minimize light spillage onto adjacent properties. The fixtures and poles will have a dark bronze corrosion-resistant powder finish to minimize glare from the fixture itself.

To reduce the impacts of exterior lighting associated with the proposed development, the Commission attaches Special Condition No. 3-B. This condition requires that all exterior

lighting be the minimum necessary for the safe ingress, egress, and use of the structures, and be low-wattage, non-reflective, shielded, and have a directional cast downward. In addition, the conditional use permit issued for the development (County CDU No. 10-2004) contains similar conditions as well as additional conditions requiring that no or minimal vegetation be removed along the eastern property boundary so as to minimize light spillage onto neighboring properties and that lights be dimmed after hours when the campus is closed (see Condition Nos. B-3, B-11 through B-14, B-27, and B-28 of County CDU No. 10-2004).

Therefore, for all of the above reasons, the Commission finds that the proposed project, as conditioned, minimizes the alteration of natural land forms and will be visually compatible with the character of the surrounding area consistent with LUP Policy 3.5-1, and includes lighting that will not glare beyond the limits of the parcel consistent with LUP Policy 3.5-15.

F. PROTECTION OF ENVIROMENTALLY SENSITIVE HABITAT AREAS

1. Applicable LCP Policies & Standards:

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

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

- CZC Section 20.496.010 states the following (emphasis added):

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

- LUP Policy 3.1-2 states the following, in applicable part:

  Development proposals in environmentally sensitive habitat areas such as wetlands, riparian zones on streams or sensitive plant or wildlife habitats (all exclusive of buffer zones) including, but not limited to those shown on the Land Use Maps, shall be subject to special review to determine the current extent of the sensitive resource. Where representatives of the County Planning Department, the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain about the extent of sensitive habitat on any parcel such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, County Planning Department staff member, a representative of California Department of Fish and Game, a representative of the California Coastal Commission. The on-site inspection shall be coordinated by the County Planning Department and will take place within 3 weeks, weather and site conditions permitting, of the receipt of a written request from the landowner/agent for clarification of sensitive habitat areas…

  …

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

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

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

- CZC Section 20.496.020 states the following (emphasis added):

(A) Buffer Areas. *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

(1) Width. *The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

Standards for determining the appropriate width of the buffer area are as follows:

(a) Biological Significance of Adjacent Lands. *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*
Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured

from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

(b) Sensitivity of Species to Disturbance. *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

(iv) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(v) An assessment of the short-term and long-term adaptability of various species to human disturbance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted

impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

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

2. Consistency Analysis:

As discussed above in Finding IV-A, the botanical report prepared for the project identified two rare plant species on the subject parcel. The report also discussed whether a Northern Bishop Pine Forest community exists on the site. Thin-lobed horkelia (*Horkelia tenuiloba*) is listed by the California Native Plant Society (CNPS) as 1B.2 and by the Department of Fish and Game's (CDFG) Natural Diversity Database (CNDDB) as G2/S2.2. The species occurs primarily near the edge of the forested habitat on the western side of the property (see Exhibit No. 14). Coast lily (*Lilium maritimum*) is listed by CNPS as 1B.1 and by the CNDDB as G2/S2.1. The species occurs near the edge of the forested habitat on the northern side of the property (Exhibit No. 14). Northern Bishop Pine Forest is listed by the CNDDB as G2/S2.2. The bulk of the project site is forested with redwood, Douglas-fir, tanoak, Bishop pine, and other species.

The applicant also completed a biological report for the project (BioConsultant LLC, December 2005, Exhibit No. 7). The biological survey did not detect any sensitive animal species (including various raptors, bat species, Sonoma tree vole, or Monarch butterfly), and the report states that the property supports low quality habitat with limited resources for sensitive wildlife species. The report does, however, provide recommendations for protecting the identified wildlife habitat resources on the project site, including a gray squirrel (*Sciurus griseus*) nest, a small stand of redwoods at the northeastern end of the parcel that supports raptor nesting habitat, and a small stand of snag-topped redwoods that support habitat for cavity-dependent species such as bats (see Exhibit No. 7).

(a) Applying ESHA Definition: What Constitutes ESHA?

ESHA, as defined in Section 30107.5 of the Coastal Act and Section 3.1 of the certified Mendocino County LUP, is *"…any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities."* Thus, Section 30107.5 and LUP Section 3.1 set up a two part test for determining an ESHA. The first part is determining whether an area includes plants or animals or their habitats that are either: (a) rare; or (b) especially valuable because of their special nature or role in an ecosystem. If so, then the second part asks whether such plants, animals, or habitats could be easily disturbed or degraded by human activities. If so, then the area where such plants, animals, or habitats are located is deemed ESHA by Section 30107.5 and LUP Section 3.1.

i. What constitutes "rare?"

There are several types of rarity, but each of them are fundamentally related to threats to the continued existence of species that naturally occur in larger or more widespread populations. Increasing numbers of species have become absolutely rare, having been reduced to a few hundreds or thousands of individuals. The prognosis for these species is very poor. Another common pattern is for species to be globally rare but locally abundant. Such species only occur at a few places either as a result of natural processes or human perturbations. Some species are characterized as "narrow endemics" because they have evolved adaptations to a very limited range of environmental variables (*e.g.*, soil type, temperature, presence of fog, *etc*.), which restrict their spatial distribution. Many other species have restricted distributions as a result of human activities, especially agricultural and urban development that results in habitat loss. Many natural endemics have also suffered such habitat loss – compounding the risk to them. All these species may be abundant in the few areas where they still occur. However, regardless of the cause of their restricted distribution, the survival of these species is at elevated risk because localized impacts may affect a large proportion of the population with devastating effects. At the other end of the spectrum of rarity are species that are geographically widespread, but are everywhere in low abundance. Some species naturally occur in this pattern and have life-history characteristics that enable them to persist. However, naturally abundant species that have been reduced to low density throughout their range are at heightened risk of extinction, although their wide distribution may increase their opportunities for survival.

ii. What constitutes "especially valuable?"

All native plants and animals and their habitats have significant intrinsic value. However, the "especially valuable" language in the Coastal Act definition of ESHA makes clear that the intent is to protect those species and habitats that are out-of-the-ordinary and special, even though they may not necessarily be rare. As in all ESHA determinations, this requires a case-by-case analysis. Common examples of habitats that are especially valuable due to their role in the ecosystem are those that support rare, threatened, or endangered species, and those that provide important breeding, feeding, resting or migrating grounds for some stage in the life cycle of animal species and that are in short supply (*e.g.*, estuaries provide nursery habitat for many marine fishes such as the California halibut). Habitats may also be especially valuable because of their special nature. Examples include those rare instances of communities that have remained relatively pristine, areas with an unusual mix of species, and areas with particularly high biological diversity.

iii. Are all examples of rare habitats or all areas supporting individuals of rare species ESHA?

The reason ESHA analyses are all site-specific is that there is no simple rule that is universally applicable. For example, a plot of a rare habitat type that is small, isolated, fragmented, and highly degraded by human activities would generally not meet the definition of ESHA because such highly impacted environments are so altered that they no longer fit the definition of their historical habitat type. Larger, less isolated, more intact areas that are close to or contiguous with other large expanses of natural habitat are more likely to have a special nature or role in an ecosystem and hence meet the ESHA definition, but "large," "isolated," "intact," and "close to"

are all terms that are relative to the particular species or habitat under consideration. What is spatially large to a Pacific pocket mouse is small to a mountain lion or bald eagle. What is isolated for a dusky footed woodrat may not be for a California gnatcatcher. Similarly, an area supporting one or a few individuals of a rare species might not meet the definition of ESHA because scattered individuals might be common and not significant to the species. However, this is relative to the actual distribution and abundance of the species in question. If a few individuals of a species previously thought to be extinct were found, the area would clearly meet the definition. Whereas, if the same number of individuals of a species with a population of 25,000 were found in an isolated, degraded location, the area may not meet the definition. A conclusion of whether an area meets the definition of ESHA is thus based on a site- and species-specific analysis that generally includes a consideration of community role, life-history, dispersal ability, distribution, abundance, population dynamics, and the nature of natural and human-induced impacts. The results of such analysis can be expected to vary for different species; for example, it may be different for pine trees than for understory orchids.

iv. Identifying ESHA over time

Case-by-case analysis of ESHA necessarily occurs at discrete moments in time. However, ecological systems and the environment are inherently dynamic. One might expect, therefore, that the rarity or sensitivity of species and their habitats will change over time. For example, as species or habitats become more or less abundant due to changing environmental conditions, they may become more or less vulnerable to extinction. In addition, our scientific knowledge and understanding of ecosystems, specific species, habitat characteristics, and so forth is always growing. We discover large numbers of new species every year.[9] The CNPS *Inventory of Rare and Endangered Plants of California* grew from approximately 1,400 listings in 1974 to over 2,100 listings in 2001.[10] New legal requirements, such as the numerous environmental laws adopted in the 1970s, may be adopted that reflect changes in our values concerning the current conditions of natural resources. Consequently, ESHA evaluations may change over time. Areas that were once not considered ESHA may become ESHA.[11] It is also possible that rare species might become less so, and their habitats may no longer be considered ESHA. Because of this inherent dynamism, the Commission must evaluate resource conditions as they exist at the time of the review, based on the best scientific information available.

(b) Applying the ESHA Definition to Thin-lobed Horkelia, Coast Lily, and Northern Bishop Pine Forest Habitats on the Project Site

i. Thin-lobed Horkelia

The botanical survey conducted for the proposed project (Exhibit No. 8) identified numerous (hundreds of) Thin-lobed horkelia individuals on the subject property, mostly within the forested habitat on the western side of the property (see Exhibit No. 14). Several plants also are scattered

[9] See, generally, E.O. Wilson, *The Diversity of Life* (W.W. Norton, New York, 1992).
[10] CNPS (http://www.cnps.org/programs/Rare_Plant/inventory/analyses.htm).
[11] See, for example, California Coastal Commission, Staff Report Changed Circumstances and Project Amendments, A-4-STB-93-154-CC and A-2 (Arco Dos Pueblos Golf Links).

along the sides of the existing access road along the edges of forest habitat and on the graded old landing strip itself. No precise estimate of number of individuals on the project site was presented in the botanical report, other than a determination that over 80 percent of the horkelia individuals located on the site were identified within the forested habitat near the western end of the property in the area proposed for protection as the "Conservation/Study Area" as shown on Exhibit No. 14.

The first test for determining ESHA under Section 30107.5 and LUP Section 3.1 is whether an **area** including plants or animals or their habitats **is either (a) rare, or (b) especially valuable because of its special nature or role in an ecosystem**. The Commission first considers whether the Thin-lobed horkelia habitat on the property can be considered "rare."

Thin-lobed horkelia is a perennial species in the Rose Family (Rosaceae). The species is endemic to California, and within the state it is found in a relatively restricted region along the coast from Marin to Mendocino counties between 50 and 500 meters in elevation (CNPS 2008). The species generally is found in on sandy soils in upland forest, chaparral, and grassland habitats, often in mesic openings. As discussed above in Finding IV-A, the species is ranked by CNPS as 1B.2[12] and by the CNDDB as G2/S2.2[13]. The CNDDB (March 2007 version) lists 21 documented occurrences of the species, seven of which are "historic" (i.e., last seen 25 or more years ago). Of the 14 "modern" (i.e., presumed extant) documented occurrences of the species, four occur in the Gualala area (plus there are three additional "historic" occurrences documented for the Gualala quadrangle). According to CNPS (2008), the species is threatened by "development."

Because of its relative rarity at both the state and global levels and limited distribution across a relatively restricted geographic range, Thin-lobed horkelia as a species meets the rarity test for designation as ESHA under Coastal Act Section 30107.5 (LUP Section 3.1). However, because ESHA refers to an "area" rather than an individual species, the Commission must next consider whether or not each "area" where Thin-lobed horkelia occurs on the property constitutes ESHA.

As discussed above, hundreds of Thin-lobed horkelia individuals were documented on the project site, though no precise estimate was given in the botanical report (Exhibit No. 8). Staff visited the property in late June of 2008 near the end of the species' blooming window and noted several plants scattered along the sides of the existing access road throughout its length as well as within the footprint of the old landing strip. The vast majority of horkelia individuals, however (80 to 85 percent, according to the botanical report), is concentrated near the edge of the forest understory on the west side of the project site, just east of the access road that winds down to the old landing strip area (see Exhibit No. 14). This large concentration of horkelia plants occurs within a relatively intact habitat that does not appear to have suffered the same level of historic disturbance as those plants occurring along the roadsides and on the old landing strip. Plants

[12] **LIST 1B** = Rare, threatened, or endangered in California and elsewhere; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California

[13] **G** = Global ranking; **S** = State ranking. For each ranking, **1** = Less than 6 occurrences OR less than 1,000 individuals OR less than 2,000 acres; **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **0.1** = seriously endangered in California; **0.2** = fairly endangered in California.

occurring along the roadsides and within the old landing strip area are scattered, fragmented, and growing in a relatively degraded environment subject to routine or periodic disturbance (e.g., grading and trampling by vehicles) as evidenced by the gravelly (versus native) and compacted substrate, relative lack of vegetative cover, and prevalence of nonnative species. The Commission finds that the roadside and landing strip areas where these plants occur are not rare Thin-lobed horkelia habitat, because these areas are so altered, small, discontinuous, and contain so few individual specimens of the plant relative to the distribution and abundance of the Thin-lobed horkelia found elsewhere that they no longer fit the definition of their historical habitat type. Contrarily, the large concentration of plants occurring in the forested habitat (as shown on Exhibit No. 14) is within an area that is relatively intact and contiguous with a relatively large expanse of natural forest habitat. The plants in this area are intermixed with native vegetation including native trees (such as Bishop pine), shrubs (such as evergreen huckleberry, *Vaccinium ovatum*), grasses (such as *Deschampsia cespitosa*, *Hierochloe occidentalis*, and *Panicum capillare*), herbs (such as *Iris* sp.), and ferns (such as bracken fern, *Pteridium aquilinum*). Because this area contains a large concentration of rare plants relative to the distribution and abundance of the species found elsewhere, within an intact, relatively undisturbed, natural habitat, the area does constitute rare Thin-lobed horkelia habitat and therefore meets the first test for determining ESHA under Section 30107.5 of the Coastal Act (Section 3.1 of the certified LUP).

The second test for determining ESHA under Coastal Act Section 30107.5 (Section 3.1 of the certified LUP) is whether the habitat could be easily disturbed or degraded by human activities and developments. The large concentration of horkelia plants within the relatively intact forested habitat on the site (as shown in Exhibit No. 14 and described above) could be easily disturbed or degraded by human activities and developments such as those proposed by the applicant including logging, grading, paving, building construction, foot trampling, etc. Such activities would fragment or otherwise demolish the presently intact habitat, reduce habitat size, degrade and alter habitat quality and conditions (e.g., microclimate conditions, species composition, etc.) that are integral to the "special nature" of the existing habitat area. Therefore, the Commission finds that the large concentration of Thin-lobed horkelia (as shown in Exhibit No. 14) meets the second test for determining ESHA under Section 30107.5 of the Coastal Act (Section 3.1 of the certified LUP).

In conclusion, the Commission finds that the large concentration of Thin-lobed horkelia within the forested habitat on the western side of the property as shown on Exhibit No. 14 meets the two part test under Coastal Act Section 30107.5 (Section 3.1 of the certified LUP) for determining ESHA because the rare plant habitat is <u>both</u> rare and especially valuable because of its special nature or role in an ecosystem, <u>and</u> it could be easily disturbed or degraded by human activities and developments.

ii. <u>Coast Lily</u>

The botanical survey conducted for the proposed project (Exhibit No. 8) identified three Coast lily "clumps" (each consisting of one to a few individuals) on the subject property: one within a roadside ditch on the western edge of the property and two near the edge of forest habitat towards the northern end of the property, just south of the existing access road (see Exhibit No.

14). As discussed above, the first test for determining ESHA under Coastal Act Section 30107.5 and LUP Section 3.1 is whether an area including plants or animals or their habitats is either (a) rare, or (b) especially valuable because of its special nature or role in an ecosystem. The Commission first considers whether the Coast lily habitat on the property can be considered "rare."

Coast lily is a perennial (bulbiferous) species in the Lily Family (Liliaceae). The species is endemic to California, and within the state it is found in a restricted region along the coast from Marin to Mendocino counties between 5 and 475 meters in elevation (CNPS 2008). It grows in a variety of habitats including a diversity of forests (broad-leaved upland, closed-cone coniferous, and North Coast coniferous), coastal prairie, coastal scrub, and freshwater marsh. The species often is found along roadsides (CNPS 2008). As discussed above in Finding IV-A, the species is listed by CNPS as 1B.1 and by the CNDDB as G2/S2.1 (see footnotes above). The CNDDB (March 2007 version) lists 66 documented occurrences of the species, 12 of which are "historic" (i.e., last seen 25 or more years ago). Of the 54 "modern" (i.e., presumed extant) documented occurrences of the species, nine occur in the Gualala area (plus there is one additional "historic" occurrence documented for the Gualala quadrangle). According to CNPS, populations of the species along Highway 1 are threatened by road maintenance, and other threats to the species include urbanization, development, horticultural collecting, logging, grazing, nonnative plants, habitat fragmentation, homeless encampments, and recreational activities (CNPS 2008).

Because of its relative rarity at both the state and global levels and limited distribution across a relatively restricted geographic range, Coast lily as a species meets the rarity test for designation as ESHA under Coastal Act Section 30107.5 (LUP Section 3.1). However, as discussed above, because ESHA refers to an "area" rather than an individual species, the Commission must next consider whether or not each "area" where Coast lily occurs on the property constitutes ESHA.

As discussed above, three Coast lily "clumps" (each consisting of one to a few individuals) were located on the subject property. Unlike Thin-lobed horkelia which is often found growing in relatively dense concentrations of numerous individuals, Coast lily generally occurs in sparse numbers at each location where it is found (CNDDB 2007) and does not tend to spread across large habitat expanses. One clump of lilies occurs within a roadside ditch along the western edge of the property. The ditch is a road feature that is routinely disturbed by human activities such as clearing of vegetation for maintenance purposes. Thus, the Commission finds that this roadside ditch area is not rare Coast lily habitat, because it is such an altered environment that it no longer fits the definition of its historical habitat type. In contrast, the other two lily clumps that occur on the subject site are located near the edge of intact forest habitat in the northern portion of the property (Exhibit No. 14). The lily plants in this area are intermixed with native vegetation including native trees (such as redwood and tanoak), shrubs (such as evergreen huckleberry, manzanitas, and others), grasses (such as *Calamagrostis bolanderi*, a CNPS List 4.2 species[14]), and ferns (such as bracken fern, *Pteridium aquilinum*). Because this area contains a concentration of rare and uncommon plants within an intact, relatively undisturbed, natural habitat, the Commission finds that this area does constitute rare Coast lily habitat and therefore

[14] **LIST 4** = Limited distribution; Watch List; **0.2** = fairly endangered in California

meets the first test for determining ESHA under Section 30107.5 of the Coastal Act and LUP Section 3.1.

As discussed above, the second test for determining ESHA is whether the habitat could be easily disturbed or degraded by human activities and developments. As described for the Thin-lobed horkelia above, the lily plants within the relatively intact forested habitat on the site (Exhibit No. 14) could be easily disturbed or degraded by human activities and developments such as those proposed by the applicant including logging, grading, paving, building construction, foot trampling, etc. Such activities would fragment or otherwise demolish the presently intact habitat, reduce habitat size, degrade and alter habitat quality and conditions (e.g., microclimate conditions, species composition, etc.) that are integral to the "special nature" of the existing habitat area. Therefore, the Commission finds that the lily habitat within the intact forest on the northern side of the property (as shown in Exhibit No. 14) meets the second test for determining ESHA under Section 30107.5 of the Coastal Act (Section 3.1 of the certified LUP).

In conclusion, the Commission finds that the Coast lily habitat within the forested area on the northern side of the property as shown on Exhibit No. 14 meets the two part test under Section 30107.5 (Section 3.1 of the certified LUP) for determining ESHA because it is both rare and especially valuable because of its special nature or role in an ecosystem and it could be easily disturbed or degraded by human activities and developments.

iii. Northern Bishop Pine Forest

Bishop pine (*Pinus muricata*) is not considered a rare species, though its range is restricted to coastal California and northern Baja (Mexico) at elevations less than 300 meters (Hickman 1993). In some areas the species grows in pure stands, while in other areas individuals or small populations of the species are intermixed with other dominant tree species such as Monterey pine (*Pinus radiata*), beach pine (*Pinus contorta* ssp. *contorta*), cypress (*Cupressus* spp.), and others. The total assemblage of plant species in an area where Bishop pine occurs (i.e., the vegetation type) in some cases can be considered rare, as explained below.

"Northern Bishop Pine Forest" is a natural community originally defined by Holland (1986) and described, in part, as follows:

> "…Typically dominated by pure stands of *Pinus muricata*, with cones that remain closed on the trees for many years. The seeds are released in large quantities and germinate freely following fires…" (Holland 1986).

The CNDDB (March 2007 version) lists only a single documented occurrence of this community type in the Monterey area, although a disclaimer of the database program is that not all occurrences of a rare species or natural community are listed in the CNDDB (only those that have been reported to the agency and logged in to the database to date are listed). The botanical reports prepared for the proposed project present conflicting views as to whether or not the Bishop pine occurring on the subject site represents a rare vegetation community. The original botanical report (Exhibit No. 8) describes a small stand of Bishop pine on the subject site and describes this feature as the sensitive natural community known as Northern Bishop Pine Forest

in the CNDDB, which is ranked as G2/S2.2[15] (CNDDB 2007). After the appeal of the project was filed, however, a more detailed analysis of the Bishop pine on the project site was submitted (Exhibit No. 10). This analysis concludes that the Bishop pine on the project site does not constitute any of the Bishop pine vegetation types currently recognized by CDFG or CNPS. As background, the limited number of rare vegetation types that are listed in the CNDDB (referred to as "natural communities") are based on the Holland classification scheme, even though the science of vegetation classification has evolved and has been refined over the past two decades, and the Holland classification is no longer used as the state standard. The currently accepted vegetation classification system for the state that is standardly used by CDFG, CNPS, and other state and federal agencies, organizations, and consultants for survey and planning purposes is *A Manual of California Vegetation* (MCV, Sawyer & Keeler-Wolf 1995). Unlike Holland, this vegetation classification system is based on the standard National Vegetation Classification System (NVCS) and includes alliances (a floristically defined vegetation unit identified by its dominant and/or characteristic species) and associations (the finer level of classification beneath alliance). Although the CNDDB still maintains records of some of the old Holland vegetation types, these types are no longer the accepted standard, and the CDFG Vegetation Classification and Mapping Program (VegCAMP) has published more recent vegetation lists for the state (September 2003, October 2007) based on a standardized vegetation classification system that is currently being developed for California (and which is consistent with the MCV classification system). Although the rare vegetation types under the state's new vegetation classification system have not yet been added to the CNDDB to replace the old Holland types (but eventually are planned to be), global and state rarity rankings have been assigned for various types on the recent VegCAMP lists. On the most recent VegCAMP list (October 2007), there is no longer a "Northern Bishop Pine Forest" type, but instead there is a Bishop pine alliance and various Bishop pine associations. Unlike the G2/S2.2 rankings of the no-longer-recognized "Northern Bishop Pine Forest" natural community, on this list the currently accepted Bishop pine alliance vegetation type is ranked G4/S3[15]. This ranking is considered "apparently secure" at the global level (i.e., not rare) and potentially rare at the state level. The rarity ranking at the state level is dependent on vegetation association (i.e., dominant plant species within the Bishop pine alliance at any given site). As mentioned above, the Bishop pine analysis (Exhibit No. 10) concludes that the vegetation assemblage on the project site does not constitute any of the rare Bishop pine associations currently recognized by CDFG or CNPS.

Staff visited the project site in June of 2008 and noted that the forest habitat is comprised of a mix of redwood, Bishop pine, tanoak, and other tree species in the overstory layer. No pure stand of Bishop pine of any significant size occurs on the parcel. The Commission's ecologist, Dr. John Dixon, also reviewed the Bishop pine habitat on the project site and concluded that the habitat is neither rare nor especially valuable because of its special nature or role in an ecosystem for the following reasons: (1) because Bishop pine is not the dominant overstory species in the forest stand but rather is co-dominant with redwood and tanoak, it does not appear that the vegetation on the site can be accurately classified as the Bishop pine alliance (or as Northern Bishop Pine Forest); and (2) as explained in the botanical analysis, none of the rare Bishop pine

[15] **G** = Global ranking; **S** = State ranking. For each ranking, **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **3** = 21-80 occurrences or 3,000-10,000 individuals OR 10,000-50,000 acres; **4** = Apparently secure / not rare; **0.2** = fairly endangered in California.

associations on the most recent VegCAMP lists are present on the subject site. Therefore, the Commission finds that the habitat that occurs on the property that contains Bishop pine does not qualify as ESHA under Coastal Act Section 30107.5 (LUP Section 3.1), because the habitat is neither rare nor especially valuable because of its special nature or role in an ecosystem.

(c) Applying the ESHA Definition to Potentially Occurring Sensitive Wildlife Species

As discussed above, the biological study completed for the project (BioConsultant LLC, December 2005) did not detect any sensitive animal species on the project site. Due to the absence of perennial aquatic environs and mature forest habitat, the report concludes that the property does not support habitat for sensitive species such as Northern spotted owl, Marbled murrelet, Sonoma tree vole Point Arena mountain beaver, Foothill yellow-legged frog, salmonids, and others. The report states that the subject site supports only low quality habitat with limited resources for nesting raptors and for cavity-dependent species such as Townsend's big-eared bat. The report does, however, provide recommendations for protecting the identified wildlife habitat resources on the project site, including a gray squirrel (*Sciurus griseus*) nest, a small stand of redwoods at the northeastern end of the parcel that supports raptor nesting habitat, and a small stand of snag-topped redwoods that support habitat for cavity-dependent species such as bats.

The CNDDB (March 2007) lists various sensitive species of raptors including various hawks, kites, harriers, falcons, and eagles, many of which have the potential to occur in the Gualala area and to use the forest habitat of the subject site for nesting and/or roosting purposes. Many species of raptors are widely reported to be sensitive to human disturbance such as noise, which displaces birds, reduces productivity, and affects nesting occupancy and success. Townsend's big-eared bat (*Corynorhinus townsendii*) is listed by the CDFG as a "Species of Concern" with a global and state ranking of G4T3T4/S2S3[16]. The CNDDB (2007) lists over 100 documented occurrences of the species, only one of which is from the Gualala area (a historic occurrence from 1966). The species is known to occur throughout California in a variety of habitats, typically in more mesic areas. The bats roost in the open, hanging from walls and ceilings. According to the CNDDB, roosting sites for the species are quite limited, and the species is extremely sensitive to human disturbance. Gray squirrel is not listed in the CNDDB as a sensitive species, and squirrels are generally reported to be tolerant of human disturbance

Therefore, because of their relative rarity and limited distribution and their sensitivity to human disturbance and development, potentially occurring raptor and bat habitat in the project area, if occupied or actively used by the sensitive species, would meet the two-part test for designation as ESHA under Coastal Act Section 30107.5 (LUP Section 3.1).

The biological report recommends conducting surveys for nesting or roosting raptors and bats prior to timber harvesting and construction activities. To ensure that this mitigation measure is implemented and impacts to animal ESHA are avoided consistent with the ESHA-protection

[16] **G** = Global ranking; **S** = State ranking; **T** = Infraspecific taxa ranking (e.g., subspecies or varieties). For each ranking, **2** = 6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres; **3** = 21-80 occurrences or 3,000-10,000 individuals OR 10,000-50,000 acres; **4** = Apparently secure / not rare.

provisions of the certified LCP, the Commission attaches Special Condition No. 10. This condition requires that prior to timber harvesting and construction activities the applicant submit, for the review and approval of the Executive Director, the results of a survey performed at the seasonally appropriate time period(s) of the last nesting and/or roosting season prior to commencement of timber removal and construction for the presence of active nesting habitat of sensitive raptor species and active roosting habitat of Townsend's big-eared bat. The survey shall demonstrate that any sensitive species habitat located in areas of potential impact shall be avoided, and a minimum 100-foot ESHA buffer shall be established. Any trees or snags that are found to contain sensitive species habitat shall not be removed unless an amendment to this coastal development permit is obtained authorizing removal of the trees or snags in a manner consistent with the ESHA protection provisions of the certified LCP.

(d) Establishment of ESHA Buffers

As cited above, Section 3.1 of the LUP and Coastal Zoning Code Section 20.496.010 define ESHA, which includes habitats of rare and endangered plants – in this case Thin-lobed horkelia and Coast lily habitats as shown on Exhibit No. 14. Therefore, as ESHA, rare plant habitat is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the CDFG, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width. CZC Section 20.496.020 states that the standards for determining the appropriate width of the buffer area include (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed. Furthermore, LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) require that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel.

The existing driveway on the subject property, which is proposed to be widened and improved for school bus safety purposes, enters the property on the northeast side, heads westward along the northern property boundary, and winds southward down hill and then eastward to connect with the old landing strip area (see Exhibit No. 4). This driveway was constructed prior to voter passage of the Proposition 20 Coastal Initiative in 1972 and the Legislature's adoption of the Coastal Act in 1976. The driveway as it was built and as it currently exists is itself located as close as 5 feet from the edge of the rare plant ESHA. This existing setback from the rare plant ESHA along the road in some places would decrease a result of the proposed project, and in others places, such as where the Coast lily ESHA is located and at the northern end of the Thin-lobed horkelia ESHA, widening the road as proposed would actually obliterate portions of rare plant ESHA itself (the applicant has proposed transplanting rare plant individuals that cannot be avoided due to road widening activities into the proposed Conservation/Study Area as seen on Exhibit No. 14).

As noted above, LUP Policy 3.1-7 and CZC Section 20.496.020 indicate that a buffer area of 100 feet shall be established adjacent to all ESHAs, although the buffer width can be reduced to a minimum of 50 feet under certain circumstances. In this case, because a substantial existing pre-Coastal Act development (the road) adjoins or is located within a few feet of rare plant ESHA and intervenes between the new development (i.e., road widening) and the ESHA, establishment of a buffer is precluded in these portions of the site. Staff has visited the project site and has discussed with the applicant the possibility of widening the road away from the rare plant ESHA. The applicant has indicated that it would be possible to widen the road away from the rare plant ESHA to avoid impacting any rare plant individuals or the need to transplant individuals as originally proposed. Therefore, the Commission attaches Special Condition No. 4, which requires submittal of a revised site plan demonstrating that any road widening and necessary road improvements shall be constructed away from the sensitive plant habitat areas. In all other areas of the site, where the substantial existing pre-Coastal Act development (road) does not intervene between the new development and the ESHAs, the proposed project, as conditioned (see below) will establish a minimum 50-foot to 100-foot buffer between the new development and the ESHA locations.

The applicant's consultant prepared an analysis that substantiates that where substantial existing development (i.e., the existing road) does not intervene between the new development and rare plant ESHA and a buffer can be established, a 100-foot buffer is achievable for the Thin-lobed horkelia ESHA and a 50-foot buffer will be adequate to protect the Coast lily ESHA from the impacts of the proposed above ground development (specifically, the northern parking lot) based on the seven standards contained within CZC Section 20.496.020(A)(1)(a) through (g), as discussed below.

Regarding criteria (a), the biological significance of adjacent lands, the Coast lily is not functionally dependent on the surrounding forested habitat for its own survival. As described above, the species grows in a wide variety of habitat types, and the forest habitat on the project site is not necessarily a preferred habitat for the rare species. Furthermore, the species generally occurs in sparse numbers at each location where it is found (CNDDB 2007) and does not tend to spread across large habitat expanses. Thus, it is not likely that the species will spread into adjacent forest habitat, and therefore a 50-foot buffer will be adequate to provide for the continuance of the rare plant ESHA on the site.

Regarding criteria (b), the sensitivity of the species to disturbance, as discussed above, the Coast lily ESHA occurs within areas that have been disturbed in the past. Unlike for sensitive animal species, noise, bright lights, and motion at a distance do not significantly affect the rare plant species. The principal factors that could disturb the Coast lily include direct trampling or disturbance within the habitat, fill placement, grading, invasion by exotic plants, hybridization with other *Lilium* species, and competition from native or exotic plants that grow taller than the Coast lily and eventually shade and crowd out the rare plant. Thus, measures that are more important and more effective for protecting the rare plant habitat than wide spatial buffers are measures such as the use of exclusionary fencing during construction, preserving the habitat from future development, restricting landscaping, requiring the removal of nonnative invasive species, and seasonal mowing of high vegetation to reduce the competition in this area. Thus, a

50-foot buffer will be adequate to protect the Coast lily from disturbance provided these mitigation measures are incorporated into the project (see below).

Regarding criteria (c), the susceptibility of the parcel to erosion, the site is nearly level where the Coast lily ESHA occurs. The applicant states that it is preparing a Storm Water Pollution Prevention Plan (SWPPP) for construction activities and an erosion control plan (ECP) for timber harvest activities. If best management erosion control practices are used to protect the rare plant ESHA during harvesting, construction, and post construction, then the proposed development is not expected to significantly change the potential for erosion in the vicinity of the rare plant ESHA. Thus, a 50-foot buffer will be adequate provided these mitigation measures are incorporated into the project (see below).

Regarding criteria (d) and (e), the use of natural or cultural features to locate the buffer area, the consultant indicates that the proposed development was sited based on topography and existing cultural features such as roads. The site is somewhat constrained by a drainage feature along the eastern edge of the property, a steep break in slope between the airstrip and the wooded area to the north (which would require considerable grading and vegetation removal to create a contiguous, gently sloping, ADA-compliant building area), and the existing driveway (which cannot be relocated due to small lots to the north and east which cannot spare room for an encroachment and access easement, and no access to the parcel is available from the south, north, or west). Stepping the buildings into the hillside down slope (as proposed) decreases the visual impact of the buildings, maintains accessibility, minimizes grading, allows for drainage control, and allows for the maintenance of a vegetative buffer for visual and noise mitigation between the school campus and the residential properties to the east. Thus, the proposed 50-foot Coast lily ESHA buffer area and 100+-foot Thin-lobed horkelia ESHA buffer area have been located using both natural and cultural features.

Regarding criteria (f), lot configuration and the location of existing development, the applicant's consultant discusses how the applicant has proposed mitigation measures to protect rare plant ESHA on the site, which were developed in consultation with CDFG. Proposed mitigation measures include (1) creation of a Conservation/Study Area (CSA) around the Thin-lobed horkelia ESHA; (2) transplanting Thin-lobed horkelia and Coast lily individuals that occur along roadsides and which cannot be avoided by the proposed road widening activities; (3) establishment of a bioswale vegetated with native grasses, sedges, and rushes to create new habitat and to filter sediments; (4) an invasive weed eradication program aimed at removing Pampas grass, Acacia, Scotch broom, and French broom from the proposed CSA and the remainder of the parcel; and (5) retention of a portion of the Bishop pine community within the CSA and on the east side of the parcel.

Regarding criteria (g), the type and scale of development proposed, the applicant's consultant states that the school project has been designed for three-phase construction based on existing and future student populations. Phase 1 has been designed to meet the current student population and consists of the north parking lot, driveway improvements from Old Stage Road to the north parking lot, play areas, and an administrative building and classrooms adjacent to the parking lot. Phase 2 development consists of additional classrooms to be built to the west and south of Phase 1. Phase 3 consists of a multi-purpose room, a south parking lot and playfields, and

improvements to the remainder of the driveway. The scale of the project has been appropriately designed and phased so that the school will be constructed in phases as deemed necessary by the student population. Adjacent lands to the north and east have been developed as residential lots. Parcels to the south and west are larger and less densely developed.

Of the several factors discussed above, the Commission finds that the most significant to the determination of buffer width adequacy are those regarding (1) the low biological significance of the lands adjacent to the ESHA, (2) the low significance of a greater than 50-foot buffer to avoid species disturbance provided other mitigation measures are provided, (3) the low susceptibility of the area around the rare plant ESHA to erosion, and (4) the proposed mitigation measures to protect the rare plant ESHA (*i.e.*, subsections (a), (b), (c), and (f) of CZC Section 20.496.020). The rare plant ESHA, unlike certain wildlife ESHA, does not depend on the functional relationships of adjacent lands that a larger buffer area is usually intended to protect such as supporting habitats for breeding, nesting, feeding, or resting activities. Therefore, in the case of the Coast lily ESHA (since the proposed development, except for the driveway widening as discussed above, will be over 100 feet from the Thin-lobed horkelia ESHA), there is less of a need for a wide buffer to help sustain the species on the site. In addition, the fact that the development site around the rare plant ESHA is relatively flat indicates that erosion and sedimentation from construction and from the completed development are less likely to affect the ESHA than erosion and sedimentation would if the adjacent development had a steeper slope with greater potential for erosion, particularly with implementation of the additional erosion and sedimentation controls and drainage plan required by Special Condition Nos. 5 and 6 described below. Additionally, as discussed above, there are measures that are more important and more effective for protecting the rare plant habitat from disturbance than wide spatial buffers including the use of exclusionary fencing during construction, preserving the habitat from future development, restricting landscaping, requiring the removal of nonnative invasive species, and seasonal high-weed mowing to reduce the competition in this area. The applicant has proposed many of these mitigation measures as well as others (described above) to further protect rare plants on the site. With these mitigation measures, and with the implementation of Special Condition Nos. 7, 8, and 9 (described below), the Commission finds that a 50-foot buffer will be adequate to protect the Coast lily ESHA from possible significant disruption caused by the proposed development.

In order to achieve a 50-foot buffer as required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1), it will be necessary to slightly reconfigure the upper parking lot and relocate the proposed day-care and preschool facility. As proposed on the existing site plan (Exhibit No. 5), the western entrance to the upper parking lot encroaches to within approximately 5 feet of the eastern-most Coast lily ESHA, and the day-care/preschool facility encroaches to within approximately 25 feet of Coast lily ESHA. There are feasible alternatives to the proposed site plan, which can accommodate the necessary 50-foot buffer. For example, there is available area southeast of the proposed upper parking lot that currently is not proposed for development, that is more than 50 feet away from the Coast lily, and that appears large enough to accommodate additional parking and the relocated day-care/preschool facility. Furthermore, additional parking could be included in the lower parking lot to compensate for any parking lost due to reconfiguration of the upper parking lot to accommodate the needed 50-foot rare plant ESHA buffer. Therefore, Special Condition No. 4 requires submittal, prior to permit issuance, of a

revised site plan that demonstrates that minimum 50-foot buffers will be established between the Coast lily ESHA and the proposed upper parking lot and day-care/preschool facility.

To ensure that erosion control measures and other protective measures proposed by the applicant are implemented, the Commission attaches Special Condition Nos. 5 and 6. Special Condition No. 5 requires submittal, prior to permit issuance, of final erosion control plan(s) for construction activities and timber harvesting activities. The plan(s) shall demonstrate that Best Management Practices (BMPs) will be implemented to control erosion and sedimentation both during and following construction and timber harvesting including, in part, (a) installing straw bales, coir rolls, or silt fencing to prevent runoff from construction areas from draining into any rare plant ESHA and ESHA buffer, (b) maintaining on-site vegetation to the maximum extent possible during construction activities; (c) replanting any disturbed areas as soon as possible following completion of timber harvest and construction activities, consistent with the planting limitations required by Special Condition No. 7 (see below); (d) covering and containing all on-site stockpiles of construction debris at all times to prevent polluted water runoff; (e) protecting the canopy and root zones of existing living trees on site through temporary fencing or screening during construction; and (f) installing temporary exclusion/construction fencing between the rare plant ESHA and the proposed development during construction and timber harvesting activities.

Special Condition No. 6 requires submittal of a final grading and drainage plan for the school that demonstrates, among other things, that (a) grading shall not significantly disrupt rare plant ESHA, ESHA buffer, and natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff; (b) existing vegetation shall be maintained on site to the maximum extent feasible; (c) native vegetation shall be replanted pursuant to Special Condition No. 7 to help control sedimentation; and (d) all storm water runoff shall be encaptured or treated using relevant best management practices.

Special Condition No. 7 requires implementation of other ESHA protection measures including (A) temporary exclusion/construction fencing shall be installed between the rare plant ESHA and the proposed timber harvesting and construction areas during all timber harvesting and construction activities; (B) the Conservation/Study Area around the Thin-lobed horkelia ESHA proposed by the applicant shall be created and maintained consistent with the recommendations of Section 4.2 of the Botanical Resources Report dated September 19, 2006 prepared by Kjeldsen Biological Consulting (see Exhibit Nos. 8 and 14); and (C) manual removal of invasive weeds including, but not limited to, Pampas grass, Acacia, Scotch broom, and French broom from the proposed CSA and the parcel at large. Furthermore, the ESHA could be adversely affected by the development if nonnative, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native vegetation, thereby disrupting the value and function of the adjacent ESHA. The applicant has not proposed a specific landscaping plan as part of the proposed project. However, to ensure that the ESHA is not adversely impacted by any future landscaping of the site, subsection (D) of Special Condition No. 7 also requires that only native and/or non-invasive plant species of native stock be planted at the site. Additionally, since some species of *Lilium* readily cross-pollinate with one another, and since Coast lily in particular is known to cross-pollinate with different lily varieties and hybrids (and produce fertile offspring), it is feasible that

native Coast lilies, including those within the Coast lily ESHA on the site and in the surrounding project vicinity, could cross-pollinate with horticultural lilies installed in a landscape setting. If cross-pollination were to occur, successive generations of progeny would likely result in a mixture or hybrid variety of the two parent plants, and subsequent backcrossing could affect the long-term genetic integrity of the Coast lily in the area. Therefore, in order to ensure that future landscaping that the applicant may choose to install on the property does not adversely impact the long-term genetic integrity of any Coast lily ESHA on the site or in the project vicinity, subsection (E) of Special Condition No. 7 also imposes a restriction stating that no other *Lilium* species may be planted on the property except for the native Coast lily.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to poses significant primary and secondary risks to non-target wildlife present in urban and urban/wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential significant adverse cumulative impact to environmentally sensitive wildlife species, subsection (F) of Special Condition No. 7 prohibits the use of specified rodenticides on the subject property.

Finally, subsection (G) of Special Condition 7 requires that a qualified botanist familiar with all of the sensitive plant species found on the property, including Thin-lobed horkelia and Coast lily, shall monitor all project activities, including timber harvesting activities and all phases of construction activities, to prevent impacts that would significantly degrade sensitive plants during timber harvesting and project construction.

To ensure that no aspects of the school development encroach into the rare plant ESHAs or ESHA buffers, the Commission attaches Special Condition Nos. 8 and 9. Special Condition No. 8 restricts use of the ESHA and ESHA buffer area on the property, as generally depicted on Exhibit No. 14, to open space. Special Condition No. 8 prohibits all development in the affected area except for the removal of non-native vegetation and nature study. Special Condition No. 9 requires that, prior to any conveyance of the property, the applicant execute and record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that both the applicants and future purchasers of the property are notified of the prohibitions on development within the ESHA and buffer area established by Special Condition No. 8. The condition further requires that prior to permit issuance, the applicant submit for the Executive Director's review and approval a written agreement incorporating all of the above terms of this condition.

With the mitigation measures discussed above, which are designed to prevent impacts that would significantly degrade adjacent ESHA, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the Thin-lobed horkelia and Coast lily habitat areas.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of LUP Policies 3.1-7 and CZC Section 20.496.020 concerning establishment of buffers between development and existing ESHA because (1) an ESHA buffer would be established between all new development and the ESHA on the site where the substantial existing pre-Coastal Act development does not intervene between the new development and ESHA and preclude the establishment of such a buffer, (2) where buffers can be established, the proposed project would establish an ESHA buffer width based on the standards set forth in Coastal Zoning Ordinance Section 20.496.020(A)(1)(a) through (g) for reducing the minimum buffer below 100 feet, and (3) all impacts of the development that could significantly degrade adjacent ESHA would be prevented.

G. PROTECTION OF WATER QUALITY

1. Applicable LCP Policies & Standards:

- LUP Policy 3.1-25 states the following:

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

- CZC Section 20.492.010 incorporates grading standards and states the following, in applicable part (emphasis added):

  (A) Grading shall not significantly disrupt natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff.

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

  …

  (F) Adjoining property shall be protected from excavation and filling operations and potential soil erosion.

  …

- CZC Section 20.492.015 incorporates erosion standards and states the following, in applicable part (emphasis added):

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

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

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

  …

  (G) Erosion control devices shall be installed in coordination with clearing, grubbing, and grading of downstream construction; the plan shall describe the location and timing for the

installation of such devices and shall describe the parties responsible for repair and maintenance of such devices.

- CZC Section 20.492.020 incorporates sedimentation standards and states the following, in applicable part:

  (A) Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.

  (B) To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.

  …

- CZC Section 20.492.025 incorporates runoff standards and states the following, in applicable part (emphasis added):

  …

  (I) The release rate of storm water from all developments that drains into wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall. The carrying capacity of the channel directly downstream must be considered in determining the amount of the release.

  (K) All development that is within, or drains into, environmentally sensitive habitat, is a commercial or residential subdivision, is a service station or automotive repair facility or that includes commercial development or a parking lot, shall capture and infiltrate or treat, using relevant best management practices, including structural best management practices, all runoff from storms of a magnitude such that the runoff from eight-five (85) percent of storms is encaptured or treated.

2. Consistency Analysis:

LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. CZC Section 20.492.010 sets forth grading standards which require the protection of, among other things, natural drainage areas, natural landforms, and adjacent properties from potential soil erosion resulting from cut and fill operations. CZC Section 20.492.015 sets forth erosion control standards to ensure that new development does not increase erosion. Specifically, CZC Section 20.492.015(B) and (C) require in part, respectively, that existing vegetation shall be maintained to the maximum extent feasible, and disturbed soil shall be reseeded and revegetated as soon as possible following disturbance. CZC Section 20.492.020 sets forth sedimentation standards to minimize sedimentation of off-site areas. Specifically, CZC Section 20.492.020(A) requires that ESHA be protected from sedimentation impacts, and CZC Section 20.492.020(B) requires that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas. Where vegetation is necessarily removed during construction, Section 20.492.020(B) requires that native vegetation shall be replanted afterwards to help control sedimentation. Finally, CZC Section 20.492.025 sets forth runoff control standards to ensure that new development does not increase erosion. Specifically, CZC Section 20.492.025(I) requires that the release rate of storm water from the new development that drains

into wetlands shall not exceed the rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall, and the carrying capacity of the channel directly downstream must be considered in determining the amount of the release. CZC Section 20.492.025(K) requires that new development that includes a parking lot shall use relevant BMPs to capture and infiltrate storm water runoff.

As discussed previously, a drainage course is located down slope of the southeastern corner of the property (see Exhibit No. 2). Runoff originating from the development site that is allowed to drain toward this area could contain entrained sediment and other pollutants in the runoff that would contribute to degradation of the quality of coastal waters. The increase in impervious surface area associated with the proposed development will decrease the infiltrative function and capacity of the existing permeable land on site. The reduction of permeable surface area will lead to an increase in the volume and velocity of stormwater runoff that can be expected to leave the site. Sediment and other pollutants entrained in stormwater runoff from the development that is carried down slope to the drainage contribute to degradation of the quality of coastal waters and any intervening sensitive habitat. Because the applicant proposes to remove a large portion of the forest vegetation currently covering the site in order to develop the school complex, the amount of pervious surface on the site will be greatly reduced, potentially having adverse impacts on coastal waters. Sedimentation impacts from runoff could be of concern not only during construction, but post construction as well.

To ensure that best management practices (BMPs) are implemented to control the erosion of exposed soils and minimize sedimentation of coastal waters during construction and timber harvesting activities, the Commission attaches Special Condition No. 5. As discussed above, this condition requires, prior to permit issuance for the review and approval of the Executive Director, submittal of a final erosion and sediment control plan demonstrating that (a) straw bales, coir rolls, or silt fencing structures shall be installed prior to and maintained throughout the construction period to contain runoff from construction areas, trap entrained sediment and other pollutants, and prevent discharge of sediment and pollutants into any rare plant ESHA, rare plant ESHA buffer area, and the natural drainage at the southeastern corner of the parcel; (b) existing vegetation shall be maintained on site to the maximum extent feasible during construction and timber harvesting activities, (c) any disturbed areas shall be replanted or seeded as soon as possible following completion of timber harvest and construction activities, consistent with the planting limitations required by Special Condition No. 7, and there shall be no less than 100 percent coverage by 90 days after seeding; (d) all on-site stockpiles of construction debris shall be covered and contained at all times to prevent polluted water runoff; (e) temporary exclusion/construction fencing shall be installed between the rare plant ESHA and the proposed timber harvesting and construction areas during all timber harvesting and construction activities; (f) adjoining property shall be protected from excavation and filling operation and potential soil erosion; and (g) the post-development erosion rate shall not exceed the natural or existing level before development.

To ensure that natural drainage areas, natural landforms, and adjacent properties are protected from project grading, and that site runoff does not increase erosion, the Commission attaches Special Condition No. 6. As discussed above, this condition requires, prior to permit issuance for the review and approval of the Executive Director, submittal of a final grading and drainage plan

demonstrating that (a) grading shall not significantly disrupt natural drainage patterns and shall not significantly increase volumes of surface runoff, and adequate measures shall be taken to ensure there is no increase in surface runoff off-site; (b) adjoining property shall be protected from excavation and filling operations and potential soil erosion, (c) existing vegetation shall be maintained on site to the maximum extent feasible; (d) native vegetation shall be replanted pursuant to Special Condition No. 7 to help control sedimentation; (e) the post-development release rate of storm water shall not exceed the pre-development rate of storm water runoff from the area in its natural or undeveloped state for all intensities and durations of rainfall; and (f) all storm water runoff shall be encaptured or treated using relevant best management practices.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with CZC Sections 20.492.010, -015, -020, and -025, which set standards for grading, erosion control, sedimentation, and runoff control, respectively, because, among other reasons, natural drainage areas, natural landforms, and adjacent properties will be protected from cut and fill operations, erosion will not be increased, the maximum amount of vegetation feasible will be retained on site, and relevant BMPs will be used to capture and infiltrate storm water runoff. Furthermore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained.

H. PROTECTION OF ARCHAEOLOGICAL RESOURCES

1. Applicable LCP Policies & Standards:

- LUP Policy 3.5-10 states:

  The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.

2. Consistency Analysis:

The Northwest Information Center at Sonoma State University reviewed the proposed school development, determined that the subject site could contain unrecorded archaeological resources, and thus recommended that a study be conducted prior to commencement of project construction. On June 8, 2005, an archaeological survey/study was prepared by Jay Flaherty, which identified no archaeological resources on the site. The study and its findings were reviewed and accepted by the Mendocino County Archaeological Commission on October 12, 2005. Nevertheless, to ensure protection of any archaeological or cultural resources that may be unearthed at the site during construction of the proposed project, the Commission attaches

Special Condition No. 11. The condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the applicant is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-10, as the development will include mitigation measures to ensure that the development will not adversely impact archaeological resources.

I. OTHER AGENCY APPROVALS

The project requires review and authorization by the Regional Water Quality Control Board. To ensure that the project ultimately approved by the Board is the same as the project authorized herein, the Commission attaches Special Condition No. 12, which requires the applicant to submit to the Executive Director evidence of the Board's approval of the project prior to permit issuance. The condition requires that any project changes resulting from these other agency approvals not be incorporated into the project until the applicant obtains any necessary amendments to this coastal development permit.

J. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Arena Union Elementary School District acted as the lead agency for the project for the purposes of CEQA review. As such, the District prepared a Mitigated Negative Declaration for the project in October of 2000 (SCH No. 2000102089).

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

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

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

V. EXHIBITS

1. Regional Location Map
2. Topographic Map
3. Zoning Map
4. Aerial Photo
5. Approved Site Plan
6. Preliminary Grading Plan
7. Biological Survey Report (excerpt)
8. Botanical Survey Report (excerpt)
9. Buffer Analysis (excerpt)
10. Bishop Pine Analysis
11. Notice of Final Local Action and County Approval
12. Appeal
13. Applicant's Correspondence
14. Rare Plan ESHA and Open Space Areas

VI. REFERENCES CITED

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Vegetation Classification and Mapping Program (VegCAMP). *List of California Vegetation Alliances*. October 22, 2007. Department of Fish and Game, Biogeographic Data Branch. Sacramento, CA.

ATTACHMENT A

STANDARD CONDITIONS:

1. Notice of Receipt & Acknowledgement

The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. Expiration

If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation

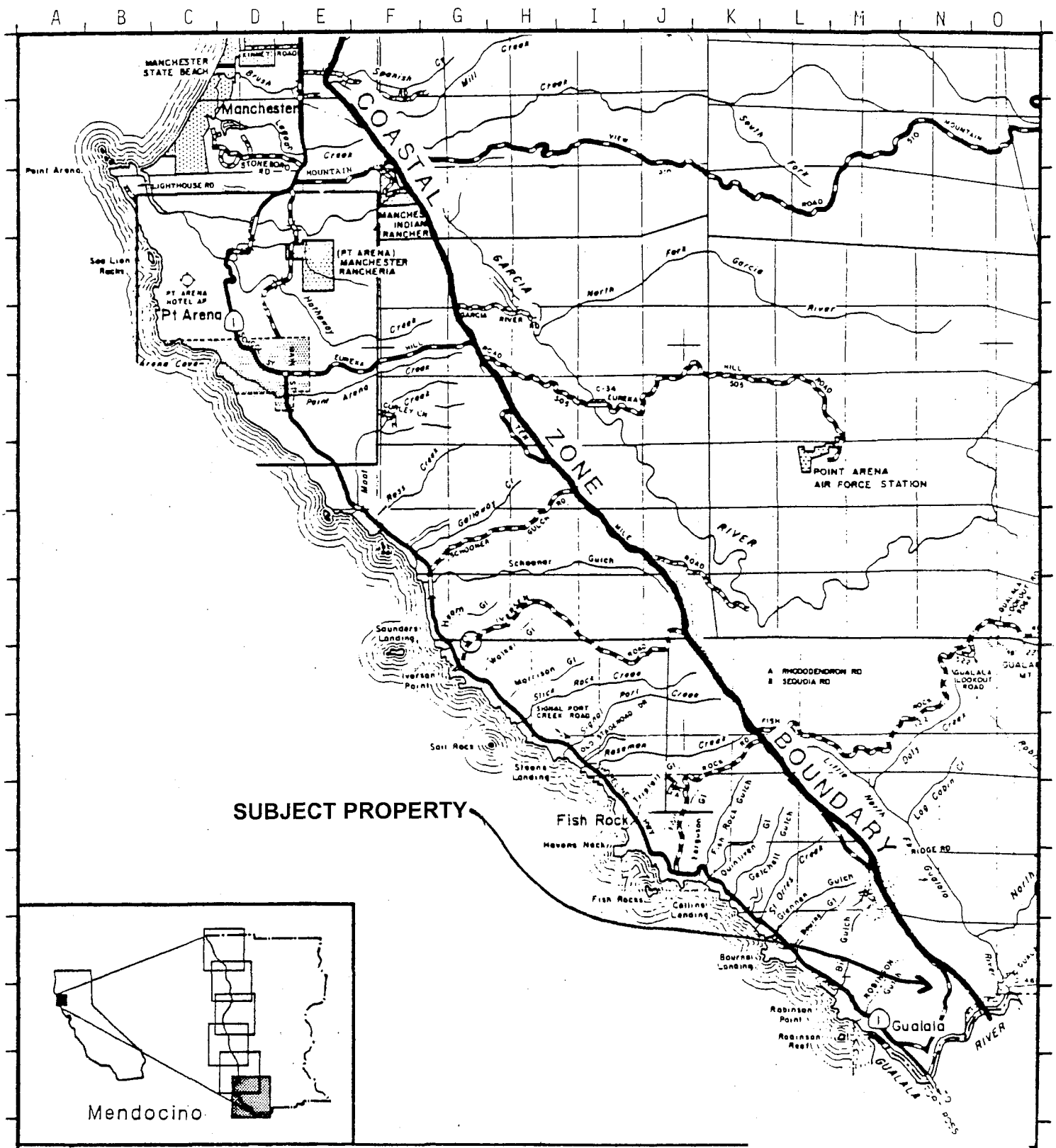
Any questions of intent of interpretation of any condition will be resolved by the Executive Director of the Commission.

4. Assignment

The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms & Conditions Run with the Land

These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.



California Coastal Commission

LOCATION MAP

County of Mendocino

EXHIBIT NO. 1

APPEAL NO.

A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

REGIONAL LOCATION MAP

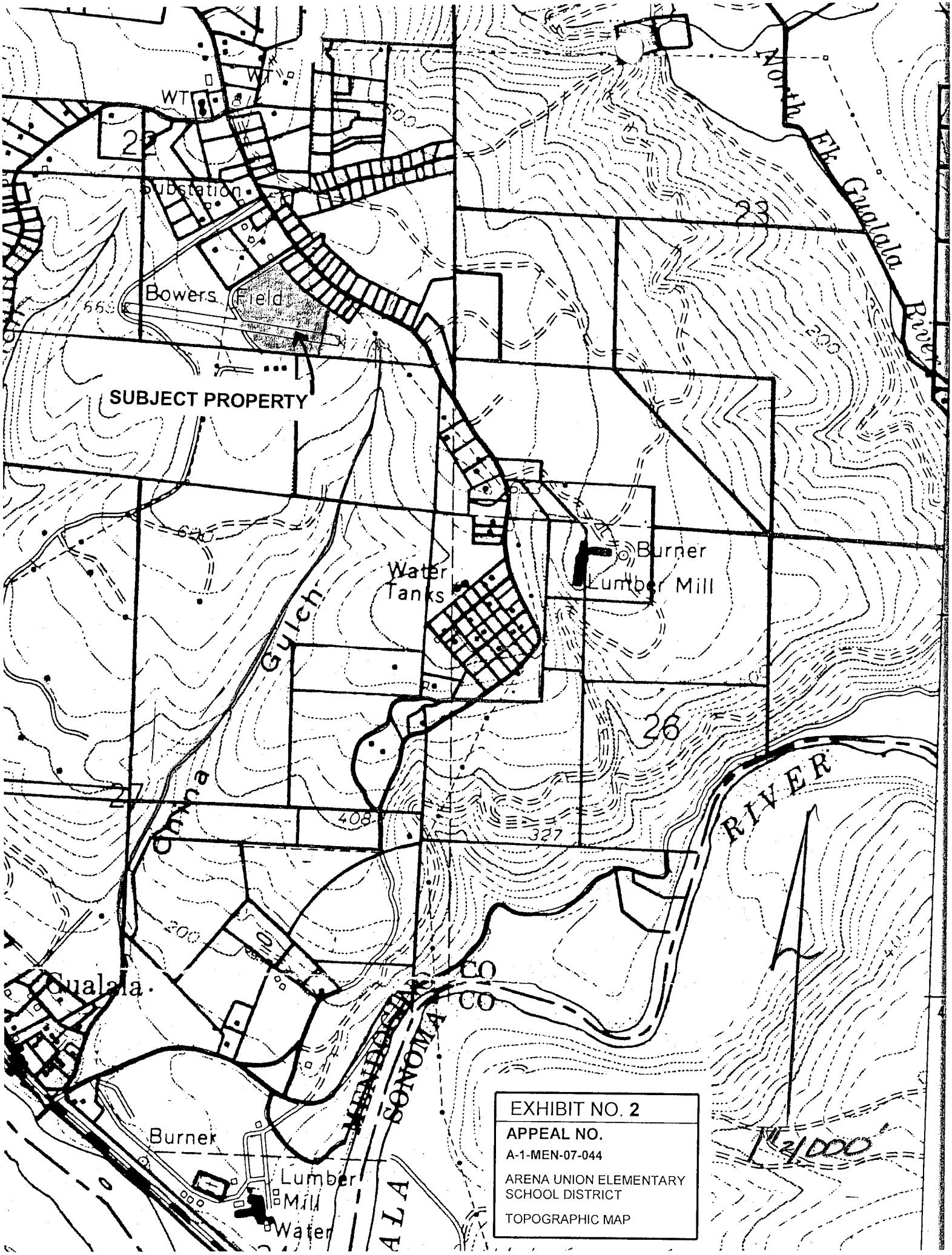


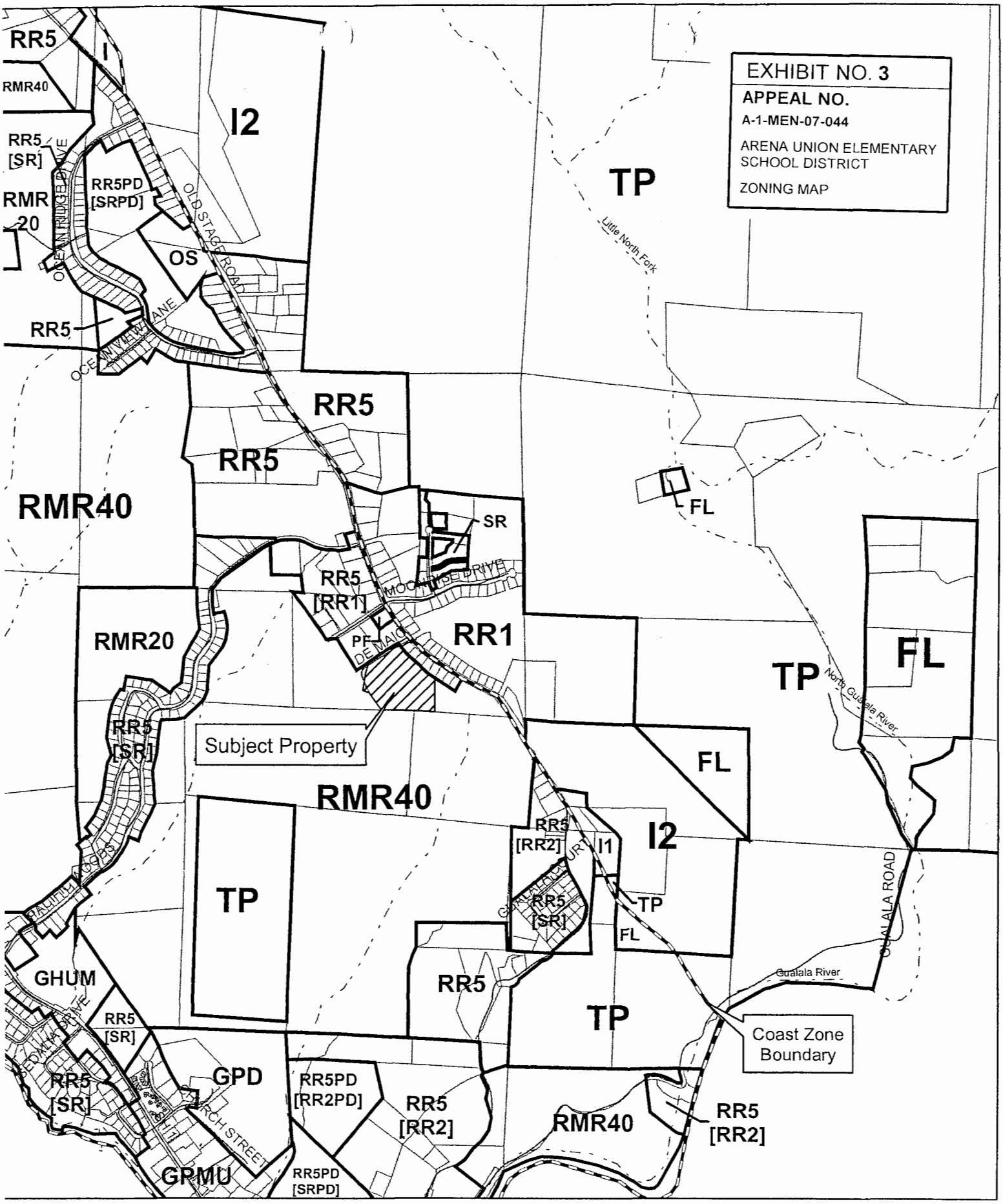
EXHIBIT NO. 2

APPEAL NO.

A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

TOPOGRAPHIC MAP



ZONING DISPLAY MAP

OWNER: ARENA UNION ELEMENTARY SCHOOL DISTRICT
AGENT: ASPEN STREET ARCHITECTS, Inc.
CASE #: CDU 10-2004
APN: 145-091-22

1,400 700 0 1,400 Feet

N

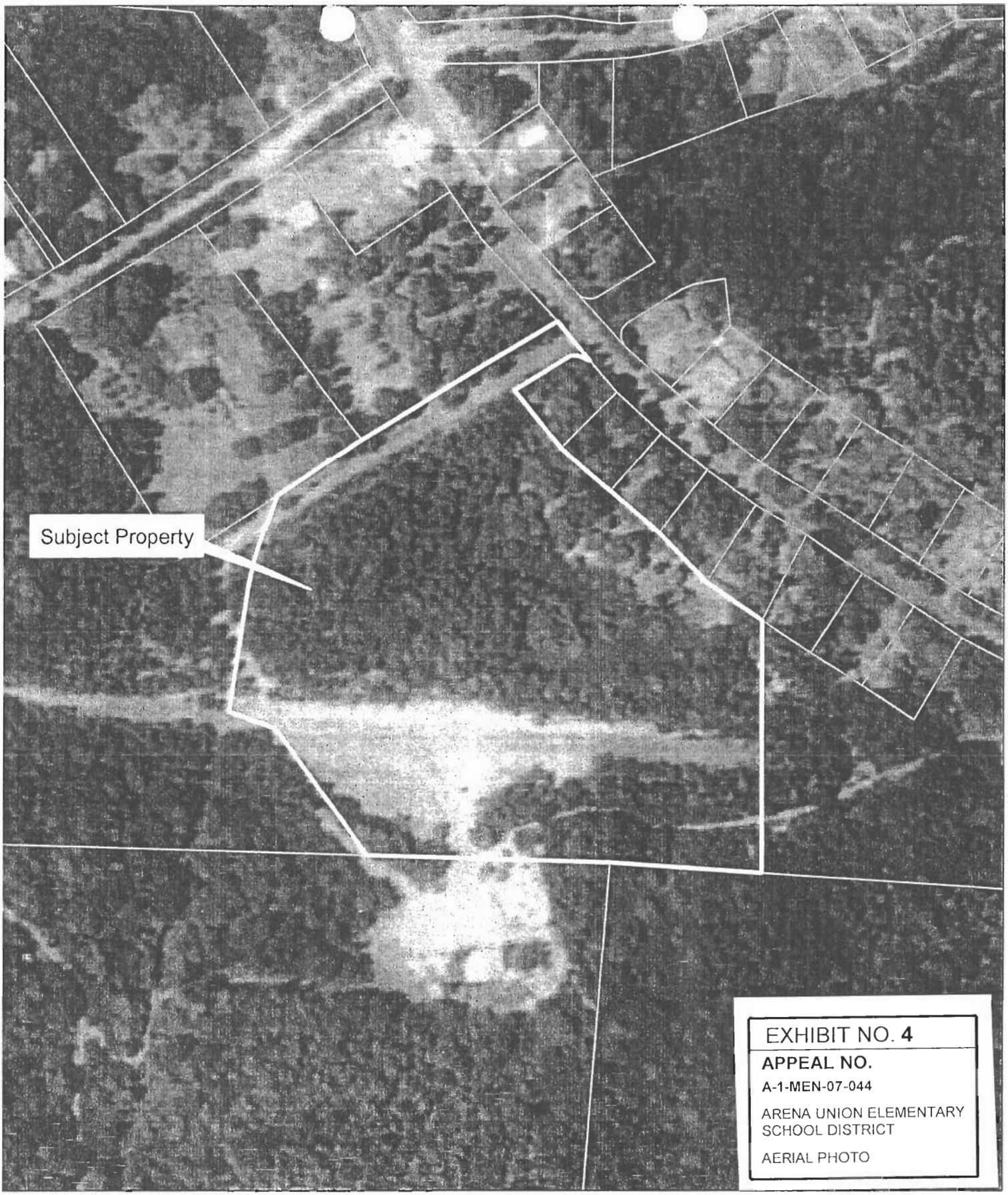


EXHIBIT NO. **4**

APPEAL NO.

A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

AERIAL PHOTO

ORTHOPHOTO OF PROPERTY

1993

)WNER: ARENA UNION ELEMENTARY SCHOOL DISTRICT
.GENT: ASPEN STREET ARCHITECTS, Inc.
:ASE #: CDU 10-2004
.PN: 145-091-22

175 87.5 0 175 Feet

N

ARENA ELEMENTARY SCHOOL DISTRICT
GUALALA NEW K-5 SCHOOL

PLOT PLAN

JOB 20204.00
SCALE 1"=40'-0"
DATE NOV. 2005

Aspen Street Architects, Inc.
1604 N. Main Street
Walnut Creek, CA 94596
P.O. Box 370

OLD STAGE ROAD

PROPERTY LINE

EASEMENT RIGHT OF WAY

DRIVEWAY

PARKING 50 STALLS

PARKING 24 STALLS

SCALE: 1"=40'-0"

EXHIBIT NO. 5

APPEAL NO.
A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

APPROVED SITE PLAN

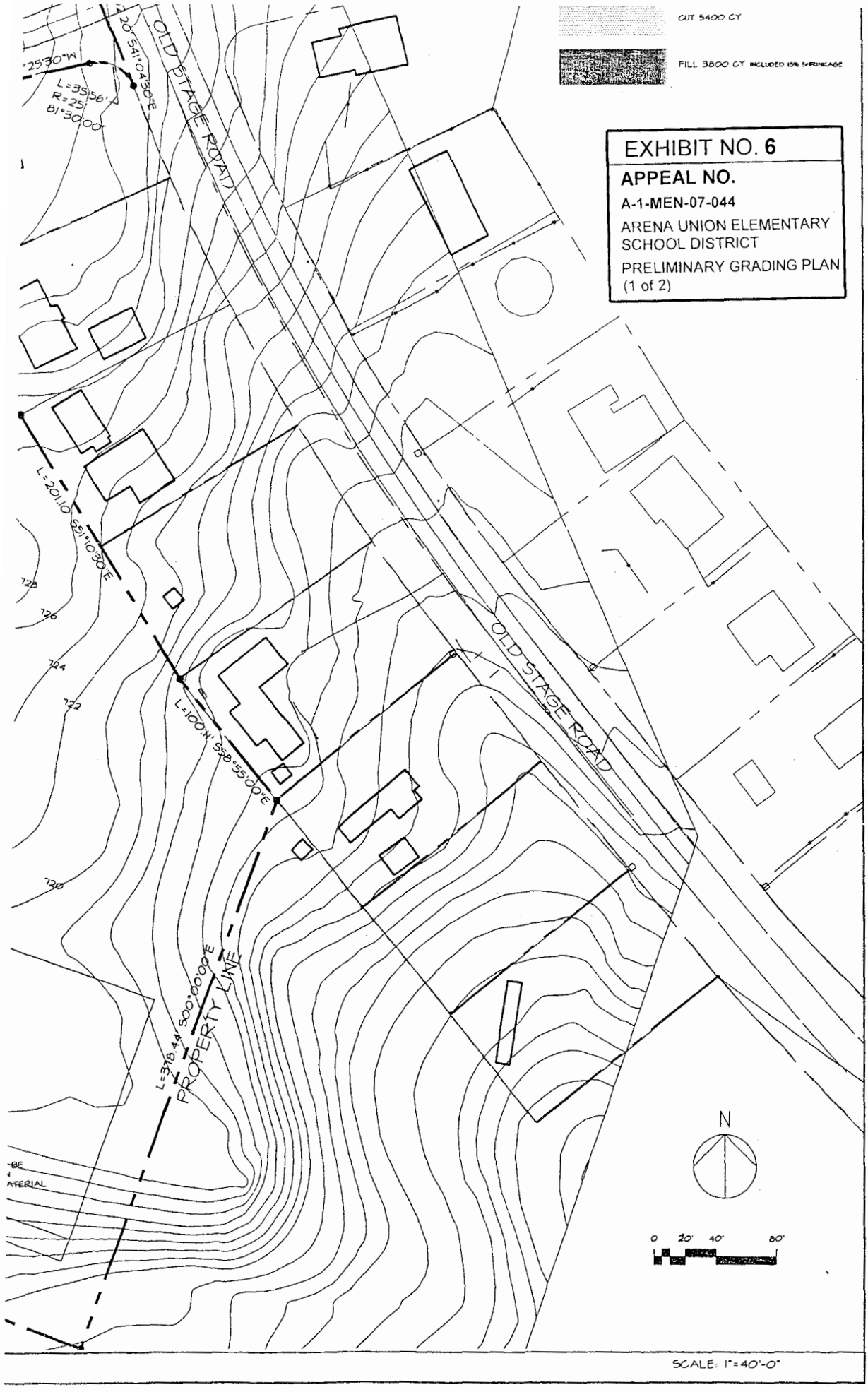


EXHIBIT NO. 6

APPEAL NO.

A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

PRELIMINARY GRADING PLAN (1 of 2)

#	revisions	dt

Architecture • Planning • Feasibility Studies

Aspen Street Architects, Inc.

494 N. Main Street
Angels Camp, CA 95222
P.O. Box 370
tel 209.736.0882 fax 209.736.8071

ARENA ELEMENTARY SCHOOL DISTRICT
GUALALA NEW K-5 SCHOOL
OLD STAGE ROAD
GUALALA, CA

IDENTIFICATION STAMP
DIV. OF THE STATE ARCHITECT

AC ____ FLS ____ SS ____
DATE ____

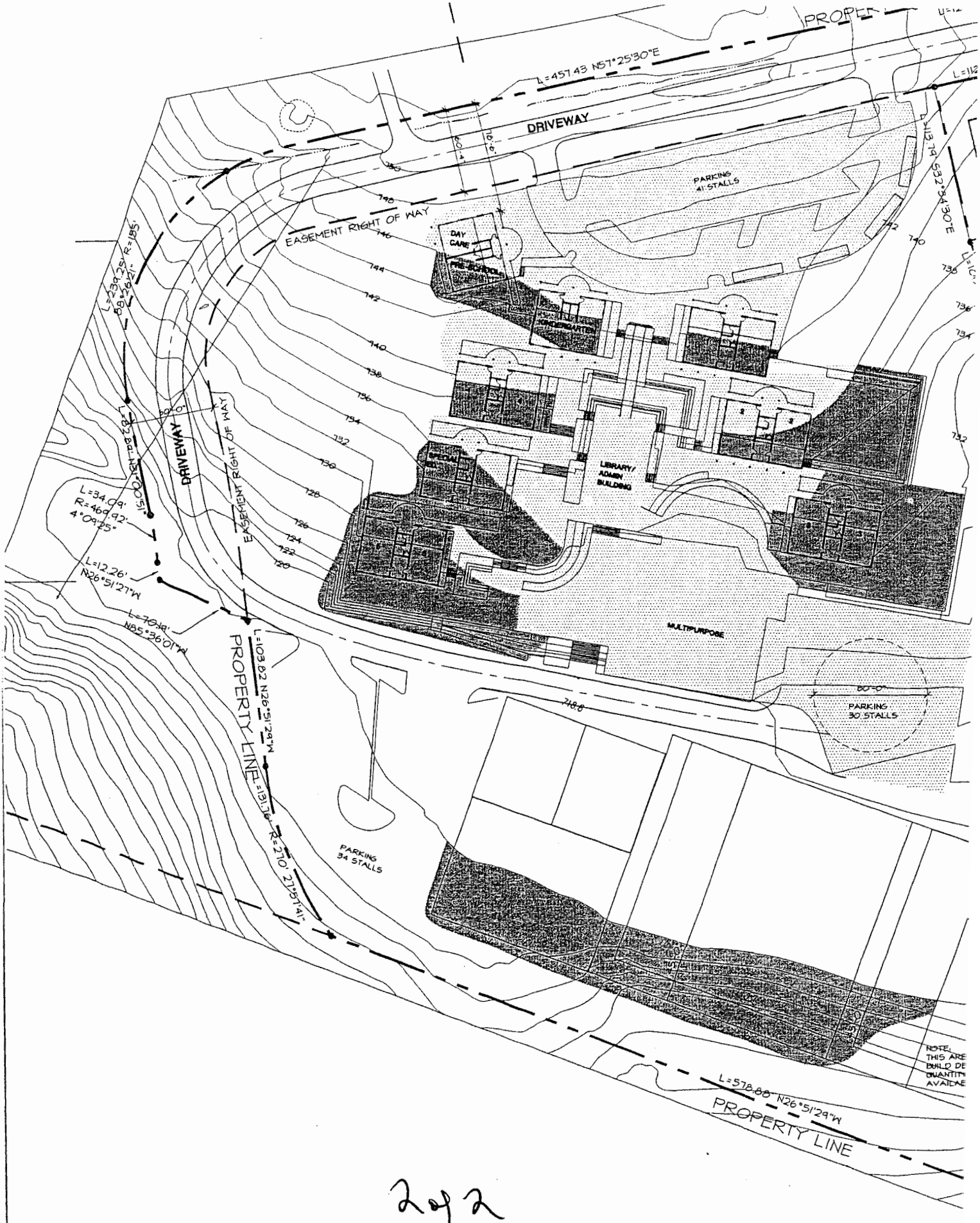
CUT/ FILL PLAN

JOB 202014.00

SCALE 1"=40'-0"

DATE JUNE 2004

SHEET C OF --



242

20 CUT/ FILL PLAN

BIOLOGICAL SURVEY

SUMMARY

A two day survey and assessment conducted at a proposed school site in Gualala on November 10th and 11th, 2005 did not result in the observation of any special-status wildlife species. The site was assessed as containing low quality habitat and limited resources for the 4 potentially occurring target species. Based upon the negative survey results and the existing low quality habitat it is our determination that the project as proposed is unlikely to impact special-status species.

INTRODUCTION

The Arena Union Elementary School District has submitted a permit application to the Mendocino Department of Building Services to develop a forested school site in the Village of Gualala, California. Upon review, the California Department of Fish and Game (CDFG) have determined that the on-site mixed coniferous forest has potential to support rare wildlife species and has requested that a biological assessment of the site be completed. To comply with this request, the Arena District has entered into contract with BioConsultant LLC to conduct habitat assessments and/or surveys for all special-status species that could potentially occur at the proposed school site. The results of this work are presented in this document which will be used in the preparation of environmental documents in compliance with the California Environmental Quality Act (CEQA).

Project Site Location

The Project Site is located at the N½ of the SE¼ of Sec. 22, T.11N R.15W. M.D.B.&M. (APN145-091-22) (**Figure 1**). The southern portion of the Project Site is an abandoned airfield; Bower's Field.

Proposed Development

The project proposes to develop the site into a multi-level elementary school with three separate parking areas. The unvegetated level airfield and adjacent forest will be developed into playing fields. The existing gravel access road will be paved and widened and will lead to the three parking areas. Figure 2 shows the development plan overlaid on an aerial photo. The total area to be developed is approximately 6.6 acres with an estimated vegetation removal area of 4.7 acres. A Timber Harvest Plan will be developed due to the extent of forest habitat to be removed.

Project Site Description

The Project Site's configuration, existing natural and manmade features, and important wildlife resources are shown in Figure 2. The Project Site is composed mixed coniferous forest surrounding the abandon Bower's airfield which is bare ground with the characteristics of an old neglected airfield (**Figures 3 and 4**). The forest is second growth, well spaced, with an average tree height ranging from 50-80 feet. Bishop pine (*Pinus muricata*) is the dominate tree with stands of coast redwood (*Sequoia*

sempervirons) and tan oak (*Lithocarpus densiflorus*) occurring in a mosaic pattern throughout the overall matrix of pines (**Figure 5 and 6**). Individual Douglas-fir (*Pseudotsuga menziesii*) are scattered throughout and madrone () is present as a minor component. Manzanita (*Arctostaphylos spp*), huckleberry (*Vaccinium ovatum*), and coyote bush (*Baccharis pilularis*) form a moderately dense shrub layer with salal (*Gaulthera shallon*), sword (*Polystichum munitum*) and bracken fern (*Pteridium aquilinum*) dominating the ground cover (**Figure 7**). Along the existing access road yard waste debris has been dumped and in this area French (*Genista monspessulana)* and Scotch broom (*Cytisus scoparius*) are becoming established. Inside of the curve of this roadway, an open area with large manzanita and small Douglas-fir with a native herbaceous ground cover is present (**Figures 8 and 9**). A large pile of logs enhances this area for native wildlife. Just behind this area, a stand of 5, large-diameter snag top redwoods is present. A seasonal drainage with riparian vegetation occurs at the interface of the flat barren airfield and the slope of the forested northern section (see figure 4). Further flora details are provided in the previously completed botanical reports cited below.

Literature Review

Prior to conducting the field surveys, the California Department of Fish and Game Natural Diversity Database (CNDDB) was queried for special–status species reported from the Gualala area and in the surrounding 5 quadrangles. The resulting CNDDB map and list of 12 species categorized as endangered, threatened, rare, sensitive, and/or species of special concern are attached as Appendix A and B.

The Townsend big-eared bat (*Corynorhinus townsendii*) has a CNDDB record in the area; occurrence #28. The original CNDDB listing mistakenly labeled this occurrence as the pale big-eared bat (*Corynorhinus townsendii pallescens*); however, a phone conversation with Darlene McGrith, Biologist for the CNDDB, acknowledged that they have relabeled this record as Townsend big-eared bat (*Corynorhinus townsendii*). The Townsend big-eared bat and the subspecies, western, and pale big-eared, all receive the same protective status.

In addition to these species, staff with CDFG has requested that assessments and/or presence/absences surveys are conducted for the spotted owl and marbled murrelet.

The final list of 14 species includes; spotted owl, marbled murrelet, Sonoma tree vole, monarch butterfly, Townsend's big-eared bat, Behren's silverspot butterfly, Point Arena mountain beaver, rhinocerous auklet, northwestern pond turtle, tidewater goby, tufted puffin, Gualala roach, pink salmon, and the foothill yellow-legged frog.

BioConsultant LLC also reviewed previously completed botanical reports by John Williams (October 12, 2005) and Diane Decker (July 7, 2005) of Environmental Resource Solution, Inc.

In an effort to streamline the permitting process, BioConsultant LLC coordinated a site visit with Ken Hoffman of U.S. Fish and Wildlife Service (Service) to assess the habitat suitability for the northern spotted owl and the marbled murrelet. He will write a letter with his assessment results for this project's file.

HABITAT ASSESSMENT AND SURVEY RESULTS

BioConsultant LLC staff wildlife biologist, Kim Fitts, conducted a habitat based assessment for the suitability of the site to support the 14 target species on November 10th, 2005. Based upon the site assessment and the literature review, three of the 14 species have potential to occur on site. The site was also assessed as containing suitable nesting habitat for several raptor species.

The absence of perennial aquatic environs and suitably-aged forested habitat within the Project Site eliminates the majority of the species on the list. The young forest habitat lacks the structure and age to support the spotted owl and the marbled murrelet. Moreover, the site's proximity to nearby residences reduces the likelihood of their occurrence. The lack of appropriate habitat to support the Behren's silverspot butterfly larval host plant (*viola adunca*) and the limited adult nectar sources rules out the probability of the butterflies' presence. The larval host plant was not detected during the above mentioned botanical study conducted during appropriate bloom times. The Project Site is outside of the Point Arena mountain beaver distribution range and thus not considered in this assessment.

Some of the larger trees do provide suitable nesting habitat for several raptors and potential roosting sites for some species of bats. However, the site does not contain "cave analogs" such as abandon buildings, bridges, or large hollowed trees required by the Townsend's big-eared bat as roosting habitat. The exfoliating bark and foliage of some trees and understory vegetation do provide roosting habitat for solitary tree roosting species, and/or individual males (**Figure 10**).

The young forest dominated by Bishop pine was assessed as low quality habitat for the Sonoma tree vole, although a colony could potentially occur. The site contained limited resources for over-wintering monarchs in the form of late season nectar sources, but could also potentially occur. As stated, the trees could provide resources for nesting raptors.

Survey Methodology

BioConsultant LLC staff, Kim Fitts and Derek Marshall, surveyed for the remaining 4 target species/taxa on the 10th and 11th of November 2005. The two-person survey effort duration totaled 31 hours. The investigators carefully examined the entire site using 7 parallel transect lines. Along transect lines tree canopies were scanned with binoculars for raptor and tree vole nests. The bark and foliage were examined for suitable bat roosting sites. The ground surface under the tree canopies were searched for the characteristic resin/needle debris of the tree vole.

The monarch butterfly will roost in colonies in the tree canopy during cold and/or rainy weather and when temperatures rise, generally above 60° Fahrenheit, the butterflies will then begin to seek nectar sources. Based upon this knowledge, we searched for foraging butterflies during the day on Thursday the 10th, when the temperatures were high and examined the tree canopies in sheltered and sunny areas at dusk. It rained during our second day of survey, so again tree canopies were searched for monarchs.

A survey protocol for the Sonoma tree vole is being developed; therefore the survey was conducted in adherence to the red tree vole (*Arborimus longicaudus*) protocol guidelines.

An emergent survey was conducted on November 10th for bats; although most bats are generally torpid during this time of the season, leaving the roost every third night or so for water.

Wildlife Survey Results
The two day survey effort did not locate any special-status species. The high intensity tree search did not detect any raptor or Sonoma tree vole nests and no Monarch butterflies or bats were observed.

However, a few individual trees and areas had some significance; these are mapped on Figure 2 and described below.

One medium sized (16" DBH) Bishop pine (A) contained a circular nest thought to be a gray squirrel (*Sciurus griseus*) nest. The nest was composed of small twigs and dried needle sprigs and located in the top ¼ of the canopy. This tree was double flagged with orange tape and located in the area of planned development (**Figure 11**).

A possible nest may occur at the crown of a deformed-topped redwood (B). This tree is within a stand of small diameter 10-12" DBH redwoods and located in the northeast end of the parcel along a foot trail. We double flagged the tree with orange tape. Due to the weather and height of the tree nest confirmation was not possible. Examination of the ground surface and canopy was inconclusive, no evidence of nesting, roosting, or raptor pellets were seen. From our review of the current building plans, it appears that no construction is planned for this area.

The stand of large diameter snag-topped redwoods (C) contains cavities and offers important wildlife resources for both common and special-status species. Several acorn woodpeckers were observed working the snag tops and the cavities and hollows in these trees can provide tree roosting opportunities for bats. It appears that this stand is also not within an area to be developed.

A notable large (34.4 DBH) Douglas-fir (D) was double flagged with orange tape as a possible retention tree within the school proper. This tree is a stately, healthy tree that already has some tree clearing around it. It appears to be located in the area of development, but may be avoidable.

CONCLUSIONS

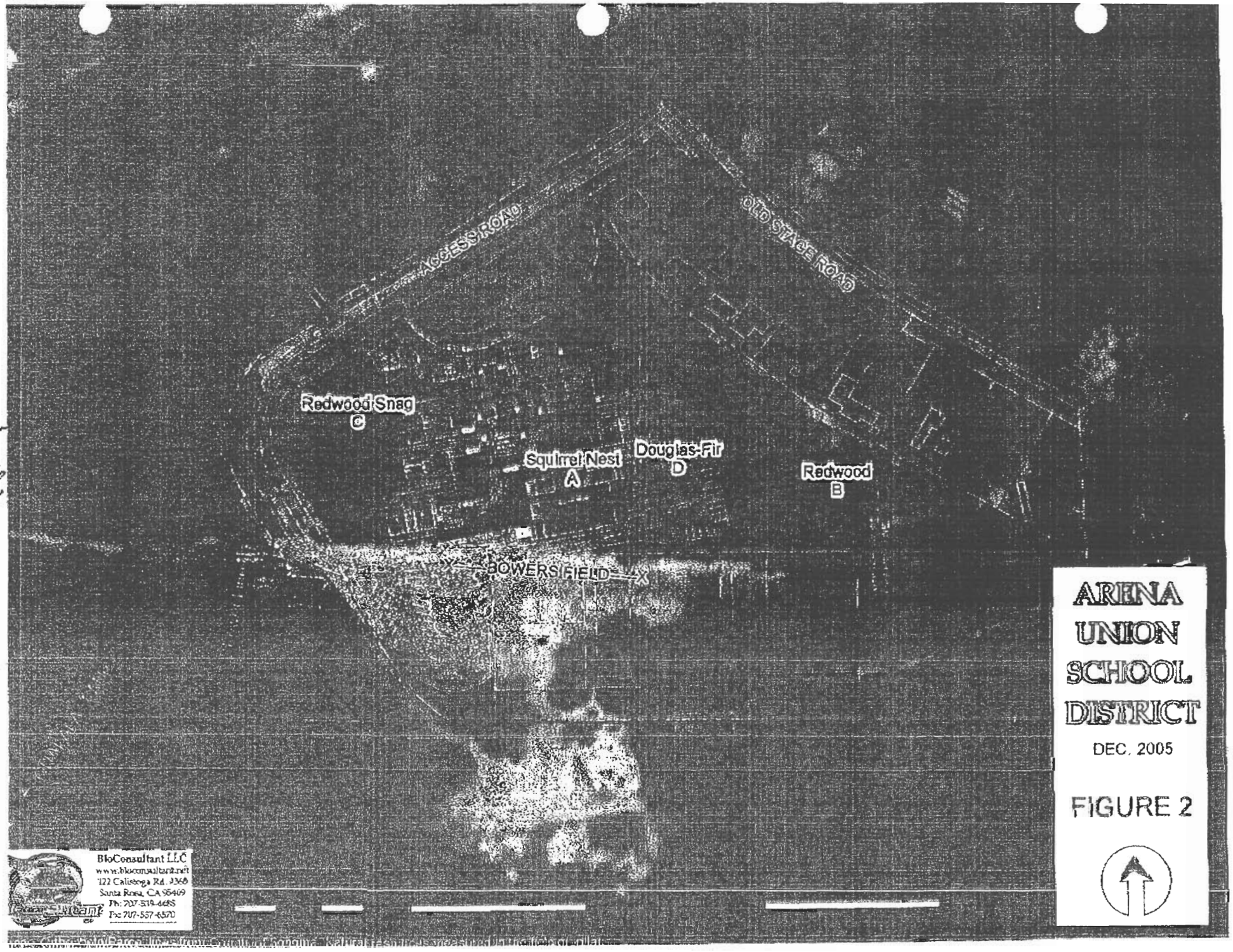
Based upon the literature review, site assessment, and our survey results it is our conclusion that the Project Site currently does not support special-status wildlife species. Our survey results for the target species was negative and the site contained low quality habitat with limited resources for all 4 species. It is our determination that the project as proposed is unlikely to impact special-status species.

A Caltrans storage building does occur offsite and may provide bat roosting opportunities; however, this structure is not part of the Project Site and no plans for its impact are known.

RECOMMENDATIONS

The following recommendations are offered to assist project planners and others to protect on-site resources for common wildlife species in a manner that will enhance the overall habitat quality of the site.

- The potential squirrel nest (A) should be humanely removed prior to logging.
- Retain the stand of redwoods that contain the possible nest tree (B). If this is not feasible, the tree should be surveyed by a qualified biologist during the breeding season (no later than June 15) to insure that raptors have not begun nesting. However, several local owls breed as early as February. As a second option, an examination by a skilled climber could be conducted prior to tree removal.
- Retain the stand of snag-top redwoods (C) for common cavity-dependant species and potentially occurring bats.
- Preserve and prune the natural native area within the inside curve of the access road for native wildlife and to enhance the natural scenic entrance to the school.
- Remove the invasive exotic broom plants that occur along the access road. Remove plants by pulling (a heavy duty weed wrench works well) or digging and carry them off-site to be disposed of at an appropriate location (local landfill). The best time for hand pulling is after the onset of the rainy season when soils are moist and prior to seed production. Cut larger plants with a brush cutter or similar tool to gain access to the stem for uprooting. If needed, use a focused application of Round-up directly on the freshly cut stump. The removal process will be long-term. After the initial clearing, follow up in subsequent years by continuing to remove newly sprouted plants and resprouting stems. Both broom species produce an abundance of long-lasting seed that will continue to germinate until the seed bank is exhausted.
- If feasible retain the large diameter Douglas-fir tree (D). This tree is a healthy and beautiful tree that would add to the beauty and natural quality of the school site.



ARENA UNION SCHOOL DISTRICT

DEC. 2005

FIGURE 2

BioConsultant LLC
www.bioconsultant.net
122 Calistoga Rd. #368
Santa Rosa, CA 95409
Ph: 707-578-4685
Fax 707-537-6570

Botanical Resources Report
Proposed Gualala Elementary School
39290 Old Stage Road
Gualala
Mendocino County, California

PROJECT NAME: **Arena Union Elementary School District**
39290 Old Stage Road
Gualala, CA
APN 145-091-22

PROPERTY OWNER: **Arena Union Elementary School District**

PROJECT PLAN: **Julie Price**
Environmental and Resource Planner
Rau and Associates, Inc.
100 North Pine Street
Ukiah, CA 95482

TCP/THP PLAN: **John Williams, RPF**
Environmental Resource Solutions, Inc.
2300 Northpoint Parkway
Santa Rosa, CA 95407-7368

BOTANICAL REPORT: Kjeldsen Biological Consulting
Chris K. Kjeldsen, Ph.D. or Daniel T. Kjeldsen, B.S.
923 St. Helena Ave.
Santa Rosa, CA 95404
(707) 544-3091
Fax (707) 575-8030

PERIOD OF STUDY December 2005 to August 2006

EXHIBIT NO. 8
APPEAL NO.
A-1-MEN-07-044
ARENA UNION ELEMENTARY SCHOOL DISTRICT
BOTANICAL SURVEY REPORT (EXCERPT) (1 of 22)

Botanical Resources Report
Proposed Gualala Elementary School
39290 Old Stage Road
Gualala
Mendocino County, California

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Botanical Resources Report
Proposed Gualala Elementary School
39290 Old Stage Road
Gualala
Mendocino County, California

EXECUTIVE SUMMARY

The property is located in the southwestern corner of Mendocino County with access from State Highway 1 via Old Stage Road. The project proposes a Timber Conversion Plan (TCP) for the purpose of constructing a K-5 elementary school. Arena Union Elementary School District has submitted a use permit application to the Mendocino Department of Planning and Building Services to develop the site. The project proposes an elementary school with parking, playing fields, and paved access road. The development anticipates a 6.6–acre footprint with vegetation removal consisting of 4.7-acres. A California Department of Fish and Game letter of 10/14/05 requested further information about the botanical resources present and identified the need for mitigation measures.

The purpose of the study is to provide a floristic study of the project site with emphasis on any special-status plants, unique plant populations and/or sensitive habitat associated with the proposed Timber Conversion Plan. The scoping for the project considered previous work on the site (Diane M. Decker of Environmental Resource Solutions, Inc., dated July 7, 2005), seasonal fieldwork, location and type of habitat and/or vegetation types present on the property or associated with potential special-status plant species known for the Quadrangle, surrounding Quadrangles, the County or the region. The scoping considered records in the most recent version of the Department of Fish and Game California Natural Diversity Data Base (DFG CNDDB Rare Find-3 and the California Native Plant Society (CNPS) Electronic Inventory of Rare or Endangered Plants. "Target" special-status species are those listed by the State, the Federal Government or the California Native Plant Society or considered threatened in the region. Our field studies of the project site extend from December of 2005 to August of 2006.

- Two special-status plant species were found under the power line easement on the west side of the property. The special-status species present on the property are the following with their State and Global Ranking:

Coast Lily (*Lilium maritimum*)	S2.1	G 2
Thin-lobed Horkelia (*Horkelia tenuiloba)*	S2.2	G 2.

- Strands of *Usnea longissima* were found entangled on the branches of one tree. This lichen is considered to be a vagrant lichen existing in "transient populations" in that the thallus strands are blown in storms considerable distances. The tree on the property is not considered to be a source tree;

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- The Mendocino Pygmy Cypress is known to occur north of the property. The Cypress on the project site has been identified as young Monterey Cypress. They are all young trees that have become established in the graded margin of the airport landing strip;

- Northern Bishop Pine Forest is a recognized sensitive vegetation type through its range (State Rank S3.2 and Global Rank G2). This vegetation type is present on the project site;

- The property supports the following native bunch grasses: *Deschampsia cespitosa* ssp. *holciformis*, *Hierochloe occidentalis* and *Panicum capillare*. These grasses will be retained within the Conservation/Study Area;

- A Conservation / Study Area has been proposed to protect the Thin-lobed Horkelia on a portion of the property west of the school. The proposed Conservation / Study Area will also include populations of local native bunch grasses, and Bishop Pine Forest. Mitigation measures are also proposed for removal of invasive non-native species on the property;

- All plant species observed during our seasonal surveys of the property are included in Appendix A;

- Due to the seasonal study protocol we conclude that further biological studies are not necessary.

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Botanical Resources Report
Proposed Gualala Elementary School
39290 Old Stage Road Gualala
Mendocino County, California

1.0 INTRODUCTION

The project site is located on Old Stage Road in the southeast corner of Section 22, township 11 North, Range 15 West, Mount Diablo Base and Meridian, Mendocino County, California. The Arena Union Elementary School District proposes to construct a school on the above referenced property. The property consists of disturbed coastal mixed conifer hardwood woodlands. There is an abandoned airstrip (Bower's Field, an existing access road, and a PG&E power line easement on the property. A timber conversion permit (TCP) will be required for selective timber removal on approximately 4.7 acres of the property for the project footprint.

1.1 STUDY AREA

The project study site is on an east-facing ridge that ranges in elevation from 360 feet to 550 feet. The majority of the property drains into China Gulch thence the Gualala River and into the Pacific Ocean, and a small portion drains into Robison Gulch thence the Pacific Ocean.

1.2 PURPOSE

The purpose of this report is to identify special-status plant species on the project site and assess the impact of the project on sensitive plants or sensitive plant habitat within the Timber Conversion Plan (TCP) area.

Field surveys were conducted to:

- Determine the presence or potential for special-status plants. "Target" special-status species are those listed by the State, the Federal Government or the California Native Plant Society;
- Evaluate the habitat types or plant communities present;
- Provide scoping for the native plants at risk from the proposed project with sufficient data to make informed decisions for assessing potential impacts;

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- To provide an analysis of the flora (botanical survey), and
- To indicate sensitive areas, which can or must be avoided in the conversion of the site.

A previous botanical survey prepared by Diane M. Decker of Environmental Resource Solutions, Inc., dated July 7, 2005, was reviewed by Ms. Golec, and found to require further investigation with regard to the following:

1). Clarification of the taxonomic identification of plants on the property including:

Identification of Cypress species on the property; and
A more complete floristic survey to be conducted in the spring.

2). Mitigation for impacts to special-status species present on the property, including mapping and inventory of special-status species present that will be impacted by the project and avoided by the project; and

3). Submittal of California Natural Diversity Data Base (CNDDB) Field Form(s).

1.3 DEFINITIONS

Special-status Species. Special-status organisms are plants that have been designated by Federal or State agencies as rare, endangered, or threatened. This also included plant species listed by the CNPS as "target organisms." Section 15380 of the California Environmental Quality Act [CEQA (September, 1983)] has a discussion regarding non-listed (State) taxa. This section states that a "plant must be treated as Rare or Endangered even if it is not officially listed as such if a person (or organization provides information showing that a taxa meets the State's definitions and criteria, then the taxa should be treated as such."

Habitat Types. Habitat types are used by DFG to categorize elements of nature associated with the physical and biological conditions in an area. These are of particular importance for the wildlife they support, and they (as well as plant communities or associations) are important as indicators of the potential for special-status species.

Serpentinite. Serpentinite or serpentine consists of ultramafic rock outcrops that due to the unique mineral composition support a unique flora often of endemics. Kruckeberg, 1984, indicates that the taxonomy and evolutionary responses to serpentines include "1) taxa endemic to serpentine, 2) local or regional indicator taxa, largely confined to serpentine in parts of their ranges, 3) indifferent or "bodenvag" taxa that range on and off serpentine, and 4) taxa that are excluded from serpentine." Serpentine outcrops or serpentinites support numerous special-status plant taxa.

Vernal Pools. Vernal pools are a type of seasonal wetland distinct for California and the western US. Typically they are associated with seasonal rainfall or "Mediterranean climate" and have a distinct flora and fauna, an impermeable or slowly

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permeable substrate and contain standing water for a portion of the year. They are characterized by a variable aquatic and dry regime with standing water during the spring plant growth regime. They have a high degree of endemism of flora and fauna.

Ruderal Habitat Ruderal habitat is characterized by disturbance and the establishment and dominance of non-native or native species that behave as weeds. Disturbance allows the survival of "weedy species" or plants that would not persist in the area.

Riparian Corridor Riparian corridors can be defined as the stream channel between the low-water and high-water marks plus the terrestrial landscape above the high water-mark (where vegetation may be influenced by elevated water tables or extreme flooding and by the ability of the soils to hold water; Naiman, et. al. 1993).

Best Management Practices. Best management practices represent industry practices that are consistent with regulatory laws or industry standards which are prudent and consistent with site conditions.

Standard Forestry Practices. Standard forestry practices are best management practices which are prudent and or required as applied in the industry such as erosion control, soil conservation and management, and dust control among other practices.

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2.0 METHODS

2.1 Scoping

The scoping for the project considered the previous work conducted on the site, seasonal fieldwork, location and type of habitat and/or vegetation types present on the property or associated with potential special-status plant species known for the Quadrangle, surrounding Quadrangles the County or the region. The scoping considered literature, records in the most recent version of the Department of Fish and Game California Natural Diversity Data Base (DFG CNDDB) Rare Find-3 and the California Native Plant Society (CNPS) Electronic Inventory of Rare or Endangered Plants. Our scoping is also a function of our familiarity with the local flora and previous projects in the area.

"Target" special-status species are those listed by the State, the Federal Government or the California Native Plant Society or considered threatened in the region or locally. Table I presents special-status species known from within five miles of the project site and Appendix B presents the special-status species the Department of Fish and Game Natural Diversity Database (CNDDB) for the Quadrangles and surrounding Quadrangles of the property. Appendix C presents species in the California Native Plant Society (CNPS) Electronic Inventory of Rare or Endangered Vascular plants, for the Quadrangles and surrounding Quadrangles. We have considered species from the Quadrangles of the project as well as the surrounding Quadrangles.

2.2 Field Surveys

A site introduction and walk through was provided by John Williams, Environmental Resource Solutions, Inc. Aerial photographs, survey maps, timber conversion flagging, topography and ground reconnaissance were used to review the project site. Field surveys were conducted during the spring to summer in accordance with the blooming period of target special-status species of the region. Fieldwork generally followed the DFG guidelines (March 6, 2002) and the CNPS Botanical Survey Guidelines (Revised June 2, 2001) as well as the DFG Guidelines for Conservation of Sensitive Native Plant Resources Within the Timber Harvest Review Processes and during Timer Harvesting Operations (July 2005). Field personnel walked the project area in order to provide a rigorous documentation of the vegetation. Transects through the proposed project site were made by foot. Initial reconnaissance was the basis for follow-up seasonal studies. Fieldwork focused on identifying target special-status plants or suitable habitat for the target special-status plants or indications that such habitat exists on the site.

Plants were identified in the field or reference material was collected, when necessary, for verification and laboratory examination with a binocular microscope and reference materials. Herbarium specimens from plants collected on the project site were made when relevant. Voucher material for selected individuals is in the possession of the

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authors. All plants observed (living and or remains from last season's growth) were recorded in field notes. A complete record of all species observed is presented in Appendix A.

2.3 Field Dates

Our field dates are the following; December 20, 2005, March 17, April 13, May 30, June 27, and August 3, 2006.

2.4 Reference Sites or Herbaria Visited

Populations of Manzanita in Annapolis, Napa False Indigo (*Amorpha californica* var. *napensis*), Cobb Mountain Lupine (*Lupinus sericatus*) and Clara Hunt's Milk-vetch (*Astragalus clarianus*) Swamp Harebell (*Campanula californica)* and Maple Leaf Checkerbloom (*Sidalcea malachroides)*, Crystal Springs Lessingia (*Lessingia arachoniodea),* Harlequin Lotus (*Lotus formosissimus),* Pennel's Birds Beak (*Cordylanthus tenuis* ssp. *capillaries),* Tufted Harigrass (*Deschampsia cespitosa)* Bakers Manzanita (*Arctostaphylus bakeri*), and the Thin-lobed Horkelia (*Horkelia tenuiloba)* were reviewed during and prior to the fieldwork. Potential target special status species were also reviewed in the Herbarium of Sonoma State University and during field studies on other projects.

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3.0 RESULTS

The results below provide a summary of the fieldwork and scoping.

3.1 Site Description

The study area is on a ridge (marine terrace) above the community of Gualala. The property is bordered by residences between Old Stage Road and the property. A portion of the site has historically been cleared and graded as an airstrip, with an access road. The project proposes developing approximately 6.6-acres which will require vegetation removal and a TCP of approximately 4.7 acres. The historic use of the site has resulted in the introduction of non-native invasive species. Additionally yard waste has been dumped along the access road with the resulting establishment of landscape plants. Figures 1 to 6 as well as the aerial photograph illustrate the site and site conditions.

The woodlands east of the airstrip are dominated by coast redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii*), tan oak (*Lithocarpus densiflorus*, Bishop pine (*Pinus muricata*), madrone (*Arbutus menziesii*) and chinquapin (*Chrysolepis chrysophylla).* The shrub and herbaceous plants on the site are presented in Appendix A.

There is a PG&E power line easement along the existing access road that has been cleared and maintained for line inspection and maintenance. The level of disturbance and clearing has released native grasses and allowed for the establishment of Thin-lobed Horkelia (*Horkelia tenuiloba).*

The grading for the landing strip created a drainage ditch along the east side of the airport runway. This ditch retains water through the rainy season into the summer and it has become colonized by hydric plant species (see Appendix A).

3.2 Habitat Types Present

It is generally convenient to refer to the vegetation associates on a site as a plant community identified by the dominant vegetation form or species present. DFG considers habitats and the habitat in the study area to be North Coast Coniferous Forest (8200).

The Plant Communities on the project sites would be classified by Holland 1986 as "Coastal Coniferous Forest-Redwood."

The CNPS list of rare plants for California associates the rare and endangered species with "Habitat Types." The Habitat Type for the project site would be considered to be North Coast Coniferous Forest.

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Below is a brief description of the habitat type or plant community present on the property.

Northern Bishop Pine Forest is a recognized sensitive vegetation type throughout its range (State Rank S3.2 and Global Rand G2). California Environmental Quality Act (CEQA) recognizes the need to address rare and unique regional elements under CEQA. This vegetation type is present on the project site.

North Coast Coniferous Forest

Redwood forests are typical for the outer Coast Range Mountains of Mendocino County and riparian corridors where there is ample moisture. The associates include California Bay (*Umbellularia californica*) and Tan Oak (*Lithocarpus densiflorus*) Douglas fir *Pseudotsuga menziesii* is often a component of this plant community. Typically the redwood forests have a closed canopy and as a consequence only shade-loving plants will be found in the understory. Typical understory plants include *Oxalis oregana, Achlys triphylla Tiraella unifoliata, Asarum caudatum, Trientalis latifolia Tolemia menziesii Scoliopus bigelovii, Trillum ovatum, Rosa gymnocarpa, Rubus parviflorus, Athyrium filix-fema, Woodwardia fimbriata, Adiantum jordanii and Polystichum munitum* (for the complete list of species observed in this plant habitat see Appendix A).

3.3 Surrounding Habitat Types

The habitat types surrounding the property consist of North Coast Coniferous Forest, and Redwood Forests. Residences adjacent to the property have pastoral grasslands and landscape plantings.

3.4 Flora

The flora observed on the project site, access roads, and in the immediate vicinity is presented in Appendix A.

It was suspected that the Cypress trees growing along the airport runway were Gowen's cypress. We have collected cones from several of the young trees and they have been determined based on fruit and seed characteristics to be Monterey Cypress (*Cupressus macrocarpa*) a native of California but not of this area. The presence along the graded edge of the runway is consistent with the appearance of volunteer seedlings. We searched the surrounding area for the Pygmy Cypress (*Cupressus goveniana ssp. pigmane)* and did not find any examples on the property.

3.5 Special-Status Species

Potential "Target species" as identified in the scoping (see section above) were the basis for determining our seasonal fieldwork and our search of the property. The recent update of the Department of Fish and Game Natural Diversity Data Base Rare

Find 3 five-mile search records the following special-status plant species; Baker's goldfield, Blasdale's bent grass, Coast lily (present on the property), Coastal bluff morning-glory, Deceiving sedge, Humboldt milk-vetch, Maple–leaved checkerbloom, Mendocino coast Indian paintbrush, Perennial goldfields, Point Reyes Horkelia, Purple-stemmed checkerbloom, Pygmy cypress, Running–pine, Supple daisy, Swamp harebell, and Thin-lobed horkelia (present on the property).

The table below provides a summary of target species and the appendices provide information on potential species known for the area.

Table I. Results and analysis of potential for presence of special-status plants for the project area. The taxa included in the table are selected from DFG CNDDB and CNPS records for the area of the project (see also Appendix B and Plate II).

Scientific Name	Common Name	Habitat Found In or Associated With	Flower Period	Present on or Around Project Site	Justification for Absence or Potential for Project Site
Agrostis blasdalei	Blasdale's bent grass	Coastal bluff scrub	May-June	No	Requisite habitat and vegetation associates absent.
Agrostis clivicola var. punta-reyesenis	Point Reyes bent Grass	Coastal bluff scrub	May-June	No	Requisite habitat and vegetation associates absent.
Astragalus agnicidus	Humboldt Milk-vetch	Broadleaved upland forest, North Coast Coniferous Forest Disturbed Areas	June –Sep.	No	Requisite habitat and vegetation associates absent.
Campanula californica	Swamp Harebell	Seeps in Woodlands	July Aug.	No	Potential along drainage along runway. Ruderal conditions preclude presence.
Calamagrostis bolanderi	Bolander's reed grass	Bogs; fens; closed-cone coniferous forest coastal scrub; meadows and seeps; marshes and swamps. 0-185 meters	June-Aug.	No	Low potential to occur. Marginally suitable habitat present on-site.

Scientific Name	Common Name	Habitat Found In or Associated With	Flower Period	Present on or Around Project Site	Justification for Absence or Potential for Project Site
Castilleja mendocinensis	Mendocino Coast Indian Paintbrush	Coastal Bluff Scrub, Closed Cone coniferous Forest, Coastal dunes, Coastal prairie	April – Aug.	No	Low potential to occur. Marginally suitable habitat present on-site.
Calystegia purpurata ssp.*saxicola*	Coastal bluff Morning glory	Coastal dunes, Coastal Scrub	May-August	No	Requisite habitat and vegetation associates absent.
Carex saliniformis	Deceiving sedge	Coastal Prairie	June	No	Requisite habitat and vegetation associates absent.
Cupressus goveniana pigmaea	Pygmy cypress	Closed-cone Coniferous Forest (podzol-like soil)	Tree	No	Requisite habitat and vegetation associates absent.
Erigeron supplex	Supple daisy	Coastal bluff scrub	May-June	No	Requisite habitat and vegetation associates absent.
Horkelia marinensis	Point Reyes Horkelia	Coastal Dunes, Coastal Prairie, Coastal scrub	May-Sept.	No	Requisite habitat and vegetation associates absent.
Horkelia tenuiloba	Thin-lobbed (=Santa Rosa) horkelia	Broadleafed upland forest, valley and foothill grassland, mesic (wet) openings, sandy.	May-July	Yes	Species present on the site. See Plate III
Lasthenia macrantha ssp. bakeri	Baker's goldfields	Closed-cone Conifer forest (openings), Coastal Scrub	April Oct.	No	Potential. Lack of openings in TCP area.
Lasthenia macrantha ssp. macrantha	Perennial goldfields	Coastal Scrub, Dunes	Jan-Nov.	No	Requisite habitat and vegetation associates absent.
Lilium maritimum	Coast lily	Broadleaved upland forest	May-July	Yes	Two populations present on site See Plate III

Scientific Name	Common Name	Habitat Found In or Associated With	Flower Period	Present on or Around Project Site	Justification for Absence or Potential for Project Site
Lotus formosissimus	Harlequin lotus	Closed-cone coniferous forest meadows, seeps and marshes. 0-700 meters.	March-July	No	Low potential to occur. Marginally suitable habitat present. Known from vicinity.
Lycopodium clavatum	Running-pine	North coast coniferous forest, marshes and swamps; openings, and roadsides. 45-790 meters.	July-Aug.	No	Low potential to occur. Marginally suitable habitat present.
Sidalcea malachroides	Maple-leaved checkerbloom	Broadleaved upland forest	April-August	No	Potential but no indications of presence
Sidalcea malviflora ssp. *purpurea*	Purple-stemmed Checkerbloom	Broadleaved Upland Forest	May-June	No	Potential but no indications of presence
Sidalcea calycosa ssp rhizomata	Point Reyes checkerbloom	Marshes and swamps; freshwater marshes near the coast. 3-75 meters.	April-Sept.	No	No suitable habitat present on-site
Usnea longissima	Long-beard lichen	Woodlands	Na	Yes	Present but not a population source.

3.6 Analysis of Target Special-status Plants

Project scoping revealed the species shown in the table above and in Appendices B and C. Table I provides a summary of our results and justification for concluding absence.

Two special-status plant species were found under the power line on the west side of the property. The special-status species present on the property are the following with their State and Global Ranking:

Coast Lily (*Lilium maritimum*) S2.1 G
Thin-lobed Horkelia (*Horkelia tenuiloba)* S2.2 G

Strands of *Usnea longissima* were found entangled on the branches of one tree. This lichen is considered to be a vagrant lichen existing in "transient populations" in that the thallus strands can be blown in storms considerable distances. The tree on the property is not considered to be a source tree.

We conclude that there is little likelihood that any other of the special-status species of the region are present. This conclusion is based on our seasonal surveys, historical use of the site, aspect, soils, lack of records for the site or the near vicinity, and vegetation associates.

3.7 Sensitive Habitat or Plant Communities

Sensitive plant communities of the region as identified in the DFG CNDDB (Coastal Brackish Marsh and Coastal and Valley Freshwater Marsh) are not present on the site and will not be impacted by the project provided standard construction practices and erosion control are initiated.

Northern Bishop Pine Forest is present on the project site. Portions outside of the project and TCP area will remain in their natural state and protect portions of this plant community on the property.

The property supports the following native bunch grasses: *Deschampsia cespitosa* ssp. *holciformis*, *Hierochloe occidentalis* and *Panicum capillare*. These grasses will be retained within the Conservation/Study Area,

Sensitive habitat types of the region such as vernal pools, cypress forest, serpentinite, marshes and wetlands, bunch grass prairies are not present within or near the project site.

3.8 CNDDB Field Forms

See Appendix D.

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4.0 IMPACT ANALYSIS

Three special-status plant species are present on the property and are addressed below.

4.1 Onsite

Impact #1: Development of the site has the potential to impact *Horkelia tenuiloba* (Thin Lobed Horkelia), a special-status species (California Native Plant Society List 1B [plants that are rare, threatened, or endangered in California and elsewhere]. This plant does not have State or Federal status.

Populations of this plant are found along the south side of the abandoned airport runway and underneath the PG&E power line easement. There are additional populations on the parcel to the south of the property. The populations are shown on the attached map (Plate III).

Impact #2: Development of the site has the potential to impact *Lilium maritimum* (Redwood (Coast) Lily), a special-status species (California Native Plant Society List 1B [plants that are rare, threatened, or endangered in California and elsewhere]. This plant does not have State or Federal status.

One population of this plant was found in 2005 and during our 2006 studies an additional population was identified. The two populations are shown on the attached map (Plate III).

Impact #3: Development of the site has the potential to impact native perennial bunch grasses of the area. DFG has asked that native bunch grasses be considered for protection if possible. The property supports the following native bunch grasses: *Deschampsia cespitosa* ssp. *holciformis*, *Hierochloe occidentalis* and *Panicum capillare*

The bunch grass populations are found within the PG&E power line easement and along the drainage ditch on the north side of the abandoned airport landing strip. It is apparent that the opening of the canopy for the power line and the grading for the airport runway has allowed these populations to develop.

Impact #4: Development of the site has the potential to increase runoff.

Impact #5: Development of the site has the potential to spread invasive exotic plant species on the property and surrounding environment. The historical use of the property has allowed for the introduction of non-native invasive species such as: pampas grass, broom, acacia and numerous weed species (see Appendix A).

Impact #6: Development of the site will result in the loss of Northern Bishop Pine Forest. Northern Bishop Pine Forest is a recognized sensitive vegetation type through its range (State Rank S3.2 and Global Rank G2). California Environmental Quality Act (CEQA) recognizes the need to address rare and unique regional elements under CEQA.

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4.2 Offsite

The offsite impacts to any special-status species of the region will be minimal or undetectable provided standard erosion control and construction practices are adhered to.

4.2 Recommended Impact Avoidance or Mitigation

The mitigation measures proposed are the results and an onsite meeting of December 20, 2005, attended by Clare Golec, Environmental Scientist (botanist) with the Department of Fish and Game's Timber Harvest Program, Julie Price, Environmental and Resource Specialist with RAU and Associates Inc., John Williams, RPF, Environmental Resource Solutions, Inc., Arlene Taeger, Facilities Coordinator for Point Arena Schools, and Chris and Daniel Kjeldsen, Kjeldsen Biological Consulting. The proposed avoidance and or mitigation measures for each impact are described below.

A Conservation/Study Area has been proposed to (See Plate IV) conserve portions of rare plant populations on the site. This area is approximately 1.0 acre, 275-linear feet by 150-linear feet. Plants in this area will be protected from disturbance by timber harvest and construction activities. The Conservation/Study Area will be maintained by the District and function as an outdoor science area.

Impact #1
Proposed Mitigation: Approximately 80 % of the *Horkelia tenuiloba* on the property is located outside of the construction footprint and is within and around the PG&E easement in the proposed Conservation/Study Area. Populations also occur on the adjacent property to the west.

This Conservation/Study Area must be fenced prior to the initiation of project activities to prevent any vehicle or personnel intrusion into this area. Signs identifying the Conservation/ Study Area should be posted to restrict access to the area.

It is recommended that individual plants of *Horkelia tenuiloba* that are within the footprint of the project be flagged and transplanted to the proposed Conservation/Study Area prior to any project-related activities.

The Conservation/Study Area is located partially within the PG&E power line easement. PG&E must be notified as to the presence of the special-status species and the inclusion of the area into a proposed Conservation/Study Area.

Impact #2
Proposed Mitigation: *Lilium maritimum* (Redwood Coast Lily) One occurrence is located just west, outside of the property. This population can be avoided and should be flagged and fenced prior to initiation of the project to prevent any disturbance by means of vehicle or personnel intrusion into this area. This plant grows from bulbs and, provided that there is no disturbance to the site, this population will persist. A new population was identified in 2006, which is within the proposed project footprint

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(along the proposed road alignment on the south side of the existing roadway). If these plants cannot be avoided the plants/bulbs should be transplanted into the Conservation/Study Area prior to initiation of the project to mitigate for impact to this species.

Impact #3
Proposed Mitigation: The majority of the bunch grass populations on project site are located within and around the PG&E easement, and as such will be retained within the proposed Conservation / Study Area.

Impact #4
Proposed Mitigation: There is a manmade drainage ditch that was designed to remove storm water form the airstrip. This drain ditch caries water to the east and west, and will be expanded and utilized for storm water treatment. As part of the development a vegetated swale is proposed to treat water as a result of increased runoff by the proposed project. The proposed vegetated swale is to be constructed along the southeastern man-made ditch that was cut along the slope in the development of an airstrip. In order to conserve the natural state of the property and reduce the impact of non-native species on the site, the following recommendations should be considered in the development of this vegetated swale:

- The top 6 in of soil in the area should be excavated and stored on site and then used to re-dress the vegetated swale to conserve native seed and vegetation.
- No removal of topsoil from the property (all soil and "top-soil seed bank" must be retained on site).
- All work in the ditch must be conducted when it is dry to protect aquatic species.
- Invasive species must be removed from the site, including Pampas Grass, Acacia, Scotch Broom and French Broom.
- Native grass seed to be sown should be selected from the following list. The seed mix should at a minimum include three of the following species (the grass mixture should be applied at a rate of 1 lb. Per 1000 sq feet of surface area):

Bromus carinatus	California Brome
Festuca idahoensis	Idaho Fescue
Festuca rubra	Red Fescue
Elmus glaucus	Blue Wild Rye
Deschampsia elongata	Slender Hair-grass
Hordium brachyantherum ssp. brachyantherum	Meadow Barley

The following native Sedges and Rush seeds may be used to augment grass seed mixture:

Cyperus eragrostis	Nut Sedge
Juncus bolanderi	Wire Grass
Juncus bufonis	Toad Rush
Juncus effuses var. pacifica	Wire Grass
Juncus phaeocephalus	Wire Grass

Impact #5:
Proposed Mitigation: The District must initiate an active ongoing invasive weed control and management program for non-native invasive species on the property and within the Conservation/Study Area. Species that must be removed from the site

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include Pampas Grass, Acacia, Scotch Broom and French Broom. Every effort should be made to use manual methods of weed removal, with herbicide application to be used as a last resort. If herbicides are to be used on the site a qualified biologist should be consulted prior to any work.

Impact #6
Proposed Mitigation: Bishop Pine vegetation type is present on the project site and in the vicinity of the project on other parcels. It is proposed that portion of this habitat on the property will be retained and preserved in the proposed Conservation / Study Area. Any impacts to this community will be less than significant on a local and regional scale.

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5.0 SUMMARY AND CONCLUSIONS

This report is the botanical element of a TCP and County use permit application. A California Department of Fish and Game letter of 10/14/05 requested further information on the botanical resources present and identified the need for mitigation measures.

The following is a summary and conclusions that are a result of our fieldwork and discussions with DFG for the project:

- The project study site is an east-facing ridge that ranges in elevation from 360 feet to 550 feet;

- Drainage from the site is into Robinson Gulch thence the Pacific Ocean and China Gulch thence the Gualala River thence the Pacific Ocean;

- The property consists of disturbed coastal mixed conifer hardwood woodlands. There is an abandoned airstrip, an existing access road, and a PG&E power line easement on the property.

- The Timber Conversion Area is adjacent to a graded abandoned landing strip.

- The Timber Conversion Area consists of a shrub and wooded area that would be classified as transition Redwood Forest or North Coast Conifer Forest;

- Two special-status plant species were found on the property. The special-status species present on the property are the following with their State and Global Ranking:

Coast Lily (*Lilium maritimum*)	S2.1 G 2,
Thin-lobed Horkelia (*Horkelia tenuiloba)*	S2.2 G 2.

  Strands of *Usnea longissima* were found entangled on the branches of one tree. This lichen is considered to be a vagrant lichen existing in "transient populations" in that the thallus strands can be blown in storms considerable distances. The tree on the property is not considered to be a source tree;

- No other special-status plant species known for the Quadrangle, the surrounding Quadrangles, the region or associated with the plant community on the property were identified on the project site. The Mendocino Pygmy Cypress is known to occur north of the property. Cypress on the project site has been identified as young Monterey Cypress, and they are all young trees that have become established in the graded margin of the airport landing strip;

- There are no known records of special-status plant species in the Department of Fish and Game Natural Diversity Data Base for the property;

- The Department of Fish and Game Natural Diversity Data Base Rare Find 3 five-mile search records the following special-status plant species; Baker's goldfield, Blasdale's bent grass, Coast lily (present on the property), Coastal bluff morning-glory, Deceiving sedge, Humboldt milk-vetch, Maple –leaved checkerbloom, Mendocino coast Indian paintbrush, Perennial goldfields, Point Reyes Horkelia,

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Purple-stemmed checkerbloom, Pygmy cypress, Running–pine, Supple daisy, Swamp harebell, and Thin-lobed horkelia (present on the property);

- An analysis, based on our fieldwork, of each of the target species listed above and potential species associated with the habitat present is presented and justification for concluding absence is defined. We conclude that it is unlikely that any of the "target" species, other than those known to occur on the property, would occur on the site given our seasonal surveys, the historical use of the site, and the habitat and plant associates present;

- All plant species observed during our seasonal surveys of the property are included in Appendix A;

- Sensitive plant communities identified in the DFG CNDDB (Coastal Brackish Marsh and Coastal and Valley Freshwater Marsh) are not present on the site and will not be impacted by the project provided standard construction practices and erosion control are initiated. Northern Bishop Pine Forest is a recognized sensitive vegetation type through its range (State Rank S3.2 and Global Rank G2). California Environmental Quality Act (CEQA) recognizes the need to address rare and unique regional elements under CEQA. This vegetation type is present on the property;

- There is a man-made drainage ditch along the edge of the abandoned airport runway that collects and retains runoff. This area will be retained and expanded to function as a native plant vegetated swale for storm water treatment;

- The property supports the following native bunch grasses: *Deschampsia cespitosa* ssp. *holciformis*, *Hierochloe occidentalis* and *Panicum capillare*. These grasses will be retained within the Conservation/Study Area;

- Avoidance and Mitigation Measures are proposed that will reduce the six potential impacts to a level that is less than significant. The proposed Conservation / Study Area will protect the majority of the populations of Thin-lobed Horkelia and will also include populations of local native bunch grasses, and Bishop Pine Forest. Mitigation measures are also proposed for removal of invasive non-native species on the property and protection of native grasses in the drainage ditch;

- Any potential offsite impacts to special-status plant species or critical habitat will be minimal or undetectable provided standard erosion control is initiated in the TCP area; and

- We conclude that further biological studies are unwarranted.

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BUFFER ZONE ANALYSIS

Projects that propose development with a buffer less than 100 feet from an ESHA must provide information that demonstrates that a reduced buffer width will not have a significant adverse impact on the habitat. Where the minimum buffer width cannot be achieved, information must be provided to demonstrate that there is no other feasible site available on the parcel. The following buffer zone analysis addresses each of the development criteria described in the Mendocino County Zoning Code 20.496.020 **"ESHA -- Development Criteria"** and is presented in table format for ease of use.

Section 20.496.020 Coastal Zoning Code	
(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.	Buffer areas of 50 and 100 feet are identified on the attached Exhibit 1. The exhibit includes an orthophoto of the parcel (USDA, 2005), the footprint of the proposed development, and colored polygons showing the locations of the special status plants identified during a floristic study of the parcel conducted in 2005 and 2006. Refer to the project plans for construction phases.
(A)(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.	Due to numerous occurrences of special status plants (plant ESHAs), project development would result in buffer widths ranging from 0 to over 100 feet as shown in Exhibit 1. (Earlier botanical studies revealed fewer occurrences, however in 2006 several plants were found that had not been identified in previous years). Buffers are smallest or not possible in and directly adjacent to the existing driveway and PG&E easement. The project includes widening the existing driveway to meet minimum safety standards required by the State Architect for public schools. Widening of the driveway will not be required along the westerly stretch of driveway adjacent to one location of the coast lilies (it is probable, given the proximity to the road, that the two populations are from a single clone perinating by" bulbs" (actually scaley horizontal rhizomes) that are a result of road grading and resulting dispersal of "bulbs"). The driveway currently serves the subject parcel for school bus parking, is the only access for the commercial business using the parcel to the south, and also serves as a PG&E easement. The largest contiguous plant ESHA is located inside (on the east side of) the northwesterly driveway curve. The minimum buffer width cannot be achieved on the north, west, and south sides of this ESHA, but a 100-foot buffer width can be achieved on the east side. This area is to be fenced and designated as a Conservation/Study Area (CSA) in order to provide additional protection of the plant ESHA. Mitigation measures are described in detail in the

EXHIBIT NO. 9
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BUFFER ANALYSIS (EXCERPT) (1 of 11)

	Botanical Resources Report prepared by Kjeldsen Biological Consultants, dated Sept. 19, 2006. Consultation with Dept. of Fish & Game (DFG) staff biologist, Clare Golec, took place onsite and all of her recommendations were incorporated into the mitigation plan. The Project does not include the division of land.
(A)(1)(a) Biological Significance of Adjacent Lands. The degree of significance depends upon the habitat requirements of the species in the habitat area.	The special-status plant ESHA on the west side of the project site is adjacent to an existing access road and within a power line right of way. The level of acceptable or compatible disturbance has allowed the development of populations of Horkelia and Lily. Following completion of the project the ESHA will be maintained in its current state, fenced and serve the school as an outdoor laboratory for conservation education (Conservation/Study Area). Horkelia (*Horkelia tenuiloba*) The California Native Plant Society's Inventory of Rare and Endangered Plants of California indicate that the habitat in which this species is found is broadleaved upland forest, chaparral/mesic openings and in sandy areas. Best *et al* in the Flora of Sonoma County lists this species as common in silty or sandy meadows. We have found this taxon on open serpentinite soils of a mowed and cleared trap range, in grasslands of a fallow prune orchard and on log landings of timber harvest operations. In all instances it is in areas which have experienced prior disturbance. It appears to require full sun exposure, for as shrubs or canopy close in it is unable to compete. On a project approved by DFG we have had complete success in transplanting this species on site. Clones that were potted and transferred to a local nursery all survived and were easily cloned into nursery flats which flowered and set fruit. Seeds from this project were collected and are being maintained by the Rancho Santa Anna Botanical Garden. Our fieldwork indicates that this species is coastal extending inland as far as Sebastopol and present in open exposed disturbed areas without an overstory canopy. Coast Lily (*Lilium maritimum*) The California Native Plant Society's Inventory of Rare and Endangered Plants of California indicate that the habitat in which this species is found is broadleaved upland forest, closed-cone coniferous forest, coastal prairie, coastal scrub, marshes and swamps, and north coast coniferous forest. Best *et al* in the Flora of Sonoma County lists this species as occasional in sandy soil, woods, brush, and occasionally marshy areas. Smith and Wheeler in A Flora of the Vascular

	Plants of Mendocino County, California indicate that the habitat in which this species is found as common near the coast at edges of coniferous forests, open woods and in brushy places on coastal prairies. The plant produces bulbs that can be transplanted.
(A)(1)(b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development.	We have found *Horkelia tenuiloba* on mowed and cleared serpentinite soils, in grasslands of a fallow prune orchard and on log landings of timber harvest operations. In all instances it is in areas which have experienced prior disturbance. It appears to require full sun exposure, for as shrubs or canopy close in it is unable to compete. The two species of special-status plants on the property are adjacent to and within areas that have been disturbed (road construction and maintenance, timber removal, introduction of non-native species, yard waste disposal by neighbors, and brush clearing). These special status species can be expected to persist as long as there is no ground disturbance (unacceptable disturbance such as grading or placement of fill) and acceptable disturbance (tree removal, and vegetation control associated with the access road and power line right of way). They have established and persisted on the site without a buffer zone. The establishment of a fenced area for conservation education (Conservation/Study Area) is expected to perpetuate their existence and long term survival. With no options for changing the location of the access to the parcel, there is no way to provide for a buffer around the plant ESHAs along the driveway. Since these plants will be impacted by the required widening of the driveway, the best option (as recommended by DFG) is to transplant the special-status plants into the Conservation/Study Area where they are least likely to be disturbed in the future.
(A)(1)(b)(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species.	No special-status fish or wildlife species were observed at the Project Site.

(A)(1)(b)(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance.	The plants have persisted and spread along the roadway and within the PG&E easement despite, and partly due to, human disturbance. The implementation of the ESHA Conservation/Study Area will support greater native plant diversity which in the long-term will create higher quality habitat. It is expected that common species will continue to utilize the habitat. A weed eradication program will be implemented to remove exotic invasive species and will further improve plant habitat by reducing competition from weedy species.
(A)(1)(b)(iii) An assessment of the impact and activity levels of the proposed development on the resource.	The development will be phased, with phases constructed only as the student population dictates. Phase 1 consists of construction of the north parking lot, widening the driveway as far west as the west edge of the parking lot, and construction of school buildings and playfields adjacent to the parking lot. Phase 1 will impact the plants located on the margins of the existing driveway up to the westerly edge of the parking lot. Phases 2 and 3 will likely not be constructed for a number of years due to slow student population increases in the area. The few plants that will be directly impacted by development will be transplanted into the CSA prior to the commencement of the pertinent construction phase.
(A)(1)(c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.	The potential for erosion on the currently vegetated portions of the parcel will increase in the short term due to soil disturbance associated with construction activities. To address short-term impacts to soil and water quality, a Storm Water Pollution Prevention Plan will be implemented for construction activities and an erosion control plan will be implemented for timber harvest activities. As the project is developed through the 3 phases, the driveway and airstrip will be improved with graveled surfaces, paved surfaces, turf, landscaping, and a vegetated swale, which will reduce the erosion potential of the existing dirt surfaces. The school site was designed to minimize the removal of trees in order to maintain a wooded environment throughout the campus. Landscaping will be planted around buildings, pathways and parking lots. A drainage plan was prepared and approved by the County Dept. of Transportation (MDOT) with regard to both on-site and off-site drainage impacts. The project engineer designed site drainage so that the majority of stormwater flowing across the impervious surfaces of the school buildings and pathways will drain to an underground storm drain system that will outlet into an onsite vegetated swale that will serve as a retention and treatment system

	before the stormwater continues into the natural drainage system on the east side of the property. The vegetated swale will serve as post-construction stormwater treatment of sediment for the 10-year storm event. These measures have been selected by the project engineer and reviewed at length by MDOT. Site visits were conducted with MDOT and the North Coast Regional Water Quality Control Board (NCRWQCB) to discuss drainage and runoff, and both agencies determined that the drainage and stormwater treatment plans will adequately address the increased runoff and erosion that could potentially result from project development.
(A)(1)(d) Use of Natural Topographic Features to Locate Development	The school was sited based on topography and existing cultural features. The air strip is flatter than the wooded area to the north, but is not large enough to contain the school buildings. There is a steep break in the slope between the airstrip and the wooded area which would require considerable grading and vegetation removal to create a contiguous, gently sloping, ADA-compliant building area. Using the area as designed affords the opportunity to step the buildings down the slope decreasing visual impact of the buildings, maintaining accessibility, controlling drainage, controlling clearing and controlling excavation. This building location also leaves the airstrip area available for the vegetative swale which needs to be downstream from the runoff and area available for playgrounds. For these reasons, the wooded site in the north-central portion of the parcel was selected for the primary building site. Development in the central wooded area will allow for the majority of the campus to be located in a contiguous area and will minimize the volume and extent of grading required to develop the school site. The eastern portion of the property slopes rather rapidly to the south and east to form a swale that is a contributor to the headwaters of China Gulch. Construction in this general area will require massive grading to make the campus homogenous and accessible. Construction in the easterly portion would virtually put the campus in the neighbor's backyard. One of the visual and noise mitigations is to retain the existing vegetation as a visual and sound buffer between the campus and the existing residents.
(A)(1)(e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of	Placing the school in the center of the property maximizes accessibility to the campus due to the location of the existing driveway around its perimeter. The parcel can only be accessed from the existing encroachment at Old Stage Road due to small lots to the north and east which cannot

roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.	spare room for an encroachment and access easement. There is no access to a public road from the west, north or south sides of the parcel. Routing the driveway due south directly upon entering the property in order to avoid the plant ESHAs along the driveway would require removal of forested area which is intended as a buffer between the school and neighboring residences, and as a natural area for nature walks and education. The forested buffer contains elements of the Bishop Pine Community which will be preserved on site and will function as an additional portion of the CSA .The road grade would be significantly steeper along this route and would be closer to an undefined, unnamed drainage located at the very southeast corner of the parcel (at the end of the airstrip), which would increase erosion potential and sediment delivery to the drainage. There is a steep break in slope above (north of) the airstrip, which would require significant grading, and again would be near the drainage which is not advisable. Minimum turning radii for school buses would not be achievable due to the near 45 degree angle that would need to be made in order to avoid the plant ESHAs. With no options for changing the location of the access to the parcel, there is no way to provide for a buffer around the ESHAs along the driveway. Since these ESHAs will be impacted by the required widening of the driveway, the best option (as recommended by DFG) is to transplant the special-status plants into the Conservation/Study Area where they are least likely to be disturbed in the future and where habitat can be enhanced for their long-term survival.
(A)(1)(f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection.	Because site constraints prevent the establishment of minimum buffers (50 or 100 feet) around many of the identified plant ESHAs, and because no alternatives exist that would allow for minimum buffer widths to be established in these areas, mitigation measures have been developed in consultation with DFG to minimize impacts to the ESHAs to a less than significant level. Mitigation measures include: creation of a Conservation/Study Area (CSA) with restricted access, transplanting of special status plants within the project footprint into the CSA, establishment of a bioswale vegetated with native grasses, sedges and rushes to create new habitat and filter sediments, an invasive weed eradication program aimed at removing Pampas Grass, Acacia, Scotch Broom and French Broom from the CSA and the larger parcel, and retention of a portion of the Bishop pine community within the CSA and on the east side of the parcel. Mitigation measures are provided in Section 4.2 of the Botanical Resources Report

	prepared by Kjeldsen Biological Consulting, dated Sept. 19, 2006.
(A)(1)(g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.	The school project has been designed for 3-Phase construction, based on existing and future student populations. Phase 1 was designed to meet the current student population and consists of the north parking lot, driveway improvements from Old Stage Road to the north parking lot, play areas, an administrative building and classrooms adjacent to the parking lot. Phase 2 development consists of additional classrooms to be built to the west and south of Phase 1. Phase 3 consists of a multi-purpose room, a south parking lot and playfields, and improvement to the remainder of the driveway. The scale of the project has been appropriately designed and phased so that the school will be constructed in phases as deemed necessary by the student population. Adjacent lands to the north and east have been developed as residential lots. Parcels to the south and west are larger and less densely developed.
(A)(2) Configuration. The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).	The required 50 or 100 foot buffer widths are shown in Exhibit 1, and were measured from the outside edge of each ESHA polygon using GIS software. In most cases, these buffer widths could not be achieved and alternative methods for buffering or avoiding these areas have been provided. The boundaries of the CSA were determined based on the constraints of existing cultural features to the north and west (driveway), and the maximum area that could be protected from development to the east (varies between 75 to 100+ feet). Plants located adjacent to the existing driveway (along the westerly stretch) and on the south end of the parcel can, in most cases, be avoided. Mitigation measures are provided for those plants that cannot be buffered or avoided.
(A)(3) Land Division. New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.	The project does not include subdividing the property or adjusting the property lines.
(A)(4) Permitted Development. Development permitted within the buffer area shall comply at	The proposed development and protection of special-status plant species on the site will be compatible with the

a minimum with the following standards: **(a)** Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.	continuance of their ability to be self-sustaining and maintain natural species diversity. The species have persisted on site within the disturbed areas of the driveway and PG&E easement without benefit of a buffer. Weed removal and creation of a CSA will support greater native plant diversity, enhance existing habitat, and allow for improved habitat in the long term.
(A)(4)(b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.	Reasons describing why there is no other feasible site available on the parcel include: 1) No other location for a new encroachment to the parcel. Opportunities for an additional encroachment at an alternate location are nonexistent due to current land ownership and land use. 2) The size and configuration of the airstrip is too small to accommodate the campus. The margins of the airstrip also contain plant ESHAs which would need to be avoided. An access easement across the airstrip to the parcel to the south will need to be kept accessible, which would further reduce the building area. The California Department of Education has set minimum site requirements for elementary schools. This school is proposed for a student population of 150. The site requirements for a campus of 150, grades one through three are one 90'x150' field area, two 60'x75' hardcourt area, and two 3,200 square foot apparatus areas. One kindergarten classroom requires a 3,000 sq. ft. turf area, a 2,000 sq. ft. paved area, and a 2,000 sq. ft. apparatus area. If the campus could fit on the airstrip area the northern portion of the property would need to be used for the outdoor facilities requiring extensive clearing and grading. Such outdoor areas are generally located in the proximity of the appropriate classrooms to facilitate student management and that is how the campus is currently laid out. The larger fields are located on the airstrip where no clearing is required. 3) Moving the school further south on the parcel would require considerable grading and vegetation removal in order to create a contiguous, gently sloping, ADA-compliant building area. Increased land disturbance would increase the potential for adverse impacts related to soil erosion and water quality downstream. The manner in which the campus has been designed and laid out minimizes excavation and fills. The campus is stepped down the slope. There are no significant cut banks and a minimum of fill banks. The campus, by being situated on the northern portion of the property, is designed to take advantage of sunlight as much as possible. Moving the campus south on the property or on to the

	airstrip will minimize sunlight availability unless additional trees are removed. 4) Routing the driveway due south near the existing entrance does not work with the existing topography. Grading for this access would remove the vegetative barrier between the campus and the existing residents on that side of the property and would require massive grading resulting in fill material being placed in a swale that is a contributor to the headwaters of China Gulch. At the same time the existing road will remain in operation to serve the adjacent properties. The intersection created by rerouting the campus access would be in conflict with County standards regarding the separation between intersections. Rerouting the campus access would further complicate turning radiuses for buses and fire apparatus, and destroy the area proposed for nature education.
(A)(4)(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.	Development has been sited and designed based on a number of considerations, including topography, existing cultural features and easements, drainage, access, circulation, vehicle and pedestrian safety, buffers to adjacent parcels, reduced erosion and sediment delivery potential, etc. By not disturbing the vegetated areas on the east and west sides of the campus, runoff can sheet flow downslope (southward) across the natural terrain and into a vegetated swale, which currently exists as a man made ditch and will be developed to treat stormwater, and discharge offsite into an existing, unnamed drainage course. The current site plan creates the greatest possible distance from this drainage course while maintaining a buffer around the most significant plant ESHA. 80% of the plant ESHAs can be avoided by the current site design, allowing for the remaining 20% to be transplanted into an area containing the highest quality habitat onsite for these species where they can be protected from future disturbance. Grading and increased erosion potential is minimized by avoiding the creation of roadways in the steepest areas of the site. Access and circulation for school buses, vehicles and pedestrians is safest as currently designed. There are no watercourses on the parcel, only the headwaters of a small, undefined and unnamed drainage located at the far SE corner of the parcel (at the end of the airstrip), so hydraulic capacity is not an issue.
(A)(4)(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain	The proposed development and protection of special-status plant species on the site will be compatible with the continuance of their ability to be self-sustaining and maintain natural species diversity. The species have

natural species diversity	persisted on site within the disturbed areas of the driveway and PG&E easement without benefit of a buffer. Weed removal and creation of a Conservation/Study Area will support greater native plant diversity, enhance existing habitat, and allow for improved habitat in the long term.
(A)(4)(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.	See 4(b) above. Replacement of vegetation will not be required because there will be no loss of ESHA, only some minor relocation of individual plants into the Conservation/Study Area.
(A)(4)(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.	The project has been designed to minimize impervious surfaces and the removal of vegetation. Site selection reduces grading volumes. Vegetation will be removed only as needed for construction, and trees ≥ 6" dbh will remain where possible. Disturbed soils will be planted in accordance with a Timber Harvest Plant, Storm Water Pollution Prevention Plan, and landscaping plan. Dust from roads will be minimized by surfacing the roadway with rock and pavement. As conditioned by Mendocino County, light will be downcast, shielded and turned off at night when the school is closed. Nutrient runoff and air pollution will not be generated by the project. There are no wetlands on the property.
(A)(4)(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.	There is no riparian vegetation present on the parcel.
(A)(4)(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.	The site is located on a ridge, and is not located within the 100-year flood zone.
(A)(4)(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.	Hydrologic processes have been considered in the project design and will not be adversely impacted. The area where the special-status species are present is associated with disturbance (entrance road and power line access right of way). Road widening in this area will not significantly alter

	the biological diversity associated with the ESHAs.
(A)(4)(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.	The ESHA consists of individual plants and small plant populations, and does not include wetlands or riparian habitat which would require a wider buffer to protect habitat functions and values, especially those associated with drainage and runoff. The special status plants will not be negatively impacted by changes in onsite drainage due to their location or placement in the Conservation/Study Area where drainage will be unaltered. The nearest structures and foundations will be located 100 to 150 feet east of the CSA and will not interrupt groundwater to the CSA.
(A)(4)(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)	Creating an ESHA buffer will not result in significant adverse impacts to the ESHA, therefore mitigation measures for this purpose are not required.
Sec. 20.532.095 Coastal Zoning Code	
Required Findings for all Coastal Development Permits (4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.	As mitigated, environmental impacts resulting from the proposed project can be reduced to a level of less than significant.

KJELDSEN BIOLOGICAL CONSULTING
Chris K. Kjeldsen Ph.D., Botany
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December 21, 2007

Re: Gualala School Site.

Issue: Does the proposed project site contain a Bishop Pine (*Pinus muricata)* Forest, a sensitive plant community considered to be an Environmentally Sensitive Habitat Area (ESHA) and requiring consideration under CEQA?

BACKGROUND

In the Manual of California Vegetation (CNPS-California Native Plant Society-1997) Bishop Pine woodlands are classified as a "Vegetation Series: Bishop Pine Series." This series type is characterized by dominance of *Pinus muricata* on upland marine terraces, headlands, rocky ridges on shallow acid soils that are often inadequately drained. A continuous canopy cover further defines the series.

The CNPS further divides the series into association types:

1) Bishop Pine/ Bear-grass Association (Bishop Pine Type),
2) Bishop Pine-Bolander Pine Labrador–tea Association (Bishop Pine Bolander Pine Type),
3) Bishop Pine-Bolander Pine/Rayless Arnica Association (Xeric Bishop Pine Type), and
4) Bishop Pine-Douglas-fir Association.

The California Department of Fish and Game (DFG) Vegetation Classification and Mapping Program List of California Terrestrial Natural Communities included in the California Natural Diversity Data Base (Sept 2003 Edition) are as follows:

Bishop Pine Forest – 87.070.00
Bishop Pine - Pacific Madrone/Black Huckleberry - 87.070/01
Northern Bishop Pine Forest – 87-071.00
Bishop Pine/Bear-grass - 87.071.01
Bishop Pine -Bolander Pine/Labrador-tea – 87.071.02
Bishop Pine- Bolander Pine/Rayless Arnica –87.071.03
Bishop Pine – Douglas-fir – 87-071.04
Southern Bishop Pine Forest – 87.072.00

The California Department of Fish and Game (DFG) Vegetation Classification and Mapping Program List of California Vegetation Alliances Diversity Data Base (October 2007) cites *Pinus muricata* alliance with a rarity rank of G4S3 (based on Nature Serve's standard heritage program for global and state concerns). G4 references a global alliance that is generally considered common enough to not be of concern.

In the Terrestrial Vegetation of California Third Edition (2007), Barbour et al cite Sawyer and Keeler-Wolf's description of the *Pinus muricata* alliance in which "*P. muricata* is the sole or most important element in a continuous canopy <25m tall. Shrubs can be absent to common, and so can the ground layer. Only in Mendocino and Humboldt Counties does Bishop pine co-occur with other conifers listing five associations."

In the Flora Of The Vascular Plants Of Mendocino County, California, (1992), Smith and Wheeler, characterize the vegetation as a CLOSED PINE FOREST. They describe the vegetation as "an ill-defined association of the remaining conifers which grow on the wind-swept bluffs above the sea in somewhat interrupted manner. This mixed forest includes *Pinus muricata, Tsuga heterophylla, Pseudotsuga menziesii, Abies grandis* and two trees, *Pinus radiata* and *Cupressus macrocarpa* introduced as wind breaks long ago from the Monterey Peninsula where they are endemic."

FINDINGS

Based on the CNPS Classification as shown below the site contains only limited elements of Douglas Fir/ Bishop Pine series (Douglas-fir is present at 5% level see below). Continuous cover by Bishop Pine is not present on the site.

In a previous report and study of the project site by Diane M. Decker the site was characterized by the presence of "scattered Bishop Pine." Vegetation on the site has also been studied by John Williams, ACF, RPF. In the tables below a description of the site and the vegetation associates is provided.

Table I.
Vegetation Series and an analysis of the presence of associates on the proposed project site as per botanical studies of Kjeldsen Biological Consulting and Diane M. Decker.

SERIES ASSOCIATIONS	SCHOOL SITE
Bishop Pine/ Bear-Grass Association (Bishop Pine Type	Not Present on The Site
Bishop Pine-Bolander Pine Labrador–tea Association (Bishop Pine Bolander Pine Type)	Not Present on The Site
Bishop Pine-Bolander Pine/Rayless Arnica Association (Xeric Bishop Pine Type)	Not Present on The Site
Bishop Pine-Douglas-Fir Association	Present but Limited Does not constitute this association based on lack of canopy cover and percentage of Douglas-fir present.

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Table II.
Vegetation Series (Listing Common associated Species): Bishop Pine Series, CNPS.

LATIN BINOMIAL	COMMON NAME	PRESENT ON GUALALA SCHOOL SITE	ABUNDANCE ON GUALALA SCHOOL SITE
Arbutus menziesii	Madrone	Present	Occasional
Arnica discoidea	Rayless Arnica	Not present on site	Not Applicable
Cupressus goveniana ssp. pygmaea	Pygmy Cypress	Not present on site	Not Applicable
Ledum glandulosum	Labrador-tea	Not present onsite	Not Applicable
Pinus contorta ssp. contorta	Beach Pine	Not present on site	Not Applicable
Pinus contorta ssp. bolanderi	Bolander Pine	Not present on site	Not Applicable
Pinus muricata	Bishop Pine	Present	50% of stand. John Williams, ACF, RPF # 1677
Pinus radiata	Monterey Pie	Not present on site	Not Applicable
Pseudotsuga menziesii	Douglas-fir	Present	5% of stand. John Williams, ACF, RPF # 1677
Sequoia sempervirens	Redwood	Present	25% of stand. John Williams, ACF, RPF # 1677
Xerophyllum tenax	Bear-grass	Not present on site	Not Applicable

It is noted that the project site does not contain the native tree species: *Tsuga heterophylla* or *Aibes grandis,* which are species listed in Flora Of The Vascular Plants Of Mendocino County, California, (1992), Smith and Wheeler, that are characteristic associates of the CLOSED PINE FOREST. It is also noted that the *Pinus contorta* ssp. are absent but there is a presence of *Sequoia sempervirens.*

CONCLUSIONS

The forest community on the project site does constitute any of the Bishop Pine (*Pinus muricata*) series or alliances as defined by the CDFG or CNPS, which are special plant communities requiring consideration under CEQA and additional protection under the Local Coastal Program based on the following:

1) The lack of a closed or continuous canopy by the Bishop Pines;
2) The lack of associate species typical for the vegetation series; and

3) The vegetation associates present on the site.

Our original report indicated the presence of Bishop Pine woodlands and classified the area as a North Coast Conifer Forest. We referenced the Northern Bishop Pine Forest because of the presence of *Pinus muricata*. It is clear that the project site is marginal and is not a typical or "classical" example of the community type as defined in the literature.

REFERENCES CITED

Barbour et al, Terrestrial Vegetation of California Third Edition, (2007).
California Native Plant Society, A Manual of California Vegetation. (1977).
Smith and Wheeler, Flora Of The Vascular Plants Of Mendocino County, California, (1992),

Kjeldsen Biological Consulting

COUNTY OF MENDOCINO
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October 2, 2007

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COASTAL COMMISSION

NOTICE OF FINAL ACTION

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

CASE#: CDU 10-2004/CDV 10-2004
DATE FILED: 8/11/2004
OWNER: ARENA ELEMENTARY SCHOOL DISTRICT
AGENT: ASPEN STREET ARCHITECTS, INC.
REQUEST: Coastal Development Use Permit for the construction of a new K-5 elementary school to be phased as follows: Phase 1 to include a 3,118 sq. ft. library/administration building, four (4) 2,215 sq. ft. classroom buildings, parking lot and playground; Phase 2 to include four (4) 2,215 sq. ft. classroom buildings and a playground; Phase 3 to include an 8,607 sq. ft. multi-purpose building and parking lot. The project also includes associated major vegetation removal (5+/- acres), grading (5,400 cy cut and 3,800 cy fill), road improvements, lighting and sign, for a total of 29,447 sq. ft. of gross building area, 105,453 sq. ft. of paved area and 50,100 sq. ft. of landscaped area on a 10.5+/- acre parcel. Coastal Development Variance to the 28-foot height limit for the construction of a 39'-6" high multipurpose building and a 32'-9" high library/administration building.
LOCATION: In the Coastal Zone, 1.25+/- miles NE of downtown Gualala, on the east side of Old Stage Road (CR# 502), 0.2+/- miles S of its intersection with Pacific Woods Drive (CR# 524), formerly Bowers Field landing strip, located at 39290 Old Stage Road; AP# 145-091-22.
PROJECT COORDINATOR: IGNACIO GONZALEZ

ACTION TAKEN:

The Planning Commission, on September 20, 2007, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

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

Attachments

cc: Coastal Commission
Assessor

EXHIBIT NO. **11**
APPEAL NO.
A-1-MEN-07-044 - ARENA UNION ELEMENTARY SCHOOL DISTRICT
NOTICE OF FINAL LOCAL ACTION & COUNTY APPROVAL (1 of 29)

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
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October 2, 2007

FINAL FINDINGS AND CONDITIONS OF APPROVAL
CASE # CDU 10-2004/ CDV 10-2004 – ARENA UNION ELEMENTARY SCHOOL DISTRICT
SEPTEMBER 20, 2007

The Planning Commission approves #CDU 10-2004 subject to the conditions of approval recommended by staff further finding:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. The proposal will result in the construction off-site improvements along the east side of Old Stage road, including curb, gutter and sidewalk, approximately 1,600 feet in length, which is to be installed prior to use and occupancy of the school.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

3. That such use preserves the integrity of the zoning district. Pursuant to the County Zoning Ordinance, school facilities are permitted subject to securing a Use Permit.

Coastal Development Variance Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.540.020 of the Coastal Zoning Code, that:

1. There are special circumstances applicable to the property involved, including size, shape, topography, location, or surroundings. The proposal calls for the development of the northern portion of the property, with the western portion of the property to be devoted to a conservation/study area for the preservation of botanical species. By concentrating the proposed school in a smaller area of the property, more land is left in a natural state preserving visual screening. The stepped design of the library/administration building is blends with the other development appearing as a smaller building from surrounding residential areas. Multi-purpose buildings typically require high ceilings as they accommodate a variety of uses, including indoor sporting events. Finding can be made; and

2. That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in this Division and applicable policies of the Coastal Element. The topography of the site is left in its general same state, with the structures utilizing land forms to conceal actual height. Preservation of surrounding or surrounding landscape maintains the integrity of the site. Finding can be made; and

3. That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances in Subsection (A). The granting of the variance would allow the proposed Gualala Elementary School the same flexibility and enjoyment as that given to other public schools outside of the Coastal Zone, which are exempt from local ordinances and State Law. Further, other projects exist in the area that meet or exceed the code standards (e.g. the Baptist Church has a 35 foot tower and the Seacliff Development has a 50 foot tower containing and office) and other variances have been granted to height (the Gualala Cypress Village was granted a variance for a 50 foot clock tower and the Catholic Church was

granted a variance for a 60 spire with a cross). All of these structures are within the Gualala area. Finding can be made; and

4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; Appropriate mitigation measures have been incorporated into the project that would address any impacts associated with the proposed project, including light, glare, noise, traffic, etc. Finding can be made; and

5. That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel. Pursuant to Section 20.380.015(B) of the Mendocino County Coastal Zone Code, educational facilities are permitted upon securing a Conditional Use Permit. Finding can be made; and

6. That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable plans and policies of the Coastal Act. Section 2.8 of the Gualala Town Plan provides for a future school to be constructed within the Gualala area. Specifically, Gualala Town Plan Goal G2.8-1 provides for the development of needed educational facilities for the anticipated growth in student population in Gualala. The granting of the variance will not adversely affect the General Plan or other such plans, including the provisions of the Coastal, but would in essence implement the general Plan, specifically the Gualala Town Plan by providing for the construction of an educational facility to meet the needs of the community. Finding can be made.

RECOMMENDED CONDITIONS:

A. Conditions, which must be complied with for the duration of this permit:

1. This permit shall become effective after all applicable appeal periods have been expired or appeal processes exhausted. Failure of the permittee to make use of this permit within ~~two~~ three years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

3. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.

4. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:

   a. That such permit was obtained or extended by fraud.

   b. That one or more of the conditions upon which such permit was granted have been violated.

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

   Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

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

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6. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

7. It shall be the responsibility of the applicant to ensure that contractors engaged to perform work on the site are aware of the conditions of this permit and that all work performed is in compliance with applicable conditions.

8. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to September 21,2007 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has *"no effect"* on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

B. Conditions, which must be met prior to the use and/or occupancy and for the duration of the permit:

1. Adequate drainage controls shall be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.

2. Adequate construction, and if required post-construction, best management practices shall be implemented to prevent contamination of surface and/or ground water, and to prevent erosion. During construction activities, temporary erosion control measures shall be in places at the end of each day's work, and shall be maintained until permanent protection is established. All earth moving activities shall be conducted between May 15th and October 15th of any given calendar year unless appropriate mitigation is implemented and clearances are given by the County of Mendocino and any other agency having jurisdiction. Land disturbance associated with timber removal from the site shall comply with erosion control measures prescribed in the Timber Harvest Plan as approved by CDF. Land disturbance associated with construction activities shall comply with the project's Storm Water Pollution Prevention Plan as required by the RWQCB.

3. The applicant shall endeavor to protect as much vegetation on the site as possible, removing only as much required to construct residential and accessory structures, including driveways and landscaping.

4. Dust shall be controlled subject to controls by the Air Quality Management District.

5. The access road, driveway and interior circulation routes shall be maintained in such a manner as to insure minimum dust generation subject to the Air Quality Management District's dust regulations. Any rock material used for surfacing must comply with Air Quality Management District's regulations regarding asbestos content. All grading activities must comply with Regulation 1, Rule 4300 (Fugitive Dust Emissions).

6. Driveways and parking areas on the site shall be surfaced with asphalt concrete, as shown on the improvement plans, prepared by Green Valley Consulting Engineers or other material, as approved by the Mendocino County Department of Transportation and the Mendocino County Air Quality Management District sufficient to control dust and provide a durable all-weather surface.

7. Demolition or renovation of structures, if present, may require asbestos clearance and notification to the Air Quality Management District. The applicant shall submit a copy of the National Emissions Standards for Hazardous Air Pollutants [NESHAP] clearance from the Air Quality Management District prior to approval of any demolition permits by the Department of Planning and Building Services.

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8. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

9. On-site improvement plans shall be accompanied by a final drainage report prepared by a Civil Engineer for review by the County Department of Planning and Building Services and the Department of Transportation. The report shall include hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to a satisfactory point of disposal.

10. The proposed elementary school shall be established in conformance with all mitigation measures as contained in the Biological Survey, dated December 2005, prepared by BioConsultants LLC, and the Botanical Resources Report, dated September 19, 2006, prepared by Kjeldsen Biological Consulting. Said reports are on file with the Mendocino County Department of Planning and Building Services.

11. Construction hours shall be limited to the hours of 8:00 a.m. to 6:00 p.m. on non-holiday weekdays, with no construction occurring on holidays. All stationary equipment (e.g., generators, compressors, etc.,) shall be shielded from all adjacent residences; all equipment shall be properly maintained and muffled; and construction traffic shall not be permitted before 7:30 a.m. Further, no organized outside play activities shall be scheduled for hours between dusk and dawn and that school property be secured, if possible, during that period to discourage use of outside play equipment during the evening.

12. All lighting fixtures associated with the proposed structure and parking area shall be designed and/or located so that only indirect non-glaring light is visible from beyond the parcel boundary.

13. So as to minimize light spillage onto neighboring properties, there shall be no or minimal vegetation removal along the eastern property boundary immediately adjacent to the existing neighboring residences. Lights shall be dimmed after hours when the campus is closed.

14. All parking field/lot light standards shall be installed so that they provide for a down cast of the light source onto the parking lot, thus minimizing light spillage onto adjacent properties.

15. Unless otherwise exempted, the School District shall secure a Timber Conversion Permit from, The California Department of Forestry, and approval of a Timber Harvest Plan for the removal of timber for the construction of the proposed school facility. Evidence of said permit shall be submitted to the Department of Planning and Building Services, so ass to verify compliance with this condition.

16. Driveways and parking areas on the site shall be surfaced at a minimum, with asphalt concrete or other material as approved by the Mendocino County Department of Transportation, sufficient to control dust and provide a durable all-weather surface. Prior to the installation of the surfacing material, the natural grade shall be prepared in accordance with good engineering practices to insure long surface life, pursuant to the Improvement Plans prepared by Green Valley Engineers.

17. Concrete curb, gutter and 5-foot wide sidewalk shall be constructed on the east side of Old Stage Road (CR 502) extending from the northerly end of the curve return to Moonrise drive (CR 514 C) south approximately 1,600 feet to the south line of APN 145-092-15. Construction shall be completed prior to occupancy of the school.

18. Crosswalk, In-Street Pedestrian Crossing Signs (R1-6), per MUTCD Section 2b.12, 2006 Edition, pedestrian activated flashing at the crosswalk, school speed zone signs without flashing lights shall be installed as proposed in the Improvements Plans for Gualala Elementary School Off-Site Pedestrian Improvements, shall be installed under the direction of the Mendocino County Department of Transportation.

19. The required signage and pedestrian improvements described in 19 and 20 above shall be constructed in accordance with Improvement Plans, specifications and Estimates prepared by a Civil Engineer and approved by the Mendocino County Department of Transportation. Off-Site Improvement Plans shall be accompanied by a final drainage report prepared by a Civil Engineer. The report shall provide hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for

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conveyance of drainage to a satisfactory point of disposal as approved by the department of Transportation. The applicant is responsible for obtaining all necessary permits prior to construction. For improvements constructed through the improvement plan process, an Improvement Plan – Specification Checking and Construction Inspection Fee of four percent of the approved engineer's cost estimate would apply.

20. The School District shall offer bus transportation to all students in the school district, including those that reside in adjacent neighborhoods who might otherwise walk to school, in order to reduce the overall number of children walking on Old Stage Road.

21. Pursuant to the Traffic Impact Study prepared by W-Trans, dated February 27, 2006, at which time it is determined that the intersection of State Route 1 and Old Stage Road is improved with signalization, the School District shall contribute 2.8 percent toward the cost of the signalization.

22. Written verification shall be submitted from the Department of Forestry and the South Coast Fire District to the Department of Planning and Building Services that adequate fire safe measures have been met to the satisfaction of the Department of Forestry and the fire district.

23. The applicant shall submit to the Department of Planning and Building Services a letter from North Gualala Water Company confirming that water service has been provided to their satisfaction.

24. Water lines shall comply with pertinent County and/or State standards, and shall be adequately separated from other utilities.

25. Relative to repairs of inevitable future problems that may occur to the proposed waste water line, such as line breaks, and leaks, and to minimize problems and tearing up the roadway, the contractor shall install a copper locator wire with all segments of the pipe to be demonstrated that the connections are correct and a continuous circuit exists.

26. All equipment fueling and servicing shall occur at a designated location (i.e. staging area on the site or a local service station; additionally, any spills resulting from fueling or hydraulic line breaks/leakage shall be contained and cleaned up immediately; Fluids drained from construction equipment and machinery shall be collected in a leak proof container(s) and disposed of at an appropriate disposal facility; no refueling or servicing shall be conducted without absorbent materials (i.e. absorbent pads, mats, granules, etc.).

27. A detailed landscaping plan shall be submitted to the Department of Planning and Building Services for review and approval. Landscaping proposed shall consist of native species and shall blend with the surrounding natural environment. Approved landscaping shall be established and maintained.

28. All exterior building materials, colors and finishes shall be of earth tones and blend with the existing structure. Color samples shall be submitted to the Department of Planning and Building Services and approved by the Coastal Permit Administrator prior to approval of building permits. Any change in approved colors or materials shall be subject to the review and approval of the Department of Planning and Building Services for the life of the project.

29. All exterior signs shall be made of wood, not exceed a total of 40 square feet, and shall be located in an area so as to not block any vehicular sight distance. The Department of Planning and Building Services shall approve location and size of any sign. A sign shall be illuminated when the campus is closed for activities.

30. In the event that archaeological resources are encountered during construction on the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

OWNER: ARENA UNION ELEMENTARY SCHOOL DISTRICT
PO BOX 87
POINT ARENA, CA 95468

AGENT: ASPEN STREET ARCHITECTS, INC.
494 N. MAIN STREET
PO BOX 370
ANGELS CAMP, CA 95222

REQUEST: Coastal Development Use Permit for the construction of a new K-5 elementary school to be phased as follows: Phase 1 to include a 3,118 sq. ft. library/administration building, four (4) 2,215 sq. ft. classroom buildings, parking lot and playground; Phase 2 to include four (4) 2,215 sq. ft. classroom buildings and a playground; Phase 3 to include an 8,607 sq. ft. multi-purpose building and parking lot. The project also includes associated major vegetation removal (5+/- acres), grading (5,400 cy cut and 3,800 cy fill), road improvements, lighting and sign, for a total of 29,447 sq. ft. of gross building area, 105,453 sq. ft. of paved area and 50,100 sq. ft. of landscaped area on a 10.5+/- acre parcel. Coastal Development Variance to the 28-foot height limit for the construction of a 39'-6" high multipurpose building and a 32'-9" high library/administration building.

LOCATION: In the Coastal Zone, 1.25+/- miles NE of downtown Gualala, on the E side of Old Stage Road (CR 502), 0.2+/- miles S of its intersection with Pacific Woods Drive (CR 524), formerly Bower's Field landing strip, located at 39290 Old Stage Road; AP# 145-091-22.

TOTAL ACREAGE: 10.5+/- acres

ZONING: Remote Residential (RMR)

ADJACENT ZONING:
North: Rural Residential (RR)
East: Rural Residential (RR)
South: Remote Residential and General Industrial (RMR/I-2)
West: Remote Residential (RMR)

GENERAL PLAN:
North: Rural Residential- 5 acre minimum (RR-5(1))
East: Rural Residential- 5 acre minimum and Rural Residential- 1 acre minimum (RR-5(1)/RR-1)
South: Remote Residential- 40 acre minimum and Industrial (RMR-40/I)
West: Remote Residential- 40 acre minimum (RMR-40)

EXISTING USES: Vacant, site was formerly a private landing strip

SURROUNDING LAND USES:
North: Residential
East: Residential
South: Vacant, Gualala redwoods
West: Vacant

SURROUNDING LOT SIZES:

North:	3.5 ± acres
East:	1 - 3.6+/- acres
South:	40 ± and 75+/- acres
West:	16.5 ± acres

SUPERVISORIAL DISTRICT: 5

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Coastal Development Use Permit (CDU 9-2005) is a request by the Gualala Community Services District (GCSD) that would provide for an extension of a 6-inch diameter wastewater main from an existing GCSD system to serve the proposed Gualala Elementary School northeast of downtown Gualala. The addition to the main would extend approximately 1.25+/- miles and would be located entirely within a county road right-of-way. The actual service connection to the school would be installed as part of the school construction. The scope of the project is to serve only the proposed school and no other connections will be provided. CDU 9-2005 was assessed concurrently with the request for the proposed Gualala Elementary School proposal (CDU 10-2004/V 10-2004) however the projects are segregated, as the GSCD is the lead agency under CEQA for their project.

PROJECT DESCRIPTION: The applicants, the Arena Union Elementary School District is requesting approval of a Coastal Development Use Permit and Variance to develop a former air strip field (Bower Field) into a forested school site, which is located 1.25+/- miles northeast of downtown Gualala. The proposal would involve the development of the site into a phased Kindergarten through fifth grade (K-5) elementary school. The existing gravel access road is to be paved and widened, which will lead to the three individual parking fields. The un-vegetated level air field and adjacent forest area is to be developed into playing fields. The project is to be developed in three (3) phases as funding permits, and would accommodate up to 250 students and 18 staff at project buildout.

Phase I would include the construction of a 3,118 square foot library/administration building to be centrally located. Additionally, four (4) 2,215 square foot classroom buildings, a parking lot and a playground would be developed. Phase II will include four (4) additional 2,215 square foot classroom buildings, including a day-care/pre-school facility and a playground. Phase III will provide for an 8,607 square foot multi-purpose building with an adjacent 30-space parking lot, located immediately to the east of the proposed multi-purpose building. The proposed administration/library building is to be a two-story building, which is to be stepped into the hillside, with the first floor to be constructed at an elevation of 732', and the second floor/level to be constructed at an elevation of 744'. Each level would be accessed at grade, due to its stepped nature into the site's topography. Variances to the 28-foot height limit are requested for the construction of the proposed 39'-6" high multipurpose building and a 32'-9" high library/administration building.

ENVIRONMENTAL REVIEW: Completion of the Initial Study Checklist has identified the following areas of environmental concern:

Earth Movement (Items 1a,1b,1c, 1e, 1g) The project site is located in a seismically active area of the North Coast Region, but is not located within the Alquist-Priolo Special Studies Zone as identified by the Alquist-Priolo Fault Hazard Maps. The San Andreas Fault is located approximately 0.9 miles northeast of the project site. A Geological and Environmental Hazards Screening Report, dated September 15, 2000, was prepared by the IT-Group for the Arena Union Elementary School District, which examined geological hazards. The report concluded that due to the proximity of active faults to the site, the potential for earthquake – induced severe ground shaking at the site is considered to be high, but indicated that the hazard can be mitigated by proper design and construction techniques. The report further concluded that due to the bedrock nature of the site, the potential for liquefaction at the site is unlikely. As such, it is recommended that a geotechnical engineer review the proposed building(s) anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems.

Relative to grading activities associated with the proposed school, the applicant's architect has submitted a preliminary grading plan. Because of the nature of the terrain, the plan attempts balances of cut and fill on the site. The estimated quantity of cut is 5,400 cubic yards and the estimated amount of fill is approximately 3,800 cubic yards, which includes a 15% factor for shrinkage. Excess dirt is to be disposed of in the vicinity of the old

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runway so as to build a playground area. Any borrow material is to also come from that area as well, but still generating a playground. Based on the preliminary layouts and cross-sections taken by the project architect, the maximum cut will be approximately 8-feet in the vicinity of the library/administration building, with the maximum fill being 10-feet.

Compliance with the Uniform Building Code standards will address the issues associated with the cutting and filling of the site. *Conditions Numbers B-1, B-2, B-3, B-4, B-5* are recommended.

Air Quality (Item 2a) During the grading activities of the site, dust control measures will be required to alleviate the impacts to air quality. *Conditions Numbers B-6 through B-10* are recommended.

Water (Item 3b, 3c, 3d,3e,3h, and 3i) The construction of the facility (e.g. structures, including classrooms, and impervious surface areas such as parking areas) may have the potential to alter existing drainage characteristics.

The site currently drains in a southerly to southwesterly direction, with the majority of the site drainage flowing into China Gulch, traveling approximately 6,700 feet at an average slope of 9.4% before it encounters a roadway per the analysis provided by the project engineer, Robert Bliss. The project engineer concludes that with subtle mitigation such as an on-site bio-swale, which can detain and/or filter storm water during a major storm event including the 100 year storm, the facility's overall contribution to watershed drainage would cause only a 1.3% increase to storm water release which is considered negligible.

The project engineer has stated that in discussing the proposal with the RWQCB staff, it was suggested that runoff be allowed to dissipate into natural growth in and around the parking area, as the additional runoff would have minimal impact because of the fairly dense natural growth and ground cover in the area. There are three activity areas, each with a different surface and purpose. The most southerly activity area a parking area located in a portion of land formerly a part of the bower field airstrip and consists of a compacted gravel surface. The middle area is a play structure area with wood bark type surface and the most northerly area will have a grass turf surface. According to Mr. Bliss, the net change in runoff for these areas is a decrease of 0.05 cfs. It is not anticipated that there will be a significant change or impact to the drainage for property. It should also be noted that that the discharge of the runoff from the parking lot is the northwest corner of the project will be directed inward toward the campus and in the direction of China Gulch so that it will not increase the runoff onto the adjacent neighbor's property.

The project engineer has indicated that runoff was calculated and determined using the Caltrans method which involves determining the time of concentration, using that information with the intensity-duration-frequency curve for Point Arena to determine the rainfall intensity in inches per hour for the 100-year storm event.

The Mendocino County Department of Transportation has reviewed the information relative to drainage and has recommended the submittal of both on-site and off-site improvement plans to be submitted accompanied with a final drainage report to be prepared by a civil engineer for review by the Department of Transportation and the Department of Planning and Building Services prior to development of the site. The drainage report is to include hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to satisfactory points of discharge. *Condition Numbers B-11 and B 21* are recommended.

Staff has reviewed the FEMA Flood Insurance Rate Map (#060183-1075-C) for the project area and find that the subject property is not within a special flood hazard area (100-year flood zone) as defined by FEMA. Based on this, staff does not anticipate any significant adverse on-site impacts relative to flooding as a result of the proposed project.

Plant/Animal Life (Items 4a,4b,4c,5a,5b) An initial review of the proposed project by staff found that the site may have potential habitat for the Monarch Butterfly as well as contain pygmy soils.

Mendocino County Coastal Element Policy 3.1-29 states: 9 of 29

"The California Department of Fish and Game, the California Native Plant Society, and the U.S. Fish and Wildlife Service shall be requested to maintain and augment mapped inventory of all rare, endangered, threatened, and protected plant and wildlife habitats on the Mendocino Coast based on up-to-date survey information. Symbols indicating rare or endangered plants and wildlife are placed on the Land Use maps to generally locate listed plant species and will be pinpointed as necessary to prevent degradation prior to issuing any development permit. Furthermore, the Department of Fish and Game is requested to work with the County during the planning and permit process to evaluate the significance of mapped sites as they apply to individual development applications."

Mendocino County Coastal Element Policy 3.1-7 states as follows:

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

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

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

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

Based on the potential presence for sensitive plant and wildlife species, the Arena Union Elementary School District submitted a Biological Assessment, dated December 2005, prepared by BioConsultant, LLC for the proposed project. A two day survey and assessment was conducted at the proposed school site on November 10 and 11, 2005, and did not result in the observation of any special-status resources for the four potentially occurring target species in the area. The biological consultant concluded that the project as proposed is unlikely to impact special status species.

The report identified the site as being composed of mixed coniferous forest surrounding the abandoned Bower's airfield, which is bare ground with the characteristics of an old neglected airfield. The forested areas are second growth, well spaced, with an average tree height ranging from 50 to 80 feet. Bishop pine is the dominant tree with stands of coast redwood and tan oak occurring in a mosaic pattern throughout the overall matrix of pines.

The report states that the area was surveyed for the presence of the Townsend's big-eared bat as well as it's subspecies, western, and pale big-eared bats. In addition, the biologist also surveyed for spotted owl and marbled murrelet. In addition to these species, the following were species were also surveyed for: Sonoma tree vole, monarch butterfly, Behren's silverspot butterfly, Point Arena mountain beaver, rhinocerous auklet, northwestern pond turtle, tidewater goby, tufted puffin, Gualala roach, pink salmon, and the foothill yellow-legged frog. Additionally, the project site was also assessed for suitable nesting habitat for raptor species.

The report states that the absence of perennial aquatic environs and suitability-aged forested habitat within the project site eliminates the majority of the species on the list. According to the report, the young forest habitat lacks the structure and age to support the spotted owl and the marbled-murrelet. Additionally, the site's proximity

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to nearby residences reduces the likelihood of their occurrence. The lack of appropriate habitat to support the Behren's silverspot butterfly larva host plant (viola adunca) and the limited adult nectar sources rules out the possibility of the butterfly's presence. According to the biologist, the larva host plant was not detected during the biological study, which was conducted during the appropriate bloom times. Also noted, was that the project site was outside of the Point Arena mountain beaver distribution range. The report further states that some of the larger trees on the site provide for suitable nesting habitat for several raptors and potential roosting sites for some species bats. However, the site does not contain "cave analogs" such as abandoned buildings, bridges, or large hollow trees required by the Townsend's big-eared bat as roosting habitat. The young forest dominated by Bishop pine was assessed as low quality habitat for the Sonoma tree vole, although a colony could potentially occur. The site contains limited resources for over-wintering monarchs in the form of late season nectar sources, but could also potentially occur.

A complete floristic survey of the site was conducted by Kjeldsen Biological Consulting between December 2005 and August 2006. A Botanical Resources Report, dated September 19, 2006, was prepared by Kjeldsen Biological Consulting, which assessed project impacts to special status plant species and communities and provided mitigation measures. Coast Lily (Lilium maritinum) and Thin-lobed horkelia (Horkelia tenuiloba) were found on the property, as identified within Exhibit A. Sensitive plant communities that have the potential to be impacted include native perennial bunch grasses and Northern Bishop Pine Forest. The report also identifies mitigation measures to protect existing native species and reduce the spread of invasive exotic plant species on the property, and specifically, in an on-site drainage ditch which will be improved for storm water treatment. Clare Golec, staff botanist from the California Department of Fish and Game, reviewed the site with the consulting botanists, reviewed the initial and final reports, and provided comments. Initial DFG requests consisted of additional spring floristic surveys, the establishment of a buffer zone along the western portion of the property (conservation/study area) to protect the majority of horkelia and Bishop pine woodland, and a long term invasive weed control and management program. Upon review of the final botanical report DFG responded that their concerns had been adequately addressed.

The incorporation of all mitigation measures from the Biological Survey dated December 2005, prepared by BioConsultant LLC, and the January 3, 2006 report and addendum dated February 2006, prepared by Kjeldsen Biological Consulting addressing botanical resources are to be adhered to, which sufficiently address potential impacts to both biological and botanical resources as a result of the proposed elementary school site. (see Condition Numbers A-8 and B-12 and attached Exhibit A.

Noise (Items 6a and 6b): The subject property is bordered by a residential subdivision to the northeast, larger residential parcels to the north, and larger unimproved parcels to the south and west that are characteristic of the RMR 40 zoning designation in the area. As of the writing of this report, there have been no concerns expressed by the neighbors in immediate area regarding noise. The applicants are to retain as much on-site vegetation along the easterly and northeasterly boundaries, which will serve to attenuate noise from both construction activities as well as from future school generated noise.

Outside play areas are located in the southwesterly portion of the site with structures themselves somewhat shielding some neighboring properties from noise generated from those areas. Organized activities will be limited to daylight hours. So as to mitigate project impact noise, staff recommends the following mitigations be incorporated into the entitlement:

Construction hours shall be limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, with no construction activities occurring on holidays; all stationary equipment (e.g., generators, compressors, etc.) shall be shielded from residences to the east and north; all equipment shall be properly maintained and muffled; and construction traffic shall not be permitted before 7:30 a.m. Further, staff recommends that no organized outside play activities be scheduled for night time hours and that school property be secured, if possible, in the evening to discourage use of outside play equipment during the evening. Provided that these recommended mitigation measures are implemented, staff believes that the short term construction noise impacts will be minimal (see *Condition Number B-13*).

Light and Glare (Item 7a): Section 20.504.035 of the County Coastal Zoning Code states as follows:

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

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

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

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

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

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

In order to better understand the proposed impacts associated with the introduction of a new light source, the applicant has submitted a Lighting Plan that describes the proposed light fixtures and light standards along with their location on the site, and including photometrics information for each light fixture. Relative to the site lighting plan, the applicants are proposing the installation of seven (7) freestanding 25-ft. high Lithonia Box light standards for the school's parking fields. The overall height of these light fixtures is 25-ft., which includes a concrete pedestal for the protection of the light standard from vehicular traffic in the parking lots. Three (3) of the light fixtures are to be located within the northern parking field, adjacent to the entrance driveway; two light fixtures are to be located on the east end of the parking field located adjacent to the multipurpose building; and two fixtures within the parking field located at the southwestern portion of the property, adjacent to the playing fields. These light fixtures are designed to be mounted at a 90-degree angle on mounting poles and provide a down cast light onto the parking field, thus minimizing light spillage onto adjacent properties. The fixture and pole structure being proposed will have a dark bronze corrosion-resistant powder finish, minimizing glare from the fixture itself. There are no light fixtures/standards being proposed for the school's playing fields.

As designed each of the proposed buildings will utilize recessed compact florescent light fixtures. These lights are to be recessed in an 8-inch housing within the exterior ceilings of the buildings. Therefore, the light fixture is not projecting below the ceiling, further minimizing light spillage beyond the structure itself. In order to minimize any potential for nighttime lighting intruding upon existing neighboring properties, staff will recommend that no vegetation removal or grading occur along the eastern property boarding immediately adjacent to the residences along Old Stage Road. The distance to be maintained shall be that area identified on the "Overall Site Plan" drawing, accompanying the submittal (*See Condition NumberB-15, B-30 and B-31*).

Based on the number of proposed free-standing parking light standards (a total of 7), which are to be phased with the development of the school, including the use of exterior recessed ceiling fixtures and the distance to neighboring residences, impacts associated with the introduction of a new light source to the area shall be minimal. *Condition Number B-14, and B-18* shall be complied with to prevent the glare of lighting beyond the subject property.

Land Use (Item 8a): As part of the proposal, the Gualala Community Services District (GCSD) is also proposing to extend its wastewater collection system to serve the proposed Gualala Elementary School. A separate use permit is being processed concurrent with this application for this entitlement, however a discussion of this project is important to understand the subject project as an extension of this service has a "growth inducing" potential to surrounding areas. Specifically, the wastewater pipeline extension would consist of the installation of approximately 6,500 feet of 6-inch diameter PVC plastic wastewater line in the public right-of-way of Old Stage Road from the terminus of its existing system to the new school site. The purpose of the new wastewater line is to serve the proposed school only, with no residential connections proposed as part of the wastewater extension. The Gualala Town Plan states that future residential development/growth should be concentrated with the Town

Plan area, thereby relieving development pressures on resource lands in the outlying areas. The Gualala Town Plan also notes that new development within the GCSD assessment/service area cannot proceed unless connection to the wastewater treatment system has been authorized by the GCSD.

Although, the proposal for the wastewater system extension is only to serve the proposed school, on behalf of the applicant, Rau and Associates prepared a cumulative impact analysis for the GCSD sewer line extension relative to the proposed school. The impact analysis, dated January 12, 2006, has provided estimated build out figures addressing the potential for growth inducement resulting from expanded sewer services. Relative to the sewer line extension, the report includes the following information:

1. Detailed residential buildout projections and analyses are included in the Gualala Town Plan, as are goals and policies to address projected population growth. The figures we calculated may be used to supplement the information provided in the Town Plan.

2. At this time the sewerline extension is intended to serve the elementary school ONLY. Soil testing has demonstrated that the soils on the school property will not support an onsite septic system; therefore the only means for developing the property as a school would be if sewer services were made available. The property was donated to the School District, and as such is the only economically feasible location to develop a school.

3. Construction of an elementary school in Gualala is the result of a significant need as identified in Section 2.8 of the Gualala Town Plan:

   "The substantial additional residential development proposed within the Town Plan area could result in a significant increase in the population of school-age children. The existing elementary school and high school serving the Gualala area are in Point Arena. School officials indicate that as of 1997 the elementary school is approaching maximum capacity. The Gualala area already has the largest population of school-aged children attending these schools. Most children take the bus to and from school - a significant expense to the school district. Construction of a local school could enable many children to walk to school. The school district presently owns a 10 acre site adjoining, but outside of, the Town Plan area. It is possible that another site within the Town Plan area may be acquired at a future date.

   Goal G2.8-1 To provide for development of needed educational facilities for the anticipated growth in the student population."

According to the Town Plan, the school is being proposed ***in response to*** *an increasing population in order to serve the needs of the community. Extension of the sewer line is necessary if the school is to be built.*

According to Rau and Associates, the following table identifies a number of different scenarios based on whether potential growth resulting from the sewer line expansion would occur (a) only as far as the school property or (b) within the entirety of GCSD Zones 3 & 4. Under each of these scenarios the number of residential parcels that could be created based on *existing* General Plan classification and zoning was determined, as well as the number of parcels that could be created subject to General Plan amendments and rezoning. Within the latter category, the number of parcels created is based on lot sizes of 5 acres, 1 acre, and 6,000 square feet. Lot sizes of 6,000 square feet have been considered since the identified areas are served by a local water district (where public sewer and water service is available the minimum lot size is 6,000 square feet). Calculations reflect an 80 percent buildout scenario.

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Table 1. Buildout Projections: Includes the Area in Zone 4 from the Beginning of the Sewerline Extension to the Proposed School Site

General Plan Classification	Number of parcels that could be created based on existing GP classification	Number of parcels that could be created if the GP and zoning were changed to allow for increased density		
		LOT SIZE		
		5 acres	1 acre	6,000 square feet
FL160	0	9	54	404
RMR40	3	36	216	1615
RR5	2	N/A	22	187
RR5(RR2)	3	N/A	5	76
RR5(SR)	58	N/A	N/A	N/A
RR1	16	N/A	N/A	123
TOTAL	**82**	**45**	**297**	**2,405**

Table 2. Buildout Projections: Includes all of Zones 3 and 4

General Plan Classification	Number of parcels that could be created based on existing GP classification	Number of parcels that could be created if the GP and zoning were changed to allow for increased density		
		LOT SIZE		
		5 acres	1 acre	6,000 square feet
FL160	0	9	54	404
RMR40	2	46	300	2276
RMR20	0	5	37	295
RR5	2	N/A	22	187
RR5(RR2)	3	N/A	5	76
RR5(RR1)	8	N/A	N/A	156
RR5(SR)	58	N/A	N/A	N/A
RR1	30	N/A	N/A	314
TOTAL	**101**	**60**	**418**	**3,708**

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The following rational has been provided by Rau and Associates in their analysis of potential growth inducement impacts that could be attributed to the proposed project.

1. The above figures are significantly inflated inasmuch as they were calculated based on existing acreage and General Plan classifications only, and do not take into account any development constraints such as topography or timber conversion, or the feasibility of such increased density. Therefore, projected subdivision under the existing General Plan and zoning is inflated.

2. Any General Plan amendment, rezoning or subdivision would require CEQA review, including an analysis of all potential General Plan policy and environmental impacts resulting from proposed projects. Any residential development proposed within the Coastal Zone, including construction of a single-family residence, would require a Coastal Development Permit, also a discretionary process. For this reason, the analysis should be restricted to an analysis of impacts under the existing General Plan classifications. When the GCSD decides to expand into Zones 3 and 4, a complete environmental assessment, and likely an EIR, will be required at that time.

3. The proposed project does not request a General Plan or zoning density increase, but is merely requesting that services be provided to a proposed public use. The environmental document and any impacts that remain of concern to the lead agency, notwithstanding the arguments herein to the contrary, can be fully mitigated by adopting a mitigation that restricts services to the proposed use until further environmental review is performed in connection with any future discretionary project.

4. Gualala Town Plan policies and the Housing Element favor higher density, concentrated development within the central town area. These policies would tend to discourage density increases in this area that will rely upon limited water and sewer capacity.

The proposed waste water pipeline extension is proposed to extend into zone 4, which is presently not served. The analysis does not, in staff's opinion, conclusively negate the potential for the sewer line extension to not create a growth inducing factor within the corridor of the proposed extension. With the service potential present, additional parcels could be created due to the neighboring infrastructure to support additional density. The Plan stipulates that no additional development may occur in the GCSD zones 1 and 2 unless a wastewater connection with GCSD has been authorized. However, one must consider that a school site is within the "residential reserve" of the Town Plan area.[1] Per appendix A of the Town Plan,

> "A school/park site has been proposed in the Residential Reserve area and is an appropriate element of the Residential Reserve concept."

The service of the sewer system is essential to support the school, as on-site waste disposal is not feasible. While extension of the infrastructure has the potential to place pressure on the District to extend service to other properties along the path of the service extension, adherence to community and County planning efforts will also temper those potential demands. The use permit for the extension of the of the waste water pipeline can be specifically limited to providing waste water service to the proposed school and no residential connections , thereby providing another checkpoint to balance the service connection to facilitate this other community development and enhancement project.

Natural Resources (Item 9a): The project site is located within the Coastal Zone and has a land use designation of RMR 40. According to the Coastal Element of the General Plan, the intent of the Remote Residential (RMR) classification is intended to be applied to lands having constraints for commercial agriculture, timber production or farming and low density agricultural/residential uses by absence of such limitations as inadequate access,

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[1] The Residential Reserve area is presently zoned Remote Rural-40 acre minimum (RMR-40) and Forest Land (FL). In acknowledgment of the need for substantial environmental analysis prior to increasing residential densities in the Residential Reserve area, the Gualala Town Plan leaves the existing zoning in place. Future Local Coastal Plan (LCP) amendments and rezoning would be necessary for residential development at greater densities than permitted by the RMR-40 and FL zoning within the Residential Reserve area. *see p.271 of the Town Plan. 15 of 29

unacceptable hazard exposure or incompatibility with adjoining resource land uses. The surrounding properties to the north and east are zoned Rural Residential and have been developed with single-family residences. Properties to the south and west are zoned Remote Residential and Industrial and are currently undeveloped. The immediate surrounding area is primarily characterized by rural residential development with a mixed conifer and deciduous coastal mixed conifer hardwood woodlands, including an abandoned airstrip (Bower's Field), and existing access road, and a PG & E power line easement through the property.

Relative to agricultural resources, Section 30241 of the Coastal Act states in part that "the maximum amount of prime agricultural land shall be maintained in agricultural production to assure the production of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban uses." Section 30242 of the Coastal Act also states in part that "all other lands suitable for agricultural uses shall not be converted to non-agricultural uses unless (1) continued renewed agricultural use is not feasible, or such conversion would preserve prime agricultural land or concentrate development." The subject property has not been designated as prime agricultural land or is included within the Williamson Act.

Relative to forestry resources, the Coastal Act also provides for the protection of timberlands for timber production. Coastal Element Policies 3.3-8 and 3.3-9 states as follows:

Mendocino County Coastal Element Policy 3.3-8 states:

> *"In order to minimize forest land-residential conflicts, site plans in residential area shall not result in a residential structure being closer than 200 feet from a parcel designated for forest lands use, unless there is no other feasible building site on an existing residential parcel.*

Mendocino County Coastal Element Policy 3.3-9 states in part:

> *"Limit residential uses and subdivisions adjacent to Commercial Timberlands to a low density standard to provide a buffer to minimize the conflicts between commercial timber management operations and residential land uses..."*

The subject property is not utilized for commercial timber and nor is it adjacent to or designated as being in a Timber Production Zone (TPZ). And although the proposal will require selective timber removal for the school's footprint, the proposal will not result in the entire site being denuded of trees and vegetation, as it is the intent of the project to have it integrated with the surrounding stands of trees and vegetation. Information in the file indicates that approximately 3-5 acres of vegetation will need to be removed for the site's development, mostly in the proposed parking and play areas. A timber conversion permit (TCP) as well as a Timber Harvest Plan will be required to be secured through the California Department of Forestry (*see Condition Number B-17*).

Transportation/Circulation (Items 12a, 12b, 12c and 12f): The project site is to be accessed via a 60-ft. wide access easement, approximate 450-ft. in length.

Mendocino County Coastal Element Policy 4.12-6 states:

> *"A traffic impact analysis shall be required of all future development projects within the Gualala CSD which will generate twenty or more peak hour trips. The Institute of traffic Engineers Trip Generation Report shall be used to determine trip generation potential of proposed projects."*

In response to the above noted Coastal Element Policy, the applicants have commissioned a traffic impact study, dated February 27, 2006, prepared by W-Trans (Whitlock & Weinberger Transportation, Inc.) so as to assess potential trip generation as well as the impact of new traffic on critical intersections. The traffic study included an assessment of the project, including sewer buildout conditions. The study evaluated three intersections, which include: (1) State Route 1/Pacific Woods Road; (2) Old Stage road/Pacific Woods Road; and (3) State Route 1/Old Stage Road. According to the traffic study, conditions were evaluated during the morning and mid-afternoon departure periods. The a.m. peak hour is the highest volume hour between 7:00 and 9:00 a.m. and captures conditions during the outbound home to work and school commute, while the afternoon peak hour occurs between 1:30 and 3:30 p.m. and captures homebound school travel.

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The traffic study examined existing conditions, as well as the addition of project generated traffic volumes to the local transportation network. The study indicates that the intersections noted above would be expected to continue operating at an acceptable Level of Service A or B during both peak hours evaluated. Relative to future, theoretical build-out, the study intersections would continue to operate at acceptable Levels of Service.

The W-Trans Traffic Impact Study also assessed site distance, pedestrian/bicycle access as well as on-site circulation. Site distance from the location of the proposed school driveway onto Old Stage Road was evaluated based on sight distance criteria contained in Caltrans' Highway Design Manual. The existing sight distance was approximately 450 feet to the north. The available sight distance to the south from the driveway location exceeds 500 feet. The study further states that despite the fact that the roadway is generally curved and contains some rolls in the project area, the available sight distance in both directions from the school driveway along Old Stage Road exceeds applicable Caltrans criterion for both the posted and prevailing speeds.

Relative to pedestrian and bicycle access, Gualala Town Plan Policy G3-2.5 states:

> *"The Gualala Town Plan emphasizes the pedestrian aspect of the community. A future school site should be constructed in a location that will permit a maximum number of students to walk to school. The School District should install appropriate pedestrian facilities adjacent to the school. The County and the School District shall cooperate in the development of a pathway network to enable children to safely walk to and from school. The County and the School District should develop an arrangement permitting use of the school grounds by the public during non-school hours."*

The W-Trans report states that under the current rural conditions, students would be forced to walk or bike in the roadway with vehicles, and there are no existing crosswalks in the study area. However, the report acknowledges that the installation of a comprehensive sidewalk network along Pacific Woods Road, Old Stage Road and Old State Highway would likely involve costly improvements to existing drainage ditches and right-of-way acquisitions, and the cost of improvements would outweigh the benefits to a small number of children who might utilize the facilities. Additionally, an extensive sidewalk network would be out of character with the rural nature of the area. The report further states that consideration should be given to the installation of basic pedestrian facilities in the immediate vicinity of the school site to serve children who live close to Moonrise Drive and just south of the school driveway. The report also recommends the installation of school-related signage and pavement markings on Old Stage Road to warn drivers that children may be present.

In regards to on-site circulation, the internal circulation system proposed for the school site involves a single driveway that would provide access to three (3) parking areas on the outside of the building clusters. The primary loading and unloading zone would be located near the parking area closest to Old Stage Road, and would have approximately 450 feet of curb space for bus and passenger vehicle loading. It is proposed that children would be dropped off along the curb directly in front of the buildings, and would not need to cross any drive aisles or streams of traffic. The report has indicated that due to the lack shoulders and high speeds on Old Stage Road near the school site, it is recommended that all loading and unloading activity take place completely on-site.

W-Trans has noted that the California Code of Regulations (Division I, Chapter 13, Subchapter I) addresses school facilities construction. Specifically Section 14030b provides standards for school site layouts, including parent drop off, bus loading areas, and parking. The standards include:

A. Buses do not pass through parking areas to enter or exit school sites unless a barrier is provided that prevents vehicles from backing directly into the bus area.

B. Parent drop off area is adjacent to school entrance and separate from bus area and parking.

C. Vehicle traffic pattern does not interfere with foot traffic patterns. Foot traffic does not have to pass through entrance to driveways to enter school. Crosswalks are clearly marked to define desired foot path to school entrance.

D. Parking stalls are not to be located so vehicles must back into bus or loading used by parents. Island fencing or curbs are used to separate parking areas form from loading/unloading areas.

E. To provide equal access to insure the purposes of the least restrictive environment, bust drop off for handicapped students is in the same location as for regular education students.

The W-Trans report noted that the proposed site plan for the Gualala Elementary School would need to be modified to fully meet the above noted standards. In particular, the bus and parent loading zones would need to be separated and the six diagonal parking spaces in front of the school building would need to be eliminated to ensure that drivers would not back into the loading zones from parking stalls. The applicant's architect has noted that the current site plan, including the configuration of the parking lots, as well as the student drop off area has been reviewed and approved by the State Architect's Office, which oversees the construction of public schools in California. However, both Mendocino County Department of Transportation staff and Planning and Building Services staff have both reviewed the site plan as well as W-Trans' finding and concur with the traffic engineers assessment, and believe that the site plan should be modified to address the internal circulation concerns noted above. Although, the applicant has stated that the site plan has been approved by the State Department of Education's Office, the Planning Commission still has discretion over this entitlement, and may wish to discuss further the issue of internal circulation.

The report, dated February 27, 2006, prepared by W-Trans concluded that:

- There are no obvious collision patterns at the three study intersections or near the project site;
- The proposed Gualala Elementary School would be expected to generate 323 new daily trip ends, including 105 trips during the a.m. peak hour and 70 trips during the school departure period. The addition of these trips to existing base volumes at the study intersections would have less than significant impacts on level of service;
- The expansion of the sewer facilities to Zones 3 and 4 could result in the development of 181 new single family homes. These homes would generate approximately 1,732 new daily trips, with 136 new a.m. peak hour trips, and 183 trips during the p.m. peak hour. These trips would have less than significant impacts on level of service at the three study intersections when added to existing base volumes, and area already accounted for in future volume projections in Gualala;
- Operation at the three study intersections is expected to remain at acceptable levels overall under all scenarios evaluated (including with the project and the sewer line expansion); and
- Sight distance from the project driveway along Old Stage Road complies with Caltrans criterion.

The Study has recommended the following mitigation measures:

- The school district should construct a 5-foot wide paved pedestrian pathway on one side of Old Stage Road between the school site and Moonrise drive, and for approximately 350 feet south of the school driveway. This could involve widening the paved shoulder of Old Stage Road and constructing a berm to separate pedestrians from vehicle flow. A more comprehensive sidewalk network was deemed to be too costly to justify the benefits that would result for a small number of children. On-site sidewalks along the school driveway to Old Stage Road should connect with any off-site facilities constructed.
- The County should consider installing school-related signage or pavement markings on Old Stage Road per guidelines in the MUTCD. The county should additionally consider lowering the speed limit on Old Stage Road to provide a safety benefit to pedestrians and bicyclists, particularly since the prevailing speeds on this roadway are higher than the posted speed limit.
- The project site plan should be modified to meet the standards in Title 5 of the California Code of Regulations. In addition, on-site stacking length should be maximized, and should ideally be 750 feet or more.

- The school district should pay 2.8 percent of the cost of signalization project at SR 1/Old Stage Road if the option is chosen for this intersection.

In order to determine whether the above-recommended improvements would be feasible along Old Stage Road, the Mendocino County Department of Transportation (DOT) had previously recommended to the applicant that Improvement Plans be prepared so as to evaluate the feasibility of said improvements pursuant to CEQA. Improvement Plans were prepared to a 90% completion stage and have been reviewed by the DOT. DOT has stated that it is their belief that the improvements proposed on the Improvement Plans will adequately mitigate the off-site traffic impacts to pedestrian safety generated by the proposed elementary school. Specifically, the DOT has recommended that:

A. Concrete curb, gutter and 5-foot wide sidewalk shall be constructed on the east side of Old Stage Road (CR 502) extending from the northerly end of the curve return on Moonrise Drive (CR 514C) south approximately 1,600 feet to the south line of APN 145-092-15. Construction shall be completed prior to occupancy of the school.

B. Crosswalk, In-Street Pedestrian Crossing Signs (R1-6), per MUTCD Section 2B.12.2006 Edition, pedestrian activated flashing at the crosswalk, school speed zone signs without flashing lights shall be installed as proposed in the Improvement Plans for Gualala Elementary School Off-site Pedestrian Improvements.

C. The required signage and pedestrian improvements described in A and B above shall be constructed in accordance with Improvement Plans, Specifications and Estimates prepared by a Civil Engineer and approved by the Mendocino County Department of Transportation. Off-Site Improvement Plans shall be accompanied by a drainage report prepared by a Civil Engineer. The report shall provide hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to a satisfactory point of disposal as approved by the Department of Transportation. The applicant is responsible for obtaining all necessary permits prior to construction. For improvements constructed through the Improvement Plan process, an Improvement Plan – Specification Checking and Construction Inspection Fee of four percent of the approved engineer's cost estimate would apply.

D. On-site improvement plans shall be accompanied by a final drainage report prepared by a Civil Engineer for review by the County Department of Planning and Building Services and the Department of Transportation. The report shall include hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to a satisfactory point of disposal.

Condition Numbers B-18, B-19, B-20, B-21, B-22, and B-23 are recommended so s to mitigate potential impacts associated with traffic and circulation.

Public Service (Item 13a): The project was referred to both the California Department of Forestry and also to the South Coast Fire District. As of the writing of this staff report, no comments have been received by either agency. Staff would however, require that *Conditions Number B-24* be required to mitigate any impacts the additional units may have upon existing fire services.

Utilities (Item 15A). The project site is located within the service area of the North Gualala Water Company. The project was initially referred to the water district for their review and comment. The North Gualala Water Company had previously indicated that the property is currently not served, but that service is available pursuant to California Public Utilities and State Department of Health Services rules and regulations. The applicant will be required to provide appropriate engineering and fees to establish the connection. Based on the comments received form the North Gualala Water Company, staff does not anticipate any significant impacts relative to the delivery of water service for both domestic uses and fire flows.

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The project will be served by a new 6,500 ft., 6-inch wastewater pipeline to be installed and maintained by the Gualala Community Services District as described above. Compliance with recommended *Condition Numbers B-25, B-26 and B-27*, will mitigate potential concerns regarding water availability and water quality.

Human Health/Hazards (Items 16a, 16b and 16c): Relative to environmental and health hazards, the applicant has provided an Environmental Assessment, prepared by The IT Group, dated September 15, 2000. The report indicates that the proposed school site is not identified as being on or near a hazardous or solid waste disposal facility. The report also noted that no high pressure gas lines or fuel transmission lines carrying hazardous materials or waste have been identified within a one-mile radius of the subject property. Approximately 1,000 feet northwest of the school site is an electrical transmission line easement carrying 115 kilovolts for distribution near the Town of Gualala. The report also concluded that serpentine rock is not present at the site as determined by the California State Geologist and or published on maps prepared by the California Department of Conservation, Division of Mines and Geology, thus naturally occurring asbestos is not expected.

It is not anticipated that the proposed project would require long-term storage, treatment, disposal, or transportation of significant quantities of hazardous materials. It is anticipated that during construction activities small quantities of hydrocarbons (i.e. gasoline, diesel fuels, lubricants, solvents, etc.) required for operations and maintenance of construction equipment will be stored and utilized on-site. However, these generally tend to be small quantities, however, if not adequately addressed, a potential environmental impact could result from potential spills. Staff will recommend that all equipment fueling and servicing shall occur at a designated location (i.e. staging area on the site or a local service station); additionally, any spills resulting from fueling or hydraulic line breaks/leakage shall be contained and cleaned up immediately; Fluids drained from construction equipment and machinery shall be collected in a leak proof container(s) and disposed of at an appropriate disposal facility; no refueling or servicing shall be conducted without absorbent materials (i.e. absorbent pads, mats, granules, etc.). Compliance with *Condition Number B-28* will address potential impacts associated with hazardous materials as noted above.

Aesthetics (Item 17a): Although the project is located within the Coastal Zone, it is not located on the west side of Highway 1 or within a Highly Scenic Area as designated by the Coastal Element.

The Coastal Act mandates the protection of visual resources. Section 30251 of the Coastal Act specifically states that the scenic and visual qualities of the coastal areas shall be considered and protected as a resource of public importance. Coastal Element policy 3.5-1 states, in part:

> The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.

The proposed school has been designed to minimize grading, with the project architect noting attempts to achieve a balance of cut and fill with the overall design of the development. The proposed project at total build-out will include approximately 50,100 square feet of new landscaping, which is to be integrated into the school site within the forest setting of the site. The project site composed of mixed coniferous forest surrounding the abandoned Bower's airfield. The forest area is second growth, well spaced, with an average tree height ranging from 50-80 feet. Bishop pine is the dominant tree in the area with stands of redwoods intermixed. The un-vegetated level airfield and adjacent forest are to be developed into playing fields. The existing gravel access road to the site is to be paved and widened.

The classroom buildings are all being planned as one story. The structures have a contemporary architectural style, with the simple classroom design depicting clerestory windows on the north elevation. Very generally, this contemporary design includes some Asian design influences, however the larger multi-purpose room has, again generally, more of a barn-like appearance. The two larger buildings, the library/administration building and the multi-purpose building will be taller than the maximum 28 foot height limit and a variance is requested for both. The proposed administration/library building is to be a 32'-9" tall, two-story building, which is to be stepped into

Based upon the review by the Northwest Information Center at Sonoma State University and the Mendocino County Archaeological Commission, no significant impacts upon archaeological/paleontological resources are anticipated as a result of the proposed project. However, should archaeological discoveries occur during any disturbance of the site, including development, compliance with requirements established by the Mendocino County Archaeological Resources Discovery Clause, Mendocino County Code Section 22.12.090 Discoveries, would adequately address any future cultural concerns. (*See Condition Number B-32*)

No structures that are 50 years or of historical significance are proposed to be removed or demolished as a result of this proposal. Therefore, no significant impacts upon historical resources are anticipated.

No significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

LOCAL COASTAL PLAN CONSISTENCY REVIEW: Mendocino County Code Section 20.380.005 defines the "intent" of the Remote Residential District as follows:

> "This district is intended to be applied to lands within the Coastal Zone which have constraints for commercial agriculture, timber production or grazing, but which are well-suited for small scale farming, light agriculture and low density residential uses, or where land has already been divided and substantial development has occurred."

The proposed expansion and use is one that is conditionally permitted within this district pursuant to Section 20.380.015 (Educational Facilities). Staff does not perceive any conflict with this project and the above stated intent.

GENERAL PLAN CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan.

RECOMMENDED MOTION:

Environmental Findings: The Planning Commission finds that no significant environmental impacts would result from the proposed project which can not be adequately mitigated through the conditions of approval, therefore, a Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of this report, the proposed project is consistent with applicable goals and policies of the General Plan, Coastal Element, and the Gualala Town Plan as subject to the conditions being recommended by staff.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

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

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

3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and

4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

21.9.29

the hillside, with the first floor to be constructed at an elevation of 732', and the second floor/level to be constructed at an elevation of 744'. Each level would be accessed at grade, due to its stepped nature into the site's topography. From the vantage of the neighboring properties, due to the slope and the stepped design, the structure would have the appearance of a slightly taller one-story structure. The proposed 39'-6" high multipurpose building will be located further south and distant from neighboring properties.

The applicant's stated justifications warranting the deviation from height standards include the following rationale:

> That extending the two buildings to two story will make the building site more compact and reducing the area to be cleared.
>
> One of the structures will appear as one story due to the stepped design.
>
> The stepped design furthers the facilities compliance with the American's With Disabilities Act.
>
> The more compact design further limits impact existing vegetation, thereby maintaining the visual screening provided.
>
> That the two story building is located more than 250 feet from any neighboring residence.
>
> That the multi-purpose building serves the public as it would be available for public activities.

Overall staff does not have any objection to the granting of the variance agrees with some of the logic provided by the applicant. The multi-purpose building, due to the combination of uses that potentially may be housed within (e.g. assembly, sport, entertainment, and education), is understandably designed to be flexible for future use.

Staff does recommend that final color of the structure be selected to be subtle and blend with the surrounding.

A 4' x 6' sign is to place identifying the site, stating: Gualala Elementary School. Staff recommends that the sign be sited such as to not interfere with site distance at any intersection and that the sign be made of wood to be consistent with general guidelines for signage within the area. (See conditions number 29, 30, and 31)

Cultural Resources (Items 19a, 19b): As part of the determination made pursuant to Government Code Section 21080.1, the lead agency shall determine whether the project may have a significant effect on archaeological resources. Specifically, Mendocino County Coastal Element Policy 3.5-10 states as follows:

> *"The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resources Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance.*

Initially, the Northwest Information Center at Sonoma State University reviewed the proposal and stated that the project site had the possibility of containing unrecorded archaeological site(s), and therefore recommended that a study be conducted prior to commencement of project activities. In response to the Northwest Information Center's comments on the proposed project, the Mendocino County Archaeological Commission on March 9, 2005 required that an archaeological study be prepared for the project. Subsequently, an archaeological survey/study was prepared by Jay Flaherty dated June 8, 2005, which identified no archaeological site on the subject property. The study and its findings were reviewed and accepted by the Mendocino County Archaeological Commission on October 12, 2005. 22 of 29

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

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

Project Findings: The Planning Commission approves #CDU 10-2004 subject to the conditions of approval recommended by staff further finding:

1. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided. The proposal will result in the construction off-site improvements along the east side of Old Stage road, including curb, gutter and sidewalk, approximately 1,600 feet in length, which is to be installed prior to use and occupancy of the school.

2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

3. That such use preserves the integrity of the zoning district. Pursuant to the County Zoning Ordinance, school facilities are permitted subject to securing a Use Permit.

Coastal Development Variance Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.540.020 of the Coastal Zoning Code, that:

1. There are special circumstances applicable to the property involved, including size, shape, topography, location, or surroundings. The proposal calls for the development of the northern portion of the property, with the western portion of the property to be devoted to a conservation/study area for the preservation of botanical species. By concentrating the proposed school in a smaller area of the property, more land is left in a natural state preserving visual screening. The stepped design of the library/administration building is blends with the other development appearing as a smaller building from surrounding residential areas. Multi-purpose buildings typically require high ceilings as they accommodate a variety of uses, including indoor sporting events. Finding can be made; and

2. That such special circumstances or conditions are not due to any action of the applicant subsequent to the application of the zoning regulations contained in this Division and applicable policies of the Coastal Element. The topography of the site is left in its general same state, with the structures utilizing land forms to conceal actual height. Preservation of surrounding or surrounding landscape maintains the integrity of the site. Finding can be made; and

3. That such variance is necessary for the preservation and enjoyment of privileges possessed by other property in the same vicinity and zone and denied to the property in question because of the special circumstances in Subsection (A). The granting of the variance would allow the proposed Gualala Elementary School the same flexibility and enjoyment as that given to other public schools outside of the Coastal Zone, which are exempt from local ordinances and State Law. Further, other projects exist in the area that meet or exceed the code standards (e.g. the Baptist Church has a 35 foot tower and the Seacliff Development has a 50 foot tower containing and office) and other variances have been granted to height (the Gualala Cypress Village was granted a variance for a 50 foot clock tower and the Catholic Church was granted a variance for a 60 spire with a cross). All of these structures are within the Gualala area. Finding can be made; and

4. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and zone in which the property is located; Appropriate mitigation measures have been incorporated into the project that would address any impacts associated with the proposed project, including light, glare, noise, traffic, etc. Finding can be made; and

5. That the variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning provisions governing the parcel. Pursuant to Section 20.380.015(B) of the Mendocino County Coastal Zone Code, educational facilities are permitted upon securing a Conditional Use Permit. Finding can be made; and

6. That the granting of such variance is in conformity with all other provisions of this Division and the Mendocino Coastal Element and applicable plans and policies of the Coastal Act. Section 2.8 of the Gualala Town Plan provides for a future school to be constructed within the Gualala area. Specifically, Gualala Town Plan Goal G2.8-1 provides for the development of needed educational facilities for the anticipated growth in student population in Gualala. The granting of the variance will not adversely affect the General Plan or other such plans, including the provisions of the Coastal, but would in essence implement the general Plan, specifically the Gualala Town Plan by providing for the construction of an educational facility to meet the needs of the community. Finding can be made.

RECOMMENDED CONDITIONS:

A. Conditions, which must be complied with for the duration of this permit:

1. This permit shall become effective after all applicable appeal periods have been expired or appeal processes exhausted. Failure of the permittee to make use of this permit within two years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.

3. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission.

4. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:

   a. That such permit was obtained or extended by fraud.

   b. That one or more of the conditions upon which such permit was granted have been violated.

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

   Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.

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

6. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.

7. It shall be the responsibility of the applicant to ensure that contractors engaged to perform work on the site are aware of the conditions of this permit and that all work performed is in compliance with applicable conditions.

8. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of $1,850.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to September 21,2007 (within 5 days of the end of any appeal period). Any waiver of the fee shall be on a form issued by the Department of Fish and Game upon their finding that the project has *"no effect"* on the environment. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void. **The applicant has the sole responsibility to insure timely compliance with this condition.**

B. Conditions, which must be met prior to the use and/or occupancy and for the duration of the permit:

1. Adequate drainage controls shall be constructed and maintained in such a manner as to prevent contamination of surface and/or ground water, and to prevent erosion.

2. Adequate construction, and if required post-construction, best management practices shall be implemented to prevent contamination of surface and/or ground water, and to prevent erosion. During construction activities, temporary erosion control measures shall be in places at the end of each day's work, and shall be maintained until permanent protection is established. All earth moving activities shall be conducted between May 15th and October 15th of any given calendar year unless appropriate mitigation is implemented and clearances are given by the County of Mendocino and any other agency having jurisdiction. Land disturbance associated with timber removal from the site shall comply with erosion control measures prescribed in the Timber Harvest Plan as approved by CDF. Land disturbance associated with construction activities shall comply with the project's Storm Water Pollution Prevention Plan as required by the RWQCB.

3. The applicant shall endeavor to protect as much vegetation on the site as possible, removing only as much required to construct residential and accessory structures, including driveways and landscaping.

4. Pursuant to the California Building Code and the Mendocino County Building Regulations, a grading permit will be required unless exempted by the Building Official.

5. Prior to commencement of construction and prior to permit issuance, a geotechnical engineer shall review the proposed building's anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems.

6. Dust shall be controlled subject to controls by the Air Quality Management District.

7. The access road, driveway and interior circulation routes shall be maintained in such a manner as to insure minimum dust generation subject to the Air Quality Management District's dust regulations. Any rock material used for surfacing must comply with Air Quality Management District's regulations regarding asbestos content. All grading activities must comply with Regulation 1, Rule 4300 (Fugitive Dust Emissions).

8. Driveways and parking areas on the site shall be surfaced with asphalt concrete, as shown on the improvement plans, prepared by Green Valley Consulting Engineers or other material, as approved by the Mendocino County Department of Transportation and the Mendocino County Air Quality Management District sufficient to control dust and provide a durable all-weather surface.

9. Demolition or renovation of structures, if present, may require asbestos clearance and notification to the Air Quality Management District. The applicant shall submit a copy of the National Emissions Standards for Hazardous Air Pollutants [NESHAP] clearance from the Air Quality Management District prior to approval of any demolition permits by the Department of Planning and Building Services.

10. All grading activities shall comply with District Regulation 1 Rule 430 regarding fugitive dust emissions.

11. On-site improvement plans shall be accompanied by a final drainage report prepared by a Civil Engineer for review by the County Department of Planning and Building Services and the Department of Transportation. The report shall include hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to a satisfactory point of disposal.

12. The proposed elementary school shall be established in conformance with all mitigation measures as contained in the Biological Survey, dated December 2005, prepared by BioConsultants LLC, and the Botanical Resources Report, dated January 3, 2006 and the addendum dated February 2006, prepared by Kjeldson Biological Consulting. Said reports are on file with the Mendocino County Department of Planning and Building Services.

13. Construction hours shall be limited to the hours of 8:00 a.m. to 6:00 p.m. on non-holiday weekdays, with no construction occurring on holidays. All stationary equipment (e.g., generators, compressors, etc.,) shall be shielded from all adjacent residences; all equipment shall be properly maintained and muffled; and construction traffic shall not be permitted before 7:30 a.m. Further, no organized outside play activities shall be scheduled for hours between dusk and dawn and that school property be secured, if possible, during that period to discourage use of outside play equipment during the evening.

14. All lighting fixtures associated with the proposed structure and parking area shall be designed and/or located so that only indirect non-glaring light is visible from beyond the parcel boundary.

15. So as to minimize light spillage onto neighboring properties, there shall be no or minimal vegetation removal along the eastern property boundary immediately adjacent to the existing neighboring residences.

16. All parking field/lot light standards shall be installed so that they provide for a down cast of the light source onto the parking lot, thus minimizing light spillage onto adjacent properties.

17. Unless otherwise exempted, the School District shall secure a Timber Conversion Permit from The California Department of Forestry, for the removal of timber for the construction of the proposed school facility. Evidence of said permit shall be submitted to the Department of Planning and Building Services, so ass to verify compliance with this condition.

18. Driveways and parking areas on the site shall be surfaced at a minimum, with asphalt concrete or other material as approved by the Mendocino County Department of Transportation, sufficient to control dust and provide a durable all-weather surface. Prior to the installation of the surfacing material, the natural grade shall be prepared in accordance with good engineering practices to insure long surface life, pursuant to the Improvement Plans prepared by Green Valley Engineers.

19. Concrete curb, gutter and 5-foot wide sidewalk shall be constructed on the east side of Old Stage Road (CR 502) extending from the northerly end of the curve return to Moonrise drive (CR 514 C) south approximately 1,600 feet to the south line of APN 145-092-15. Construction shall be completed prior to occupancy of the school.

20. Crosswalk, In-Street Pedestrian Crossing Signs (R1-6), per MUTCD Section 2b.12, 2006 Edition, pedestrian activated flashing at the crosswalk, school speed zone signs without flashing lights shall be installed as proposed in the Improvements Plans for Gualala Elementary School Off-Site Pedestrian Improvements, shall be installed under the direction of the Mendocino County Department of Transportation.

21. The required signage and pedestrian improvements described in 19 and 20 above shall be constructed in accordance with Improvement Plans, specifications and Estimates prepared by a Civil Engineer and approved by the Mendocino County Department of Transportation. Off-Site Improvement Plans shall be accompanied by a final drainage report prepared by a Civil Engineer. The report shall provide hydrology and hydraulic data necessary to support the design and location of drainage facilities necessary for conveyance of drainage to a satisfactory point of disposal as approved by the department of Transportation. The applicant is responsible for obtaining all necessary permits prior to construction. For improvements constructed through the improvement plan process, an Improvement Plan – Specification Checking and Construction Inspection Fee of four percent of the approved engineer's cost estimate would apply.

22. The School District shall provide bus transportation to all students, including those that reside in adjacent neighborhoods who might otherwise walk to school, in order to reduce the overall number of children walking on Old Stage Road.

23. Pursuant to the Traffic Impact Study prepared by W-Trans, dated February 27, 2006, at which time it is determined that the intersection of State Route 1 and Old Stage Road is improved with signalization, the School District shall contribute 2.8 percent toward the cost of the signalization.

24. Written verification shall be submitted from the Department of Forestry and the Redwood Coast Fire District to the Department of Planning and Building Services that adequate fire safe measures have been met to the satisfaction of the Department of Forestry and the fire district.

25. The applicant shall submit to the Department of Planning and Building Services a letter from North Gualala Water Company confirming that water service has been provided to their satisfaction.

26. Water lines shall be at least five (5) feet below the pavement, and shall be adequately separated from other utilities.

27. Relative to repairs of inevitable future problems that may occur to the proposed waste water line, such as line breaks, and leaks, and to minimize problems and tearing up the roadway, the contractor shall install a copper locator wire with all segments of the pipe to be demonstrated that the connections are correct and a continuous circuit exists.

28. All equipment fueling and servicing shall occur at a designated location (i.e. staging area on the site or a local service station; additionally, any spills resulting from fueling or hydraulic line breaks/leakage shall be contained and cleaned up immediately; Fluids drained from construction equipment and machinery shall be collected in a leak proof container(s) and disposed of at an appropriate disposal facility; no refueling or servicing shall be conducted without absorbent materials (i.e. absorbent pads, mats, granules, etc.).

29. A detailed landscaping plan shall be submitted to the Department of Planning and Building Services for review and approval. Landscaping proposed shall consist of native species and shall blend with the surrounding natural environment. Approved landscaping shall be established and maintained.

27, 4 29

30. All exterior building materials, colors and finishes shall be of earth tones and blend with the existing structure. Color samples shall be submitted to the Department of Planning and Building Services and approved by the Coastal Permit Administrator prior to approval of building permits. Any change in approved colors or materials shall be subject to the review and approval of the Department of Planning and Building Services for the life of the project.

31. All exterior signs shall be made of wood, not exceed a total of 40 square feet, and shall be located in an area so as to not block any vehicular sight distance. The Department of Planning and Building Services shall approve location and size of any sign. No sign shall be illuminated.

32. In the event that archaeological resources are encountered during construction on the property, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

8-6-07
DATE

IGNACIO GONZALEZ
CONTRACT PLANNER

IG/at
July 28, 2007

Negative Declaration
Appeal Fee - $1,237.00
Appeal Period - 10 days

** Indicates conditions relating to Environmental Considerations - deletion of these conditions may affect the issuance of a Negative Declaration.

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Planning - FB		XX	
Department of Transportation			XX
Environmental Health - FB			XX
Building Inspection - FB		XX	
Emergency Services	XX		
Assessor	XX		
Air Quality Management			XX
County Water Agency			XX
Arch Commission			XX
Sonoma State University			XX
Sonoma County Planning Dept.	XX		
State Architect	XX		
Native Plant Society	XX		
Caltrans-Sacramento	XX		
California Department of Forestry	XX		
Dept. of Fish and Game			XX
Coastal Commission	XX		
RWQCB			XX
Dept. of Health Services	XX		
Sate Clearinghouse	XX		

Env. Health – HazMat			XX
GMAC			XX
Mendocino Transit Authority			
California Highway Patrol		XX	
North Gualala Water District			XX
South Coast Fire District	XX		
Gualala Community Services			XX
Caltrans - District 1 (Eureka)			XX
California Dept. of Education			XX

29429

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: See Attachment A

Mailing Address:

City: Zip Code: Phone:

RECEIVED
OCT 30 2007
CALIFORNIA
COASTAL COMMISSION

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County

2. Brief description of development being appealed:

Coastal Development Use (CDU) Permit #10-2004 and Coastal Development Variance (CDV) #10-2004 for construction of a new K-through-5 elementary school complex totaling 29,447 square feet of gross building area, 105,453 square feet of paved area, and 50,100 square feet of landscaped area on an approximately 10.5-acre parcel. The approved project consists of three phases: Phase 1 includes a 3,118-square-foot library/administration building, four 2,215-square-foot classroom buildings, parking lot and playground; Phase 2 includes four 2,215-square-foot classroom buildings and a playground; and Phase 3 includes an 8,607-square-foot multipurpose building and parking lot. The CDV allows exception to the 28-foot height limit for construction of a 39'-6"-high multipurpose building and a 32'-9"-high library/administration building. The approved project also includes associated major vegetation removal across approximately 5 acres, grading (approximately 5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage.

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

39290 Old Stage Road, Gualala, CA (APN 145-091-22), approximately 1.25 miles northeast of downtown Gualala and approximatley 0.2 miles south of the intersection of Old Stage Road and Pacific Woods Drive, at the former Bowers Field landing strip.

EXHIBIT NO. 12
APPEAL NO.
A-1-MEN-07-044
ARENA UNION ELEMENTARY SCHOOL DISTRICT
APPEAL (1 of 17)

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

☐ Approval; no special conditions

☒ Approval with special conditions:

☐ Denial

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

CALIFORNIA COASTAL COMMISSION

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-07-044

DATE FILED: 10/30/07

DISTRICT: North Coast

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

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

☐ Planning Director/Zoning Administrator

☐ City Council/Board of Supervisors

☒ Planning Commission

☐ Other

6. Date of local government's decision: September 20, 2007

7. Local government's file number (if any): CDU 10-2004 / CDV 10-2004

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:

Arena Union Elementary School District
P.O. Box 87
Point Arena, CA 95468

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) Aspen Street Architects, Inc.
P.O. Box 370
Angels Camp, CA 95222

(2) Gualala Community Services District
P.O. Box 124
Gualala, CA 95445

(3) Matrix Environmental Planning
Attn: Ernie Ralston
301-C East Street
Healdsburg, CA 95448

(4) Gualala Municipal Advisory Council
P.O. Box 67
Gualala, CA 95445

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See Attachment B

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

See Attachment B

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

SECTION V. Certification

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

Signed: Signature on File
Appellant or Agent

Date: 10/30/07

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

Signed: _____

Date: _____

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

See Attachment B

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Signed: Signature on File
Appellant or Agent

Date: 10/30/07

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

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

1. Mary K. Shallenberger
45 Fremont Street, Suite 2000
San Francisco, CA 94105

Phone: (415) 322-0995

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

Phone: (415) 904-5201

7917

ATTACHMENT B

APPEALABLE PROJECT:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603). Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is not designated the "principal permitted use" under the certified LCP.

REASONS FOR APPEAL:

The County of Mendocino approved Coastal Development Use (CDU) Permit #10-2004 and Coastal Development Variance (CDV) #10-2004 for construction of a new K-through-5 elementary school complex totaling 29,447 square feet of gross building area, 105,453 square feet of paved area, and 50,100 square feet of landscaped area on an approximately 10.5-acre parcel. The approved project consists of three phases: Phase 1 includes a 3,118-square-foot library/administration building, four 2,215-square-foot classroom buildings, parking lot and playground; Phase 2 includes four 2,215-square-foot classroom buildings and a playground; and Phase 3 includes an 8,607-square-foot multipurpose building and parking lot. The CDV allows exception to the 28-foot height limit for construction of a 39'-6"-high multipurpose building and a 32'-9"-high library/ administration building. The approved project also includes associated major vegetation removal across approximately 5 acres, grading (approximately 5,400 cubic yards of cut and 3,800 cubic yards of fill), road improvements, lighting, and signage.

The approved development is located approximately 1.25 miles northeast of downtown Gualala at the former Bowers Field landing strip, at 39290 Old Stage Road (APN 145-091-22).

The approval of CDU #10-2004/CDV #10-2004 by Mendocino County is inconsistent with the policies and standards of the certified Local Coastal Program (LCP) including, but not limited to,

policies and standards regarding (1) environmentally sensitive habitat areas (ESHA), (2) geologic hazards, and (3) the adequacy of utilities available to serve the development.

1. LCP Policies on Environmentally Sensitive Habitat Areas:

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

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

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

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

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

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

shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

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

*(A) **Buffer Areas.** A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

*(1) **Width.** The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

Standards for determining the appropriate width of the buffer area are as follows:

*(a) **Biological Significance of Adjacent Lands.** Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).
Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.*

*(b) **Sensitivity of Species to Disturbance.** The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion:

Two rare plant species occur on the subject property: Thin-lobed horkelia (*Horkelia tenuiloba*) and Coast lily (*Lilium maritimum*). Both species are included on lists of rare, threatened, and endangered species by the California Native Plant Society (CNPS 2007) and the Department of Fish and Game [California Natural Diversity Database (CNDDB) *RareFind 3*, 2007]. Coast lily has a CNPS listing of 1B.1 ("seriously endangered in California and elsewhere") and a CNDDB state/global ranking of S2.1/G2 ("6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres"). Thin-lobed horkelia has a CNPS listing of 1B.2 ("fairly endangered in California and elsewhere") and a CNDDB state/global ranking of S2.2/G2 ("6-20 occurrences OR 1,000-3,000 individuals OR 2,000-10,000 acres"). Additionally, the applicant's botanist identified two sensitive plant communities on the property: native perennial bunch grasses and Northern Bishop Pine Forest. The latter plant community is listed as sensitive in the CNDDB with a state/global ranking of S2.2/G2 (2,000-10,000 acres).

The impact analysis prepared by the applicant's botanical consultant states that approximately 20 percent of Thin-lobed horkelia plants on the property occur within the footprint of the approved project, and one of the two Coast lily occurrences identified on the property occurs within the footprint of the approved project. The County, in its conditions of approval of the development, required Condition No. B-10, which states the following:

> "The proposed elementary school shall be established in conformance with all mitigation measures as contained in the Biological Survey, dated December 2005, prepared by BioConsultants LLC, and the Botanical Resources Report, dated September 19, 2006, prepared by Kjeldsen Biological Consulting..."

The mitigation measures referenced in the County's condition include, among others, (1) establishing a "Conservation/Study Area" on the property, approximately 1-acre in size, where "plants...will be protected from disturbance by timber harvest and construction activities..."; (2) transplanting Thin-lobed horkelia and Coast lily individuals that are within the project footprint to the Conservation/Study Area; and (3) preserving an unspecified portion of the Northern Bishop Pine Forest that occurs on the property in the Conservation/Study Area.

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

The approval of the subject development is inconsistent with the ESHA policies of the certified LCP including, but not limited to, LUP Policy 3.1-7 and CZC Section 20.496.020, because (a) the development would be constructed within and directly adjacent to rare plant ESHA without maintaining any buffer, and (b) the County did not consider feasible alternative sites or configurations for the development that would avoid locating development within the ESHA or ESHA buffer.

The County's approval is based on a determination of the botanical impact analysis prepared for the project that (1) the majority of the rare plants and a portion of the sensitive plant community habitat on the subject property can be retained in the "Conservation/Study Area," (2) those rare plant individuals that occur within the project footprint can be transplanted into the "Conservation/ Study Area" where they will be protected, and (3) therefore, the loss of rare plant specimens and sensitive plant community habitat resulting from the development would not compromise the plants' or habitat's continued existence in the area. In its findings for approval of the project, the County fails to address the consistency of the project with the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020 including (1) why a buffer width less than 100 feet may be appropriate, (2) how a reduced buffer is allowable based on analysis of the seven criteria specified in CZC Section 20.496.020(A)(1) that must be applied in determining whether a potential reduction of the ESHA buffer is warranted, and (3) how a buffer less than the minimum of 50 feet required by LUP Policy 3.1-7 and CZC Section 20.496.020(A)(1) is

allowable at all under the LCP. Furthermore, the County did not acknowledge that a portion of the development would be located within the 50-foot rare plant buffer area proper and that an unspecified number of rare plant individuals would be directly impacted by the development.

LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020 (A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent environmentally sensitive habitat area, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. The LCP sets forth uses permitted in wetland and riparian ESHAs, but is silent with regard to allowable uses within rare plant ESHA, and thus allowable uses within the rare plant buffer.

Nonetheless, even if a school was considered an allowable development in a rare plant buffer, LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4) require permitted development within an ESHA buffer to comply with several standards. These standards include that structures be allowed within a buffer area only if there is no other feasible site available on the parcel, and that the development be sited and designed to prevent impacts that would significantly degrade the ESHA. The County's findings do not analyze alternative sites or project designs or demonstrate that the project as approved was sited and designed on the 10.5-acre parcel in a manner that would best protect the rare plant ESHA.

Thus, because ESHA buffers are not allowed to be reduced to less than 50 feet, and because development is allowed within a buffer area only if it is demonstrated that there is no other feasible site available on the parcel, the project, as approved by the County, is inconsistent with the ESHA protection provisions of the certified LCP including, but not limited to, LUP Policy 3.1-7 and CZC Section 20.496.020.

2. LCP Policy on Hazards:

LUP Policy 3.4-1 states the following (emphasis added):

> *The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.*

Discussion:

The County's staff report for the development states that the subject property is located in a seismically active area, with the San Andreas Fault being located less than one mile northeast of the project site. The County notes that applicant's geologic report concluded that, due to the proximity of active faults to the site, the potential for earthquake-induced severe ground shaking at the site is high, but the report indicated that the hazard can be mitigated by proper design and construction techniques. The geologic report recommended "that a geotechnical engineer review the proposed building(s) anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems" (as was discussed in the September 6, 2007 County staff report). LUP Policy 3.4-1 requires that where mitigation measures are determined to be necessary by the consulting geologist or engineer, the County shall require that the foundation construction and earthwork be supervised and certified by a licensed geologist or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development. The County, in its approval of the project, failed to include a condition requiring the recommendations of the geotechnical engineer be carried out. Therefore, the County's approval of the project is inconsistent with the geologic hazard policies and standards of the certified LCP including, but not limited to, LUP Policy 3.4-1 because, although mitigation measures were determined to be necessary by the applicant's geologist, the County failed to require that the foundation construction and earthwork be supervised and certified by an appropriate engineering geologist or civil engineer to ensure that the mitigation measures are properly incorporated into the development.

3. LCP Policies on Adequacy of Utilities Available to Serve New Development:

CZC Section 20.532.095(A)(2) states the following:

> *(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
>
> ...
>
> *(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities...*
>
> ...

LUP Section 4.14 – Gualala Town Plan, Policy G3.10-3 states the following:

> *Either a hook-up to the Gualala Community Services District or an adequate on-site sewage disposal system, as approved by the Division of Environmental Health, shall be available to serve any new development.*

Discussion:

The approved development proposes to use an extension of the wastewater collection system of the Gualala Community Services District (GCSD) to serve its sewage disposal needs, as seasonally high ground water levels and low permeable soils inhibit the development of an on-site private sewage disposal system. The GCSD service extension, which includes extending a 6-

inch diameter wastewater main for approximately 1.25 miles from an existing GCSD system to the new school, was processed under a separate coastal development use permit (CDU #9-2005), which was approved by the Planning Commission on September 20, 2007 (the Coastal Commission's appeal period for this project ends on October 30, 2007). The County, in its approval of the new school, failed to include a condition requiring that the service extension be installed prior to development of the school. As approved, the new school development is permitted to be fully constructed without the assurance that successful installation of the service extension is achievable. Approval without such a condition is in direct conflict with CZC Section 20.532.095(A)(2), which requires that findings of approval for the granting of a coastal development permit show that adequate services, utilities, and other facilities are available to serve new development. The County's approval of the subject development predicated its findings on the assumption that the GCSD service extension permit would be approved and the wastewater main successfully installed. However, there are no guarantees that final regulatory approvals and project financing will be obtained in the future and that construction of the sewer line will be physically completed. Furthermore, the County's action conflicts with LUP Policy G3.10-3, because neither a hook-up to the GCSD nor an adequate on-site sewage disposal system are currently available to serve the new development, and there is no condition requiring that the development not proceed until adequate sewage service is available. Therefore, the approved development is inconsistent with the LCP policies and standards regarding the adequacy of utilities available to serve new development including, but not limited to, Gualala Town Plan Policy G3.10-3 and CZC Section 20.532.095(A)(2).

CONCLUSION:

The project, as approved by Mendocino County, is inconsistent with the policies of the certified LCP including, but not limited to, the following:

- LUP Policy 3.1-7 and CZC Section 20.496.020, which require that a buffer area of a minimum width of 50 feet be established around environmentally sensitive habitat areas, that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel;

- LUP Policy 3.4-1, which requires that, in areas of geologic hazard where mitigation measures are determined to be necessary, the County incorporate into its permit conditions of approval the requirement that construction and earthwork be supervised and certified by a licensed geologist or engineer to ensure that mitigation measures are properly incorporated into the development; and

- CZC Section 20.532.095(A)(2) and Gualala Town Plan Policy G3.10-3, which require that adequate services and utilities be available to serve new development, including adequate sewage disposal systems.

GEORGE C. RAU, P.E.
PRESIDENT
JAVIER J. RAU
VICE PRESIDENT
WALTER HAYDON, P.L.S.
ROGER VINCENT, P.E.
CATHY A. McKEON, P.E.

RAU AND ASSOCIATES INC.
CIVIL ENGINEERS • LAND SURVEYORS

November 15, 2007

Melissa Kraemer
California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501-1865

Job Number R05223

RE: Commission Appeal No. A-1-MEN-07-044
Gualala Elementary School Project
Arena Elementary School District, applicant

Dear Ms. Kraemer:

In response to the above referenced appeal, we are working on providing the Coastal Commission with information that should provide the findings for consistency with the Mendocino County LCP. This letter addresses two of the three reasons for appeal as described in Attachment B of the appeal notification. I am working with the botanists to address the ESHA issue, which will be provided under separate cover.

Geologic Hazards (page 8)

The original staff report included the following condition of approval which was deleted by the Planning Commission:

> Condition B-5: "Prior to commencement of construction and prior to permit issuance, a geotechnical engineer shall review the proposed building's anchoring systems and anticipated seismic loading, and provide recommendations (as necessary) for appropriate restraint systems."

Because the Department of the State Architect (DSA) has jurisdiction over public school construction and DSA standard practices include inspections for seismic safety, we requested that the above condition be removed to avoid duplication of inspections. However, we understand that re-instating the condition would not result in the duplication of inspections, but rather would require the District to conduct inspections it will be conducting anyway, regardless of the condition's existence. It makes sense to re-instate the condition, or an equivalent condition, in order to demonstrate internal consistency within the negative declaration.

Utilities (page 9)

Consistency with the noted codes and policies requiring adequate utilities to serve the new development is achievable by adding a condition to the permit stating that construction of the school shall not commence until adequate sewerage is available at the site.

Project History

It may assist Commission staff to have some background regarding the school project. The following is a schedule of events and documents relating to the project, including consultant information where applicable.

DATE	ACTIVITY/DOCUMENT	DOCUMENT PREPARED BY
1998	Property was donated to the school district by a local family. The California Department of Education (CDE) visited the property and rejected it as a school site.	
2000	The donated property was exchanged with the donor for the current Bowers Field property. CDE visited the new site and granted preliminary approval.	
2000	Boundary survey and topographic mapping conducted	Rau and Associates, Inc., Ukiah, CA
9/2000	Per State law, a Phase I environmental site assessment was conducted.	IT Corporation, Sacramento, CA
9/2000	Geological and Environmental Hazards Screening Report was prepared.	IT Corporation, Sacramento, CA
10/2000	The School District prepared a Draft Negative Declaration for a 70-student elementary school and submitted it to the State Clearinghouse for circulation to State agencies (SCH # 2000102089). Comments were received from the Department of Toxic Substances Control (DTSC), Caltrans Aeronautics Program, Mendocino County Division of Environmental Health, and Mendocino County Air Quality Management District.	Arena Union Elementary School District (AUESD), Point Arena, CA
11/2000	The Phase I environmental site assessment was cleared by DTSC	
11/2000	First school bond (for new school construction) attempt failed	
2001-2003	Project Design	Aspen Street Architects, Inc., Angels Camp, CA
2003	Funds granted by the State for the new school.	
2/2003	Sewer Feasibility Study – Expansion of Sewage Collection System & Evaluation of Wastewater Treatment Facility	Winzler and Kelly Consulting Engineers, Eureka, CA
11/2003	Second school bond measure passed.	
2004-2005	Preliminary geotechnical investigation and geologic reconnaissance	Rau and Associates, Inc., Ukiah, CA & Blackburn Consulting, Auburn, CA
10/12/2004	Botanical Resources and Pygmy Vegetation Report	Environmental Resource Solutions, Santa Rosa, CA
12/2004	Application for a coastal development use permit submitted to County of Mendocino Department of Planning & Building Services (MCPBS)	Aspen Street Architects, Inc., Angels Camp, CA
1/2005	Application referred to agencies for review/comment	
6/08/2005	Archaeological Survey prepared	Jay Flaherty, Kelseyville, CA
7/07/2005	Botanical Survey prepared	Environmental Resource Solutions, Santa Rosa, CA
12/2005	Wildlife Survey prepared	BioConsultant LLC, Santa Rosa, CA

DATE	ACTIVITY/DOCUMENT	DOCUMENT PREPARED BY
2005-2006	On-Site Agency Consultation with North Coast Regional Water Quality Control Board, Department of Fish and Game, Mendocino County Dept. of Transportation, and Mendocino County Dept. of Planning & Building Services	
1/3/2006	Proposed Mitigation Measures for the Protection of Botanical Resources	Kjeldsen Biological Consulting, Santa Rosa, CA
2/27/2006	Traffic Impact Study	Whitlock & Weinberger Transportation, Inc. (W-Trans), Santa Rosa, CA
4/11/2006	Vegetated Swale – Recommended Plantings	Kjeldsen Biological Consulting, Santa Rosa, CA
4/21/2006	Drainage and Bio-Swale Plans	Aspen Street Architects, Inc., Angels Camp, CA
9/19/2006	Botanical Resources Report	Kjeldsen Biological Consulting, Santa Rosa, CA
1/17/2007	Improvement Plans for Off-Site Pedestrian Facilities	Green Valley Consulting Engineers, Santa Rosa, CA
8/08/2007	Draft Negative Declaration mailed to agencies for comment	
9/20/2007	Use permit and mitigated negative declaration approved by Mendocino County Planning Commission	

As you can see, it has been a long and involved process for the School District. Due to the complexity of coastal issues, the District elected not to exempt themselves from local zoning codes but rather to have the County prepare the environmental document to ensure that coastal policies were appropriately addressed. County staff required a number of additional studies and plans, with a stated intent to leave no stone unturned so that the Coastal Commission would be satisfied that the project was adequately analyzed. In addition to County Planning and Transportation staff, we invited staff from the North Coast Regional Water Quality Control Board and the California Department of Fish and Game for an on-site consultation to discuss biological resources, water quality, and post-construction stormwater treatment. Their recommendations were incorporated into the mitigation plan for the ESHAs and the bioswale plans.

As you can imagine from the amount of study and planning for this project, the District and the community of Gualala was extremely surprised and upset by the Commission's appeal of their use permit. We hope you will work with us to find solutions to the LCP inconsistencies identified by the Commission without requiring the District to start the entire coastal development permit process over again.

Please let me know if there is any additional information you need in order to make the required findings. In addition to the contact information provided on the letterhead above, please feel free to contact me by email at: julie@rauandassoc.com. Thank you in advance for working with us on this project.

Very truly yours,

Julie Price
Environmental Planner

CC: Arlene Taeger, AUESD

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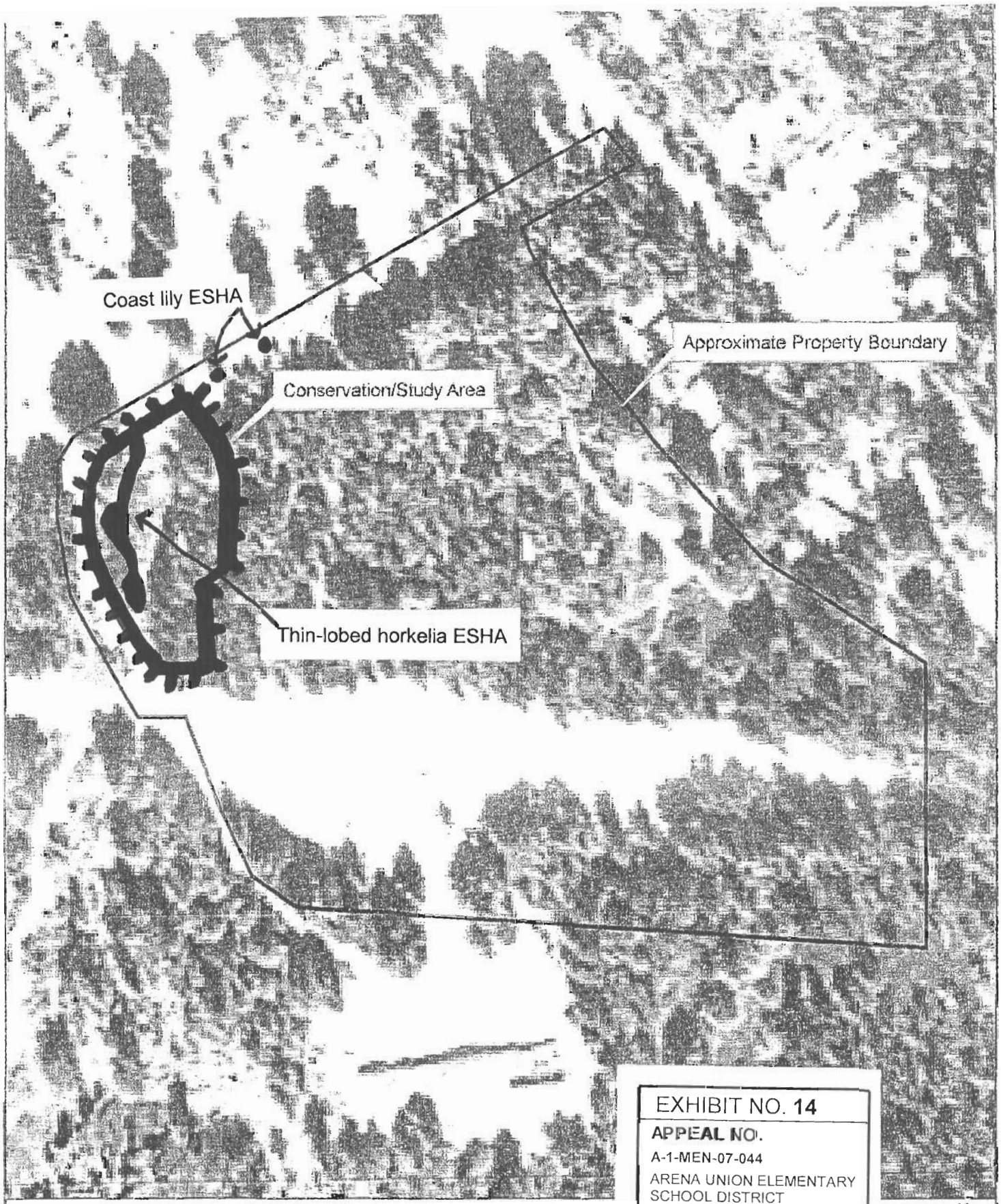

EXHIBIT NO. 14

APPEAL NO.

A-1-MEN-07-044

ARENA UNION ELEMENTARY SCHOOL DISTRICT

RARE PLANT ESHA AND OPEN SPACE AREAS

Plate IV. Location of Proposed Conservation/Study Area