

## CALIFORNIA COASTAL COMMISSION

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# F12b

DATE: December 30, 2009

TO: Coastal Commissioners and Interested Parties

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

SUBJECT: **Appeal No. A-1-MEN-09-052 (Blue Port, LLC, CDP-42-2007)**, 12350 Highway One, Mendocino County. Filed December 21, 2009.

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**Recommendation:**

Staff recommends that the Commission determine that **a substantial issue exists** with respect to the grounds on which Appeal No. A-1-MEN-09-052 has been filed and that the Commission hold a *de novo* hearing.

**Staff recommends a NO vote on the following motion and resolution:**

**Motion & Resolution.** *I move that the Commission determine and resolve that: Appeal No. A-1-MEN-09-052 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

Following the staff recommendation by voting no will result in the Commission conducting a *de novo* review of the application, and adoption of the following findings. Passage of this motion via a yes vote, thereby rejecting the staff recommendation, will result in a finding of No Substantial Issue, and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners.

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On November 20, 2009, the Mendocino County Coastal Permit Administrator approved Coastal Development Permit No. CDP 42-2007 for the construction of (1) a 5,183-square-foot single-family residence with an attached 675-square-foot garage and 1,536 square feet

of upper and lower attached decks (for a total structural size of 7,394 square feet and an average height of 18 feet above natural grade); (2) a 2,400-square-foot barn; (3) a 600-square-foot guest house with attached deck and 192-square-foot cabana; (4) a 192-square-foot hobby workshop; (4) a 216-square-foot garden storage shed; (5) a 160-square-foot cabana with attached deck; (6) reconstruction of an existing “shack;” and (7) a new septic system, driveway, water storage tank, well, and roof-mounted solar system. The approved development is located within the coastal zone, in Bridgeport Landing, approximately three miles south of Elk, on the west side of Highway One, approximately 1.5-miles north of its intersection with Mallo Pass Creek, at 12350 Highway One (APNs 131-080-001 and -005) (Exhibit Nos. 1 and 2).

Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because the approved development is located (1) between the first through public road (Highway One) and the sea, (2) within 300 feet of the top of the seaward face of a coastal bluff, and (3) within a sensitive coastal resource area (“highly scenic area”) pursuant to Section 30603(a)(3) of the Coastal Act (see Exhibit No. 3).

The appellant, Commissioners Sara Wan and Pat Kruer, claims that the approved project is inconsistent with the Mendocino County certified Local Coastal Program (LCP) because:

- (1) The approved two-story development would affect public views to the ocean, inconsistent with LUP Policy 3.5-3, which requires that new development west of Highway One in designated “highly scenic areas” be limited to one-story (above natural grade), unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures; and
- (2) The approved development does not minimize the number of new structures to be sited on the coastal terrace and does not sufficiently cluster them together, as is required by LUP Policy 3.5-4 and CZC Section 20.504.015(C).

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.<sup>1</sup> Commission staff has analyzed the County’s Final Local Action Notice for the development (Exhibit No. 6), appellant’s claims (Exhibit No. 5), and the relevant requirements of the LCP (Appendices A and B). Staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the approved project with respect to the visual resources provisions of the certified LCP, as explained below.

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<sup>1</sup> The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues, or those of regional or statewide significance.

### **Substantial Issue With Respect to Visual Resources Policies of the Certified LCP**

The approved development is located on a vacant, approximately 58-acre bluff top lot on the west side of Highway One in a designated “highly scenic area” in the Bridgeport Landing area of Mendocino County (see Exhibit Nos. 1, 2, & 3). According to the County’s findings for approval, the approved development would be visible from several vantage points along Highway One: “Traveling north, the property comes into view at post mile (PM) markers 27 for ~0.1-mile, at PM 27.5 for ~0.3-mile, and PM 27.9 for ~0.3-mile. Traveling south the property is in view for ~0.3-mile.” The subject site is relatively flat to gently sloping westward and is primarily open grassland with tall vegetation along the central western bluff edge. An unobstructed view corridor to the ocean is visible from Highway One at the southwestern end of the property.

#### **Conformance with One-Story Limitation**

LUP Policy 3.5-3 requires that new development west of Highway One in designated “highly scenic areas” be limited to one-story (above natural grade), unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. According to the approved project plans, the approved main residence, although it would maintain an 18-foot height limit, would be two stories above natural grade, and it would be sited in a location that would affect public views to the ocean. As explained in the County’s findings for approval: “The proposed residence...would be located in an area where low growing bushes exist near the bluff edge, providing views for the property owners, but the development would silhouette against the ocean. The size and shape of the [approved] residence would stand out, however this is not the main ocean view corridor on the property and would allow for an appropriate amount of development while protecting the main ocean view corridor at the south end of the property.” The County’s findings demonstrate that the approved residence would in fact affect public views to the ocean and do not explain how approving the two-story structure at this location would not be out of character with surrounding structures. Thus, the County has not adopted findings that provide factual and legal support for addressing the consistency of the project with LUP Policy 3.5-3, which would allow a structure to have more than one story only if the exceptions cited in LUP Policy 3.5-3 have been met (i.e., only if an increase in height would not affect public views to the ocean or be out of character with surrounding structures).

Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved two-story residence with the limitations of LUP Policy 3.5-3 on structures greater than one story in highly scenic areas west of Highway One.

#### **Conformance with Requirements for Minimizing Structures and Clustering Development**

LUP Policy 3.5-4 and CZC Section 20.504.015(C) require that approved development minimize the number of new structures to be sited on the coastal terrace and cluster them together. The approved development allows for at least eight different new structures spread out over a several-hundred-foot-long area along the bluff. Some of the approved

structures are clustered together, such as the new residence, new workshop, and new cabana in one area and the new barn, new guest cabana, new guest house, new storage building, and restored shed in another area. In addition, both clusters of buildings have been sited to have a partial backdrop of existing vegetation. Nonetheless, the County has not adopted findings that provide factual and legal support for addressing the consistency of the project with LUP Policy 3.5-4 and CZC Section 20.504.015(C), because the sheer number of approved new structures and their arrangement over several hundred feet of bluff edge will adversely affect the visual quality of the currently open, largely undeveloped designated highly scenic area. The approval of the many structures that are merely accessory to the approved residence and not an essential part of the residence including the guest house, cabanas, sheds, and workshops raises a substantial issue as to whether the number of new structures on the coastal terrace has been minimized, as required by LUP Policy 3.5-4 and CZC Section 20.504.015(C). In addition, the County findings do not address why two separate clusters of buildings are needed and why consolidating the development into one cluster within a smaller combined footprint would not be a feasible, less visually damaging alternative. Therefore, the Commission finds that the appeal raises a substantial issue of conformance of the approved residential complex with the limitations of LUP Policy 3.5-4 and CZC Section 20.504.015(C) that approved development minimize the number of new structures to be sited on a coastal terrace and to cluster them.

#### Substantial Issue Conclusion

In approving (1) a new two-story residence west of Highway One in designated highly scenic area that affects public views and (2) a large number of accessory structures on a coastal terrace that are not fully clustered together, the County has not adopted findings that provide factual and legal support for addressing the consistency of the project with the visual resources protection requirements of LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Section 20.504.015(C) including, but not limited to, (a) how approving a two-story structure at this location would not affect views to the ocean or be out of character with surrounding structures, and (b) how the number of structures has been minimized. The protection of visual resources in the coastal zone is an issue of statewide concern addressed by Section 30251 of the Coastal Act. Therefore, the Commission finds that the appeal raises a substantial issue regarding consistency of the approved development with the visual resources protection policies of the certified LCP including, but not limited to, LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Section 20.504.015(C).

#### Information Needed for *De Novo* Review of Application

Section 30621 of the Coastal Act instructs the Commission to provide for a *de novo* hearing on all appeals where it has determined that a substantial issue exists with respect to the grounds on which an appeal has been filed. If the Commission finds substantial issue as recommended above, staff also recommends that the Commission continue the *de novo* hearing to a subsequent date. The *de novo* portion of the appeal must be continued because the Commission does not have sufficient information to determine what development can be approved consistent with the certified LCP.

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

**1. Alternatives Analysis for the Proposed Accessory Structures**

As discussed above, the proposed development includes numerous accessory structures spread out over a several-hundred-foot-long area along the open coastal terrace in an undeveloped designated highly scenic area. To determine the consistency of the proposed project with LUP Policies 3.5-1 and 3.5-4 and CZC Section 20.504.015(C), which require that the number of new structures sited on coastal terraces in designated highly scenic areas be minimized, clustered, and subordinate to the character of the surrounding area, the Commission needs to receive an alternatives analysis for the proposed accessory structures that examines feasible alternatives to the number of proposed accessory structures and to the location of building sites for the various accessory structures. The alternatives analysis should address the purpose and need for each accessory structure and examine the feasibility of the alternatives of (a) eliminating all or some of the accessory structures, (b) consolidating the accessory structures into a larger main residence building, and (c) consolidating the accessory structures into one or two buildings. The alternatives analysis also should examine which alternative best (1) minimizes the number of structures, (2) clusters them in a manner that minimizes visual impacts, and (3) achieves a project design that is subordinate to the character of the project setting.

**2. Alternatives Analysis for Resiting and Further Clustering the Development**

As discussed above, LUP Policy 3.5-4 and CZC Section 20.504.015(C) require that the visual impacts of development on terraces be minimized by minimizing the number of structures and clustering them near existing vegetation, natural landforms, or artificial berms. In addition, LUP Policy 3.5-1 requires that development in highly scenic areas be subordinate to the character of its setting.

The County's findings do not fully address whether resiting, redesigning, and or consolidating the structures in different locations would reduce visual impacts to a greater degree than the approved project. A visual analysis using composite photos, computer simulation, or equivalent methods needs to be provided that examines the visual effects on public views from Highway One and the feasibility of at least the following alternatives: (a) developing the main residence where the County approved it as a one-story structure, (b) consolidating and clustering all proposed development as one-story structures in front of the particular group of trees that form the backdrop to the location where the County approved many of the accessory structures only as opposed to developing both in that location and the location to the north where the main residence had been approved, (c) consolidating and locating the proposed development as one story structures in a clustered location adjacent to Highway One. The analysis should include a discussion of existing

structures in the surrounding area to present an overview of the character of development within the project setting.

### **3. ESHA Buffer Analysis**

It is unclear from the County's findings for approval whether or not any approved development occurs within 100 feet of an environmentally sensitive habitat area (ESHA). For example, the Natural Resources findings in the County staff report (page CPA-11) discuss the rare plant Mendocino Coast paintbrush (*Castilleja mendocinensis*) as being present on the property, "along the steep bluff face above the ocean." Additionally, the report discusses habitat for Point Arena mountain beaver (PAMB), a federally endangered rodent species, as being present on the subject parcels, and states that "...the developments will avoid those areas and is not likely to result in incidental take of this species." However, the findings do not report the distance between the rare plant and animal ESHA in the area and the approved development. Moreover, the findings suggest that the approved siting of the new septic system may be in close proximity to PAMB and/or riparian ESHA, because County Special Condition No. 15 was attached as a condition of permit approval of the County's permit to address U.S. Fish and Wildlife Service comments on the approved septic design. The condition reads "Prior to commencement of construction activities, temporary construction fencing shall be installed north of the riparian vegetation on the southern portion of the property in the vicinity of the septic leach field installation, to prevent any ground or vegetation disturbance to the riparian habitat."

CZC Section 20.496.010 defines ESHA and includes both "*riparian areas*" and "*habitats of rare and endangered plants and animals*." Therefore, as ESHA, riparian areas and rare species habitats are 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 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.

In order to determine whether or not the proposed development is consistent with the ESHA buffer provisions of the LCP, the Commission needs to receive an a detailed biological analysis that addresses the presence of ESHA in the area (including rare plant and animal ESHA, riparian ESHA, wetlands, sensitive natural communities, and other types of ESHA) and where such ESHA is located on and/or adjacent to the subject property. Each environmentally sensitive habitat area identified should be described in

detail and depicted on an ESHA map prepared for the subject site. Additionally, significant site features also should be shown in relation to the mapped ESHA types including existing roads and development, 100-foot ESHA buffer boundaries, proposed residential and accessory structures, proposed septic system areas, and other proposed development.

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

### **APPENDICES**

APPENDIX A: Commission's Appeal Jurisdiction Over Project

APPENDIX B: Excerpts from the Mendocino County Local Coastal Program

### **EXHIBITS**

1. Regional Location Map
2. Topographic Map
3. Aerial Photograph
4. Approved Project Plans
5. Appeal
6. Notice of Final Local Action and Findings for Approval

## **APPENDIX A**

### **COMMISSION'S APPEAL JURISDICTION OVER THE PROJECT**

On November 20, 2009, the Mendocino County Coastal Permit Administrator conditionally approved Coastal Development Permit #42-2007 for the construction of (1) a 5,183-square-foot single-family residence with an attached 675-square-foot garage and 1,536 square feet of upper and lower attached decks (for a total structural size of 7,394 square feet and an average height of 18 feet above natural grade); (2) a 2,400-square-foot barn; (3) a 600-square-foot guest house with attached deck and 192-square-foot cabana; (4) a 192-square-foot hobby workshop; (5) a 216-square-foot garden storage shed; (6) a 160-square-foot cabana with attached deck; (7) reconstruction of an existing "shack;" and (8) a new septic system, driveway, water storage tank, well, and roof-mounted solar system. The approved permit imposed 17 special conditions.

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 located (1) between the first through public road (Highway One) and the sea, (2) within 300 feet of the top of the seaward face of a coastal bluff, and (3) within a sensitive coastal resource area ("highly scenic area") pursuant to Section 30603(a)(3) of the Coastal Act (as explained below).

#### **The Approved Development is Located Within a Sensitive Coastal Resource Area**

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

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



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

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

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

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

The Commission did not ultimately designate SCRAs or make recommendations to the Legislature, as contemplated by Section 30502 and 30502.5. Because it did not designate SCRAs, the Commission does not have the authority to require local governments to adopt such additional implementing actions. Nothing in Sections 30502 or 30502.5, however, overrides other provisions in the Coastal Act that assign primary responsibility to local governments for determining the contents of LCPs and that authorize local governments to take actions that are more protective of coastal resources than required by the Coastal Act. Such Coastal Act provisions support the position that the Commission does not have the exclusive authority to designate SCRAs. In 1977, the Attorney General's Office advised the Commission that if the Commission decided not to designate SCRAs, local government approvals of development located in SCRAs delineated in LCPs would nonetheless be appealable to the Commission.

The ability of local governments to designate SCRAs in LCPs is further supported by the legislative history of changes to Section 30603. In 1982, after the 1978 deadline for the Commission to designate SCRAs, the Legislature amended the provisions of Section 30603 that relate to appeals of development located in SCRAs. (Cal. Stats. 1982, c. 43,

sec. 19 (AB 321 - Hannigan). The Legislature's 1982 revisions to the SCRA appeal process demonstrate that the Commission's decision not to designate SCRAs did not have the effect of preventing local governments from designating SCRAs through the LCP process. If the Commission's decision not to designate SCRAs rendered the Coastal Act provisions that relate to SCRAs moot, the Legislature's action in 1982 would have been a futile and meaningless exercise. Instead, by deliberately refining the SCRA appeal process, the Legislature confirmed that local governments continue to have the authority to designate SCRAs.

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

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

The appeal of Mendocino County Coastal Development Permit No. 42-2007 was accepted by the Commission in part, on the basis that the project site is located in a sensitive coastal resource area designated by Mendocino County and certified by the Commission when the County's LCP was certified in 1992.

The applicable designation of sensitive coastal resource areas was accomplished in the LCP by defining sensitive coastal resource areas within the LCP to include "highly scenic areas," and by mapping specific geographic areas on the certified Land Use Maps as "highly scenic." Chapter 5 of the Mendocino County General Plan Coastal Element (the certified Land Use Plan) and Division II of Title 20, Section 20.308.105(6) of the Mendocino County Coastal Zoning Code (CZC), both define "*Sensitive Coastal Resource Areas*" to mean "*those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity.*" Subparts (c) of these sections include "*highly scenic areas.*" This definition closely parallels the definition of SCRA contained in Section 30116 of the Coastal Act. Mendocino LUP Policy 3.5 defines highly scenic areas to include, in applicable part, "*those [areas] identified on the Land Use Maps as they are adopted.*" Adopted Land Use Map No. 21 designates the area inclusive of the site that is the subject of Mendocino County CDP No. 42-2007 as highly scenic. Therefore, it is clear that by defining sensitive coastal resource areas to include highly scenic areas, and by then mapping designated highly scenic areas on the adopted Land Use Maps, the County intended that highly scenic areas be considered sensitive coastal resource areas.

Section 30603 of the Coastal Act states that "*after certification of its local coastal program, an action taken by a local government on a coastal development permit may be*

*appealed to the Commission...*” Included in the list of appealable developments are developments approved within sensitive coastal resource areas. Additionally, Division II of Title 20, Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code specifically includes developments approved “*located in a sensitive coastal resource area*” as among the types of developments appealable to the Coastal Commission.

Therefore, for all of the above reasons, the Commission finds that as (1) highly scenic areas are designated and mapped in the certified LCP as a sensitive coastal resource area, and (2) approved development located in a sensitive coastal resource area is specifically included among the types of development appealable to the Commission in the certified LCP, Mendocino County’s approval of local CDP No. 42-2007 is appealable to the Commission under Section 30603(a)(3) of the Coastal Act and Section 20.544.020(B)(6) of the certified Mendocino County Coastal Zoning Code.

## **APPENDIX B**

### **EXCERPTS FROM THE MENDOCINO COUNTY CERTIFIED LCP**

Land Use Plan (LUP) Policy 3.5-1 states, in applicable part, as follows:

...

*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. [Emphasis added]*

LUP Policy 3.5-3 states, in applicable part, as follows:

*The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as “highly scenic areas,” within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. ...*

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

*In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies. [Emphasis added]*

LUP Policy 3.5-4 states as follows:

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

*Minimize visual impact of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4)*

*concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with hillside. Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area. Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel. [Emphasis added]*

LUP Policy 3.5-5 states as follows:

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

Section 20.504.015, “Highly Scenic Areas,” of the Coastal Zoning Code (CZC) states, in applicable part, as follows:

...

**(C) Development Criteria.**

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

*(2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*

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

...

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

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

...

(7) Minimize visual impacts of development on terraces by the following criteria:

- (a) *Avoiding development, other than farm buildings, in large open areas if alternative site exists;*
- (b) *Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;*
- (c) *Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*
- (d) *Design development to be in scale with rural character of the area.*

...

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

(11) *Power transmission lines shall be located along established corridors where possible and where the corridors are not visually intrusive.*

(12) *Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions. East of Highway 1, power lines shall be placed below ridgelines if technically feasible.*

(13) *Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991) [emphasis added].*

CZC Section 20.504.020 states, in applicable part, as follows:

...

(D) *The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (Ord. No. 3785 (part), adopted 1991)*

A B C D E F G H I J K L M N O

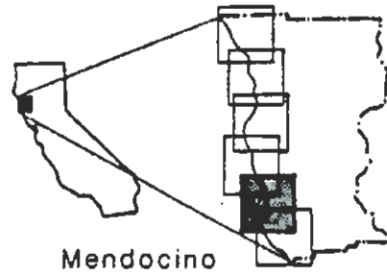


EXHIBIT NO. 1

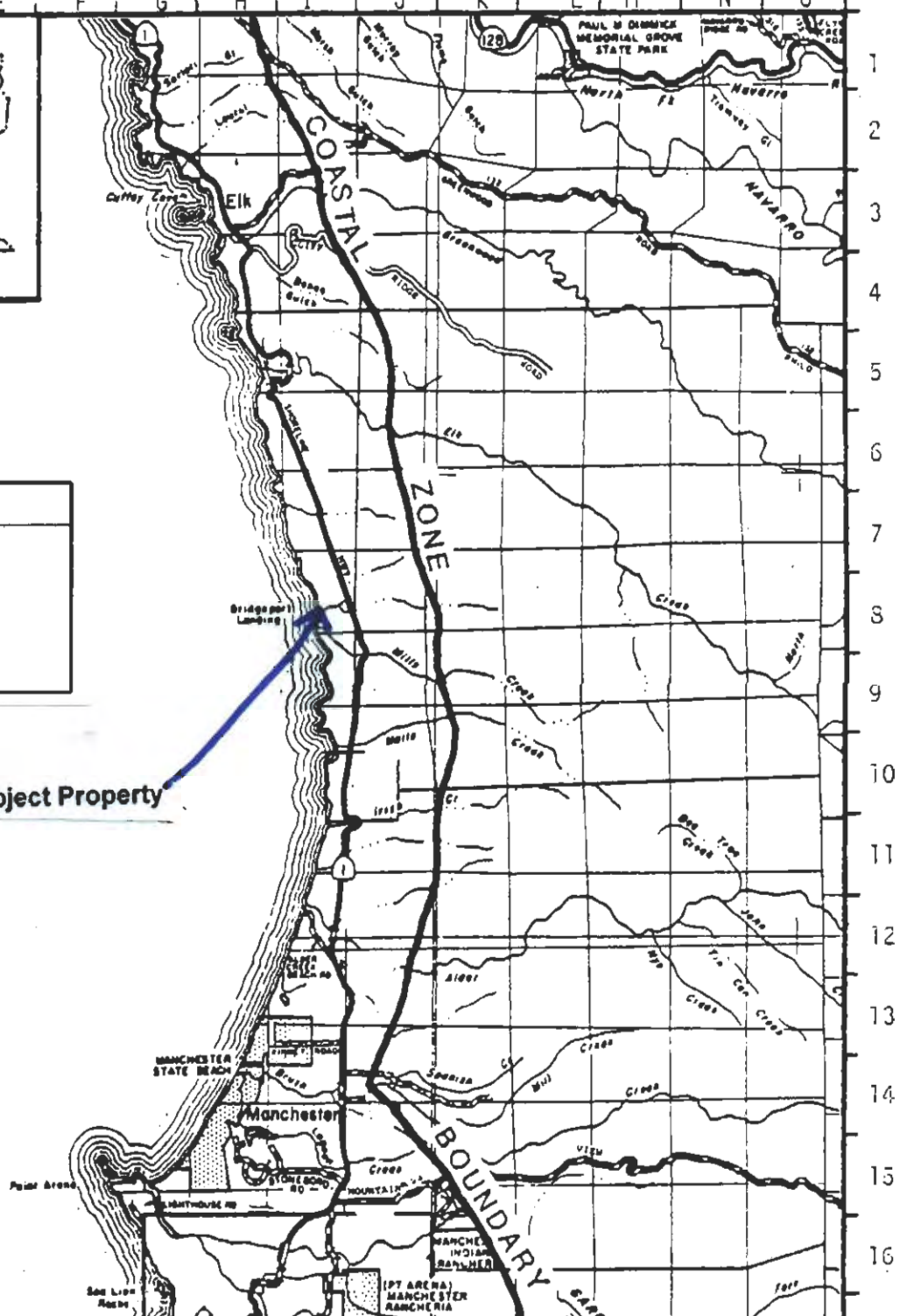
APPEAL NO.

A-1-MEN-09-052

BLUE PORT, LLC

REGIONAL LOCATION

Subject Property



California Coastal Commission

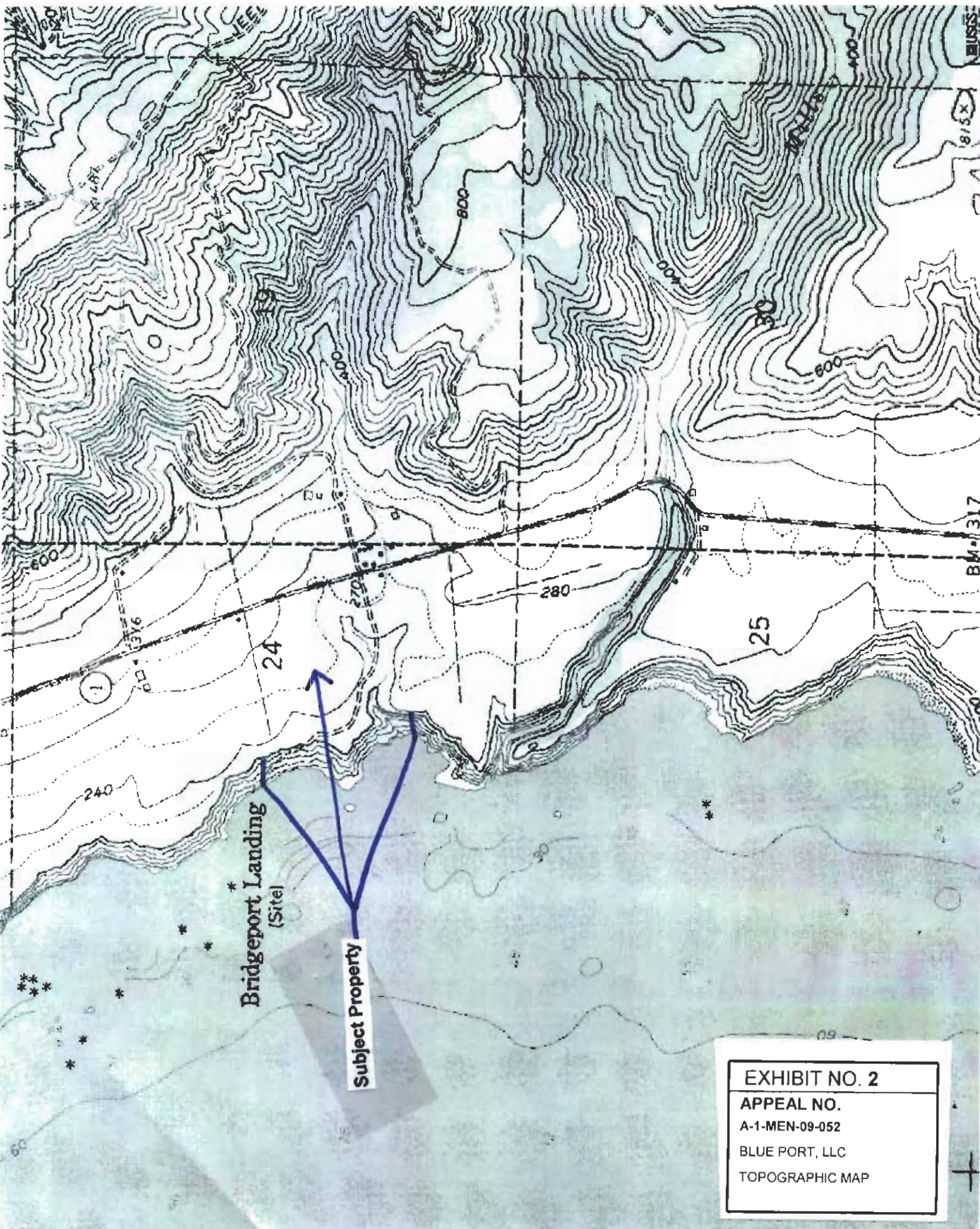
LOCATION MAP

0 1 2  
miles



County of Mendocino





**EXHIBIT NO. 2**

**APPEAL NO.**

**A-1-MEN-09-052**

**BLUE PORT, LLC**

**TOPOGRAPHIC MAP**





Subject Property

EXHIBIT NO. 3

APPEAL NO.

A-1-MEN-09-052

BLUE PORT, LLC

AERIAL PHOTO

CDP# 42-2007 (Blue Port LLC)  
October 22, 2009  
CPA-25

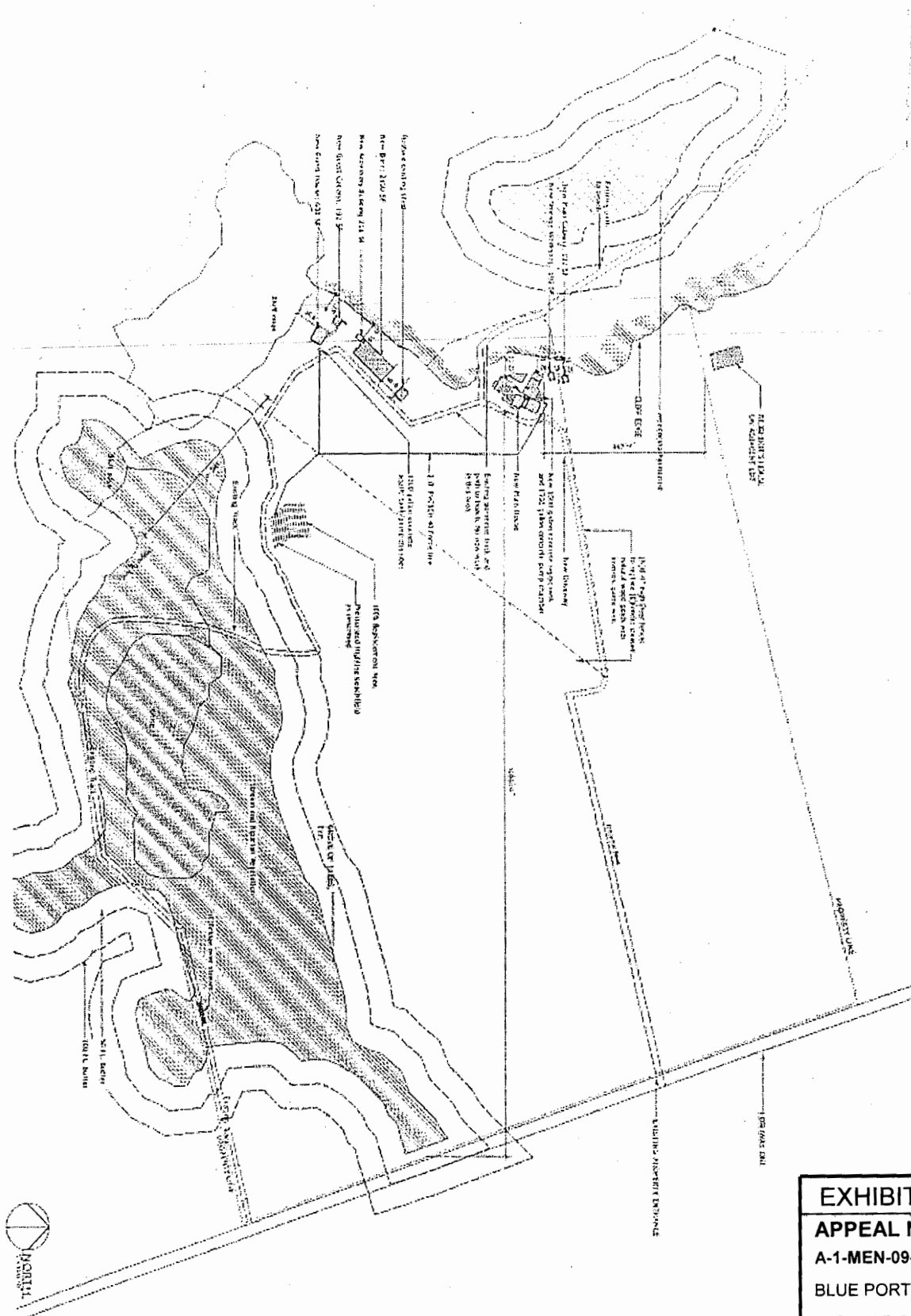


Exhibit G

APPROVED PROJECT  
PLANS (1 of 12)

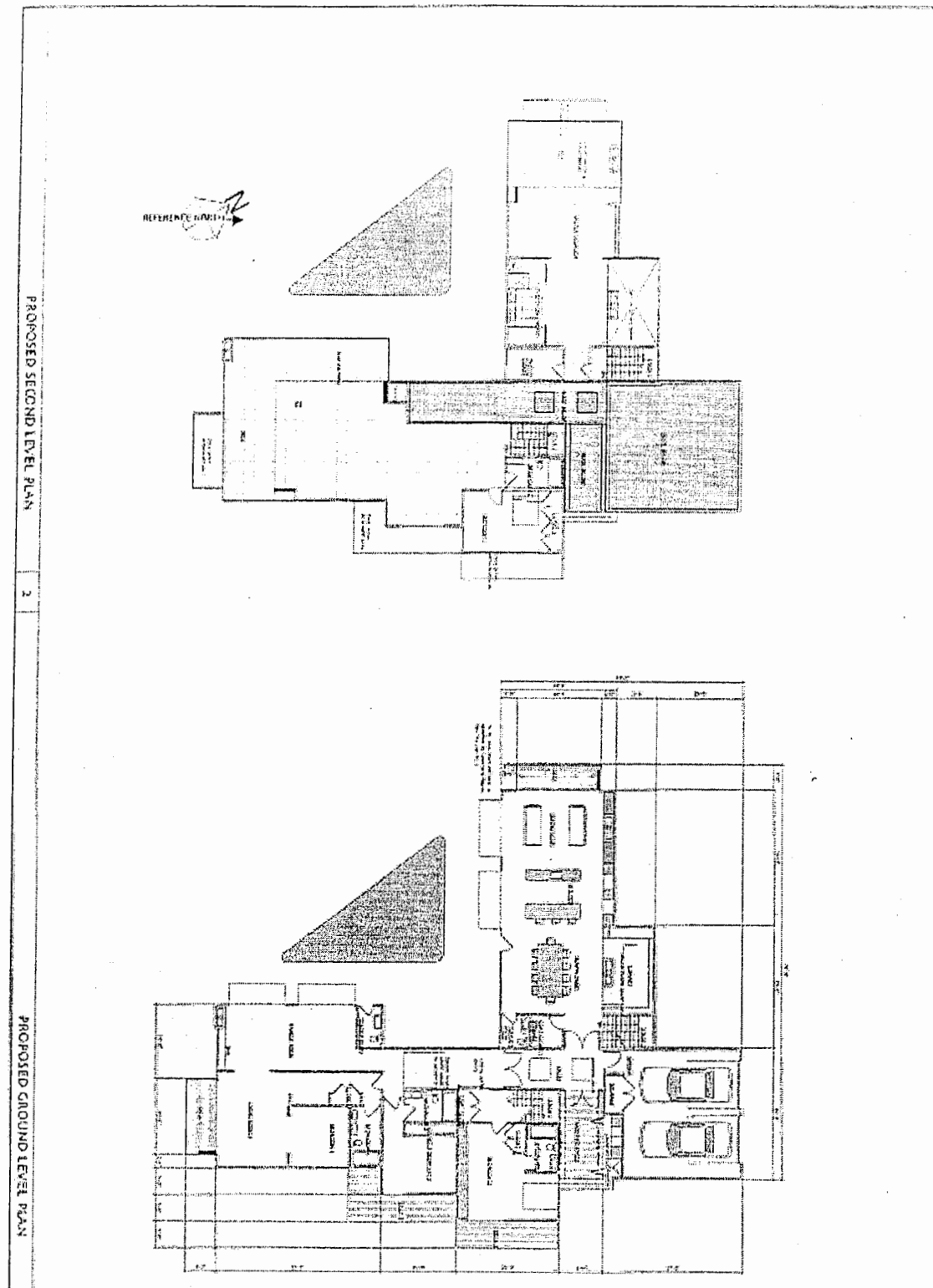
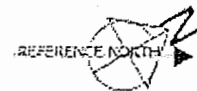
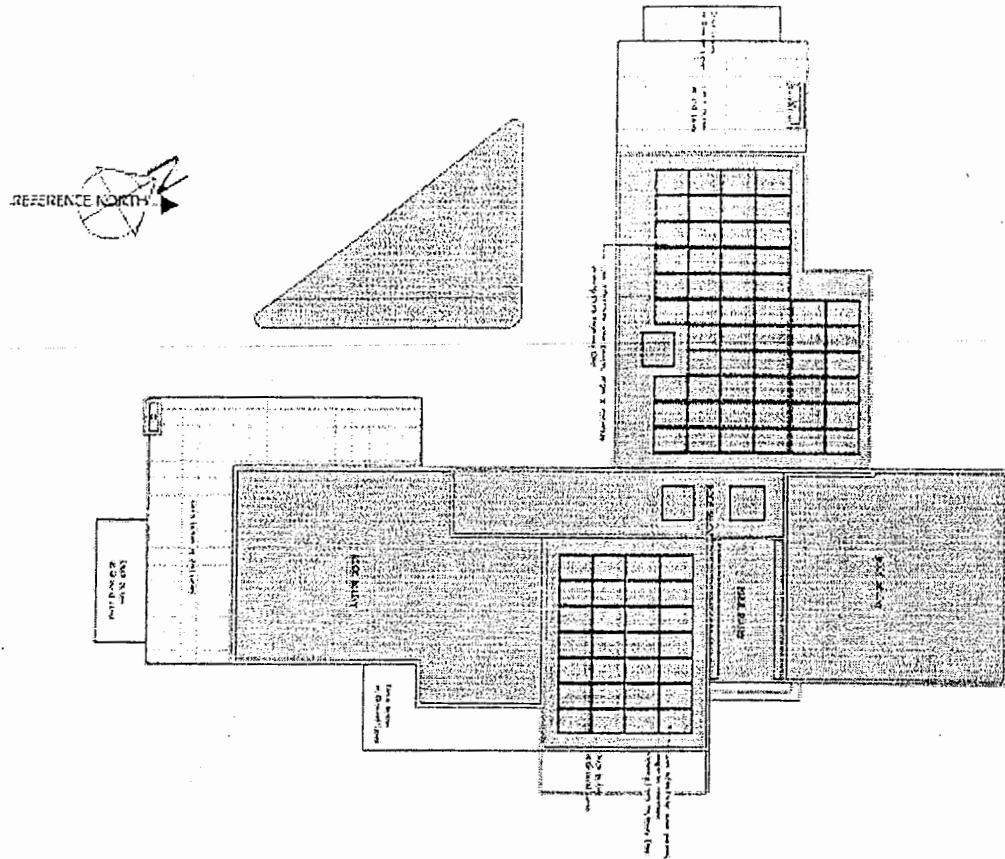
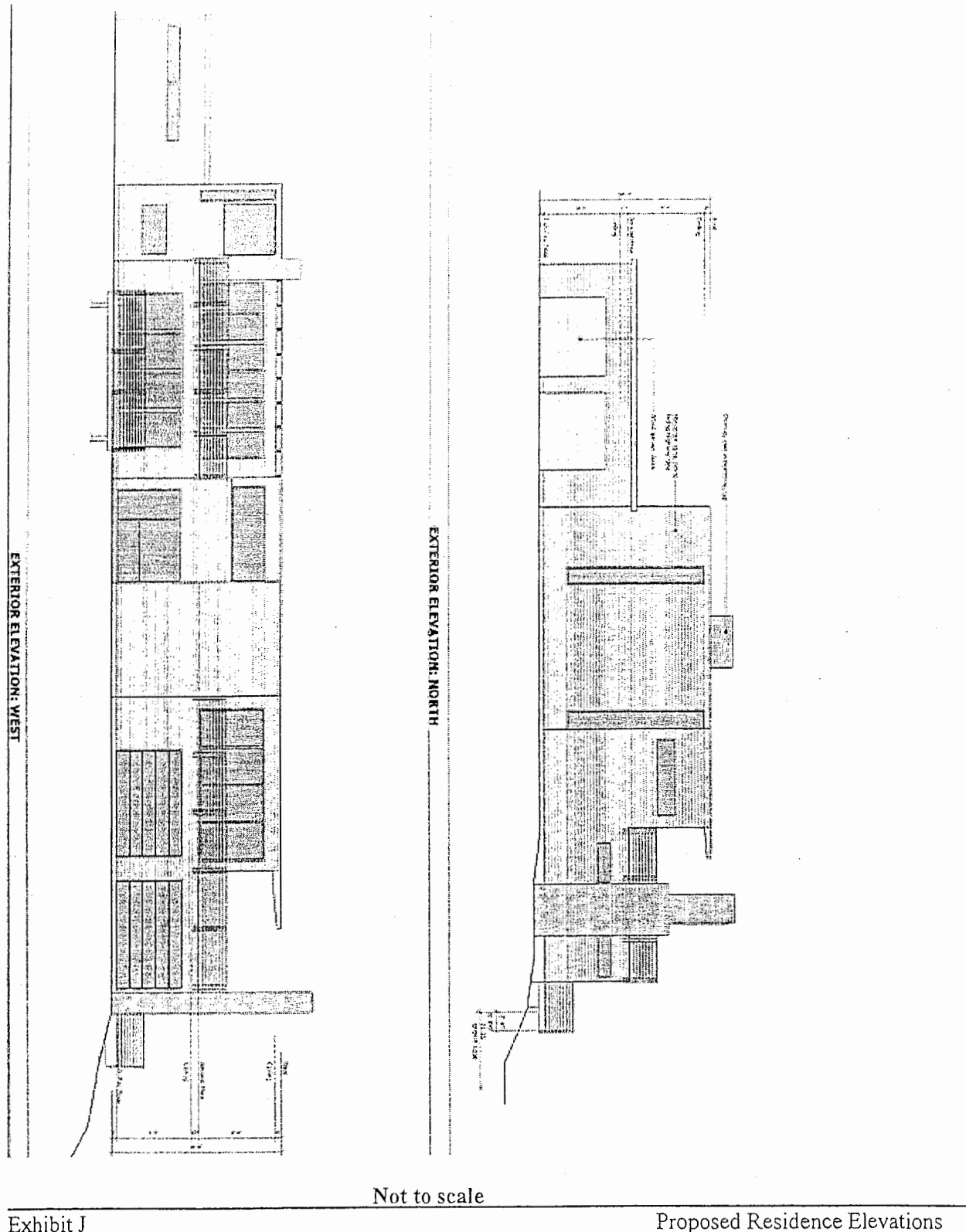


Exhibit H

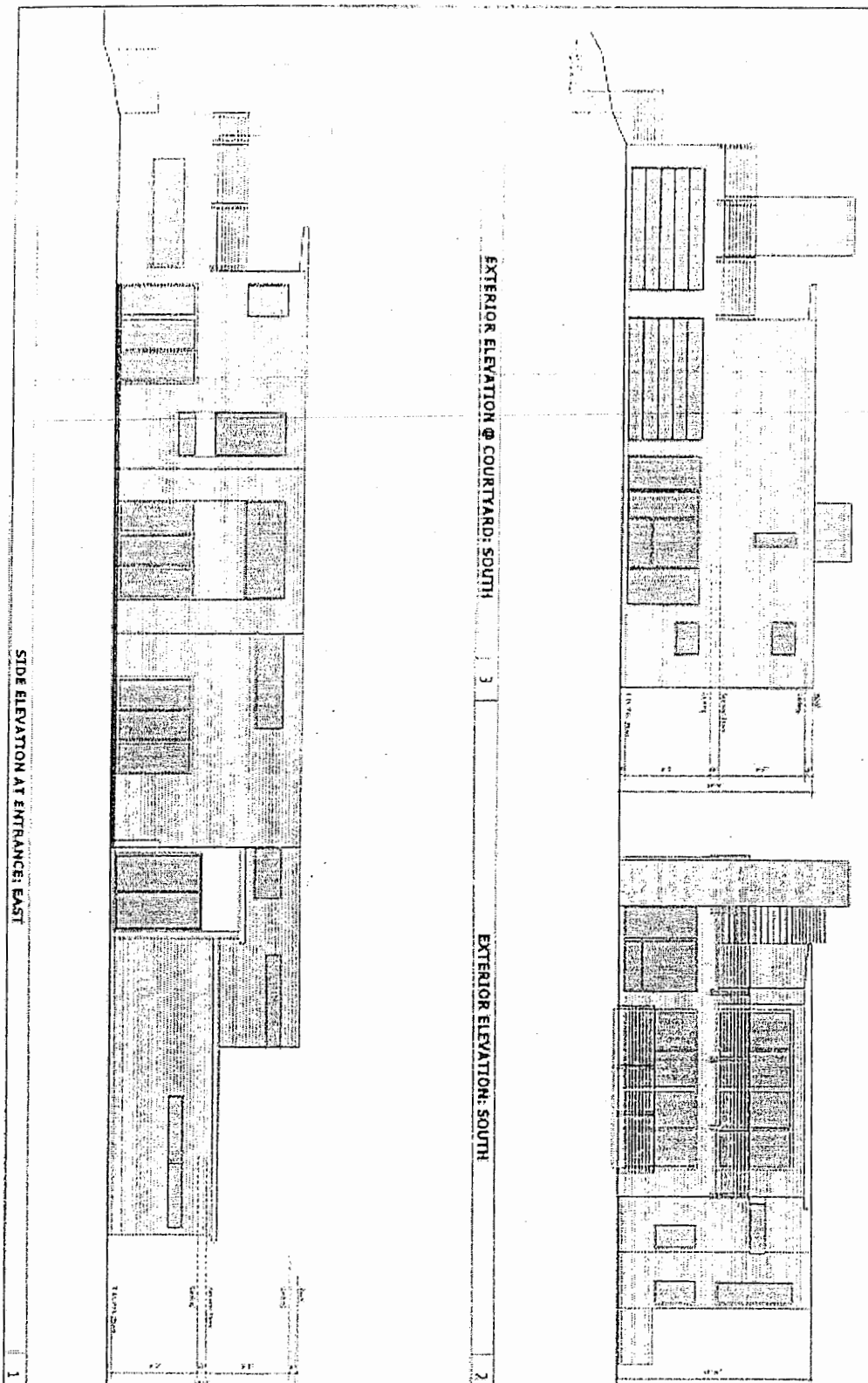
Proposed Residence Floor plan

PROPOSED ROOF LEVEL PLAN

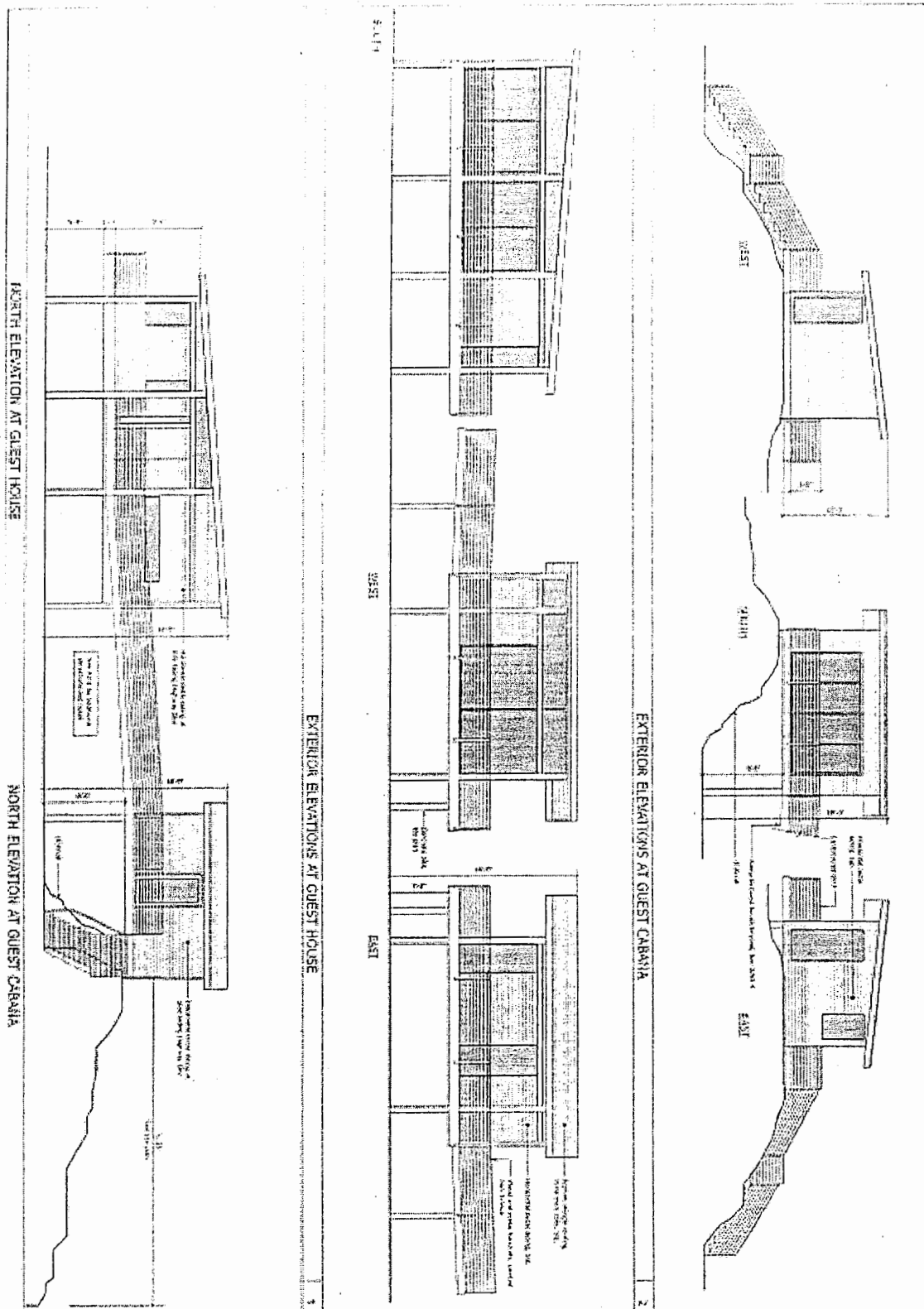






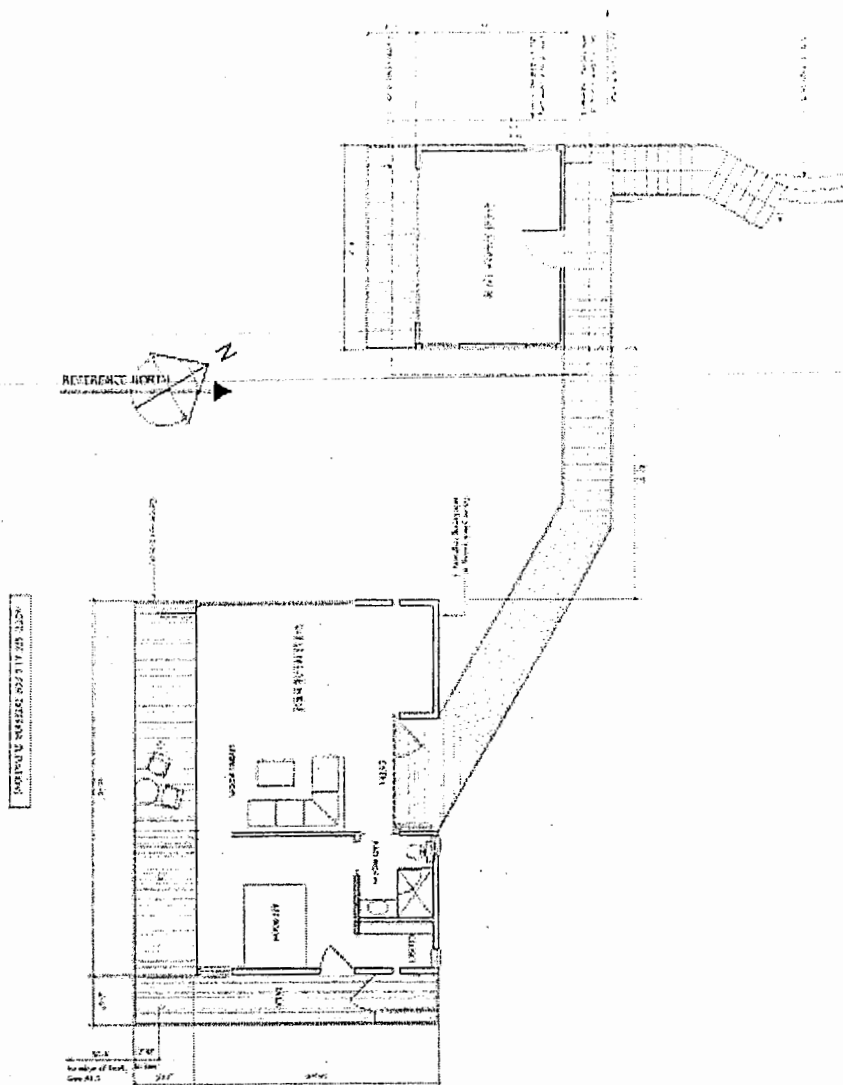


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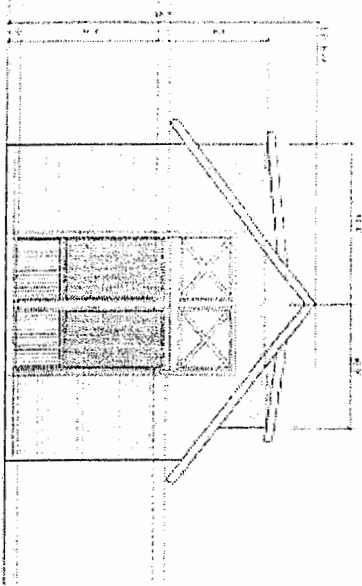
CDP# 42-2007 (Blue Port LLC)  
October 22, 2009  
CPA-31

**FLOOR PLANS AT PROPOSED 12'X16' GUEST CABANA AND 20'X30 GUEST HOUSE**

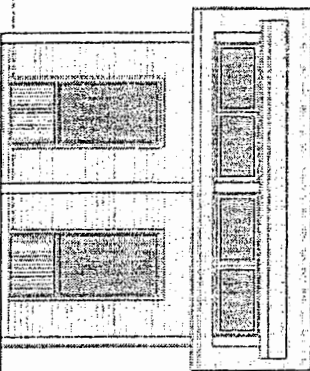




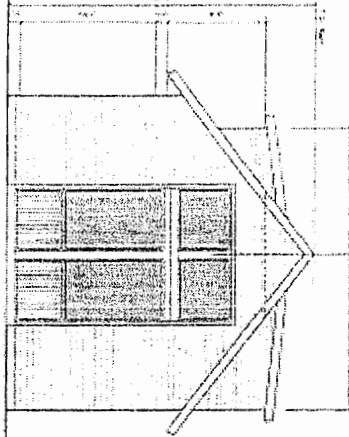
EXISTING SHED: PROPOSED SOUTH ELEVATION



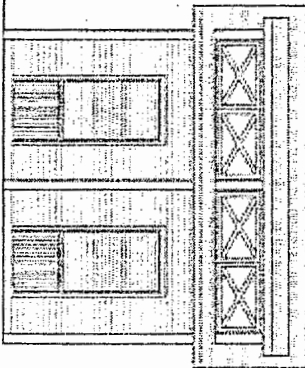
EXISTING SHED: PROPOSED WEST ELEVATION



EXISTING SHED: PROPOSED NORTH ELEVATIONS

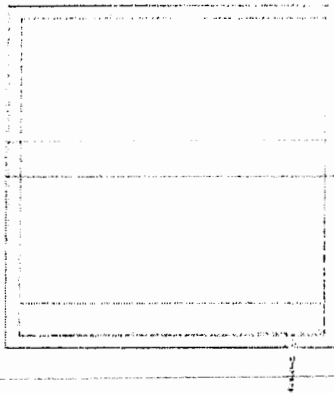


EXISTING SHED: PROPOSED EAST ELEVATIONS



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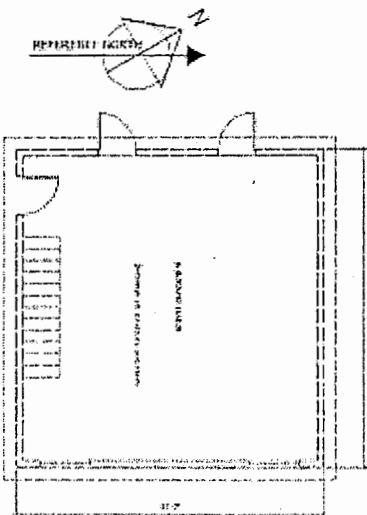
ROOF PLAN AT EXISTING SHED



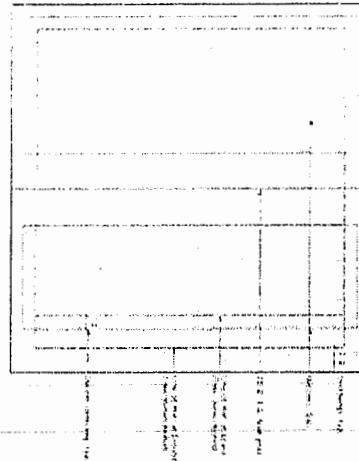
UPPER PLAN AT EXISTING SHED



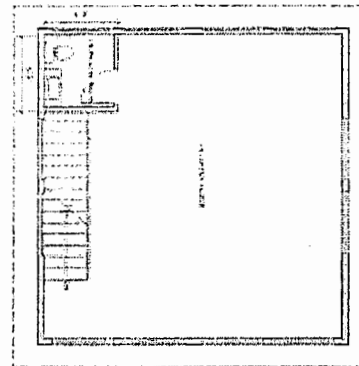
GROUND PLAN AT EXISTING SHED



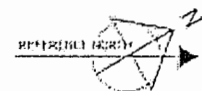
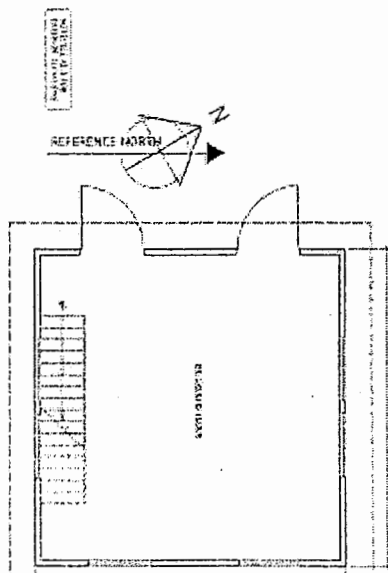
(N) ROOF PLAN AT PROPOSED SHED

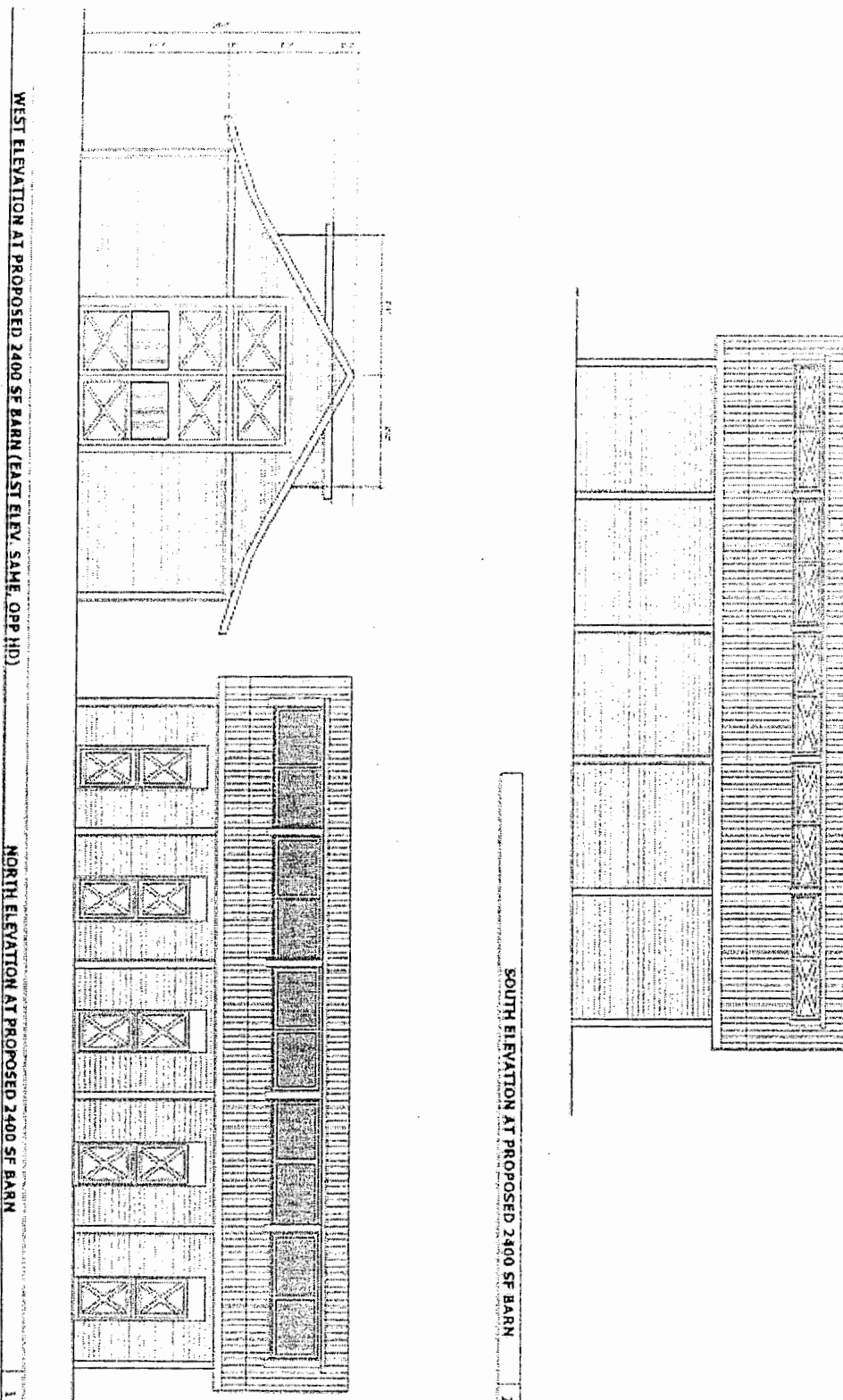


(N) UPPER PLAN AT PROPOSED SHED



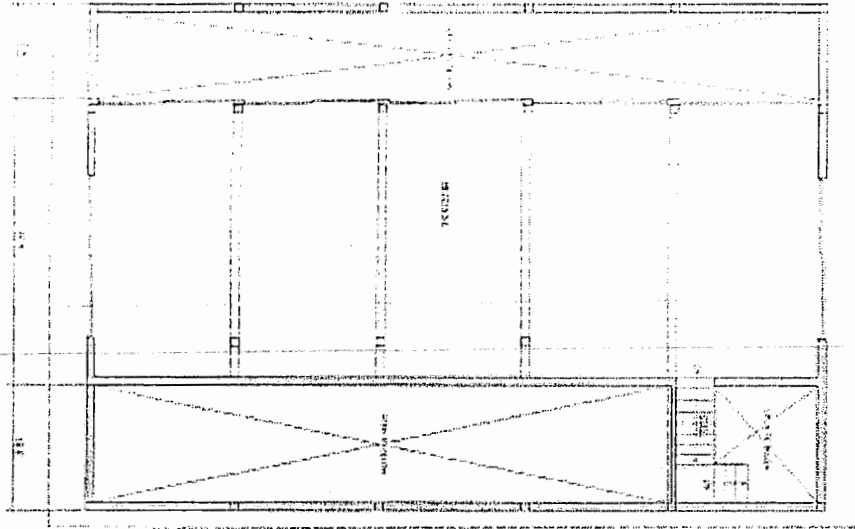
(N) GROUND PLAN AT PROPOSED SHED





Not to scale

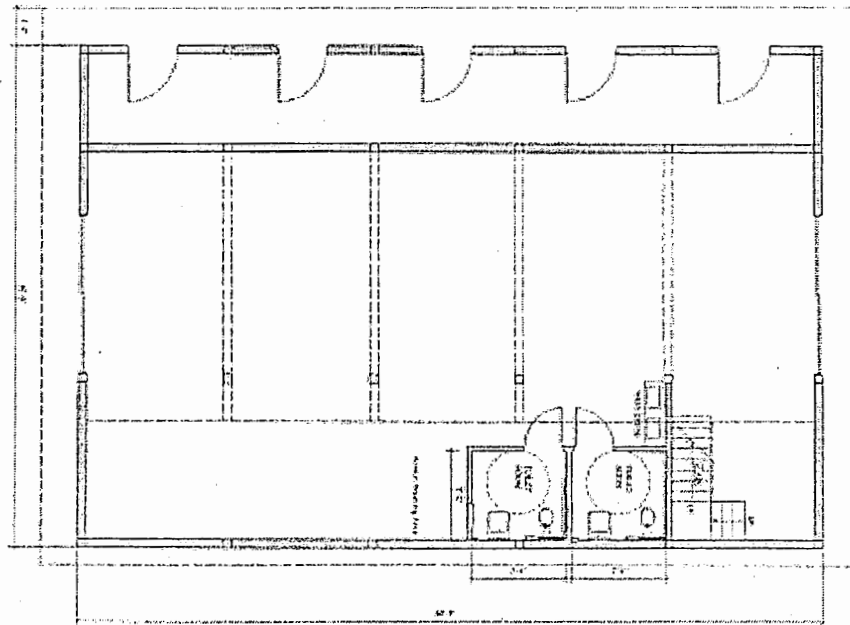
MEZZANINE PLAN @ PROPOSED 2400 SF BARN

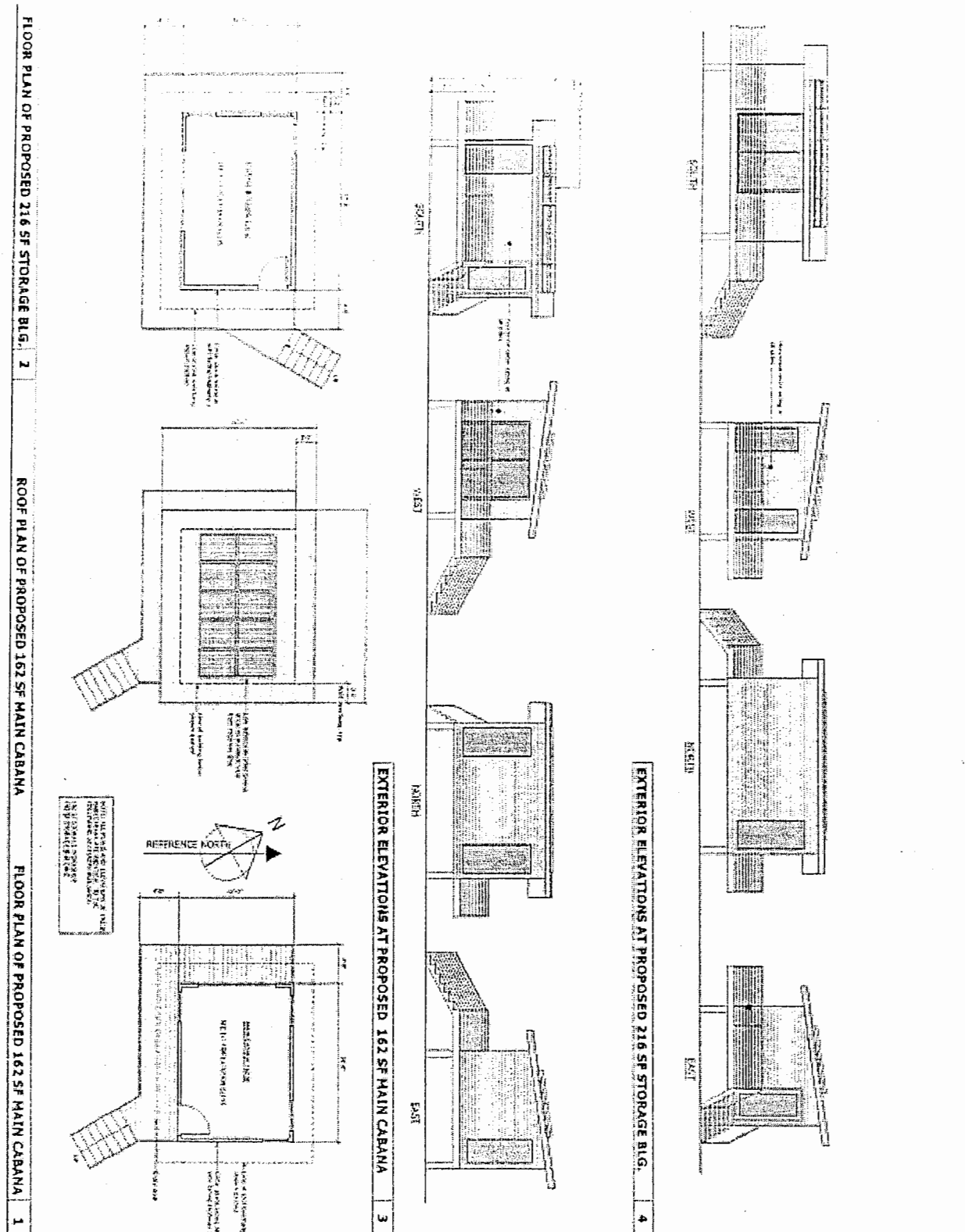


GROUND FLOOR PLAN @ PROPOSED 2400 SF BARN



ALL DIMENSIONS IN FEET





## 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:

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County Department of Planning and Building Services

2. Brief description of development being appealed:

Coastal Development Permit No. 42-2007 issued to Blue Port LLC for the construction of (1) a 5,183-square-foot single-family residence with an attached 675-square-foot garage and 1,536 square feet of upper and lower attached decks (for a total structural size of 7,394 square feet and an average height of 18 feet above natural grade); (2) a 2,400-square-foot barn; (3) a 600-square-foot guest house with attached deck and 192-square-foot cabana; (4) a 192-square-foot hobby workshop; (5) a 216-square-foot garden storage shed; (6) a 160-square-foot cabana with attached deck; (7) reconstruction of an existing "shack;" and (8) a new septic system, driveway, water storage tank, well, and roof-mounted solar system.

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

Within the coastal zone, in Bridgeport Landing, approximately three miles south of Elk, on the west side of Highway One, approximately 1.5-miles north of its intersection with Mallo Pass Creek, at 12350 Highway One (APNs 131-080-001 and -005)

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

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

## EXHIBIT NO. 5

## APPEAL NO.

A-1-MEN-09-052

BLUE PORT, LLC

APPEAL (1 of 12)

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CALIFORNIA  
COASTAL COMMISSION

## CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7833 FAX (707) 445-7877



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

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO:

A-1-MEN-09-052

DATE FILED:

12/21/09

DISTRICT:

North Coast

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

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

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

6. Date of local government's decision: November 20, 2009

7. Local government's file number (if any): CDP 42-2007

**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:

Blue Port LLC, Attn: Gower Smith  
12 Reno Place  
San Francisco, CA 94133

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

(1)

(2)

(3)

(4)



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

### **SECTION IV. Reasons Supporting This Appeal**

#### **PLEASE NOTE:**

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

See Attachment B

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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

SECTION V. Certification

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

Signed: Signature on File  
Appellant or Agent

Date: 12/21/09

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

Signed: \_\_\_\_\_

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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

SECTION V. Certification

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

Signed **Signature on File**  
Appellant or Agent \_\_\_\_\_

Date: 12/21/09

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. Sara J. Wan  
22350 Carbon Mesa Road  
Malibu, CA 90265

(415) 904-5200

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

(858) 551-4390

## **ATTACHMENT B**

### **APPEALABLE PROJECT:**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603). Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within 300 feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within 100 feet of any wetland or stream, or within 300 feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located (1) between the first through public road (Highway One) and the sea, (2) within 300 feet of the top of the seaward face of a coastal bluff, and (3) within a sensitive coastal resource area ("highly scenic area") pursuant to Section 30603(a)(3) of the Coastal Act.

### **REASONS FOR APPEAL:**

The County of Mendocino approved Coastal Development Permit No. 42-2007 for the construction of (1) a 5,183-square-foot single-family residence with an attached 675-square-foot garage and 1,536 square feet of upper and lower attached decks (for a total structural size of 7,394 square feet and an average height of 18 feet above natural grade); (2) a 2,400-square-foot barn; (3) a 600-square-foot guest house with attached deck and 192-square-foot cabana; (4) a 192-square-foot hobby workshop; (5) a 216-square-foot garden storage shed; (6) a 160-square-foot cabana with attached deck; (7) reconstruction of an existing "shack;" and (8) a new septic system, driveway, water storage tank, well, and roof-mounted solar system. The approved development is located within the coastal zone, in Bridgeport Landing, approximately three miles south of Elk, on the west side of Highway One, approximately 1.5-miles north of its intersection with Mallo Pass Creek, at 12350 Highway One (APNs 131-080-001 and -005).

The approval of CDP No. 42-2007 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 the protection of visual resources in Highly Scenic Areas.

### **LCP Policies on the Protection of Visual Resources:**

Land Use Plan (LUP) Policy 3.5-1 states, in applicable part, as follows:

...

*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. [Emphasis added]*

LUP Policy 3.5-3 states, in applicable part, as follows:

*The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. ...*

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Navarro River and the north boundary of the City of Point Arena as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

*In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies. [Emphasis added]*

LUP Policy 3.5-4 states as follows:

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

*Minimize visual impact of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4) concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with hillside. Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area. Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the*

*ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel. [Emphasis added]*

LUP Policy 3.5-5 states as follows:

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

Section 20.504.015, "Highly Scenic Areas," of the Coastal Zoning Code (CZC) states, in applicable part, as follows:

...

**(C) Development Criteria.**

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

*(2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*

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

...

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

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

...

*(7) Minimize visual impacts of development on terraces by the following criteria:*

- (a) Avoiding development, other than farm buildings, in large open areas if alternative site exists;*
  - (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;*
  - (c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*
  - (d) Design development to be in scale with rural character of the area.*
- ...

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

*(11) Power transmission lines shall be located along established corridors where possible and where the corridors are not visually intrusive.*

*(12) Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions. East of Highway 1, power lines shall be placed below ridgelines if technically feasible.*

*(13) Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991) [emphasis added].*

CZC Section 20.504.020 states, in applicable part, as follows:

*(D) The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (Ord. No. 3785 (part), adopted 1991)*

### **Discussion:**

The approved development is located on a vacant, approximately 58-acre bluff top lot on the west side of Highway One in a designated "highly scenic area" in the Bridgeport Landing area of Mendocino County. According to the County's findings for approval, the approved development would be visible from several vantage points along Highway One: "Traveling north, the property comes into view at post mile (PM) markers 27 for ~0.1-mile, at PM 27.5 for ~0.3-mile, and PM 27.9 for ~0.3-mile. Traveling south the property is in view for ~0.3-mile." The subject site is relatively flat to gently sloping westward and is primarily open grassland with tall vegetation along the central western bluff edge. An unobstructed view corridor to the ocean is visible from Highway One at the southwestern end of the property.

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 3.5-3, which requires that new development west of Highway One in designated "highly scenic areas" be limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures; and
- LUP Policy 3.5-4 and CZC Section 20.504.015(C), which require in part that the visual impacts of development on terraces be minimized by minimizing the number of structures and clustering them.

According to the approved project plans, the approved main residence, although it would maintain an 18-foot height limit, would be two stories above natural grade, and it would be sited in a location that would affect public views to the ocean. As explained in the County's findings



for approval: "The proposed residence...would be located in an area where low growing bushes exist near the bluff edge, providing views for the property owners, but the development would silhouette against the ocean. The size and shape of the [approved] residence would stand out, however this is not the main ocean view corridor on the property and would allow for an appropriate amount of development while protecting the main ocean view corridor at the south end of the property." Therefore, the County's findings do not establish that the exceptions under LUP Policy 3.5-3 that would allow a structure to have more than one story have been met. The County's findings demonstrate that the approved residence would, in fact, affect public views to the ocean and do not explain how approving the two-story structure at this location would not be out of character with surrounding structures. Therefore, the County's approval allows for a new two-story residence west of Highway One in designated highly scenic area in a manner inconsistent with LUP Policy 3.5-3.

In addition, the approved development does not minimize the number of new structures to be sited on the coastal terrace and does not sufficiently cluster them together, as is required by LUP Policy 3.5-4 and CZC Section 20.504.015(C). The approved development allows for at least eight different new structures spread out over a several-hundred-foot-long area along the bluff. Some of the approved structures are clustered together, such as the new residence, new workshop, and new cabana in one area and the new barn, new guest cabana, new guest house, new storage building, and restored shed in another area. In addition, both clusters of buildings have been sited to have a backdrop of existing vegetation. Nonetheless, the sheer number of approved new structures spanning over such a large area coupled with the public view impacts discussed above will adversely affect the visual quality of the currently open, undeveloped designated highly scenic area and the development has not fully utilized clustering to minimize visual impacts inconsistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C). Moreover, the approval of the many structures that are merely accessory to the approved residence and not an essential part of the residence including the guest house, cabanas, sheds, and workshops demonstrates that the number of new structures on the coastal terrace has not been minimized, inconsistent with LUP Policy 3.5-4 and CZC Section 20.504.015(C).



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

www.co.mendocino.ca.us/planning

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DEC 07 2009

CALIFORNIA  
COASTAL COMMISSION

December 4, 2009

### NOTICE OF FINAL ACTION

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

**CASE#:** CDP #42-2007

**OWNER:** Blue Port LLC

**APPLICANT:** Gower Smith

**REQUEST:** Construct ~5,183 ft<sup>2</sup> single-family residence with an attached ~675 ft<sup>2</sup> garage, and ~1,536 ft<sup>2</sup> of upper and lower attached decks (for a total structural size of ~7,394 ft<sup>2</sup>) and an average height of 18 feet above natural grade. Associated developments include ~2,400 ft<sup>2</sup> barn, ~600 ft<sup>2</sup> guest house with attached deck and ~192 ft<sup>2</sup> cabana, ~192 ft<sup>2</sup> hobby workshop, ~216 ft<sup>2</sup> garden storage shed, ~160 ft<sup>2</sup> cabana with attached deck, and replacement of existing shed. Install septic system, driveway, water storage tank, well, and roof mounted solar. Request for temporary use of a guest cottage during construction.

**LOCATION:** In the Coastal Zone, approximately three miles south of Elk, on the west side of Highway 1, approximately 1 1/2 miles north of its intersection with Mallo Pass Creek, at 12350 Highway 1 (APN: 131-080-01, 05).

**PROJECT COORDINATOR:** Abbey Stockwell

**HEARING DATE:** November 20, 2009

**APPROVING AUTHORITY:** Coastal Permit Administrator

**ACTION:** Approved with Conditions.

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

The project was not appealed at the local level.

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

EXHIBIT NO. 6

APPEAL NO.

A-1-MEN-09-052

BLUE PORT, LLC

NOTICE OF FINAL LOCAL

ACTION & COUNTY

FINDINGS (1 of 40)

## COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE # CDP 42-07 \_\_\_\_\_

HEARING DATE: November 20, 2009

OWNER: Blue Port LLC

### ENVIRONMENTAL CONSIDERATIONS:

☒ Categorically Exempt

☐ Negative Declaration

☐ EIR

### FINDINGS:

☒ Per staff report

☐ Modifications and/or additions

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### ACTIONS:

☒ Approved

☐ Denied

☐ Continued \_\_\_\_\_

### CONDITIONS:

☐ Per staff report

☒ Modifications and/or additions


Approval of project based on elimination of the 192 square foot "new guest cabana."

Further, ADD to Special Condition 1 as follows:

1. Prior to issuance of the Coastal Development Permit, the applicants shall submit a deed restriction stating that the cabanas, barn and sheds are not to be used as sleeping

quarters. This restriction shall include language to state that this restriction may not be modified or deleted without written approval of the County of Mendocino.

11/20/09  
Date

  
Signed: Coastal Permit Administrator



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

notice blue port llc cdp 42-2007

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

[www.co.mendocino.ca.us/planning](http://www.co.mendocino.ca.us/planning)

RECEIVED

OCT 13 2009

October 9, 2009

**PUBLIC NOTICE OF PENDING ACTION  
STANDARD COASTAL DEVELOPMENT PERMIT**

**CALIFORNIA  
COASTAL COMMISSION**

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, October 22, 2009 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

**CASE #:** CDP #42-2007

**DATE FILED:** 7/27/2007

**OWNER:** Blue Port LLC

**APPLICANT:** Gower Smith

**REQUEST:** Construct ~5,183 ft<sup>2</sup> single-family residence with an attached ~675 ft<sup>2</sup> garage, and ~1,536 ft<sup>2</sup> of upper and lower attached decks (for a total structural size of ~7,394 ft<sup>2</sup>) and an average height of 18 feet above natural grade. Associated developments include ~2,400 ft<sup>2</sup> barn, ~600 ft<sup>2</sup> guest house with attached deck and ~192 ft<sup>2</sup> cabana, ~192 ft<sup>2</sup> hobby workshop, ~216 ft<sup>2</sup> garden storage shed, ~160 ft<sup>2</sup> cabana with attached deck, and replacement of existing shed. Install septic system, driveway, water storage tank, well, and roof mounted solar. Request for temporary use of a guest cottage during construction.

**LOCATION:** In the Coastal Zone, approximately three miles south of Elk, on the west side of Highway 1, approximately 1 1/2 miles north of its intersection with Mallo Pass Creek, at 12350 Highway 1 (APN: 131-080-01, 05).

**PROJECT COORDINATOR:** Abbey Stockwell

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

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

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

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

*Staff reports for agenda items may be accessed and printed from the County website. Go to [www.co.mendocino.ca.us/planning](http://www.co.mendocino.ca.us/planning)*

*Click on the Boards and Commissions link, click on Coastal Permit Administrator, click on the hearing date*

Frank Lynch, Coastal Permit Administrator

STAFF REPORT FOR COASTAL DEVELOPMENT  
STANDARD PERMIT

CDP# 42-2007 (Blue Port LLC)  
October 22, 2009  
CPA-1

**OWNER:** Blue Port LLC  
12 Reno Place  
San Francisco, CA 94133

**AGENT/APPLICANT:** Gower Smith  
12 Reno Place  
San Francisco, CA 94133

**REQUEST:** Construct ~5,183 ft<sup>2</sup> single-family residence with an attached ~675 ft<sup>2</sup> garage, and ~1,536 ft<sup>2</sup> of upper and lower attached decks ( for a total structural size of ~7,394 ft<sup>2</sup>) and an average height of 18 feet above natural grade. Associated developments include ~2,400 ft<sup>2</sup> barn, ~600 ft<sup>2</sup> guest house with attached deck and ~192 ft<sup>2</sup> cabana, ~192 ft<sup>2</sup> hobby workshop, ~216 ft<sup>2</sup> garden storage shed, ~160 ft<sup>2</sup> cabana with attached deck, and replacement of existing shed. Install septic system, driveway, water storage tank, well, and roof mounted solar. Request for temporary use of a guest cottage during construction.

**LOCATION:** In the Coastal Zone, approximately three miles south of Elk, on the west side of Highway 1, approximately 11/2 miles north of its intersection with Mallo Pass Creek, at 12350 Highway 1 (APN: 131-080-01, 05)

**APPEALABLE AREA:** Yes- Highly Scenic Area, west of first public road, bluff top lot

**PERMIT TYPE:** Standard

**TOTAL ACREAGE:** ~58.5 acres

**GENERAL PLAN:** RL 160 [FP]

**ZONING:** RL: L-160 [FP]

**EXISTING USES:** SFR

**ADJACENT ZONING:** North, East, South, West: RL

**SURROUNDING LAND USES:** North, East, South, West: Rangelands

**SUPERVISORIAL DISTRICT:** 5

**CA COASTAL RECORDS PROJECT:** Image: 2005- 03765

**ENVIRONMENTAL DETERMINATION:** Categorically exempt from CEQA: Class 3 (a)(d)(e)

**PROJECT BACKGROUND:** The proposed project's site plan has gone through several iterations since originally submitted to accommodate geotechnical and Environmentally Sensitive Habitat Areas (ESHA) setbacks, and to meet Mendocino County Coastal Zoning Code (MCCZC) regarding Highly Scenic Areas. Specifically, the applicants have removed an accessory storage structure and re-sited several structures to cluster them near existing vegetation.

**PROJECT DESCRIPTION:** The applicants propose to construct ~5,183 ft<sup>2</sup> single-family residence with an attached ~675 ft<sup>2</sup> garage and ~1,536 ft<sup>2</sup> of upper and lower attached decks (for a total structural size of ~7,394 ft<sup>2</sup>) and an average height of 18 feet above natural grade. Associated developments include: ~2,400 ft<sup>2</sup> barn with an average height of 25' above natural grade; ~600 ft<sup>2</sup> guest house with an average height of 18', with attached deck and ~192 ft<sup>2</sup> guest cabana with an average height of 13'; ~192 ft<sup>2</sup> hobby workshop with an average height of 13'; ~216 ft<sup>2</sup> garden shed with an average height of 13'; ~160 ft<sup>2</sup> cabana with attached deck and an average height of 13'; and replacement of ~1,250 ft<sup>2</sup> existing shed with an average height of 25'. Additional developments include installation of the septic system, driveway, water storage tank, production well, and roof mounted solar. The applicants request temporary occupancy of the guest cottage during construction.

The subject parcel is a vacant, bluff top lot located in Bridgeport Landing, a Highly Scenic Area. A dammed, unnamed creek creates a pond with well-established riparian vegetation located along the southern parcel boundary (APN: 131-080-05).

**SUMMARY OF ISSUES:** The proposed project raises issues regarding: (1) use of the proposed guest cottage for residential use before and during construction of the residence, (2) geotechnical bluff setbacks, (3) visual impacts due to its location in a designated Highly Scenic Area and its visibility from Highway One.

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

#### Land Use

The parcel is classified on the Coastal Plan Map as Range Lands (RL). The parcels are similarly zoned RL: L - 160 Acres Minimum. The proposed single-family residence and associated development are permitted uses within the Range Lands Zoning District, and are consistent with the Range Lands land use classification. The parcels are also zoned with the Flood Plain combing district which is applied the western boundary adjacent to the ocean. No developments are proposed in the flood plain.

Guest cottages and shops are compatible with the Range Lands zoning district and are designated as permitted accessory uses pursuant to Chapter 20.456 of the Mendocino County Coastal Zoning Code which states the following:

*Subject to the restrictions and limitations of this Chapter, including the granting of a Coastal Development Permit, where applicable, the following accessory buildings and uses shall be permitted in all zoning districts which allow a single-family residence:*

*(B) Children's playhouse, patios, porches, gazebos, etc.*

*(D) Shops (non-business)*

*(E) Barns.*

*(G) Accessory Living Unit. Not more than one accessory living unit for each legal parcel.*

An "Accessory Living Unit" as defined in Section 20.308.020 is as follows:

*...a detached bedroom as defined in Section 20.308.035(B) or a guest cottage as defined in Section 20.308.050(I).*

A "Guest Cottage" as defined in Section 20.308.050(I) is as follows:

*...a detached building (not exceeding six hundred forty (640) square feet of gross floor area), of permanent construction, without kitchen, clearly subordinate and incidental to the primary dwelling on the same lot, and intended for use without compensation by guests of the occupants of the primary dwelling*

To address the Sec. 20.456.015 (G) above, **Special Condition 1** is recommended to require a deed restriction for the proposed cabanas, barn, sheds and workshops which states that these structures are not to be used as sleeping quarters.

The required yard setbacks for a parcel in an RL zone are 50 feet from all property lines. A corridor preservation setback of 40 feet applies along Highway 1, resulting in a front yard setback of either 95 feet from the road corridor centerline or 50 feet from the property line, whichever is greater. As shown on the Site Plan, the structures comply with setbacks required by the County Zoning Code.

The site is within a designated highly scenic area, therefore the height limit is 18 feet above average natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. The proposed 18 foot height of the residence, guesthouse, and ~13 foot height of the cabana, workshop, and storage structure comply with the height limit. The proposed barn and replacement shed would have a maximum height of 25' but would be located in front of existing vegetation that is taller than the proposed structures and would not affect views to the ocean. Barn structures in the surrounding area appear to be taller than the 18 foot height limit and therefore the increased height would not be out of character with surrounding structures. All of the proposed structures comply with the height limits of the MCCZC.

Maximum lot coverage for a parcel over 5 acres in size in an RL district is 10%. Lot coverage is the percentage of the gross lot area covered by structures, including roads. The lot is approximately 58.5 acres, or 2,548,260 square feet. The Site Plan shows approximately 39,394 square feet of coverage (including the driveway), or 1%. The project complies with lot coverage limits.

The proposed use is compatible with the long-term protection of agricultural resource lands, and the supplemental finding for resource lands with the Range Lands designation, found in Section 20.532.100(A)(2) of the Mendocino County Coastal Zoning Code (MCCZC), is included as Finding Number 8 near the end of this report. **Special Condition 2** is recommended to require the applicant sign and return the Agriculture Lands Disclosure Form to Planning and Building Service prior to issuance of the Building Permit.

The applicants request temporary occupancy of the Guest Cottage while the proposed residence is constructed. Chapter 20.460 of the MCCZC allows for temporary use a structure to support residential development:

*Sec. 20.460.025 Construction Support.*

*The temporary occupancy of buildings during the course of construction may be permitted upon the issuance of a Coastal Development Administrative Permit pursuant to Chapter 20.532.*



*(B) Minor Construction. Temporary use and occupancy of an existing dwelling while constructing a new residence.*

*(C) Termination. All temporary uses permitted by this section shall be terminated not later than twenty-four (24) months after issuance of building permits therefore, unless a written request for extension of time has been submitted to and approved by the Director prior to the expiration of said twenty-four (24) months. All temporary uses and related improvements other than model homes shall be completely removed from the premises and all model homes shall be restored to a condition suitable for sale for residential occupancy, including reconversion of any garage to a condition suitable for the storage of private vehicles or the provision by other means of required off-street parking spaces. (Ord. No. 3785 (part), adopted 1991)*

**Special Condition 3** is recommended to address the temporary use of the guest cottage as a residence before and during construction of the proposed single-family residence. Once temporary use of the guest cottage for construction support has ceased, the condition also ensures the guest cottage will not have a kitchen or cooking facilities, will be clearly subordinate and incidental to the primary dwelling and will not be separately rented, let, or leased whether compensation be direct or indirect.

In Section 3.11-12 of the County of Mendocino Coastal Element, the following is stated regarding alternative energy:

*The County shall encourage the development and use of alternative sources of energy, such as wind, solar, wave, and biomass and cogeneration to meet the coast's energy needs.*

The County recognizes the local use of solar power as a practical source of self-reliant energy and a preferred method of meeting coastal energy needs. The proposed roof-mounted solar array complies with the LCP.

#### **Public Access**

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

#### **Hazards**

The property is in an area that has a "moderate" fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention. The Department of Forestry has submitted recommended conditions of approval (CDF# 310-08) for address standards, driveway standards, and defensible space standards. Standard Condition #4 is recommended to achieve compliance with CDF fire safe standards.

The proposed structure would be located on a relatively flat marine terrace coastal bluff that is approximately 200 feet in vertical height from the ocean. Section 20.500.015(A)(2) of the Mendocino County Coastal Zoning Code (MCCZC) requires as follows:

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

A geotechnical investigation was performed by BACE Geotechnical (BACE). The engineering geological investigation report, dated July 7, 2007, is located in the project file.

Sections 20.500.020(B)(1, 3) of the MCCZC require as follows:

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

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

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

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

The appropriate bluff edge setback was determined by BACE to be 31.25 feet for the bluff near the proposed residence and associated structures. The southwestern bluff has a slightly higher rate of erosion; therefore, BACE recommends a geotechnical setback of 40.6 feet for development along this area of bluff. An active landslide is present on the bluff face along the existing beach access path, however no development is planned in this area. Additionally, BACE discussed the presence of an old landslide on a flat area below the bluff edge, southwest of the proposed building site for the residence. The old landslide area has been graded for human use. BACE has determined that this area is not suitable for construction activities and that effective drainage should be implemented for the area, along with the removal of existing temporary structures such as fences, and trailer. **Special Condition 4** is recommended to require the applicants to follow the recommendations of the BACE report to remove existing structures on the old landslide area and implement effective drainage prior to final of the building permit. **Special Condition 5** is recommended to require BACE review prior to final development plans, to provide specific foundation design parameters, field verification and/or building footprint staking to ensure geotechnical setbacks are followed for all proposed structures, and to provide recommendations relative to site grading, site drainage, and seismic design criteria as necessary.

It is the policy of the Coastal Commission and the County to require recordation of a deed restriction as a condition of development on blufftop parcels, prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. The restriction also requires that the landowner be responsible for any clean up associated with portions of the development that might fall onto a beach. **Special Condition 6** is recommended to address this issue.

#### **Grading, Erosion and Runoff**

Regarding grading standards, Sec. 20.492.010 of MCCZC states in pertinent part:

*(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.*

*(D) The cut face of earth excavations and fills shall not be steeper than the safe angle of repose for materials encountered. Where consistent with the recommendations of a soils engineer or engineering geologist, a variety of slope ratios shall be applied to any cut or*

*fill slope in excess of two hundred (200) feet in length or ten (10) feet in height. For individually developed lots, a variety of slope ratios shall be applied to all cut or fill slopes when a building pad area exceeds four thousand five hundred (4,500) square feet, or when the total graded area of the lot exceeds nine thousand (9,000) square feet. The steepest permissible slope ratio shall be two to one (2:1), corresponding to a fifty (50) percent slope.*

*(E) The permanently exposed faces of earth cuts and fills shall be stabilized and revegetated, or otherwise protected from erosion.*

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

*(G) The area of soil to be disturbed at any one time and the duration of its exposure shall be limited. Erosion and sediment control measures shall be installed as soon as possible following the disturbance of the soils. Construction equipment shall be limited to the actual area to be disturbed according to the approved development plans. (Ord. No. 3785 (part), adopted 1991)*

The applicant has described constructing the driveway by installing a layer of crushed rock. The entire property is relatively flat, no re-grading of the topography is anticipated. Initially the applicant proposed a perimeter track and firebreak that would allow vehicle access along the property boundaries and across the property south from the driveway to the pond. Staff was concerned about the visual impacts created by this track and requested it be removed. The applicants removed this feature and agreed to keep a path mowed for access.

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

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

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

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

No trees are proposed to be removed. The building footprints are proposed on relatively flat grasslands. **Special Condition 7** is recommended to require a grading and erosion control plan. The grading and erosion control plan shall detail a grading schedule, and Best Management Practices, including but not limited to all 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.

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

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

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

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

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

The proposed residence and accessory structures will increase the amount of impervious surfaces on this lot, therefore increasing post-construction runoff. Increases in impervious surfaces in a watershed, such as roofs and roads, increases surface runoff from a site creating the potential to cause erosion and degrade aquatic health. Development in any watershed can have incremental impacts on watershed health therefore, it is recommended that roof top runoff be directed to landscaped areas to slow the rate of runoff and increase infiltration. Native and drought tolerant plants are recommended for landscaped areas. The landscaped area that accepts roof runoff may be considered a rain garden. Rain gardens are a stormwater infiltration and treatment option that include a shallow landscaped depression with designed soil and plant palette that are adapted to the local climate and soil moisture conditions. A rain garden may act as a landscape amenity, while providing an environmental benefit of storing and infiltrating roof runoff. As a water storage tank is proposed, rainwater catchment may also be another solution. **Special condition 8** is offered to reflect this recommendation.

### Visual Resources

The parcel is located in a designated "Highly Scenic Area" west of Hwy 1 and the proposed project is subject to the following development criteria:

Coastal Element Policy 3.5-1 provides general guidelines for all development in the coastal zone, requiring that:

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

Policy 3.5-3 of the Coastal Element states:

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

*In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*

Section 20.504.015(C)(2) of the Coastal Zoning Code requires:

*In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*

The proposed development would be visible from several vantage points along Highway 1. Traveling north, the property comes into view at post mile (PM) markers 27 for ~0.1 mile, at PM 27.5 for ~0.3 mile, and PM 27.9 for ~0.3 mile. Traveling south the property is in view for ~0.3 mile. Story poles for the proposed buildings have been erected on site to provide staff with a reference to assist in analyzing the potential visual resource impacts of the project. The project site has a relatively gentle slope to the west and is primarily an open grassland with tall vegetation along the central western bluff edge, a main corridor to ocean views is visible at the southwestern end of the property (see Figure 1).

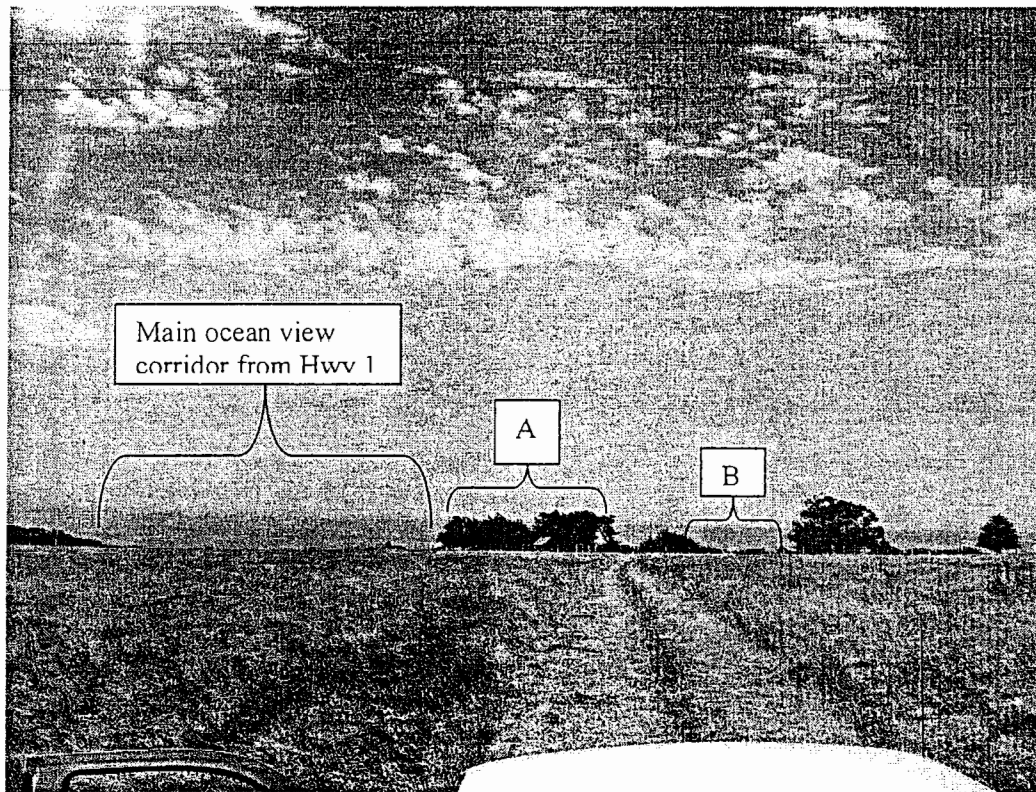


Figure 1. View looking west from just inside applicant's gate, adjacent to Hwy 1. Location A represents building sites that will cluster the proposed guesthouse – guest cabana, barn, storage building, and shed. Location B represent building sites for the proposed residence, workshop, and cabana.

Section 20.504.015(C) of the MCCZC also requires:

- (5) Buildings and building groups that must be sited in highly scenic areas shall be sited:
  - (a) Near the toe of a slope;
  - (b) Below rather than on a ridge; and
  - (c) In or near a wooded area.
- (7) Minimize visual impacts of development on terraces by the following criteria:
  - (a) Avoiding development, other than farm buildings, in large open areas if alternative site exists;
  - (b) Minimize the number of structures and cluster them near existing vegetation, natural landforms, or artificial berms;
  - (c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;

*(d) Design development to be in scale with rural character of the area.*

Originally, the applicants sited the proposed barn in the center of the "main ocean view." A corner of the guesthouse also extended into the "main ocean view" and silhouetted against the ocean. Staff expressed concern over these locations and suggested that these developments be clustered against the existing vegetation as required by the MCCZC. The applicants re-sited the two structures to the current site plan, to be clustered in front of the existing vegetation (see Exhibit G). The proposed guesthouse was moved north, ~10 feet with the intent of having the entire structure back dropped by the existing vegetation (story poles were not moved to reflect the change).

All of the proposed structures would be set back a substantial distance, approximately 1,560 feet, from Highway 1. This distance, combined with the slight slope to the west, helps to minimize the proposed structures height and visual impact. The existing vegetation provides a visual backdrop to the barn, shed, storage building, guesthouse, and guest cabana, as these structures have been clustered near this vegetation. The proposed barn and shed would have a maximum height of 25' above natural grade. Existing barns in the surrounding area do appear to exceed 18' in height. Therefore, the proposed structures would not be out of character with the surrounding structures. Additionally, both proposed structures would be back-dropped by the existing vegetation, and for that reason would not take away from coastal views. The proposed residence would maintain an 18' height above natural grade and would be located in an area where low growing bushes exist near the bluff edge, providing views for the property owners, but the development would silhouette against the ocean. The size and shape of the proposed residence would stand out, however this is not the main ocean view corridor on the property and would allow for an appropriate amount of development while protecting the main ocean view corridor at the south end of the property. Additionally, the residence must be at least 40 feet from the barn as required in Chapter 20.444.015 (G). Also clustered by the proposed residence are a hobby workshop and cabana.

Fence posts were installed during the permit review process. The 4x4 posts are currently ~10 feet tall and installed running east-west for a portion and then run northeast-southwest. As proposed, the posts will be treated with a dark natural wood stain to help them blend into the natural setting, with black game wire fencing. **Special Condition 9** is recommended to require the fence posts be cut down to eight feet to reduce their visual impact. Fences over six feet tall require a building permit. Standard Condition 5 is intended to address this requirement.

Section 20.504.015(C) of the MCCZC also requires:

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

*(12) Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions. East of Highway 1, power lines shall be placed below ridgelines if technically feasible.*

*(13) Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991)*

A landscaping plan is required to provide a visual buffer for the east, north, and south elevations of all the developments. The existing vegetation shall be incorporated into the landscaping plan, noting the height, and location, and shall be maintained and replaced in perpetuity as it has served as a primary component of this analysis. Staff recommends Special Condition 10 to require a landscaping plan prior to issuance

of the Coastal Development Permit. **Special Condition 11** is offered to require all power distribution lines be placed underground. The proposed driveway would take access from Highway 1, as no other alternate configuration is feasible.

Section 20.504.015(C) of the MCCZC also requires:

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

Table 1. Proposed exterior materials and colors.

	Material	Color
Siding	Horizontal cedar siding	Burnt umber/ "warm n toasty"
Chimney	Stone veneer	Field stone
Roofing	Asphalt shingles	Earthtone
Fencing materials	Wood posts with black game wire	Natural wood stain & black wire
Deck railings	Wood and metal	Dark bronze
Garage doors	Wood	

The proposed exterior finishes for the structures are dark, earthtone colors that would blend in with the surrounding environment. However, specific information on materials and colors for the windows, trim, doors, and garage doors have not been provided. **Special Condition 12** is required to allow Planning staff to review final materials and colors prior to issuance of the Coastal Development Permit. Materials and colors are to be of dark, and blend in hue and brightness with their surroundings.

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

- (A) Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.*
- (2) Where possible, all lights, whether installed for security, safety, or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.*
- (5) No lights shall be installed so that they distract motorists.*

Exterior lighting is proposed downcast and shielded on the application, however no details were provided as to the type of light fixtures to be used or specific locations. Staff recommends **Special Condition 13** to allow the Planning Division to review the specific exterior light fixtures and locations prior to issuing the building permit.

The south elevation of the proposed single-family residence depicts a stairway to the roof. This feature must be removed as it would not be permitted through the building permit process. **Special Condition 14** is offered to require the building plans be revised and the stairway removed when submitted for the building permit.



### Natural Resources

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

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

Chapter 20.496 and Section 20.532.060, et. seq. of the MCCZC contain specific requirements for protection of ESHAs and development within the buffer area of an ESHA. A sufficient buffer area is required to be established and maintained to protect ESHAs from disturbances related to proposed development. Section 20.496.020(A)(1) of the MCCZC states:

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

A Botanical Survey and ESHA Assessment for the subject parcel, dated July 2005, was prepared by William Maslach and is located in the project file. The Survey Report describes riparian habitat near an unnamed creek and coastal bluff scrub along the bluff face and edge. The project site is predominantly coastal terrace grasslands dominated by bent grass (*Agrostis stolonifera*) and sweet vernal grass (*Anthoxanthum odoratum*).

The riparian habitat and creek occur on the south side of the property (APN # 131-080-05). An earthen dam with a road on top occurs on western extent of the creek, forming a large pond behind it. The riparian habitat is primarily arroyo willow (*Salix lasiolepis*) and Sitka willow (*Salix sitchensis*). All of the proposed structures are outside of the 100 foot buffer to the riparian habitat.

The coastal scrub habitat is restricted to the bluff edges and bluff faces and is comprised primarily of coast buckwheat (*Eriogonum latifolium*), dudleya (*Dudleya caespitosa*), and seaside wooly sunflower (*Eriophyllum staechadifolium*). Additionally, Mendocino Coast paintbrush (*Castilleja mendocinensis*), a species considered rare, threatened, or endangered in California was found along the steep bluff face above the ocean. These locations are inaccessible and would not be affected by the proposed developments.

US Fish and Wildlife Service (FWS) was consulted regarding the proposed developments and conducted a site visit on November 18, 2008. FWS staff commented that Behren's Silverspot butterfly is not likely to occur on the parcel. Suitable habitat for Point Arena mountain beaver was found on the subject parcels however, the developments will avoid those areas and is not likely to result in incidental take of this species. After a recent submittal of septic design plans, staff referred these plans to FWS for comment on September 1, 2009. Due to the proximity of the septic installation to the riparian buffer area, FWS recommends installing temporary construction fencing to prevent any ground or vegetation disturbance to the riparian habitat. **Special Condition 15** is recommended to comply with FWS comments.

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



### Archaeological/Cultural Resources

The application and an archaeological survey was reviewed by the Mendocino County Archaeological Commission on October 8, 2008, the survey was accepted. No sites were identified in the survey. Standard Condition Number 8 is recommended, advising the applicant of the requirements of the County's Archaeological Ordinance (Chapter 22.12 of the Mendocino County Code) in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

### Groundwater Resources

The site is located within an area designated as a Critical Water Resources area (CWR) as shown in the 1982 Coastal Groundwater Study prepared by the Department of Water Resources. Water is to be provided by an on-site well. However, groundwater is scarce as many wells go dry during droughts, as well as during summer months, thus water conservation techniques are recommended. **Special Condition 16** recommends water conservation practices including use of native plants for landscaping to reduce irrigation needs, applying a layer of organic mulch around plants to reduce moisture loss and keep weeds down, only watering necessary plants (garden crops) in the dry season, using highly efficient appliances and devices such as high-efficiency toilets, high-efficiency clothes washing machines, low-flow showerheads and faucet aerators. More tips are available on the internet at: <http://www.wateruseitwisely.com/links-and-resources/local-resources/>

The application proposes a new sewage disposal system consisting of a 1,500 gallon septic tank, a 1,500 gallon pump tank, a 1,200 gallon septic tank and pump chamber 260 linear feet of leach field trench.

Frank Kemper of the Division of Environmental Health commented that the project can be approved by Environmental Health, however the guest cottage may not contain a permanent kitchen. No adverse impacts to groundwater resources are anticipated.

### Transportation/Circulation

The project proposes a new encroachment onto Highway 1. The application was referred to the Mendocino County Department of Transportation whom responded with "no comment." CalTrans also was referred the proposed project. CalTrans responded that the project's access would have to be constructed to current single-family road approach standards. These standards can be found in Chapter 200, Topic 205 of the Highway Design Manual, available online at: [www.dot.ca.gov/hq/oppd/hdm/pdf/chp0200.pdf](http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp0200.pdf). Additionally, any work within the State right of way including access improvements, will require a current encroachment permit. Encroachment Permit applications are reviewed for consistency with State standards and are subject to Department approval. Jim Shupe of the CalTrans District 1 Encroachment Permit office should be contacted to schedule a site review prior to submitting an application. CalTrans recommended condition is included as **Special Condition Number 17**.

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

### Zoning Requirements

The project complies with the zoning requirements for the Range Lands District set forth in 20.368, et.seq., and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

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

**FINDINGS:**

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.
8. The proposed use is compatible with the long-term protection of resource lands.

**STANDARD CONDITIONS:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.

4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.
  - b. One or more of the conditions upon which the permit was granted have been violated.
  - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

**SPECIAL CONDITIONS:**

1. Prior to issuance of Coastal Development Permit, the applicants shall submit a deed restriction stating that the cabanas, barn, and sheds are not to be used as sleeping quarters.
2. Prior to issuance of the initial building permit, the applicant shall submit a signed "Agricultural Land Disclosure Statement" pursuant to Section 10A.13.040(C) of the Mendocino County Code. The disclosure statements are available at the Mendocino County Department of Planning and Building Services offices.
3. An administrative permit is hereby granted for temporary occupancy of the existing dwelling while constructing the proposed single family residence, subject to the following conditions of approval:

- a. The term of this administrative permit is valid for the period required to complete construction of the primary dwelling, but shall not exceed two years unless renewed. The administrative permit shall be effective on the effective date of CDP # 42-2007 and shall expire two years henceforth.
  - b. Prior to final building inspection for the proposed residence, the owner shall remove all kitchen, food preparation, or cooking facilities. The owner shall obtain a building inspection of the guest cottage unit to verify the food preparation facilities have been removed. Once owner occupancy of the guest cottage has ceased, the use of the guest cottage shall remain consistent with the provisions of Section 20.308.050(G)(I) and 20.308.070(K)(B) of the Coastal Zoning Code, in that it shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food. The guest cottage shall not be used as an independent dwelling unit, shall be clearly subordinate and incidental to the primary dwelling on the same lot, and intended for use without compensation, either direct or indirect, by guests of the occupants of the primary dwelling.
4. Prior to final of the Building Permit for the proposed residence, the applicants shall remove all existing structures (fences, trailer, etc.) located on the low, flat area northeast of the point and southwest of the planned main house area.
  5. Prior to issuance of every Building Permit, the applicant shall submit evidence that BACE Geotechnical reviewed final development plans to provide specific foundation design parameters, field verification and/or building footprint staking to ensure geotechnical setbacks are followed for all proposed structures, specifically 31.25' for the area of the single family residence, and 40.6 for structures near the southwest bluff. Additionally, BACE shall provide recommendations relative to site grading, site drainage, and seismic design criteria as necessary.
  6. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:
    - a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
    - b) The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
    - c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
    - d) The landowner shall not construct any bluff or shoreline protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosion hazards in the future;

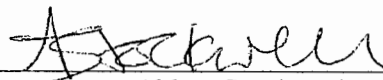
- e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
  - f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
- 7. Prior to issuance of the every building permit, the applicants shall submit for approval by the Coastal Permit Administrator, a grading and erosion control plan that addresses disturbed earth caused by construction activities. A grading schedule shall be provided as well as erosion control Best Management Practices. All 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. Alternatively, a complete grading and erosion control plan, which addresses all structures may be submitted with the initial building permit. However, subsequent building permit application shall note grading and erosion control measures.
  - 8. Roof top runoff should be conveyed as sheet flow to landscaped vegetation to encourage infiltration and groundwater recharge. As a water storage tank is proposed, rainwater catchment may also be an option. The intent of this condition is to mitigate for the increased surface runoff that will occur from the increased impervious surfaces from the proposed structure.
  - 9. Prior to final of the building permit for the proposed residence, the 4x4 fence posts running east-west and southwest-northeast shall be reduced in height to eight feet.
  - 10. Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Coastal Permit Administrator a landscape plan to provide a visual screen of the development as viewed from Highway One, north, east, and south of the site. The plan is intended to partially buffer the view of the project but is not expected to completely hide the project. The plan shall utilize native vegetation and provide tall enough vertical elements to provide the expected visual buffer. All required landscaping shall be installed prior to final clearance of the building permit for the residence, or occupancy of the residence, whichever occurs first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future vegetation removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit amendment. The existing vegetation shall be incorporated into the landscaping plan, noting the height, and location, and shall be maintained and replaced in perpetuity.
  - 11. All power distribution lines shall be placed underground.

12. Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Coastal Permit Administrator dark exterior finish colors for the proposed structure. Exterior color choices should avoid contrasting body and trim colors. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.
13. Prior to issuance of every building permit, the applicant shall submit an exterior lighting plan and design details or manufacturer's specifications for all the exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded in compliance with Section 20.504.035 of the MCCZC.
14. Prior to issuance of the building permit for the proposed residence, the south elevation of the single-family residence shall be revised to illustrate that the stairway leading to the roof has been removed. No stairway to the roof shall be permitted.
15. Prior to commencement of construction activities, temporary construction fencing shall be installed north of the riparian vegetation on the southern portion of the property in the vicinity of the septic leach field installation, to prevent any ground or vegetation disturbance to the riparian habitat.
16. Water conservation measures, per the 1982 Mendocino County Groundwater Study, shall be required to include proven water conservation technology including but not limited to: low-flow toilets, water efficient appliances, flow control inserts on faucets, and any irrigation systems shall minimize runoff and evaporation, and maximize the water that will reach plant roots. Drip irrigation, soils moisture sensors, and automatic irrigation systems are a few methods.
17. Prior to issuance of the Coastal Development Permit, applicant shall obtain an encroachment permit from CalTrans. Encroachment Permit applications are reviewed for consistency with State standards and are subject to Department approval. Jim Shupe of the CalTrans District 1 Encroachment Permit office should be contacted to schedule a site review prior to submitting an application at 707-463-5722. Requests for CalTrans Encroachment Permit application forms can be sent to the CalTrans District 1 Permits Office at PO Box 3700, Eureka CA 95502-3700, or requested by phone at 707-445-6385. The CalTrans Permit Manual is also available online at: [www.dot.ca.gov/hq/traffops/developserv/permits/](http://www.dot.ca.gov/hq/traffops/developserv/permits/). A current single-family road approach shall be constructed to CalTrans standards as well. These standards can be found in Chapter 200, Topic 205 of the Highway Design Manual, available online at: [www.dot.ca.gov/hq/oppd/hdm/pdf/chp0200.pdf](http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp0200.pdf).

Staff Report Prepared By:

10.8.09

Date



Abbey Stockwell  
Planner I

**STAFF REPORT FOR COASTAL DEVELOPMENT  
STANDARD PERMIT**

**CDP# 42-2007 (Blue Port LLC)  
October 22, 2009  
CPA-18**

Attachments: Exhibit A Location Map  
Exhibit B Zoning Map  
Exhibit C Land Use Map  
Exhibit D Flood Plain Map  
Exhibit E Williamson Act Map  
Exhibit F Rare Find Map  
Exhibit G Site Plan  
Exhibit H Proposed Residence Floor Plans  
Exhibit I Proposed Residence Roof Plan  
Exhibit J Proposed Residence Elevations  
Exhibit K Proposed Residence Elevations  
Exhibit L Proposed Guest House Elevations  
Exhibit M Proposed Guest House Floor Plans  
Exhibit N Proposed Replacement Shed Elevations  
Exhibit O Proposed Replacement Shed Floor Plans  
Exhibit P Proposed Barn Elevations  
Exhibit Q Proposed Barn Floor Plans  
Exhibit R Proposed storage sheds and cabana Floor Plans and Elevations

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

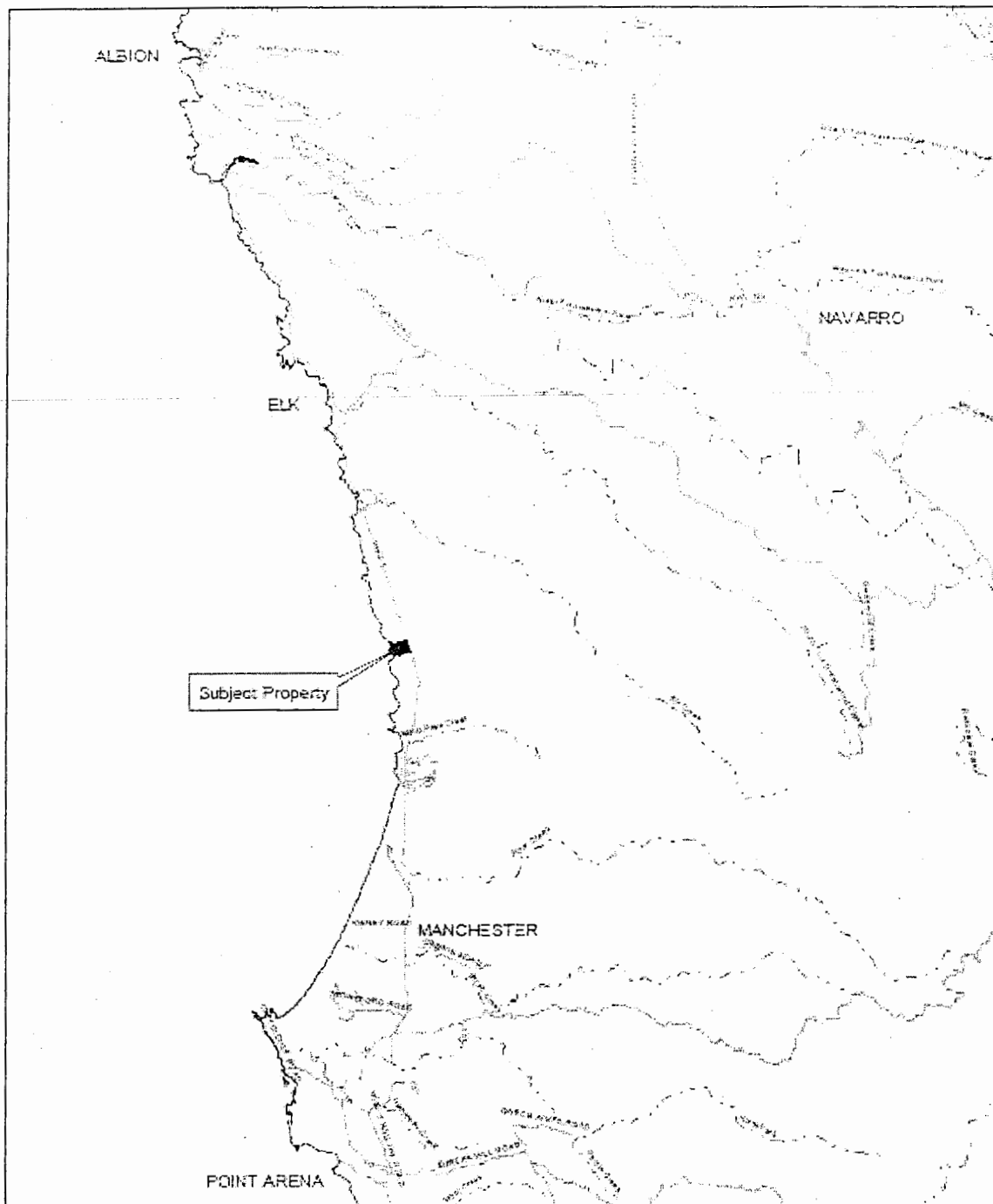
Appeal Fee: \$945 (For an appeal to the Mendocino County Board of Supervisors.)

**SUMMARY OF REFERRAL AGENCY COMMENTS:**

Planning – Ukiah	Cert. of compliance 55-81
Department of Transportation	No comment.
Environmental Health – Fort Bragg	Approved septic plan
Building Inspection – Fort Bragg	No comment.
Assessor	No response.
Caltrans	Standard road approach and encroachment permit required
Coastal Commission	No response.
US Fish and Wildlife	Temp. fencing of riparian area before septic is installed

STAFF REPORT FOR COASTAL DEVELOPMENT  
STANDARD PERMIT

CDP# 42-2007 (Blue Port LLC)  
October 22, 2009  
CPA-19



OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

LOCATION MAP

Distances are approximate. Parcel boundaries are NOT SURVEY LINES. They are for viewing purposes only and should not be used to determine legal boundary lines. Parcel size can be over 200 feet. (Distances are as of September 2009)

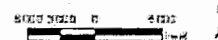


Exhibit A

Location Map

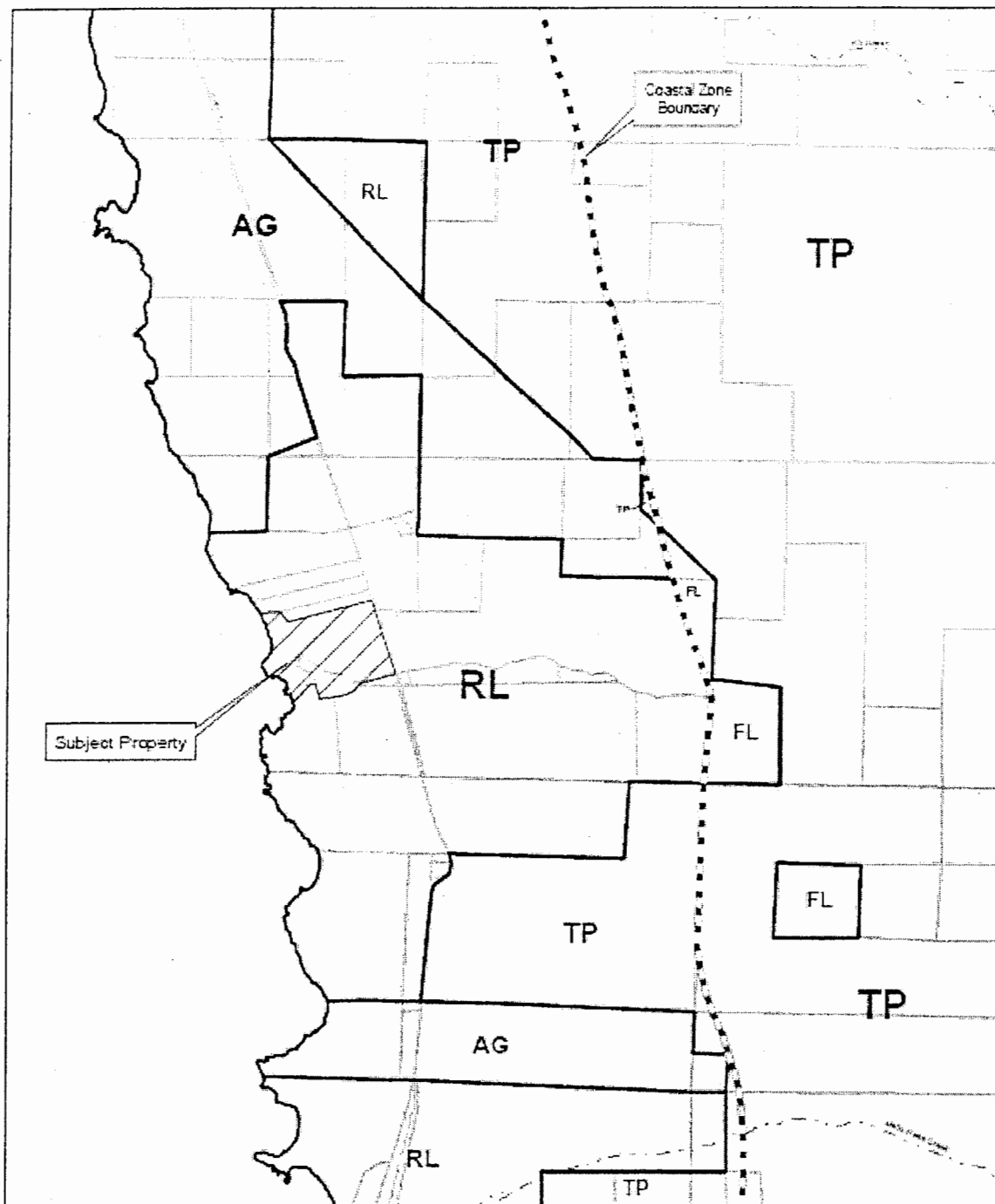


STAFF REPORT FOR COASTAL DEVELOPMENT  
STANDARD PERMIT

CDP# 42-2007 (Blue Port LLC)

October 22, 2009

CPA-20



OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

ZONING DISPLAY MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEYED, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel lines can be over 200 feet off. (Parcel lines as of September 2007)

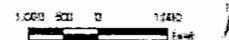
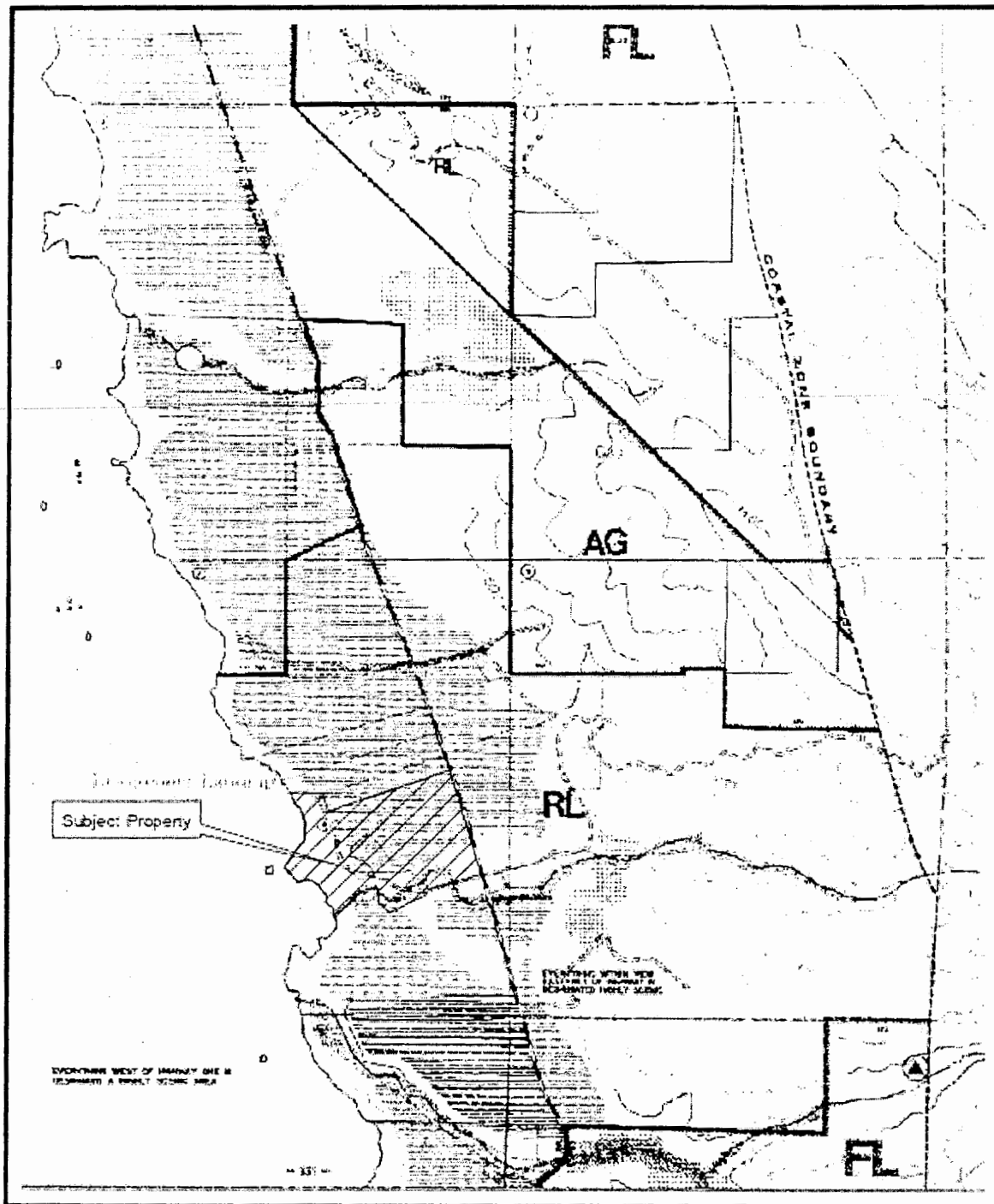


Exhibit B

Zoning Map



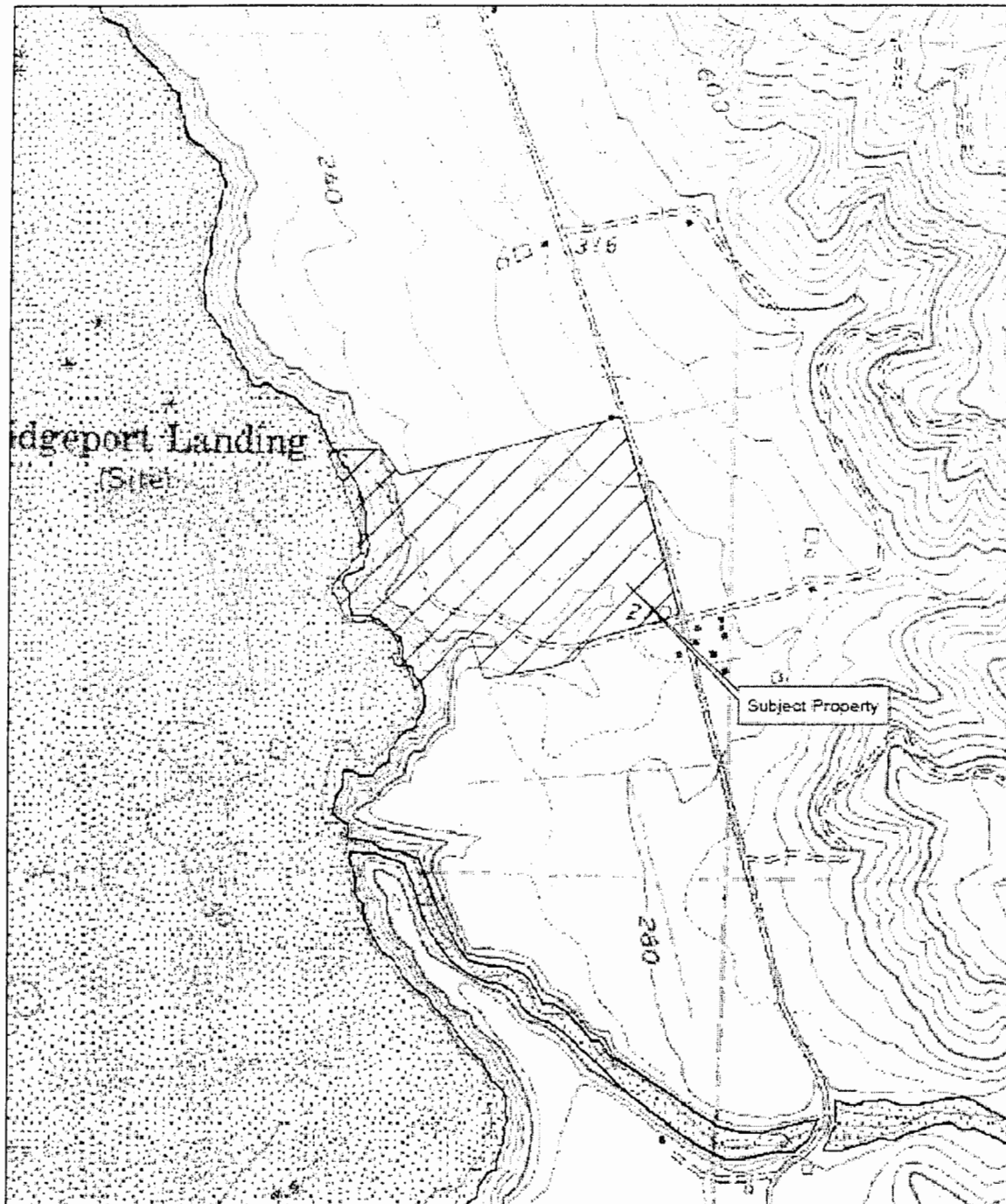
OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

COASTAL PLAN LAND USE MAP No. 21


Permit lines are approximate. Parcel lines on this map are NOT SURVEYED LINES they are for drawing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 500 feet off.

Not To Scale

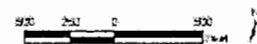


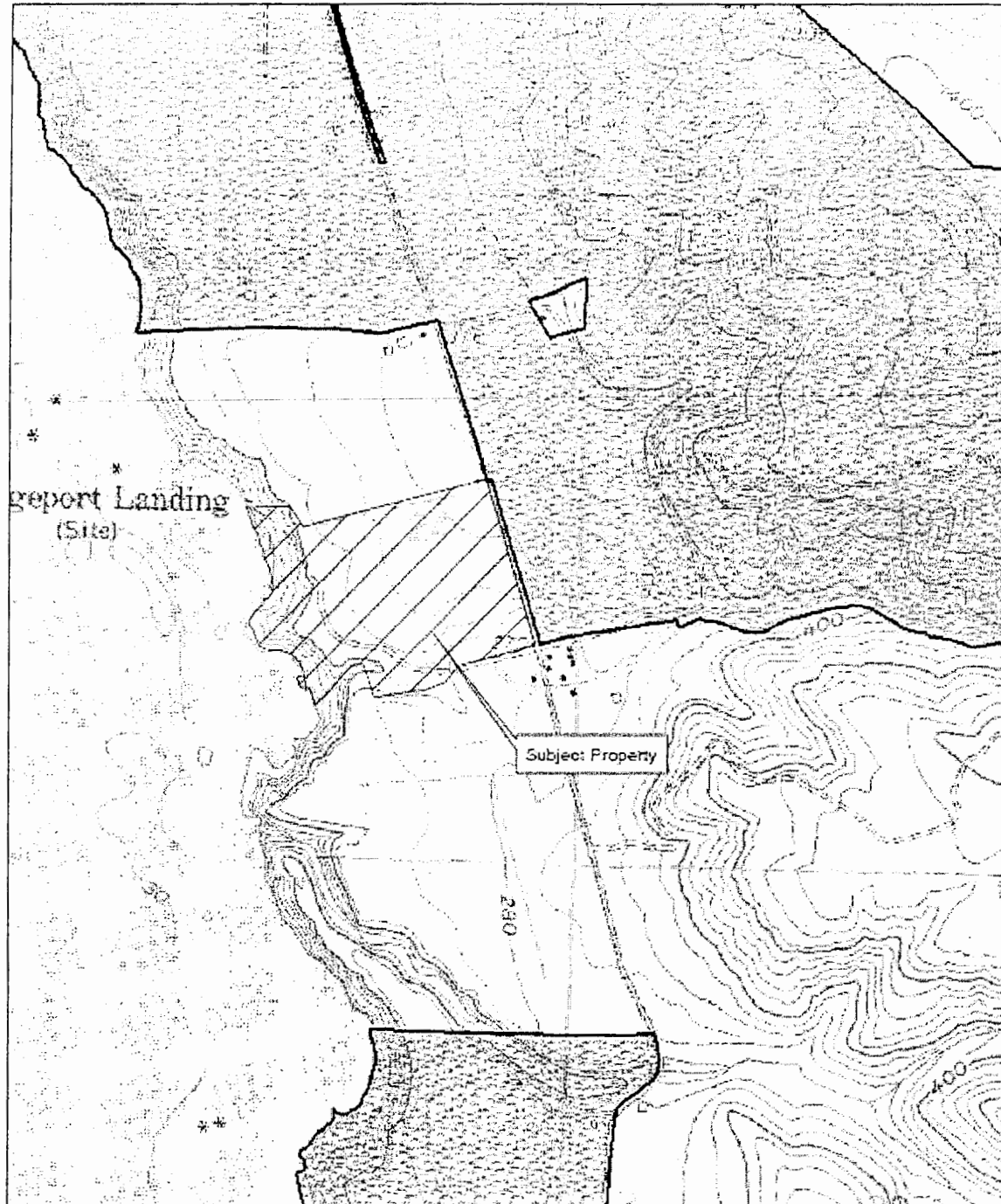


OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

 100 YEAR FLOOD ZONE

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES; they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel lines can be over 200 feet off. (Parcel lines as of September 2007)





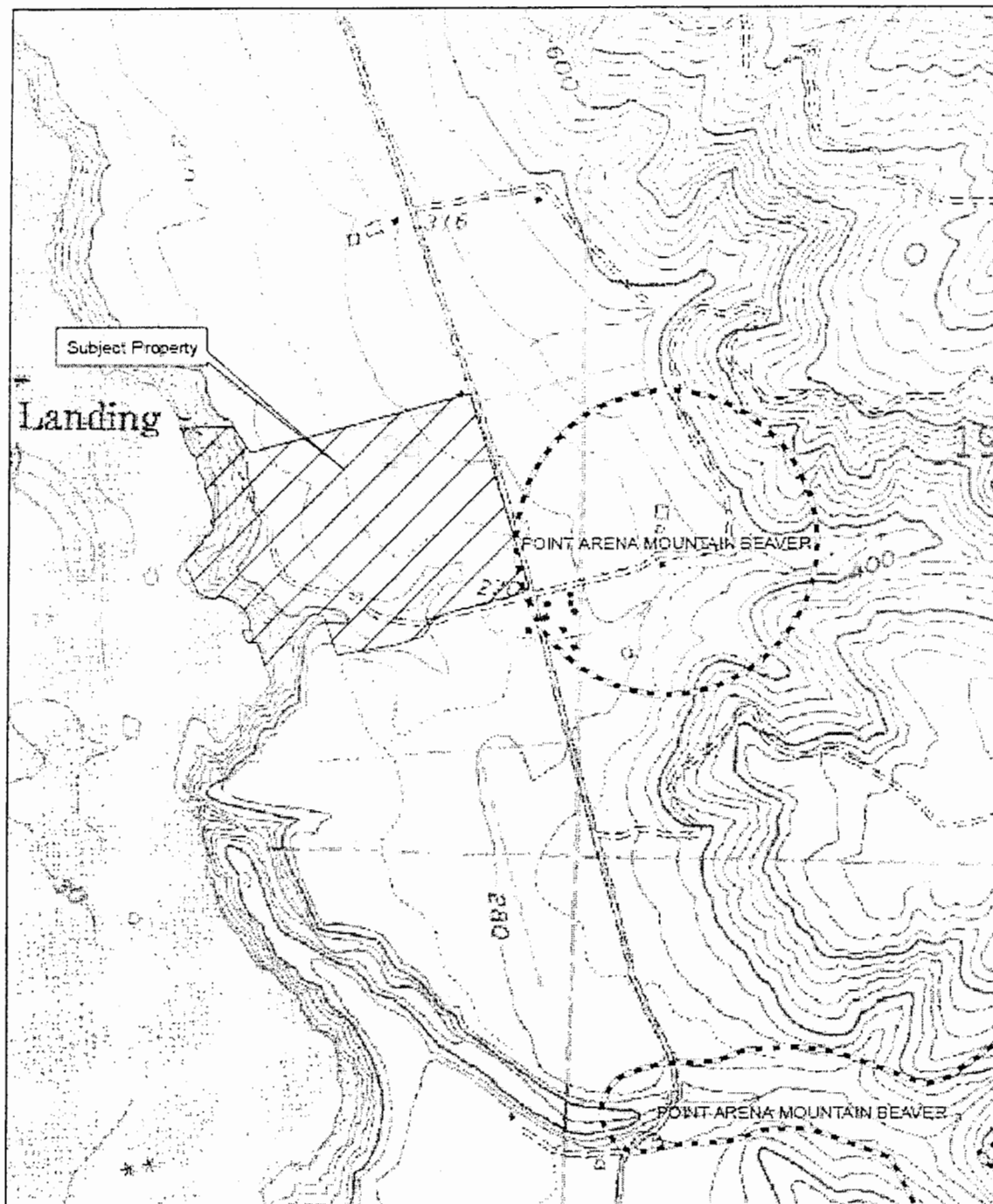
OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

LANDS WITHIN WILLIAMSON ACT

 Williamson Act - Prime and Non Prime Land

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINE. They are for viewing purposes only and should not be used to determine legal boundary lines. The baseline is the center line of the road. (Parcel area as of December 2007)



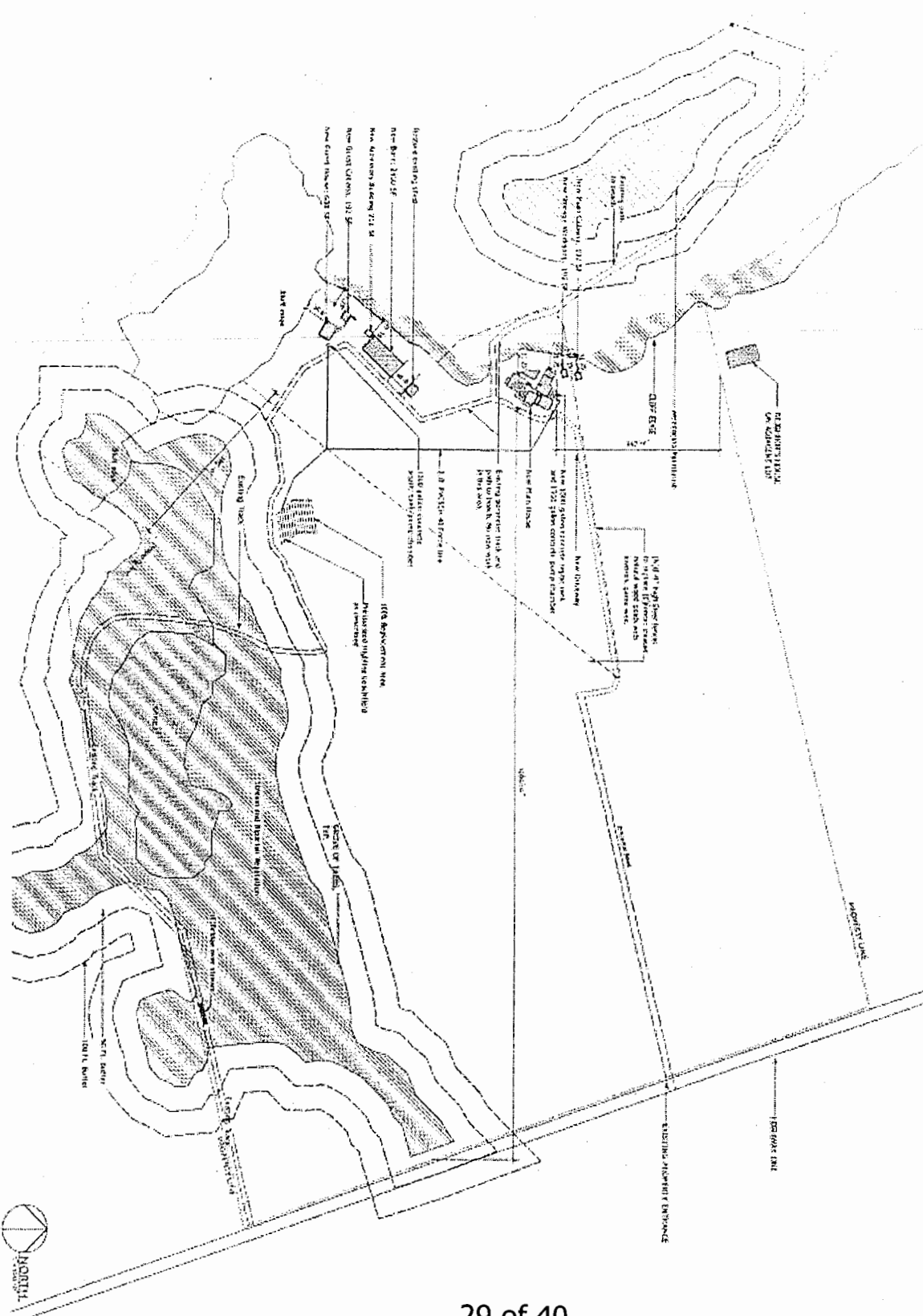


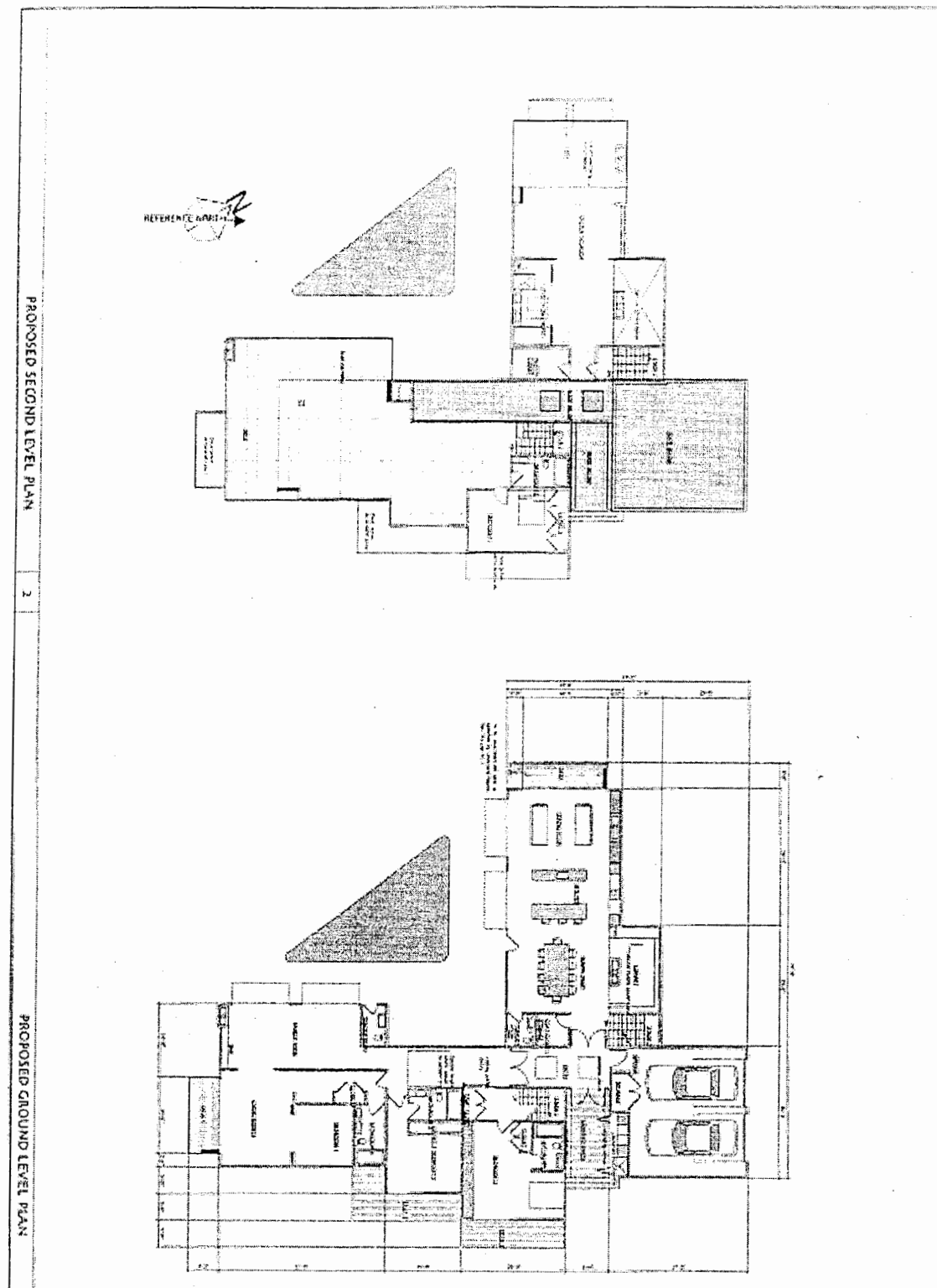
OWNER: BLUE PORT LLC  
CASE #: CDP 42-2007  
APNs: 131-080-01 & 131-080-05

CALIFORNIA NATURAL DIVERSITY  
DATABASE RAREFIND (January 2009)

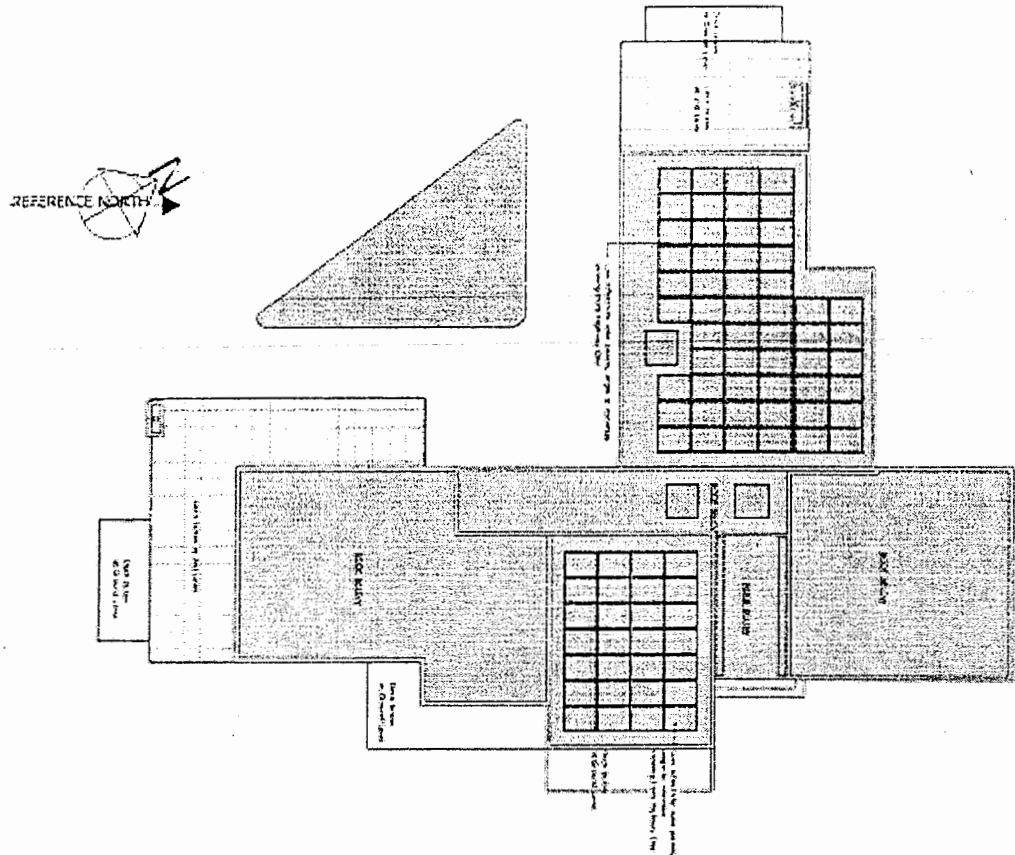
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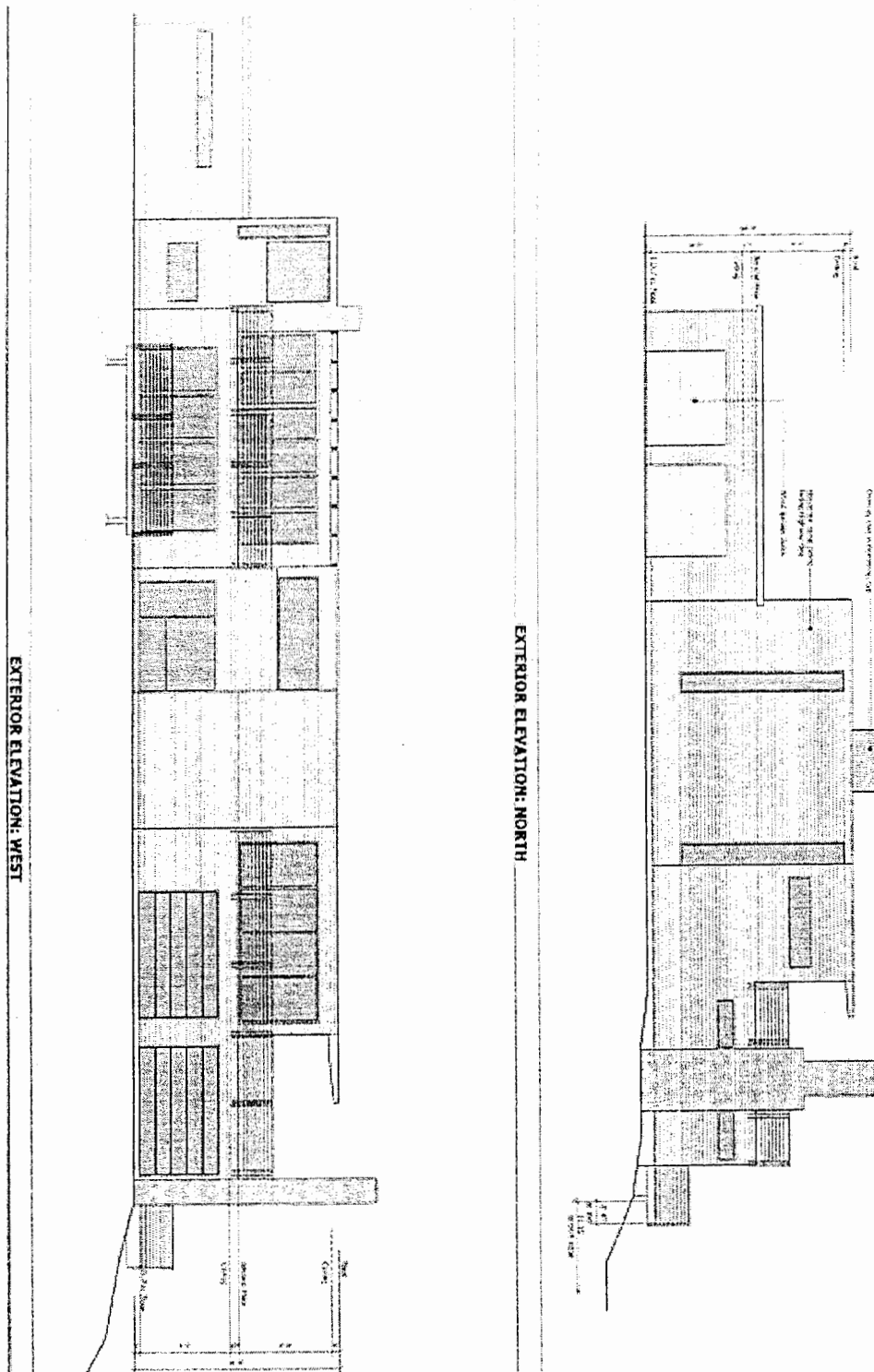




PROPOSED ROOF LEVEL PLAN



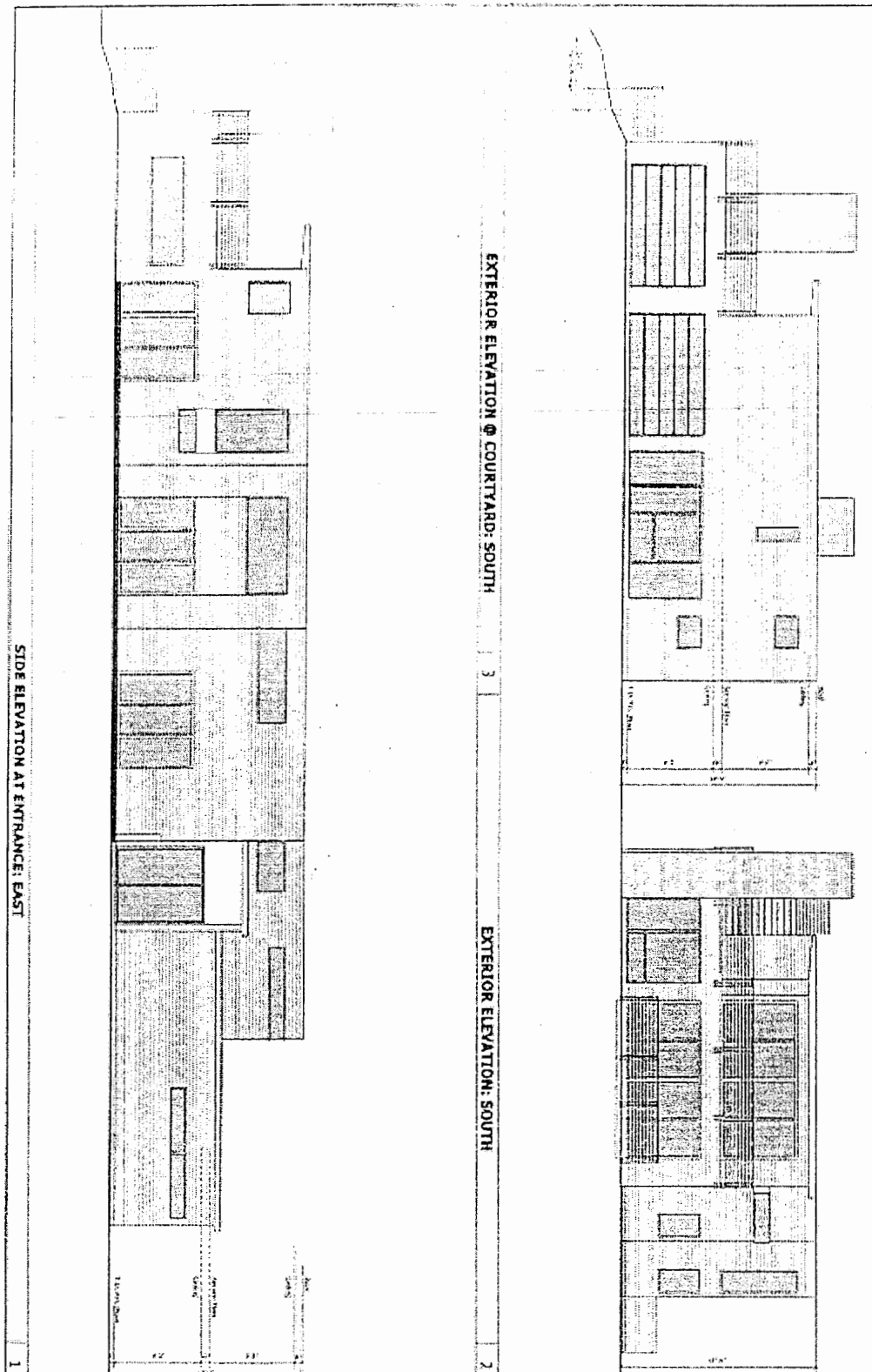




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Exhibit J

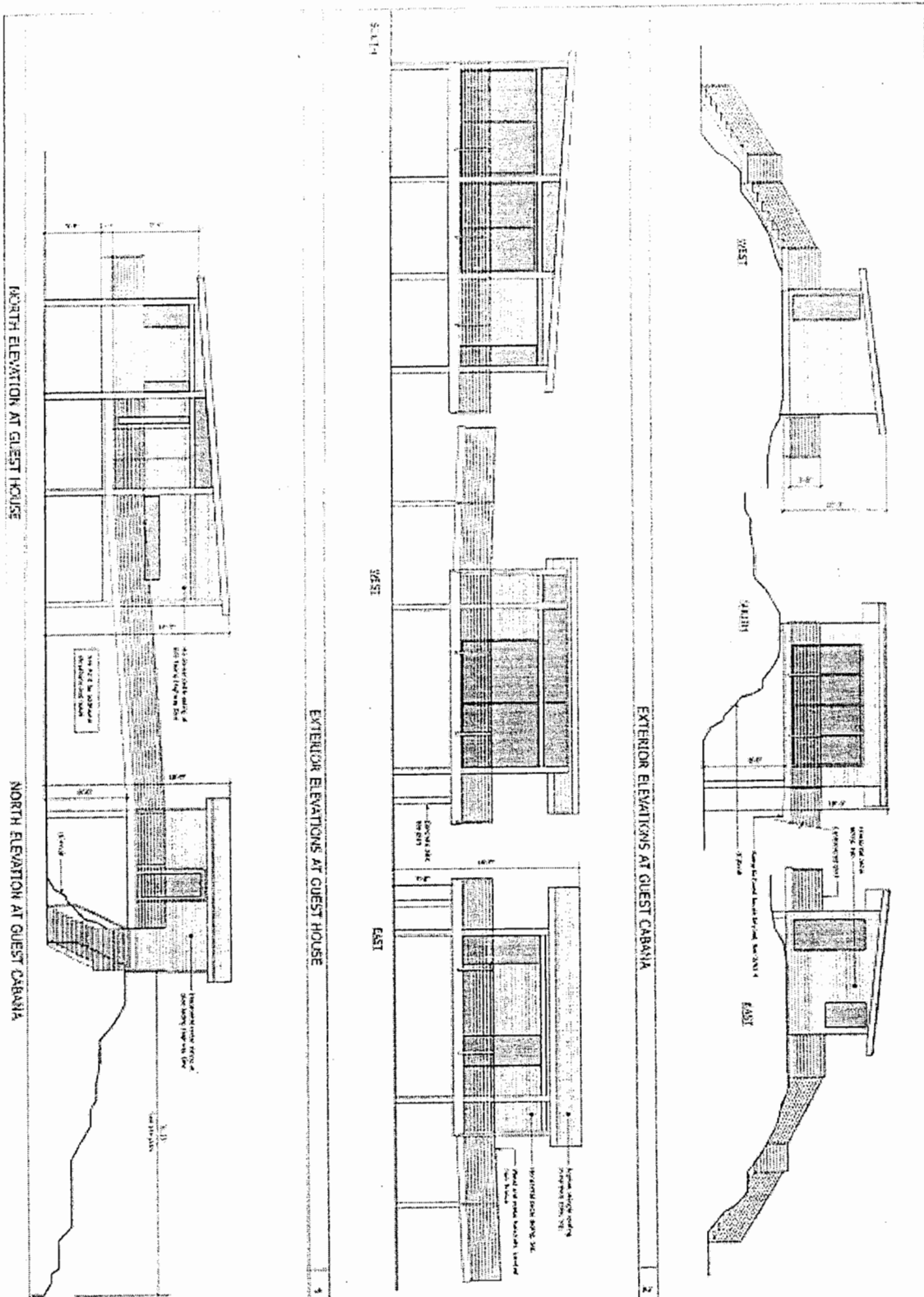
Proposed Residence Elevations



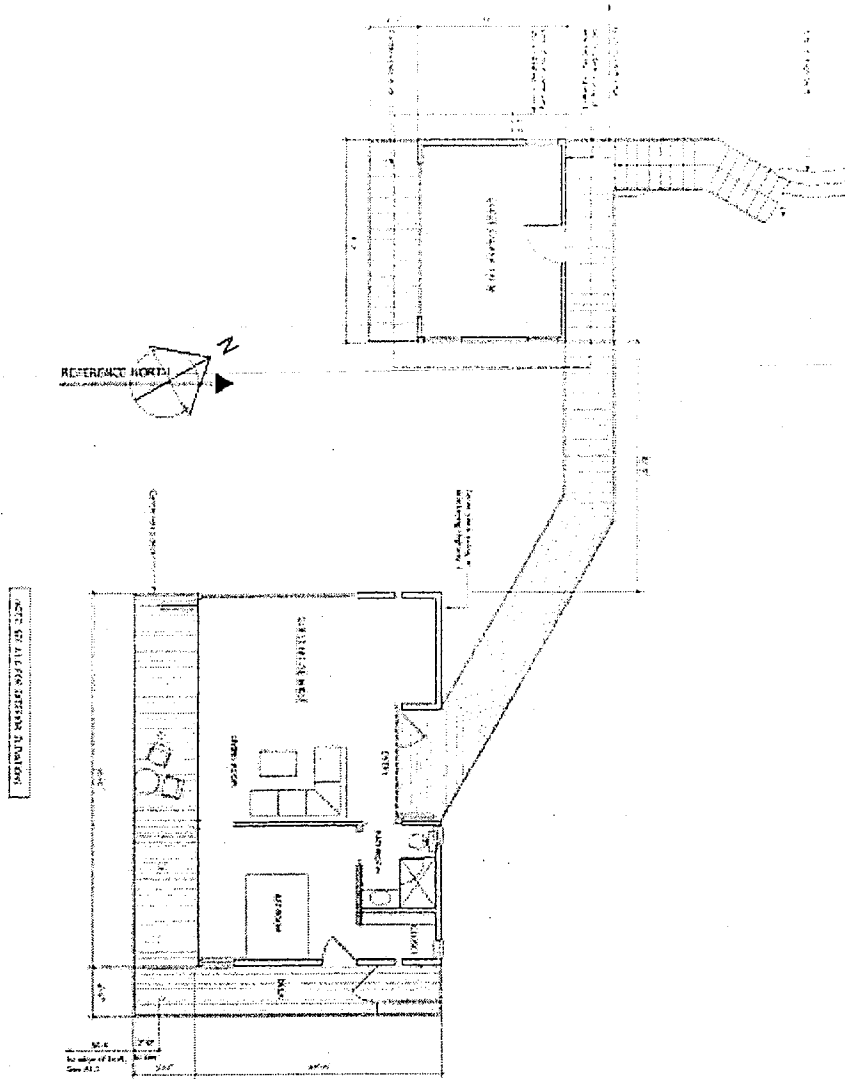
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Exhibit K

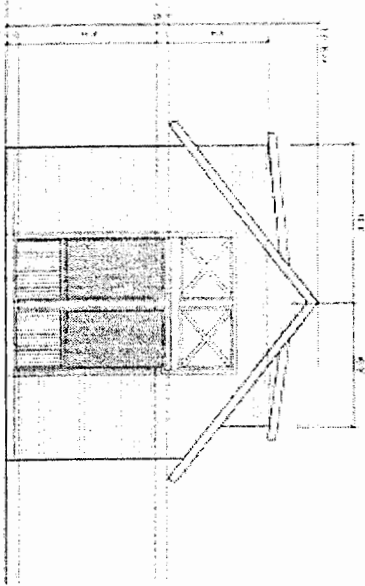
Proposed Residence Elevations



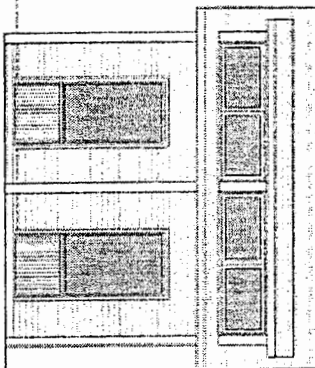
FLOOR PLANS AT PROPOSED 12X16 GUEST CABANA AND 20X30 GUEST HOUSE



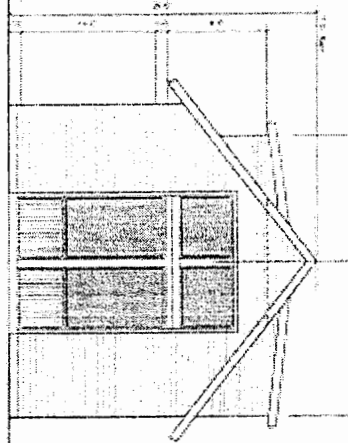
EXISTING SHED: PROPOSED SOUTH ELEVATION



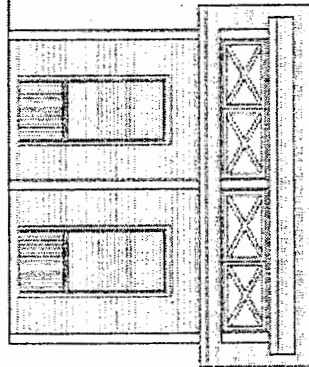
EXISTING SHED: PROPOSED WEST ELEVATION



EXISTING SHED: PROPOSED NORTH ELEVATIONS

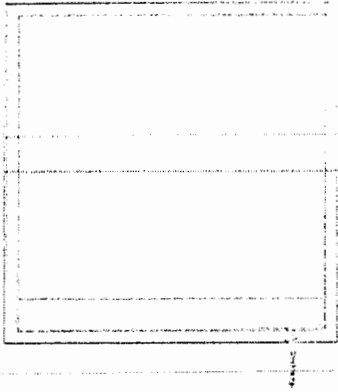


EXISTING SHED: PROPOSED EAST ELEVATIONS

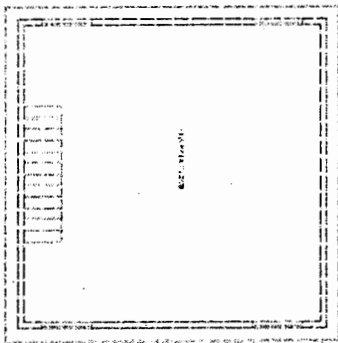


Not to scale

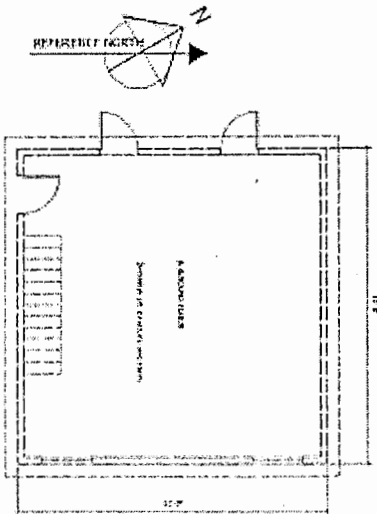
ROOF PLAN AT EXISTING SHED



UPPER PLAN AT EXISTING SHED

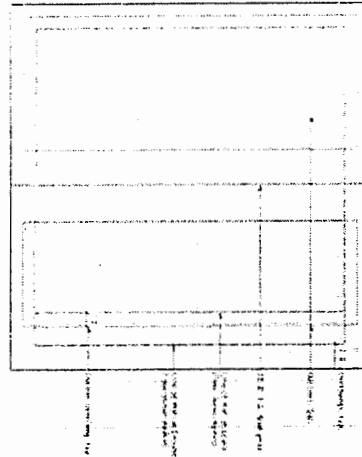


GROUND PLAN AT EXISTING SHED

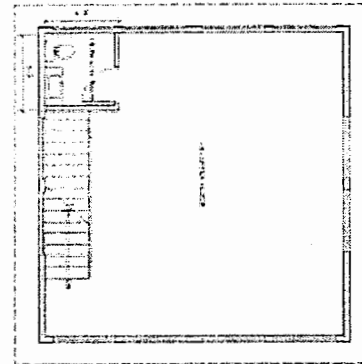


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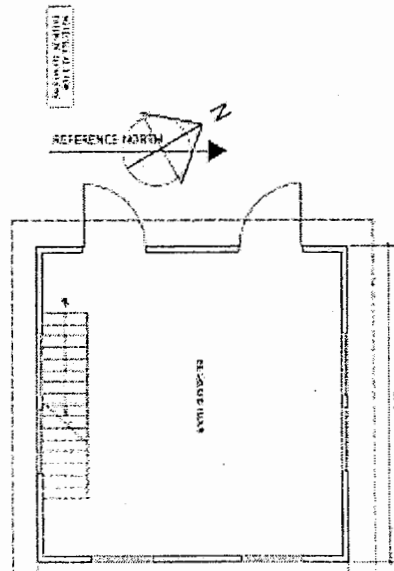
(N) ROOF PLAN AT PROPOSED SHED



(N) UPPER PLAN AT PROPOSED SHED

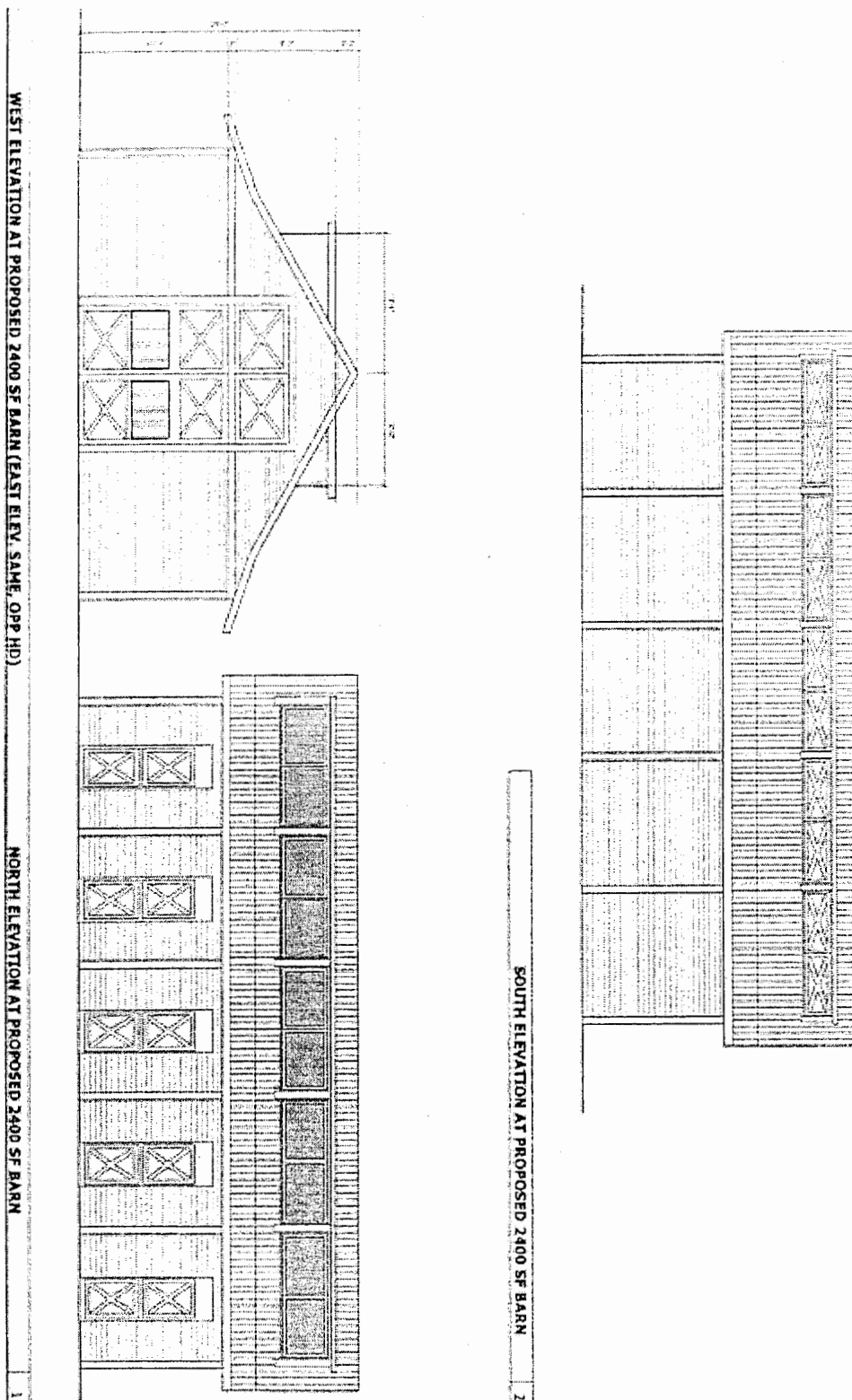


(N) GROUND PLAN AT PROPOSED SHED

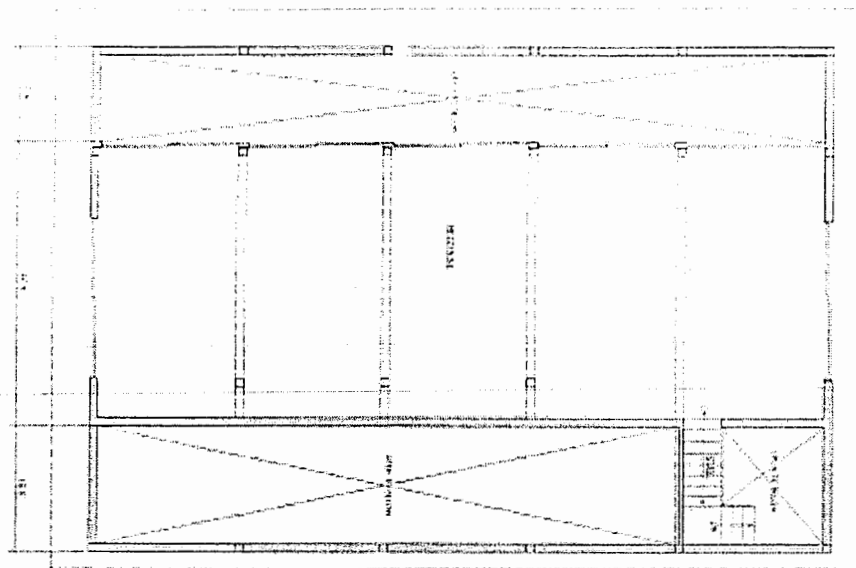


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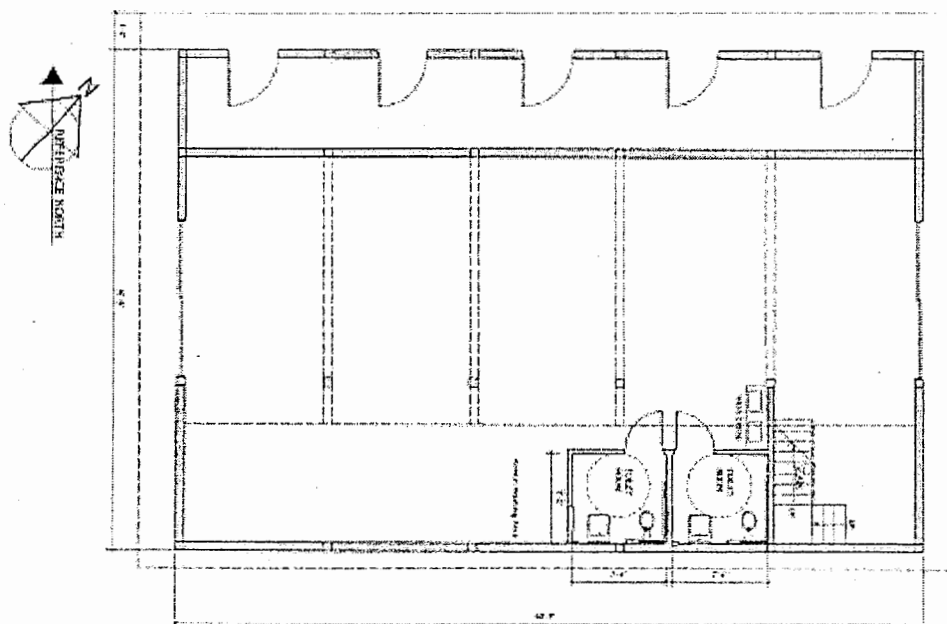




MEZZANINE PLAN @ PROPOSED 2400 SF BARN



GROUND FLOOR PLAN @ PROPOSED 2400 SF BARN





STAFF REPORT FOR COASTAL DEVELOPMENT  
STANDARD PERMIT

CDP# 42-2007 (Blue Port LLC)

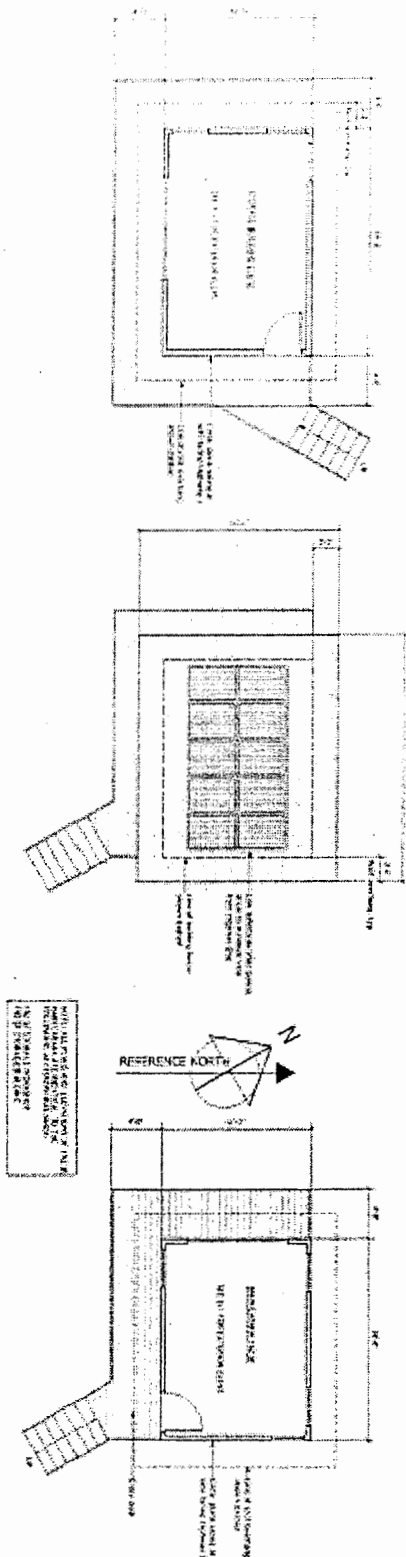
October 22, 2009

CPA-36

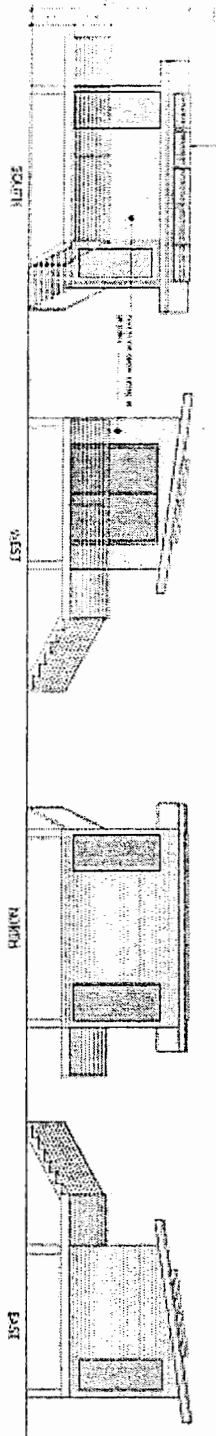
FLOOR PLAN OF PROPOSED 216 SF STORAGE BLDG. 2

ROOF PLAN OF PROPOSED 162 SF MAIN CABANA

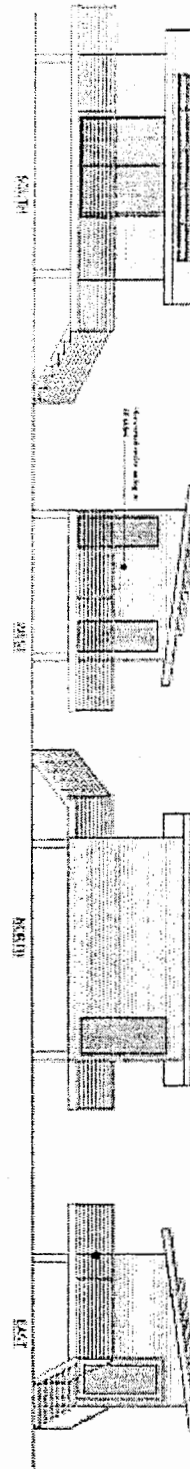
FLOOR PLAN OF PROPOSED 162 SF MAIN CABANA. 1



EXTERIOR ELEVATIONS AT PROPOSED 162 SF MAIN CABANA. 3



EXTERIOR ELEVATIONS AT PROPOSED 216 SF STORAGE BLDG. 4



Not to scale

Exhibit R

Proposed storage sheds & cabana elevations & floor plans  
Note: 216 ft2 and 192 ft sheds/workshops are identical