

## CALIFORNIA COASTAL COMMISSION

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# Th17c

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Staff:	Melissa B. Kraemer
Staff Report:	March 25, 2010
Hearing Date:	April 15, 2010
Commission Action:	

## STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.:	<b>1-09-017</b>
APPLICANT:	<b>PETER &amp; DIANE COHAN</b>
AGENT:	Studio Bergtraun Architects, AIA (Attn: Stuart Wright)
PROJECT LOCATION:	1532 Scenic Drive, Westhaven area, Humboldt County (APN 515-091-005)
PROJECT DESCRIPTION:	Repair and maintenance of an existing 20-foot-tall, 2,400-square-foot single family residence and 600-square-foot attached garage as follows: (1) remove the existing wood burning fireplace, masonry chimney, and existing angled walls that connect to the fireplace (resulting in a reduction of the overall square footage of the residence by ~48 square feet); (2) reconfigure the garage's 6:12 gable roof to a flat (low-slope) roof and reroof the entire residence with new asphalt composition shingles; (3) replace and reconfigure the residence windows and doors; (4) change the exterior cladding from painted vertical wood siding

to painted fiber cement board with wood battens and stained horizontal wood siding; (5) remodel the existing kitchen, two existing bathrooms, and the existing utility room/guest bedroom; and (6) apply structural reinforcement to the house foundation within the existing footprint of the existing foundation.

LOCAL GENERAL PLAN DESIGNATION: Area of Deferred Certification; The site is locally designated (1) Rural Residential(d) (RRD), 0-1 dwelling unit per 5 acres; and (2) Natural Resources (NR).

LOCAL ZONING DESIGNATION: Area of Deferred Certification; The site is locally zoned (1) Rural Residential Agriculture – minimum lot size 5 acres / with Manufactured Home; Archaeological Resource Area Outside Shelter Cove; Design Review; and Streams and Riparian Corridor Protection Combining Zones (RA-5/M,A,D,R); and (2) Natural Resources with Design Review and Offshore and Rocky Intertidal Area Combining Zones (NR/D,O).

LOCAL APPROVALS: Humboldt County Special Permit No. 09-25

OTHER APPROVALS REQUIRED: None

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program

### **SUMMARY OF STAFF RECOMMENDATION:**

Staff recommends that the Commission **approve with special conditions** the proposed repair and maintenance project.

The project involves repair and maintenance to an existing two-story, approximately 2,400-square-foot single-family residence (with 600-square-foot attached garage) located at 1532 Scenic Drive in the Westhaven area of Humboldt County (APN 515-091-005). The approximately 3-acre property is located 1.4 miles north of the intersection of South Westhaven Drive and Scenic Drive and approximately two miles south of the City of Trinidad (Exhibit Nos. 1, 2, and 3). The existing residence was originally built in 1972, prior to enactment of coastal development permit regulations.

The applicants propose to (1) remove the existing wood burning fireplace, masonry chimney, and existing angled walls that connect to the fireplace (resulting in a reduction of the overall house square footage by approximately 48 square feet); (2) reconfigure the existing garage's 6:12 gable roof to a flat (low-slope) roof and reroof the entire residence with new asphalt composition shingles; (3) replace and reconfigure the residence windows and doors; (4) change the exterior cladding from painted vertical wood siding to painted fiber cement board with wood battens and stained horizontal wood siding; (5) remodel the existing kitchen, two existing bathrooms, and the existing utility room/guest bedroom; and (6) apply structural reinforcement to the house foundation within the existing footprint of the existing foundation. Project plans are attached as Exhibit No. 5.

The subject site is perched on a west-facing coastal bluff located immediately north of and upslope from Luffenholtz Creek. The existing house is surrounded by evergreen vegetation growing on the bluff but is nonetheless visible from public vantage points along Scenic Drive, including from the public roadway, Luffenholtz Point and Luffenholtz Beach (a County park) (see Exhibit Nos. 4 and 6, photos). All project activities are proposed to occur within existing developed areas, and no ground disturbance is proposed outside of the existing footprint of the residence. Thus, there are no environmentally sensitive habitat areas within the project area proper, although there are in the surrounding vicinity. Luffenholtz Creek occurs approximately 160 feet south of the existing residence, and Luffenholtz Beach, the Pacific Ocean, off-shore rocks, and intertidal areas occur at least 200 feet (and greater) downslope from the existing residence (see Exhibit Nos. 4 and 6).

The proposed project is a repair and maintenance project because it does not involve an addition to or enlargement of the existing residential structure. Although certain types of repair projects are exempt from coastal permitting requirements, Section 13252 of the regulations requires a coastal development permit for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed repair work involves the placement of construction materials and removal and placement of solid materials within 50 feet of the edge of a coastal bluff. In fact, the repairs would be performed to a structure located on a coastal bluff. The proposed project therefore requires a coastal development permit pursuant to Section 13252(a)(3) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

The repair and maintenance of existing single-family residences can have adverse impacts on coastal resources, in this case primarily visual resources, and can contribute to geologic hazards if not properly undertaken. Staff recommends the following special conditions to ensure that the proposed repair and maintenance project is consistent with the visual resources protection and geologic hazard policies of the Coastal Act:

- **Special Condition No. 1** would ensure that (a) only the proposed building materials and colors or darker colors are used in the proposed repair and maintenance project, (b) the current owner or any future owner shall not repaint or stain the residence with products that would lighten its color from the proposed and approved colors without a permit amendment; (c) no reflective glass, reflective exterior finishings, reflective roofing, or reflective roof-mounted structures are used; and (d) any exterior lights installed be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel;
- **Special Condition No. 2** would require the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including restrictions on colors, materials, and lighting; and
- **Special Condition No. 3** would require that all work authorized under this permit be wholly undertaken and completed within the existing footprint of the existing single-family residence structure, and all future improvements to the house must obtain a coastal development permit so the Commission will have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact.

Staff recommends that the Commission find that the proposed project as conditioned is consistent with the chapter 3 policies of the Coastal Act, including Sections 30252 and 30253.

**The Motion to adopt the Staff Recommendation of Approval with Conditions is found below (Page 5).**

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**STAFF NOTE:**

**1. Standard of Review**

The proposed project is located on a private lot on the west side of Scenic Drive in the Westhaven area of Humboldt County. Humboldt County has a certified LCP, but the subject property is located within an area of deferred certification. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

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

The staff recommends that the Commission adopt the following resolution:

**MOTION:**

*I move that the Commission approve Coastal Development Permit No. 1-09-017 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

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

**RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

**II. STANDARD CONDITIONS:      See Appendix A.**

**III. SPECIAL CONDITIONS:**

**1. Design Restrictions**

- A. All exterior siding, trim, fascia, and roofing of the single-family residence shall be composed of the materials proposed in the application. The current owner or any future owner shall not repaint or stain the residence with products that will lighten the color of the residence from the approved colors without an amendment to this permit. In addition, to minimize glare, no reflective glass, exterior finishings, roofing, or roof-mounted structures are authorized by this permit; and
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

**2. Deed Restriction**

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

**3. Expansion of Building Footprint Prohibited & Future Development Restrictions**

All work authorized under this coastal development permit shall be wholly undertaken and completed within the existing footprint of the existing single-family residence structure. All improvements, including structural reinforcement of the house foundation and other repair and maintenance activities described in Coastal Development Permit No. 1-09-017, shall remain within the footprint of the existing development. Any future improvements to the single-family residence or other approved structures shall require a permit amendment or a new coastal development permit, unless the Executive Director determines that no amendment is legally required.

**IV. FINDINGS & DECLARATIONS**

The Commission hereby finds and declares as follows:

**A. Site Location & Project Description**

The applicants propose to repair and maintain an existing wood-framed two-story approximately 20-foot-tall, 2,400-square-foot single-family residence and 600-square-foot attached garage at 1532 Scenic Drive in the Westhaven area of Humboldt County (APN 515-091-005). The approximately 3-acre property is located 1.4 miles north of the intersection of South Westhaven Drive and Scenic Drive and approximately two miles south of the City of Trinidad (Exhibit Nos. 1, 2, and 3). The existing residence was originally built in 1972, prior to enactment of coastal development permit regulations.

The subject property is located within an uncertified area of Humboldt County's Local Coastal Program (LCP). In 1982, certain areas were not certified by the Coastal

Commission as part of the Trinidad Area Land Use Plan because of substantial issues relating to public access and historic public use of trails to the beach as well as some environmentally sensitive habitat areas along the shoreline. These uncertified areas include, among others, all of those privately owned lots (other than those owned by the Humboldt North Coast Land Trust) west of Scenic Drive, which includes the subject property.

The subject site is perched on a west-facing coastal bluff located immediately north of and upslope from Luffenholtz Creek. The existing house is surrounded by evergreen vegetation growing on the bluff but is nonetheless visible from public vantage points along Scenic Drive, including from the public roadway, Luffenholtz Point and Luffenholtz Beach (a County park) (see Exhibit Nos. 4 and 6, photos).

The applicants propose to conduct the following repair and maintenance activities on their existing single-family residence: (1) remove the existing wood burning fireplace, masonry chimney, and existing angled walls that connect to the fireplace (resulting in a reduction of the overall house square footage by approximately 48 square feet); (2) reconfigure the existing garage's 6:12 gable roof to a flat (low-slope) roof and reroof the entire residence with new asphalt composition shingles; (3) replace and reconfigure the residence windows and doors; (4) change the exterior cladding from painted vertical wood siding to painted fiber cement board with wood battens and stained horizontal wood siding; (5) remodel the existing kitchen, two existing bathrooms, and the existing utility room/guest bedroom; and (6) apply structural reinforcement to the house foundation within the existing footprint of the existing foundation. Project plans are attached as Exhibit No. 5.

All project activities are proposed to occur within existing developed areas, and no ground disturbance is proposed outside of the existing footprint of the residence. Thus, there are no environmentally sensitive habitat areas within the project area proper, although there are in the surrounding vicinity. Luffenholtz Creek occurs approximately 160 feet south of the existing residence, and Luffenholtz Beach, the Pacific Ocean, off-shore rocks, and intertidal areas occur at least 200 feet (and greater) downslope from the existing residence (see Exhibit Nos. 4 and 6).

#### **B. Permit Authority, Extraordinary Methods of Repair & Maintenance**

Coastal Act Section 30610(d) generally exempts from permitting requirements the repair or maintenance of structures that does not result in an addition to or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part, as follows:

*Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: . . .*

*(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.* [Emphasis added]

Section 13252(a) of the Commission administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part, as follows:

*For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...*

*(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:*

*(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;*

*(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.*

*All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean....* [Emphasis added.]

The proposed project is a repair and maintenance project because it does not involve an addition to or enlargement of the existing residential structure. Although certain types of repair projects are exempt from coastal permitting requirements, Section 13252 of the regulations requires a coastal development permit for extraordinary methods of repair and maintenance enumerated in the regulation. The proposed repair work involves the placement of construction materials and removal and placement of solid materials within 50 feet of the edge of a coastal bluff. In fact, the repairs would be performed to a structure located on a coastal bluff. The proposed project therefore requires a coastal development permit pursuant to Section 13252(a)(3) of the Commission regulations.

In considering a permit application for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

The repair and maintenance of existing single-family residences can have adverse impacts on coastal resources, in this case primarily visual resources, and can contribute to geologic hazards if not properly undertaken. The Applicant proposes to repair the existing structure in its existing footprint by 1) removing the existing wood burning fireplace, masonry chimney, and existing angled walls that connect to the fireplace; (2) reconfiguring the garage's 6:12 gable roof to a flat (low-slope) roof and reroofing the entire residence with new asphalt composition shingles; (3) replacing and reconfiguring the residence windows and doors; (4) changing the exterior cladding from painted vertical wood siding to painted fiber cement board with wood battens and stained horizontal wood siding; (5) remodeling the existing kitchen, two existing bathrooms, and the existing utility room/guest bedroom; and (6) applying structural reinforcement to the residence foundation within the existing footprint of the existing foundation. The applicants have included certain measures as part of their proposal to minimize the project's potential visual and geologic hazard impacts such as using darker earth-tone colors for the new exterior siding and trim and maintaining all proposed foundation reinforcement within the existing foundation footprint. Although these measures and others proposed by the applicants are appropriate, additional measures are needed to avoid visual resource and geologic hazard impacts. The conditions required to meet this standard are discussed in the following findings relevant to visual resources and geologic hazards. Therefore, as conditioned in these Findings, the Commission finds that the proposed project is consistent with Coastal Act Section 30251 and 30253.

### **C. Visual Resources**

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance and requires, in applicable part, that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The proposed development will not affect views to the ocean, as the project involves repair and maintenance of an existing single-family residence, and no increase in the height or overall mass of the existing structure is proposed. Furthermore, the development will not result in the alteration of natural landforms, as there will be no ground disturbing activities outside of the existing house footprint. Although the subject property is not within a designated highly scenic area, it is within an area designated as a "Coastal View Area" and a "Coastal Scenic Area" in the County's Trinidad Area Plan (TAP) and has a Design Review combining zone designation under the County's coastal zoning regulations (CZR). As discussed above, because the subject site is within an

uncertified area, the standard of review that the Commission must apply to the project is the Coastal Act rather than the LCP. Nonetheless, the referenced designations, which require in part that new development be subordinate to the character of the surrounding area and not block public views to the ocean and scenic coastal areas, underscore the visual sensitivity of the area and require that the applicants obtain a Special Permit from the County for the project. Special Permit No. SP- 09-25, which was approved by the County on March 17, 2010, includes findings demonstrating the project's consistency with the visual resources protection policies of the TAP and the CZR.

As discussed above in Finding IV-A, the existing residence is visible from Scenic Drive, a public roadway, and other public vantage points, including Luffenholtz Point, which contains a vertical public trail extending out along a bluff that overlooks the ocean and surrounding beaches, and Luffenholtz Beach, which lies immediately below the property to the south and west (see Exhibit Nos. 4 and 6, photos). Although the subject residence is one of only a few homes visible from these public vantage points, the existing home does not register very prominently in the public viewshed due to its subdued greenish color and backdrop of abundant evergreen vegetation. Under the subject application, the applicants propose to maintain the subdued, relatively dark earth-tone hues for the house body, trim, and rafters (they are proposing to use Benjamin Moore® “Stampede” (#979) and “Woodcliff Lake” (980) colors along with a matching bronze anodized finish for window and door trims). As proposed, the colors of the new exterior cladding will blend in hue and brightness with the colors of the surrounding bluff vegetation and will be compatible with the character of the surrounding area. The Commission attaches Special Condition No. 1(A) to ensure that only the proposed building materials and colors or darker colors are used in the proposed repair and maintenance project. The Commission finds that if the applicant or future owner(s) of the home choose to change the materials or colors of the residence to lighter colors or materials, the development may no longer blend in hue and brightness with its surroundings and could create an adverse visual impact as viewed from the public vantage points. Thus, Special Condition No. 1(A) further requires that the current owner or any future owner shall not repaint or stain the residence with products that would lighten its color from the proposed and approved colors without a permit amendment.

The south-facing elevation of the existing house, as viewed from the various public vantage points, contains a significant amount of glass, and the replacement of windows and doors throughout the existing residence under the proposed application will result in more glass than currently exists, especially on the west-elevation (where the existing chimney is to be removed), which is visible to the public from Luffenholtz Beach (see Exhibit No. 6). To ensure that the proposed development does not result in increased glare as viewed from public beaches and other public vantage points, Special Condition No. 1(A) prohibits the use of reflective glass, reflective exterior finishings, reflective roofing, or reflective roof-mounted structures. To further minimize potential glare from any exterior lighting that may be installed, Special Condition No. 1(B) requires that all exterior lights be the minimum necessary for the safe ingress and egress of structures and be low-wattage, non-reflective, shielded, and be cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

Furthermore, Special Condition No. 2 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property, including restrictions on colors, materials, and lighting. The condition will ensure that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Section 30251 of the Coastal Act, as the project will not adversely affect views to or along the coast, result in major landform alteration, or be incompatible with the character of the surrounding area, as building materials and colors will blend in hue and brightness with their surroundings, reflective surfaces will be minimized, and exterior lighting will be designed to minimize glare and not shine beyond the boundaries of the parcel.

#### **D. Geologic Hazards**

Section 30253 of the Coastal Act requires in part that new development provide structural integrity, minimize risks to life and property in areas of high geologic hazards, and not create or contribute to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

As discussed above, the subject application is considered repair and maintenance of an existing single-family residence that was originally constructed in 1972, prior to enactment of coastal regulations. The proposed project does not involve an addition to or enlargement of the existing residential structure. In considering a permit application for a repair or maintenance project pursuant to the authority cited above in Finding IV-B, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. The Commission's evaluation of such repair and maintenance projects does not extend to an evaluation of the conformity with the Coastal Act of the underlying existing development.

The existing development is located on a coastal bluff in an area that is documented by the County as having "high instability." No development is proposed outside of the existing footprint of the existing residence. However, the applicant does plan to apply structural reinforcement to the existing house foundation within the existing house foundation footprint to promote the stability of the residence. The Commission's geologist (Dr. Mark Johnsson) was consulted on the proposed structural reinforcement activities and found that if such activities were to remain within the existing house footprint, they would provide structural integrity, minimize risks to life and property, and neither create nor contribute to erosion, geologic instability, or destruction of the site. Thus, to ensure that any and all repair and maintenance activities that are undertaken do indeed remain within the existing building footprint as proposed, the Commission attaches Special Condition No. 3. This condition requires that all work authorized under

this permit shall be wholly undertaken and completed within the existing footprint of the existing single-family residence structure.

The Commission further notes that Section 30610(a) of the Coastal Act exempts certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, in this case, because the existing residence is located within 50 feet of the edge of coastal bluff, future improvements to the approved project will not be exempt from permit requirements pursuant to Section 30610(a) of the Coastal Act and Section 13250 of the Commission's regulations. Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of Regulations (CCR). Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect.

In addition, CCR Section 13250(b)(1) indicates that improvements to a single-family structure in an area within 50 feet of the edge of a coastal bluff involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the existing residence on the subject property is within 50 feet of a coastal bluff. Therefore, pursuant to Section 13250(b)(1) of the Commission's regulations, Special Condition No. 3 expressly requires all future improvements to the house to obtain a coastal development permit so the Commission will have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact. As discussed above, Special Condition No. 2 also requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Special Condition No. 2 will also help assure that future owners are aware of these CDP requirements applicable to all future development.

Therefore, the Commission finds that the proposed project, as conditioned, minimizes risks to life and property from geologic hazards, assures the stability and structural integrity of the site, and will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area.

#### **E. Public Access**

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Coastal Act Section 30210 requires, in applicable part, that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource

protection. Section 30211 requires, in applicable part, that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires, in applicable part, that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety. In applying Sections 30211 and 30212, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to avoid or offset a project's adverse impact on existing or potential public access.

The project site is located between the first public road (Scenic Drive) and the sea (Exhibit No. 4). Both lateral and vertical public access are available adjacent to the project site to the south and west at Luffenholtz Point and Luffenholtz Beach. Additionally, Scenic Drive is adjacent to the east side of the existing residence.

The project as proposed will have no impact on public access. Access will continue to be allowed in all areas and will not be blocked or otherwise affected in any way by the proposed project. Therefore, the Commission finds that the proposed project will not have a significant adverse effect on public access, and that the project as proposed without new public access is consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212.

#### **F. California Environmental Quality Act (CEQA)**

Humboldt County served as the lead agency for the project for CEQA purposes. The County found the project to be exempt from environmental review pursuant to Section 15301 of CEQA.

Section 13906 of the California Code of Regulations requires Coastal Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirements of the CEQA. Public Resources Code Section 21080.5 (d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would significantly lessen any significant effect that the activity may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein in the findings addressing the consistency of the proposed project with the Coastal Act, the proposed project has been conditioned in order to be found consistent with the policies of the Coastal Act. As specifically discussed in these above findings which are hereby incorporated by reference, mitigation measures which will minimize all adverse

environmental impact have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

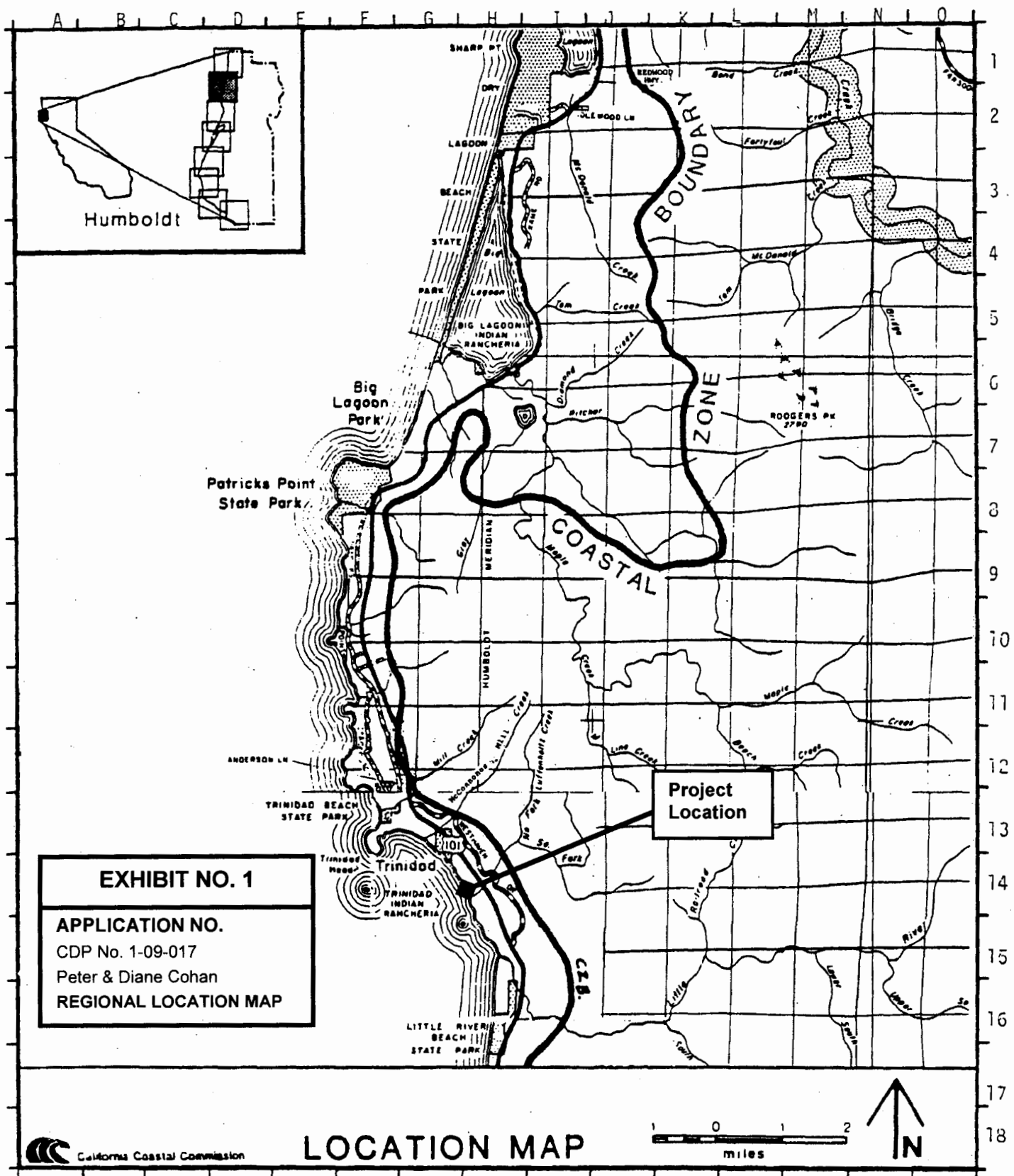
**V. EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Assessor's Parcel Map
4. Aerial Photo
5. Project Plans
6. Site Photos

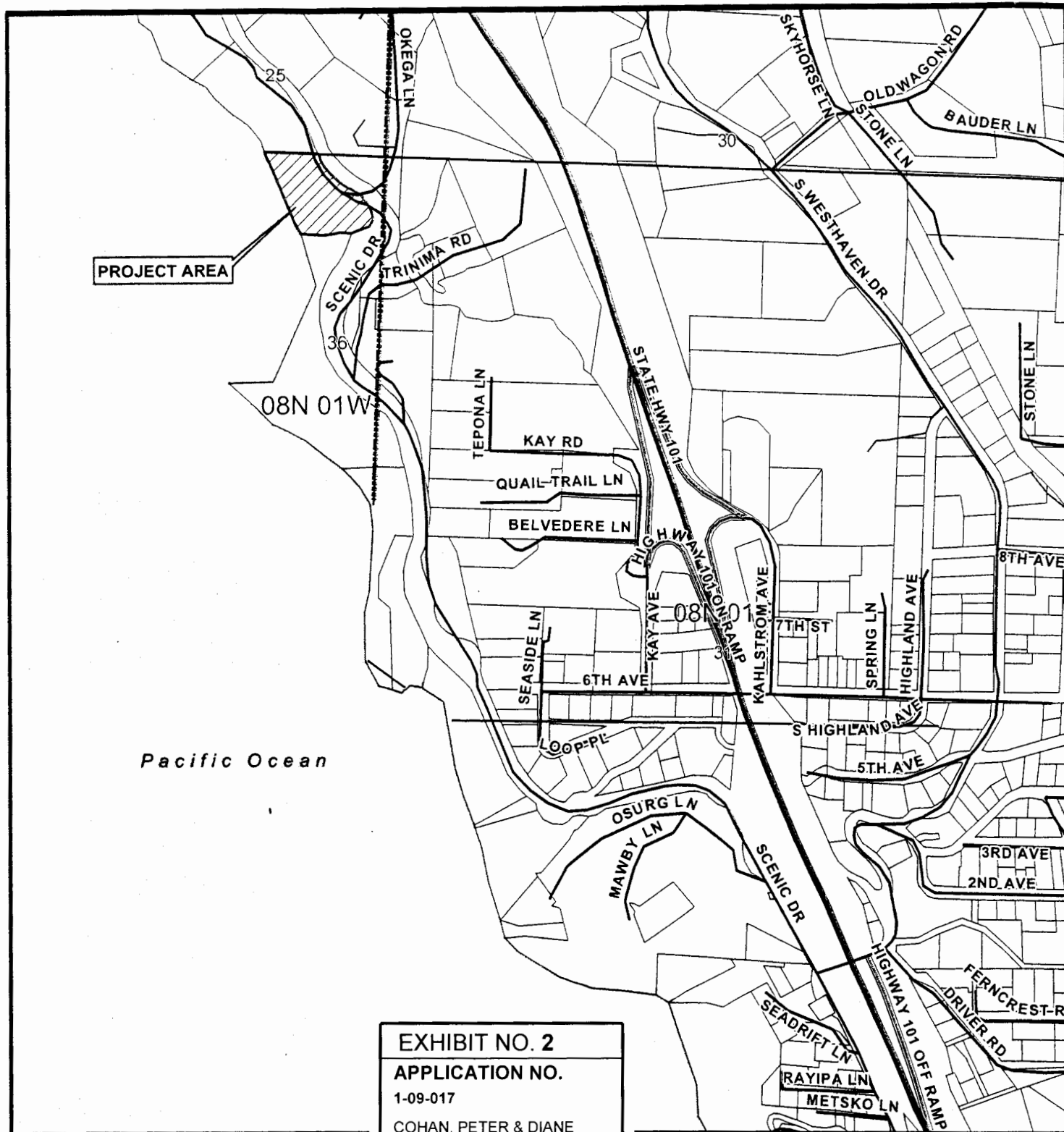
## APPENDIX A

### STANDARD CONDITIONS

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



County of Humboldt




**EXHIBIT NO. 2**

**APPLICATION NO.**

1-09-017

COHAN, PETER & DIANE

VICINITY MAP

Project Area = 

**PROPOSED COHAN  
SPECIAL PERMIT  
TRINIDAD AREA  
SP-09-25**

**APN: 515-091-05**

**T08N R01W S36 H B & M**

This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.

0 500 1,000 Feet



**SOUTH TRINIDAD**  
(IN LOT 1 SEC 36 BN1W & NW1/4 SEC 31 BN1E)

515-09

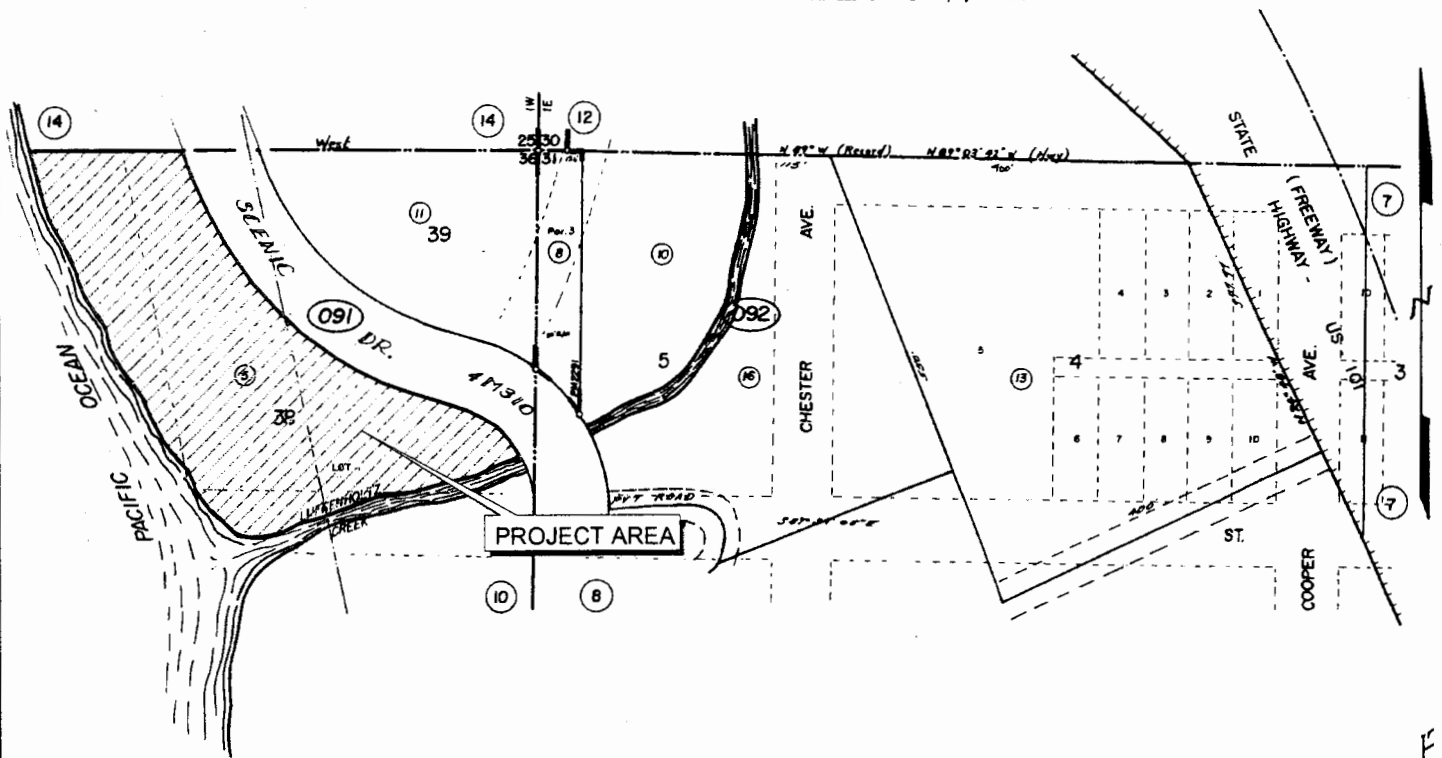
MAPS. 11 P. 29

UNREC SURVEY NO. 03

NOTES

ALL STREETS & ALLEYS IN SUBDIVISION WERE ABANDONED BY INSTRUMENT  
RECORDED IN DEEDS 254 P. 174 (1942).  
SUBDIVISION LOTS & BLOCKS ARE NOT USED IN DESCRIBING PROPERTY  
IN SECTION 36.

PM 2291 of PM Bk. 20, Pg. 53 (Per.)



PROJECT AREA = 

**EXHIBIT NO. 3**

**APPLICATION NO.**

1-09-017

COHAN, PETER & DIANE

ASSESSOR'S PARCEL MAP

**PROPOSED COHAN  
SPECIAL PERMIT  
TRINIDAD AREA  
SP-09-25**

**APN: 515-091-05**

**T08N R01W S36 H B & M**



MAP NOT TO SCALE

EXHIBIT NO. 4

APPLICATION NO.

1-09-017

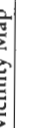
COHAN, PETER & DIANE

AERIAL PHOTO

Westhaven area, Humboldt County



Parcel Map



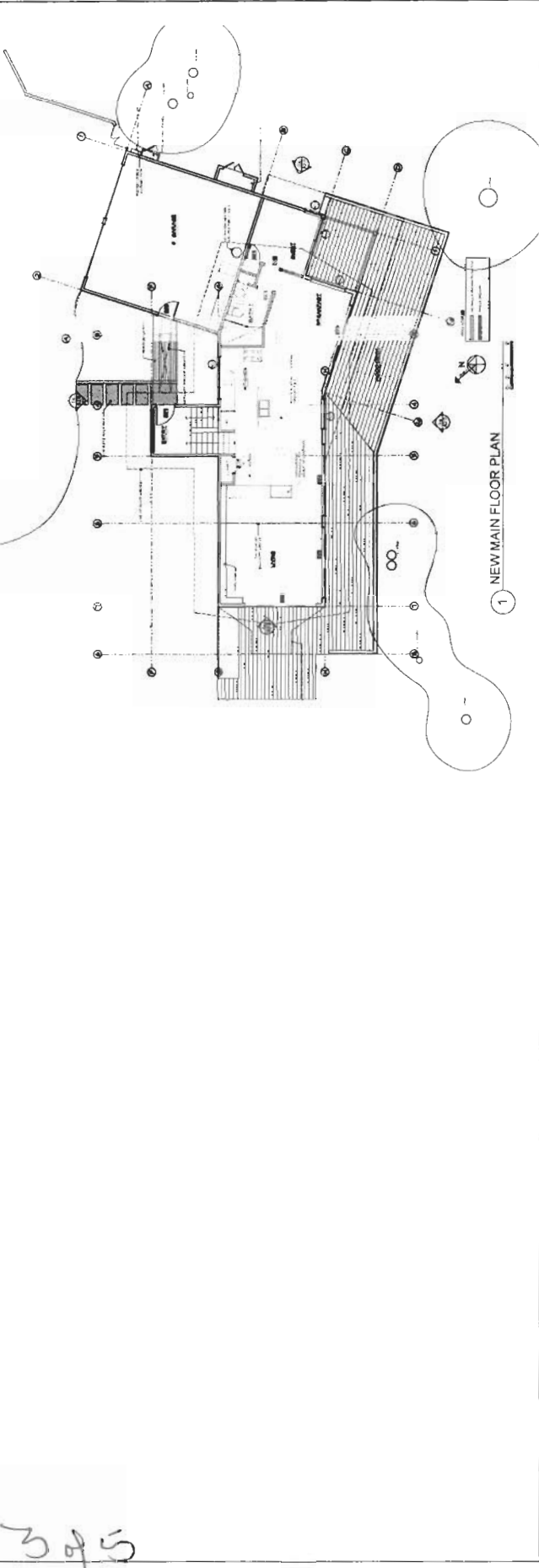
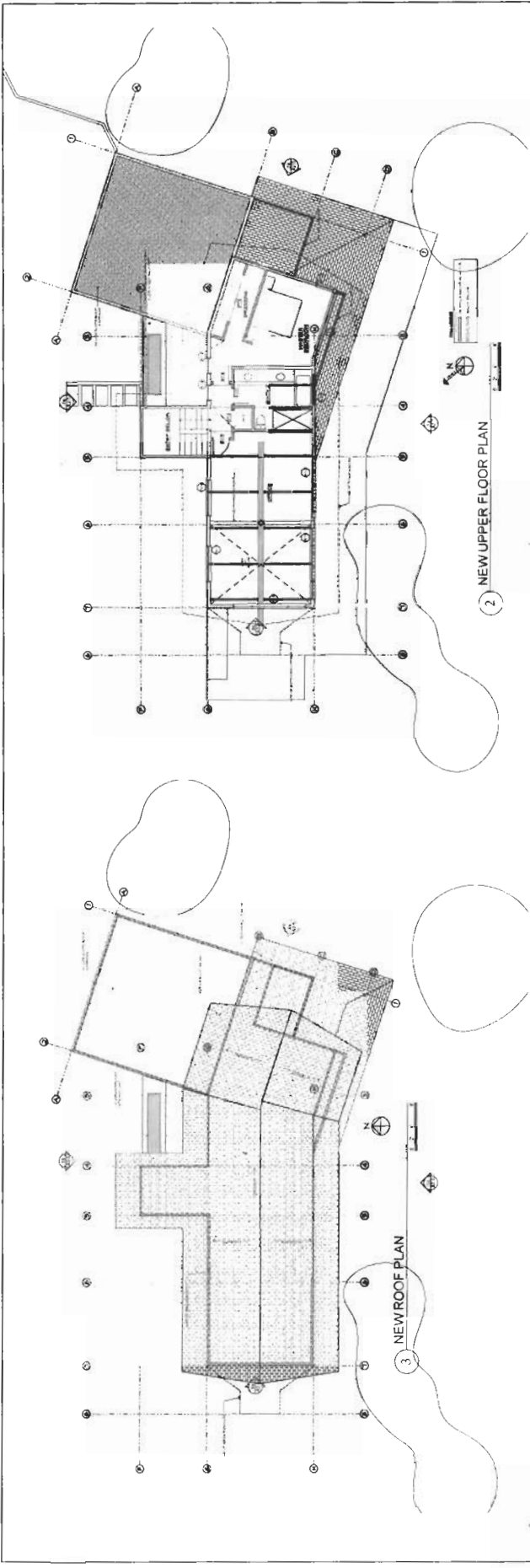
**EXHIBIT NO. 5**

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**APPLICATION NO.**  
1-09-017

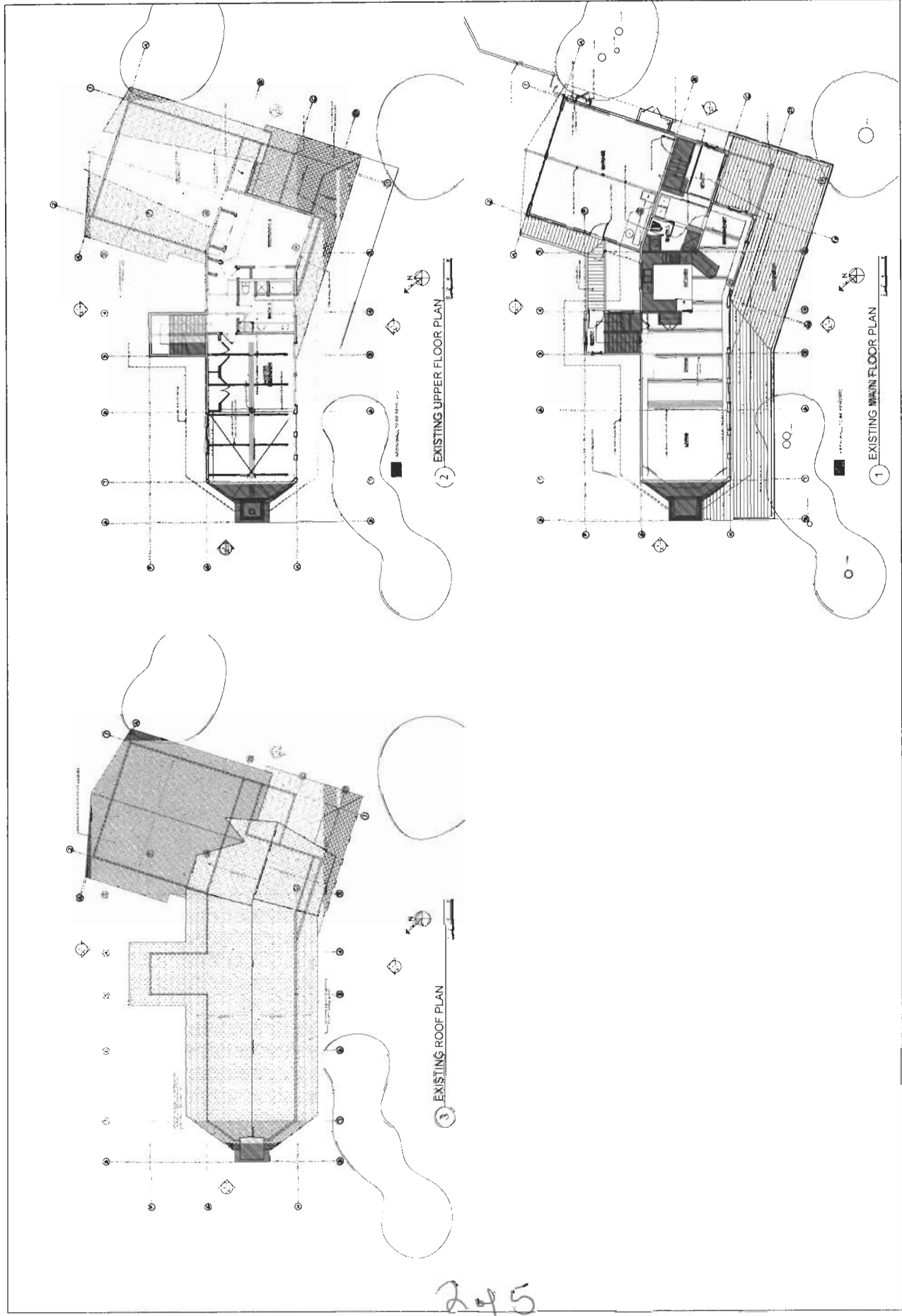
COHAN, PETER & DIANE

PROJECT PLANS (1 of 5)



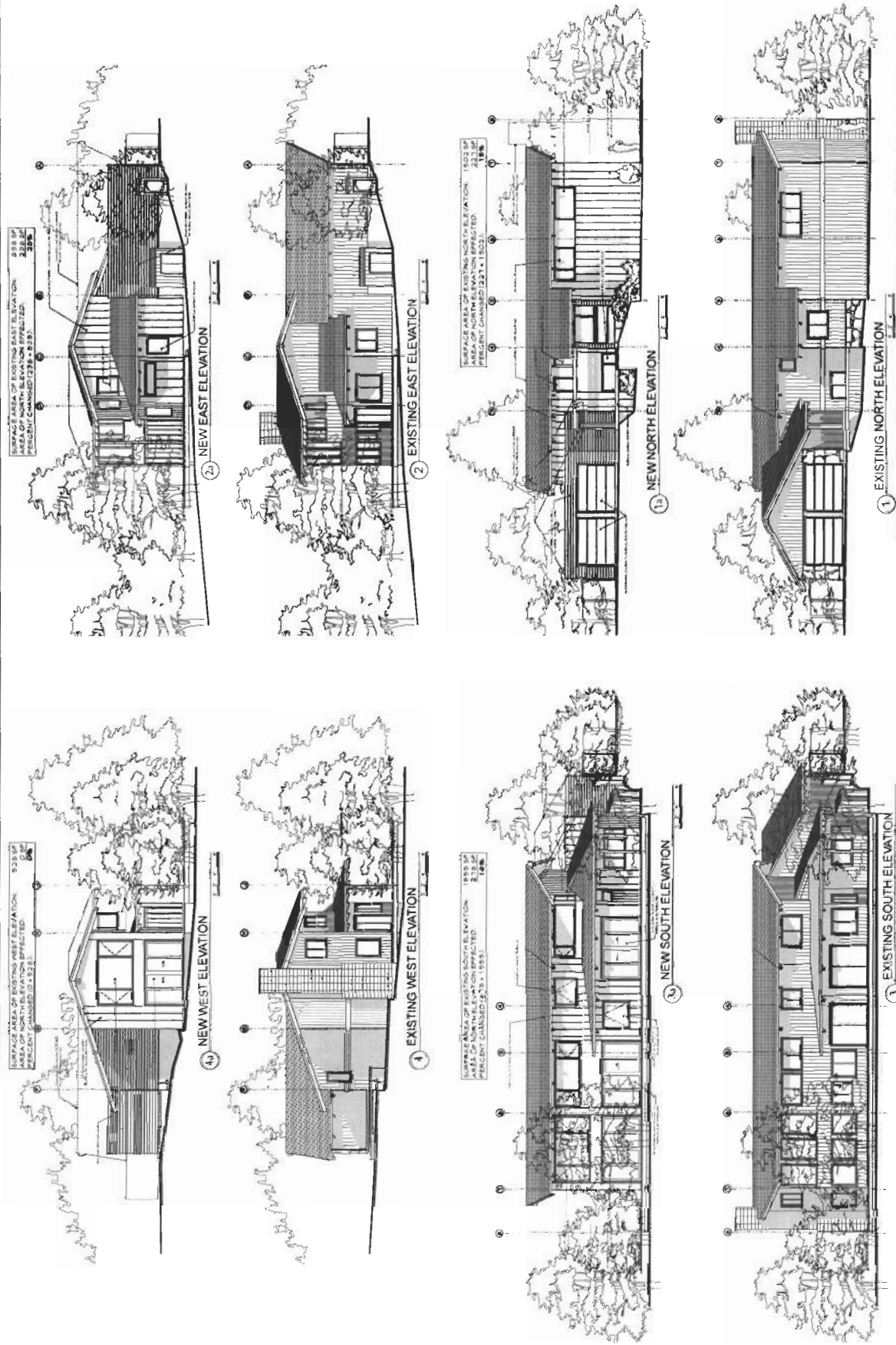
New Floor Plans Scale: 1/8" = 1'-0"

3 of 5



Existing Floor Plans

245



**LEGEND**  
 TOTAL EXISTING ELEVATIONS PROJECTED SURFACE AREA: 4423 SF  
 TOTAL EXISTING ELEVATIONS PROJECTED SURFACE AREA: 4423 SF  
 PERCENTAGE OF CHANGED SURFACE AREA: 16.1%

Existing & New Exterior Elevations

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

4 of 5



**EXHIBIT NO. 6**

**APPLICATION NO.**

1-09-017

COHAN, PETER & DIANE

SITE PHOTOS (1 of 3)



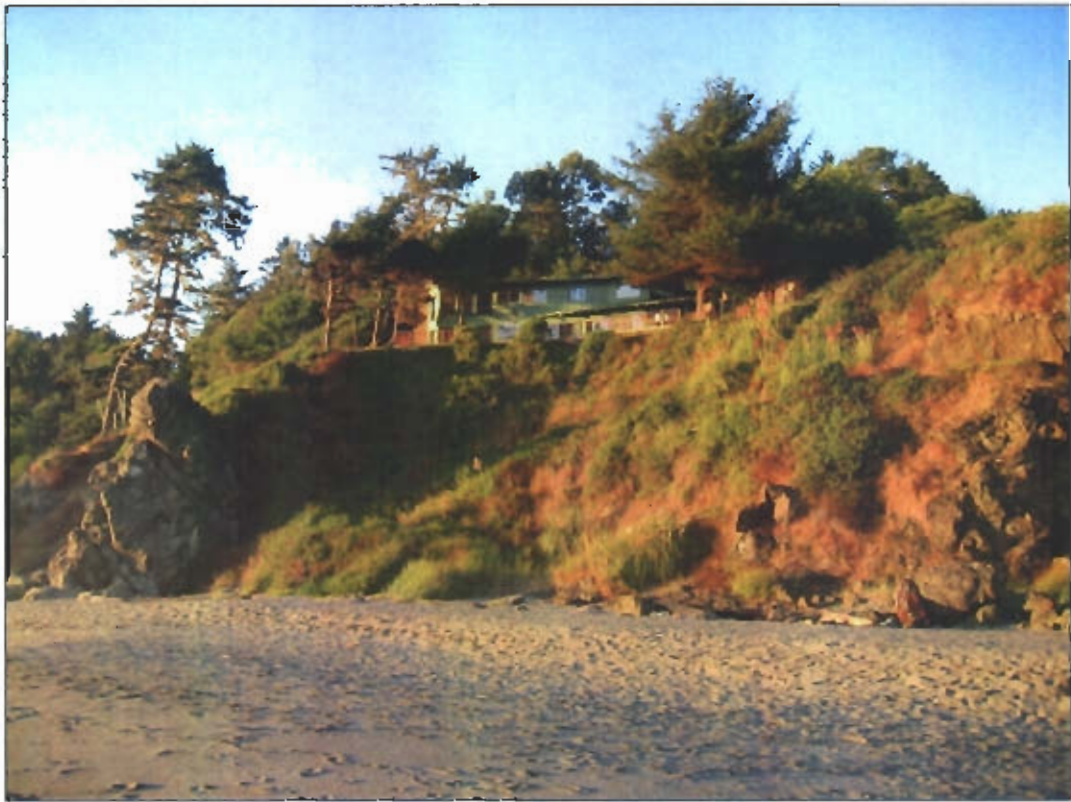
**Photo 1.** View of the existing garage from the northeast. The existing roofline will be changed to a flat (low-slope) roof with new asphalt composition shingle roofing. This view is not visible from public beaches or trails, but it is visible from Scenic Drive, a public roadway.



**Photo 2.** View of the west side of the existing house. The existing chimney will be removed and new windows will be installed on this elevation of the house, which is partially visible from Luffenholtz Beach below (see Photo 3).



**Photo 3.** View of the west side of the existing house from Luffenholtz Beach (note chimney to be removed).



**Photo 4.** A view of the south side of the existing house from Luffenholtz Beach.

203



**Photo 5.** View of the existing house from Luffenholtz Point. Note there is at least three other houses in public view (east of and up slope from Scenic Drive).



**Photo 6.** A view of the existing house from Scenic Drive, a public roadway.