

CALIFORNIA COASTAL COMMISSION

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49th Day: January 27, 2011
Staff: Tamara L. Gedik
Staff Report: December 23, 2010
Hearing Date: January 14, 2011
Commission Action:

STAFF REPORT: APPEAL**SUBSTANTIAL ISSUE & DE NOVO**

APPEAL NO.: A-1-MEN-10-039

APPLICANT: Jorg Hohnloser

AGENT: Richard A. Seale

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

PROJECT LOCATION: Located approximately one mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Gualala, Mendocino County (APNs 144-130-29 and 144-130-23).

PROJECT DESCRIPTION
(as approved by the County): Boundary line adjustment to reconfigure two legal parcels creating lots of 1.21+- acres and 1.42+- acres.

APPELLANTS: Commissioners Wan and Sanchez.

SUBSTANTIVE FILE
DOCUMENTS: 1) Mendocino County file CDB No. 34-2009;
2) Mendocino County Local Coastal Program;

SUMMARY OF STAFF RECOMMENDATIONS:

1. Summary of Staff Recommendation: Substantial Issue

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. Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit No. 3), appellant's claims (Exhibit No. 4), and the relevant requirements of the LCP as explained below. The staff recommends that the Commission, after public hearing, determine that a SUBSTANTIAL ISSUE exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a *de novo* hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified Local Coastal Program (LCP).

On November 10, 2010 the County of Mendocino approved Coastal Development Permit # CDB 34-2009 for a coastal development boundary line adjustment on approximately 2.63 acres to reconfigure two (2) existing lots from the current configurations of approximately 0.93 acres (Parcel 1) and 1.7 acres (Parcel 2), to create lots of 1.21 acres and 1.42 acres. Parcel 1 is the northerly parcel (APN 144-130-29) and is improved with a single family residence with garage and on-site septic system, and the southerly parcel (APN 144-130-23) is vacant. According to the County staff report, the intent of the owner is to provide a larger buffer between the existing residence and the southerly property line.

The subject parcels are located on a bluff and situated approximately one mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Mendocino County. Both parcels are accessed by way of a 20-foot-wide private road easement which connects to Highway One (Exhibit Nos. 1 and 2).

As described in the County staff report, the vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) including: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants in various locations; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on Parcel 2 has been identified on a tentative map dated May 2009 (Exhibit No. 5) and submitted with the County referral. The map shows coastal bluff morning-glory plants and the wetland occurring within 50 feet of the building envelope.

The appellants (Commissioners Sara Wan and Esther Sanchez) claim that the approved project is inconsistent with the policies and standards of the Mendocino County certified Local Coastal Program (LCP) relating to protection of environmentally sensitive habitat areas (ESHAs). Specifically, the appellants claim that the approved project is inconsistent with the ESHA buffer requirements of LUP Policies 3.1-7, 3.1-32, and 3.1-18 and CZC Section 20.496.020, including a failure to address how a buffer that is less than the minimum of 100 feet is allowable under the LCP. The appellants also indicate the approved project is inconsistent with LUP Policies 3.1-7 and 3.1-32 and CZC Section 20.496.020 that disallow boundary line adjustments that create or provide for new parcels entirely within ESHA or ESHA buffer areas, and contend that the County approval does not adequately demonstrate that the land division will not have significant adverse effects, either individually or cumulatively, on ESHAs, inconsistent with CZC Section 20.524.010.

A botanical survey report dated August 2007 is referenced in the County staff report and was included with the County's project referral. The botanical consultant proposed a reduced buffer of the minimum 50 feet in combination with mitigation measures for most but not all coastal bluff morning-glory occurrences. No buffer was mapped for plants located within the mostly undeveloped 20-foot private road easement that runs parallel to and adjacent to Highway One and that encroaches within 50 feet of the identified building envelope. In addition, no buffer was mapped for plants located around the edge of an old road/turnaround near the center of the parcel. No clear explanation is contained in the local record as to why buffers were not identified around the occurrences of coastal bluff morning glory. The consultant describes the presence of 225 coastal bluff morning-glory plants on the site, and indicates in the Mitigation Plan enclosed within Appendix C of the report that "While a 50' buffer can be maintained from the [Northern] coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities." The Mitigation Plan further states "The California Department of Fish and Game (DFG) will be consulted for the review of this plan, and will receive a copy of the final report." However, there is no indication whether DFG was ultimately consulted for the project or whether they were in agreement with the botanist's reduced buffer analysis.

The botanical report additionally discusses the presence of a wetland feature and seeps that are associated with a road drainage culvert and related earth catch basin to drain Highway One. The botanical report does not identify the feature as ESHA, and the May 2009 tentative map does not show an ESHA buffer around the wetland ESHA feature.

The County staff report does not discuss how the reduced ESHA buffer or omitted wetland ESHA buffer are consistent with the LCP ESHA buffer policies, and makes no reference to whether DFG was consulted or is in agreement with the reduced buffer associated with the proposed development. The staff report also does not discuss how the direct impacts to coastal bluff morning-glory plants associated with the building envelope identified on the May 2009 tentative map (Exhibit No. 5) and described in the August 2007 botanical report (Exhibit No. 6) are consistent with the LCP ESHA buffer policies.

As discussed above, the tentative map depicts a building envelope that encroaches both into the ESHA and areas required for ESHA buffer on the subject property. Therefore, a substantial issue is raised as to whether the applicant has not established an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7, as required by LUP Policy 3.1-32. It appears from the tentative map that there is insufficient room to accommodate a building site and necessary associated developments such as a driveway, parking area, septic system, and utilities outside the ESHA buffer areas around all wetland ESHA and coastal bluff morning-glory ESHA. In addition, the County's findings do not analyze alternatives, including the no-project alternative, to demonstrate options that would best avoid significant adverse effects on the ESHA.

Staff believes the appeal raises a substantial issue of conformance with Mendocino County LCP provisions because: (1) the development approved by the County does not provide a buffer between the identified building envelope and wetland and some rare plant ESHA,

and ESHA buffers are not allowed to be reduced to less than 50 feet; (2) the County approval fails to address the consistency of the project with the ESHA buffer requirements of LUP Policies 3.1-7, 3.1-32, and 3.1-18 and CZC Section 20.496.020, including how a buffer that is less than the minimum of 100 feet is allowable under the LCP; (3) the County approval fails to address how the land division can create or provide for a parcel entirely within buffer areas and satisfy requirements of CZC Section 20.496.020(A)(3); (4) the County approval does not adequately demonstrate how the land division is consistent with LCP policies that require the project will not have significant adverse effects, either individually or cumulatively, on ESHAs, as required by CZC Section 20.524.010(B); (5) the development approved by the County includes a building envelope located in, and directly impacting coastal bluff morning-glory ESHA and land divisions and the future residential development the lot line adjustment is designed to facilitate are not listed in the LCP as allowable uses within rare plant and wetland ESHA; and (6) the County has not demonstrated there is not a feasible less environmentally damaging alternative to locating the development with the ESHA.

For all of the above reasons, staff recommends that the Commission find that the appeal raises a substantial issue of conformance of the development as approved by the County with respect to the provisions of the certified LCP regarding protection of ESHA policies.

The motion to adopt the staff recommendation of Substantial Issue is found on page 6.

2. Summary of Staff Recommendation De Novo: Denial

Staff recommends that the Commission **DENY** the coastal development permit for the proposed boundary line adjustment on the basis that the project, as proposed by the applicant, is inconsistent with Mendocino County's certified LCP regarding the protection of environmentally sensitive habitat areas.

As discussed above, the proposed project consists of a coastal development boundary line adjustment of two existing lots resulting in lots of 1.21 acres and 1.42 acres. Parcel 1 is the northerly parcel (APN 144-130-29) and is improved with a single family residence with garage and on-site septic system, and Parcel 2, the southerly parcel (APN 144-130-23), is vacant.

A botanical survey report prepared for the project in August of 2007 identified three kinds of Environmentally Sensitive Habitat Areas (ESHA) on the vacant Parcel 2. These ESHA include: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels.

Division of land is not a form of development that is automatically entitled to a landowner. LUP Policy 3.1-32 limits land divisions, including lot line adjustments, which are located within ESHAs and does not permit such land divisions if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. According to LUP Policy 3.1-7 and CZC Section 20.496.020, 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 (DFG) 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 policy states in that event, the buffer shall not be less than 50 feet in width. LUP Policy 3.1-7 and CZC Section 20.496.020 further requires that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel.

Neither the proposed lot line adjustment nor the residential uses that the lot line adjustment could facilitate are resource dependent. Therefore, to be consistent with LUP Policy 3.1-7, the proposed lot line adjustment must establish a building site for the residential uses outside of the rare plant ESHA and the rare plant ESHA buffer. In addition, none of the nine categories of allowable uses in wetlands include residential land divisions or other residential development. Therefore, to be consistent with LUP Policy 3.1-7, the proposed lot line adjustment must establish a building site for the residential uses outside of the wetland ESHA and wetland ESHA buffer.

The tentative map depicts a building envelope that provides for a 50-foot buffer from a portion of the ESHA on proposed vacant Parcel 2, the northern coastal bluff scrub habitat and the coastal bluff morning glory habitat that is located within the northern coastal bluff scrub habitat. However, the proposed building envelope extends into areas of coastal bluff morning glory along the 20-foot private road easement along the northeast side of the property. The proposed building envelope also extends into areas that should be covered by either a 100-foot buffer or 50-foot buffer around some of the ESHAs on the proposed parcel, including areas around (1) the aforementioned coastal bluff morning glory habitat within the 20-foot private road easement, (2) coastal bluff morning glory habitat around the perimeter of an old dirt road turnaround near the center of the property, and (3) the wetland habitat. Thus, as neither residential land divisions or other residential uses are listed in the LCP as allowable uses within rare plant ESHA and ESHA buffers, and the Coastal Act only allows resource dependent uses within an ESHA, the proposed development is inconsistent with the use limitations of the certified LCP, including its references to 30240, and including LUP Policies 3.1-7 and CZC Sections 20.496.020(A)(3), 20.496.020(A)(4), and 20.524.010(B)(g). Therefore the applicant has not established an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7, as required by LUP Policy 3.1-32.

All portions of proposed adjusted Parcel 2 are within 100 feet of ESHA. Thus, it is not possible to establish a building envelope that provides for 100-foot buffers consistent with LUP Policy 3.7 and CZC Section 20.496.020. As discussed, LUP Policy 3.7 and CZC Section 20.496.020 allow for reduced buffers of a minimum 50-foot width to be established if it can be demonstrated that the reduced buffer would be adequate to protect the ESHA based on certain criteria and if prepared in consultation with the Department of Fish & Game. The Biological Assessment contains an analysis that offers a justification for a reduced 50-foot buffer around the northern coastal bluff scrub habitat and the associated coastal bluff morning glory habitat growing within it near the bluff edge, but does not evaluate whether a reduced buffer would be sufficient around the other ESHA

found on proposed Parcel 2. In addition, there is no evidence that the Department of Fish & Game has been consulted on the appropriateness of any reduced buffer around any of the ESHA on proposed Parcel 2. Even if reduced buffers around each of the ESHAs had been justified consistent with LUP Policy 3.7 and CZC Section 20.496.020, which they have not, there does not appear to be sufficient room on Proposed Parcel 2 to accommodate a building site for a future home and necessary associated development such as an access road, septic system, parking, and utilities outside of all areas that would be required for even minimum 50-foot ESHA buffers.

Therefore, staff believes that the proposed development is inconsistent with the certified LCP provisions that protect environmentally sensitive habitat areas because the proposed boundary line adjustment does not establish an adequate building site on adjusted Parcel 2 which would allow for the development of the building site outside of all ESHA and required ESHA buffer areas on the site. As there are no conditions that could be applied that could make the proposed project consistent with the LCP policies and standards discussed above, staff recommends that the Commission find that the permit application must be denied.

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

I. STAFF RECOMMENDATION, MOTION AND RESOLUTION ON SUBSTANTIAL ISSUE

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

Motion:

I move that the Commission determine that Appeal No. A-1-MEN-10-039 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act.

Staff Recommendation:

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

Resolution to Find Substantial Issue:

The Commission hereby finds that Appeal No. A-1-MEN-10-039 presents a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the proposed

project with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

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

Pursuant to Section 30625 of the Coastal Act and as discussed below, the staff recommends that the Commission determine that the development does not conform to the standards set forth in the certified Local Coastal Program and **deny** the permit. The proper motion is:

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-10-039 for the development proposed by the applicant.

Staff Recommendation of Denial:

Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to DENY the Permit:

The Commission hereby **denies** a coastal development permit for the proposed development on the ground that the development will not conform with the policies of the certified LCP. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

PART ONE – SUBSTANTIAL ISSUE

STAFF NOTES:

1. Appeal Process

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, or within one hundred feet of any wetland or stream, or within

three hundred feet of the top of the seaward face of any coastal bluff, or those located in a sensitive coastal resource area, such as designated “special communities.”

Furthermore, developments approved by counties may be appealed if they are not designated the “principal permitted use” under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

The subject development is appealable to the Commission because (1); the approved development is located between the sea and the first public road paralleling the sea; (2) the approved development is located within 100 feet of a wetland; (3) the approved development is within 300 feet of the top of the seaward face of a coastal bluff; and (4) the approved boundary line adjustment is a form of development not designated as the “principal permitted use” under the certified LCP.

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

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

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

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

2. Filing of Appeal

One appeal was filed with the Commission’s North Coast District Office on December 9, 2010 by Commissioners Sara Wan and Esther Sanchez (Exhibit No. 4). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action on November 29, 2010 (Exhibit No. 3).

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Appellants Contentions:

The Commission received one appeal of the County of Mendocino's decision to approve the development from Commissioners Sara Wan and Esther Sanchez. The development, as approved by the County, consists of a boundary line adjustment of two parcels covering approximately 2.63 acres, resulting in lots of 1.21 acres and 1.42 acres.

As described in the County staff report, the vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) including: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on vacant Parcel 2 has been identified on a tentative map dated May 2009 and submitted with the County referral. The map shows coastal bluff morning-glory plants and the wetland occurring within the newly proposed building envelope and within 50 feet of that building envelope.

The appellants claim that the approved project is inconsistent with the policies and standards of the Mendocino County certified Local Coastal Program (LCP) relating to protection of environmentally sensitive habitat areas (ESHAs). Specifically, the appellants claim that the approved project is inconsistent with the ESHA buffer requirements of LUP Policies 3.1-7, 3.1-32, and 3.1-18 and CZC Section 20.496.020, including a failure to address how a buffer that is less than the minimum of 100 feet is allowable under the LCP. The appellants also indicate the approved project is inconsistent with LUP Policies 3.1-7 and 3.1-32 and CZC Section 20.496.020 that disallow boundary line adjustments that create or provide for new parcels entirely within ESHA or ESHA buffer areas, and contend that the County approval does not adequately demonstrate that the land division will not have significant adverse effects, either individually or cumulatively, on ESHAs, inconsistent with CZC Section 20.524.010.

B. Local Government Action

On November 10, 2010, the Mendocino County Coastal Permit Administrator approved with conditions Coastal Development Permit No. CDB 34-2009 for a boundary line adjustment of two parcels totaling 2.63 acres. The approved development is located at 36420 and 36430 South Highway One in Gualala, Mendocino County (APNs 144-130-29 and 144-130-23). (Exhibit Nos. 1 and 2). The County attached to its coastal permit eight special conditions, including Special Condition No. 2, which requires that a notation be made on the deed for vacant Parcel 2 that any future development shall incorporate the mitigation measures of the botanical survey and ESHA assessment prepared by Bill Maslach in August, 2007.

The decision of the County Coastal Permit Administrator was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action,

which was received at the Commission's North Coast District Office on November 29, 2010 (Exhibit No. 3). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

The County's approval of the project was appealed to the Coastal Commission in a timely manner on December 9, 2010, within 10 working days of receipt by the Commission of the County's Notice of Final Action on November 29, 2010 (Exhibit No. 4).

C. Commission's Appeal Jurisdiction Over the 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 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 because (1) the approved development is located between the sea and the first public road paralleling the sea; (2) the approved development is located within 100 feet of a wetland; (3) the approved development is within 300 feet of the top of the seaward face of a coastal bluff; and (4) the approved boundary line adjustment is a form of development not designated as the "principal permitted use" under the certified LCP.

D. Site and Project Description

The proposed development is a boundary line adjustment on approximately 2.63 acres to reconfigure two (2) existing lots from the current configurations of approximately 0.93 acres (Parcel 1) and 1.7 acres (Parcel 2), to create lots of 1.21 acres and 1.42 acres. Parcel 1 is the northerly parcel (APN 144-130-29) and is improved with a single-family residence with garage and on-site septic system, and Parcel 2, the southerly parcel (APN 144-130-23), is vacant. The boundary line adjustment is proposed to provide a larger buffer between the existing residence and the southerly property line.

The subject property is located one mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Mendocino County. The subject parcels are situated on a gently-sloping to near-level coastal terrace and include the adjoining 80-85 foot ocean bluffs. Both parcels are accessed by way of a 20-foot-wide private road easement which connects to Highway One.

The northerly Parcel 1 (APN 144-130-29) is developed with a single-family residence with a garage and on-site septic system. The southerly Parcel 2 (APN 144-130-23) is vacant.

Site vegetation on the terrace consists of a moderate cover of grass, isolated shrubs, and mature Monterey Cypress trees. The vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) including: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants in various locations; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on vacant Parcel 2 has been identified on a tentative map dated May 2009 (Exhibit No. 5). The map shows coastal bluff morning-glory plants within the newly proposed building envelope and other coastal bluff morning glory plants and portions of the wetland occurring within 50 feet of that building envelope.

The subject property is located in a rural area containing scattered residential development. The parcels are designated on the County general plan Coastal Plan Map as Rural Residential, Five Acre Minimum (RR-5). The parcels show a zoning designation on the Coastal Zoning Map as Rural Residential, Five Acre Minimum with an alternate zoning designation of two acre minimum (RR-5[2]). The County recognizes both parcels as separate legal non-conforming lots, and both were under separate pre-1970 deeds until the owner acquired them under separate deeds in 2004 and 2007. The parcels are also located within a designated "Critical Water Resources" area, and both parcels are currently served by the North Gualala Water Company with meters and water lines. The site is not within a designated highly scenic area.

E. Substantial Issue Analysis

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

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

The contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP.

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

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

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

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

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

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the appeals raise a substantial issue of conformance of the project as approved by the County with the policies of the certified LCP

1. Allegation Raising A Substantial Issue

The appellants contend that the approved project is inconsistent with the environmentally sensitive habitat area (ESHA) protection provisions of the Mendocino County certified Local Coastal Program (LCP).

Discussion:

As described in the County staff report, the vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) including: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants in various locations; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on Parcel 2 has been identified on a tentative map dated May 2009 (Exhibit No. 5) and submitted with the County referral. The map shows coastal bluff morning-glory plants and the wetland occurring within 50 feet of the building envelope.

CZC Section 20.496.010 defines environmentally sensitive habitat areas (ESHA) and includes habitats of rare and endangered species. In addition, CZC Section 20.496.010 states that all wetlands are ESHA. Therefore, as ESHA, rare species habitat and wetlands 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 (DFG) and based on specific criteria, 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 in that event, the buffer shall not be less than 50 feet in width. LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) further require that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA.

A botanical survey report dated August 2007 is referenced in the County staff report and was included with the County's project referral. The botanical consultant proposed a reduced buffer of the minimum 50 feet in combination with mitigation measures for most but not all coastal bluff morning-glory occurrences. No buffer was mapped for plants located within the mostly undeveloped 20-foot private road easement that runs parallel to and adjacent to Highway One and that encroaches within 50 feet of the identified building envelope. In addition, no buffer was mapped for plants located around the edge of an old road/turnaround near the center of the parcel. No clear explanation is contained in the local record as to why buffers were not identified around the occurrences of coastal bluff morning glory. The consultant describes the presence of 225 coastal bluff morning-glory plants on the site, and indicates in the Mitigation Plan enclosed within Appendix C of the report that "Some of the locations of the coastal bluff morning-glory, with respect to the minimum 50' ESHA setback, pose a challenge to the development of a building envelope. While a 50' buffer can be maintained from the [Northern] coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities." The Mitigation Plan further states "The California Department of Fish and Game (DFG) will be consulted for the review of this plan, and will receive a copy of the final report." However, there is no indication whether DFG was ultimately consulted for the project or whether they were in agreement with the botanist's reduced buffer analysis.

The botanical report additionally discusses the presence of a wetland feature and seeps that are associated with a road drainage culvert and related earth catch basin to drain Highway One. The botanical report does not identify the feature as ESHA, and the May 2009 tentative map does not show an ESHA buffer around the wetland ESHA feature. However, CZC Section 20.496.010 states that all wetlands are ESHA and does not exclude man-made wetland features from consideration as ESHAs.

The County staff report does not discuss how the reduced ESHA buffer or omitted wetland ESHA buffer are consistent with the LCP ESHA buffer policies, and makes no reference to whether DFG was consulted or is in agreement with the reduced buffer associated with the proposed development. The staff report also does not discuss how the direct impacts to coastal bluff morning-glory plants associated with the building envelope identified on the May 2009 tentative map (Exhibit No. 5) and described in the August 2007 botanical report (Exhibit No. 6) are consistent with the LCP ESHA buffer policies. Accordingly, the Commission finds that the appeals of the County's approval raise a substantial issue of conformity of the approved development with the ESHA provisions of the certified LCP

because the degree of factual and legal support for the County's action is lacking, given that the findings do not adequately evaluate or represent habitat conditions and threats to rare species in relation to the proposed development.

Special Condition No. 2 simply requires that a notation be made on the deed for the southerly parcel that any future development shall incorporate the mitigation measures of the botanical survey and ESHA assessment. The proposed mitigation measures include transplantation, seed collection, propagation, replanting, exotic plant eradication, site monitoring, a 3-year management period, and maintenance in perpetuity.

Providing mitigation for impacts to ESHA does not eliminate LCP requirements that minimum buffers be established between ESHA and development. Approval of the subject development raises a substantial issue of conformance with the ESHA policies of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18 and CZC Section 20.496.020, because the County fails to address how a buffer for wetlands and the rare coastal bluff morning-glory habitat that is less than the minimum of 100 feet is consistent with the requirements of LUP Policy 3.1-7 and CZC Sections 20.496.020(A)(1) and (3).

With regard to the appellants' contention alleging an inconsistency of the approved development with land division provisions of the certified LCP that disallow land divisions within ESHA or ESHA buffers, LUP Policy 3.1-32 limits land divisions, including lot line adjustments, which are located within ESHAs and does not permit such land divisions if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. In addition, CZC Section 20.496.020(A)(3) explicitly disallows boundary line adjustments that create or provide for new parcels entirely within a buffer area. Furthermore, CZC Section 20.524.010(B)(g) requires that land divisions shall not have significant adverse effects, either individually or cumulatively, on ESHAs or on other coastal resources, and CZC Section 20.524.010(B)(m) requires that identified coastal resources within the proposed area to be divided are protected from significant adverse environmental impacts.

As discussed above, the tentative map depicts a building envelope that encroaches both into the ESHA and areas required for ESHA buffer on the subject property. Therefore, a substantial issue is raised as to whether the applicant has not established an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7, as required by LUP Policy 3.1-32. It appears from the tentative map that there is insufficient room to accommodate a building site and necessary associated developments such as a driveway, parking area, septic system, and utilities outside the ESHA buffer areas around all wetland ESHA and coastal bluff morning-glory ESHA. In addition, the County's findings do not analyze alternatives, including the no-project alternative, to demonstrate options that would best avoid significant adverse effects on the ESHA.

The protection of ESHA in the coastal zone is an issue of statewide concern addressed by Section 30240 of the Coastal Act. In addition, as noted above, the degree of factual and legal support for the County's action is lacking, given that the findings do not adequately

evaluate or represent habitat conditions and threats to rare species in relation to the proposed development. The County staff report does not disclose or discuss that the proposed building envelope occurs within 50 feet of some coastal bluff morning-glory plants, nor that the identified building envelope will directly impact approximately 40 coastal bluff morning-glory plants.

The Commission finds that the appeal raises a substantial issue with respect to conformance of the County-approved land division development with LCP policies regarding coastal rural land divisions and ESHA buffer policies including, but not limited to, the LUP's references to Section 30240 of the Coastal Act, and including LUP Policies 3.1-7, 3.1-18, and 3.1-32, and CZC Sections 20.496.020, 20.524.010, and 20.532.100(A)(1).

The Commission finds a substantial issue exists because: (1) the development approved by the County does not provide a buffer between the identified building envelope and wetland and some rare plant ESHA, and ESHA buffers are not allowed to be reduced to less than 50 feet; (2) the County approval fails to address the consistency of the project with the ESHA buffer requirements of LUP Policies 3.1-7, 3.1-32, and 3.1-18 and CZC Section 20.496.020, including how a buffer that is less than the minimum of 100 feet is allowable under the LCP; (3) the County approval fails to address how the land division can create or provide for a parcel entirely within buffer areas and satisfy requirements of CZC Section 20.496.020(A)(3); (4) the County approval does not adequately demonstrate how the land division is consistent with LCP policies that require the project will not have significant adverse effects, either individually or cumulatively, on ESHAs, as required by CZC Section 20.524.010(B); (5) the development approved by the County includes a building envelope located in, and directly impacting coastal bluff morning-glory ESHA and land divisions and the future residential development the lot line adjustment is designed to facilitate are not listed in the LCP as allowable uses within rare plant and wetland ESHA; and (6) the County has not demonstrated there is not a feasible less environmentally damaging alternative to locating the development with the ESHA.

Conclusion of Part One: Substantial Issue

The Commission finds that for the reasons stated above, the appeal raises a substantial issue of conformance of the development as approved by the County with the provisions of the certified LCP regarding protection of ESHA.

PART TWO—*DE NOVO* ACTION ON APPEAL

STAFF NOTES:

1. Procedure

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP and/or the public access policies of the Coastal Act, the local government's approval no longer governs, and the Commission must consider the merits of the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and not between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with Mendocino County's certified Local Coastal Program (LCP). The Coastal Commission effectively certified the County of Mendocino's LCP in 1992.

Testimony may be taken from all interested persons at the *de novo* hearing.

IV. FINDINGS AND DECLARATIONS FOR DENIAL

The Commission hereby finds and declares:

A. INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

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

B. PROJECT AND SITE DESCRIPTION

The proposed development is a boundary line adjustment on approximately 2.63 acres to reconfigure two (2) existing lots from the current configurations of approximately 0.93 acres (Parcel 1) and 1.7 acres (Parcel 2), to create lots of 1.21 acres and 1.42 acres. Parcel 1 is the northerly parcel (APN 144-130-29) and is improved with a single-family residence with garage and on-site septic system, and Parcel 2, the southerly parcel (APN 144-130-23), is vacant. The boundary line adjustment is proposed to provide a larger buffer between the existing residence and the southerly property line.

The subject property is located one mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Mendocino County. The subject parcels are situated on a gently-sloping to near-level coastal terrace and include the adjoining 80-85 foot ocean bluffs. Both parcels are accessed by way of a 20-foot-wide private road easement which connects to Highway One.

The northerly Parcel 1 (APN 144-130-29) is developed with a single-family residence with a garage and on-site septic system. The southerly Parcel 2 (APN 144-130-23) is vacant.

Site vegetation on the terrace consists of a moderate cover of grass, isolated shrubs, and mature Monterey Cypress trees. The vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) including: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants in various locations; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on vacant Parcel 2 has been identified on a tentative map dated May 2009 (Exhibit No. 5). The map shows coastal bluff morning-glory plants within the newly proposed building envelope and other coastal bluff morning-glory plants and portions of the wetland occurring within 50 feet of the building envelope.

The subject property is located in a rural area containing scattered residential development. The parcels are designated on the County general plan Coastal Plan Map as Rural Residential, Five Acre Minimum (RR-5). The parcels show a zoning designation on the Coastal Zoning Map as Rural Residential, Five Acre Minimum with an alternate zoning designation of two acre minimum (RR-5[2]). The County recognizes both parcels as separate legal non-conforming lots, and both were under separate pre-1970 deeds until the owner acquired them under separate deeds in 2004 and 2007. The parcels are also located within a designated “Critical Water Resources” area, and both parcels are currently served by the North Gualala Water Company with meters and water lines. The site is not within a designated highly scenic area.

C. ANALYSIS OF LCP CONSISTENCY

As discussed below, the Commission is denying the proposed development because it is inconsistent with certified LCP provisions intended to protect environmentally sensitive habitat area resources. These inconsistencies cannot be resolved by permit conditions.

1. Environmentally Sensitive Habitat Areas (ESHAs)

Summary of Applicable LCP and Coastal Act Provisions:

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

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

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

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

Wetlands are defined in Section 3.1 of the Mendocino County Land Use Plan (LUP) as follows:

Wetlands. *Lands which may be covered periodically or permanently with shallow water, including saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, and fens. Wetlands are extremely fertile and productive environments. Tidal flushing from the ocean and/or nutrient-rich freshwater runoff mix to form a delicate balance responsible for their productivity. They function as nurseries for many aquatic species and serve as feeding and nesting areas for waterfowl, shorebirds and wading birds, as well as a few rare and endangered species.*

The edge or upland limit of wetlands is designated by the California Coastal Commission guidelines on wetlands as: (a) the boundary between land with predominantly hydrophytic (adapted to wet conditions) cover and land with predominantly mesophytic (adapted to average conditions) or xerophytic (adapted to dry conditions) cover; (b) the boundary between soil that is predominantly hydric and soil that is predominantly nonhydric; or, in the case of wetlands without vegetation or soils; (c) the boundary between land that is flooded or saturated at some time during years of normal precipitation and land that is not. Areas with drained hydric soils that are no longer capable of supporting hydrophytes (species adapted to wet conditions) are not considered wetlands.

Wetlands are defined in Section 13577 of the Commission Regulations as follows:

Wetland shall be defined as land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep-water habitats.

LUP Policy 3.1-4 states:

As required by the Coastal Act, development within wetland areas shall be limited to:

- 1. Port facility construction or expansion, Section 30233(a)(1).*
- 2. Energy facility construction or expansion, Section 30233(a)(1).*
- 3. Coastal-dependent industrial facilities such as commercial fishing facilities, construction or expansion, Section 30233(a)(1).*

4. *Maintenance or restoration of dredged depths or previously dredged depths in: navigational channels, turning basins, vessel berthing and mooring areas, and associated with boat launching ramps.*
5. *In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that in a degraded wetland, other boating facilities may be permitted under special circumstances, Section 30233(a)(3). New or expanded boating facilities may be permitted in estuaries, Section 30233(a)(4).*
6. *Incidental public services purposes, including, but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.*
7. *Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.*
8. *Nature study purposes and salmon restoration projects.*
9. *Aquaculture, or similar resource dependent activities excluding ocean ranching. (See Glossary)*

In any of the above instances, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes, shall be permitted in accordance with all other applicable provisions of this plan. Such requirements shall include a finding that there is no feasible less environmentally damaging alternative and shall include mitigation measures required to minimize adverse environmental effects, in accordance with Sections 30233 and 30607, and other provisions of the Coastal Act.

Section 20.496.025 of the Mendocino County Coastal Zoning Code states, in part, that:

(A) Development or activities within wetland and estuary areas shall be limited to the following:

- (1) *Port facility expansion or construction.*
- (2) *Energy facility expansion or construction.*
- (3) *Coastal-dependent industrial facilities, such as commercial fishing facilities, expansion or construction.*
- (4) *Maintenance or restoration of dredged depths or previously dredged depths in navigation channels, turning basins, vessel berthing and mooring areas, and associated boat launching ramps.*
- (5) *In wetland areas, only entrance channels for new or expanded boating facilities may be constructed, except that, in a degraded wetland, other boating facilities may be permitted under special circumstances.*
- (6) *New or expanded boating facilities may be permitted in estuaries.*

(7) Incidental public service purposes which temporarily impact the resource including but not limited to burying cables and pipes, or inspection of piers, and maintenance of existing intake and outfall lines.

(8) Restoration projects which are allowable pursuant to Section 30233(a)(7) of the Coastal Act are publicly or privately financed projects in which restoration is the sole purpose of the project...

(9) Mineral extraction, including sand for restoring beaches, except in ESHA's.

(10) Nature study purposes and salmon restoration projects.

(11) Aquaculture, or similar resource dependent activities excluding ocean ranching.

Mendocino County Land Use Plan (LUP) Policy 3.1-2 states the following (emphasis added):

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

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

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

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption

caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

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

LUP Policy 3.1-18 states the following (emphasis added):

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not significantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

LUP Policy 3.1-32 states the following (emphasis added):

Land divisions, including lot line adjustments which are located within Environmentally Sensitive Habitat Area boundaries (which are shown on the Land Use Maps, and subject to Policy 3.1-1), will not be permitted if: (1) any parcel being created is entirely within an Environmentally Sensitive Habitat Area; or (2) if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7.

CZC Section 20.496.015 states, in applicable part, the following (emphasis added):

*(A) **Determining Extent of ESHA.** The Coastal Permit Administrator shall review, with the assistance of land use maps, all permit applications for coastal developments to determine whether the project has the potential to impact an ESHA. A project has the potential to impact an ESHA if:*

...

- (2) The development is proposed to be located within an ESHA, according to an on-site investigation, or documented resource information; ...

(3) The development is proposed to be located within one hundred (100) feet of an environmentally sensitive habitat and/or has potential to negatively impact the long-term maintenance of the habitat, as determined through the project review.

...

(D) Development Approval. Such development shall only be approved if the following occurs:

(1) All members of the site inspection team agree to the boundaries of the sensitive resource area; and

(2) Findings are made by the approving authority that the resource will not be significantly degraded by the development as set forth in Section 20.532.100(A)(1).

(E) Denial of Development. If findings cannot be made pursuant to Section 20.532.100(A)(1), the development shall be denied.

CZC Section 20.524.010(B) states, in applicable part, the following (emphasis added):

(B) Required Conditions for Approval of Rural Land Divisions. Land division in rural areas may be permitted only if all of the following conditions are satisfied:

(g) The division will not have significant adverse affects, either individually or cumulatively, on environmentally sensitive habitat areas or on other coastal resources.

CZC Section 20.532.100 states, in applicable part, the following (emphasis added):

In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:

(A) Resource Protection Impact Findings.

(1) Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:

(a) The resource as identified will not be significantly degraded by the proposed development.

(b) There is no feasible less environmentally damaging alternative.

(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

...

Section 20.496.020 of the CZC states, in applicable part, the following (emphasis added):

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

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

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

- ... (a) Biological Significance of Adjacent Lands...
- ... (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...
- ... (g) Type and Scale of Development Proposed...
- ...

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

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

- (a) *Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.*
- (b) *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.*
- (c) *Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term “best site” shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.*

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

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

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

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

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

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

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

(k) *If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats.*

Land Use and Zoning Designations

The subject property is planned and zoned for Rural Residential (RR) use in the County's LCP. According to the LCP, the RR district is intended to encourage local small scale farming in areas which are not well suited for large scale commercial agriculture, defined by present or potential use, location, mini-climate, slope,

exposure, etc. Section 20.376.010 of the CZC sets forth the principal permitted use types in the RR district, which include (1) single-family residential, (2) vacation home rental, (3) light agriculture, (4) row and field crops, (5) tree crops, and (6) passive recreation. Additionally, the section sets forth the conditional permitted use types in the RR district, which include residential (mobile home park); commercial (cottage industries); civic use types (on-site and off-site alternative energy facilities, community recreation, day care and small school facilities, educational facilities, fire and police protection services, group care, lodge, fraternal and civic assembly, major impact services and utilities, minor impact utilities, and religious assembly); agricultural use types (limited forest production and processing, commercial woodlots forest production and processing, horticulture, and limited packing and processing); open space use types (active recreation); extractive use types (mining and processing); and natural resource use types (fish and wildlife habitat management, and watershed management).

Discussion:

A botanical survey report prepared for the project in August of 2007 identified three kinds of Environmentally Sensitive Habitat Areas (ESHA) on the vacant Parcel 2. These ESHA include: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. Exhibit No. 7 is a site map of the existing vacant Parcel 2 prepared by the consulting biologist which shows the identified rare plant communities and the wetland.

Coastal bluff morning-glory is ESHA

ESHA, as defined in Section 30107.5 of the Coastal Act, Section 3.1 of the certified Mendocino County LUP, and CZC Section 20.308.040(F) is “...*any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities.*” Thus, Coastal Act Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F) set up a two part test for determining an ESHA. The first part is determining whether an area includes plants or animals or their habitats that are either: (a) rare; or (b) especially valuable because of their special nature or role in an ecosystem. If so, then the second part asks whether such plants, animals, or habitats could be easily disturbed or degraded by human activities. If so, then the area where such plants, animals, or habitats are located is defined as ESHA by Coastal Act Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F).

The first test for determining ESHA under Section 30107.5, LUP Section 3.1, and CZC Section 20.308.040(F) is whether an **area** including plants or animals or their habitats **is either (a) rare, or (b) especially valuable because of its special nature or role in an ecosystem.**

Coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) is a perennial herb in the Convolvulaceae family that usually grows on coastal dunes, scrub, and bluffs in Marin, Sonoma, and Mendocino Counties (CNPS 2003). It has no federal or state threatened or endangered status, but it has a California Rare Plant Rank (CRPR) of 1B.2 (plants considered rare, threatened, or endangered in California and elsewhere). Normally, impacts to the plants on CRPR List 1B.2 are considered significant by the California Department of Fish and Game (CDFG) under the California Environmental Quality Act (CEQA). In addition to the California Rare Plant rank 1B.2 that designates coastal bluff morning-glory as rare, threatened or endangered in California and elsewhere, it also has a CNDDDB state/global ranking of G4T2/S2.2 that further recognizes the status of coastal bluff morning-glory as imperiled and vulnerable to extirpation from the nation or state/province¹. Because of its relative rarity at the state level, the area containing coastal bluff morning glory meets the rarity test for designation as ESHA under the above cited Coastal Act and LCP policies.

The second test for determining ESHA under Coastal Act Section 30107.5 (Section 3.1 of the certified LUP) is **whether the habitat could be easily disturbed or degraded by human activities and developments**. The coastal bluff morning-glory plants occurring on the property could be easily disturbed or degraded by human activities and developments such as those that would be necessary in the future to develop a proposed house, including grading, paving, building construction, foot trampling, etc. The mitigation plan contained in Appendix C of the August 2007 botanical report states “several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities.” Therefore, coastal bluff morning-glory plants occurring on all portions of the approved project site meet the second test for determining ESHA under Section 30107.5 of the Coastal Act, LUP Section 3.1, and CZC Section 20.308.040(F).

Wetlands are ESHA

Mendocino County Coastal Zoning Code (CZC) Section 20.496.010 “Environmentally Sensitive Habitat and other Resource Areas—Purpose” states the following (emphasis added):

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

¹ In this case, the California Heritage (CNDDDB) ranking of G4T2/S2.2 describes the global rank (G rank) of the entire distribution for the species *Calystegia* as apparently secure and uncommon but not rare. Subspecies receive a T-rank attached to the G-rank. With the subspecies, the G-rank reflects the condition of the entire species, whereas the T-rank reflects the global situation of just the subspecies or variety. The T-rank for *Calystegia purpurata* ssp. *saxicola* indicates this subspecies is imperiled, and at high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors. The state rank (S rank) for coastal bluff morning-glory is imperiled in California because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the nation or state/province.

The botanical report discusses the presence of a wetland feature and seeps that are associated with a road drainage culvert and related earth catch basin to drain Highway One. The following excerpt from the botanical report describes the wetland feature:

Wetland- The wetland on the Project Site appears to have its source of water come solely from the culvert under Highway 1 and the ditches that drain the same road. Above the wetland is an 8" culvert approximately 4' below the grade of Highway 1. Associated with the culvert is an earth catch basin that collects water from the east side of the highway where there is a 6-10' cut bank that likely contributes to the seeping of water.

Herbaceous ground cover is typical of wetland vegetation and consists primarily of pacific rush, sword fern and horsetail. Two dominant plants not typical of wetland vegetation are English ivy in the ground cover and vine stratum and Monterey cypress.

Table 3 of the botanical report does not identify the feature as ESHA, and the May 2009 tentative map identifies the wetland feature, but does not show an ESHA buffer around the wetland. However, CZC Section 20.496.010 states that all wetlands are ESHA and does not exclude man-made wetland features from consideration as ESHAs. Therefore, the wetland is subject to the ESHA protection policies of the LCP, including the limitations on development within ESHA buffers.

Lot Line Adjustments Are Only Permissible if they will Provide Adequate Building Sites Consistent with ESHA Buffer Policies

Division of land is not a form of development that is automatically entitled to a landowner. LUP Policy 3.1-32 limits land divisions, including lot line adjustments, which are located within ESHAs and does not permit such land divisions if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. According to LUP Policy 3.1-7 and CZC Section 20.496.020, 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 (DFG) 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 policy states in that event, the buffer shall not be less than 50 feet in width. LUP Policy 3.1-7 and CZC Section 20.496.020 further requires that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel.

In addition, CZC Section 20.496.020(A)(3) explicitly disallows boundary line adjustments that create or provide for new parcels entirely within a buffer area. LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4) require *permitted development* within an ESHA buffer to comply with several standards.

A building envelope for future development on vacant Parcel 2 has been identified on a tentative map dated May 2009 and submitted as part of the application (see Exhibit No. 5). The map shows coastal bluff morning-glory plants and portions of the wetland occurring within the newly proposed building envelope and within 50 feet of that building envelope. No portion of the proposed adjusted parcel 2 is 100 feet or more away from existing

coastal bluff morning glory habitat, Northern Coastal Bluff Scrub habitat, and/or the wetland.

In a botanical survey report dated August 2007, the botanical consultant proposed a reduced buffer of the minimum 50 feet in combination with mitigation measures for some of the coastal bluff morning-glory occurrences. No buffer was mapped for plants located within the mostly undeveloped 20-foot private road easement that runs parallel to and adjacent to Highway One and that encroaches within 50 feet of the identified building envelope. In addition, no buffer was mapped for plants located around the edge of an old road/turnaround near the center of the parcel. No clear explanation is contained in the local record as to why buffers were not identified around these occurrences of coastal bluff morning glory. The consultant describes the presence of 225 coastal bluff morning-glory plants on the site, and indicates in the Mitigation Plan enclosed within Appendix C of the report that “While a 50’ buffer can be maintained from the [Northern] coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities.” The road easement and the edge of the old road/turnaround where no buffer was mapped are previously disturbed areas, but the Coastal Act and LCP definitions of ESHA do not exclude an area as ESHA merely on the basis that the site was previously disturbed. Coastal bluff morning glory is an opportunistic plant that is often found in mowed and previously disturbed areas.

Similarly, no buffer was mapped around the wetland. In an email message contained in the local record dated December 14, 2009, from the consulting biologist to County staff, the consulting biologist indicates no buffer was mapped around the wetland because the consulting biologist did not believe the wetland met the definition of ESHA because the source of the water is from highway runoff. However, as discussed above, CZC Section 20.496.010 states that all wetlands are ESHA. No distinction is made for wetlands that derive hydrology from man-made features such as culverts.

To be consistent with Policy 3.1-7, a building site must be established with a minimum 50-foot buffer. The policy further provides that only uses allowable within the ESHA the buffer is designed to protect may be located within the buffer. As discussed further below, neither the proposed lot line adjustment nor the residential development that the lot line adjustment could accommodate are an allowable use within the ESHA. Therefore, the proposed lot line adjustment must be denied.

Future Residential Use Not Allowed Within ESHA and ESHA Buffers

LUP Policy 3.1-7 and CZC Section 20.496.020 (A)(1) allow for development to be permitted within a buffer area if the development is for a use that is the same as those uses permitted in the adjacent environmentally sensitive habitat area, and if the development complies with specified standards as described in subsections (1)-(3) of LUP Policy 3.1-7 and 4(a)-(k) of Section 20.496.020. CZC Section 20.532.100(A)(1)(a) requires that ESHA resources affected by development will not be significantly degraded by the proposed development. The LCP policies identify specific uses permitted in wetland and riparian

ESHAs, but do not specifically identify what uses are allowed within rare plant ESHA, and by extension, within the rare plant buffer.

Coastal Act Section 30240(a) states that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, only uses dependent on those resources shall be allowed within those areas. Although Section 30240 of the Coastal Act is not listed in the section of the certified Land Use Plan entitled, "Coastal Element Policies: Habitats and Natural Resources," which contains LUP Policy 3.1-7 and other LUP policies governing the protection of ESHA, Section 30240 is listed and referred to in the narrative for the section of the Land Use Plan containing the other LUP policies governing the protection of ESHA.

Although local governments are responsible for drafting the precise content of their LCPs, the Coastal Act requires that LCPs must, at a minimum, conform to and not conflict with the resource management standards and policies of the Coastal Act. It can be presumed that the County was aware that the Coastal Act established the minimum standards and policies for local coastal programs and knew, that in drafting its local coastal program, it was constrained to incorporate the development restrictions of Section 30240(a) of the Coastal Act, including the restriction that only uses dependent on those resources shall be allowed in those areas. It can also be assumed that in certifying the Mendocino County LCP, the Commission understood and found that the LCP conformed to (i.e. incorporated) the minimum policies and standards of the Coastal Act, including the development restrictions of Section 30240(a).

As noted above, the narrative for the section of the Land Use Plan containing LUP policies governing the protection of ESHA includes Section 30240. In addition, the narrative contains statements that acknowledge the protections afforded by Section 30240 and the County's commitment to incorporate those protections into the LCP, including the following statements:

- "The Coastal Act mandates the preservation of significant natural resources and habitats;"
- "Throughout all policies pertaining to Habitats and Natural Resources shall run the continuous theme that natural habitat areas constitute significant public resources which shall be protected not only for the wildlife which inhabits those areas but for the enjoyment of present and future populations of the State of California;"
- This Local Coastal Plan represents the commitment of the County of Mendocino to provide continuing protection and enhancement of its coastal resources

The LCP policies do not expressly authorize non-resource dependent uses or any other uses within rare plant ESHA. The fact that the LCP policies do not specifically state what uses are allowed within rare plant ESHA does not mean the policy is intended to relax the restriction of Section 30240(a) of the Coastal Act that limits uses in habitat areas to those dependent on habitat resources. An LCP policy that allowed non-resource dependent uses in rare plant ESHA would be inconsistent with and directly conflict with Section 30240(a).

Moreover, the provisions in the LCP concerning permissible development in habitat areas are not incompatible with the restrictions in Section 30240(a). These provisions refer generally to maintaining minimum buffers between development and ESHA, which is not inconsistent with restricting development within rare plant ESHA to resource dependent uses. Therefore, the Commission finds that the Mendocino County LCP policies governing rare plant habitat areas restrict development to resource dependent uses that do not significantly disrupt habitat values.

Neither the proposed lot line adjustment nor the residential uses that the lot line adjustment could facilitate are resource dependent. Therefore, to be consistent with LUP Policy 3.1-7, the proposed lot line adjustment must establish a building site for the residential uses outside of the rare plant ESHA and the rare plant ESHA buffer.

LUP Policy 3.1-4 allows certain uses in addition to resource dependent uses within wetlands. The nine categories of use allowed in wetland range from port facilities to incidental public services. However, none of the nine categories of allowable uses in wetlands include residential land divisions or other residential development. Therefore, to be consistent with LUP Policy 3.1-7, the proposed lot line adjustment must establish a building site for the residential uses outside of the wetland ESHA and wetland ESHA buffer.

Neither the proposed lot line adjustment nor the future residential development that the proposed boundary line adjustment is designed to facilitate are in any way dependent on the rare plant habitat at the site, but would occur within rare plant ESHA and within buffer areas that are required to be established around rare plant and wetland ESHAs. Therefore, as neither residential land divisions or other residential uses are listed in the LCP as allowable uses within rare plant ESHA and ESHA buffers, and the Coastal Act only allows resource dependent uses within an ESHA, the proposed development is inconsistent with the use limitations of the certified LCP, including its references to 30240, and including LUP Policies 3.1-7 and CZC Sections 20.496.020(A)(3), 20.496.020(A)(4), and 20.524.010(B)(g). Therefore, these policies mandate that the proposed development be denied.

Adequate Building Site Outside ESHA and ESHA Buffers Not Established

As discussed above, the tentative map depicts a building envelope that provides for a 50-foot buffer from a portion of the ESHA on proposed vacant Parcel 2, the northern coastal bluff scrub habitat and the coastal bluff morning glory habitat that is located within the northern coastal bluff scrub habitat. However, the proposed building envelope extends into areas of Coastal bluff morning glory along the 20-foot private road easement along the northeast side of the property. The proposed building envelope also extends into areas that should be covered by either a 100-foot buffer or 50-foot buffer around some of the ESHAs on the proposed parcel, including areas around (1) the aforementioned Coastal bluff morning glory habitat within the 20-foot private road easement, (2) coastal bluff morning glory habitat around the perimeter of an old dirt road turnaround near the center of the property, and (3) the wetland habitat. Therefore, the applicant has not established an

adequate building site which would allow for the development of the building site consistent with Policy 3.1-7, as required by LUP Policy 3.1-32.

All portions of proposed adjusted Parcel 2 are within 100 feet of ESHA. Thus, it is not possible to establish a building envelope that provides for 100-foot buffers consistent with LUP Policy 3.7 and CZC Section 20.496.020. As discussed, LUP Policy 3.7 and CZC Section 20.496.020 allow for reduced buffers of a minimum 50-foot width to be established if it can be demonstrated that the reduced buffer would be adequate to protect the ESHA based on certain criteria and if prepared in consultation with the Department of Fish & Game. The Biological Assessment contains an analysis that offers a justification for a reduced 50-foot buffer around the northern coastal bluff scrub habitat and the associated coastal bluff morning glory habitat growing within it near the bluff edge, but does not evaluate whether a reduced buffer would be sufficient around the other ESHA found on proposed Parcel 2. In addition, there is no evidence that the Department of Fish & Game has been consulted on the appropriateness of any reduced buffer around any of the ESHA on proposed Parcel 2. Even if reduced buffers around each of the ESHAs had been justified consistent with LUP Policy 3.7 and CZC Section 20.496.020, which they have not, there does not appear to be sufficient room on Proposed Parcel 2 to accommodate a building site for a future home and necessary associated development such as an access road, septic system, parking, and utilities outside of all areas that would be required for even minimum 50-foot ESHA buffers. The Mitigation Plan contained in Appendix C of the August 2007 biological report acknowledges that the location of the ESHA on the site poses challenges for identifying a building envelope that would avoid impacts to ESHA. The Mitigation Plan states the following:

“Some of the locations of the coastal bluff morning-glory, with respect to the minimum 50’ ESHA setback, pose a challenge to the development of a building envelope. While a 50’ buffer can be maintained from the coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities.”

Therefore, the Commission finds that the proposed boundary line adjustment is inconsistent with LUP Policy 3.1-32 as proposed adjusted Parcel 2 does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. Therefore, these policies mandate that the proposed development be denied.

2. Feasible Project Alternatives

As discussed above, the Commission is denying the proposed development as it is inconsistent with certified LCP provisions intended to protect environmentally sensitive habitat areas, because the proposed boundary line adjustment does not establish an adequate building site on adjusted Parcel 2 which would allow for the development of the building site outside of all ESHA and required ESHA buffer areas on the site. As also discussed above, there are no known alternative building envelopes that could be established that would avoid all ESHA and required ESHA buffers and conform with LCP

policies. Thus, the no project alternative involving keeping the boundary lines of the two subject parcels as they currently exist is the only known feasible alternative.

Denial of the proposed permit will not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property. First, one of the two lot proposed to be adjusted already contains an existing house. In addition, approval of a land division, including a boundary line adjustment, is discretionary on the part of the approving authority; a property owner does not have an entitlement to adjust the boundaries of property that he has purchased. Thus, the applicant does not have a reasonable investment backed expectation to be able to adjust the boundaries of his two adjoining parcels. The Commission finds that denial of the boundary line adjustment does not eliminate all economically beneficial or productive use of the applicant's property or unreasonably limit the owner's reasonable investment backed expectations of the subject property.

The Commission notes that the application does not seek authorization to develop a residence on proposed adjusted Parcel 2, only to adjust the boundaries between the two parcels. As the project before the Commission is limited to a boundary line adjustment and does not include development of a residence or other principal permitted use under the LUP and zoning designations for the site, the Commission need not consider whether denial of a future residence on existing Parcel 2 would constitute a taking. If and when a coastal development permit application is submitted seeking authorization to develop a residence on Parcel 2, the County and the Commission on appeal would need to consider if the specific development proposed is consistent with the policies of the certified Mendocino County LCP and the public access policies of the Coastal Act. If the development proposal is found not be consistent with this standard of review and the approving authority considers denial of a project, a question may arise as to whether the denial would result in an unconstitutional "taking" of the applicant's property without payment of just compensation. Coastal Act Section 30010 addresses takings and states as follows:

The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefore. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Consequently, although the County and the Commission are not a court and may not ultimately adjudicate whether its action constitutes a taking, the Coastal Act imposes on the County and the Commission the duty to assess whether its action might constitute a taking so that the County and the Commission may take steps to avoid it. If the County or the Commission concludes that its action does not constitute a taking, then it may deny the project with the assurance that its actions are consistent with Section 30010. If the County or the Commission determines that its action would constitute a taking, then application of Section 30010 would overcome the presumption of denial. In this latter situation, the County or the Commission would propose modifications to the development to minimize

its Coastal Act inconsistencies while still allowing some reasonable amount of development.

The Commission does find that approval of the boundary line adjustment would make any potential approval of residential development on proposed adjusted Parcel No. 2 more difficult to resolve. Though applicants are entitled under Coastal Act Section 30010 to an assurance that the County and the Commission will not act in such a way as to take their property, this section does not authorize the County and the Commission to completely avoid application of the policies and standards of the certified LCP. Instead, the County and the Commission are only directed to avoid construing these applicable policies in a way that would take private property for public use. Aside from this instruction, the County and the Commission are still otherwise directed to enforce the requirements of the LCP. Therefore, if the County or the Commission determines approval of future residential development on Parcel 2 is necessary to avoid a takings despite inconsistencies with the ESHA protection policies of the LCP, the approving authority must still comply with the other LCP policies that would not result in a takings, including LUP Policies 3.1-2 and CZC Sections 20.496.015 and 20.532.100(A)(1) which require measures to mitigate adverse environmental effects on environmentally sensitive coastal bluff morning-glory habitat. The proposed boundary line adjustment will result in a reduction of the size of Parcel 2 from 1.7 acres to 1.21 acres. By reducing the size of Parcel 2 by half an acre, the proposed boundary line adjustment reduces opportunities to expand ESHA habitat into areas that are either not needed for development or already contain ESHA, making it more difficult to achieve compliance with the ESHA mitigation policies of the certified LCP.

Conclusion of Part Two: Denial of A-1-MEN-10-039

As discussed above, the Commission is denying the proposed development as it is inconsistent with certified LCP provisions intended to protect environmentally sensitive habitat areas, because the proposed boundary line adjustment does not establish an adequate building site on adjusted Parcel 2 which would allow for the development of the building site outside of all ESHA and required ESHA buffer areas on the site. For this project there are no known conditions that could bring the project into conformance with the LCP, and there are no known feasible alternatives consistent with the LCP other than the No Project alternative.

D. California Environmental Quality Act

Public Resources Code (CEQA) Section 21080(b)(5) and Sections 15270(a) and 15042 (CEQA Guidelines) of Title 14 of the California Code of Regulations (14 CCR) state in applicable part:

CEQA Guidelines (14 CCR) Section 15042. Authority to Disapprove Projects. [Relevant Portion.] A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.

Public Resources Code (CEQA) Section 21080(b)(5). Division Application and Nonapplication. ... (b) This division does not apply to any of the following activities: ... (5) Projects which a public agency rejects or disapproves.

CEQA Guidelines (14 CCR) Section 15270(a). Projects Which are Disapproved. (a) CEQA does not apply to projects which a public agency rejects or disapproves.

Section 13096 (14 CCR) requires that a specific finding be made in conjunction with coastal development permit applications about the consistency of the application with any applicable requirements of CEQA. This staff report has discussed the relevant coastal resource issues with the proposals. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference. As detailed in the findings above, the proposed project would have significant adverse effects on the environment as that term is understood in a CEQA context.

Pursuant to CEQA Guidelines (14 CCR) Section 15042 “a public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed.” Section 21080(b)(5) of the CEQA, as implemented by section 15270 of the CEQA Guidelines, provides that CEQA does not apply to projects which a public agency rejects or disapproves. The Commission finds that denial, for the reasons stated in these findings, is necessary to avoid the significant effects on coastal resources that would occur if the projects were approved as proposed. Accordingly, the Commission’s denial of this project represents an action to which CEQA, and all requirements contained therein that might otherwise apply to regulatory actions by the Commission, do not apply.

EXHIBITS

1. Regional Location Map
2. Vicinity Map
3. Notice of Final Action & County Staff Report
4. Appeal
5. May 2009 Tentative Map
6. August 2007 Biological Report
7. Site Map of ESHA on Existing Parcel 2

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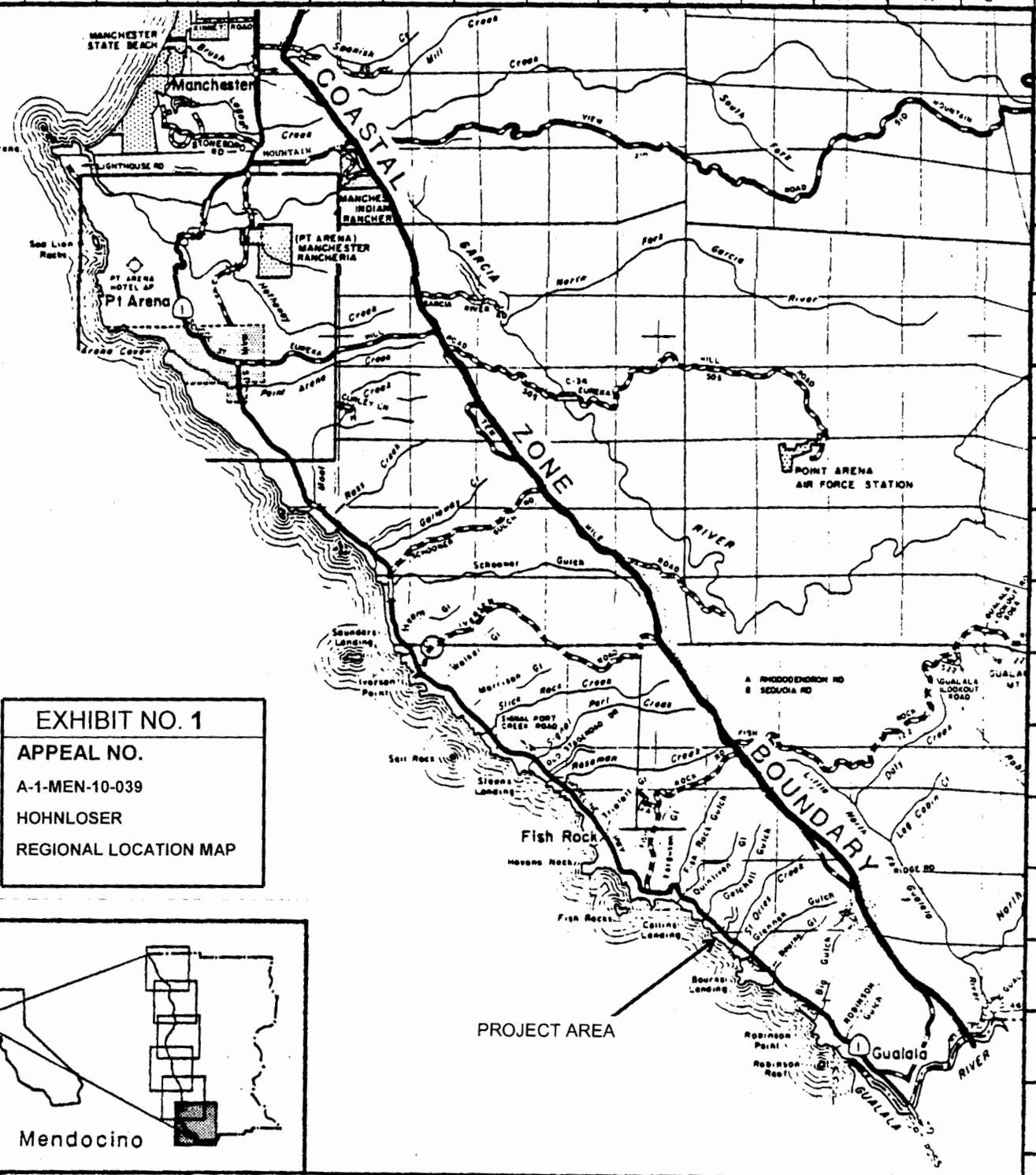
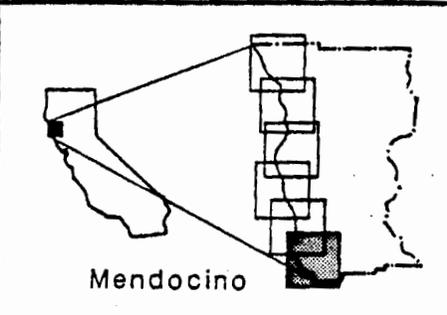


EXHIBIT NO. 1
APPEAL NO.
 A-1-MEN-10-039
 HOHNLOSER
 REGIONAL LOCATION MAP



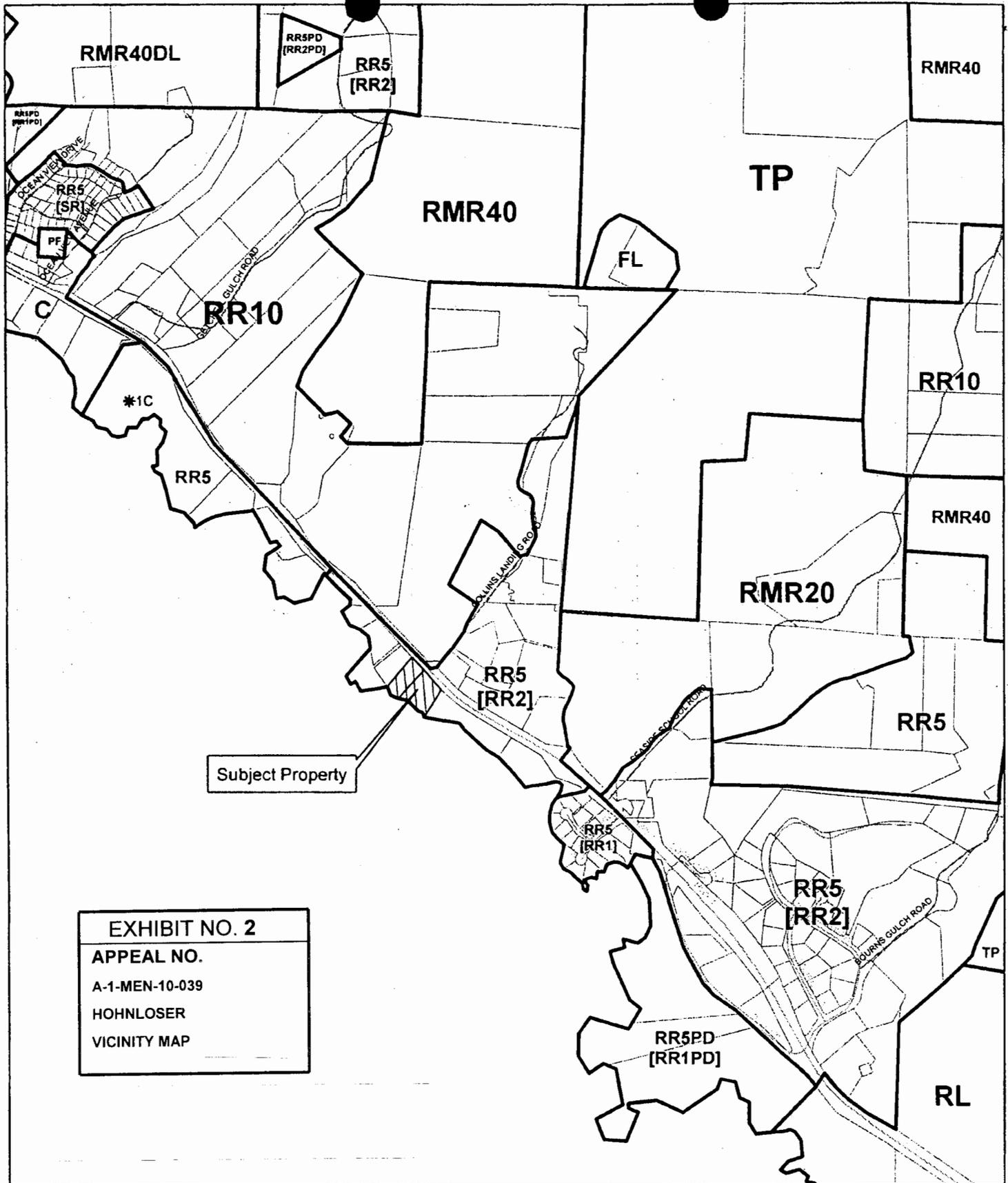
PROJECT AREA

California Coastal Commission

LOCATION MAP



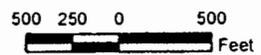
County of Mendocino



OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

ZONING DISPLAY MAP

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 line can be over 200 feet off. (Parcel lines are as of September 2007)





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

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pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

November 20, 2010

NOTICE OF FINAL ACTION

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

CASE#: CDB 34-2009

DATE FILED: 6/5/2009

OWNER/APPLICANT: JORG HOHNLOSER

AGENT: RICHARD A. SEALE

REQUEST: Coastal Development Boundary Line Adjustment to reconfigure two legal parcels creating lots of 1.21+/- acres and 1.42+/- acres.

LOCATION: In the Coastal Zone, 1 mile of south of Anchor Bay, lying on the southwest side of Highway 1, near its intersection with Collins Landing Road, located at 36420 and 36430 South Highway 1; AP#'s 144-130-23 and 29.

PROJECT COORDINATOR: FRED TARR

ACTION TAKEN:

The Coastal Permit Administrator, on November 10, 2010, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

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

Attachments

cc: Coastal Commission
Assessor

EXHIBIT NO. 3
APPEAL NO. A-1-MEN-10-039 HOHNLOSER NOTICE OF FINAL ACTION & COUNTY STAFF REPORT (1 of 49)

RECEIVED
NOV 29 2010
CALIFORNIA
COASTAL COMMISSION



FINAL FINDINGS AND CONDITIONS OF APPROVAL
CASE # CDB 34-2009 – HOHNLOSER
NOVEMBER 10, 2010

The Coastal Permit Administrator approves Coastal Development Boundary Line Adjustment # CDB 34-2009 subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

1. The proposed boundary line adjustment # CDB 34-2009 is in conformance with the Coastal Element; and,
2. The proposed development will be provided with adequate utilities, access roads, drainage, and other necessary facilities.
3. The proposed boundary line adjustment # CDB 34-2009 is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code and preserves the integrity of the zoning district; and,
4. The proposed boundary line adjustment # CDB 34-2009 will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA).
5. The proposed boundary line adjustment #CDB 34-2009 will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The Environmentally Sensitive Habitat Area as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) 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 or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

2. The following notation shall be made on the deed for the 1.21+/- acre parcel (south parcel): "Any future development on this parcel shall incorporate the mitigation measures found on pages 13 and 14 and in Appendix C of the Botanical Survey and ESHA Assessment prepared by William Maslach in August, 2007." (This report is located in CDB # 34-2009 file).
3. The following notation shall be made on the deeds for both new parcels: "Any future development on this parcel shall incorporate the recommendations found on pages 8 and 9 of the BACE GEOTECHNICAL report titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010." (This report is located in CDB # 34-2009 file).
4. Prior to recordation of the two new legal descriptions for these parcels, a letter must be submitted to the Mendocino County Planning and Building Services Department from the North Gualala Water Company indicating that water hookups are available for the two new parcels.
5. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
6. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property" (perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Boundary Line Adjustment #CDB # 34-2009 and is intended to create no new parcel."

Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. **DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S).**

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

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NOTE: APPLICANTS OR OTHER PERSONS WHO ARE DISSATISFIED WITH A DECISION OF THE COASTAL PERMIT ADMINISTRATOR FOR A COASTAL DEVELOPMENT PERMIT FOR A BOUNDARY LINE ADJUSTMENT MAY APPEAL THE ACTION TO THE BOARD OF SUPERVISORS. AN APPEAL MUST BE MADE IN WRITING ALONG WITH THE APPLICABLE FEE TO THE CLERK OF THE BOARD OF SUPERVISORS WITHIN TEN (10) DAYS OF THE COASTAL PERMIT ADMINISTRATOR'S DECISION. THE APPEAL ISSUE WILL BE PLACED ON THE NEXT AVAILABLE BOARD OF SUPERVISOR'S AGENDA FOR CONSIDERATION, AND THE APPELLANT WILL BE NOTIFIED OF THE TIME AND DATE. APPEALS TO THE BOARD OF SUPERVISORS DO NOT NECESSARILY GUARANTEE THAT THE COASTAL PERMIT ADMINISTRATOR'S DECISION WILL BE OVERTURNED. IN SOME CASES, THE BOARD OF SUPERVISORS MAY NOT HAVE THE LEGAL AUTHORITY TO OVERTURN THE DECISION OF THE ADMINISTRATOR.

REPORT FOR COASTAL DEVELOPMENT BOUNDARY LINE ADJUSTMENT

#CDB 34-2009
NOVEMBER 10, 2010
PAGE CPA-1

OWNER: JORG HOHNLOSER
1568 ALTURAS DR
BURLINGAME, CA 94010

AGENT: RICHARD A. SEALE
420 REDWOOD AVENUE
FORT BRAGG, CA 95437

REQUEST: Coastal Development Boundary Line Adjustment to reconfigure two legal parcels creating lots of 1.21 +/- acres and 1.42 +/- acres.

LOCATION: In the Coastal Zone, 1 mile south of Anchor Bay, lying on the southwest side of Highway 1, near its intersection with Collins Landing Road, located at 36420 and 36430 South Highway 1; AP#'s 144-130-23 and 29.

TOTAL ACREAGE: 2.63 +/- Acres

ZONING: Rural Residential- 5 acre minimum (RR 5)

GENERAL PLAN: Rural Residential- 5 acre minimum (RR 5[2])

EXISTING USES: Residential and Vacant

SUPERVISORIAL DISTRICT: 5

DATE FILED: May 18, 2010

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Minor Subdivision #MS 105-76 was approved by the Planning Commission January 6, 1977, creating 2 parcels containing 3.6 and 1.7 +/- acres and was recorded as a unilateral executed agreement on March 8, 1977. Parcel 2 (1.7 acres) of #MS 105-76 is one of the parcels (APN 144-130-23) of this application.

South and east of the project site, Minor Subdivision #MD 8-75 was approved creating 2 parcels containing 2.31 +/- acres and 5.66 +/- acres. On the same parcel, Use Permit #U 13-84 was approved by the Planning Commission on May 17, 1984, legitimizing a 9-unit resort/motel which has been in use since prior to 1980.

Also south and east of the project site, Use Permit #U 45-72 was approved by the planning Commission in 1972 for a recreation/resort facility which included a hotel, restaurant, book store, bar, gift shop, and 24 residential units presently in operation.

The northerly parcel of the subject parcels has been approved for a vacation house rental through Business License # 95-2009.

PROJECT DESCRIPTION: The owner is proposing a Boundary Line Adjustment within the Coastal Zone between 2 separate parcels, each parcel having been acquired by the present owner (Jorg Hohnloser) on separate deeds. APN 144-130-23 was created through MS 105-76 and APN 144-130-29 had been deeded as a separate parcel prior to 1970. The intent of the owner is to provide a larger buffer between the existing residence and the southerly property line.

The subject parcels are located on a bluff and situated approximately 1 mile south of Anchor Bay lying between State Highway 1 and the Pacific Ocean. Both parcels are accessed by way of a 20 foot wide private road easement which connects to Highway 1. As proposed, the new parcel configurations will contain 1.21 +/- acres

and 1.42+/- acres. The northerly parcel (APN 144-130-29) containing 1.42+/- acres is improved with a single family residence w/garage and on-site septic system and the southerly parcel (APN 144-130-23) is vacant. The adjustment, as proposed will not create any split zones as both parcels are designated RR-5 (Rural Residential-5 acre minimum).

A review of the California Natural Diversity Database Rarefind map revealed that the subject property is within an area where Behren's Silverspot butterfly and coastal bluff morning-glory have been located. There is also an existing drainage area where the possibility of a wetland area exists. The owner has submitted a Botanical Survey and ESHA Assessment for the proposed southerly parcel which is currently undeveloped.

Since the subject property is located on an ocean bluff, the owner was requested to have an engineering geologic reconnaissance prepared. Bace Geotechnical submitted a reconnaissance report on July 26, 2010.

The subject property is not within the highly scenic area of Highway 1 but is subject to "Tree Removal" permitting.

The toe and face of the bluff of the subject property is within the 100 year flood zone and coastal flood velocity (wave action) area. This flood zone will not immediately impact the future development of the property.

The subject property is within a CWR (critical water resources) area and future development of the proposed southerly parcel (1.21+/- acres) must demonstrate 'proof of water'. At the April 1, 2010, meeting of the Gualala Municipal Advisory Council, John Bower of the North Gualala Water Company, stated they have meters and water lines on the parcels; so, they are both served and there is no water question for future CDPs (Coastal Development Permits).

The subject property is within a high fire hazard area and is within the South Coast Rural Fire Protection District and Cal Fire has already recommended approval. Any South Coast Rural Fire Protection District requirements will be addressed at the CDP stage of development of the parcels.

The project is within the GMAC (Gualala Municipal Advisory Council) boundary and on April 1, 2010, the GMAC unanimously recommended approval of this Coastal Boundary Line Adjustment as presented.

The Mendocino County Archaeological Commission reviewed this project on April 14, 2010 and determined that no archaeological survey was required but that the Discovery Clause, MCC 22.12.090 would apply.

The Division of Environmental Health notes that a Basin Plan compliant septic system design will be required for the vacant parcel at the construction phase.

The Mendocino County Department of Transportation, the Building Services Division and Cal-Fire recommended approval of the project.

COASTAL POLICY CONSISTENCY REVIEW: Staff reviewed the project relative to coastal issues and determined the following:

1. The boundary line adjustment will not result in a change in density;
2. The boundary line adjustment will not create any new parcels;
3. According to the California Natural Diversity Database (Rarefind), the project site is situated within an environmentally sensitive habitat area.

Botanical consultant, William Maslach, submitted a Botanical Survey and ESHA Assessment on July 15, 2009. He concluded the following:

The special-status plants, communities, and wetlands with regional known occurrence having potential habitat in the project site were surveyed for presence. Species without potential habitat in the Project Site were considered, but surveys were focused on those with potential habitat. The survey results of detected special-status species were recorded and drawn on a map of the Project Site.

Coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) –The coastal bluff morning-glory is a subspecies of a more common morning glory. Differences between the two subspecies are subtle as intergradation is common. This results in intermediate forms that are often difficult to identify. The coastal bluff morning-glory is perennial plant that grows from a woody root, or caudex in coastal bluff scrub from Marin to Mendocino Counties. It is trailing or weakly-climbing, and is restricted to areas of coastal scrub. The leaves are round-triangular to kidney-shaped with the space between the bottom leaf lobes generally being closed and the lobes rounded. The common morning-glory is also perennial but is more robust and is often strongly climbing greater than three feet tall. Leaf blades are much more triangular than the coastal bluff morning-glory and lobes are generally strongly angled. Both subspecies have white or cream-colored to more or less purple-striped flowers that bloom from May to September. Morning-glories can be early successional species, and they often show an affinity for growing in openings and along edges of brush areas.

Wetland- The wetland on the Project Site appears to have its source of water come solely from the culvert under Highway 1 and the ditches that drain the same road. Above the wetland is an 8" culvert approximately 4' below the grade of Highway 1. Associated with the culvert is an earth catch basin that collects water from the east side of the highway where there is a 6-10' cut bank that likely contributes to the seeping of water.

Herbaceous ground cover is typical of wetland vegetation and consists primarily of pacific rush, sword fern and horsetail. Two dominant plants not typical of wetland vegetation are English ivy in the ground cover and vine stratum and Monterey cypress.

Northern Coastal Bluff Scrub-The coastal scrub community is comprised primarily of poison oak, big rattlesnake grass, coyote brush, Scotch broom, angelica, and coastal bluff morning-glory. A few areas, usually closer to the bluff and on the bluff face, have a higher diversity of native plants and fewer exotic weeds, native species including buckwheat, dudleya, and wooly sunflower.

North rock shore-Below the steep bluff face is a rocky shore of small coves and rocky outcrops.

The analysis of the project and the proposals to offset any negative impacts have concluded that the ESHA will not be significantly degraded by the proposed development. With the implementation of the mitigation plan (Appendix C), the coastal bluff morning-glory occurrences and the habitat are planned for enhancement. Consideration was given to the entire lot, the existing and configuration resulting from the proposed boundary line adjustment, and there is no feasible less environmentally damaging alternative given the constraints of the ESHA buffers on the Project Site. The mitigation measures in the plan are extensive methods that aim to feasibly mitigate project-related impacts.

It is staff's recommendation that any future development on the proposed 1.21+/- acre parcel incorporate the mitigation measures found on pages 13 and 14 of the Botanical Survey and ESHA Assessment and the Mitigation Plan (Appendix C) of the Botanical Survey and ESHA Assessment prepared by William Maslach in August, 2007. Said Assessment is located in the Coastal Development Boundary Line Adjustment file CDB # 34-2009 found in the Mendocino County Planning and Building Services Department (Ukiah).

4. The adjustment will not result in parcels having an inadequate building site;

As discussed under "Project Description", the site is a bluff top parcel adjacent to the Pacific Ocean. Coastal Element Hazards Policy 3.4-1 (Land Use p-73) in part states:

"In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer, the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development."

A geologic review prepared by BACE GEOTECHNICAL titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010 evaluates geologic conditions on the subject property, primarily bluff retreat (erosion) rate, in order to determine bluff setback criteria for AP# 144-130-23 (the undeveloped parcel)

It is staff's recommendation that any future development, including leach-fields (primary and replacement), buildings, and hard-scape incorporate the recommendations found on pages 8 and 9 of the BACE GEOTECHNICAL report titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010. Said report is located in the Coastal Development Boundary Line Adjustment file CDB # 34-2009 found in the Mendocino County Planning and Building Services Department (Ukiah)

5. No substandard lot will result from the adjustment.
6. The subject property is in an area designated CWR (Critical Water Recourses) in the Mendocino County Coastal Groundwater Study. The Groundwater Study states:

"Areas designated CWR (Critical Water Recourses) shall have a minimum lot size of 5 acres. All lots less than 5 acres shall demonstrate 'proof of water' and may require an environmental impact statement."

As stated under "Project Description," the proposed new configurations will result in parcels of 1.21+/- acres and 1.24 +/- acres and do not meet the minimum lot size requirement of 5 acres. However, the North Gualala Water Company has indicated the willingness to supply water to both parcels provided the owner pays the appropriate hookup fees. Staff recommends a condition requiring that a letter be provided the Planning and Building Services Department from the North Gualala Water Company that water hookups are available for the proposed parcels.

7. The boundary line adjustment is not located on property containing pygmy vegetation.
8. The property subject to the adjustment is not located in a designated "Highly Scenic" area. However the property is subject to "Tree Removal" approval. Prior to removal of any trees on the two parcels to be recognized by CDB 34-2009, a tree removal permit or approval through a CDP must be granted by the Mendocino County Planning and Building Services Department.
9. The boundary line adjustment is located in an appealable area.

ENVIRONMENTAL RECOMMENDATION: The application is Categorically Exempt - Class 5a. Therefore, no further environmental review is required.

COASTAL ELEMENT CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

RECOMMENDED MOTION: The Coastal Permit Administrator approves Coastal Development Permit # CDB 34-2009 subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

1. The proposed boundary line adjustment # CDB 34-2009 is in conformance with the Coastal Element; and,
2. The proposed development will be provided with adequate utilities, access roads, drainage, and other necessary facilities.
3. The proposed boundary line adjustment # CDB 34-2009 is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code and preserves the integrity of the zoning district; and,

4. The proposed boundary line adjustment # CDB 34-2009 will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA).
5. The proposed boundary line adjustment #CDB 34-2009 will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The Environmentally Sensitive Habitat Area as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) 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 or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
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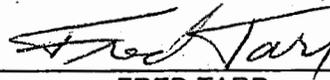
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10-14-10

DATE



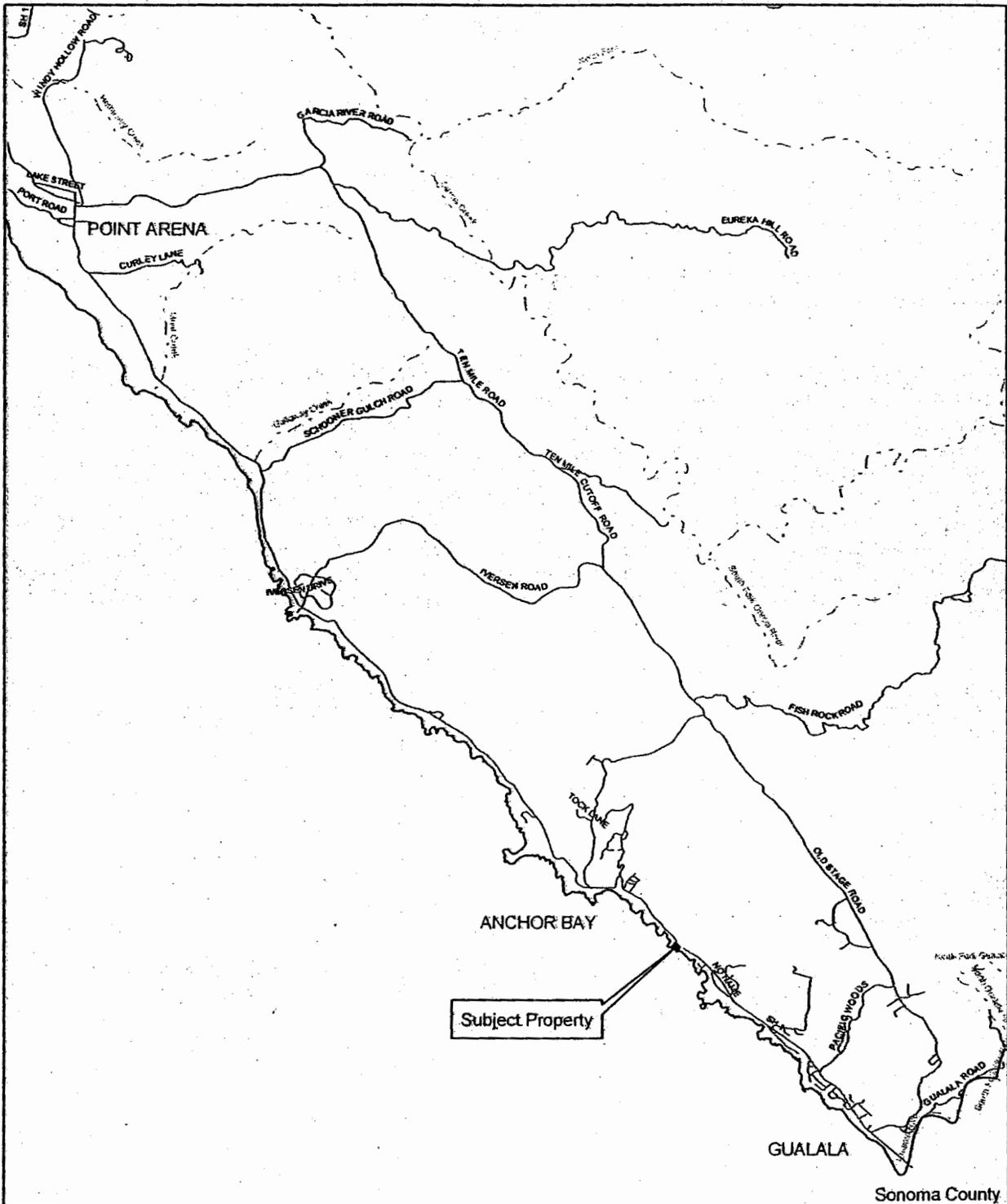
FRED TARR
PLANNER II

FT/at
October 8, 2010

Categorically Exempt
Appeal Fee - \$1855.00
Appeal Period: 10 day

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
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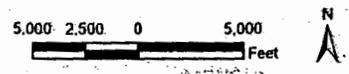
DOT			X
Env. Health			X
Building Inspection		X	
Coastal Commission	X		
Planning-FB			X
AQMD	X		
Sonoma State Univ			X
CalFire			X
Dept of Fish & Game	X		
GMAC			X
South Coast F.D.	X		
Arch Commission			X



OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

LOCATION MAP

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 line can be over 200 feet off. (Parcel lines are as of September 2007).

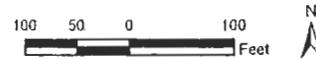


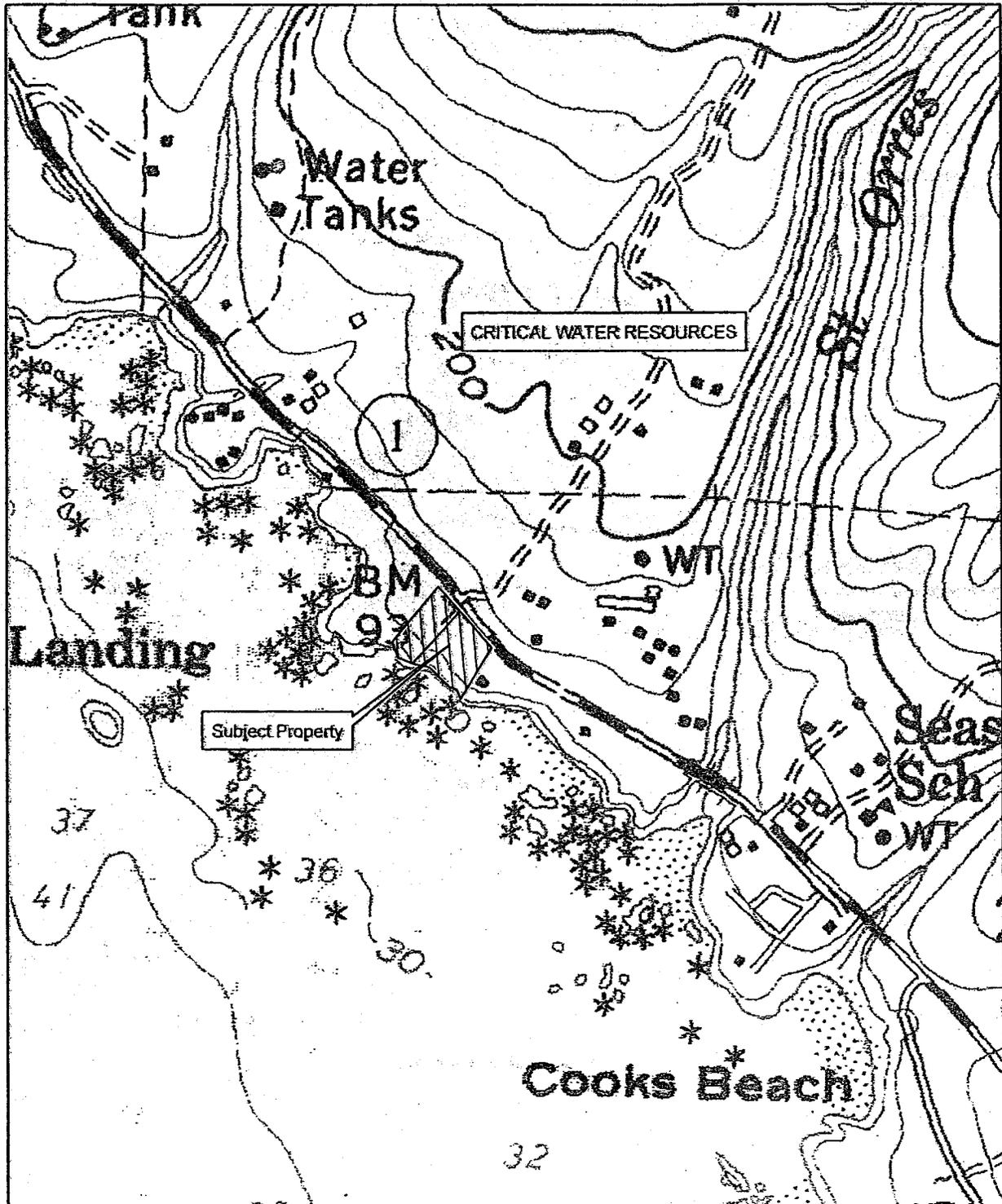


OWNER: HOHNLOSER, Jorg
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ORTHOPHOTO - August 2005

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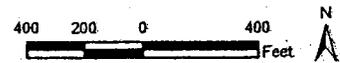


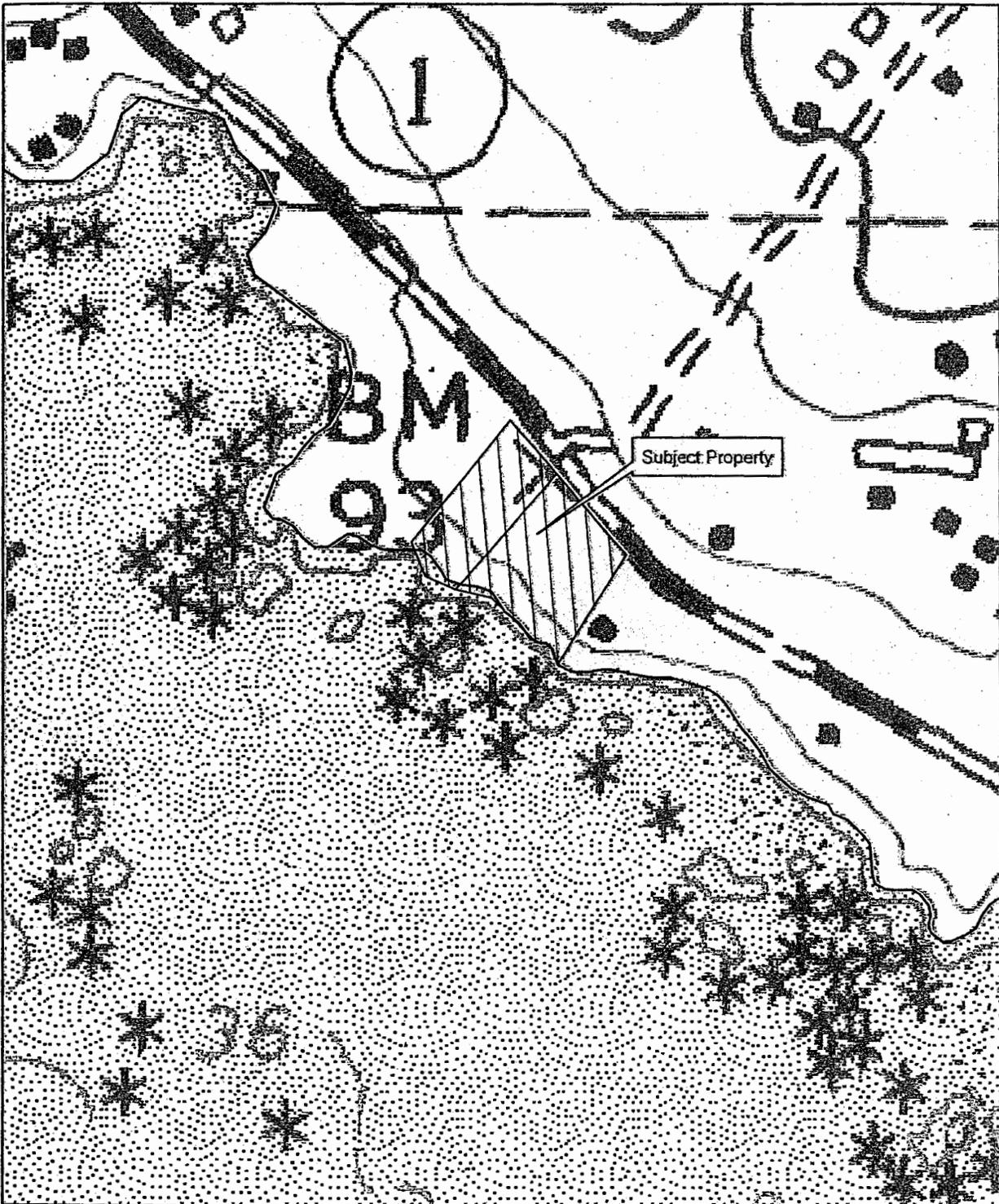


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
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 APNs: 144-130-23 & 144-130-29

COASTAL GROUND WATER RESOURCES

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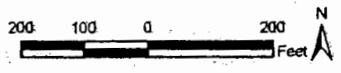


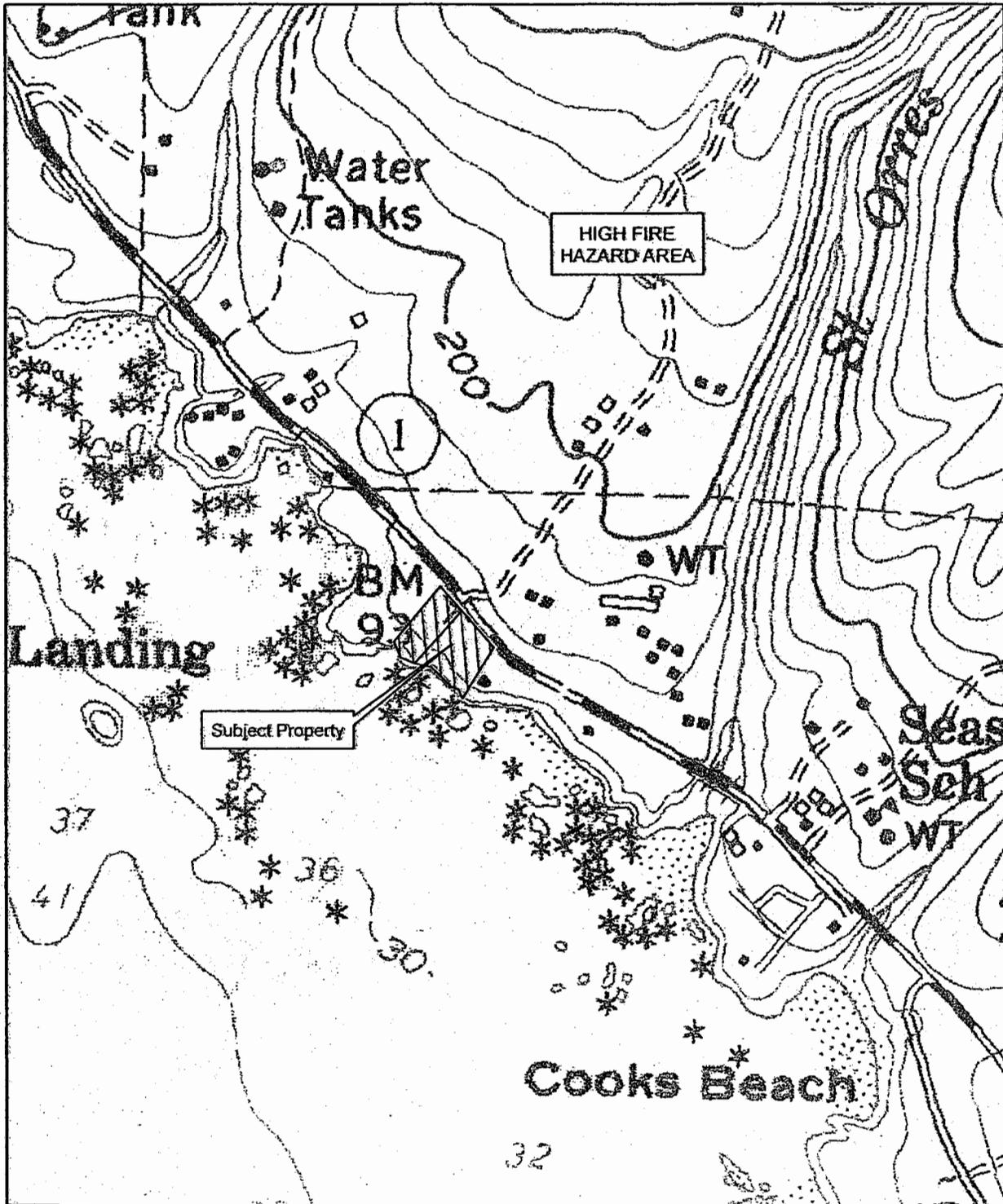


OWNER: HOHNLOSER, Jorg
AGENT: SEALE, Richard
CASE #: CDB 34-2009
APNs: 144-130-23 & 144-130-29

 100 YEAR FLOOD ZONE and
COASTAL FLOOD VELOCITY (WAVE ACTION)

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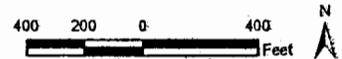


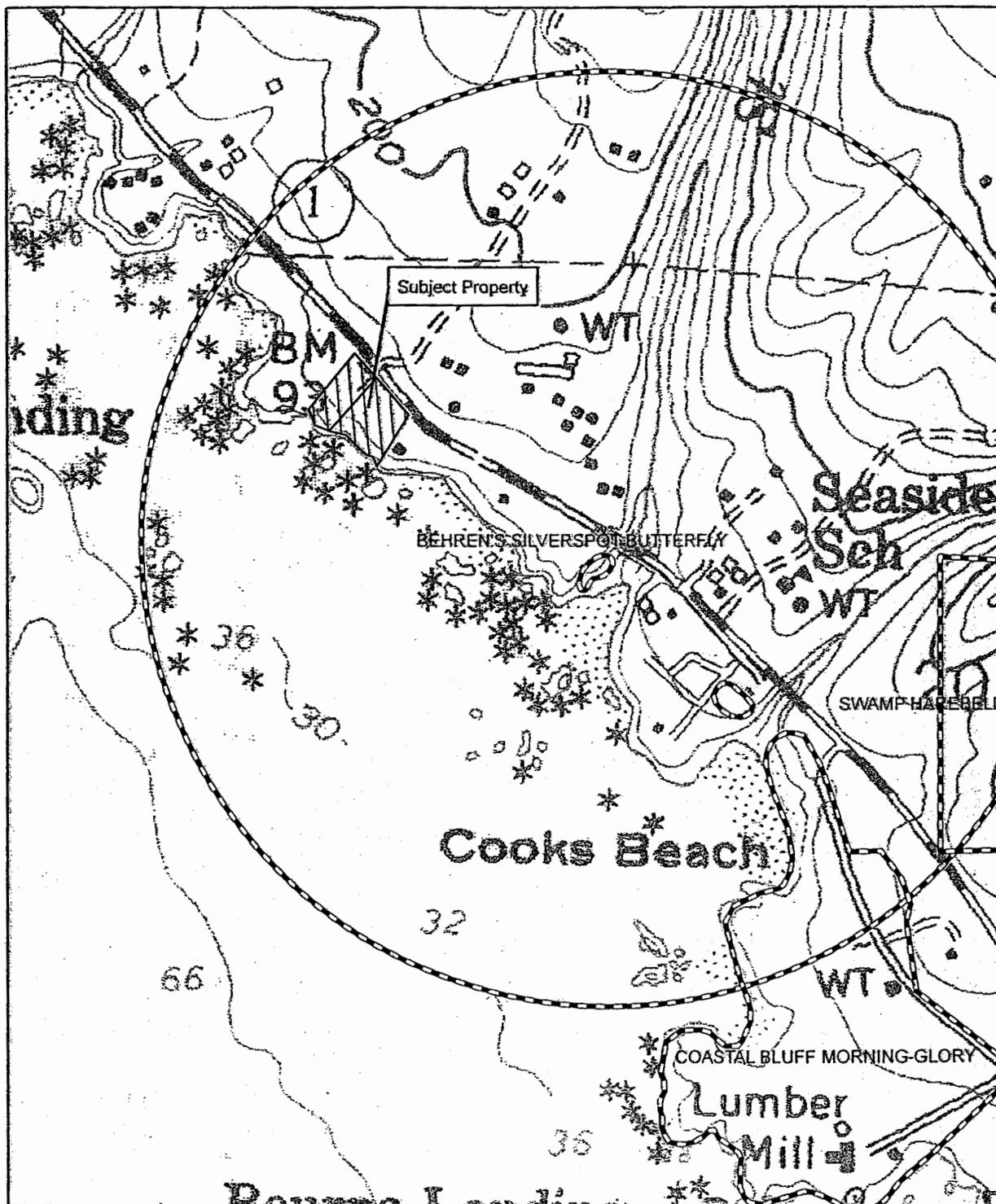


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

FIRE HAZARD SEVERITY ZONES
 SOUTH COAST RURAL FIRE PROTECTION DISTRICT

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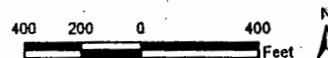


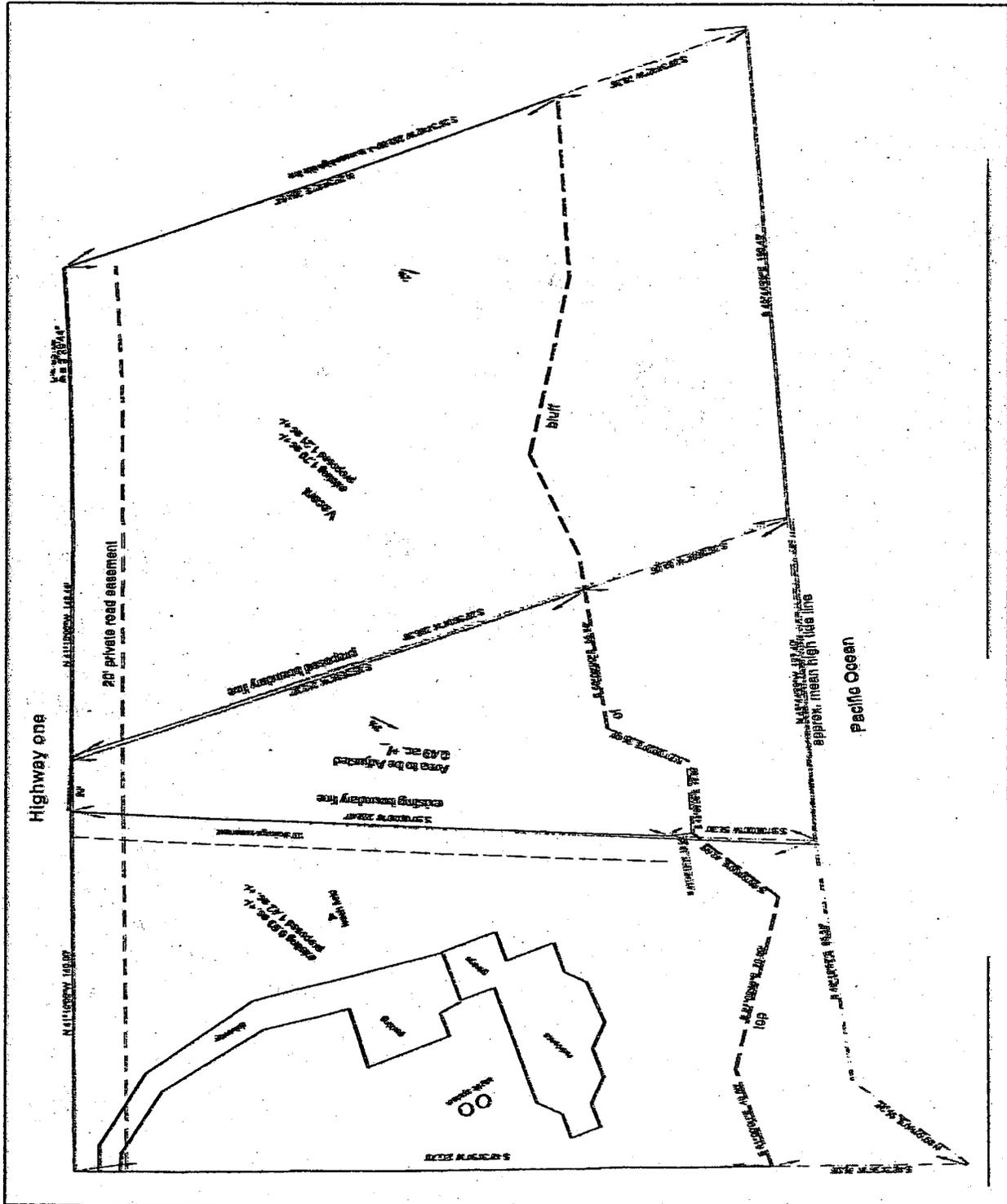


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

CALIFORNIA NATURAL DIVERSITY
 DATABASE RAREFIND (January 2009)

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OWNER: HOHNLOSER, Jorg
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 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

EXISTING & PROPOSED PARCEL CONFIGURATION

Not To Scale





OWNER: HOHNLOSER, Jorg
AGENT: SEALE, Richard
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APNs: 144-130-23 & 144-130-29

PHOTO OCTOBER 4, 2005
CALIFORNIA COASTAL RECORDS PROJECT
COPYRIGHT resourcestrategies@usa.net

Not To Scale z <

REPORT FOR COASTAL DEVELOPMENT BOUNDARY LINE ADJUSTMENT

#CDB 34-2009
NOVEMBER 10, 2010
PAGE CPA-1

RECEIVED

NOV 05 2010

CALIFORNIA
COASTAL COMMISSION

OWNER: JORG HOHNLOSER
1568 ALTURAS DR
BURLINGAME, CA 94010

AGENT: RICHARD A. SEALE
420 REDWOOD AVENUE
FORT BRAGG, CA 95437

REQUEST: Coastal Development Boundary Line Adjustment to reconfigure two legal parcels creating lots of 1.21 +/- acres and 1.42 +/- acres.

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GENERAL PLAN: Rural Residential- 5 acre minimum (RR 5[2])

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SUPERVISORIAL DISTRICT: 5

DATE FILED: May 18, 2010

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South and east of the project site, Minor Subdivision #MD 8-75 was approved creating 2 parcels containing 2.31 +/- acres and 5.66 +/- acres. On the same parcel, Use Permit #U 13-84 was approved by the Planning Commission on May 17, 1984, legitimizing a 9-unit resort/motel which has been in use since prior to 1980.

Also south and east of the project site, Use Permit #U 45-72 was approved by the planning Commission in 1972 for a recreation/resort facility which included a hotel, restaurant, book store, bar, gift shop, and 24 residential units presently in operation.

The northerly parcel of the subject parcels has been approved for a vacation house rental through Business License # 95-2009.

PROJECT DESCRIPTION: The owner is proposing a Boundary Line Adjustment within the Coastal Zone between 2 separate parcels, each parcel having been acquired by the present owner (Jorg Hohnloser) on separate deeds. APN 144-130-23 was created through MS 105-76 and APN 144-130-29 had been deeded as a separate parcel prior to 1970. The intent of the owner is to provide a larger buffer between the existing residence and the southerly property line.

The subject parcels are located on a bluff and situated approximately 1 mile south of Anchor Bay lying between State Highway 1 and the Pacific Ocean. Both parcels are accessed by way of a 20 foot wide private road easement which connects to Highway 1. As proposed, the new parcel configurations will contain 1.21 +/- acres

and 1.42+/- acres. The northerly parcel (APN 144-130-29) containing 1.42+/- acres is improved with a single family residence w/garage and on-site septic system and the southerly parcel (APN 144-130-23) is vacant. The adjustment, as proposed will not create any split zones as both parcels are designated RR-5 (Rural Residential-5 acre minimum).

A review of the California Natural Diversity Database Rarefind map revealed that the subject property is within an area where Behren's Silverspot butterfly and coastal bluff morning-glory have been located. There is also an existing drainage area where the possibility of a wetland area exists. The owner has submitted a Botanical Survey and ESHA Assessment for the proposed southerly parcel which is currently undeveloped.

Since the subject property is located on an ocean bluff, the owner was requested to have an engineering geologic reconnaissance prepared. Bace Geotechnical submitted a reconnaissance report on July 26, 2010.

The subject property is not within the highly scenic area of Highway 1 but is subject to "Tree Removal" permitting.

The toe and face of the bluff of the subject property is within the 100 year flood zone and coastal flood velocity (wave action) area. This flood zone will not immediately impact the future development of the property.

The subject property is within a CWR (critical water resources) area and future development of the proposed southerly parcel (1.21+/- acres) must demonstrate 'proof of water'. At the April 1, 2010, meeting of the Gualala Municipal Advisory Council, John Bower of the North Gualala Water Company, stated they have meters and water lines on the parcels; so, they are both served and there is no water question for future CDPs (Coastal Development Permits).

The subject property is within a high fire hazard area and is within the South Coast Rural Fire Protection District and Cal Fire has already recommended approval. Any South Coast Rural Fire Protection District requirements will be addressed at the CDP stage of development of the parcels.

The project is within the GMAC (Gualala Municipal Advisory Council) boundary and on April 1, 2010, the GMAC unanimously recommended approval of this Coastal Boundary Line Adjustment as presented.

The Mendocino County Archaeological Commission reviewed this project on April 14, 2010 and determined that no archaeological survey was required but that the Discovery Clause, MCC 22.12.090 would apply.

The Division of Environmental Health notes that a Basin Plan compliant septic system design will be required for the vacant parcel at the construction phase.

The Mendocino County Department of Transportation, the Building Services Division and Cal-Fire recommended approval of the project.

COASTAL POLICY CONSISTENCY REVIEW: Staff reviewed the project relative to coastal issues and determined the following:

1. The boundary line adjustment will not result in a change in density;
2. The boundary line adjustment will not create any new parcels;
3. According to the California Natural Diversity Database (Rarefind), the project site is situated within an environmentally sensitive habitat area.

Botanical consultant, William Maslach, submitted a Botanical Survey and ESHA Assessment on July 15, 2009. He concluded the following:

The special-status plants, communities, and wetlands with regional known occurrence having potential habitat in the project site were surveyed for presence. Species without potential habitat in the Project Site were considered, but surveys were focused on those with potential habitat. The survey results of detected special-status species were recorded and drawn on a map of the Project Site.

Coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) –The coastal bluff morning-glory is a subspecies of a more common morning glory. Differences between the two subspecies are subtle as intergradation is common. This results in intermediate forms that are often difficult to identify. The coastal bluff morning-glory is perennial plant that grows from a woody root, or caudex in coastal bluff scrub from Marin to Mendocino Counties. It is trailing or weakly-climbing, and is restricted to areas of coastal scrub. The leaves are round-triangular to kidney-shaped with the space between the bottom leaf lobes generally being closed and the lobes rounded. The common morning-glory is also perennial but is more robust and is often strongly climbing greater than three feet tall. Leaf blades are much more triangular than the coastal bluff morning-glory and lobes are generally strongly angled. Both subspecies have white or cream-colored to more or less purple-stripped flowers that bloom from May to September. Morning-glories can be early successional species, and they often show an affinity for growing in openings and along edges of brush areas.

Wetland- The wetland on the Project Site appears to have its source of water come solely from the culvert under Highway 1 and the ditches that drain the same road. Above the wetland is an 8" culvert approximately 4' below the grade of Highway 1. Associated with the culvert is an earth catch basin that collects water from the east side of the highway where there is a 6-10' cut bank that likely contributes to the seeping of water.

Herbaceous ground cover is typical of wetland vegetation and consists primarily of pacific rush, sword fern and horsetail. Two dominant plants not typical of wetland vegetation are English ivy in the ground cover and vine stratum and Monterey cypress.

Northern Coastal Bluff Scrub-The coastal scrub community is comprised primarily of poison oak, big rattlesnake grass, coyote brush, Scotch broom, angelica, and coastal bluff morning-glory. A few areas, usually closer to the bluff and on the bluff face, have a higher diversity of native plants and fewer exotic weeds, native species including buckwheat, dudleya, and wooly sunflower.

North rock shore-Below the steep bluff face is a rocky shore of small coves and rocky outcrops.

The analysis of the project and the proposals to offset any negative impacts have concluded that the ESHA will not be significantly degraded by the proposed development. With the implementation of the mitigation plan (Appendix C), the coastal bluff morning-glory occurrences and the habitat are planned for enhancement. Consideration was given to the entire lot, the existing and configuration resulting from the proposed boundary line adjustment, and there is no feasible less environmentally damaging alternative given the constraints of the ESHA buffers on the Project Site. The mitigation measures in the plan are extensive methods that aim to feasibly mitigate project-related impacts.

It is staff's recommendation that any future development on the proposed 1.21 +/- acre parcel incorporate the mitigation measures found on pages 13 and 14 of the Botanical Survey and ESHA Assessment and the Mitigation Plan (Appendix C) of the Botanical Survey and ESHA Assessment prepared by William Maslach in August, 2007. Said Assessment is located in the Coastal Development Boundary Line Adjustment file CDB # 34-2009 found in the Mendocino County Planning and Building Services Department (Ukiah).

4. The adjustment will not result in parcels having an inadequate building site;

As discussed under "Project Description", the site is a bluff top parcel adjacent to the Pacific Ocean. Coastal Element Hazards Policy 3.4-1 (Land Use p-73) in part states:

"In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps, the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer, the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development."

A geologic review prepared by BACE GEOTECHNICAL titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010 evaluates geologic conditions on the subject property, primarily bluff retreat (erosion) rate, in order to determine bluff setback criteria for AP# 144-130-23 (the undeveloped parcel)

It is staff's recommendation that any future development, including leach-fields (primary and replacement), buildings, and hard-scape incorporate the recommendations found on pages 8 and 9 of the BACE GEOTECHNICAL report titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010. Said report is located in the Coastal Development Boundary Line Adjustment file CDB # 34-2009 found in the Mendocino County Planning and Building Services Department (Ukiah)

5. No substandard lot will result from the adjustment.
6. The subject property is in an area designated CWR (Critical Water Recourses) in the Mendocino County Coastal Groundwater Study. The Groundwater Study states:

"Areas designated CWR (Critical Water Recourses) shall have a minimum lot size of 5 acres. All lots less than 5 acres shall demonstrate 'proof of water' and may require an environmental impact statement."

As stated under "Project Description," the proposed new configurations will result in parcels of 1.21+/- acres and 1.24 +/- acres and do not meet the minimum lot size requirement of 5 acres. However, the North Gualala Water Company has indicated the willingness to supply water to both parcels provided the owner pays the appropriate hookup fees. Staff recommends a condition requiring that a letter be provided the Planning and Building Services Department from the North Gualala Water Company that water hookups are available for the proposed parcels.
7. The boundary line adjustment is not located on property containing pygmy vegetation.
8. The property subject to the adjustment is not located in a designated "Highly Scenic" area. However the property is subject to "Tree Removal" approval. Prior to removal of any trees on the two parcels to be recognized by CDB 34-2009, a tree removal permit or approval through a CDP must be granted by the Mendocino County Planning and Building Services Department.
9. The boundary line adjustment is located in an appealable area.

ENVIRONMENTAL RECOMMENDATION: The application is Categorically Exempt - Class 5a. Therefore, no further environmental review is required.

COASTAL ELEMENT CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan and Coastal Element.

RECOMMENDED MOTION: The Coastal Permit Administrator approves Coastal Development Permit # CDB 34-2009 subject to the following conditions of approval, finding that the application and supporting documents and exhibits contain sufficient information and conditions to establish, as required by the Coastal Zoning Code, that:

1. The proposed boundary line adjustment # CDB 34-2009 is in conformance with the Coastal Element; and,
2. The proposed development will be provided with adequate utilities, access roads, drainage, and other necessary facilities.
3. The proposed boundary line adjustment # CDB 34-2009 is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code and preserves the integrity of the zoning district; and,

4. The proposed boundary line adjustment # CDB 34-2009 will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act (CEQA).
5. The proposed boundary line adjustment #CDB 34-2009 will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The Environmentally Sensitive Habitat Area as identified will not be significantly degraded by the proposed development, there is no feasible less environmentally damaging alternative and all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.
9. The proposed use is compatible with the long-term protection of resource lands.

CONDITIONS OF APPROVAL:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) 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 or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
2. The following notation shall be made on the deed for the 1.21+/- acre parcel (south parcel): "Any future development on this parcel shall incorporate the mitigation measures found on pages 13 and 14 and in Appendix C of the Botanical Survey and ESHA Assessment prepared by William Maslach in August, 2007." (This report is located in CDB # 34-2009 file).
3. The following notation shall be made on the deeds for both new parcels: "Any future development on this parcel shall incorporate the recommendations found on pages 8 and 9 of the BACE GEOTECHNICAL report titled ENGINEERING GEOLOGIC RECONNAISSANCE, HOHNLOSER PROPERTY dated July 20, 2010." (This report is located in CDB # 34-2009 file).
4. Prior to recordation of the two new legal descriptions for these parcels, a letter must be submitted to the Mendocino County Planning and Building Services Department from the North Gualala Water Company indicating that water hookups are available for the two new parcels.
5. That for each proposed adjusted parcel, provide one perimeter description of each parcel. The new deed description submitted shall be prepared by, and bear the seal of, a Licensed Land Surveyor.
6. That each transfer of real property be by means of a quit claim deed containing the following wording to be contained within the legal description:

"Any and all lands and any and all interest thereto lying within the following described real property"
(perimeter description of the adjusted parcel(s).)

and,

"This deed is given pursuant to Mendocino County Boundary Line Adjustment #CDB # 34-2009 and is intended to create no new parcel."

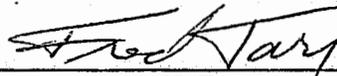
Once the deed(s) and/or instrument(s) have been prepared, please send a copy to the Department of Planning and Building Services. After we have reviewed the documents and accepted them as correct, we will notify you. **DO NOT RECORD ANY DOCUMENTS UNTIL YOU HAVE RECEIVED APPROVAL OF THE DEED(S).**

PLEASE NOTE: Title must be transferred identical to the title now being held (all owners with their exact names).

- 7. After you have been given clearance to record the new documents, you must send a copy of the recorded deed(s) to the Department of Planning and Building Services. Upon receipt of this information, you will receive a COMPLETION CERTIFICATE.
- 8. A note shall be placed on the deeds and legal descriptions stating that "Future development may require additional studies and/or be subject to restrictions for **".

NOTE: APPLICANTS OR OTHER PERSONS WHO ARE DISSATISFIED WITH A DECISION OF THE COASTAL PERMIT ADMINISTRATOR FOR A COASTAL DEVELOPMENT PERMIT FOR A BOUNDARY LINE ADJUSTMENT MAY APPEAL THE ACTION TO THE BOARD OF SUPERVISORS. AN APPEAL MUST BE MADE IN WRITING ALONG WITH THE APPLICABLE FEE TO THE CLERK OF THE BOARD OF SUPERVISORS WITHIN TEN (10) DAYS OF THE COASTAL PERMIT ADMINISTRATOR'S DECISION. THE APPEAL ISSUE WILL BE PLACED ON THE NEXT AVAILABLE BOARD OF SUPERVISOR'S AGENDA FOR CONSIDERATION, AND THE APPELLANT WILL BE NOTIFIED OF THE TIME AND DATE. APPEALS TO THE BOARD OF SUPERVISORS DO NOT NECESSARILY GUARANTEE THAT THE COASTAL PERMIT ADMINISTRATOR'S DECISION WILL BE OVERTURNED. IN SOME CASES, THE BOARD OF SUPERVISORS MAY NOT HAVE THE LEGAL AUTHORITY TO OVERTURN THE DECISION OF THE ADMINISTRATOR.

10-14-10
DATE

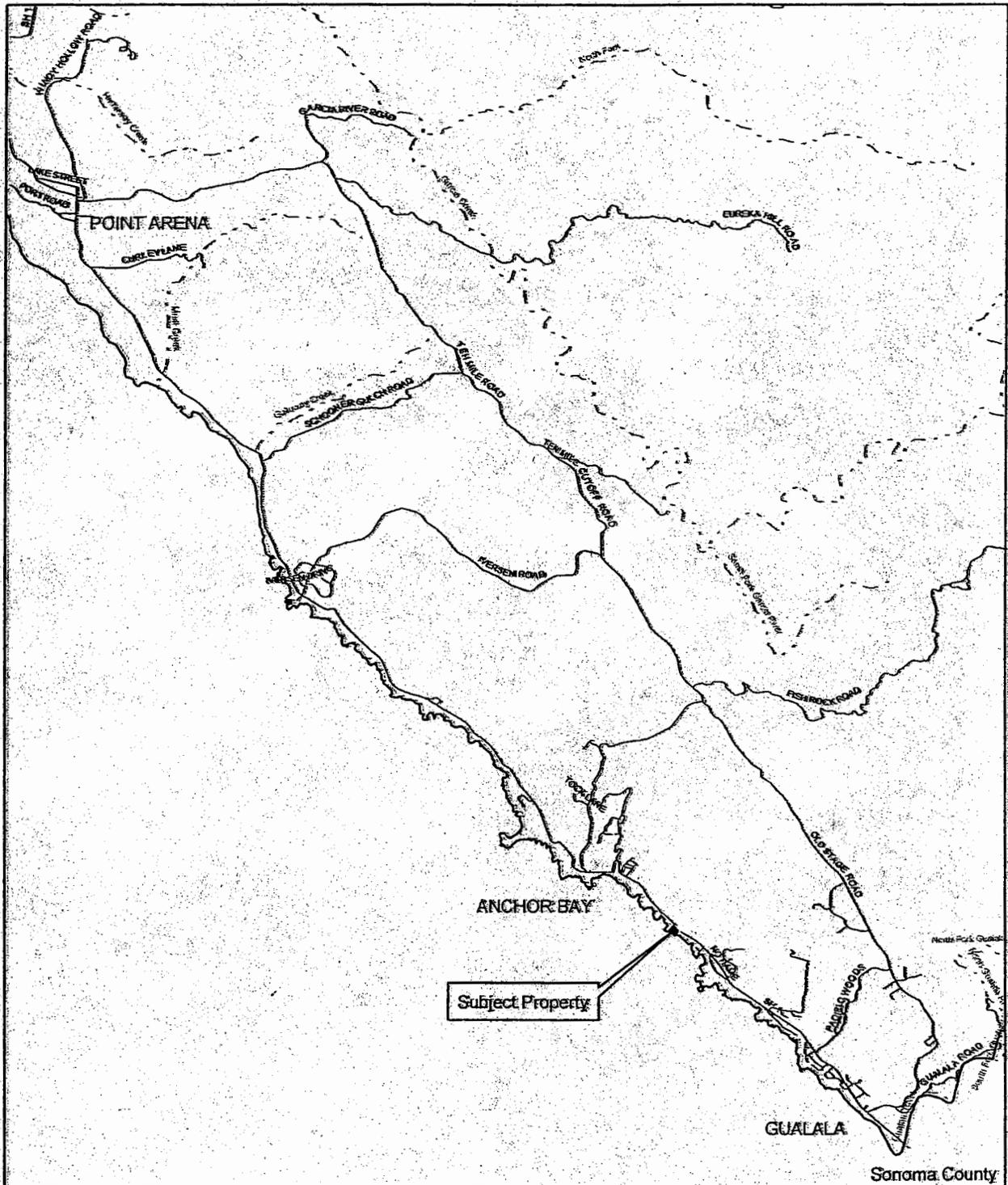

FRED TARR
PLANNER II

FT/at
October 8, 2010

Categorically Exempt
Appeal Fee - \$1855.00
Appeal Period: 10 day

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
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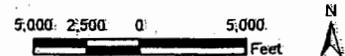
DOT			X
Env. Health			X
Building Inspection		X	
Coastal Commission	X		
Planning-FB			X
AQMD	X		
Sonoma State Univ			X
CalFire			X
Dept of Fish & Game	X		
GMAC			X
South Coast F.D.	X		
Arch Commission			X



OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

LOCATION MAP

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 line can be over 200 feet off. (Parcel lines are as of September 2007).

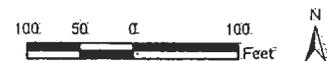


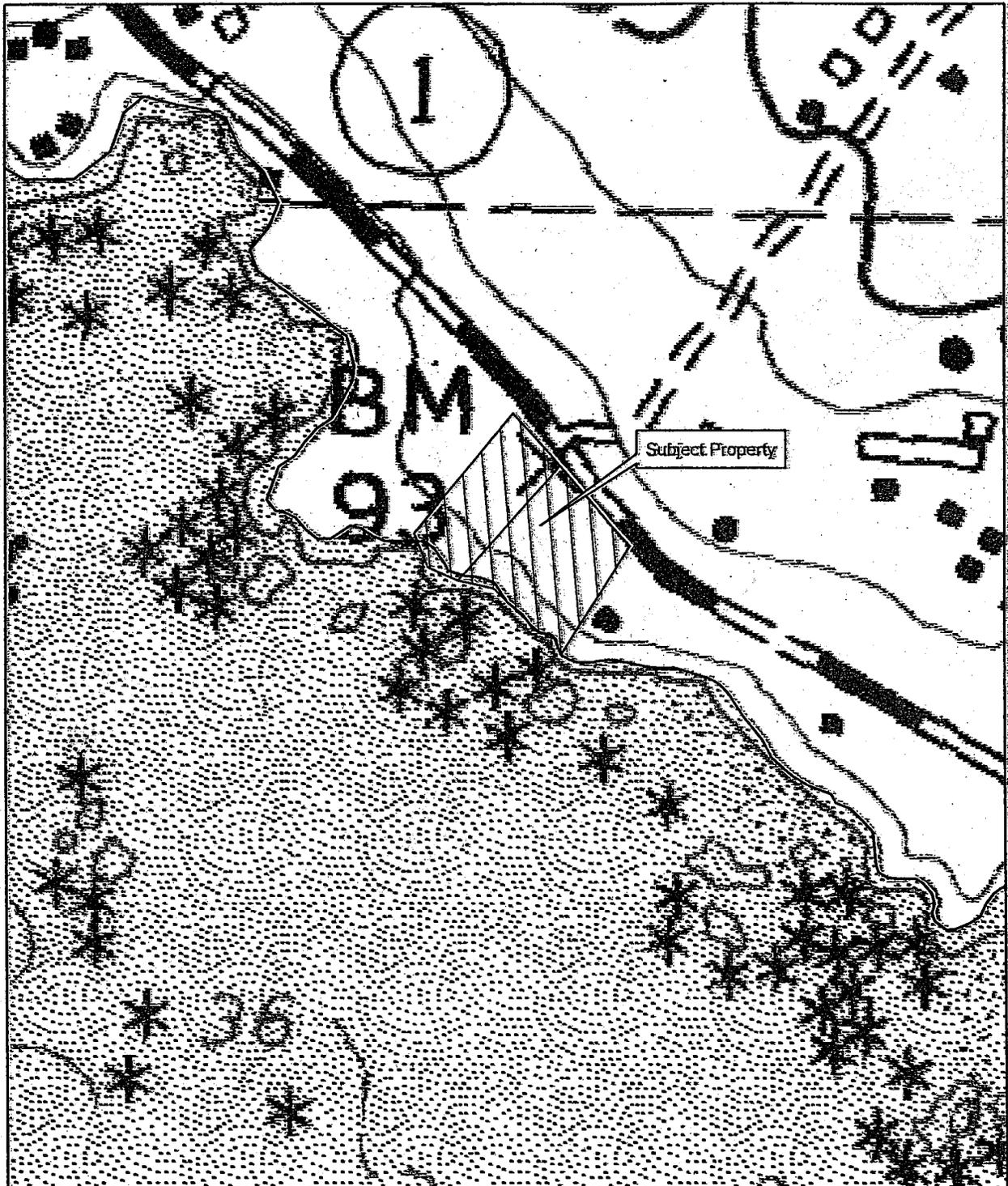


OWNER: HOHNLOSER, Jorg
AGENT: SEALE, Richard
CASE #: CDB: 34-2009
APNs: 144-130-23 & 144-130-29

ORTHOPHOTO - August 2005

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 line can be over 200 feet off. (Parcel lines are as of September 2007)

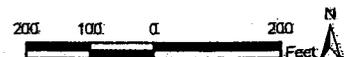


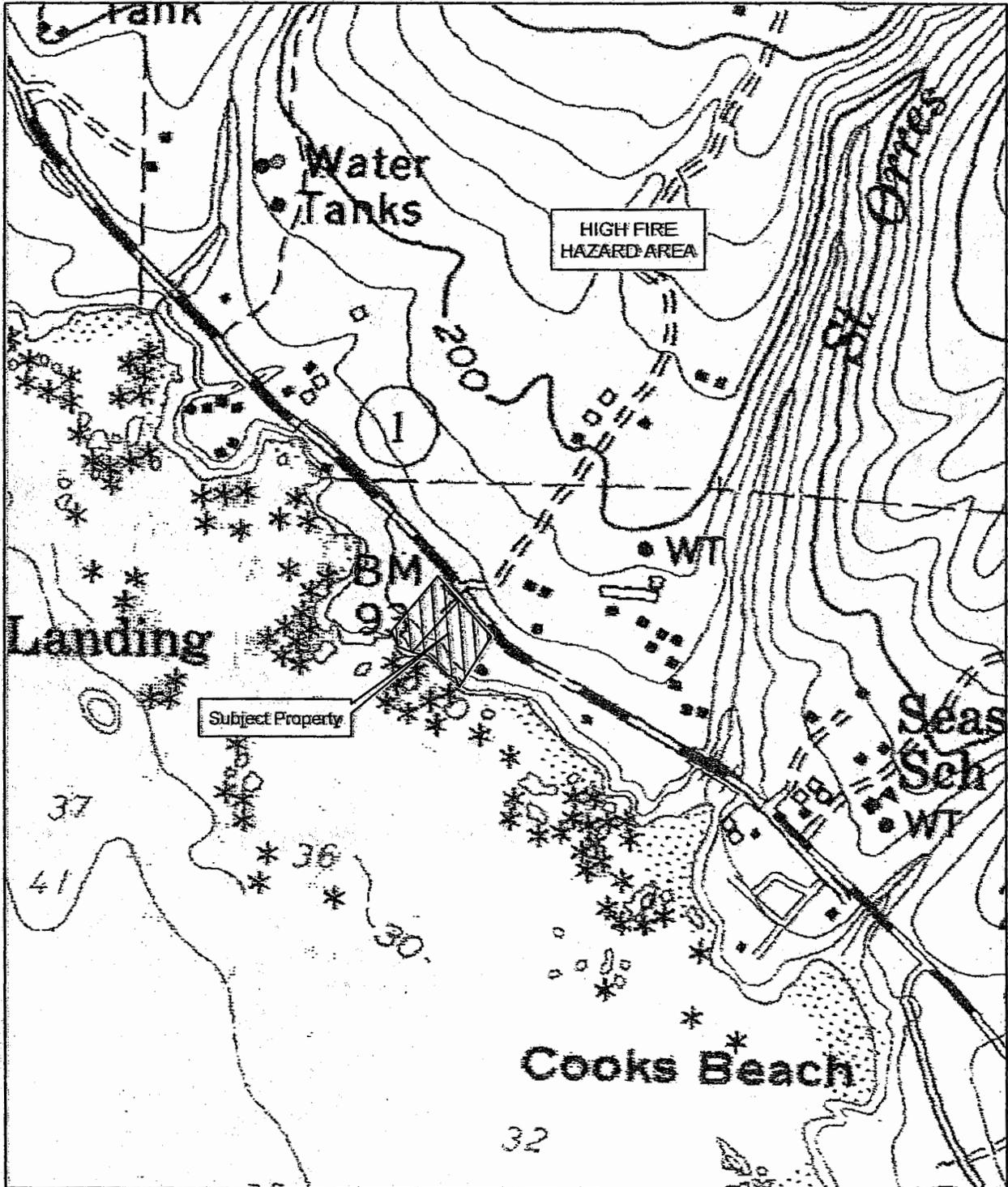


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

 100 YEAR FLOOD ZONE and
 COASTAL FLOOD VELOCITY (WAVE ACTION)

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 line can be over 200 feet off. (Parcel lines are as of September 2007)

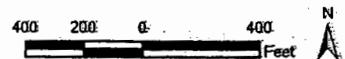


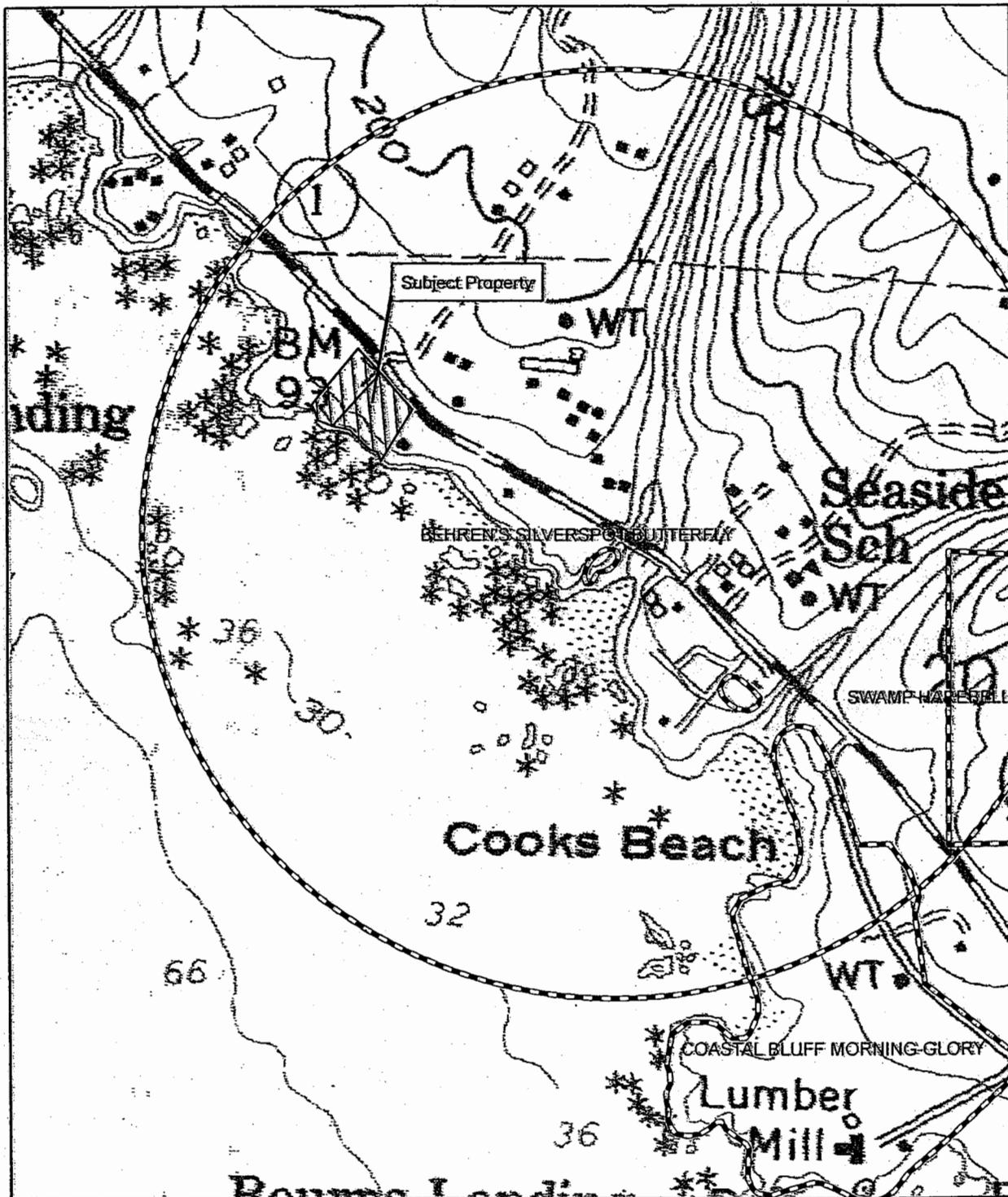


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

FIRE HAZARD SEVERITY ZONES
 SOUTH COAST RURAL FIRE PROTECTION DISTRICT

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 line can be over 200 feet off. (Parcel lines are as of September 2007)

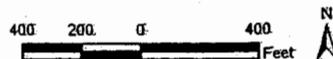


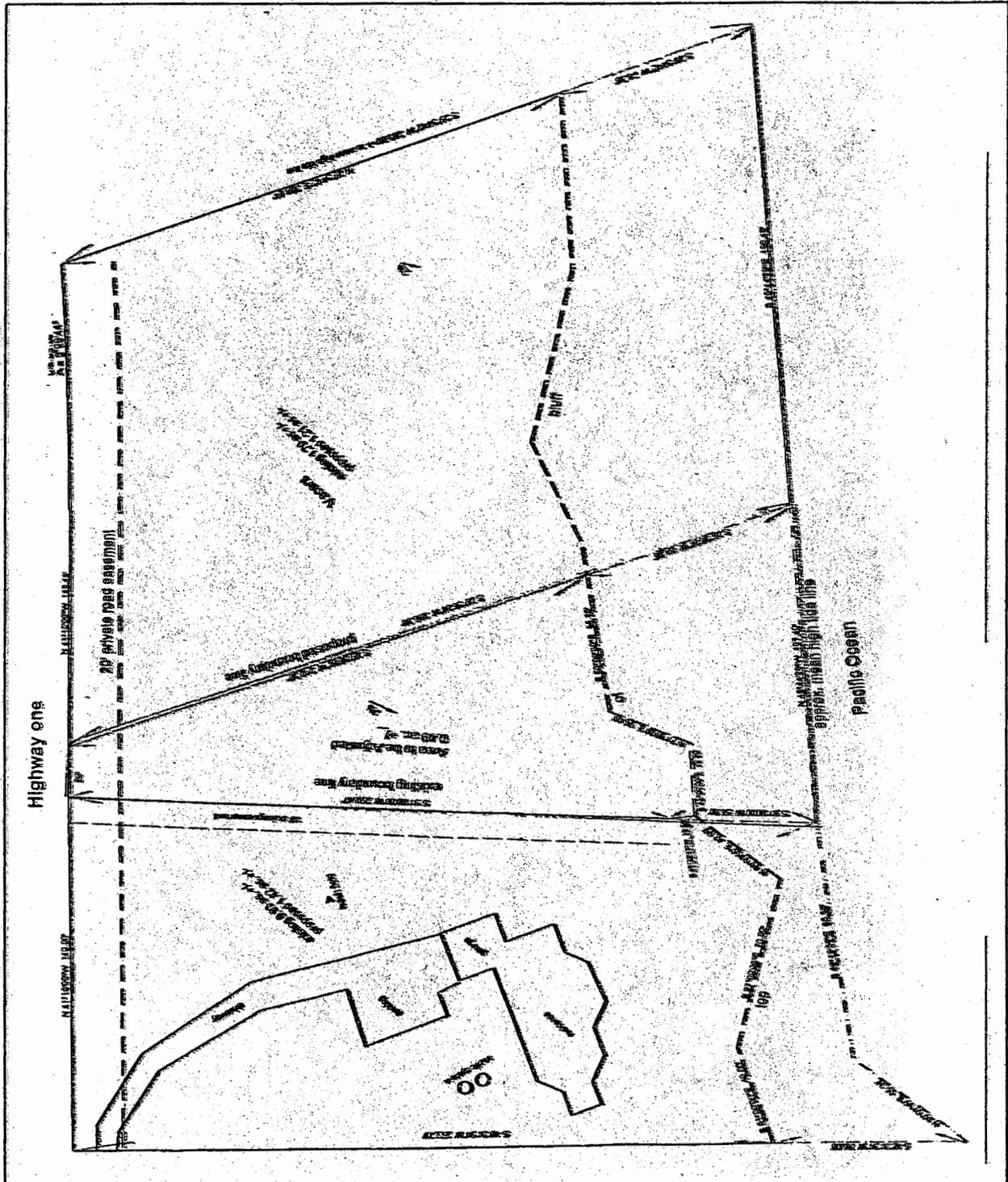


OWNER: HOHNLOSER, Jarg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

CALIFORNIA NATURAL DIVERSITY
 DATABASE RAREFIND (January 2009)

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 line can be over 200 feet off. (Parcel lines are as of September 2007)



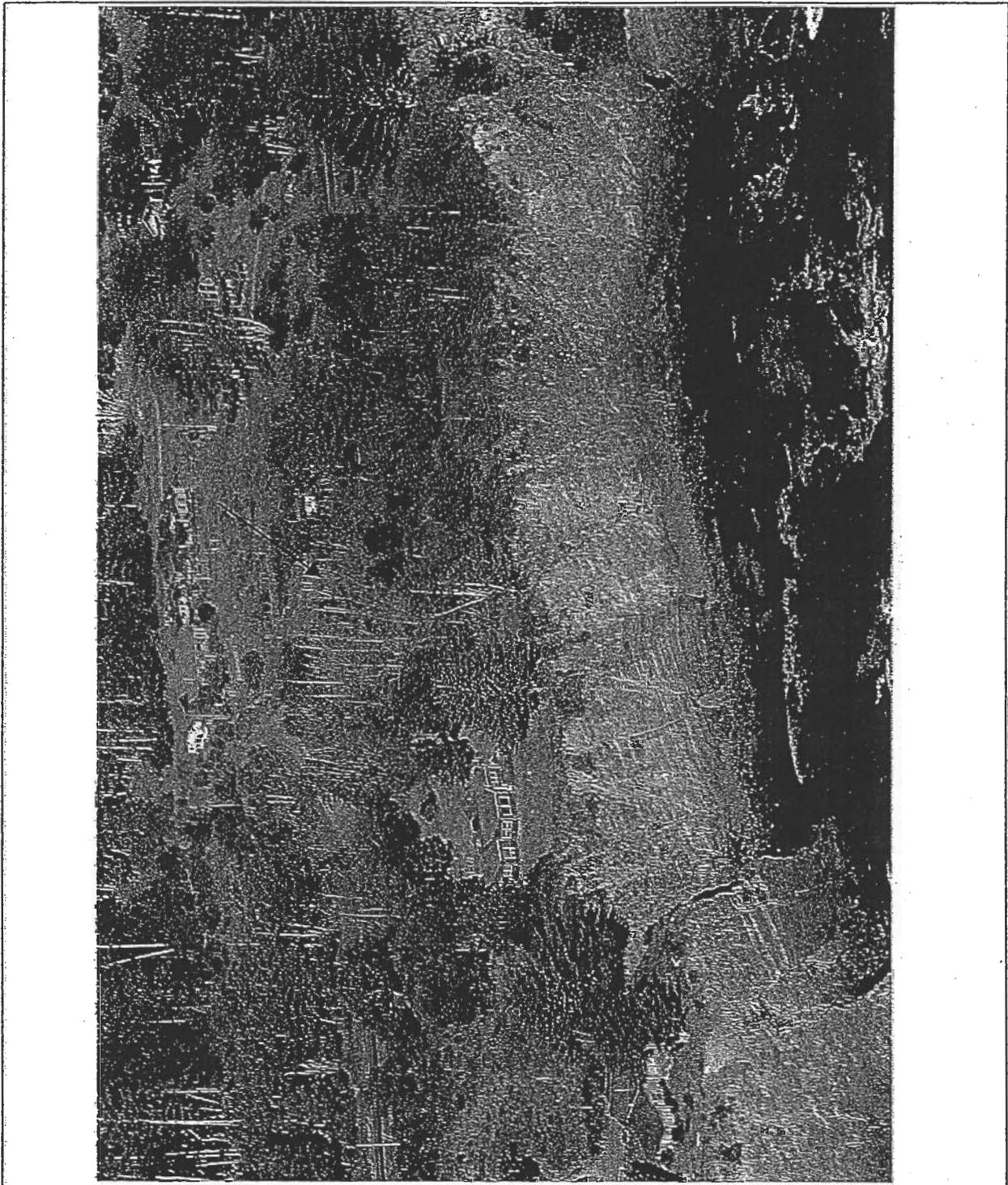


OWNER: HÖHNLOSER, Jorg
AGENT: SEALE, Richard
CASE #: CDB 34-2009
APNs: 144-130-23 & 144-130-29

EXISTING & PROPOSED PARCEL CONFIGURATION

Not To Scale





OWNER: HOHNLOSER, Jorg
AGENT: SEALE, Richard
CASE #: CDB 34-2009
APNs: 144-130-23 & 144-130-29

PHOTO OCTOBER 4, 2005
CALIFORNIA COASTAL RECORDS PROJECT
COPYRIGHT resourcestrategies@usa.net

Not To Scale z



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

IGNACIO GONZALEZ, DIRECTOR
 Telephone 707-463-4281
 FAX 707-463-5709
 pbs@co.mendocino.ca.us
 www.co.mendocino.ca.us/planning

March 5, 2010

Planning - FB
 Department of Transportation
 Environmental Health - Fort Bragg
 Building Inspection - Ukiah/Fort Bragg

Air Quality Management
 Sonoma State University
 CalFire
 Department of Fish and Game

Coastal Commission
 Gualala Municipal Advisory Council
 South Coast Fire District

RECEIVED

MAR 10 2010

CALIFORNIA
 COASTAL COMMISSION

CASE#: CDB 34-2009
DATE FILED: 6/5/2009
OWNER/APPLICANT: JORG HOHNLOŠER
AGENT: RICHARD A. SEALE
REQUEST: Coastal Development Boundary Line Adjustment to reconfigure two legal parcels creating lots of 1.21+/- acres and 1.42+/- acres.

LOCATION: In the Coastal Zone, 1 mile of south of Anchor Bay, lying on the southwest side of Highway 1, near its intersection with Collins Landing Road, located at 36420 and 36430 South Highway 1; AP#'s 144-130-23 and 29.

PROJECT COORDINATOR: FRED TARR
RESPONSE DUE DATE: 3/22/2010

Attached to this form is information describing the above noted project(s). The County Planning and Building Services Department is soliciting your input, which will be used in staff analysis, and will be forwarded to the appropriate public hearing.

You are invited to comment on any aspect of the proposed project(s). Please address any concerns or recommendations on environmental considerations and specific information regarding permits you may require to the project coordinator at the above address or submit your comments by email to pbs@co.mendocino.ca.us. Please note the case number and name of the project coordinator with all correspondence to this department.

We have reviewed the above application and recommend the following (please check one):

- Recommend approval. The Department has no comment at this time.
- Recommend conditional approval (Suggested condition(s) attached).
- Applicant to submit additional information (Attach list of items needed).
- Recommend denial (Attach reasons for recommend denial).
- Recommend preparation of an Environmental Impact Report (Attach reasons why an EIR should be required).
- Other comments (Attach additional sheets if necessary).

REVIEWED BY:

Signature _____ Department _____ Date _____

OWNER: Jory Hohnloser

AGENT: Richard A. Seale

REQUEST: Coastal Development BLA to reconfigure two legal parcels creating lots of 1.21 A+/- and 1.42 A+/-

LOCATION: In the Coastal Zone, 1 mi S of Anchor Bay, lying on the SW side of Hwy. 1, near its intersection with Collins Landing Rd.

STREET ADDRESS: 36420 and 36430 S Hwy 1, Gualala

ACREAGE: 2.63 A+/-

GENERAL PLAN: RR 5(2)

ZONING: RR 5

COASTAL ZONE: Yes

EXISTING USES: Residential and Vacant

SUPERVISORIAL DISTRICT: 5

TOWNSHIP: 11N

RANGE: 15W

SECTION: 20

USGS QUAD#: 70

RELATED CASES ON SITE: BL 95-2009

RELATED CASES IN VICINITY: MD 299-73

	ADJACENT GENERAL PLAN	ADJACENT ZONING	ADJACENT LOT SIZES	ADJACENT USES
NORTH:	RR 5(2)	RR 5	.5A+/-	Residential
EAST:	RR 5(2), RR 10	RR 5/RR 10	13A+/-	Residential
SOUTH:	RR 5(2)	RR 5	2.1A+/-	Residential
WEST:	N/A	N/A	N/A	Pacific Ocean

REFERRAL AGENCIES:

- Planning (FB)
- Department of Transportation
- Environmental Health (Ukiah)
- Building Inspection (FB)
- Emergency Services
- Assessor
- Farm Advisor
- Agriculture Commissioner
- Forestry Advisor
- Air Quality Management District
- ALUC
- County Water Agency
- Archaeological Commission
- Sonoma State University
-
-

- Trails Advisory Council
- Native Plant Society
- State Clearinghouse
- Caltrans
- CalFire
- Department of Fish & Game
- Coastal Commission
- RWQCB
- Division of Mines & Geology
- Department of Health Services
- Department of Parks & Recreation
- Department of Conservation
- Soil Conservation Service
- Army Corps of Engineers
- US Fish & Wildlife Service
- Russian River Flood Control/Water Conservation Improvement District

- CHP
- MTA
- County Addresser
- LAFCO
- Gualala MAC
- Laytonville MAC
- Westport MAC
- School District
- Sewer District
- Water District
- So. Coast Fire District
- Community Svcs
- City Planning

ADDITIONAL INFORMATION: The project is in the GMAC area and on the Coastal Bluff. A geologic investigation is required to determine that 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 span of seventy-five (75) years.

A botanical survey has been submitted which was prepared by Bill Maslach.

APN 144-130-23 and 29 are considered separate legal non-conforming lots. Both were under separate deeds which preceded 1970 until the owner acquired them on separate deeds in 2004 and 2007

ASSESSOR'S PARCEL #: 144-130-23 and 29

PROJECT COORDINATOR: Fred Tarr PREPARED BY: ft DATE: March 1, 2010

ENVIRONMENTAL DATA
(To be completed by Planner)

		COUNTY WIDE	
Yes	No		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	1.	Alquist-Priolo Earthquake Fault Zone – Geotechnical Report #GS _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	2.	Hazard/Landslides Map
<input type="checkbox"/>	<input checked="" type="checkbox"/>	3.	Floodplain/Floodway Map –Flood Hazard Development Permit #FP _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	4.	Within/Adjacent to Agriculture Preserve or Timberland Production
<input type="checkbox"/>	<input type="checkbox"/>	5.	Fire Hazard Severity Classification: <input type="checkbox"/> LRA <input checked="" type="checkbox"/> SRA-High Fire Hazard Area
<input type="checkbox"/>	<input checked="" type="checkbox"/>	6.	Wild and Scenic River.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	7.	Adjacent to State Forest/Park/Recreation Area.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	8.	Adjacent to Equestrian/Hiking Trail.
<input type="checkbox"/>	<input type="checkbox"/>	9.	Within/Near Hazardous Waste Site.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	10.	Require Water Efficient Landscape Plan.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	11.	Biological Resources/Natural Area Map.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	12.	Natural Diversity Data Base. (Behren's Silverspot Butterfly and Coastal Bluff Morning Glory)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	13.	Soil Type(s)/Pygmy Soils.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	14.	Airport CLUP Planning Area – ALUC# _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	15.	Specific Plan Area.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.	State Permitting Required/State Clearinghouse Review
<input type="checkbox"/>	<input checked="" type="checkbox"/>	17.	Oak Woodland Area
		COASTAL ZONE	
Yes	No		
<input type="checkbox"/>	<input checked="" type="checkbox"/>	16.	Exclusion Map.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.	Appealable Area/Original Jurisdiction Map.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	18.	Blayney-Dyett Map.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	19.	Land Capabilities/Natural Hazards Map. (Rocky Intertidal Area)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	20.	Habitats/ESHA/Resources Map.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	21.	Coastal Groundwater Study Zone. (Critical Water Resources)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	22.	Highly Scenic Area/Special Communities. (Excluded from Highly Scenic Area)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	23.	Ocean Front Parcel (Blufftop Geology).
<input type="checkbox"/>	<input checked="" type="checkbox"/>	24.	Adjacent to beach/tidelands/submerged land/Public Trust Land.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	25.	Noyo Harbor/Albion Harbor.

1/08 Shared File Forms or Templates

COUNTY OF MENDOCINO
 DEPT OF PLANNING & BUILDING SERVICES
 501 Low Gap Road, Room 1440
 Ukiah, CA 95482
 Telephone: 707-463-4281

Case No(s) _____
 Date Filed _____
 Fee \$ _____
 Receipt No. _____
 Received By _____
 Office Use Only

BOUNDARY LINE ADJUSTMENT
 APPLICATION FORM

Name of Applicant	Name of Owner(s) <i>Jorg Hohnloser</i>	Name of Agent <i>Richard A. Seale</i>
Mailing Address	Mailing Address <i>c/o 2422 Harding Ave. Redwood City, CA. 94062</i>	Mailing Address <i>420 Redwood Ave Fort Bragg, CA. 95437</i>
Telephone Number	Telephone Number	Telephone Number <i>707-964-4265</i>

Assessor's Parcel Number(s)	Parcel Owner(s)	Street Address	Acreage Adjusted	
			Before	After
<i>144-130-23</i>	<i>Hohnloser</i>	<i>36420 S. Hwy One</i>	<i>1.70 Act</i>	<i>1.21 Act</i>
<i>144-130-29</i>	<i>Hohnloser</i>	<i>36430 S. Hwy. One</i>	<i>0.93 Act</i>	<i>1.42 Act</i>

Briefly describe the proposed parcel adjustments: (Acreage to be adjusted from Assessor's Parcel Number into Assessor's Parcel Number, etc.):

Adjust approximately 0.49 acres from A.P.# 144-130-23 to A.P.# 144-130-29.

I certify that the information submitted with this application is true and accurate:

Richard A. Seale *4/24/09* x *[Signature]* *5/3/09*
 Signature of Applicant/Agent Date Signature of Owner Date

**PROJECT DESCRIPTION QUESTIONNAIRE
FOR BOUNDARY LINE ADJUSTMENTS
LOCATED IN THE COASTAL ZONE**

The purpose of this questionnaire is to provide additional information related to the Coastal Zone concerning your application to the Department of Planning and Building Services and other agencies who will be reviewing your project proposal. Please remember that the clearer the picture that you give us of your project and the site, the easier it will be to promptly process your application. Please answer all questions.

PRESENT USE OF PROPERTY

1. Are there existing structures on the property? Yes No
If yes, describe below, and identify the use of each structure on the map to be submitted with your application.

A.P.#144-130-29 has a single family residence w/garage and septic system. A.P.#144-130-23 is a vacant parcel.

2. Will any existing structures be demolished? Yes No

Will any existing structures be removed? Yes No

If yes to either question, describe the type of development to be demolished or removed, including the relocation site, if applicable?

3. Lot area (within property lines): *0.93[±] / 1. Ac[±]* square feet acres.

4. Lot Coverage: *See map*

<u>LOT 1</u>	Existing	Proposed after Adjustment
Building Coverage	_____ sq ft	_____ sq ft
Paved Area	_____ sq ft	_____ sq ft
Landscaped Area	_____ sq ft	_____ sq ft
Unimproved Area	_____ sq ft	_____ sq ft
TOTAL:	_____ sq ft	_____ sq ft

<u>LOT 2</u>	Existing	Proposed after Adjustment
Building Coverage	_____ sq ft	_____ sq ft
Paved Area	_____ sq ft	_____ sq ft
Landscaped Area	_____ sq ft	_____ sq ft
Unimproved Area	_____ sq ft	_____ sq ft
TOTAL:	_____ sq ft	_____ sq ft

(If more than two lots are being adjusted, submit the above information for each additional lot on an attached sheet.)

5. Parking will be provided as follows: *All off street*

LOT 1	Existing Spaces _____	Proposed Spaces _____
LOT 2	Existing Spaces _____	Proposed Spaces _____

(If more than two lots are being adjusted, submit the above information for each additional lot on an attached sheet.)

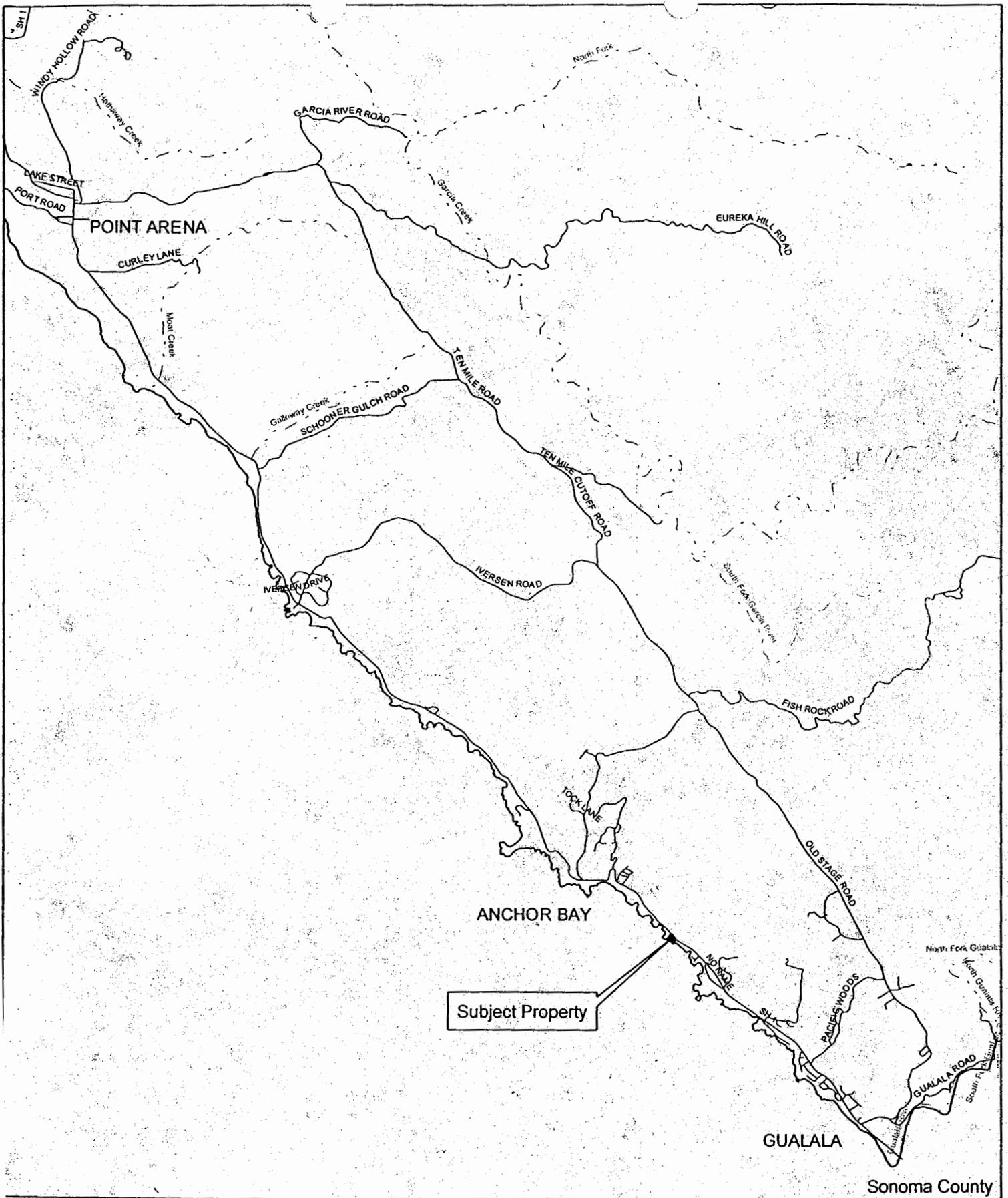
6. Is any grading or road construction planned? Yes No
If yes, grading and drainage plans may be required. Also, describe the terrain to be traversed (e.g., steep, moderate slope, flat, etc.):

For grading or road construction, complete the following:

- (A) Amount of cut: _____ cubic yards
- (B) Amount of fill: _____ cubic yards
- (C) Maximum height of fill slope: _____ feet
- (D) Maximum height of cut slope: _____ feet
- (E) Amount of import or export: _____ cubic yards
- (F) Location of borrow or disposal site: _____

<p>7. Will the proposed development convert land currently or previously used for agriculture to another use? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, how many acres will be converted? _____ acres. (An agricultural economic feasibility study may be required.)</p>	
<p>8. Will the alteration of parcel boundaries create any new building sites which are visible from State Highway 1 or other scenic route? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>9. Will the alteration of parcel boundaries create any new building sites which are visible from a park, beach or other recreational area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>

If you need more room to answer any question, please attach additional sheets.

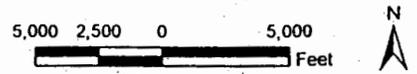


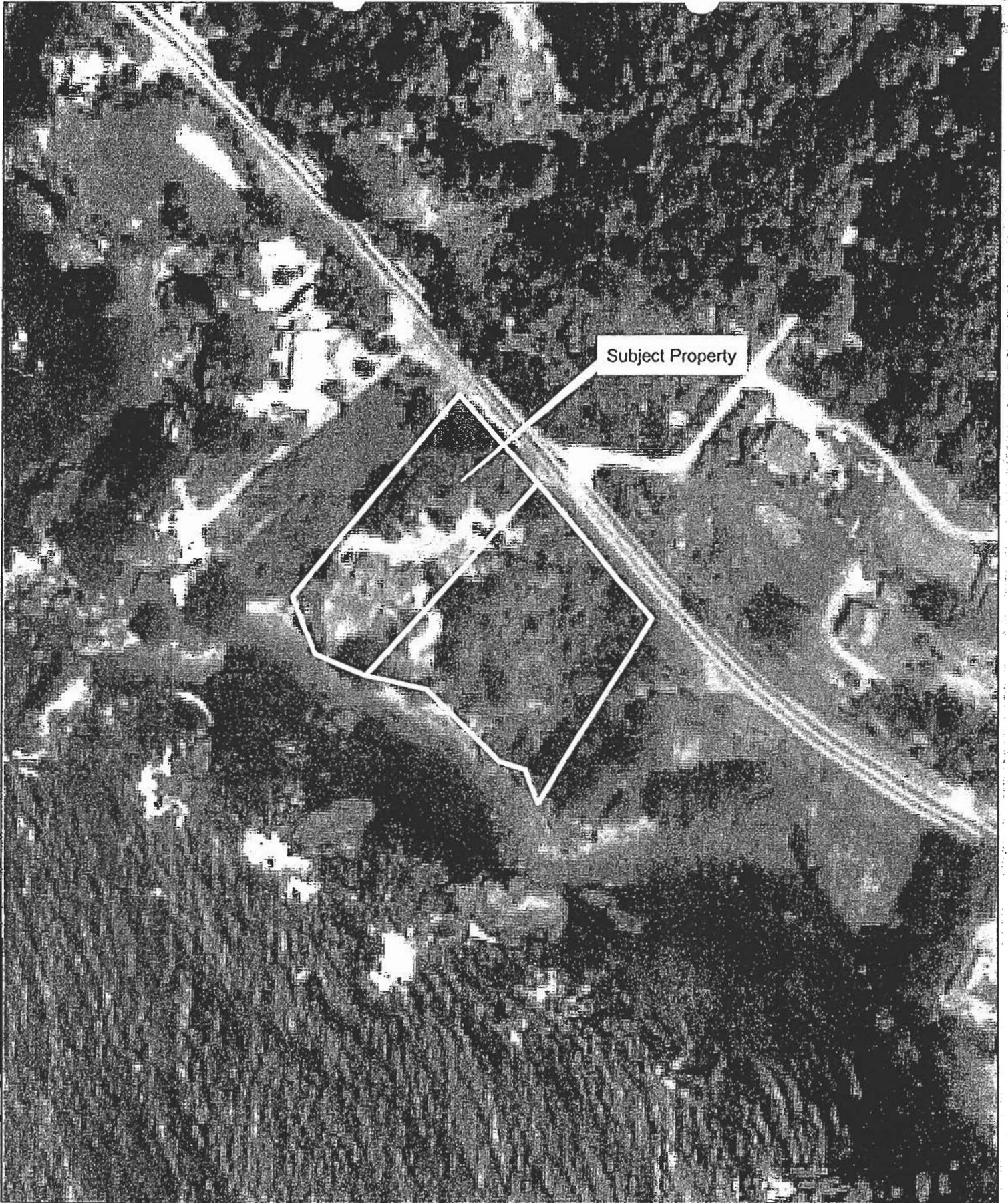
OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

41 of 49

LOCATION MAP

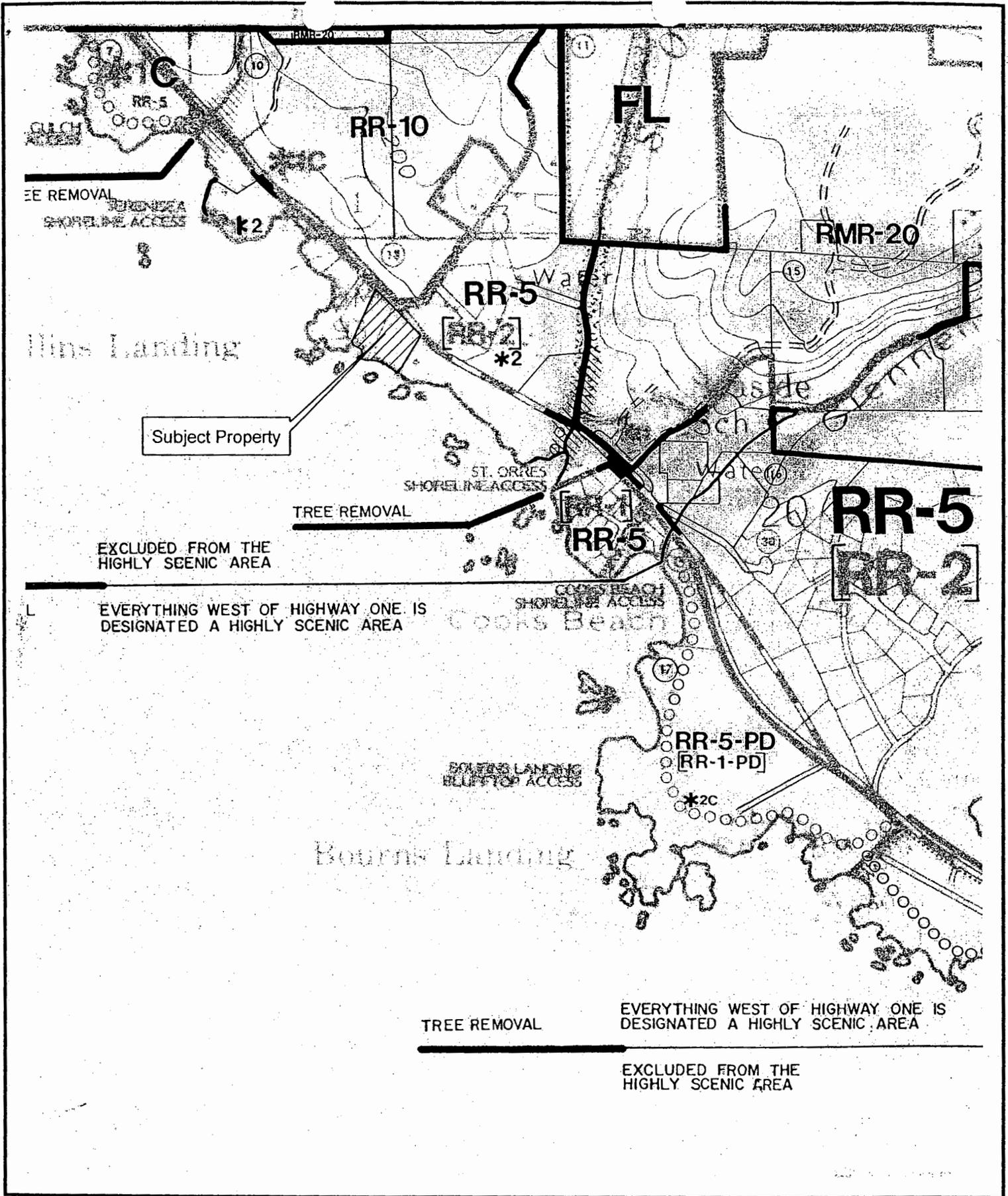
Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of September 2007)





Subject Property

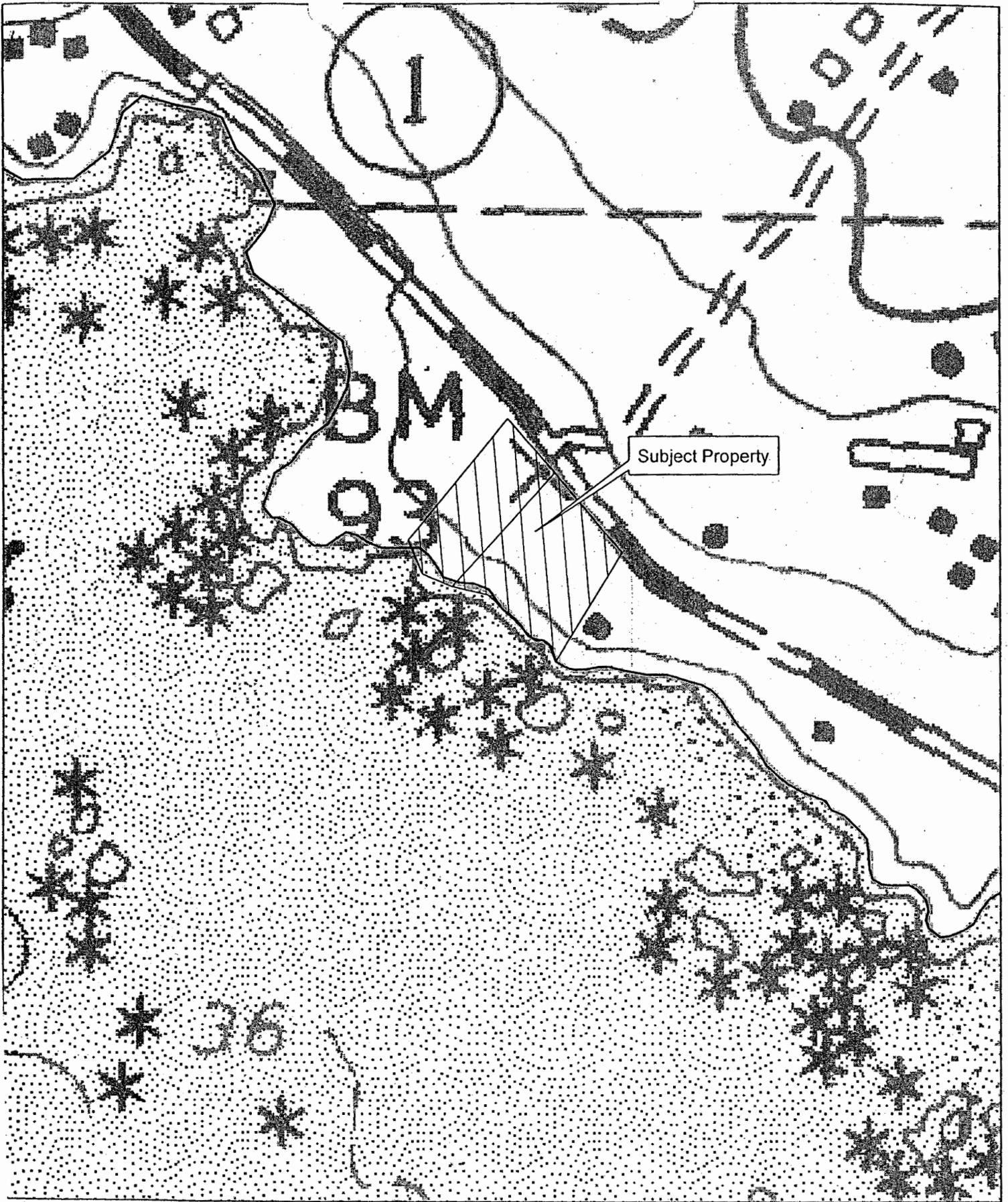
OWNER: HOHNLOSER, Jorg
AGENT: SEALE, Richard
CASE #: CDB 34-2009
APNs: 144-130-23 & 144-130-29



OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

COASTAL PLAN LAND USE MAP No. 31

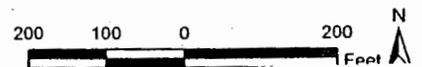
Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.

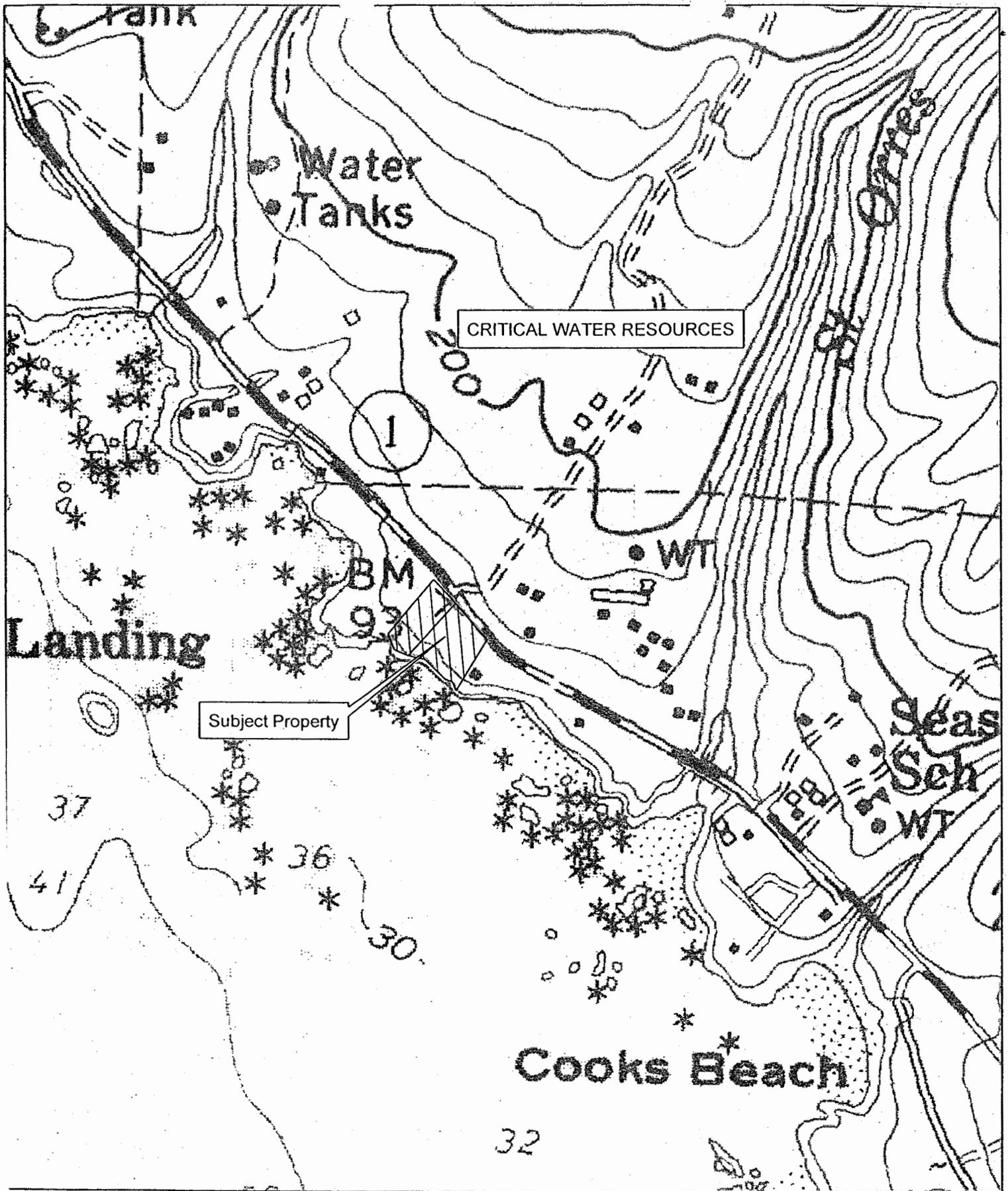


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

100 YEAR FLOOD ZONE and
 COASTAL FLOOD VELOCITY (WAVE ACTION)

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 line can be over 200 feet off. (Parcel lines are as of September 2007)

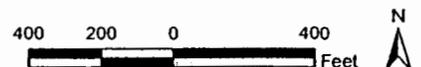


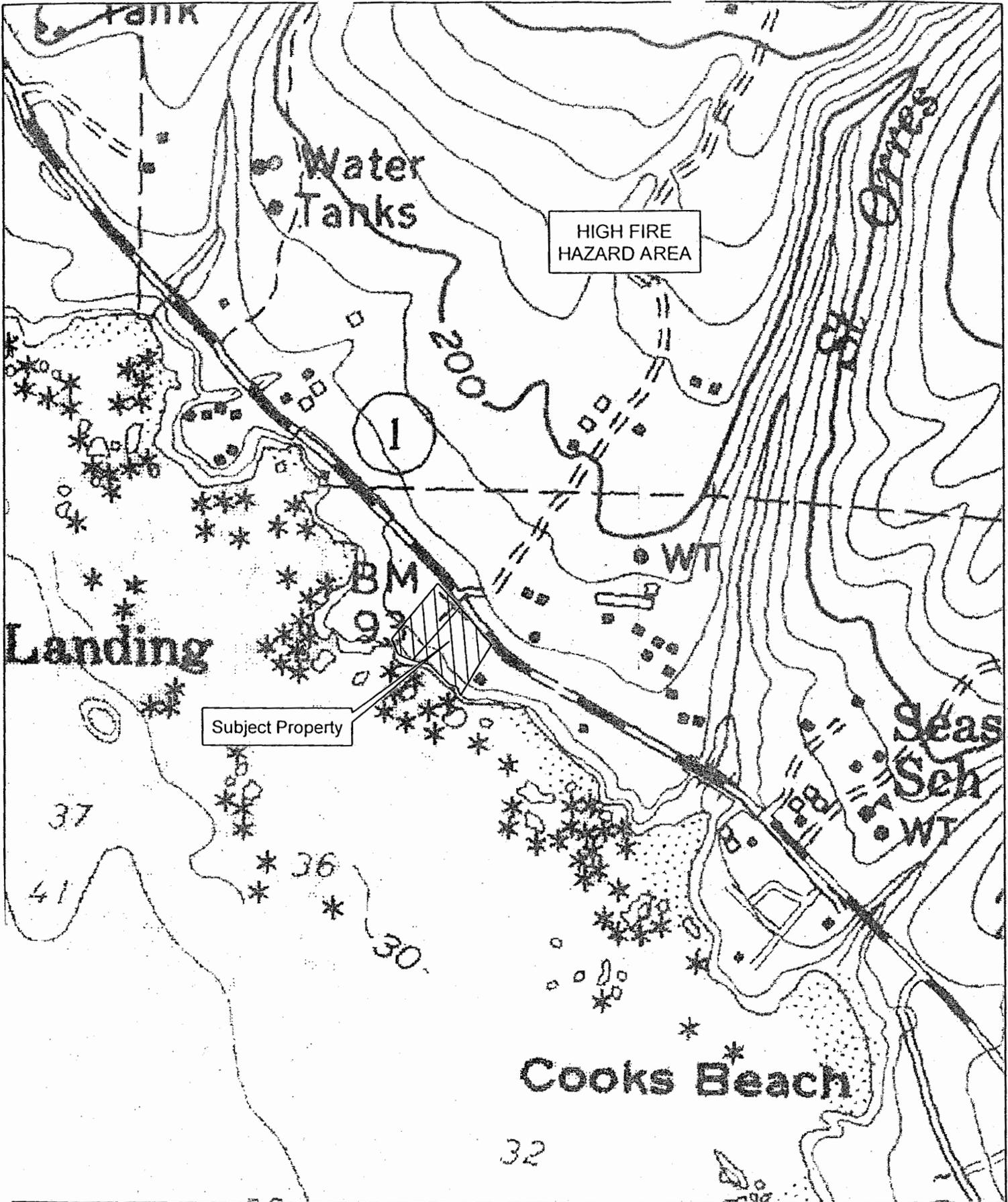


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

COASTAL GROUND WATER RESOURCES

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 line can be over 200 feet off. (Parcel lines are as of September 2007)





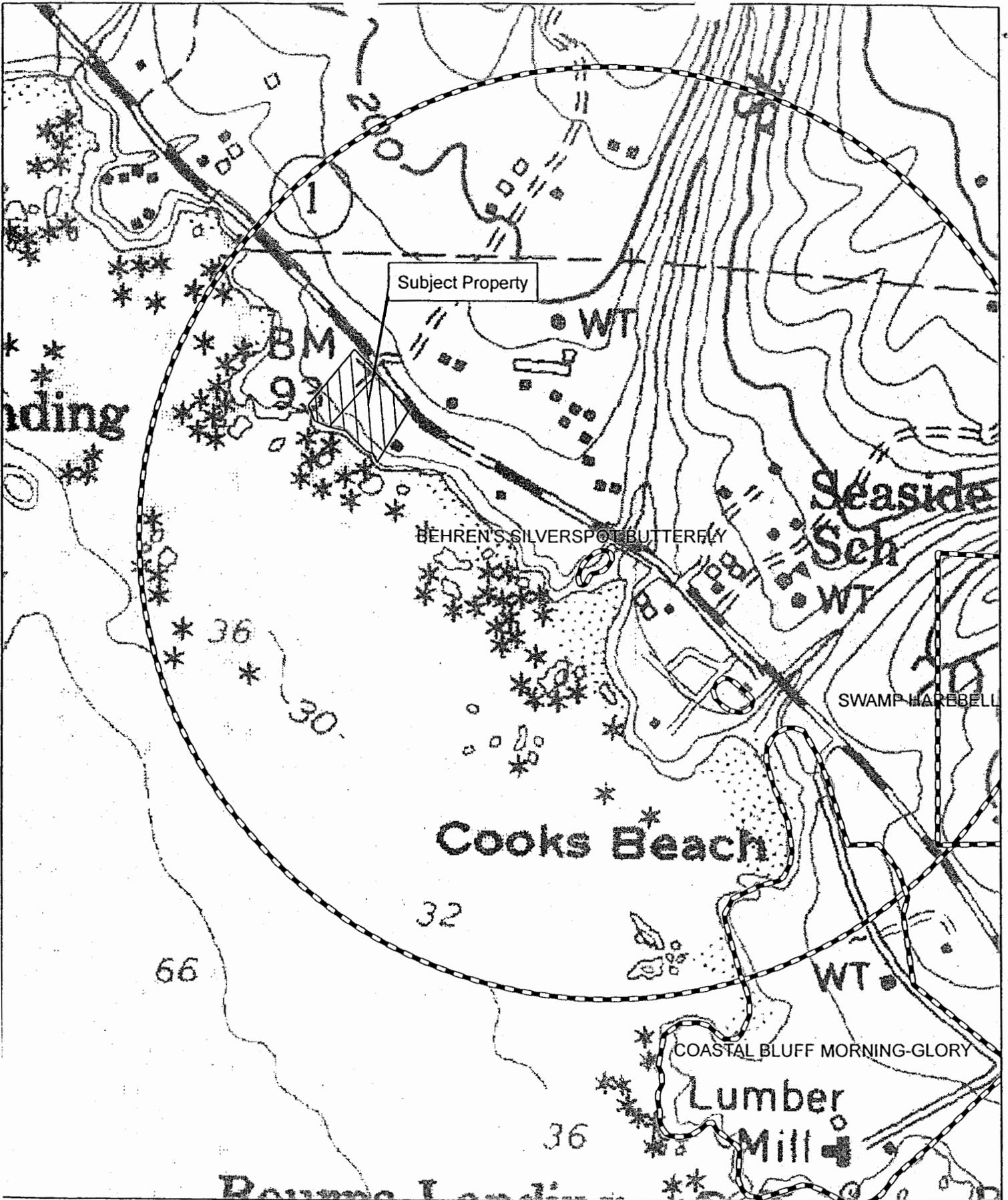
OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

FIRE HAZARD SEVERITY ZONES
 SOUTH COAST RURAL FIRE PROTECTION DISTRICT

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 line can be over 200 feet off. (Parcel lines are as of September 2007)

400 200 0 400

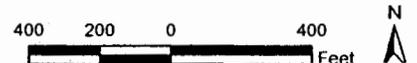


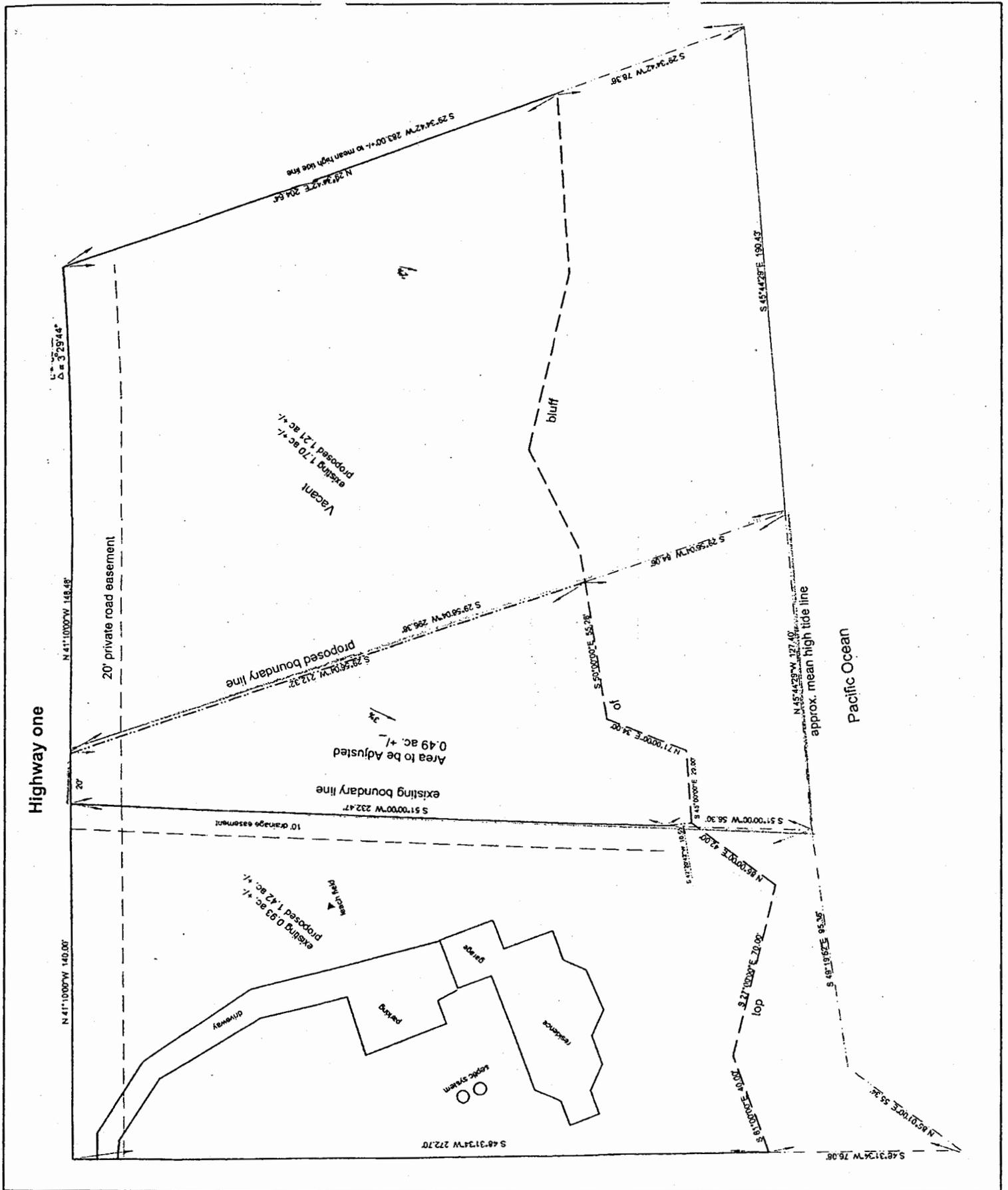


OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

CALIFORNIA NATURAL DIVERSITY
 DATABASE RAREFIND (January 2009)

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 line can be over 200 feet off. (Parcel lines are as of September 2007)





OWNER: HOHNLOSER, Jorg
 AGENT: SEALE, Richard
 CASE #: CDB 34-2009
 APNs: 144-130-23 & 144-130-29

EXISTING & PROPOSED PARCEL CONFIGURATION



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:

EXHIBIT NO. 4**APPEAL NO.**

A-1-MEN-10-039

HOHNLOSER

APPEAL (1 of 14)

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Mendocino

2. Brief description of development being appealed:

Coastal Development Boundary Line Adjustment to reconfigure two legal parcels creating lots of 1.21+- acres and 1.42+- acres.

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

Approximately 1 mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Gualala, Mendocino County (APNs 144-130-29 and 144-130-23)

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

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

RECEIVED
DEC 09 2010
CALIFORNIA
COASTAL COMMISSION

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.

<u>TO BE COMPLETED BY COMMISSION</u>	
APPEAL NO.	A-1-MEN-10-039
DATE FILED	12/9/10
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 10, 2010

7. Local government's file number (if any): CDB #34-2009

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:

JORG HOHNLOSER
1568 ALTURAS DR
BURLINGAME, CA 94010

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) RICHARD A. SEALE
420 REDWOOD AVENUE
FORT BRAGG, CA 95437

(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 4

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 informant states stated above are correct to the best of my/our knowledge.

Signature on File

Signed:
Appellant or Agent

Date: December 9, 2010

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

Signed: _____

Date: _____

(Document2)

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

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

SECTION V. Certification

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

Signed: _____ Signature on File
Appellant or Agent _____ 0

Date: December 9, 2010

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. Esther Sanchez
City of Oceanside
300 North Coast Highway
Oceanside, CA 92054

(760) 435-0971

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 (1) the approved land division is a form of development that is not designated as the "principal permitted use" under the certified LCP; (2) the approved development is located within 100 feet of a wetland or stream; and (3) the approved development is within 300 feet of the top of the seaward face of a coastal bluff.

BACKGROUND:

The County of Mendocino approved Coastal Development Permit # CDB 34-2009 for a coastal development boundary line adjustment on approximately 2.63 acres to reconfigure two (2) existing lots from the current configurations of approximately 0.93 acres (Parcel 1) and 1.7 acres (Parcel 2), to create lots of 1.21 acres and 1.42 acres. Parcel 1 is the northerly parcel (APN 144-130-29) and is improved with a single family residence with garage and on-site septic system, and the southerly parcel (APN 144-130-23) is vacant. According to the County staff report, the intent of the owner is to provide a larger buffer between the existing residence and the southerly property line.

The subject parcels are located on a bluff and situated approximately 1 mile south of Anchor Bay lying between State Highway One and the Pacific Ocean, at 36420 and 36430 South Highway One in Gualala, Mendocino County. Both parcels are accessed by way of a 20 foot wide private road easement which connects to Highway One.

As described in the County staff report, the vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) features: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants; 2) Northern Coastal Bluff Scrub habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels. A building envelope for future development on Parcel 2 has been identified on a tentative map dated May 2009 and submitted with the County referral.

The map shows coastal bluff morning-glory plants occurring within 50 feet of the building envelope.

The parcels are designated on the County general plan Coastal Plan Map as Rural Residential, Five Acre Minimum (RR-5). The parcels show a zoning designation on the Coastal Zoning Map as Rural Residential, Five Acre Minimum with an alternate zoning designation of two acre minimum (RR-5[2]). According to the local record, both parcels are considered separate legal non-conforming lots, and both were under separate deeds that preceded 1970 until the owner acquired them on separate deeds in 2004 and 2007. The parcels are also designated as within a "Critical Water Resources" area, and both parcels are currently served by the North Gualala Water Company with meters and water lines.

REASONS FOR APPEAL:

The approved boundary line adjustment development is inconsistent with the policies of the certified LCP, including but not limited to the policies contained in the "Habitats and Natural Resources" sub-sections of Section 3: Resources and Development Issues and Policies of the Land Use Plan, and the development regulations and standards of Sections 20.496; 20.524; and Section 20.532 of the Mendocino County Coastal Zoning Code (herein "Coastal Zoning Code" or "CZC"), for the following reasons:

Inconsistencies with Coastal Zoning Code Regulations for the Protection of Environmentally Sensitive Habitat Areas (ESHAs).

LCP Policies on Environmentally Sensitive Habitat Areas:

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

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

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

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

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

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary to protect the resources of that particular habitat

area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

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

LUP Policy 3.1-18 states the following (emphasis added):

Public access to sensitive wildlife habitats such as rookeries or haulout areas shall be regulated, to insure that public access will not significantly adversely affect the sensitive resources being protected.

Development within buffer areas recommended by the California Department of Fish and Game to protect rare or endangered wildlife species and their nesting or breeding areas shall meet guidelines and management practices established by the Department of Fish and Game, and must be consistent with other applicable policies of this plan.

LUP Policy 3.1-32 states the following (emphasis added):

Land divisions, including lot line adjustments which are located within Environmentally Sensitive Habitat Area boundaries (which are shown on the Land Use Maps, and subject to Policy 3.1-1), will not be permitted if: (1) any parcel being created is entirely within an Environmentally Sensitive Habitat Area; or (2) if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with Policy 3.1-7.

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

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

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

outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.

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

(a) Biological Significance of Adjacent Lands. Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

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

- (i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;
- (ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;
- (iii) An assessment of the impact and activity levels of the proposed development on the resource.

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

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

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

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

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

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

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

CZC Section 20.524.010 “Coastal Rural Land Divisions” states the following (emphasis added):

(B) Required Conditions for Approval of Rural Land Divisions. Land division in rural areas may be permitted only if all of the following conditions are satisfied:

(g) The division will not have significant adverse effects, either individually or cumulatively, on environmentally sensitive habitat areas or on other coastal resources.

(m) Identified coastal resources within the proposed area to be divided are protected from significant adverse environmental impacts.

CZC Section 20.532.095 “Required Findings for all Coastal Development Permits” states, in applicable part, the following (emphasis added):

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

***(1) The proposed development is in conformity with the certified local coastal program;**
and*

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

Discussion:

The County staff report dated May 18, 2010 indicates the vacant Parcel 2 contains three types of Environmentally Sensitive Habitat Area (ESHA) features: 1) coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*) plants in various locations; 2) Northern Coastal Bluff Scrub

habitat near the bluff edge and on the bluff face; and 3) a portion of a wetland that extends along the existing boundary line separating the two parcels.

As cited in the policies above, CZC Section 20.496.010 defines environmentally sensitive habitat areas (ESHA) and includes habitats of rare and endangered species. Therefore, as ESHA, endangered species habitat is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and CZC Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the California Department of Fish and Game (DFG) 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 in that event, the buffer shall not be less than 50 feet in width. CZC Section 20.496.020 states the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed. LUP Policy 3.1-7 and CZC Section 20.496.020(A)(4)(b) further require that development permitted within an ESHA buffer area shall generally be the same as those uses permitted in the adjacent ESHA, and that structures are allowable within the buffer area only if there is no other feasible site available on the parcel. LUP Policy 3.1-18 states, in applicable part, that development within buffer areas recommended by DFG to protect rare or endangered wildlife species and their nesting and breeding areas shall meet guidelines and management practices established by the Department, and must be consistent with other applicable policies of this plan. LUP Policy 3.1-32 limits land divisions, including lot line adjustments, which are located within ESHAs and does not permit such land divisions if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. In addition, CZC Section 20.496.020(A)(3) explicitly disallows boundary line adjustments that create or provide for new parcels entirely within a buffer area. Additionally, CZC Section 20.524.010(B)(g) requires that land divisions shall not have significant adverse effects, either individually or cumulatively, on ESHAs or on other coastal resources, and CZC Section 20.524.010(B)(m) requires that identified coastal resources within the proposed area to be divided are protected from significant adverse environmental impacts.

A botanical survey report dated August 2007 is referenced in the County staff report and was included with the County's project referral. The botanical consultant proposed a reduced buffer of the minimum 50 feet in combination with mitigation measures for most but not all coastal bluff morning-glory occurrences; no buffer was mapped for plants located within the mostly undeveloped 20-foot private road easement that runs parallel to and adjacent to Highway One and that encroaches within 50 feet of the identified building envelope. The consultant describes the presence of 225 coastal bluff morning-glory plants on the site, and indicates in the Mitigation Plan enclosed within Appendix C of the report that "While a 50' buffer can be maintained from the [Northern] coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities." The Mitigation Plan further states "The California Department of Fish and Game (DFG) will be consulted for the review of this plan, and

will receive a copy of the final report.” However, there is no indication whether DFG was ultimately consulted for the project or whether they were in agreement with the botanist’s reduced buffer analysis.

The botanical report additionally discusses the presence of a wetland feature and seeps that are associated with a road drainage culvert and related earth catch basin to drain Highway One. The botanical report does not identify the feature as ESHA, and the May 2009 tentative map does not show an ESHA buffer around the wetland ESHA feature.

The County staff report does not discuss how the reduced ESHA buffer or omitted wetland ESHA buffer are consistent with the LCP ESHA buffer policies, and makes no reference to whether DFG was consulted or is in agreement with the reduced buffer associated with the proposed development. The staff report also does not discuss the direct impacts to coastal bluff morning-glory plants associated with the building envelope identified on the May 2009 tentative map and described in the August 2007 botanical report. The staff report references the following statement, among other excerpts, from the botanical report:

The analysis of the project and the proposals to offset any negative impacts have concluded that the ESHA will not be significantly degraded by the proposed development. With the implementation of the mitigation plan (Appendix C), the coastal bluff morning-glory occurrences and the habitat are planned for enhancement. Consideration was given to the entire lot, the existing and configuration resulting from the proposed boundary line adjustment, and there is no feasible less environmentally damaging alternative given the constraints of the ESHA buffers on the Project Site. The mitigation measures in the plan are extensive methods that aim to feasibly mitigate project-related impacts.

The mitigation measures proposed by the consultant include transplantation, seed collection, propagation, replanting, exotic plant eradication, site monitoring, a 3-year management period, and maintenance in perpetuity. The mitigation plan includes performance criteria with four objectives for long-term plant recovery and survival.

The County’s findings relative to ESHA at the subject property state in their entirety the following:

It is staff’s recommendation that any future development on the proposed 1.21+/- acre parcel incorporate the mitigation measures found on pages 13 and 14 of the Botanical Survey and ESHA Assessment and the Mitigation Plan (Appendix C) of the Botanical Survey and ESHA Assessment prepared by William Maslach in August, 2007. Said Assessment is located in the Coastal Development Boundary Line Adjustment file CDB # 34-2009 found in the Mendocino County Planning and Building Services Department (Ukiah).

Special Condition No. 2 requires that a notation be made on the deed for the southerly parcel that any future development shall incorporate the mitigation measures of the botanical survey and ESHA assessment.

Providing mitigation for impacts to ESHA does not eliminate LCP requirements that minimum buffers be established between ESHA and development. Approval of the subject development is inconsistent with the ESHA policies of the certified LCP including, but not limited to, LUP Policies 3.1-7, 3.1-18, and 3.1-32; and CZC Section 20.496.020, because the County fails to address how a buffer for wetlands and the rare coastal bluff morning-glory habitat that is less

than the minimum of 100 feet is consistent with the requirements of LUP Policy 3.1-7 and CZC Sections 20.496.020(A)(1) and (3).

It appears from the tentative map that there is insufficient room to accommodate a building site and associated developments such as a driveway, septic, and utilities outside the ESHA buffer areas that include unmapped wetland ESHA and coastal bluff morning-glory ESHA buffer associated with the 20-foot private road easement. LUP Policy 3.1-32 limits land divisions, including lot line adjustments, which are located within ESHAs and does not permit such land divisions if any parcel being created does not have an adequate building site which would allow for the development of the building site consistent with LUP Policy 3.1-7. In addition, CZC Section 20.496.020(A)(3) explicitly disallows boundary line adjustments that create or provide for new parcels entirely within a buffer area. Additionally, CZC Section 20.524.010(B)(g) requires that land divisions shall not have significant adverse effects, either individually or cumulatively, on ESHAs or on other coastal resources, and CZC Section 20.524.010(B)(m) requires that identified coastal resources within the proposed area to be divided are protected from significant adverse environmental impacts. The County's findings do not analyze alternatives, including the no-project alternative, to demonstrate options that would best avoid significant adverse effects on the ESHA.

Thus, because (1) boundary line adjustments are not allowed to create or provide for new parcels entirely within a buffer area; (2) the botanical report and May 2009 tentative map show that the proposed building envelope would occur within ESHA buffers and may likely directly impact sensitive coastal bluff morning-glory plants; and (3) the County approval does not adequately demonstrate that the land division will not have significant adverse effects, either individually or cumulatively, on ESHAs, the project, as approved by the County, is inconsistent with the ESHA protection provisions of the certified LCP including, but not limited to, LUP Policies 3.1-7 and 3.1-18, 3.1-32, and CZC Sections 20.496.020 and 20.524.010(B).

CONCLUSION:

The project as approved therefore is inconsistent with the certified LCP because (1) the County approval fails to address the consistency of the project with the ESHA buffer requirements of LUP Policies 3.1-7, 3.1-32, and 3.1-18 and CZC Section 20.496.020, including how a buffer that is less than the minimum of 100 feet is allowable under the LCP; (2) the County approval fails to address the consistency of the project with LUP Policies 3.1-7 and 3.1-32 and CZC Section 20.496.020 that disallow boundary line adjustments that create or provide for new parcels entirely within ESHA or ESHA buffer areas; and (3) the County approval does not adequately demonstrate that the land division will not have significant adverse effects, either individually or cumulatively, on ESHAs, consistent with CZC Section 20.524.010.

As a result, the project as approved is inconsistent with the policies of the certified LCP, including but not limited to LUP Policies 3.1-7, 3.1-18, and 3.1-32, and Sections 20.496, 20.524, and 20.532 of the Mendocino County Coastal Zoning Code.

Owner: Jorg Hohnloser
 2422 Harding Ave.
 Redwood City, Ca. 94062

Project Address: 36420 & 36430 S. Highway One
 Gualala, Ca. 95445

Map prepared by: Richard A. Seale, L.S. 4455
 420 Redwood Ave.
 Fort Bragg, Ca. 95437
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TENTATIVE MAP

Proposed Boundary Line Adjustment between A.P.#
 144-130-23, 144-130-29 being a portion of Section 20,
 Township 11 North, Range 15 West, Mount Diablo
 Base and Meridian.

Mendocino County
 California
 May, 2009

Scale 1" = 30'
 1:360 Sheet one of one

501 Low Camp Rd
 P.O. 1440
 Ukiah, CA 95510
 P: 707-461-4201

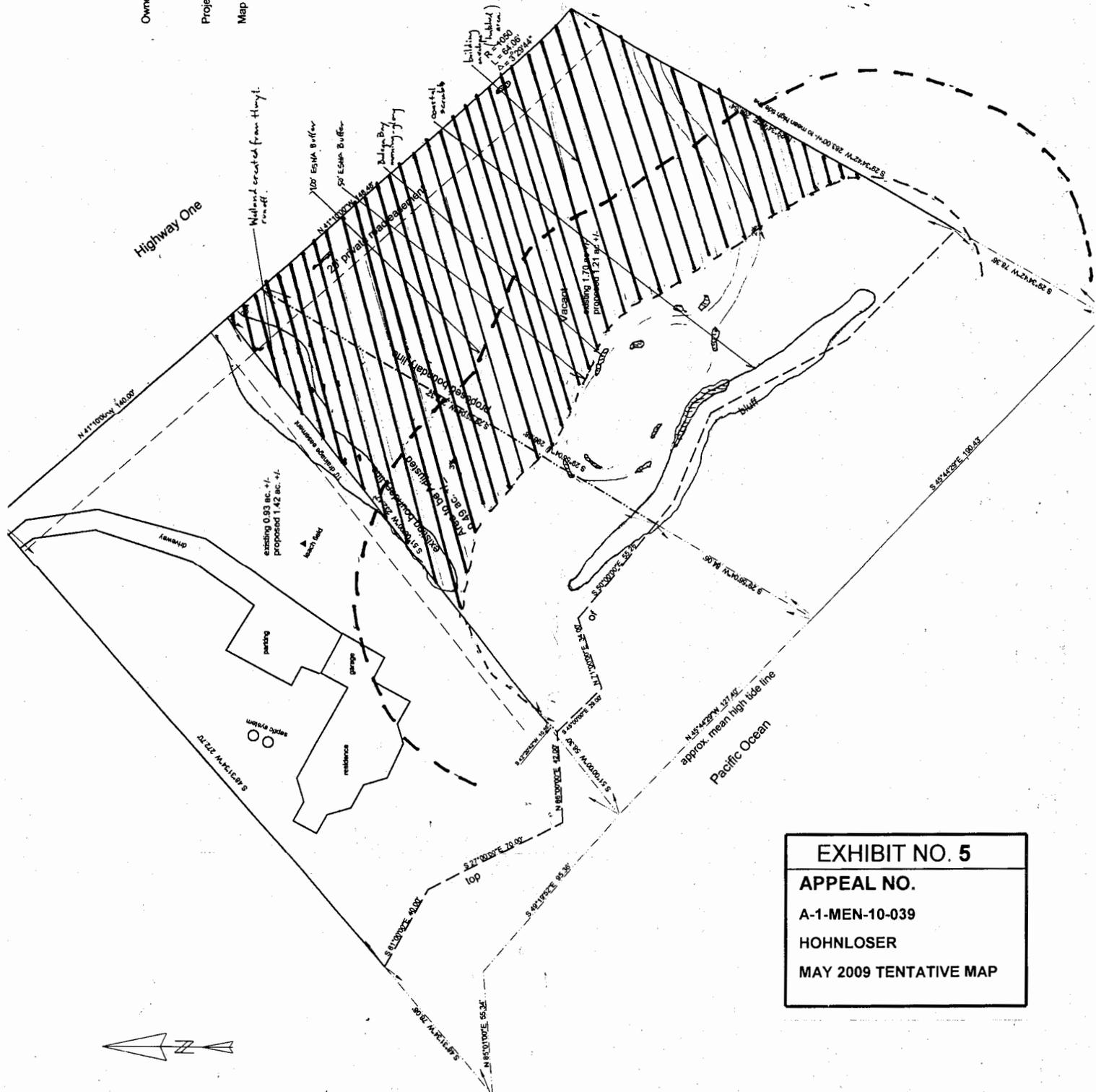


EXHIBIT NO. 5
APPEAL NO.
A-1-MEN-10-039
HOHNLOSER
MAY 2009 TENTATIVE MAP

**BOTANICAL SURVEY AND
ESHA ASSESSMENT**

**FOR
SOUTH HIGHWAY 1
A.P.# 144-130-23
GUALALA, CALIFORNIA
MENDOCINO COUNTY**

EXHIBIT NO. 6
APPEAL NO. A-1-MEN-10-039 HOHNLOSER AUGUST 2007 BIOLOGICAL REPORT (1 of 34)

prepared by:
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August 2007

RECEIVED
JUL 15 2009

BY
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SUMMARY

A survey on an approximately 1.5-acre parcel zoned rural-residential was conducted to locate rare plants and communities and wetlands within the Project Site. The proposed project is a boundary line adjustment that reduces the parcel to 1 acre. No residence is proposed in this project and no structures occur on the site; only an unpaved road and cleared area occur. Coastal bluff scrub and coastal bluff morning-glory are considered ESHAs and occur on the Project Site. Fifty-foot and one hundred-foot setbacks from the ESHAs would prohibit development and access to the property. Therefore, 50' setbacks are created for the coastal bluff scrub and portions of the morning-glory occurrences, which are strongly associated with the unpaved road and the cleared area. Analyses of ESHA buffers are examined to determine the feasibility of a building site, and a mitigation plan for potential impacts to coastal bluff morning-glory is developed.

BACKGROUND/PROJECT DESCRIPTION

The botanical/ESHA survey was conducted as a condition of the permit necessary to build within the Coastal Zone in Mendocino County. The purpose of the study was to describe the existing vegetation communities, survey the parcel for special-status plant species, vegetation communities, stream, and wetlands, and recommend appropriate mitigation measures that help to reduce the impacts to wetland-, riparian-, and rare plant-buffers, which are considered Environmentally Sensitive Habitat Areas (ESHA's) under the Mendocino County Local Coastal Plan (LCP) (Mendocino County, 1991).

No development is proposed at this time. The owner of the adjacent lot to the north (APN 144-130-29) proposes to purchase the Project Site parcel (APN 144-130-23) and decrease it to approximately 1 acre, thus increasing the owner's parcel.

The proposed project is examined to determine to what extent, if any, the boundary line adjustment and subsequent the subsequent building envelope will have on any ESHAs or ESHA buffers.

PROJECT SITE DESCRIPTION

The Project Site is a 1.5-acre parcel zoned rural-residential west of Highway 1 and within the California Coastal Zone. No street address has been assigned to the parcel (A.P.N. 144-130-23) located in Gualala, California. It occurs on the NW ¼ of Section 20, Township 11 N, Range 15 W of the Mount Diablo Base Meridian.

Soils are mapped as the Windy Hollow loam with 0 to 5% slopes (Natural Resource Conservation Service, 2001). Topography is flat except for the steep bluff face above the Pacific Ocean.

Improvements to the Project Site include the existing road and cleared area.

Vegetation on the site is predominantly an open-canopy mix of bishop pine (*Pinus muricata*) and dead and living Monterey cypress (*Cupressus macrocarpa*) with coyote bush (*Baccharis pilularis*) as a dominant shrub in the openings. English ivy (*Hedera helix*) is very well established in the trees and shrubs towards the road (See Figures 2-3).

A small narrow band of poor-quality coastal bluff scrub occurs along the bluff edge, and is primarily comprised of poison oak (*Toxicodendron diversilobum*), buckwheat (*Eriogonum dasyanthemum*),

California phacelia (*Phacelia californica*), angelica (*Angelica hendersonii*), coyote brush, and false hedge-nettle (*Stachys ajugoides*).

A small wetland that drains the Highway 1 ditches has Pacific rush (*Juncus effusus*), English ivy, sword fern (*Polystichum munitum*) and horsetail (*Equisetum telmateia*). The tree canopy over the wetland is primarily Monterey cypress.

METHODS

A field survey for botanical and wetland resources was conducted on the Project Site on January 20, May 27, June 23, and July 14, and July 28, 2007. The survey protocol was based on Guidelines for Assessing the Effects of Proposed Developments on Rare, Threatened, and Endangered Plants and Plant Communities developed by James Nelson (CDFG 2000). The rare plants and plant communities considered in the survey are the native plants of limited abundance in California with known occurrence or distribution in Mendocino County, and were derived from the following lists:

- species listed or proposed for listing as threatened or endangered under the federal Endangered Species Act;
- species that are candidates for possible future listing as threatened or endangered under the federal Endangered Species Act;
- species listed or proposed for listing by the State of California as threatened or endangered under the California Endangered Species Act;
- plants listed by the California Native Plant Society (CNPS) as "presumed extinct" in California (List 1A);
- plants considered by CNPS to be "rare, threatened, or endangered in California" (Lists 1B and 2);
- plants listed by CNPS as plants about which more information is needed to determine their status and plants of limited distribution (Lists 3 and 4), which may be included as special-status species on the basis of local significance or recent biological information;
- plant communities listed in the California Natural Diversity Database
- plants of regional or specific interest not on any list above.

These special-status plants were further segregated regionally based on known occurrence on the project area USGS 7.5' quadrangle (Gualala) and the adjacent quadrangles (Zeni Ridge, McGuire Ridge, Stewarts Point, Eureka Hill, Point Arena, Saunders Reef). The regional assessment utilized the California Native Plant Society's (CNPS) electronic inventory (CNPS 2007) and the California Department of Fish and Game's (CDFG) Natural Diversity Data Base Rare Find (CDFG 2007). These special-status species and all other species derived from the aforementioned lists, their associated habitats, and their potential for occurrence in the project area are listed in Tables 1 and 2. Vegetation descriptions are based on Sawyer and Keeler-Wolf (1995), Holland (1986), and California Department of Fish and Game (2003).

BLOOMING PERIOD

A floristic and seasonally appropriate survey was conducted in the field at the time of year when rare, threatened, or endangered species are both evident and identifiable for all species expected to occur in the Study Area.

Table 1. Special-Status Plants of Potential Occurrence on the Project Site. This table is derived from federal, state, and CNPS-listed plant species, including plants of regional significance. Explanation of column headings:

- FED: federal status includes federally rare (FR), threatened (FT), or endangered (FE)
 STATE: California state status includes rare (CR), threatened (CT), or endangered (CE)
 CNPS: California Native Plant Society ranked inventory of native California plants thought to be at risk.
- List 1A (1A) Presumed extinct in California
 List 1B (1B) Rare, threatened, or endangered in California and elsewhere.
 List 2 (2) Rare, threatened or endangered in California but more common elsewhere.
 List 3 (3) More information needed, a review list.
 List 4 (4) Species of limited distribution, a watch list

CNDDB ELEMENT RANK

GRANK: Global Ranking - The global rank (G-rank) is a reflection of the overall condition of an element throughout its global range.

SPECIES OR NATURAL COMMUNITY LEVEL

- G1 = Less than 6 viable element occurrences (Eos) OR less than 1,000 individuals OR less than 2,000 acres.
 G2 = 6-20 Eos OR 1,000-3,000 individuals OR 2,000-10,000 acres.
 G3 = 21-80 Eos OR 3,000-10,000 individuals OR 10,000-50,000 acres.
 G4 = Apparently secure; this rank is clearly lower than G3 but factors exist to cause some concern; i.e., there is some threat, or somewhat narrow habitat.
 G5 = Population or stand demonstrably secure to intractable due to being commonly found in the world.

SUBSPECIES LEVEL

Subspecies receive a T-rank attached to the G-rank. With the subspecies, the G-rank reflects the condition of the entire species, whereas the T-rank reflects the global situation of just the subspecies or variety. For example: *Chorizanthe robusta* var. *hartwegii*. This plant is ranked G2T1. The G-rank refers to the whole species range i.e., *Chorizanthe robusta*. The T-rank refers only to the global condition of var. *hartwegii*.

Notes:

- Other considerations used when ranking a species or natural community include the pattern of distribution of the element on the landscape, fragmentation of the population/stands, and historical extent as compared to its modern range. It is important to take a bird's eye or aerial view when ranking sensitive elements rather than simply counting Eos.
- Uncertainty about the rank of an element is expressed in two major ways:
 By expressing the rank as a range of values: e.g., S2S3 means the rank is somewhere between S2 and S3.
 By adding a ? to the rank: e.g., S2? This represents more certainty than S2S3, but less than S2.
- Other symbols
 GH - All sites are historical; the element has not been seen for at least 20 years, but suitable habitat still exists (SH = All California sites are historical).
 GX - All sites are extirpated; this element is extinct in the wild (SX = All California sites are extirpated).
 GXC - Extinct in the wild; exists in cultivation.
 G1Q - The element is very rare, but there are taxonomic questions associated with it.
 T - Rank applies to a subspecies or variety.

A Threat Code extension has been added following the CNPS List (e.g. 1B.1, 2.2 etc.)

Threat Code extensions and their meanings:

- 1 - Seriously endangered in California
- 2 - Fairly endangered in California
- 3 - Not very endangered in California

SRANK: STATE RANKING - The state rank (S-rank) is assigned much the same way as the global rank, except state ranks in California often also contain a threat designation attached to the S-rank.

- S1 = Less than 6 viable Eos OR less than 1,000 individuals OR less than 2,000 acres
 S1.1 = very threatened
 S1.2 = threatened
 S1.3 = not very threatened OR no current threats known
 S2 = 6-20 Eos OR 1,000-3,000 individuals OR 2,000-10,000 acres
 S2.1 = very threatened
 S2.2 = threatened
 S2.3 = not very threatened OR no current threats known
 S3 = 21-80 Eos or 3,000-10,000 individuals OR 10,000-50,000 acres
 S3.1 = very threatened
 S3.2 = threatened
 S3.3 = not very threatened OR no current threats known
 S4 = Apparently secure within California; this rank is clearly lower than S3 but factors exist to cause some concern; i.e. there is some threat, or somewhat narrow habitat.
 S5 = Demonstrably secure to intractable in California. NO THREAT RANK.

TAXON	COMMON NAME	CNPS	FED	STATE	CNDDB ELEMENT RANK		HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
					GRANK	SRANK		
<i>Abronia umbellata</i> ssp. <i>breviflora</i>	pink sand-verbena	1B.1	-	-	G4G5T2	S2.1	coastal dunes	No
<i>Agrostis blasdalei</i>	Blasdale's bent grass	1B.2	-	-	G2	S2.2	coastal bluff scrub, coastal dunes, coastal prairie	Yes
<i>Agrostis chivicola</i> var. <i>punta-reyesensis</i>	Point Reyes bent grass	NL	-	-	G3T1Q	S1.2	coastal bluff. Endemic to Point Reyes Peninsula but known from two locations on near Stewart's Point	No
<i>Angelica lucida</i>	Sea-watch	4.2	-	-	G5	S2S3	coastal bluffs, beaches	Yes
<i>Arctostaphylos canescens</i> ssp. <i>sonomensis</i>	Sonoma manzanita	1B.2	-	-	G3G4T2	S2.1	chaparral, lower montane coniferous forest/sometimes serpentine. Inland from the coast.	No
<i>Arctostaphylos mendocinoensis</i>	pygmy manzanita	1B.2	-	-	G1	S17	closed cone coniferous forest (acidic sandy clay)	No
<i>Arctostaphylos stanfordiana</i> ssp. <i>raichei</i>	Raiche's manzanita	1B.1	-	-	G3T7T	S7	chaparral, lower montane coniferous forest (openings)/rocky, often serpentine. Inland from the coast	No
<i>Astragalus agnicidus</i>	Humboldt milk-vetch	1B.1	-	-	G1	S1.1	broadleaf upland forests, North Coast coniferous forest / disturbed areas	No
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i>	coastal marsh milk-vetch	1B.2	-	-	G3T2	S2.2	coastal dunes (mesic), marshes and swamps, (coastal salt, and stream-sides)	No
<i>Blennosperma nanum</i> var. <i>robustum</i>	Point Reyes blennosperma	1B.2	-	CR	G4T1	S1.2	coastal prairie, coastal scrub. Known only from Glass Beach, Fort Bragg on the Mendocino coast.	No
<i>Boschniakia hookeri</i>	small groundcone	2.3	-	-	G5	S1S2	North Coast coniferous forest	No
<i>Calamagrostis bolanderi</i>	Bolander's reed grass	4.2	-	-	G3	S2.2	bogs & fens, broadleaf upland forests, closed cone coniferous forest, coastal scrub, meadows (mesic), marshes & swamps (freshwater), North Coast coniferous forests / mesic	Yes
<i>Calamagrostis crassiglumis</i>	Thurber's reed grass	2.1	-	-	G3Q	S1.2	coastal scrub (mesic)	No
<i>Calamagrostis foliosa</i>	leafy reed grass	4.2	-	CR	G3	S3.2	coastal bluff scrub, North Coast coniferous forest /rocky. Most occurrences from the King Range	No
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	1B.2	-	-	G4T2	S2.2	coastal dunes, coastal scrub	Yes
<i>Campanula californica</i>	swamp harebell	1B.2	-	-	G3	S3.2	bogs & fens, closed cone coniferous forest, coastal prairie, meadows, marshes & swamps (freshwater), North Coast coniferous forests / mesic	Yes
<i>Cardamine pachystigma</i> var. <i>dissitifolia</i>	dissected-leaved toothwort	3	-	-	G7T7P	S2S3	chaparral, lower montane coniferous forest / usually serpentine, rocky. Above 700'	No
<i>Carex arcta</i>	toothwort	2.2	-	-	G5	S1S2	bogs and fens, North Coast coniferous forest (mesic)	No
<i>Carex californica</i>	California sedge	2.3	-	-	G5	S7	bogs & fens, closed cone coniferous forest, coastal prairie, meadows, marshes & swamps (margins)	No

TAXON	COMMON NAME	CNPS	FED	STATE	CNDDB ELEMENT RANK		HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
					GRANIC	SRANK		
<i>Carex lenticularis</i> var. <i>limnophila</i>	lakeshore sedge	2.2				S1S2.2	coastal swamps and bogs, North Coast coniferous forests (mesic)	No
<i>Carex livida</i>	livid sedge	1A				S1	bogs & fens	No
<i>Carex lyngbyei</i>	Lyngbye's sedge	2.2				S2.2	marshes & swamps (brackish or freshwater)	No
<i>Carex saliniformis</i>	deceiving sedge	1B.2				S2.2	coastal prairie, coastal scrub, meadows, marshes & swamps (coastal salt) / mesic	No
<i>Carex viridula</i> var. <i>viridula</i>	green sedge	2.3				S1.3	bogs & fens, marshes & swamps (freshwater), North Coast coniferous forests (mesic)	No
<i>Castilleja affinis</i> ssp. <i>litoralis</i>	Oregon coast paintbrush	2.2				S2.2	coastal bluff scrub, coastal dunes, coastal scrub/sandy	No
<i>Castilleja ambigua</i> ssp. <i>humboldtensis</i>	Humboldt Bay owl's clover	1B.2				S2.2	marshes & swamps (coastal salt)	No
<i>Castilleja mendocinensis</i>	Mendocino coast paintbrush	1B.2				S2.2	coastal bluff scrub, closed cone coniferous forest, coastal dunes, coastal prairie, coastal scrub	Yes
<i>Ceanothus gloriosus</i> var. <i>exaltatus</i>	glory bush	4.3				S3.3	chaparral	No
<i>Ceanothus gloriosus</i> var. <i>gloriosus</i>	Point Reyes ceanothus	4.3				S3.3	coastal bluff scrub, closed cone coniferous forest, coastal dunes, coastal scrub / sandy	Yes
<i>Chorizanthe howellii</i>	Howell's spineflower	1B.2	FE	CT		S1.2	coastal dunes, coastal prairie, coastal scrub / sandy	No
<i>Clarkia amoena</i> ssp. <i>whitneyi</i>	Whitney's farewell-to-spring	1B.1				S2.1	coastal bluff scrub, coastal scrub	No
<i>Collinsia corymbosa</i>	round-headed Chinese houses	1B.2				S1.2	coastal dunes	No
<i>Coptis laciniata</i>	Oregon goldenthread	2.2				S3.2	meadows and seeps, North Coast coniferous forest streambanks/mesic	No
<i>Clupressus goveniana</i> ssp. <i>pigmaea</i>	pygmy cypress	1B.2				S2.2	closed cone coniferous forest (podzol-like soil)	No
<i>Eriogonum steplex</i>	supple daisy	1B.2				S1.1	coastal bluff scrub, coastal prairie	Yes
<i>Eriogonum kelloggii</i>	Kellogg's buckwheat	1B.2				S1.2	Inland from the coast. Most collections on Red Mountain where it is possibly endemic.	No
<i>Erysimum menziesii</i> ssp. <i>menziesii</i>	Menzies's wallflower	1B.1	FE	CE		S2.1	coastal dunes	No
<i>Erythronium revolutum</i>	coast fawn lily	2.2				S2.2	marshes of swamps, bogs, or wooded streams, broad-leaved upland forest, North Coast coniferous forest / mesic, streambanks	No
<i>Fritillaria roderickii</i>	Roderick's fritillary	1B.1				S1.1	coastal bluff scrub, coastal prairie, valley & foothill grasslands	No
<i>Gilia capitata</i> ssp. <i>chamissoensis</i>	dune gilia	1B.1				S2.1	coastal dunes, coastal scrub	No
<i>Gilia capitata</i> ssp. <i>pacifica</i>	Pacific gilia	1B.2				S2.7	coastal bluff scrub, coastal prairie	No
<i>Gilia capitata</i> ssp. <i>tomentosa</i>	wolly-headed gilia	1B.1				S1.1	Known from only three occurrences near Tomales and Salt Pt. SP.	No
<i>Gilia millefoliata</i>	dark-eyed gilia	1B.2				S2.2	coastal dunes	No

TAXON	COMMON NAME		CNPS	FED	STATE	CNDDB ELEMENT RANK		HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
						GRANK	SRANK		
<i>Glyceria grandis</i>	American manna grass		2.3	-	-	G5	S1.37	bogs and fens, meadows and seeps, marshes and swamps (streambanks and lake margins)	No
<i>Hemizonia congesta</i> ssp. <i>leucocephala</i>	Hayfield tarplant		3	-	-	G5T73	S2S3	coastal scrub, valley and foothill grassland	No
<i>Hespererax sparsiflora</i> ssp. <i>brevifolia</i>	short-leaved ewax		2.2	-	-	G4T3	S2.2	coastal bluff scrub (sandy)	Yes
<i>Horkelia marinensis</i>	Point Reyes horkelia		1B.2	-	-	G2	S2.2	coastal dunes, coastal prairie, coastal scrub / sandy	Marginal
<i>Horkelia tenuiloba</i>	thin-lobed horkelia		1B.2	-	-	G2	S2.2	broadleafed upland forest, chaparral/mesic openings, sandy	No
<i>Juncus supiniformis</i>	hair-leaved rush		2.2	-	-	G5	S2.27	bogs & fens, marshes & swamps (freshwater) / near coast	No
<i>Lasthenia conjugens</i>	Contra Costa goldfields		1B.1	FE	-	G1	S1.1	cismontane woodland, playas (alkaline), valley and foothill grassland, vernal pools/mesic	No
<i>Lasthenia macrantha</i> ssp. <i>bakeri</i>	Baker's goldfields		1B.2	-	-	G3TH	SH	closed cone coniferous forest (openings), coastal scrub	Marginal
<i>Lasthenia macrantha</i> ssp. <i>macrantha</i>	perennial goldfields		1B.2	-	-	G3T2	S2.2	coastal bluff scrub, coastal dunes, coastal scrub	Marginal
<i>Lilium maritimum</i>	coast lily		1B.1	-	-	G2	S2.1	broadleaf upland forests, closed cone coniferous forest, coastal prairie, coastal scrub, marshes & swamps (freshwater), North Coast coniferous forests	Yes
<i>Lotus formosissimus</i>	coastal lotus		4.2	-	-	G4	S3.2	broadleafed upland forest, coastal bluff scrub, closed-cone coniferous forest, cismontane woodland, coastal prairie, coastal scrub, meadows and seeps, marshes and swamps, North Coast coniferous forest, valley and foothill grassland/wetlands, roadsides	Yes
<i>Lycopodium clavatum</i>	running-pine		2.3	-	-	G5	S2S3	marshes & swamps, North Coast coniferous forests (mesic)	No
<i>Microseris borealis</i>	northern microseris		2.1	-	-	G4?	S1.1	bogs and fens, lower montane coniferous forest, meadows and seeps/mesic, 3000-6000' elevation	No
<i>Microseris patulosa</i>	microseris		1B.2	-	-	G2	S2.2	closed-cone coniferous forest, cismontane woodland, coastal scrub, valley and foothill grassland. No specific locations for Mendocino County based on CNPS website. Mendocino County not suspected habitat based on range.	No
<i>Mitella caulescens</i>	leafy-stemmed mitrewort		4.2	-	-	G5	S4.2	broadleaf upland forests, lower montane coniferous forests, meadows, North Coast coniferous forests / mesic	No
<i>Monotropa uniflora</i>	Indian pipe		2.2	-	-	G5	S2S3	broadleafed upland forest, north Coast coniferous forest. Not known from Mendocino County.	No
<i>Phacelia insularis</i> var. <i>continentis</i>	North Coast phacelia		1B.2	-	-	G7TI	S1.2	coastal bluff scrub, coastal dunes / sandy	No

TAXON	COMMON NAME	CNPS	FED	STATE	CNDDB		HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
					ELEMENT RANK	GRANK		
<i>Pinus contorta</i> ssp. <i>bolanderi</i>	Bolander's beach pine	1B.2	-	-	G5T3	S3.2	closed cone coniferous forest (podzol-like soil). Not found south of Cameron Ridge.	No
<i>Pleuropogon hooverianus</i>	North Coast semaphore grass	1B.1	-	CT	G1	S1.1	broadleaf upland forest, meadows and seeps, North Coast coniferous forest/open areas, mesic	No
<i>Pleuropogon refractus</i>	nodding semaphore grass	4.2	-	-	G4	S3.27	lower montane coniferous forests, meadows, North Coast coniferous forests, riparian forests / mesic	No
<i>Potentilla hickmanii</i>	Hickman's cinquefoil	1B.1	-	-	G1	S1.1	coastal bluff scrub, closed-cone coniferous forest, meadows and seeps (vernal mesic), marshes and swamps (freshwater)	No
<i>Puccinellia pumila</i>	dwarf alkali grass	2.2	-	-	G4?	S1.1?	marshes & swamps (coastal salt)	No
<i>Rhynchospora alba</i>	white-beaked rush	2.2	-	-	G5	S3.2	bogs & fens, meadows, marshes & swamps (freshwater)	No
<i>Sanguisorba officinalis</i>	great burnet	2.2	-	-	G5?	S2.2	bogs & fens, broadleaf upland forests, meadows, marshes & swamps, North Coast coniferous forests, riparian forests / often serpentine	No
<i>Senecio bolanderi</i> var. <i>bolanderi</i>	seacoast ragwort	2.2	-	-	G4T4	S1.2	coastal scrub, North Coast coniferous forests	No
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	1B.2	-	-	G5T2	S2.2	marshes & swamps (freshwater, near coast)	No
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom	4.2	-	-	G3	S3.2	broadleaf upland forests, coastal prairie, coastal scrub, North Coast coniferous forests / often disturbed areas	Marginal
<i>Sidalcea malviflora</i> ssp. <i>patula</i>	Siskiyou checkerbloom	1B.2	-	-	G5T1	S1.1	coastal bluff scrub, coastal prairie, North Coast coniferous forest / often roadcuts. One collection 2 miles south of Abion in roadside ditch.	Marginal
<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	purple-stemmed checkerbloom	1B.2	-	-	G5T2	S2.2	broadleaf upland forests, coastal prairie	Marginal
<i>Triguettella californica</i>	coastal triquetrella	1B.2	-	-	G1	S1.2	coastal bluff scrub, coastal scrub/soil	No
<i>Usnea longissima</i>	long-beard lichen	-	-	-	G1	S1.1	semi-open canopy forests, old-growth forests	No
<i>Veratrum fimbritatum</i>	fringed false- hellebore	4.3	-	-	G3	S3.3	bogs & fens, coastal scrub, meadows, North Coast coniferous forests (mesic)	No
<i>Viburnum ellipticum</i>	oval-leaved viburnum	2.3	-	-	G5	S2.3	chaparral, disjunct montane woodland, lower montane coniferous forest. Inland from the coast.	No
<i>Viola adunca</i>	dog violet	-	-	-	-	-	coastal prairie, meadows	Yes
<i>Viola palustris</i>	marsh violet	2.2	-	-	G5	S1S2	coastal scrub (mesic), bogs & fens (coastal)	No

Table 2. Special-Status Plant Communities Listed in the California Natural Diversity Data Base (CNDDB).

Explanation of ranking:

GRANK: Global Ranking - The global rank (G-rank) is a reflection of the overall condition of an element throughout its global range.

G1 = Less than 6 viable element occurrences (Eos) OR less than 1,000 individuals OR less than 2,000 acres.

G2 = 6-20 Eos OR 1,000-3,000 individuals OR 2,000-10,000 acres.

G3 = 21-80 Eos OR 3,000-10,000 individuals OR 10,000-50,000 acres.

G4 = Apparently secure; this rank is clearly lower than G3 but factors exist to cause some concern; i.e., there is some threat, or somewhat narrow habitat.

G5 = Population or stand demonstrably secure to ineradicable due to being commonly found in the world.

SRANK: STATE RANKING - The state rank (S-rank) is assigned much the same way as the global rank, except state ranks in California often also contain a threat designation attached to the S-rank.

S1 = Less than 6 viable Eos OR less than 1,000 individuals OR less than 2,000 acres

S1.1 = very threatened

S1.2 = threatened

S1.3 = not very threatened OR no current threats known

S2 = 6-20 Eos OR 1,000-3,000 individuals OR 2,000-10,000 acres

S2.1 = very threatened

S2.2 = threatened

S2.3 = not very threatened OR no current threats known

S3 = 21-80 Eos or 3,000-10,000 individuals OR 10,000-50,000 acres

S3.1 = very threatened

S3.2 = threatened

S3.3 = not very threatened OR no current threats known

S4 = Apparently secure within California; this rank is clearly lower than S3 but factors exist to cause some concern; i.e. there is some threat, or somewhat narrow habitat.

S5 = Demonstrably secure to ineradicable in California. NO THREAT RANK.

Special-Status Plant Community	Ranking		Present on Site
	Global	State	
Grand Fir Forest	G1	S1.1	No
North Coast Black Cottonwood Riparian Forest	G1	S1.1	No
North Seagrass Bed	G1	S1.1	No
Northern Claypan Vernal Pool	G1	S1.1	No
Northern Foredune Grassland	G1	S1.1	No
Sitka Spruce Forest	G1	S1.1	No
North Embayment	G1	S1.2	No
North Eusaline Lagoon	G1	S1.2	No
North Mixosaline Lagoon	G1	S1.2	No
Fen	G2	S1.2	No
Northern Dune Scrub	G2	S1.2	No
Coastal Brackish Marsh	G2	S2.1	No
Coastal Chinook Salmon Stream	G2	S2.1	No
Coastal Coho Salmon Stream	G2	S2.1	No
Coastal Terrace Prairie	G2	S2.1	No
Ledum Swamp	G2	S2.1	No
Mendocino Pygmy Cypress Forest	G2	S2.1	No
North Mesosaline Estuary	G2	S2.1	No
North Mixosaline Estuary	G2	S2.1	No
North Oligosaline Estuary	G2	S2.1	No
Northern Foredunes	G2	S2.1	No
Freshwater Swamp	G2	S2.2	No
North Coast Alluvial Redwood Forest	G2	S2.2	No
North Cobble Intertidal	G2	S2.2	No
North Cobble Shore	G2	S2.2	No

	Ranking		
North Rock Intertidal	G2	S2.2	No
Northern Bishop Pine Forest	G2	S2.2	No
Northern Coastal Bluff Scrub	G2	S2.2	Marginal
Wildflower Field	G2	S2.2	No
Sphagnum Bog	G3	S1.2	No
Active Coastal Dunes	G3	S2.2	No
Red Alder Riparian Forest	G3	S2.2	No
Northern Silk Tassel Scrub	G3	S2.3	No
Sitka Spruce Grand Fir Forest	G4	S1.1	No
Beach Pine Forest	G4	S2.1	No
Coastal Douglas Fir Western Hemlock Forest	G4	S2.1	No
Native Grassland	G3	S3.1	No
Northern Hardpan Vernal Pool	G3	S3.1	No
California Bay Forest	G3	S3.2	No
Coastal Steelhead Trout Stream	G3	S3.2	No
North Coast Riparian Scrub	G3	S3.2	No
North/Central Dune Lake	G3	S3.2	No
Northern Coastal Salt Marsh	G3	S3.2	No
Silk Tassel Forest	G3	S3.2	No
Woodwardia Thicket	G3	S3.2	No
Bush Chinquapin Chaparral	G3	S3.3	No
North Mud Intertidal	G3	S3.3	No
North Sand Intertidal	G3	S3.3	No
Poison Oak Chaparral	G3	S3.3	No
Freshwater Seep	G4	S3.2	No
Northern Salal Scrub	G4	S3.2	No
Red Alder Forest	G4	S3.2	No
Blue Brush Chaparral	G4	S4	No
Mixed North Slope Forest	G4	S4	No
Non Native Grassland	G4	S4	No
Northern Coyote Bush Scrub	G4	S4	No
Tan Oak Forest	G4	S4	No
North Rock Shore	G4	S4.3	Yes
North Sand Shore	G4	S4.3	No
Artificial Habitat	G?	S?	No
N. Central Coast Calif. Roach/Stickleback/Steelhead Stream	G?	S?	No
Northern Claypan Vernal Pool	G?	S?	No

SURVEY RESULTS

DOCUMENTED SPECIES PRESENCE

The special-status plants, communities, and wetlands with regional known occurrence having potential habitat in the project site were surveyed for presence (Tables 1 and 2). Species without potential habitat in the Project Site were considered, but surveys were focused on those with potential habitat. The survey results of detected special-status species were recorded (Table 3) and drawn on a map of the Project Site (Figure 1). Species that are listed in Tables 1 and 2 but not below in Table 3 were not detected.

Table 3. Wetlands and Special-Status Plants and Plant Communities Documented on the Project Site.

SCIENTIFIC NAME	COMMON NAME	CNPS RANK	POPULATION SIZE	ESHA
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	CNPS List 1B.2	Approx. 225 individuals	Yes
-	northern coastal bluff scrub	G2 / S2.2	Approx. 0.07 acres	Yes
-	north rock shore	G4 / S4.3	Approx. 0.07 acres	No
-	wetland	-	Approx. 0.065 acres	No

Coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) – The coastal bluff morning-glory is a subspecies of a more common morning glory (*Calystegia purpurata* ssp. *purpurata*). Differences between the two subspecies are subtle as intergradation is common. This results in intermediate forms that are often difficult to identify (Hickman 1993, p.57). The coastal bluff morning-glory is perennial plant that grows from a woody root, or caudex in coastal bluff scrub from Marin to Mendocino Counties. It is trailing or weakly-climbing, and is restricted to areas of coastal scrub. The leaves are round-triangular to kidney-shaped with the space between the bottom leaf lobes generally being closed and the lobes rounded. The common morning-glory is also perennial but is more robust and is often strongly climbing greater than three feet tall. Leaf blades are much more triangular than the coastal bluff morning-glory and the space between the lower leaf lobes is V-shaped. The tips are pointed (acute) instead of rounded, and the lobes are generally strongly angled. Both subspecies have white or cream-colored to more or less purple-striped flowers that bloom from May to September (Hickman, p. 520; Munz 1959, p. 462). Morning-glories can be early successional species, and they often show an affinity for growing in openings and along edges of brushy areas.

Wetland – The wetland on the Project Site appears to have its source of water come solely from the culvert under Highway 1 and the ditches that drain the same road. Above the wetland is a 8' culvert approximately 4' below the grade of Highway 1. Associated with the culvert is an earth catch basin that collects water from the east side of the highway where there is a 6-10' cut bank that likely contributes to the seeping of water.

Herbaceous ground cover is typical of wetland vegetation and consists primarily of pacific rush (*Juncus effusus* ssp. *pacificus*), sword fern (*Polystichum munitum*), and horsetail (*Equisetum telmateia*). Two dominant plants not typical of wetland vegetation are English ivy (*Hedera helix*) in the ground cover and vine stratum and Monterey cypress (*Cupressus macrocarpa*) in the tree canopy.

Northern Coastal Bluff Scrub (31.100.00) – The coastal scrub community is comprised primarily of poison oak (*Toxicodendron diversilobum*), big rattlesnake grass (*Briza maxima*), coyote brush (*Baccharis pilularis*), Scotch broom (*Cytisus scoparius*), angelica (*Angelica hendersonii*), and coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) (See Figures 2-3). A few areas, usually closer to the bluff and on the bluff face, have a higher diversity of native plants and fewer exotic weeds, native species include

buckwheat (*Eriogonum dasycanthum*), dudleya (*Dudleya farinosa*), and wooly sunflower (*Eriophyllum lanatum*).

North rock shore – Below the steep bluff face is a rocky shore of small coves and rocky outcrops.

FLORISTIC SURVEY

A floristic survey was completed for the surveyed area; all plants encountered were documented (Appendix A). Taxonomy follows *The Jepson Manual* (Hickman 1993).

DISCUSSION

An analysis of the proposed projects utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) is presented in Table 3. Reasons for development within the buffer are given in the table and conditions and mitigating measures for development within the buffer are given below.

The analysis of the project and the proposals to offset any negative impacts have concluded that the ESHA will not be significantly degraded by the proposed development. With the implementation of the mitigation plan (Appendix C), the coastal bluff morning-glory occurrences and habitat are planned for enhancement. Consideration was given to the entire lot, the existing and the configuration resulting from the proposed boundary line adjustment, and there is no feasible less environmentally damaging alternative given the constraints of the ESHA buffers on the Project Site. The mitigation measures in the plan are extensive methods that aim to feasibly mitigate project-related impacts.

Potential Impact 1: A future building envelope may impact several occurrences of coastal bluff morning-glory along the cleared area and entrance road.

Mitigation Measure 1a: Avoid all occurrences of coastal bluff morning-glory in coastal scrub habitat along the bluff edge.

Prior to construction, all patches of morning-glory will be flagged and staked so they are clearly visible for avoidance. Construction materials and vehicles will not use occupied morning-glory habitat for storage or staging areas. Fluid materials such as concrete rinse water, fuels, and lubricants should not be disposed of onsite and should be stored or confined as necessary to prevent spillage into natural habitats including the horkelia patches and the adjacent areas.

Mitigation Measure 1b: Use permeable surfaces for parking area and road surfaces where feasible.

To reduce the potential for concentrated water runoff from leaving the proposed develop sites, a permeable surface such as permeable pavers or crushed rock will be used in place of concrete or asphalt for roads and parking areas wherever feasible.

Mitigation Measure 1c: Install temporary fencing to ensure grading and/or material storage does not occur in the stream or riparian vegetation.

Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the edge of the buffer from the rare plants.

Mitigation Measure 1a: Implement a monitoring plan addressing the coastal bluff morning-glory and maintenance of the natural vegetation in the ESHA buffers.

A monitoring plan has been designed to offset potential impacts to coastal bluff morning-glories by enhancing the habitat and the occurrences of individuals (Appendix C). This plan includes exotic species removal, rare plant propagation and transplanting, monitoring, and reporting.

The purpose of the final report is to convey to Mendocino County and the California Department of Fish and Game that the proposed mitigation measures are being followed by the applicant and that the potential impacts to coastal bluff morning-glory have been mitigated to a level that is less than significant.

Potential Impact 2: The proposed development within the buffer area may introduce levels of use not compatible with the long-term viability of the rare plants.

Mitigation Measure 2a: Planting of invasive landscaping plants will not occur.

Landscaping within the ESHA buffers will not include any of the invasive plants in Appendix B that are commonly used in landscaping. They include the following species.

blue gum eucalyptus (*Eucalyptus globulus*)

jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)

ivies: English ivy, Algerian ivy, or cape ivy (*Hedera canariensis*, *Delairea odorata* or *Hedera helix*)

periwinkle (*Vinca major*)

cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)

Brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma*, *Genista monspessulana*, *Cytisus striatus*, *Cytisus scoparius* or *Spartium junceum*)

Mitigation Measure 2b: Remove existing Scotch broom and ivy.

Remove the invasive Scotch broom and English ivy growing on the Project Site. Removal of this species will decrease the likelihood of it spreading elsewhere on the parcel and it will potentially create more habitat for coastal bluff morning-glory.

Table 3. Sec. 20.496.020 ESHA - Development Criteria.

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

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

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

(1a) Biological Significance of Adjacent Lands.

Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

Because development is proposed within the 50-foot ESHA buffer, the habitat requirements of coastal bluff morning-glory were reviewed to determine if these habitat requirements existed beyond the current location of the plants. Typical habitat requirements of coastal bluff morning-glory are openings in shrubby areas along the coast and disturbed areas. The general type of habitat where morning-glory occurred on the property was along a cleared, unpaved road and along Highway 1 where competition from other plants was minimized. The highest quality habitat where it occurred was in the coastal bluff scrub. To determine the functional relationship between morning-glory and the area within the buffer, the latter area was evaluated to determine if habitat exists. From searching the buffer area, it was determined that the habitat is restricted to the coastal bluff scrub and cleared areas. The vegetation inside the buffer has a somewhat dense understory of coyote brush and areas of Monterey cypress canopy. There does not appear to be a functional relationship of this area to the habitat requirements of the species.

Table 3. Sec. 20.496.020 ESHA - Development Criteria.

(1b) Sensitivity of Species to Disturbance. The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise.

(1b-i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(1b-ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

(1b-iii) An assessment of the impact and activity levels of the proposed development on the resource.

The wetland habitat that occurs on the property is directly associated with the runoff from Highway 1 and the associated ditches. It does not contain habitat for aquatic insects nor does it support any fish species. Although there will be no significant disturbance to any wildlife potentially using the coastal bluff morning-glory buffer zone, the concern is the sensitivity of the plant species, morning-glory, to disturbance. That is, "Can this species persist if there is development within the buffer?" To answer this question the locations of morning-glory on the parcel were identified (Fig. 1). All occurrences occur on roadsides on the edges of the cleared areas or in openings in the scrub.

In the case that several patches of morning-glory are removed during the construction of a residence, a mitigation plan (Appendix C) will be implemented. Additionally, because it is not feasible to propose a residence outside of the 50' buffer, the mitigation plan outlines a method for enhancing the existing occurrence of morning-glories on the Project Site.

Short-term and long-term disturbance provides an optimal environment for coastal bluff morning-glories (See Appendix C for further examples). Activities such as mowing and removing or pruning shrubs allow the morning-glory to take advantage of light and other resources. Allowing for the potential removal of several occurrences of morning-glory, the reduction of the 50' buffer does not seem to, in any way, disturb the coastal bluff morning-glories. Its persistence, in terms of short- and long-term adaptability to disturbance, is demonstrated by its ability to continue growing along the edges of cleared areas and roads.

To further assess the sensitivity of the species to disturbance, the impact and activity level of the proposed development was evaluated. No development is proposed; however, future development would likely be a single family residence with associated septic areas and parking areas or a garage. During construction, the patches of morning-glory will be flagged and avoided to the greatest extent feasible. All occurrences of morning-glory that may be removed during construction will be dug up and transplanted according to the mitigation plan (Appendix C).

Activities that would occur within this potential residence area are similar to the permitted structures of a parcel zoned rural residential. The use would not result in any significant change in land use practices or any significant change in use pattern for the area. In relation to potential significant adverse impacts resulting from increased activity level, the proposed buffer reduction would be adequate to protect the rare plant. Based on the strong association between morning-glory and road edges and cleared areas at this site, it is anticipated that there will be an increase in habitat for the species. Through a mitigation monitoring schedule, there will be the opportunity to monitor the outcome of the proposed transplanting and enhancement.

(1c) Susceptibility of Parcel to Erosion. The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.

The parcel is a flat coastal bluff terrace with little susceptibility to erosion other than the bluff edge and bluff face. A geotechnical report will determine the minimum distance from the bluff edge to the proposed development. Because occurrences of the coastal bluff morning-glory occur in the vegetation growing on the bluff edge, there will be a minimum 50-60' setback from this location.

Significant adverse impacts to the morning-glory patches from erosion resulting from the proposed development are not expected to occur.

Table 3. Sec. 20/496.020 ESHA - Development Criteria.

(1d) Use of Natural Topographic Features to Locate Development. Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluffs should not be developed, but shall be included in the buffer zone.

The parcel is flat land on a coastal terrace and ranges in elevation from approximately 80' to 100'. Because most occurrences of morning-glory are growing on the bluff face, a buffer is created on this portion of the parcel that locates a building envelope.

(1e) Use of Existing Cultural Features to Locate Buffer Zones. Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.

The only existing cultural features on the parcel are the roads. Most of the roads are within the established 50' buffer from the bluff edge that contains most of the morning-glory occurrences. Some occurrences of morning-glory occur on the portion of the road used to enter the parcel, but in terms of the habitat preferences of the species, it is not ecologically beneficial to create new roads on the parcel where one already exists. The configuration of the proposed structures makes use of the roads (existing cultural features) to the greatest extent feasible.

(1f) Lot Configuration and Location of Existing Development. Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.

The development is proposed in an area that is largely built-out - most of the surrounding lots are rural residential 2-acre parcels with some 5 and 20 acre parcels east of the highway. It is likely that morning-glory occurs on the other coastal bluff lots.

(1g) Type and Scale of Development Proposed. The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area.

No development is proposed at this time, although it is anticipated that the development would be a typical single family residence. When a development is proposed, the mitigation measures would come into effect.

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

The buffer was measured from the edge of the patches of coastal bluff morning-glory.

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

A boundary line adjustment is proposed; however, the adjustment of the line does not affect the building envelope and its proximity to the ESHA and its buffer. By leaving the line as-is, a proposed development would still have to address the morning-glories that occur on the site. Proposing to adjust the boundary line does not create a parcel that is entirely within the ESHA because any development, with or without the line adjustment, would be within the ESHA buffer.

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

Table 3. Sec. 20 496.020 ESHA - Development Criteria.

(4a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

Because coastal bluff morning-glory prefers open, or edge, habitat, any clearing within the buffer will only likely increase habitat for the species. By removing any vegetation, it is anticipated that the species' ability to be self-sustaining and will persist. Natural species diversity will not be significantly affected by the development of the structures within the buffer.

(4b) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.

Figure 1 illustrates the configuration of the rare plant patches in relation to the parcel boundary and the road. Because of the numerous patches of morning-glory growing along the road edge, it is not be feasible to maintain a 50-foot buffer from patches and still site a residence on the parcel. Criteria for building outside of the 50-foot ESHA buffer include

1. creating a new entrance road and thus causing more disturbance to the parcel;
2. building immediately adjacent to Highway 1, and sacrificing the ability to create a vegetative buffer that would screen the potential residence from views from Highway 1.

(4c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

Because there the greatest disturbance on the parcel is currently within the ESHA buffer, any new development will be further away from the morning-glory occurrences, thus affording more habitat for the species, while still providing a building envelope on the parcel.

Given the proposed location of the structures, it is determined that there will be no impact on the maintenance of the biological and physical integrity of the buffer strip.

(4d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

Where the proposed placement of the structures in a future location may disturb the morning-glories and their habitat, the implementation of a vegetation management plan as a mitigation measure increases the ability of morning-glory habitat to be self-sustaining (See Appendix C).

(4e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

No riparian vegetation will be lost due to the encroachment of the development in the buffer. As discussed in 4b and 4c above, the buffer around the morning-glory patches offers little to no protective value as its habitat is restricted to those areas previously cleared along the road edges on the parcel and along the bluff edge. It is anticipated that the mitigation plan will offset any negative impact to morning-glories.

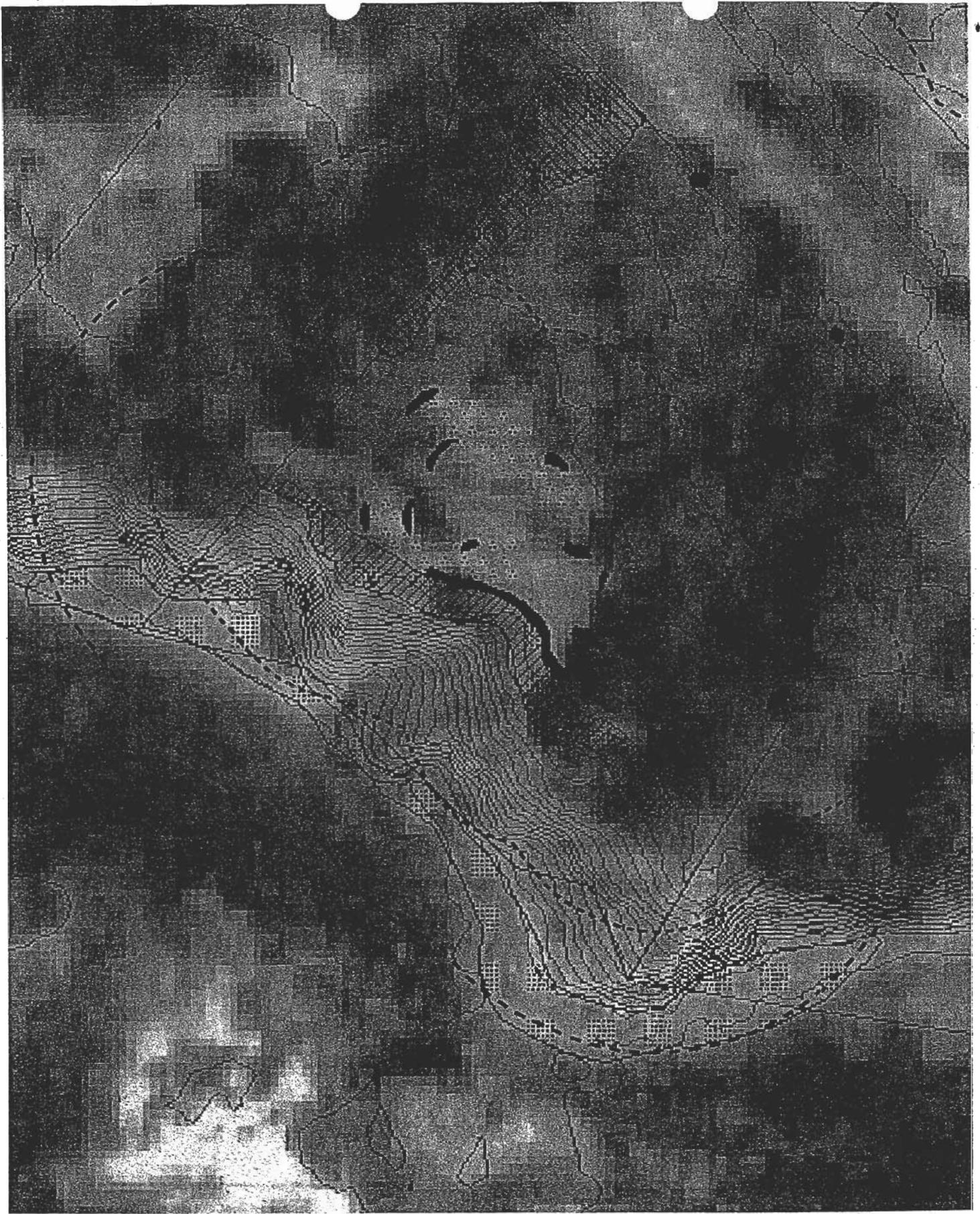
Without the implementation of a mitigation plan, there is no other feasible building envelope on the parcel. With this plan, any proposed development would be done in the least environmentally-impact manner.

Table 3. Sec. 20.496.070 ESHA – Development Criteria.

<p>(4f) <i>Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.</i></p> <p>Impervious surfaces may be minimized by proposing crushed rock driveways instead of an impervious surface such as asphalt or concrete. Vegetation removal, bare soil, and dust may be minimized by locating the structures such that use is made of the existing access road. Nutrient run-off is not anticipated to be any greater than would occur in any other single family residence. Artificial light is minimized and is addressed in the architect's drawing by designing the use of downward shields.</p>
<p>(4g) <i>Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one (1:1) to restore the protective values of the buffer area.</i></p> <p>No riparian or wetland vegetation will be lost during construction.</p>
<p>(4h) <i>Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.</i></p> <p>No structures are proposed with this boundary line adjustment; however, the Project Site does not support a watercourse significant enough that any structure could impede the flow.</p>
<p>(4i) <i>Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.</i></p> <p>Although no development is proposed, future development will not be placed in the wet area draining Highway 1. Practical engineering design would dictate that a structure not be placed in a drainage area. This will ensure hydraulic capacity and subsurface flow patterns are protected. Biological diversity and processes will be protected by the implementation of the mitigation plan (Appendix C) and the creation of the buffer around the bluff edge, which contains the greatest native plant diversity.</p>
<p>(4j) <i>Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.</i></p> <p>The proposed building envelope will not interrupt any flow of groundwater within a buffer strip. Natural runoff may be directed to the drainage area that receives water runoff from Highway 1.</p>
<p>(4k) <i>If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)</i></p> <p>No significant adverse impacts to the ESHA are expected to result from proposed boundary line adjustment and the proposed building envelope. However, because there is development within this buffer and the future construction may remove several occurrences of coastal bluff morning-glory, mitigation measures and conditions will be implemented for the proposed developments within the 100-foot buffer from an ESHA to ensure the long-term viability of the occurrences of coastal bluff morning-glory (See Appendix C).</p>

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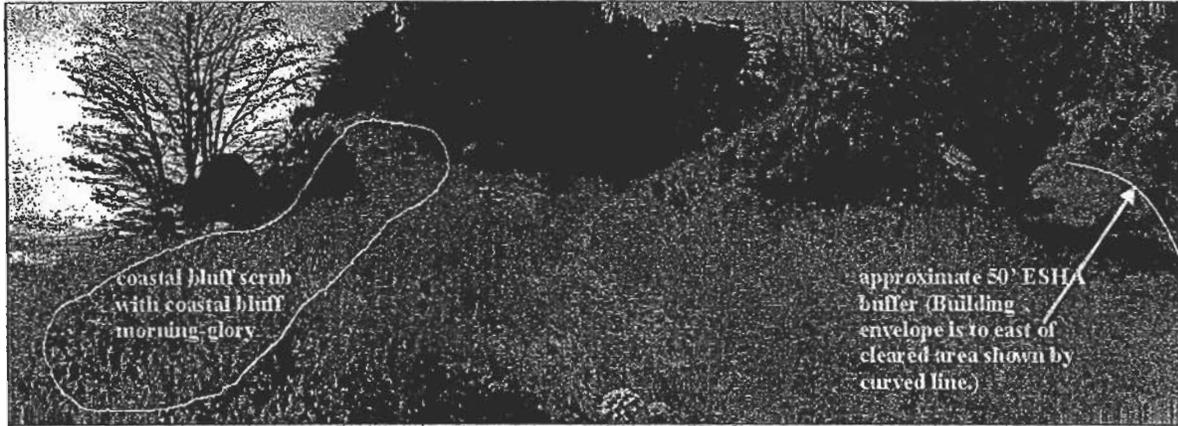


Figure 4. General Habitat of Project Site, Facing North. The best habitat for coastal bluff morning-glory is growing in the coastal bluff scrub towards the edge of the bluff. A buffer from this location places the building envelope just east of the cleared area as shown in the figure.

APPENDICES

Appendix A. List of Plant Species Documented in the Study Area.

Appendix B. List of Invasive Landscaping Plants to Avoid Using

Appendix C. Mitigation Plan for Coastal Bluff Morning-Glory (*Calystegia purpurata* ssp. *saxicola*)

Appendix A. List of Plant Species Documented in the Study Area.

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
FERNS AND ALLIES				
	Dennstaedtiaceae	<i>Pteridium aquilinum</i> var. <i>pubescens</i>	bracken; western bracken	Y
	Dryopteridaceae	<i>Athyrium filix-femina</i> var. <i>cycloorum</i>	subarctic lady-fern; lady fern	Y
		<i>Polystichum munibum</i>	western sword fern	Y
	Equisetaceae	<i>Equisetum arvense</i>	field horsetail; common horsetail	Y
	Polypodiaceae	<i>Polypodium californicum</i>	California polypody	Y
	Pteridaceae	<i>Pentagramma triangularis</i>	gold-back fern	Y
GYMNOSPERMS				
	Cupressaceae	<i>Cupressus macrocarpa</i>	Monterey cypress	Y
	Pinaceae	<i>Abies grandis</i>	grand fir; lowland fir	Y
		<i>Pinus contorta</i> ssp. <i>contorta</i>	shore pine; beach pine	Y
		<i>Pinus muricata</i>	bishop pine; prickly-cone pine	Y
		<i>Pseudotsuga menziesii</i> var. <i>menziesii</i>	Douglas-fir	Y
	Taxodiaceae	<i>Sequoia sempervirens</i>	coast redwood	Y
DICOTS				
	Anacardiaceae	<i>Toxicodendron diversilobum</i>	poison oak	Y
	Apiaceae	<i>Angelica hendersonii</i>	Henderson's angelica	Y
		<i>Foeniculum vulgare</i>	fennel, sweet fennel	N
		<i>Heracleum lanatum</i>	cow parsnip	Y
		<i>Sanicula crassicaulis</i>	Pacific sanicle, Gamble Weed	Y
	Araliaceae	<i>Hedera helix</i>	English ivy	N
	Asteraceae	<i>Achillea millefolium</i>	yarrow	Y
		<i>Baccharis pilularis</i>	coyote brush	Y
		<i>Carduus pycnocephalus</i>	Italian thistle	N
		<i>Cirsium vulgare</i>	bull thistle	N
		<i>Erechtites glomerata</i>	cut-leaved erechites, New Zealand fireweed	N
		<i>Erechtites minima</i>	little erechites, Australian fireweed	N
		<i>Erigeron supplex</i>	supple daisy	Y
		<i>Eriophyllum staechadifolium</i>	seaside golden yarrow, seaside wooly sunflower	Y
		<i>Gnaphalium purpureum</i>	purple everlasting	Y
		<i>Heterotheca sessiliflora</i> ssp. <i>bolanderi</i>	Bolander's goldenaster, golden aster	Y
		<i>Hypochaeris radicata</i>	rough cat's ear, hairy cat's ear	N
		<i>Senecio mikanioides</i>	German ivy, cape ivy	N
		<i>Sonchus oleraceus</i>	common sow thistle	N
		<i>Wyethia angustifolia</i>	narrow-leaved mule-ears	Y

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
	Boraginaceae	<i>Myosotis latifolia</i>	wide-leaved forget-me-not	N
	Brassicaceae	<i>Cardamine oligosperma</i>	Idaho bittercress, bitte cress	Y
		<i>Raphanus sativus</i>	wild radish	N
	Caryophyllaceae	<i>Silene gallica</i>	windmill pink	N
		<i>Stellaria media</i>	common chickweed	N
	Convolvulaceae	<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	Bodega morning-glory	Y
		<i>Dudleya farinosa</i>	north coast dudleya	Y
	Ericaceae	<i>Arctostaphylos columbiana</i>	redwood manzanita, hairy manzanita	Y
	Euphorbiaceae	<i>Euphorbia peplus</i>	petty spurge	N
	Fabaceae	<i>Genista monspessulana</i>	French broom	N
		<i>Lupinus rivularis</i>		Y
		<i>Medicago polymorpha</i>	California burd over	N
		<i>Vicia sativa</i> ssp. <i>sativa</i>	spring vetch	N
	Geraniaceae	<i>Geranium dissectum</i>	cut-leaved geranium	N
	Hydrophyllaceae	<i>Phacelia californica</i>	California phacelia	Y
	Lamiaceae	<i>Stachys ajugoides</i> var. <i>rigida</i>	rigid hedge-nettle	Y
	Myricaceae	<i>Myrica californica</i>	wax-myrtle	Y
	Myrtaceae	<i>Eucalyptus globulus</i>	blue gum	N
	Plantaginaceae	<i>Plantago lanceolata</i>	English plantain	N
	Polygalaceae	<i>Polygala californica</i>		Y
	Polygonaceae	<i>Eriogonum dasyanthemum</i>	buckwheat	Y
		<i>Rumex acetosella</i>	common sheep sorrel	N
		<i>Rumex crispus</i>	curly dock	N
	Primulaceae	<i>Anagallis arvensis</i>	scarlet pimpernel, poor man's weathervane	N
	Ranunculaceae	<i>Delphinium decorum</i> ssp. <i>tracyi</i>	Tracy's larkspur	Y
		<i>Delphinium hesperium</i> ssp. <i>hesperium</i>	western, coast larkspur	Y
	Rhamnaceae	<i>Rhamnus californica</i>	California coffeeberry	Y
		<i>Rhamnus purshiana</i>	cascara sagrada	Y
	Rosaceae	<i>Cotoneaster franchetii</i>	Francheti cotoneaster	N

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
		<i>Fragaria chiloensis</i>	beach strawberry	Y
		<i>Rosa californica</i>	California wild rose	Y
		<i>Rubus ursinus</i>	California blackberry	Y
	Rubiaceae	<i>Galium aparine</i>	common bedstraw, cleavers, goose-grass	Y
	Scrophulariaceae	<i>Mimulus aurantiacus</i>	sticky monkeyflower	Y
		<i>Scrophularia californica</i>	California figwort	Y
MONOCOTS				
	Cyperaceae	<i>Carex harfordii</i>		Y
		<i>Cyperus eragrostis</i>	tall flatsedge	Y
		<i>Scirpus koilolepis</i>		Y
	Iridaceae	<i>Iris douglasiana</i>	Douglas' iris	Y
		<i>Sisyrinchium bellum</i>	blue-eyed grass	Y
	Juncaceae	<i>Juncus bufonius</i> var. <i>bufonius</i>	toad rush	Y
		<i>Juncus effusus</i> var. <i>pacificus</i>	Pacific common rush	Y
		<i>Juncus patens</i>	common rush	Y
		<i>Luzula comosa</i>	hairy wood rush	Y
	Poaceae	<i>Agrostis stolonifera</i>	creeping bentgrass	N
		<i>Anthoxanthum odoratum</i>	sweet vernal grass	N
		<i>Briza maxima</i>	big quaking grass; rattlesnake grass	N
		<i>Briza minor</i>	little quaking grass; quaking grass	N
		<i>Bromus carinatus</i>	California brome	Y
		<i>Bromus hordeaceus</i>	soft chess	N
		<i>Calamagrostis nutkaensis</i>	Pacific reedgrass	Y
		<i>Cortaderia jubata</i>	Andes grass	N
		<i>Dactylis glomerata</i>	orchard-grass	N
		<i>Danthonia californica</i>	California oatgrass, wild oatgrass	Y
		<i>Elymus glaucus</i> ssp. <i>glaucus</i>	blue wild rye; blue wild rye	Y
		<i>Festuca arundinacea</i>	tall fescue, meadow fescue	N
		<i>Festuca occidentalis</i>		Y
		<i>Festuca rubra</i>	red fescue	Y
		<i>Holcus lanatus</i>	common velvetgrass	N
		<i>Vulpia myuros</i> var. <i>myuros</i>	rattail fescue	N

Appendix B

List of Invasive Landscaping Plants to Avoid Using

Excerpts from California Invasive Plant Council (Cal-IPC), Responsible Landscaping, www.cal-ipc.org

brooms: Bridal broom, French broom, Portuguese broom, Scotch broom or Spanish broom (*Retama monosperma*, *Genista monspessulana*, *Cytisus striatus*, *Cytisus scoparius* or *Spartium junceum*)

Brooms have invaded over one million acres in California. The flowers produce thousands of seeds that build up in the soil over time, creating dense thickets that obliterate entire plant and animal communities. Grows quickly, creating a fire hazard in residential landscapes. "Sterile" varieties haven't been independently verified or tested and are not recommended as substitutes.

cotoneaster (*Cotoneaster lacteus* or *Cotoneaster pannosus*)

Birds have spread the berries and seeds of these shrubs to many different habitat types. With their rapid growth and competitive roots, cotoneasters displace native plants and animals.

periwinkle (*Vinca major*)

This aggressive grower has trailing stems that root wherever they touch the soil. Their ability to resprout from stem fragments enables periwinkle to spread rapidly in shady creeks and drainages, smothering the native plant community.

ivies: English ivy, Algerian ivy, or cape ivy (*Hedera canariensis*, *Delairea odorata* or *Hedera helix*)

Some ivy species in the *Hedera* genus are a problem in California. They can smother understory vegetation, kill trees, and harbor non-native rats and snails. It's difficult to distinguish problem species from less invasive ones. Do not plant ivy near natural areas, never dispose of ivy cuttings in natural areas, and maintain ivy so it never goes to fruit. Researchers hope to determine which ivies can be planted safely. Although cape ivy is not a "true" ivy, it causes many of the same problems as *Hedera* species.

jubatagrass or pampasgrass (*Cortaderia jubata* or *Cortaderia selloana*)

Wind can carry the tiny seeds of these plants up to 20 miles. The massive size of each pampas grass plant with its accumulated litter reduces wildlife habitat, limits recreational opportunities in conservation areas, and creates a fire hazard.

blue gum eucalyptus (*Eucalyptus globulus*)

Found along the coast from Humboldt to San Diego and in the Central Valley. Most invasive in coastal locations. Easily invades native plant communities, causing declines in native plant and animal populations. Fire departments throughout Southern California recommend against using eucalyptus trees for landscaping because they are extremely flammable.

Appendix C

Mitigation Plan for Coastal Bluff Morning-Glory (*Calystegia purpurata* ssp. *saxicola*)

A mitigation measure for the transplanting of coastal bluff morning-glory
at APN 144-130-23, Gualala, California

Summary

The purpose of this report is to provide a management plan for the protection and enhancement of several occurrences of coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) that will be removed during the future construction of a residence on a 1.5-acre coastal bluff property in Gualala, California.

This management plan provides methods for avoidance, transplanting, propagation, site monitoring, and long-term maintenance of coastal bluff morning-glory. The restoration activities, timelines, and responsible parties are detailed in Table 1. The proposed management period would be in effect for 3 years after the transplanting, and each phase is overseen by a biological monitor.

Introduction

Coastal bluff morning-glory is a CNPS (California Native Plant Society) List 1B.2 species, and is therefore protected under CEQA (California Environmental Quality Act), the California Coastal Act, and Mendocino County's Local Coastal Plan (LCP), (Mendocino County 1985). List 1B indicates that a plant is rare, threatened, or endangered in California, but more common elsewhere, and the 0.2 rating indicates that it is not fairly endangered in California.

CNPS has developed policies on transplanting native plants as method of mitigation (CNPS 1989, 1998). The organization does not recognize off-site compensation as appropriate mitigation for project impacts to rare plants for the following reasons summarized below (CNPS 1998).

1. Often, little is known about the biology of rare plants and the intricate habitat requirements they exploit.
2. Suitable transplantation sites may not be available.
3. Transplantation may cause irreparable damage to the plant.
4. Reliable methods for salvage, propagation, translocation or transplantation are not available for many rare species.
5. Areas into which plants are to be relocated may be at the carrying capacity of the habitat and may not benefit from the introduction more individuals into the existing population.
6. The time of year for salvaging plants must be appropriate in order to avoid physical disruption of the plant.

The landowner of the adjacent parcel to the north, and potential buyer of the Project Site parcel, proposes to adjust the boundary line of the Project Site parcel to decrease the acreage from approximately 1.5 acres to 1 acre. This project alone would not result in the impact to any individuals of coastal bluff morning-glory; however, the potential buyer wishes to explore the feasibility of establishing a building envelope on the parcel. The Mendocino County LCP requires a minimum 50' setback from special status plants, which are considered Environmentally Sensitive Habitat Area (ESHAs).

Some of the locations of the coastal bluff morning-glory, with respect to the minimum 50' ESHA setback, pose a challenge to the development of a building envelope. While a 50' buffer can be maintained from the coastal bluff scrub and the majority of the coastal bluff morning-glories, several occurrences (~40) of coastal bluff morning-glory may be impacted by the construction of a residence and the associated development activities.

On the Project Site coastal bluff morning-glory exhibits a typical affinity for edges of shrubby areas and clearings where competition from other plants is minimal and exposure to sunlight is optimal. It is strongly associated with the road, cleared area, and coastal bluff scrub (Figure 1). Most of the plants occur within the coastal bluff scrub where there will be no disturbance from any proposed residence. Fewer plants occur in patches along the unpaved entrance road and edges of the cleared area.

This mitigation plan will provide documentation from the long-term monitoring of a project aimed at the continued success of establishing and enhancing viable populations of coastal bluff morning-glory on a coastal bluff. The California Department of Fish and Game (DFG) will be consulted for the review of this plan, and will receive a copy of the final report.

Ecology

The coastal bluff morning-glory is a subspecies of a more common morning glory (called here "common morning-glory," *Calystegia purpurata* ssp. *purpurata*). Common names of the coastal bluff morning-glory include Pacific false bindweed; Bodega morning-glory, and coastal morning-glory. Differences between the two subspecies are subtle as intergradation is common. This results in intermediate forms that are often difficult to identify (Hickman 1993, p.57). The coastal bluff morning-glory is perennial plant that grows from a woody root, or caudex in coastal bluff scrub from Marin to Mendocino Counties. It is trailing or weakly-climbing, and is restricted to areas of coastal scrub. The leaves are round-triangular to kidney-shaped with the space between the bottom leaf lobes generally being closed and the lobes rounded. The common morning-glory is also perennial but is more robust and is often strongly climbing greater than three feet tall. Leaf blades are much more triangular than the coastal bluff morning-glory and the space between the lower leaf lobes is V-shaped. The tips are pointed (acute) instead of rounded, and the lobes are generally strongly angled. Both subspecies have white or cream-colored to more or less purple-striped flowers that bloom from May to September (Hickman, p. 520; Munz 1959, p. 462).

Morning-glories can be early successional species, and their affinity for growing in openings and along edges of brushy areas is well documented. Stebbins' morning-glory (*Calystegia stebbinsi*), a federally endangered plant, is a early successional plant that requires fire or some other major disturbance for seed germination (Sierra Nevada Virtual Museum, 2007). Beach morning-glory (*Calystegia soldanella*) occurs on the open sands of foredunes and is one of the early-colonizing plants after European beachgrass has been removed. A morning glory native to the eastern and midwestern United States, low false-bindweed, (*Calystegia spithamea*) is sensitive to competition from other plants and usually requires disturbance to persist (Corrigan 2004). An experiment to devise an optimal schedule for tilling a weedy native morning glory, hedge false bindweed (*Calystegia sepium*), showed that rhizome (root) fragments planted in pots were able to persist (Rask & Anderson 2007).

Observations of the coastal bluff morning-glories on the Project Site are consistent with the general habitat preferences of other morning-glories mentioned above. It tends to grow in the open areas, clearing, and roadsides where competition from other plants is minimal.

Methods

Inventory

A qualified biologist will undertake the methods outlined in this restoration plan. A detailed description of the micro-habitat will be recorded to add to the information of the species. These habitat characteristics will include species composition, canopy cover, distance to cleared area, level of disturbance, and soil type (chroma, depth, structure, moisture content, depth to water in a pit, etc.). Photo monitoring points will be established before construction, and will aid in the description of the habitat. A count of individuals of coastal bluff morning-glory will be made, locations flagged, and locations made on a scaled map. Details of the methodology used to estimate number of individuals will be documented because it can often be difficult to capture an exact number.

The biologist will meet with the project designer or another person familiar with the proposed residence to discuss the extent of grading within the project boundary and the actual extent of areas that may be disturbed. These areas will be located on the scaled map of the project site.

Exotic Plant Eradication Control

Several exotic weeds are well-established on the Project Site and pose serious threats of spreading and competing with the native plants, especially those that comprise the coastal bluff scrub plant community. French broom (*Genista monspessulana*) is prevalent among the coastal bluff scrub and English ivy (*Hedera helix*) forms thick stands towards the eastern side of the parcel.

Removal of the exotic weeds will decrease the likelihood that coastal bluff morning-glory habitat will be dominated by such plants. Prior to project implementation, the biologist will survey and inventory the site for the presence of exotic weeds, noting the general abundance of each weed and locating it on the site map. At any point afterwards, the removal of the identified exotic weeds may begin. Mechanical or chemical methods may be used to eradicate the species. Each year during the life of this restoration plan, exotic weed locations will be revisited and removed if seedlings persist.

Transplanting, Seed Collection and Planting

Once individuals of coastal bluff morning-glory have been identified for transplanting, a site will be selected and inventoried according to the methods outlined above. Transplanting will occur after the first rains when the ground is sufficiently wet, which is usually by October, November, or later. Numbers of transplanted plants will be counted and tagged with a unique number. If necessary, plants will be watered after they are planted.

Transplanted plants will be tagged with numbered metal tags placed on metal pins next to the plants to allow for an accurate assessment of survival rates of transplanted plants and to document any natural recruitment. The site will be evaluated in spring and summer during the flowering period, and numbers of plants will be counted annually in the spring and/or summer for three successive years. Photos of the site will be taken on the same schedule as the plant counts and will be from established photo points to provide before and after photo-documentation of the site.

Seeds from any plants and rhizome cuttings from transplanted plants only will be propagated offsite where they will be nursed for one year. During this time documentation will be kept on sowing rate, seedling survival, plant vigor, and materials and methods used for propagating and nursing. After one year, they will be planted in a predetermined location on the Project Site. The same method for

documenting transplanted plants (metal pins and tags) will be used for outplanted plants. Their survival rate will be monitored and recorded annually for two years following planting.

Maintenance

Evaluation of the site will continue for the life of the project. Threats to the viability of the transplanted coastal bluff morning-glory (i.e. exotic weeds, lack of water, etc.) will be addressed and documented.

Documentation and Reporting

a brief status report annually to the County of Mendocino and a final report will be delivered to the California Department of Fish and Game.

The biological monitor will keep track of this information and annually submit a brief status report to the County of Mendocino. Documentation of previous phases will be summarized and presented in a final report to DFG.

Performance Criteria

In measuring the success of restoration plans it is important to establish quantitative performance criteria and a monitoring plan based on quantitative data collected in the field. Once established, the restoration sites will be monitored for three years to make sure the mitigation plan is successful. If performance criteria are not met, the biologist will consult with DFG to implement measures to meet these criteria, which may include extending the life of the restoration project.

Objective 1: One year following re-planting of *Calystegia purpurata* ssp. *saxicola*, 75% or greater of the individual plants re-introduced to the restoration sites will have survived.

Objective 2: One year after outplanting nursed *Calystegia purpurata* ssp. *saxicola*, 25% of plants will have survived.

Objective 3: Within 3 years of re-planting of *Calystegia purpurata* ssp. *saxicola*, the species will be re-established to a minimum of 90% of its pre-restoration occurrence, as determined through pre-restoration baseline monitoring.

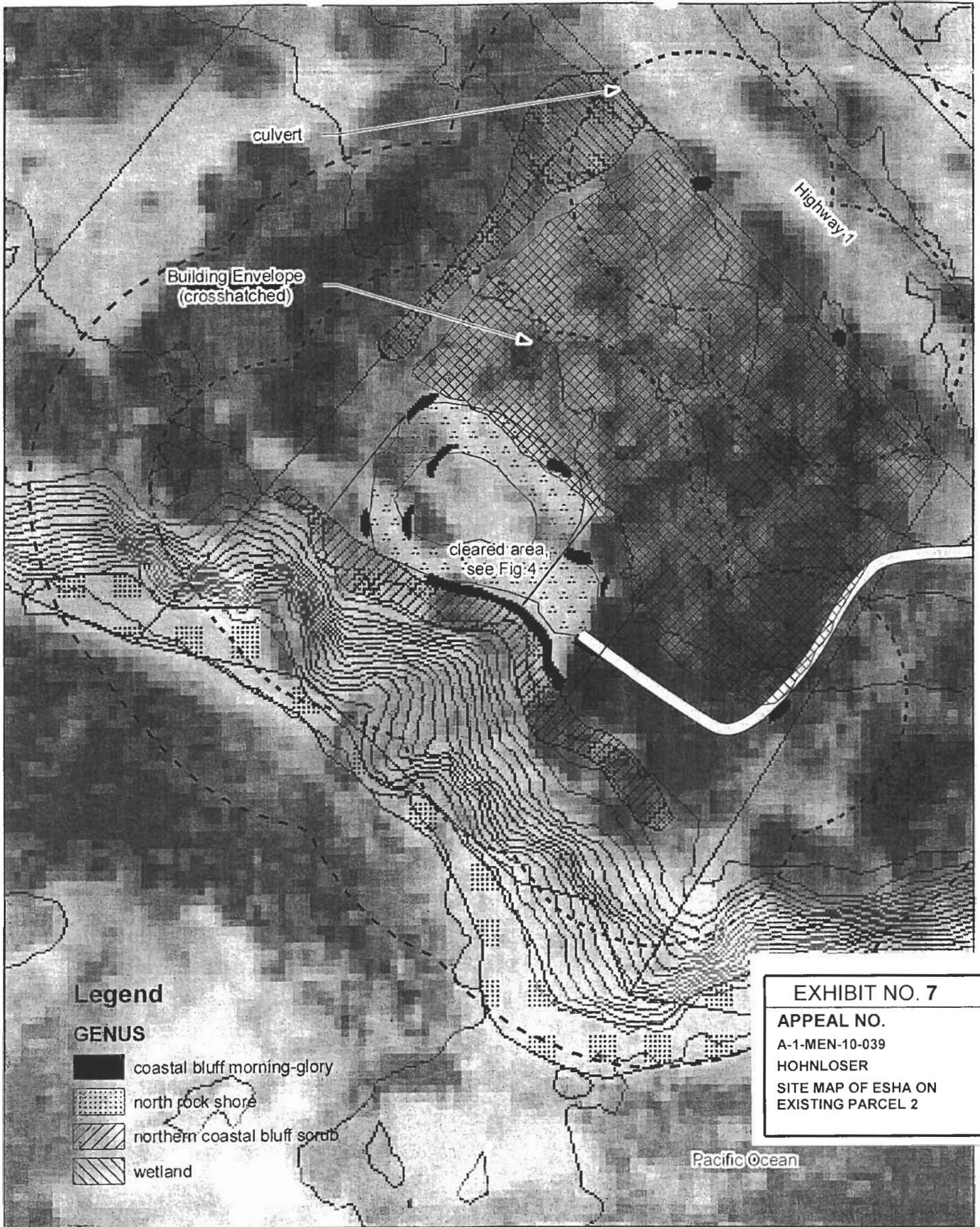
Objective 4: Within 4 years, or during the life restoration plan, which ever is greater, all exotic weeds determined to be eradicated will be removed from the Project Site.

Table 1. Management Plan Schedule of Tasks and Timing. The actual schedule of tasks may vary based on the timing of availability of the contractor. Some tasks could be completed in spring of year one (YR.1), but the order of the tasks throughout the project would remain close to the order in the table.

TASK #	TASK DESCRIPTION	MONTH & YEAR																
		SP YR1	SU YR1	FA YR1	WI YR1	SP YR2	SU YR2	FA YR2	WI YR2	SP YR3	SU YR3	FA YR3	WI YR3	SP YR4	SU YR4	FA YR4	WI YR4	
1	Survey, map and flag <i>Calysetigia</i> stands.																	
2	Prepare habitat description.																	
3	Inspect site and remove exotic weeds.																	
4	Meet with project manager to determine and flag the extent of grading.																	
5	Identify transplanting site.																	
6	Collect <i>Calysetigia</i> seeds and rhizome cuttings.																	
7	Plant <i>Calysetigia</i> seeds and rhizome cuttings and record growth.																	
8	Transplant <i>Calysetigia</i> to new locations																	
9	Monitor transplanted plants: water, maintain records on plant vigor.																	
11	Inspect site and remove any exotic weeds.																	
12	Outplant <i>Calysetigia</i> from pots to ground.																	
13	Monitor outplanted <i>Calysetigia</i> .																	
14	Annual reporting to Mendocino County.																	
14	Write report summarizing methods and success.																	
15	Send report to DFG.																	

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- Suggested citation: California Native Plant Society (CNPS). 2007. Inventory of Rare and Endangered Plants (online edition, v7-07c). California Native Plant Society. Sacramento, CA. Accessed on Mon, Jul. 23, 2007 from <http://www.cnps.org/inventory>



E 0 5 10 20 30 40
 Feet
 1:600

Figure 1. Site Map of APN 144-130-23, Highway One, Gualala, California. All locations on the map are approximate. This map is a general reference for ESHA features and buffers. Aerial photograph from USGS, DOQ, 1992.

EXHIBIT NO. 7
APPEAL NO.
 A-1-MEN-10-039
 HOHNLOSER
 SITE MAP OF ESHA ON
 EXISTING PARCEL 2