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CALIFORNIA
COASTAL COMMISSION

BluePort LLC
12 Reno Place
San Francisco
CA 94133

August 31, 2011

California Coastal Commission
North Coast Office
Facsimile 707 445 7877
Attention Bob Merrill & Melissa Kraemer

Re: Information requested regarding impact on agricultural resources

Dear Melissa & Bob,

I am pleased to provide you with the additional information you requested in your letter dated August 01 referencing the impact of our proposed development on agricultural resources of the subject parcel and surrounding area at 12350 Highway One, Elk.

I made contact with most of the consultants referenced in Melissa's email dated August 2nd and also with John Engelbrecht CPA who prepared the financial data for the economic feasibility evaluation. The economic analysis was reviewed by Mr. David Kelley who I engaged to review and assist in preparing our response.

In preparing the agricultural analysis we used references from additional conversations with Mr. Lawrence Ford and Mr. Orrin Sage who were helpful in providing information pertaining to agricultural economics in the area.

In Appendix A is a point by point summary of information as requested in your letter dated August 01, 2011; this summary includes references to the policies included in the Mendocino County Certified Local Coastal Program.

Appendix B contains an economic feasibility evaluation prepared by John Engelbrecht CPA; Appendix C includes Schedule F tax filings for the subject property with data reconciling with the economic data for the past 5 year period.

The conclusion is that there is clearly no conversion of productive agricultural rangeland and the project will in fact significantly enhance the economic viability of the property as an organic farm which we hope will be a model that others in the area can follow in years to come.

Yours sincerely,

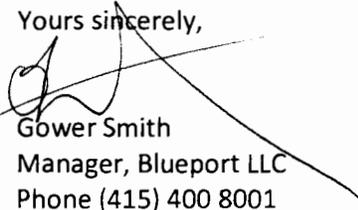

Gower Smith
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EXHIBIT NO. 11

APPEAL NO.

A-1-MEN-09-052

BLUE PORT, LLC

AGRICULTURAL RESOURCES
IMPACTS ANALYSIS (1 of 23)

Appendix A: Information to assess impacts of development proposed under Appeal No. A-1-MEN-09-052 on the agricultural resources of the subject parcels and surrounding area at 12350 Highway One, Elk.

Prepared by Gower Smith with economic data provided by John Engelbrecht C.P.A in conjunction with advice from Mr. David Kelley and with reference to discussions with Mr. Pete Smith, Mr. Orrin Sage and Mr. Lawrence Ford.

1. Description of characteristics of the subject site affecting agricultural land use production.

- a. Soils: The soils are dark brown silts and clayey silts that are porous, and rich in organic matter and roots. The soils comprise very deep, gently sloping moderately well drained soils that have little seasonal fluctuation in soil temperature and that formed in marine terrace deposits; on marine terraces bordering the Pacific Ocean. The subsoil is clay. Elevation ranges from the bluff top adjacent to the ocean at approximately 200 to 230 feet above sea level and the slope rises gently towards the Eastern (Highway One) boundary. The average annual precipitation ranges from 35 to 65 inches, the average annual air temperature is about 53 degrees F, and the average frost-free season is 250 to 365 days. A strong marine influence minimizes seasonal fluctuation in air temperature and thus results in little fluctuation in soil temperature.

*The Mendocino County Certified LCP Section 3.2 notes that Coastal Terraces and bottom land historically were farmed in small units by families dependent upon agriculture for their livelihood. Potatoes, truck crops, beef cattle and dairies did well. About 3,500 acres of land in the coastal zone are tilled, irrigated or cropped. There are 40 livestock operators in the coastal zone raising 1,200 head of beef and 4,300 sheep (an average of 30 head of beef and 107.5 sheep). The subject property is only 58.5 acres so is smaller than the average and could not support the average number of livestock units. Furthermore, Section 3.2 of the LCP states that only 10 ranches have "full-time" acreage and are operated as a principal source of income. **The proposed development allows the current owners to continue their other business operations as their principal source of income whilst the property is developed to become an economic unit. Without a residence and other required amenities at the property the owners cannot spend the required time and effort to develop the property and direct the work to be done to improve productivity. The proposed development will facilitate tilling, irrigation and cropping at the subject property which will also contribute towards it becoming an economically viable farm unit.***

- b. The property will utilize 3 separate water sources; 1) rainwater captured from the roofs of the buildings, 2) irrigation water from the existing lake which has streams running into it year round, and 3) well water from an existing well. The primary water supply to all the buildings will be the rainwater, whilst the primary irrigation water supply will be the lake which is fed by 3 inlets with water from the mountains to the east and that run year round, with back-up water supply being provided by the existing well that runs year round.

1) Rainwater: An assessment of the seasonality and quantity of annual rainfall and the capture area shows that the 5,000 gallon tank with rainwater as the source of supply will provide 2.5 times the required capacity to ensure year round water supply to the buildings. This will be the primary supply for non-agricultural purposes.

2) Lake water irrigation: In 1978 a Coastal Commission permit was granted for irrigation from a 4-acre lake at the property. The grant deed permits the owners to take half the available water for irrigation purposes. In past years this has proved sufficient to irrigate the entire property year round. The owners intend to implement a less intensive irrigation program. Only the areas with crops and horticulture are intended for irrigation unless there is surplus water to facilitate pasture irrigation during summer. The owners are keen to protect the riparian habitat area around the lake therefore intend regulating irrigation water usage depending upon availability.

3) Well water supply: Subsurface water moves from east to west across the property. An existing well of 34 feet depth is adjacent to a stream and has variable flow. The flow rate was tested in the summer of 2009 at 0.41 gallons per minute. At this flow rate the well would fill a 2,500 gallon tank in approximately 4.25 days. To maintain a constant flow of water from the well it is intended that the well water be a primary water source for the garden areas adjacent to the main home and the office/shed. Otherwise the well is considered a back-up water supply for (i) livestock and (ii) farm irrigation. In emergency situations (such as drought weather conditions not previously experienced), it could also be used to back-up the water supply to buildings.

- c. Access from Highway One is readily available and Caltrans has approved the access plans. There are currently 3 access gates to the property from Highway One.
- d. Key variables impacting agriculture: Grazing by domestic animals is the primary agricultural land use in the area. According to a survey prepared by , Richard J. King range conservationist and Jerry D Owens, soil conservationist, Natural Resources Conservation service, privately owned rangeland in the area is primarily along the coast. Federal and State rangeland is of limited importance to the livestock industry. Rangeland vegetation consists of oak grasslands that are dominated by annual grasses and forbs. Livestock use is mostly seasonal. Livestock are transported into the area during fall and winter to take advantage of the annual vegetation, which begins growth after sufficient rainfall has occurred. Stocker cattle normally are bought in late fall or early winter. The nutritional value of the herbaceous vegetation drops sharply following the burst of growth during spring. Cattle are either moved to better pasture or are shipped to market or to feedlots for finishing. Lambing on sheep ranches occurs during the winter, and lambs are sold in the spring.

In the western part of the county, coastal grasslands are generally dominated by perennial plants within forested areas. Mountain meadows are mostly dominated by perennials. Areas are used primarily for livestock year-round in the western part of the survey area. The green feed period is considerably longer in these

areas than in other areas, and livestock operations are quite diverse, including a few dairies. Most of the ranches are cow-calf and sheep operations, but some are stocker operations. Some ranches have developed irrigated pastures to produce additional forage or hay.

The acreage grazed by cattle and sheep in the adjacent coastal area is about equal, but sheep production is declining slightly because of predator problems. Coyotes, mountain lions, and bobcats repeatedly prey upon lambs and ewes. Losses can be so great that ranchers turn to other livestock enterprises.

- e. Each of the proposed structures contributes to the protection of resource land and enhancement of the economic viability of the property for agricultural purposes in the following ways;
 - i) The main residence is to be used as the owners dwelling. ***According to the Coastal Act Section 30241 in LUP Chapter 3.2-1 one housing unit will be allowed for each existing parcel. The current property comprises 3 separate lots and parcel numbers therefore the alternative of subdivision and development in place of approval of the proposed CDP development could result in conversion of agricultural land and a negative impact on agricultural resources. The proposed development comprises only one residence structure. Incorporated into the main residence structure is a guest house which occupies only 320 sq ft of land area. The guest house is not a separate area and should be considered as part of the main residence which occupies considerably less land area than the main home approved in the original Coastal Development Permit that was approved by the Mendocino County staff.*** The current owners both come from established farming backgrounds where they have experience in operating agricultural concerns in New Zealand and Australia. One of the owners directly, through a trust in which he is one of only three primary beneficiaries, currently operates several thousand acres of high intensity farm land in New Zealand and his direct family further operates several thousand acres of high intensity farmland in New Zealand and several hundred acres of crop and farmland in Australia. The operations in New Zealand and Australia create many full time jobs for farm workers in addition to seasonal workforce employment opportunities. The owners currently live in San Francisco and desire to spend more time at the property to develop it as a highly productive organic farm. It is intended to be developed to be an economically viable and productive lifestyle organic farm. The 3 hour (each way) commute from San Francisco makes it unpractical for the owners to commute for daily or other short periods and as a result of no on-site permanent residence, it is not practical and too risky to consider the property as suitable for anything other than light grazing. **A farmer is entitled to a residence on the farm land and there is no possible argument against fact that the residence contributes to the enhancing the land's suitability for agricultural production and further enhancing the productivity of on-site agricultural lands.**
 - ii) **The guest house is built into the envelope of the main residence and occupies only 320 sq ft of actual land. In accordance with Coastal Act 30241 LUP Policy 3.2-4 the visitor accommodations are secondary to the agricultural activity and**

they also meet all of the criteria stated in LUP Policy 3.2-4; they maximize protection of environmentally sensitive habitats; minimize construction of new roads and other facilities, they maintain views from public roads and public viewing areas; there is adequacy of water, sewer and other services, they ensure preservation of prime agricultural soils and they ensure existing compatibility by maintaining productivity of on-site and adjacent agricultural lands. The land which the guest house occupies is currently unproductive farm land as it is in the NorthEastern corner of the main residence building; it is not visible to Highway One and it is in the shadow of a line of cypress trees. The owners desire to have a dwelling area that is separate and private from the main home such that a farm worker that is not well known to the owners can stay to work on the farm and not encroach upon the owners' privacy. There will be many farming projects at the property such as plowing and planting of crops, development and maintenance of irrigation and water systems, harvesting and processing of crops. The owners have committed to organic farming and there will be a significant number of manual labor projects such as weeding of thistles and crops, trimming trees, controlling blackberry, removing poison oak, etc. Such projects may require a farm worker to be resident at location for several weeks. Furthermore the owners intend that development and maintenance projects such as installation of solar powered computerized sensors and monitoring systems, upgrading and relocating of irrigation systems, solar systems, water systems, fencing, buildings, roads, etc. be able to be attended by a dedicated on location contractor or employee. This alternative to workers limited to daily commute will allow the owners to utilize both the local labor force as well as the necessary management oversight or specialist labor skills that will sometimes be required.

III) **The barn building is being constructed 100% in support of agricultural use at the property.** It will house tractors, ATVs, farm equipment, feed, seed and fertilizer storage, workshop, etc; all being in support of more productive agricultural use. Today there are no tractors and farm equipment at the property because of the deterioration as a result of the salt air. We further have no weatherproof facilities which are necessary to house stock feed, or to attend to animals or for employees or contractors to work on farm projects or to process and package harvested crops. ***According to Coastal Act Section 30241 (LUP Chapter 3.2) the maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy. CZC Chapter 20.508 Section 20.508.010 states the purpose of this chapter is to insure that the maximum amount of agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy. Investment in the barn, equipment it will house and farm storage it facilitates and the improved facilities to increase the agricultural production at the subject property are essential to maximize agricultural production and to protect the areas' economy as is clearly evident in the economic analysis in Appendix B.***

IV) The 120 sq ft pump house is to facilitate the back-up water system for agricultural purposes. The pump house and proposed agricultural water systems will contribute to maximizing the amount of prime agricultural land for agricultural production. ***According to Coastal Act Section 30241 (LUP Chapter 3.2) the maximum amount of prime agricultural land shall be maintained in agricultural***

production to assure the protection of the areas' agricultural economy. CZC Chapter 20.508 Section 20.508.010 states the purpose of this chapter is to insure that the maximum amount of agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy. Irrigation and investment in the property water systems at the subject property are essential to maximize agricultural production and to protect the areas' economy as is clearly evident in the economic analysis in Appendix B.

V) The 625 sq ft office shed already exists on the property and is to be rebuilt at a different location. This building was moved from another location on the property and was the original office for BridgePort Landing; the port that operated off the coast in the late 1800s. The building was deemed, partly because of its poor condition, to not be of any significant historical value; however the owners incorporated the re-building of the same form factor to preserve some of the history. **Because this building exists today, has existed for more than a century, and will be re-built with exactly the same square footage as the current building, it displaces no net usable land and there is no possible argument that rebuilding constitutes conversion of agricultural land. The use of the office/shed is also 100% in support of more intensive agricultural use at the property.** The owners are actively engaged in operating a global technology business. The Internet facilitates significant opportunities for the local community if local residents including; students, work at home mothers, retirees and owners can participate in the opportunities that are facilitated. The owners propose to install high speed satellite communications such that the office/shed can operate as a productive on-site workplace to manage the farm business and other business interests just as can occur at the owners' home and office locations in San Francisco. By being able to operate remote businesses from the property the owners will more likely be available on site to attend to farming operations and to direct employees and contractors. The house size and number of rooms was significantly reduced from the Mendocino County approved plans so that there is no longer any isolated office workplace in the main residence building. The owners require a separate and secure office workplace as well as a separate meeting place that is conducive to business and external to the main home. Reference to the UC Davis study of the costs to produce chilli peppers (one of the higher yielding crops that can produce revenues above \$10,000 per acre and higher yield than grapes) shows that the second highest cost relates to selling costs (the cost for broker commissions). **The owners intend to set up the office/shed as a place to market and sell crops produced on-site.**

VI) The 192 sq ft hot tub spa structure is clustered between the barn and main residence and located under existing cypress trees between the main residence and the bluff edge under existing cypress trees. **This structure displaces no net usable land so has no external impact and no impact on agricultural production.** There is no vegetation growing and it is an area that is unsuitable for any farming activity. It is also an area that represents only 0.01% of the land area. **Furthermore such amenity is in support of agricultural activities.** If the owners and their friends and family have such amenity they are more likely to be motivated to engage in physical activity associate with operating the farm. The hot tub location is where there is an elevated mound of soil providing a covered

area underneath much of the 192 sq ft area where animals could shelter. The hot tub does not constitute agricultural conversion for the following reasons:

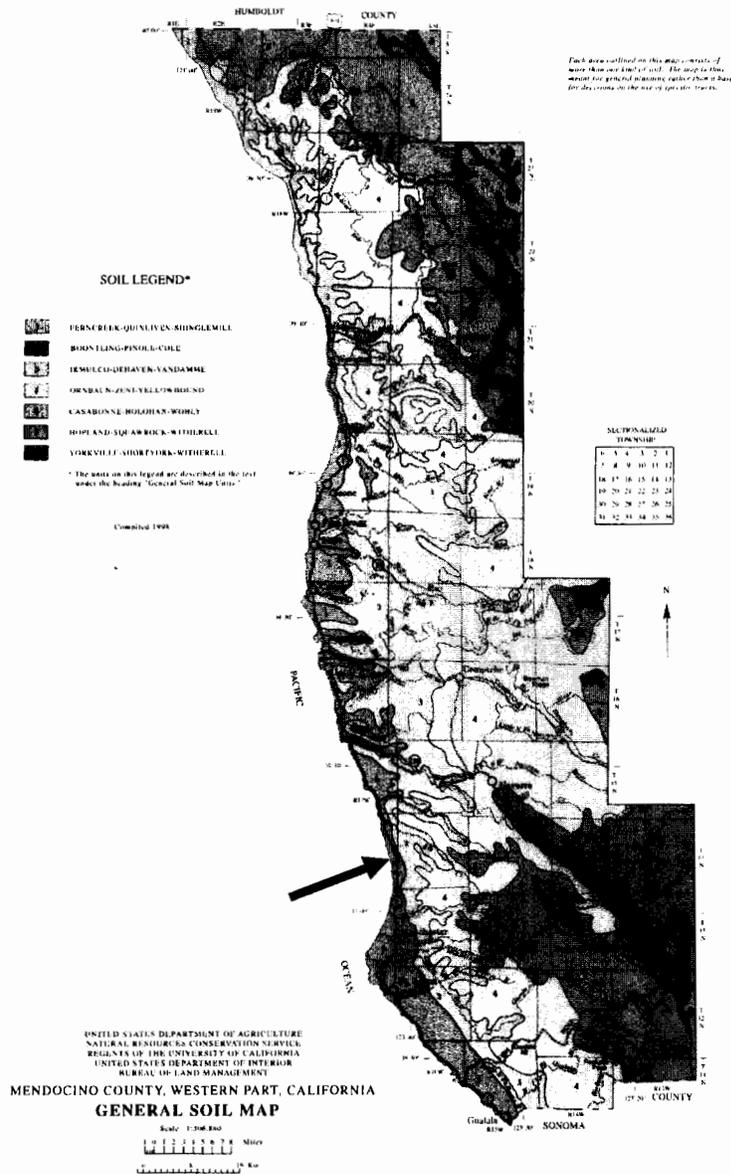
- a. The farm in its current state is a non-economically viable operation
- b. Is an amenity that facilitates the same on farm agricultural activity that exists today
- c. Is an amenity which encourages the required on farm agricultural labor activities to increase agricultural production rather than the relatively hands-off low maintenance activity of grazing cattle
- d. Is a clustered building that is not visible to the public
- e. If any future non-soil farming activity takes place at the property (e.g. seaweed) given the road to the beach such activity is likely to be lake or ocean related and the water is cold therefore an appropriate amenity in support of enhancing non-soil based agricultural activities.
- f. There is no displacement of net usable agricultural land and there are no available lands on the parcel being converted to non agricultural use
- g. There is no adjacent urban use and the owners intend to continue using all productive land for agricultural purposes.

Whilst we do not agree that there is any potential argument that there is any conversion of agricultural land, even if there was, Coastal Act Section 30241 allows for conversion if (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land. It is clear from the economic analysis in Appendix B that continued agricultural use is not feasible and the owners plans for renewed agricultural use requires all of the above referenced amenities which are 100% in support of preserving prime agricultural use.

2. Soils characterization of the subject site and surrounding range lands

- a. Soils in the area: The soils consist of dark brown silts and clayey silts that are deep, porous, and rich in organic matter and roots. The soils are very deep, gently sloping moderately well drained and have little seasonal fluctuation in soil temperature. They formed in marine terrace deposits on marine terraces bordering the Pacific Ocean. The subsoil is clay. Elevation ranges from the bluff top adjacent to the ocean at approximately 200 to 230 feet above sea level and the slope rises gently towards the Eastern (Highway One) boundary. The average annual precipitation ranges from 35 to 65 inches, the average annual air temperature is about 53 degrees F, and the average frost-free season is 250 to 365 days. A strong marine influence minimizes seasonal fluctuation in air temperature and thus results in little fluctuation in soil temperature.

The arrow below shows the location of the subject property on the County General Soil Map.



- b. The US Dept of Agriculture NRCS Mendocino soil survey mapped the soils and identified the majority of the soils on the property as Quinliven sandy loams with Ferncreek sandy loams and Shinglemill loams. The Ferncreek soils are somewhat poorly drained with the surface layer being sandy loam with a subsoil of clay loam, clay, or sandy clay loam. Quinliven soils are moderately well drained, the surface layer is sandy loam and the subsoil is clay. The substratum to a depth of 5 feet to 10 feet is sandy loam. Shinglemill soils are poorly drained. Typically, the surface layer is loam; the subsoil extends to a depth of five feet to ten feet and is clay or sandy clay.
- c. The expected "animal unit month" (AUM) yield for the property is one (1) unit per acre.

- d. The expected net dollar returns for potential crops grown on the property are shown in the economic analysis in Appendix B.

3. Other agricultural uses for the subject property

- a. The neighboring properties which have been subdivided are suitable as lifestyle or retirement blocks. The property to the south is leased to the Stornetta Dairy for grazing. The subject property has also in the past been leased for grazing of cattle. Leasing does not enhance grazing operations and does not allow the property to be viable and sustainable from an economic perspective. Therefore it is clearly evident that the proposed agricultural use after the proposed development has been completed will provide higher economic productivity.
- b. There are no immediately adjacent activities that are not dependent upon the soil. The Mendocino Sea Vegetable Company harvests seaweed from along the neighboring coast and markets a number of seaweed related health products. Due to the permitted road to the ocean, the subject property may be suited for such activities however the owners wish to preserve the ocean reef in its natural form and would need to be convinced that such activities would not interfere with the natural ecology of the reef and ocean habitat.

4. Geographical/Historical information

- a. Existing land use is light scale low intensity grazing of cattle and Alpacas.
- b. Adjacent land is used either as retirement lifestyle blocks or for grazing. To the east and south are rangelands being used primarily for grazing of cattle. To the north is a 10 acre lifestyle block that was subdivided from the rangeland where a retirement home was constructed in the past 5 years subsequent to the owners of 12350 Highway One purchasing the subject property. To the southeast is a number of small lifestyle blocks of approximately or less than 1 acre being the area that was originally the town of BridgePort. As the owners are intending to retain all existing land that is usable for agricultural purposes and the construction of buildings are not in the line of sight of the closest neighbors, there is no impact on neighbors. At the final hearing where the Mendocino County approved the proposed development approximately 30 people attended the hearing including the immediate neighbors and there were many comments in support of the proposed development and **not one** objection to the proposed development.
- c. The proposed development will improve food production in the area and can be used as a reference model for future developments which turn low productivity range land into high productivity organic farmland for both cropping and livestock use.
- d. There is a 5 month growing season for crops and for grazing of cattle. The property is immediately adjacent to the ocean and suffers from coastal winds, salt spray and other coastal conditions.
- e. The current property has been operated as an organic farm for at least the past 7 years. Thistles and other weeds and rodents such as gophers create challenges to productivity. To improve productivity non-organic sprays and fertilizers could be used however the

owners are not in agreement with non-organic farming methods and instead have elected to adopt organic farming methods that they believe will benefit the farm in the longer term.

- f. The proposed agricultural operations at 12350 Highway One, Elk will utilize 3 parcels with 3 lot numbers. Many of the smaller lots in the area are leased to Stornetta's or other dairy or cattle ranchers for grazing.
- g. Refer to point 4b. above to note that immediately adjacent to the subject property are both small lifestyle blocks and larger scale grazing/ranching operations. The nearest urban areas are the towns of Elk 4 miles to the north and Irish Beach 3 miles to the south.
- h. In 1832 a beaver hunting party traveled from the Russian River along the coast to the Columbia River in Oregon. These were probably the first Europeans to traverse the Bridgeport area. The first settler was one Moody who built a crude shelter at the foot of the hills in 1850 before vanishing. Many early settlers arrived after this, some filing timber claims. Bridgeport's most prosperous years extended from 1870 to 1890 with activities including mixed farming, grain and potato raising, sheep and cattle ranching, lumber, wood products, and tan bark. The last sawmill closed in 1966 on the Beall Ranch when all the timber in Malo Paseo Creek had been used up.

Life in the early days of Bridgeport (the subject property) was harsh. There were no roads suitable for even the smallest of vehicles and the necessities of life had to be packed in from Point Arena, Cuffey's Cove and the Anderson Valley. The first ship landing chute was erected at Bridgeport Landing in about 1860. After being rebuilt a couple of times after the winter storms destroyed it, the chute became a model for a later one built for the L.E. White lumber company in Greenwood/Elk.

Because Bridgeport Bay was a dangerous place to land goods, ship operators charged high rates. The Bridgeport Landing soon gave way to the chute built at New Haven about two miles to the south. In about 1868, Thomas Walsh started a potato farming industry which flourished for twenty years until plant diseases and competition from Central California forced it into decline. In it's heyday, Bridgeport consisted of a modern schoolhouse, a Post Office, several small businesses, a small hotel, two stores, two blacksmith shops, a wagon making shop, and a combination cabinet and carpenter shop. The sawmill ceased operation because of a lack of timber. The production of split timber products and tan bark ceased for the same reason. Potato growing ceased to be a financially viable proposition. So the district reverted back to its former sleepy existence.

Today, the leading industries are dairying, farming, and sheep and cattle raising. The coastal plain of the Bridgeport district still consists of large ranches. New additions to the area are the many large residential parcels recently subdivided from the Gilletti ranch located on the ridge above.

On the north border of the district at Elk Creek, one first encounters the Sugarloaf Ranch, so named for the mound shaped geologic structure rising about the highway on the west side of the road. The old grain silos of the ranch can still be seen against the foothills to the east.

Heading south one next encounters the farming land of the Galletti Ranch where peas, grain crops and fava beans are grown. At about the 28.8 mile marker one sees the organic farming of Del Velo Farms where much of the local organic lettuce is grown.

At the 27.8 mile marker (which is the marker for the front gate of the subject property at 12350 Highway One, Elk), the Bridgeport Ranch which is immediately east of the subject property can be seen in the land surrounding the large white farm house with the skylight and barn. The last large ranch in the Bridgeport district is the Walsh Ranch. The Walsh Ranch, located in what used to be referred to as New Haven, is primarily a cattle ranch.

The Bridgeport District is home to mainly large ranches. Many smaller parcels exist created before modern zoning ordinances were created. The property at 12350 Highway One is currently in 3 separate titles and could be subdivided. The current owners are proposing to retain the property in a single lot, another supporting reason for approval of the proposed CDP.

5. Operational Expenses

Reference to Appendix B shows that the property has incurred annual expenses averaging \$33,224 per year and such number excludes the cost of capital which at any reasonable internal rate of return would be many times the annual expenses. Annual losses have averaged \$32,494 per year and these economics exclude any interest costs, holding costs or cost of capital. The property is clearly unsustainable as a going concern in its current form. Existing land use is light scale low intensity grazing of cattle and Alpacas. It is capable of being leased to generate \$100 per season for 58 head of cattle to generate a gross income of approximately \$5,800 per year.

Adjacent land is used either as retirement lifestyle blocks or for grazing.

The intention is to continue operating the property for grazing of cattle and sheep whilst experimenting with various crops including peppers, celery, lettuce, garlic, lemongrass, berries, bulbs such as daffodils and iris and citrus such as lemons. The following economic assumptions assume that 20 acres is used for crops and 38 acres for grazing.

- a. Currently, because of remote management the owners run approximately 1 head of cattle per 10 acres. However when the owners can live and stay at the property and visit more regularly to direct a manager their intention is to increase the stocking rate to approximately 1 head per acre for the parts of the property that are not being used for crops.
- b. To develop the property for more intense farming the capital costs are estimated to include:
 - a. Fencing \$10,000, roads \$20,000, Well water housing and system \$10,000, main lake irrigation system \$15,000, electrics \$12,500 (total \$67,500).
 - b. Required equipment includes a tractor \$29,000, farm implements \$25,000, barn \$290,000, irrigation equipment \$15,000 (total \$359,000).
 - c. Herd expenses are anticipated at \$400 per animal (\$15,200 total).
 - d. Miscellaneous expenses include depreciation on fixed assets. Interest on \$600,000 of borrowings is estimated at \$20,000 per year.

c. Cultivating costs

Once the property is developed the owners will cultivate a variety of crops and assess those that will provide the highest yields. Equipment to be stored in the on-site barn will facilitate cultivating and planting of crops. Labor to harvest crops will likely be the largest costs although some crops can be mechanically harvested. After labor, selling costs are expected to be the largest cost and the on-site office with Internet connection will be critical to reducing selling costs and creating a direct channel to the market where possible. Packaging will be done on-site in the barn and packaging and shipping is anticipated to be a major cost.

- (i) Labor is estimated to average \$12 per hour x 3,000 hours = \$36,000 per year. Labor hours will vary depending upon crop intensity and will increase as revenue from income / crops increases. An analysis of the UC Davis research of actual costs to harvest chili peppers in California shows that 40% of the total crop cost was in labor cost; primarily for harvesting of the crop.
- (ii) Materials for planting including fertilizer are estimated at approximately \$500 per acre = \$10,000 total per year.
- (iii) Machinery rental/contracting is estimated at \$5,000 per year.
- (iv) Fuel and repair costs are estimated at \$7,500 per year.
- (v) Outside consultants are estimated to cost \$2,500 per year.

d. Variable Costs. The harvest cost is estimated as \$0.10 cents per pound.

6. Gross Revenue

- a) Historical revenue for the past 5 years averaged \$730 per year. The Mendocino Department of Agriculture 2009 Annual Crop Report states that Gross Value to Growers was \$600 per head for cattle and \$100 per head for sheep. The gross revenue per year from operating 38 head of cattle is estimated at \$600 per head = \$22,800 total. The gross revenue from crops is conservatively estimated at \$5,000 per acre providing gross revenue from crops at \$100,000 per year and a total annual gross revenue of \$122,800. After variable (e.g. harvesting costs) the net will be sufficient to cover the variable expenses and property tax expenses. However the returns would still be moderate and insufficient to provide a significant economic return on investment. However the owners are expecting to finance the asset purchases and not anticipate a significant return on investment from farming operations, unless the property proves suitable for intensely productive farming of higher return vegetables, bulbs and organic crops in which case the gross revenues and contributions from crops could double and in such case the property would become a highly economically viable farm unit.
- b) Reference to the economic analysis for the past 5 year period (Appendix B) shows that the property is not economical as a farm unit in its current form.

7. Evaluations incorporating cost and revenue figures

The subject property is not considered economically viable as an independent grazing operation. It was historically operated to grow peas and vegetables when the irrigation was fully operating and when labor costs allowed the entire property to be farmed economically. When living at the property the current owners intend to experiment with intense farming methods growing various crops in addition to the grazing of cattle and sheep. According to the California Agricultural Resource Directory 2008-2009 a much higher yield could be achieved through crops such as vegetables, growing of bulbs, citrus and fruit.



Above is an aerial view of the subject property when acquired by the current owners.

References include:

USDA Census of Agriculture

California Department of Agriculture California Agriculture Resource Directory 2010-2011

California Department of Agriculture California 2009 Crop Report

California Pest management Center, 1997 Survey of Agricultural Commissioners

Bace Geotechnical, Geotechnical Report for the subject property

Mendocino Department of Agriculture 2009 Annual Crop Report

Mendocino County Certified Local Coastal Program

Kelley & Associates Environmental Sciences and Agricultural Services

Mendocino County general Soil Map

The US Dept of Agriculture NRCS Mendocino soil survey

Richard J. King, range conservationist, and Jerry D. Owens, soil conservationist, Natural Resources Conservation Service

UC Davis survey of the economics of producing chili peppers

Appendix B: Economic Feasibility Evaluation of Gross Revenues and Operating Expenses for the 5 Year Period 2005 to 2009

Economic Data Prepared by John Engelbrecht CPA with summary prepared by Gower Smith, Manager BluePort LLC.

John Engelbrecht is a Director with the firm Prager and Fenton LLP and is a Certified Practicing Accountant (C.P.A.). Prager and Fenton LLP was established 90 years ago and is one of the oldest accounting firms in the USA. John grew up on a farm in Sacramento and studied Agricultural Economics before practicing as an accountant. John is familiar with the subject property at 12350 Highway One, Elk. John leads Prager and Fenton's California tax practice and has prepared the official IRS tax filings and economic reports for the property for the past 5 year period.

The rangeland in its current form is suitable only for grazing which will yield rental income of \$15 to \$20 per acre per month at best for a 5 month season per year. This can facilitate a maximum total income of \$5,800 per year before costs which is significantly less than the historical annual operating expenses which would likely increase due to increased maintenance and insurance costs. Property taxes alone that are payable to the State of California would mean that the property can never make a profit if leased in its current state for grazing purposes.

The development proposed under Appeal No. A-1-MEN-09-052 at 12350 Highway One, Elk will have no negative economic impact on agriculture assuming the property is leased for grazing purposes. The total area of all buildings represents only 0.2% of the total land area. If deducted from the leasable land area it represents a potential loss in income of only \$12 per year. However with the fencing, irrigation, water systems and other proposed improvements, the property would be much more attractive and productive for livestock grazing. The fencing will allow for multiple types of livestock allowing for a majority of the property to be operated for cattle grazing (past use) with fences to separate smaller livestock such as sheep, goats and alpacas and protecting them from wildlife such as coyotes and mountain lions.

Below is a summary of the 5 year revenue and operating expenses for the subject property. This economic summary uses data from Schedule F tax filings prepared by John Englebrecht C.P.A and which are attached in Appendix C.

Sch. F Ref. Schedule F. Description	2005	2006	2007	2008	2009
Farm Income					
4 Sales of livestock, produce, grains & other products raised	0	0	0	0	2150
10 Other income	1500	0	0	0	
11 Gross Income	1500	0	0	0	2150
Farm Expenses					
12 Car, truck & equipment operating expenses	0	0	234	19319	3411
22 Insurance	315	315	315	500	500
23 Mortgage & Interest Paid	0	0	0	0	0
24 Labor Hired	0	0	0	0	2150
26 Rent/lease of vehicles, equipment & machinery	0	0	0	523	0
27 Repairs & Maintenance	2362	1196	18468	7405	5211
31 Taxes	8192	521	0	5516	21765
32 Utilities	916	0	1571	2768	348
34 Other Expenses	825	1617	23509	9913	26433
35 Total Expenses	12610	3649	44097	45944	59818
36 Net Farm Profit	-11110	-3649	-44097	-45944	-57668

An analysis of the above economics shows clearly that significant operating losses have been incurred each year of the past 5 years and the subject property is not a viable going concern as a farm in its current state. Furthermore one should note that no wages have been drawn by the owners, no significant labor costs have been paid and no mortgage interest has been accounted because the current owners have no borrowings against the subject property. Property taxes were accounted on a cash basis and due to the Agricultural Preserve status being denied by the Mendocino Tax Commissioner the property taxes are likely to be higher in future years.

In 2004 the property was leased for grazing purposes but because significant maintenance of fences was required to be completed by the lessee there was negligible income to the owners. In 2007 investment in repairs and maintenance was increased however the proposed fencing project could not be completed until a Coastal Development permit was granted. The owners purchased livestock to run on the property, however until a Coastal Development permit is granted the current owners are not prepared to intensify farming operations.

The most appropriate use of the property in its current state is leasing for grazing of cattle. The highest potential annual return from such activities is estimated at \$5,800 per year; significantly lower than the actual \$33,224 average annual expenses for the past 5 year period. No investor would find the property a viable investment for the purpose of ranchland as it will generate a loss before wages and before interest costs. It would also provide a negative return on capital.

The non viability of the property as an economic farm unit is further emphasized by the fact that the former owners were forced to sell the property to the current owners.

The current owners have a deep history in high intensity organic farming and are confident that with the appropriate investment to develop the property as proposed in the Coastal Development Application, that the farm can become an economically sustainable unit. This will be

accomplished by completing the buildings to allow for the owners to live on site, employ local labor and develop the facilities such as barn, office, water systems, fences and other amenities that will allow for intense organic farming of livestock, crops, bulbs and vegetables.

The following table from the California Department of Food and Agriculture 2007 Agricultural Statistics indicates the potential income per acre for each crop type noted in the Mendocino County Agricultural Commissioner's annual report, assuming the crops could be viably farmed at the property. Note that grapes and fruits have been excluded as they are grown in other parts of the County and are not viable due to the coastal conditions:

2007 Overview	US Rank	Ca share of US	Area Harvested (1000 Acres)	Tons (1,000)	Total Value (\$000)	Gross yield per Acre
Artichokes	1	99	8.2	45.1	49339	6,017
Asparagus	1	52	20	29	70180	3,509
Beans Fresh Market Snap	2	11	6.8	35.7	48338	7,109
Broccoli	1	93	126	945	669405	5,313
Cabbage, Fresh Market	1	22	14.7	290.4	85944	5,847
Carrots	1	66	72.9	1127.7	494916	6,789
Cauliflower	1	86	33.5	301.5	198300	5,919
Celery	1	95	26.5	967.2	401206	15,140
Corn, fresh market sweet	2	16	25.6	230.4	107827	4,212
Cucumbers	3	10	5	46.2	20525	4,105
Garlic	1	86	24.7	210	203260	8,229
Lettuce, Head	1	76	135	2396.2	1068728	7,917
Lettuce, Leaf	1	90	86	989	569664	6,624
Lettuce, Romaine	1	83	69	1138.5	539649	7,821
Melons, Watermelon	3	16	13.4	341.7	77224	5,763
Onions	1	38	47.2	1510.2	211635	4,484
Peppers, Bell	1	48	21	351.8	178618	8,506
Peppers, Chilli	2	43	5.8	89.9	61884	10,670
Peppers, All	-	-	26.8	441.7	240502	8,974
Pumpkins	3	11	5.3	63.6	13356	2,520
Spinach, Fresh Market	1	83	33	264	168960	5,120
Squash	2	19	7	73.5	36902	5,272
Tomatoes, fresh market	1	83	33	264	168960	5,120
Berries, Blueberries	5	6	2.7	8.2	30215	11,191
Berries, Raspberries	1	61	4.4	44.5	285120	64,800
Berries, Boysenberries	2	3	0.3	1.7	2428	8,093
Berries, All Strawberries	1	86	35.5	1077	1338585	37,707
Lemons	1	86	45	703	394280	8,762

After development in accord with the proposed CDP approximately 40 acres of the subject 58.5 acre property is deemed as being potentially suitable for growing of the abovementioned crops, however this would depend on available water supply (will vary seasonally) and requires all of the proposed amenities including all of the proposed buildings before such intense farming use can be considered. Some of the higher yielding crops could produce annual income of approximately \$10,000 per acre which could potentially facilitate income of up to \$400,000 per year before expenses which will obviously be higher than historical averages. However with the owners proposed capital investments the major expense increase will be labor to manage and operate the farm; such expenditure will provide significant and much needed economic benefit to the local community.

According to the California Pest Management Center's 1997 survey of Agricultural Commissioners, the following crops are grown commercially in the Mendocino County;
Alfalfa, Hay; Alfalfa, Seed; Alfalfa, Sprouts; Apple, All; Artichoke; Artichoke, Seed Crop; Arugula; Barley; Barley, Hay (or Silage); Basil; Bean, Blackeye (Peas); Bean, Dry; Bean, Fava (Broad Bean); Bean, Garbanzo; Bean, Guar; Bean, Lima; Bean, Mung Sprouts; Bean, Pink; Bean, Pinto; Bean, Red Kidney; Bean, Small Red; Bean, Small White; Bean, Succulent; Bean, Yardlong; Beet, Garden; Blackberry; Blueberry; Bok Choy (Pak Choi, Patsai, Taisai, Tat-soi, Tsatsoi, Wong bok); Boysenberry; Broccoli; Brussels Sprouts.

Background of the Owners

One of the current owners of the subject property at 12350 Highway One Elk, Gower Smith, is also a beneficiary of a partnership with his 2 brothers which own and farm 2,000 acres of land in Hawkes Bay, New Zealand. In terms of productivity as measured in economic returns per acre, New Zealand ranks as a world-wide leader. Further, the Smith family farms have been recognized twice as achieving the best economic yields by New Zealand standards. The farm in Hawkes Bay is being operated as intensive developed rangeland with a full time on-site farm manager. The owners are not directly involved in day to day operations. Pete Smith is trustee and directs the operations. The attached economic aspects of our analysis have been reviewed with Pete Smith who was awarded the prestigious award of "New Zealand Farmer of the Year" based on actual economic results. Pete is trustee of a number of farm properties and is regarded as an expert in agricultural economics. Gower & Robyn Smith are US residents who currently live in San Francisco. Their intention is to have a private residence at the subject property.

We conclude that the proposed project is compatible with the long-term protection of resource lands and that it does not diminish the ability to keep all land suitable for agriculture in agricultural production. Further we conclude that the project will enhance the productivity of on-site agricultural lands and has the potential to demonstrate a model that could be applied to improve the productivity and economic viability of adjacent lands. The project minimizes conflicts between agricultural and non-agricultural uses and minimizes encroachment of new development upon land which is suitable for agricultural use.

Appendix C: Copies of Schedule F Forms for the subject property at 12350 Highway One, Elk, CA for the period 2005 to 2009.

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.
▶ See Instructions for Schedule F (Form 1040).

Name of proprietor: **BLUEPORT LLC MENDICINO CA PROPERTY** Social security number (SSN):

BLUEPORT LLC MENDICINO CA PROPERTY

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

LIVESTOCK

B Enter code from Part IV
▶ **112900**

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any

E Did you "materially participate" in the operation of this business during 2009? If "No," see page F-2 for limit on passive losses. Yes No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 11.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1			
2	Cost or other basis of livestock and other items reported on line 1	2			
3	Subtract line 2 from line 1			3	
4	Sales of livestock, produce, grains, and other products you raised			4	2150.
5a	Cooperative distributions (Form(s) 1099-PATR)	5a		5b	Taxable amount
6a	Agricultural program payments (see page F-3)	6a		6b	Taxable amount
7	Commodity Credit Corporation (CCC) loans (see page F-3):				
a	CCC loans reported under election			7a	
b	CCC loans forfeited	7b		7c	Taxable amount
8	Crop insurance proceeds and federal crop disaster payments (see page F-3):				
a	Amount received in 2009	8a		8b	Taxable amount
c	If election to defer to 2010 is attached, check here <input type="checkbox"/>			8d	Amount deferred from 2008
9	Custom hire (machine work) income			9	
10	Other income, including federal and state gasoline or fuel tax credit or refund (see page F-3)			10	
11	Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method to figure your income, enter the amount from Part III, line 51			11	2150.

Part II Farm Expenses - Cash and Accrual Method.

Do not include personal or living expenses such as taxes, insurance, or repairs on your home.

12	Car and truck expenses (see page F-5). Also attach Form 4562	12	3411.	25	Pension and profit-sharing plans	25	
13	Chemicals	13		26	Rent or lease (see page F-6):		
14	Conservation expenses (see page F-5)	14		a	Vehicles, machinery, and equipment	26a	
15	Custom hire (machine work)	15		b	Other (land, animals, etc.)	26b	
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-5)	16		27	Repairs and maintenance	27	5211.
17	Employee benefit programs other than on line 25	17		28	Seeds and plants	28	
18	Feed	18		29	Storage and warehousing	29	
19	Fertilizers and lime	19		30	Supplies	30	
20	Freight and trucking	20		31	Taxes	31	21765.
21	Gasoline, fuel, and oil	21		32	Utilities	32	348.
22	Insurance (other than health)	22	500.	33	Veterinary, breeding, and medicine	33	
23	Interest:			34	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	23a		a	SEE STATEMENT 9	34a	26433.
b	Other	23b		b		34b	
24	Labor hired (less employment credits)	24	2150.	c		34c	
				d		34d	
				e		34e	
				f		34f	
35	Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions			35		35	59818.
36	Net farm profit or (loss). Subtract line 35 from line 11. Partnerships, see page F-7. • If a profit, enter the profit on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6. • If a loss, you must go to line 37.			36		36	-57668.

37 If you have a loss, you must check the box that describes your investment in this activity (see page F-7).
• If you checked 37a, enter the loss on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6.
• If you checked 37b, you must attach Form 6198. Your loss may be limited.

37a All investment is at risk.
37b Some investment is not at risk.

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

2008
Attachment
Sequence No. 14

Name of proprietor

Social security number (SSN)

BLUEPORT LLC MENDICINO CA PROPERTY

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

B Enter code from Part IV

▶ 112900

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any

E Did you "materially participate" in the operation of this business during 2008? If "No," see page F-3 for limit on passive losses. Yes No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 11.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1			
2	Cost or other basis of livestock and other items reported on line 1	2			
3	Subtract line 2 from line 1			3	
4	Sales of livestock, produce, grains, and other products you raised			4	
5a	Cooperative distributions (Form(s) 1099-PATR)	5a		5b	Taxable amount
5b				5b	
6a	Agricultural program payments (see page F-3)	6a		6b	Taxable amount
6b				6b	
7	Commodity Credit Corporation (CCC) loans (see page F-3):				
a	CCC loans reported under election			7a	
b	CCC loans forfeited	7b		7c	Taxable amount
7c				7c	
8	Crop insurance proceeds and federal crop disaster payments (see page F-3):				
a	Amount received in 2008	8a		8b	Taxable amount
8b				8b	
c	If election to defer to 2009 is attached, check here <input type="checkbox"/>			8d	Amount deferred from 2007
8d				8d	
9	Custom hire (machine work) income			9	
10	Other income, including federal and state gasoline or fuel tax credit or refund (see page F-4)			10	
11	Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method to figure your income, enter the amount from Part III, line 51			11	

Part II Farm Expenses - Cash and Accrual Method.

Do not include personal or living expenses such as taxes, insurance, or repairs on your home.

12	Car and truck expenses (see page F-5). Also attach Form 4562	12	19319.	25	Pension and profit-sharing plans	25	
13	Chemicals	13		26	Rent or lease (see page F-6):		
14	Conservation expenses (see page F-5)	14		a	Vehicles, machinery, and equipment	26a	523.
15	Custom hire (machine work)	15		b	Other (land, animals, etc.)	26b	
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-5)	16		27	Repairs and maintenance	27	7405.
17	Employee benefit programs other than on line 25	17		28	Seeds and plants	28	
18	Feed	18		29	Storage and warehousing	29	
19	Fertilizers and lime	19		30	Supplies	30	
20	Freight and trucking	20		31	Taxes	31	5516.
21	Gasoline, fuel, and oil	21		32	Utilities	32	2768.
22	Insurance (other than health)	22	500.	33	Veterinary, breeding, and medicine	33	
23	Interest:			34	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	23a		a	SEE STATEMENT 11	34a	9913.
b	Other	23b		b		34b	
24	Labor hired (less employment credits)	24		c		34c	
				d		34d	
				e		34e	
				f		34f	
35	Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions			35		35	45944.
36	Net farm profit or (loss). Subtract line 35 from line 11. Partnerships, see page F-7. • If a profit, enter the profit on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6. • If a loss, you must go to line 37.			36		36	-45944.

37 If you have a loss, you must check the box that describes your investment in this activity (see page F-7).
• If you checked 37a, enter the loss on both Form 1040, line 18, and Schedule SE, line 1a; on Form 1040NR, line 19; or on Form 1041, line 6.
• If you checked 37b, you must attach Form 8196. Your loss may be limited.

37a All investment is at risk.
37b Some investment is not at risk.

LHA For Paperwork Reduction Act Notice, see Instructions.
822001 11-10-08

Schedule F (Form 1040) 2008

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.

▶ See instructions for Schedule F (Form 1040).

OMB No. 1545-0074

2007

Attachment
Sequence No. 14

Name of proprietor

Social security number (SSN)

BLUEPORT LLC MENDICINO CA PROPERTY

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

B Enter code from Part IV

▶ 112900

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any

E Did you "materially participate" in the operation of this business during 2007? If "No," see page F-2 for limit on passive losses. Yes No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 11.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1			
2	Cost or other basis of livestock and other items reported on line 1	2			
3	Subtract line 2 from line 1			3	
4	Sales of livestock, produce, grains, and other products you raised			4	
5a	Cooperative distributions (Form(s) 1099-PATR)	5a		5b	Taxable amount
5b				5b	
6a	Agricultural program payments (see page F-3)	6a		6b	Taxable amount
6b				6b	
7	Commodity Credit Corporation (CCC) loans (see page F-3):				
a	CCC loans reported under election			7a	
b	CCC loans forfeited	7b		7c	Taxable amount
7c				7c	
8	Crop insurance proceeds and federal crop disaster payments (see page F-3):				
a	Amount received in 2007	8a		8b	Taxable amount
8b				8b	
c	If election to defer to 2008 is attached, check here <input type="checkbox"/>			8d	Amount deferred from 2006
8d				8d	
9	Custom hire (machine work) income			9	
10	Other income, including federal and state gasoline or fuel tax credit or refund (see page F-3)			10	
11	Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method, enter the amount from Part III, line 51			11	

Part II Farm Expenses - Cash and Accrual Method.

Do not include personal or living expenses such as taxes, insurance, or repairs on your home.

12	Car and truck expenses (see page F-4). Also attach Form 4562	12	234.	25	Pension and profit-sharing plans	25	
13	Chemicals	13		26	Rent or lease (see page F-6):		
14	Conservation expenses (see page F-4)	14		a	Vehicles, machinery, and equipment	26a	
15	Custom hire (machine work)	15		b	Other (land, animals, etc.)	26b	
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-5)	16		27	Repairs and maintenance	27	18468.
17	Employee benefit programs other than on line 25	17		28	Seeds and plants	28	
18	Feed	18		29	Storage and warehousing	29	
19	Fertilizers and lime	19		30	Supplies	30	
20	Freight and trucking	20		31	Taxes	31	
21	Gasoline, fuel, and oil	21		32	Utilities	32	1571.
22	Insurance (other than health)	22	315.	33	Veterinary, breeding, and medicine	33	
23	Interest:			34	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	23a		a	See Statement 14	34a	23509.
b	Other	23b		b		34b	
24	Labor hired (less employment credits)	24		c		34c	
				d		34d	
				e		34e	
				f		34f	
35	Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions			35		35	44097.
36	Net farm profit or (loss). Subtract line 35 from line 11. • If a profit, enter the profit on Form 1040, line 18, and also on Schedule SE, line 1. • If you file Form 1040NR, enter the profit on Form 1040NR, line 19. • If a loss, you must go to line 37. Estates, trusts, and partnerships, see page F-6.			36		36	-44097.
37	If you have a loss, you must check the box that describes your investment in this activity (see page F-7). • If you checked 37a, enter the loss on Form 1040, line 18, and also on Schedule SE, line 1. • If you file Form 1040NR, enter the loss on Form 1040NR, line 19. • If you checked 37b, you must attach Form 6198. Your loss may be limited.			37a	<input checked="" type="checkbox"/> All investment is at risk.		
				37b	<input type="checkbox"/> Some investment is not at risk.		

LHA For Paperwork Reduction Act Notice, see instructions.
722001 10-11-07

Schedule F (Form 1040) 2007

16390813 140288 88888

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2007.07080 Smith, Gower

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**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

2006

Attachment
Sequence No. 14

Name of proprietor: **BLUEPORT LLC MENDICINO CA PROPERTY**

Social security number (SSN):

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

B Enter code from Part IV: **▶ 112900**

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any:

E Did you "materially participate" in the operation of this business during 2006? If "No," see page F-2 for limit on passive losses. Yes No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 11.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes. Report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1		
2	Cost or other basis of livestock and other items reported on line 1	2		
3	Subtract line 2 from line 1			3
4	Sales of livestock, produce, grains, and other products you raised			4
5a	Cooperative distributions (Form(s) 1099-PATR)	5a		5b Taxable amount
6a	Agricultural program payments (see page F-3)	6a		6b Taxable amount
7	Commodity Credit Corporation (CCC) loans (see page F-3):			
a	CCC loans reported under election			7a
b	CCC loans forfeited	7b		7c Taxable amount
8	Crop insurance proceeds and federal crop disaster payments (see page F-3):			
a	Amount received in 2006	8a		8b Taxable amount
c	If election to defer to 2007 is attached, check here <input type="checkbox"/>			
d	Amount deferred from 2005	8d		8d
9	Custom hire (machine work) income			9
10	Other income, including federal and state gasoline or fuel tax credit or refund (see page F-3)			10
11	Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method, enter the amount from Part III, line 51			11

Part II Farm Expenses - Cash and Accrual Method.

Do not include personal or living expenses such as taxes, insurance, or repairs on your home.

12	Car and truck expenses (see page F-4). Also attach Form 4562	12		25	Pension and profit-sharing plans	25	
13	Chemicals	13		26	Rent or lease (see page F-5):		
14	Conservation expenses (see page F-4)	14		a	Vehicles, machinery, and equipment	26a	
15	Custom hire (machine work)	15		b	Other (land, animals, etc.)	26b	
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-4)	16		27	Repairs and maintenance	27	1196.
17	Employee benefit programs other than on line 25	17		28	Seeds and plants	28	
18	Feed	18		29	Storage and warehousing	29	
19	Fertilizers and lime	19		30	Supplies	30	
20	Freight and trucking	20		31	Taxes	31	521.
21	Gasoline, fuel, and oil	21		32	Utilities	32	
22	Insurance (other than health)	22	315.	33	Veterinary, breeding, and medicine	33	
23	Interest:			34	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	23a		a	LEGAL FEES	34a	1425.
b	Other	23b		b	BANK FEES	34b	192.
24	Labor hired (less employment credits)	24		c		34c	
				d		34d	
				e		34e	
				f		34f	
35	Total expenses. Add lines 12 through 34f. If line 34f is negative, see instructions			35		35	3649.
36	Net farm profit or (loss). Subtract line 35 from line 11. • If a profit, enter the profit on Form 1040, line 18, and also on Schedule SE, line 1. • If you file Form 1040NR, enter the profit on Form 1040NR, line 19. • If a loss, you must go to line 37. Estates, trusts, and partnerships, see page F-6.			36		36	-3649.
37	If you have a loss, you must check the box that describes your investment in this activity (see page F-6). • If you checked 37a, enter the loss on Form 1040, line 18, and also on Schedule SE, line 1. • If you file Form 1040NR, enter the loss on Form 1040NR, line 19. • If you checked 37b, you must attach Form 6198. Your loss may be limited.			37a	<input checked="" type="checkbox"/> All investment is at risk.		
				37b	<input type="checkbox"/> Some investment is not at risk.		

LHA For Paperwork Reduction Act Notice, see Instructions.
622001 11-10-06

Schedule F (Form 1040) 2006

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Farming

▶ Attach to Form 1040, Form 1041, Form 1065, or Form 1065-B.
▶ See Instructions for Schedule F (Form 1040).

OMB No. 1545-0074

2005

Attachment
Sequence No. 14

Name of proprietor

Social security number (SSN)

BLUEPORT LLC MENDOCINO CA PROPERTY

A Principal product. Describe in one or two words your principal crop or activity for the current tax year.

GRAZING

B Enter code from Part IV

▶ 112900

C Accounting method: (1) Cash (2) Accrual

D Employer ID number (EIN), if any

E Did you "materially participate" in the operation of this business during 2005? If "No," see page F-2 for limit on passive losses. Yes No

Part I Farm Income - Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 11.)
Do not include sales of livestock held for draft, breeding, sport, or dairy purposes; report these sales on Form 4797.

1	Sales of livestock and other items you bought for resale	1		
2	Cost or other basis of livestock and other items reported on line 1	2		
3	Subtract line 2 from line 1			3
4	Sales of livestock, produce, grains, and other products you raised			4
5a	Cooperative distributions (Form(s) 1099-PATR)	5a		5b Taxable amount
6a	Agricultural program payments (see page F-2)	6a		6b Taxable amount
7	Commodity Credit Corporation (CCC) loans (see page F-3):			
a	CCC loans reported under election			7a
b	CCC loans forfeited	7b		7c Taxable amount
8	Crop insurance proceeds and Federal crop disaster payments (see page F-3):			
a	Amount received in 2005	8a		8b Taxable amount
c	If election to defer to 2006 is attached, check here <input type="checkbox"/> 8d Amount deferred from 2004			8d
9	Custom hire (machine work) income			9
10	Other income, including Federal and state gasoline or fuel tax credit or refund (see page F-3) SEE STATEMENT 8			10 1,500.
11	Gross income. Add amounts in the right column for lines 3 through 10. If you use the accrual method, enter the amount from Part III, line 51			11 1,500.

Part II Farm Expenses - Cash and Accrual Method.

Do not include personal or living expenses such as taxes, insurance, repairs, etc., on your home.

12	Car and truck expenses (see page F-4 - also attach Form 4562)	12		25	Pension and profit-sharing plans	25	
13	Chemicals	13		26	Rent or lease (see page F-5):		
14	Conservation expenses (see page F-4)	14		a	Vehicles, machinery, and equipment	26a	
15	Custom hire (machine work)	15		b	Other (land, animals, etc.)	26b	
16	Depreciation and section 179 expense deduction not claimed elsewhere (see page F-4)	16		27	Repairs and maintenance	27	2,362.
17	Employee benefit programs other than on line 25	17		28	Seeds and plants	28	
18	Feed	18		29	Storage and warehousing	29	
19	Fertilizers and lime	19		30	Supplies	30	
20	Freight and trucking	20		31	Taxes	31	8,192.
21	Gasoline, fuel, and oil	21		32	Utilities	32	916.
22	Insurance (other than health)	22	315.	33	Veterinary, breeding, and medicine	33	
23	Interest:			34	Other expenses (specify):		
a	Mortgage (paid to banks, etc.)	23a		a	LEGAL FEES	34a	825.
b	Other	23b		b		34b	
24	Labor hired (less employment credits)	24		c		34c	
				d		34d	
				e		34e	
				f		34f	
35	Total expenses. Add lines 12 through 34f			35		35	12,610.
36	Net farm profit or (loss). Subtract line 35 from line 11. • If a profit, enter on Form 1040, line 18, and also on Schedule SE, line 1. • If a loss, you must go to line 37. Estates, trusts, and partnerships, see page F-6.			36		36	-11,110.

37 If you have a loss, you must check the box that describes your investment in this activity (see page F-6).
• If you checked 37a, enter the loss on Form 1040, line 18, and also on Schedule SE, line 1.
• If you checked 37b, you must attach Form 8198. Your loss may be limited.

37a All investment is at risk.
37b Some investment is not at risk.

LHA For Paperwork Reduction Act Notice, see instructions.

Schedule F (Form 1040) 2005

632001
11-19-05



March 14, 2011

Blueport, LLC
12 Reno Place
San Francisco, CA 94133

Attention: Gower Smith

RECEIVED

MAR 17 2011

CALIFORNIA
COASTAL COMMISSION

12071.2

RE: Report Supplement, Results of Slope Stability Analyses and Documentation of Aerial Photograph Studies, Smith Residence, 12350 South Highway 1, Elk, Mendocino County, California

Dear Mr. Smith:

This letter updates our previous, July 12, 2007 Engineering Geologic Reconnaissance report for your planned residence at 12350 South Highway 1, Mendocino County, California. The project site is located on the west side of Highway 1, approximately five miles south of the community of Elk. The property includes the historic beach-access road to Bridgeport Landing, as shown on the Vicinity Map, Plate 1.

The purpose of our current studies are to review our previous report recommendations; review the historic, vertical and oblique aerial photographs of the bluff-top property; evaluate changes that may have occurred at the site since 1990 (BACE's neighboring property reconnaissance) and 1997 (BACE's initial reconnaissance of the subject property); perform three, bluff stability analyses; and document our previous aerial photograph studies. The scope of our services, as outlined in our Professional Service Agreement dated October 28, 2010, consisted of site observations, preparing a topographic map and cross sections of the property ocean bluffs, performing three bluff stability analyses, and preparation of this report.

2011 Property Update

BACE's sub-consultant, I.L. Welty & Associates, prepared a topographic map, dated December 2010, showing the bluff portion of the property. We used this topographic map as the base map for our Site Geologic Map, Plate 2. Sections A-A, B-B, and C-C, on Plate 3, show the soil and rock conditions of the property bluffs near planned building areas. According to the topographic map, the property bluffs are approximately 230 feet in vertical height with average slope gradients that vary from about 1.3 horizontal to one vertical (1.3H:1V) to 2H:1V. Local areas of the bluffs are near vertical. No evidence of recent (last few years) deep landslide activity or gross instability was observed on the bluff at this property.

EXHIBIT NO. 13
APPEAL NO.
A-1-MEN-09-052
BLUE PORT, LLC
SUPPLEMENTAL GEOLOGIC
REPORT (1 of 7)

Seismic Design Criteria

The proposed structures should be designed and constructed to resist the effects of strong ground shaking (on the order of Modified Mercalli Intensity IX) in accordance with current building codes. The California Building Code (CBC), 2010 edition, indicates that the following seismic design parameters are appropriate for the site:

Site Class = D

Mapped Spectral Response Acceleration at 0.2 sec $S_s = 1.930g$

Mapped Spectral Response Acceleration at 1.0 sec $S_1 = 1.013g$

Design Spectral Response Acceleration at 0.2 sec $S_{DS} = 1.287g$

Design Spectral Response Acceleration at 1.0 sec $S_{D1} = 0.878g$

Seismic Design Category = E

Bluff Slope Stability

Our bluff stability analyses were performed to correspond, as a minimum, to the guidelines by Dr. Mark J. Johnsson, Staff Geologist, California Coastal Commission, "Establishing Development Setbacks from Coastal Bluffs", Proceedings, California and the World Ocean '02, in which he suggests a factor of safety greater than or equal to 1.5 for static conditions and 1.1 for seismic conditions, permanent displacement of less than 50mm, and horizontal seismic coefficient of 0.15g.

The location of Sections A-A, B-B and C-C used for our stability analysis is shown on attached Plate 2. Sections A-A, B-B and C-C are shown on Plate 3.

Three soil/rock "units", with different density and strength parameters, were delineated within the bluff for our stability analysis. Unit "1" is the upper, relatively thin deposit of loose to medium dense, silty sand, Pleistocene terrace deposits. Unit "2" is the upper moderately weathered sandstone beneath the terrace deposits. Unit "3" is the lower, moderately to little weathered, sandstone and shale.

For our stability analysis Unit "1" was assigned a wet density of 119 pounds per cubic foot (pcf), and low strength parameters; cohesion (C) of 0 pounds per square foot (psf), and a friction angle (phi) of 29 degrees. Unit "2" was assigned a wet density of 135 pcf, and the following strength parameters, C of 600 psf and phi of 35 degrees. Unit "3" was assigned a wet density of 140 pcf, C of 6825 psf and a phi of 35 degrees. These values are "typical" for the surficial soils/terrace deposits and bedrock at similar sites on the Mendocino Coast.

The above assigned strengths were determined from strength test results obtained from this site and within the vicinity, as well as from back-analysis of the bluff stability calculations. The results of our stability analyses are presented in Appendix A. Based upon our time comparison studies of the property bluffs, as well as characteristics inherent to the geology of the site, we consider the bluffs at the site to be relatively stable.

297



The northwest bluff, Sections A-A and B-B, has factors of safety greater than 1.5 and 1.1 for static and seismic conditions, respectively. The southwest bluff, Section C-C, is steeper than the northwest bluff. Because of the additional steepness, the upper bluff shows a potential failure starting at 19 feet back of the bluff edge. Outside of this potential failure zone, the southwest bluff is stable.

Bluff Retreat

BACE has reviewed USGS Open-File Report 2007-1133, "National Assessment of Shoreline Change, Part 4: Historical Coastal Cliff Retreat Along The California Coast", by Cheryl J. Hapke and David Reid. The report presents bluff retreat evaluations based upon comparing historical bluff edges digitized from maps, with recent bluff edges interpreted from lidar. The historical bluff edges are from 1920's - 1930's National Ocean Service (NOS) topographic maps (T-sheets). Unfortunately, no examples of a T-sheet or a description of how they were prepared were included in the USGS report. Further, no estimate of the accuracy of the bluff edges on these T-sheets is presented in the report.

The subject property is within the "Navarro region" which the USGS report authors define as the area extending from "Point Delgada in the north to Point Arena in the south". For the Navarro region, the report states that the average, regional retreat rate is 0.4 meters per year (1.3 feet per year). BACE disagrees with that high of an average retreat rate, for the following reasons:

The undersigned, Erik Olsborg, has been visiting the Mendocino coast since the early 1960's. Mr. Olsborg has been performing geologic studies on the Mendocino coast since 1977. In this past 34 years the average coast retreat would have been 45 feet if the USGS report's stated retreat rate were accurate. Mr. Olsborg has not seen evidence of a retreat rate of that magnitude, except in localized, distressed areas.

BACE's estimated erosion rates are significantly less than the rate given in Open File Report 2007-1133 (0.4 meters, or approximately 16 inches per year) for this region. If the USGS rate were accurate, the bluff edge would have retreated approximately 63 feet over the last 48 years (1963 to 2011, our earliest aerial photograph up to today); this is clearly not the case. Further, the observed erosion over the 30 year time period between 1979 and 2009 (Oblique Aerial Photographs, Plates 4 and 5) would have been 40 feet; also clearly not the case.

It should be noted that the old barn in the central bluff portion of the property was built a few feet from the bluff edge prior to 1963. The old barn is still a few feet from the bluff edge, as shown on Plate 2.

Aerial Photograph Analysis

For our analysis, we used measurements on the 1963, 1981, 1986, 1993, 2000, and 2010 vertical aerial photographs as well as qualitative comparisons of the 1972, 1979, 2002, 2005, and 2009 oblique aerial photographs. Our qualitative comparison of the vertical and oblique aerial photos shows no discernable gross changes to the bluff edges at the site, such as large slumps or

3 of 7



rockfalls. Based upon the above comparisons of the bluffs from 1963 to the present, the actual, average retreat during this time appears to be much less than our previous estimates provided in our 2007 report.

Our 2007 reconnaissance report provided average bluff retreat rates of 2.5 inches per year for the northwest bluff, and 3.25 inches per year for the southwest bluff. As can be determined by comparison of Oblique Aerial Photographs - 1979 and - 2009, on Plates 4 and 5, our previous (2007) retreat rates appear to be very conservative. If our retreat rates were accurate, the northwest and southwest bluffs would have retreated 6.25 feet and just over 8 feet, respectively. Comparison of the two photos shows very little bluff erosion (perhaps an average of a foot or two) over that 30-year period. In consideration of the additional data that we have reviewed, an over-all retreat rate of 1.5 inches per year appears more realistic as an historical average.

Copies of the 1963, 1981, and 2000 aerial photographs used during our investigation are attached to this letter as Plates 6, 7, and 8, respectively. The attached photograph copies show the areas of measurements referenced below. The steps of our analysis were as follows:

- BACE determined the 1963, 1981, and 2000 aerial photograph scales by measuring identical points on the photographs with physical features in the field using a 100-foot tape. For this study, the distance between two driveway centerline that intersect with Highway 1, forming Line A, as shown on the attached aerial photographs, was used for photograph scale determination.
- Using the established photograph scales, we measured from the Highway 1 centerline to the bluff point (Line B) at the property. These measurements showed practically no change (bluff point retreat) from 1963 to 2000.
- We also measured from the side of the old barn, southwest to the bluff edge (Line C). This photograph distance was 265 feet in 1963 and 261 feet in 1981 and 2000. This distance is also shown to be 261 feet on the 2010 topographic base map used for the Site Geologic Map, Plate 2. These measurements show that there has been approximately 4 feet of retreat from 1963 to 2010, most of it occurring before 1981.

Effects of Sea Level Rise

The Coastal Conservancy has adopted interim sea level rise rates of 16 inches by 2050 and 55 inches by 2100. Using the California Coastal Commission's economic lifespan of a building of 75 years, we must consider the effects of sea level rise for a structure built this year (2011) through 2086. For this discussion, we will assume a linear rate of sea level rise (which may or may not be the case) in order to estimate a projected sea level rise of approximately 44 inches (3.7 feet) by 2086.

Portions of the property bluffs are protected from ocean waves by sandy beaches, except during high tides and storms. As shown on the Site Geologic Map, Plate 2, the beaches slope upward to approximately 10 to 15 feet above Mean Sea Level. Therefore, the beaches should remain for the next 75 years, even after a 44-inch rise in sea level. Based upon historic aerial photographs and our site observations since 1990, the current historic, average bluff retreat rate appears to be approximately 1.5 inches per year.

4 of 7



This relatively-low retreat rate will likely continue for the next approximately 20 years before sea level rise takes effect. The retreat rate should increase slowly as higher waves begin to impact the bluff toe. Eventually, as the bluff toe is continually subject to wave activity during high tides, the retreat rate should increase to approximately four inches per year, as indicated in Table 1.

Table 1

Years	Span	Cumulative Sea Level Rise (in.)	Retreat Rate (in/yr)	Amount of Retreat (in.)
2011-2031	20	8	1.5	30
2031-2051	20	16	2.0	40
2051-2071	20	32	3.0	60
2071-2086	15	44	4.0	60

190" = 16'

Revised Bluff Setbacks

Table 1 sums up the amount of projected retreat over a 75-year span. This results in a total bluff retreat of 16 feet. Using a safety factor of two, a suitable bluff setback would be on the order of 32 feet.

Since the southwest bluff is steeper and has a slope failure potential back to 19 feet, the bluff setback in this area should be 51 feet (32' + 19'). In addition, a 50 feet setback from the dormant landslide was previously thought to be within our initial bluff setback. With the more accurate topographic map, we see that a small portion of the landslide setback extends past the bluff setback in the area of the old barn, as shown on Plate 2.

Seismicity And Liquefaction

As is typical of the Mendocino County area, the site will be subject to strong ground shaking during future, nearby, large magnitude earthquakes originating on the active San Andreas Fault, or possibly other, more distant fault systems. The intensity of ground shaking at the site will depend on the distance to the causative earthquake epicenter, the magnitude of the shock, and the response characteristics of the underlying earth materials. Generally, wood-frame structures founded in supporting materials and designed in accordance with current building codes are well suited to resist the effects of ground shaking.

By today's (2010) standards, the terrace deposit soils appear to have a slight to moderate potential for liquefaction. This potential can be confirmed by performing our previously-recommended geotechnical investigation. As an alternative, the site soils can be assumed to be liquefiable, and appropriate mitigation measures can be utilized during construction (see Foundation Support, below).

5 of 4



Tsunami/Storm Waves

As typical of the Mendocino coastal area, the site could be subject to large storm waves or tsunami waves. In February 1960, the Point Cabrillo Light House was damaged by an approximately 60 feet high storm wave. Since the property bluffs are approximately 230 feet in vertical height, improvements within the property are not considered at risk of damage from tsunami events.

Foundation Support

In our 2007 report, we recommended that a geotechnical investigation, with sampled test borings, be performed in order to provide suitable foundation recommendations for the residential structures. This is particularly important in light of the new (2010) criteria regarding liquefaction. As an alternative to performing a geotechnical investigation, the structure foundations could be supported on a compacted fill mat that would mitigate the concern of liquefaction.

To construct the mat, the upper three feet of native soils should be over-excavated, moisture conditioned as necessary, and replaced in thin lifts compacted to 90 percent relative compaction. Prior to fill placement, the bottom of the excavations should be covered by a geotextile, stabilization fabric, such as Mirafi 500X, or equivalent. Provided that there is a minimum of two feet of compacted fill under the footings, the structure foundations can be designed using California Building Code standards.

Conclusions

Based upon our recent project data review, we conclude that BACE's 2007 Engineering Geologic Reconnaissance report conclusions and recommendations are, for the most part, still valid. Our revised bluff retreat rates and building setbacks should be used in final project design.

The overall height of the bluffs (approximately 230 feet) affords blufftop structures continued protection from storm surges, tsunamis, and wave runups, even considering the projected sea level rise. The combination of high elevation and geologic stability of the property make its susceptibility to the detrimental effects of sea level rise relatively low, at least over the next 75 years.

Additional Services

Prior to construction, BACE should review the final grading and foundation plans, and soil related specifications for conformance with our recommendations. During construction, BACE should be retained to provide periodic observations, together with field and laboratory testing, during site preparation, placement and compaction of fills, if required, and foundation construction. Foundation excavations should be observed by BACE while the excavation operations are being performed. Our observations and tests would allow us to verify

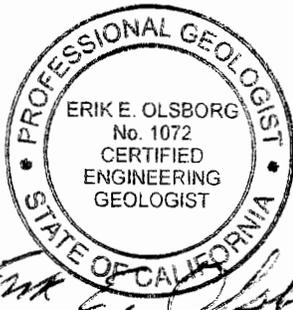
647



conformance of the work to project guidelines, determine that soil conditions are as anticipated, and to modify our recommendations, if necessary.

We trust this letter provides the information needed at this time. Please call if you have questions, or if we can be of further service.

Respectfully submitted,



Erik E. Olsborg

Erik E. Olsborg
Engineering Geologist – 1072



Keith A. Colorado

Keith A. Colorado
Geotechnical Engineer – 2894

Distribution:

2 copies submitted

Cc: Mr. Bob Merrill, California Coastal Commission, 710 E Street, Suite 200, Eureka, CA 95501-1865
Dr. Mark Johnsson, California Coastal Commission, 45 Fremont Street, Suite 2000, San Francisco, CA 94105-2219

Attachments: Plate 1 – Vicinity Map
Plate 2 – Site Geologic Map
Plate 3 – Sections A-A, B-B, and C-C
Plate 4 – Coastline Photograph A -1979
Plate 5 – Coastline Photograph B - 2009
Plate 6 - Aerial Photograph – 1963
Plate 7 – Aerial Photograph – 1981
Plate 8 – Aerial Photograph – 2000
Appendix A



**BOTANICAL SURVEY AND
ESHA ASSESSMENT**

**FOR
12350 SOUTH HIGHWAY 1
(A.P.# 131-080-01 & 05)
ELK, CALIFORNIA
MENDOCINO COUNTY**

EXHIBIT NO. 14

APPEAL NO.

**A-1-MEN-09-052
BLUE PORT, LLC**

**WETLAND & ESHA
ASSESSMENTS (1 of 23)**

prepared by:
William Maslach
32915 Nameless Lane
Fort Bragg, California 95437
(707) 964-4547
geobotanical@mcn.org

July 2005

SUMMARY

A survey on an approximately 50-acre parcel was conducted to locate rare plants and wetlands to establish a building site with adequate buffers. Unpaved roads, culverts, and an old barn exist on the Project Site. One special-status plant species and a creek with riparian habitat occur on the parcel. Development is not proposed within ESHA buffers.

INTRODUCTION

On May 4 and June 27, 2005 a botanical survey was conducted on the parcel located at 12350 South Highway 1 (APN 131-080-01 & 05, approximately 50 acres) Elk, California ("Project Site") (Figure 1). The purpose of the study was to describe the existing vegetation communities, survey the parcel for special-status (rare) plant species 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 (Mendocino County, 1991).

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. Development will be proposed outside the ESHA buffer.

PROJECT SITE DESCRIPTION

The Project Site is a parcel west of Highway 1 and within the California Coastal Zone. It is located at 12350 South Highway 1, Elk, California. Improvements to the Project Site include an unpaved road, culverts, and an old barn (Figure 1).

The Project Site vegetation is predominantly coastal terrace grassland with riparian habitat near an unnamed creek and coastal bluff scrub along the bluff face and edge. The grassland is dominated by bent grass (*Agrostis stolonifera*) and sweet vernal grass (*Anthoxanthum odoratum*) and covers most of the Project Site. The riparian habitat and creek occur on the south side of the Project Site along the property line. An earthen dam occurs along the creek, forming a large pond behind it. The riparian habitat is primarily arroyo willow (*Salix lasiolepis*) and Sitka willow (*Salix sitchensis*). The coastal bluff scrub is comprised primarily of coast buckwheat (*Eriogonum latifolium*), dudleya (*Dudleya caespitosa*), and seaside wooly sunflower (*Eriophyllum staechadifolium*). This habitat is restricted to the bluff edges and faces.

METHODS

A field survey for botanical and wetland resources was conducted on May 4 and June 27, 2005. 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 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;
- 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 (Elk) for the Study Area and the adjacent quadrangles (Albion, Navarro, Mallow Pass Creek, Cold Spring, Point Arena, Eureka Hill). The regional assessment utilized the California Native Plant Society's (CNPS) electronic inventory (Version 6-05b 4-11-05) and the California Department of Fish and Game's (CDFG), Natural Diversity Data Base Rare Find (Version 3, 2005). 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 Table 1.

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.

SCIENTIFIC NAME	COMMON NAME	FED	STATE	CNPS	R-E-D	HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
<i>Abronia umbellata</i> ssp. <i>breviflora</i>	pink sand-verbena	-	-	IB	2-3-2	coastal dunes	No
<i>Agrostis biadalei</i>	Blasdale's bent grass	-	-	IB	3-2-3	coastal bluff scrub, coastal dunes, coastal prairie	Yes
<i>Angelica lucida</i>	Sea-watch	-	-	4	1-2-1	coastal bluffs, beaches	Yes
<i>Arctostaphylos mendocinoensis</i>	pygmy manzanita	-	-	IB	3-2-3	closed cone coniferous forest (acidic sandy clay)	No
<i>Astragalus agniticidus</i>	Humboldt milk-vetch	-	-	IB	3-3-3	broadleaf upland forests, North Coast coniferous forests / disturbed areas	No
<i>Astragalus pycnostachyus</i> var. <i>pycnostachyus</i>	coastal marsh milk-vetch	-	-	IB	3-2-3	coastal dunes (mesic), marshes and swamps, (coastal salt, and streambanks)	No
<i>Blennosperma nanum</i> var. <i>robustum</i>	Point Reyes blennosperma	-	CR	IB	3-2-3	coastal prairie, coastal scrub	Low Potential
<i>Boschniakia hookeri</i>	small groundcone	-	-	2	3-1-1	North Coast coniferous forest	No

List 1A (IA) Presumed extinct in California.
 List 1B (IB) 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.

R-E-D: codes that defines a species' rarity, endangerment, and distribution (R)rarity - a degree of concern on rarity
 1. Rare but found in sufficient numbers and distributed widely enough that the potential for extinction or extirpation is low at this time.
 2. Occurrence confined to several populations or to one extended population.
 3. Occurrence limited to one or a few highly restricted populations, or present in such small numbers that it is seldom reported.

(E)ndangerment
 1. Not endangered.
 2. Endangered in a portion of its range.
 3. Endangered throughout its range.

(D)istribution
 1. More or less widespread outside California.
 2. Rare outside California.
 3. Endemic to California.

SCIENTIFIC NAME	COMMON NAME	FED	STATE	CNPS	R-E-D	HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
<i>Calamagrostis bolanderi</i>	Bolander's reed grass	-	-	4	NOT POSTED	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	3-3-1	coastal scrub (mesic)	Yes
<i>Calyxstegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	-	-	1B	2-2-3	coastal dunes, coastal scrub	Yes
<i>Campanula californica</i>	swamp harebell	-	-	1B	2-2-3	bogs & fens, closed cone coniferous forest, coastal prairie, meadows, marshes & swamps (freshwater), North Coast coniferous forests / mesic	Yes
<i>Carex californica</i>	California sedge	-	-	2	3-1-1	bogs & fens, closed cone coniferous forest, coastal prairie, meadows, marshes & swamps (margins)	No
<i>Carex livida</i>	livid sedge	-	-	1A	PRE-SUMED EXTINCT	bogs & fens	No
<i>Carex lyngbyei</i>	Lyngbye's sedge	-	-	2	2-2-1	marshes & swamps (brackish or freshwater)	No
<i>Carex saliniformis</i>	deceiving sedge	-	-	1B	2-2-3	coastal prairie, coastal scrub, meadows, marshes & swamps (coastal salt) / mesic	Yes
<i>Carex viridula</i> var. <i>viridula</i>	green sedge	-	-	2	3-1-1	bogs & fens, marshes & swamps (freshwater), North Coast coniferous forests (mesic)	Yes
<i>Castilleja affinis</i> ssp. <i>litoralis</i>	Oregon coast Indian paintbrush	-	-	2	2-2-1	coastal bluff scrub, coastal dunes, coastal scrub/sandy	Low Potential
<i>Castilleja ambigua</i> ssp. <i>humboldtensis</i>	Humboldt Bay owl's clover	-	-	1B	2-2-3	marshes & swamps (coastal salt)	No
<i>Castilleja mendocinensis</i>	Mendocino coast Indian paintbrush	-	-	1B	2-2-3	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	1-1-3	chaparral	No
<i>Ceanothus gloriosus</i> var. <i>gloriosus</i>	Point Reyes ceanothus	-	-	4	1-1-3	coastal bluff scrub, closed cone coniferous forest, coastal dunes, coastal scrub / sandy	Yes

SCIENTIFIC NAME	COMMON NAME	FED	STATE	CNFS	R-E-D	HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
<i>Chorizanthe howellii</i>	Howell's spineflower	FE	CT	IB	3-2-3	coastal dunes, coastal prairie, coastal scrub / sandy	No
<i>Clarkia amoena</i> ssp. <i>whitneyi</i>	Whitney's farewell-to-spring round-headed Chinese houses	-	-	IB	3-3-3	coastal bluff scrub, coastal scrub	Yes
<i>Collinsia corymbosa</i>	round-headed Chinese houses	-	-	IB	2-2-3	coastal dunes	No
<i>Cupressus goveniana</i> ssp. <i>pigmataea</i>	pygmy cypress	-	-	IB	2-2-3	closed cone coniferous forest (podzol-like soil)	No
<i>Erigeron supplex</i>	supple daisy	-	-	IB	3-2-3	coastal bluff scrub, coastal prairie	Yes
<i>Erysimum menziesii</i> ssp. <i>menziesii</i>	Menzies's wallflower	FE	CE	IB	3-3-3	coastal dunes	No
<i>Erythronium revolutum</i>	coast fawn lily	-	-	2	2-2-1	bogs and fens, broadleaved upland forest, North Coast coniferous forest / mesic, streambanks	No
<i>Fritillaria roderickii</i>	Roderick's fritillary	-	CE	IB	3-3-3	coastal bluff scrub, coastal prairie, valley & foothill grasslands	Yes
<i>Gilia capitata</i> ssp. <i>chamissonis</i>	dune gilia	-	-	IB	2-3-3	coastal dunes, coastal scrub	No
<i>Gilia capitata</i> ssp. <i>pacifica</i>	Pacific gilia	-	-	IB	2-2-2	coastal bluff scrub, coastal prairie	Yes
<i>Gilia capitata</i> ssp. <i>tomentosa</i>	woolly-headed gilia	-	-	IB	3-3-3	coastal bluff scrub (rocky, outcrops). Known from only three occurrences near Tomales and Salt Pt. SP.	Low Potential
<i>Gilia millefoliata</i>	dark-eyed gilia	-	-	IB	2-2-2	coastal dunes	No
<i>Glyceria grandis</i>	American mana grass	-	-	2	3-1-1	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	?-?-3	coastal scrub, valley and foothill grassland	Low Potential
<i>Hespererax sparsiflora</i> ssp. <i>brevifolia</i>	short-leaved evax	-	-	2	2-2-1	coastal bluff scrub (sandy)	Yes
<i>Horkelia marinensis</i>	Point Reyes horkelia	-	-	IB	3-2-3	coastal dunes, coastal prairie, coastal scrub / sandy	Yes
<i>Horkelia tenuiloba</i>	thin-lobed horkelia	-	-	IB	2-2-3	broadleaved upland forest, chaparral/mesic openings, sandy	No
<i>Juncus supiniformis</i>	hair-leaved rush	-	-	2	2-2-2	bogs & fens, marshes & swamps (freshwater) / near coast	No
<i>Lasthenia conjugens</i>	Contra Costa goldfields	FE	-	IB	3-3-3	cismontane woodland, playas (alkaline), valley and foothill grassland, vernal pools/mesic	No

SCIENTIFIC NAME	COMMON NAME	FED	STATE	CNPS	R-E-D	HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
<i>Lasthenia macrantha</i> ssp. <i>bakeri</i>	Baker's goldfields	-	-	IB	2-2-3	closed cone coniferous forest (openings), coastal scrub	Yes
<i>Lasthenia macrantha</i> ssp. <i>macrantha</i>	perennial goldfields	-	-	IB	2-2-3	coastal bluff scrub, coastal dunes, coastal scrub	Yes
<i>Lilium maritimum</i>	coast lily	-	-	IB	2-3-3	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	1-2-1	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 marshes & swamps, North Coast coniferous forests (mesic)	Yes
<i>Lycopodium clavatum</i>	runnings-pine	-	-	2	2-1-1	broadleaf upland forests, lower montane coniferous forests, meadows, North Coast coniferous forests / mesic	No
<i>Mitella caulescens</i>	leafy-stemmed mitrewort	-	-	2	2-1-1	broadleaf upland forests, lower montane coniferous forests, meadows, North Coast coniferous forests / mesic	No
<i>Phacelia insularis</i> var. <i>continentis</i>	North Coast phacelia	-	-	IB	3-2-3	coastal bluff scrub, coastal dunes / sandy	No
<i>Pinus contorta</i> ssp. <i>bolanderi</i>	Bolander's beach pine	-	-	IB	2-2-3	closed cone coniferous forest (podzol-like soil)	No
<i>Pleuropogon hooverianus</i>	North Coast semaphore grass	-	CT	IB	3-3-3	broadleafed upland forest, meadows and seeps, North Coast coniferous forest/open areas, mesic	Yes
<i>Pleuropogon refractus</i>	nodding semaphore grass	-	-	4	1-2-1	lower montane coniferous forests, meadows, North Coast coniferous forests, riparian forests / mesic	Yes
<i>Puccinellia pumila</i>	dwarf alkali grass	-	-	2	3-2-1	marshes & swamps (coastal salt)	No
<i>Rhynchospora alba</i>	white-beaked rush	-	-	2	2-2-1	bogs & fens, meadows, marshes & swamps (freshwater)	No

SCIENTIFIC NAME	COMMON NAME	FED	STATE	CNPS	R-E-D	HABITAT REQUIREMENTS	HABITAT IN PROJECT SITE
<i>Sanguisorba officinalis</i>	great burnet	-	-	2	2-2-1	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	2-2-1	coastal scrub, North Coast coniferous forests	Yes
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	-	-	1B	2-2-3	marshes & swamps (freshwater, near coast)	Yes
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom	-	-	1B	2-2-2	broadleaf upland forests, coastal prairie, coastal scrub, North Coast coniferous forests / often disturbed areas	Yes
<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	purple-stemmed checkerbloom	-	-	1B	2-2-3	broadleaf upland forests, coastal prairie	Yes
<i>Triquetrella californica</i>	coastal triquetrella	-	-	1B	3-2-2	coastal bluff scrub, coastal scrub/soil	Yes
<i>Usnea longissima</i>	long-beard lichen	-	-	-	-	semi-open canopy forests	No
<i>Feratruncum fimbriatum</i>	fringed false-hellebore	-	-	4	1-1-3	bogs & fens, coastal scrub, meadows, North Coast coniferous forests (mesic)	Yes
<i>Viola adunca</i>	dog violet	-	-	NONE	NONE	coastal prairie, meadows	Yes
<i>Viola palustris</i>	marsh violet	-	-	2	3-2-1	coastal scrub (mesic), bogs & fens (coastal)	Yes

SURVEY RESULTS

DOCUMENTED SPECIES PRESENCE

The wetlands and species with regional known occurrence having potential habitat in the project site were surveyed for presence (Table 1). 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 2) and drawn on a map of the Project Site (Figure 1). Species that are listed in Table 1 but not below in Table 2 were not detected.

Table 2. Wetlands and Special-Status Plants Documented on the Project Site.

SCIENTIFIC NAME	COMMON NAME	CNPS RANK	POPULATION SIZE
<i>Castilleja mendocinensis</i>	Mendocino coast paintbrush	CNPS List 1B	Approx. 10 individuals
riparian habitat	-	-	Approx. 11 acres (mapped – not all within Project Site)

Castilleja mendocinensis or Mendocino coast paintbrush is a perennial herb that grows in coastal bluff habitat. On the Project Site it grows along the steep bluff face above the ocean. Most locations are inaccessible and are not threatened by any new development.

Riparian habitat occurs along the unnamed creek on the southern parcel boundary. The creek is dammed by an earthen berm with a road on top of it. Most of the riparian habitat is thick willow vegetation.

FLORISTIC SURVEY

A floristic survey was completed for the surveyed area; all plants encountered were documented (Appendix A).

DISCUSSION/MITIGATION

Riparian habitat occurs along the unnamed creek on the southern parcel boundary. The creek is dammed by an earthen berm with a road on top of it. Most of the riparian habitat is thick willow vegetation. Preliminary discussions with the permit applicant indicated that the proposed development would be placed near the old barn and not within 100' of an ESHA buffer. No specific site plans were developed, but the development proposal will be outside the buffer.

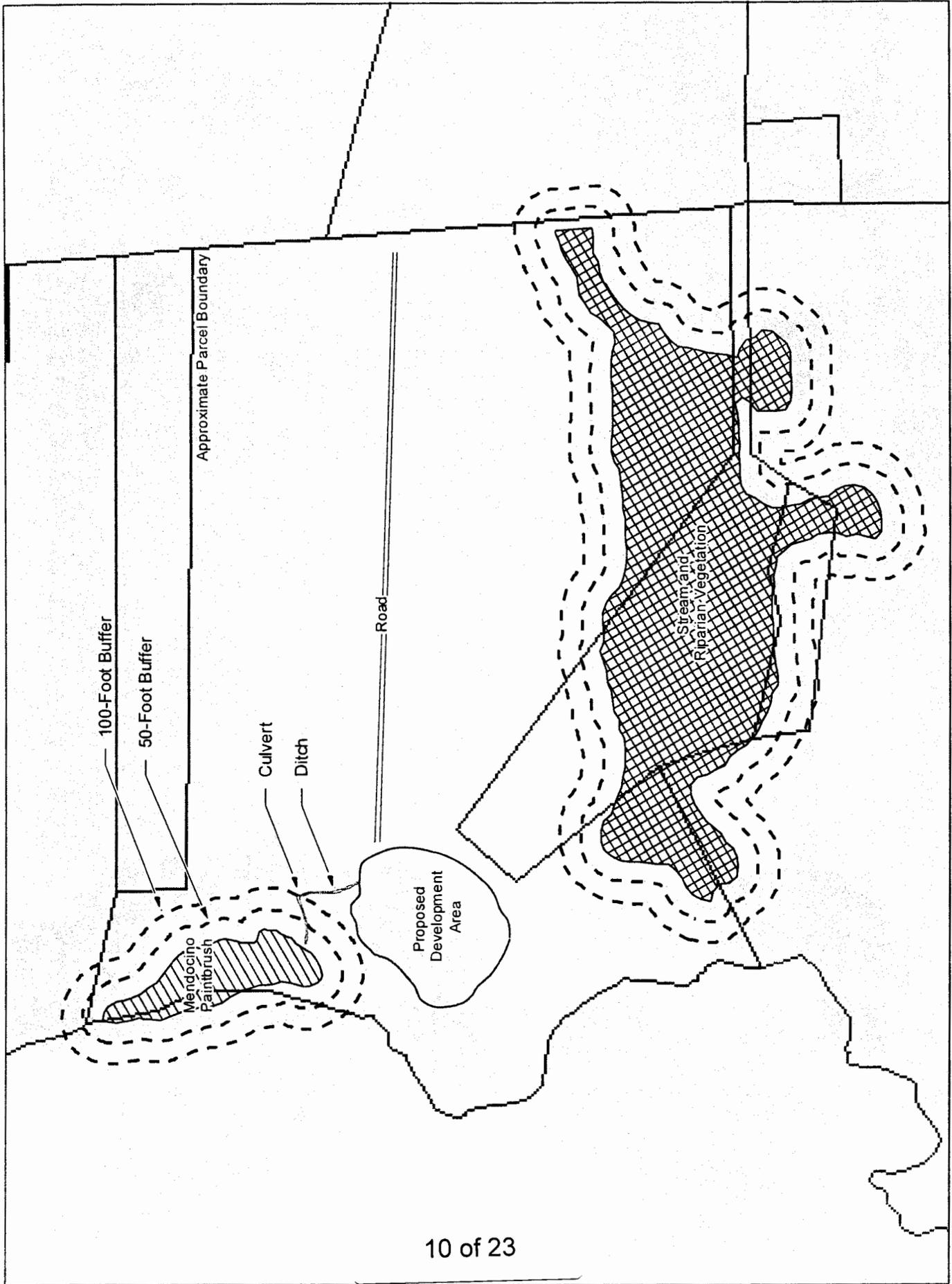


Figure 1. Site Map of 12350 South Highway One, Elk, California. All locations on the map are approximate. This map is a general reference for ESHA features and buffers. Aerial photograph from USGS, DOQ, 1992.

REFERENCES

- California Department of Fish and Game, Habitat Conservation Division. Natural Diversity Data Base. Rare Find Version 3, 2005.
- California Department of Fish and Game. 2000. "Guidelines for Assessing the Effects of Proposed Developments on Rare, Threatened, and Endangered Plants and Plant Communities." Developed by James Nelson. Sacramento, California.
- California Native Plant Society (CNPS). 2001. Inventory of Rare and Endangered Plants, 6th Edition. California Native Plant Society, Sacramento, CA.
- California Native Plant Society (CNPS). 2005. Inventory of Rare and Endangered Plants (online edition, v6-05b 4-11-05). Rare Plant Scientific Committee. California Native Plant Society, Sacramento, CA. Accessed from <http://www.cnps.org/inventory>
- Mendocino County. 1991. Mendocino County Coastal Zoning Code. Title 20 – Division II of the Mendocino County Code.

APPENDICES

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

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

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
FERNS AND ALLIES				
	Blechnaceae			
		Woodwardia fimbriata	giant chain fern	Y
	Dennstaedtiaceae			
		Pteridium aquilinum var. pubescens	bracken; western bracken	Y
	Dryopteridaceae			
		Athyrium filix-femina var. cyclosorum	lady fern	Y
		Dryopteris arguta	western wood fern	Y
		Polystichum munitum	western sword fern	Y
	Equisetaceae			
		Equisetum hyemale ssp. affine	common scouring rush	Y
GYMNOSPERMS				
	Cupressaceae			
		Cupressus macrocarpa	Monterey cypress	Y
DICOTS				
	Aizoaceae			
		Carpobrotus chilensis	sea fig	N
	Anacardiaceae			
		Toxicodendron diversilobum	poison oak	Y
	Apiaceae			
		Angelica hendersonii	Henderson's angelica	Y
		Conium maculatum	poison hemlock	N
		Daucus pusillus	rattlesnake weed	Y
		Heracleum lanatum	cow parsnip	Y
		Oenanthe sarmentosa	Pacific oenanthe	Y
	Asteraceae			
		Achillea millefolium	yarrow	Y
		Artemisia douglasiana	mugwort, wormwood	Y
		Baccharis pilularis	coyote brush	Y
		Cirsium brevistylum	Indian thistle	Y
		Cirsium vulgare	bull thistle	N
		Erechtites minima	Australian fireweed	N
		Erigeron glaucus	seaside daisy	Y
		Eriophyllum staechadifolium	seaside wooly sunflower	Y
		Hypochaeris radicata	hairy cat's ear	N
		Madia sativa	coast tarweed	Y
		Senecio mikanioides	German ivy, cape ivy	N
		Silybum marianum	milk thistle	N
		Sonchus oleraceus	common sow thistle	N
	Brassicaceae			
		Brassica nigra	black mustard	N
		Raphanus sativus	wild radish	N
		Rorippa nasturtium-aquaticum	water cress	Y
	Caprifoliaceae			
		Lonicera hispidula var. vacillans	hairy honeysuckle	Y
		Sambucus racemosa var. racemosa	red elderberry	Y

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
	Caryophyllaceae			
		<i>Silene gallica</i>	windmill pink	N
		<i>Spergularia rubra</i>	red sandspurry	N
		<i>Stellaria media</i>	common chickweed	N
	Convolvulaceae			
		<i>Calystegia purpurata</i> ssp. <i>purpurata</i>		Y
	Crassulaceae			
		<i>Dudleya caespitosa</i>		Y
		<i>Sedum spathulifolium</i>	yellow stonecrop	Y
	Cucurbitaceae			
		<i>Marah fabaceus</i>	wild-cucumber; manroot	Y
	Fabaceae			
		<i>Lotus corniculatus</i>	bird's-foot trefoil	N
		<i>Lotus micranthus</i>		Y
		<i>Lupinus littoralis</i>	seashore lupine	Y
		<i>Medicago polymorpha</i>	California burclover	N
		<i>Trifolium campestre</i>	hop clover	N
		<i>Trifolium glomeratum</i>		N
		<i>Trifolium repens</i>	white clover	N
		<i>Vicia sativa</i> ssp. <i>sativa</i>	spring vetch	N
	Garryaceae			
		<i>Garrya elliptica</i>	coast silk tassel	Y
	Geraniaceae			
		<i>Geranium dissectum</i>	cut-leaved geranium	N
	Lamiaceae			
		<i>Stachys ajugoides</i> var. <i>rigida</i>	rigid hedge-nettle	Y
	Linaceae			
		<i>Linum bienne</i>	pale flax	N
	Lythraceae			
		<i>Lythrum hyssopifolium</i>	loosestrife	N
	Myrtaceae			
		<i>Eucalyptus globulus</i>	blue gum	N
	Oxalidaceae			
		<i>Oxalis corniculata</i>	creeping woodsorrel	N
	Papaveraceae			
		<i>Eschscholzia californica</i>	California poppy	Y
	Plantaginaceae			
		<i>Plantago lanceolata</i>	English plantain	N
		<i>Plantago maritima</i>	seaside plantain	Y
	Polemoniaceae			
		<i>Navarretia squarrosa</i>	skunkweed	Y
	Polygonaceae			
		<i>Eriogonum latifolium</i>	coast buckwheat	Y
		<i>Rumex acetosella</i>	common sheep sorrel	N
		<i>Rumex conglomeratus</i>	clustered dock	N
		<i>Rumex salicifolius</i> var. <i>salicifolius</i>		Y

GROUP	FAMILY	SCIENTIFIC NAME	COMMON NAME	NATIVE
	Primulaceae			
		Anagallis arvensis	scarlet pimpernel	N
	Ranunculaceae			
		Delphinium decorum ssp. tracyi	Tracy's larkspur	Y
		Ranunculus repens	creeping buttercup	N
	Rosaceae			
		Rubus parviflorus	thimbleberry	Y
		Rubus ursinus	California blackberry	Y
	Rubiaceae			
		Galium aparine	common bedstraw	Y
	Salicaceae			
		Salix lasiolepis	arroyo willow	Y
		Salix sitchensis	Sitka willow	Y
	Scrophulariaceae			
		Castilleja mendocinensis	Mendocino coast paintbrush	Y
		Mimulus guttatus	monkeyflower	Y
MONOCOTS				
	Cyperaceae			
		Cyperus eragrostis	tall flatsedge	Y
		Eleocharis macrostachya	common spikerush	Y
		Scirpus microcarpus	mountain bog bulrush	Y
	Juncaceae			
		Juncus bufonius var. bufonius	toad rush	Y
		Juncus effusus var. pacificus	Pacific common rush	Y
		Juncus patens	common rush	Y
	Liliaceae			
		Allium dichlamydeum	coastal onion	Y
		Triteleia laxa	Ithuriel's spear	Y
	Poaceae			
		Agrostis stolonifera	creeping bentgrass	N
		Avena sativa	cultivated oat	N
		Briza maxima	rattlesnake grass	N
		Briza minor	little quaking grass	N
		Bromus diandrus	ripgut brome; ripgut	N
		Bromus hordeaceus	soft chess	N
		Cynosurus echinatus	annual dogtail-grass	N
		Dactylis glomerata	orchard-grass	N
		Danthonia californica	California oatgrass	Y
		Festuca arundinacea	tall fescue, meadow fescue	N
		Holcus lanatus	common velvetgrass	N
		Lolium multiflorum	Italian ryegrass	N
		Polypogon monspeliensis	annual beard grass	N

DATE: July 29, 2002

To: County of Mendocino
Department of Planning and Building Services
501 Low Gap Road, Room 1440
Ukiah, CA 95482

From: Gordon E. McBride, PhD
30301 Sherwood Road
Fort Bragg, CA 95437

Re: BOTANICAL SURVEY AS REQUIRED FOR PROPOSED COASTAL DEVELOPMENT PERMIT FOR SINGLE FAMILY DWELLING ON +- 58 ACRE PARCEL AT 12350 SOUTH HIGHWAY ONE, ELK. (AP #131-080-01, 131-080-05, BABBE).

1. Project Description:

The proposed Coastal Development Permit would allow the construction of a single family dwelling, outbuildings, well, septic, system, and driveway on a +- 58 acre parcel at 12350 South Highway 1, Elk, CA.

2. Area Description:

The site supports three plant communities, coastal terrace prairie, coastal bluff scrub, and riparian. There are two small unnamed watercourses that flow from the parcels to the east and south, become confluent and flow into a historic human made impoundment on the site and thence to the ocean. On the bluff face there is another watercourse that originates on the bluff and flows down the bluff face. On the historic road to the base of the bluff there is an inboard ditch that contained running water on both the April 25 and June 29 field surveys. While this watercourse is more a function of the construction of the road, it does support hydrophytic plant species. There are the remains of an earlier single family dwelling, much deteriorated, on the site. Much of the coastal terrace prairie on the site has been grazed and/or farmed for various crops including hay for accumulated years. At the time of the 2002 field survey it was not being actively farmed or grazed.

Vegetation associated with the coastal terrace prairie include Orchard Grass (*Dactylis glomerata*), Rape (*Brassica rapa*), Radish (*Raphanus sativa*), Vulpia (*Vulpia bromoides*), Rye Grass (*Lolium perenne*, *L. multiflorum*), Plantain (*Plantago lanceolata*), Bent Grass (*Agrostis capillaris*), Oat (*Avena barbata*), Groundsel (*Senecio*

Babbe Botanical Survey, Pg. 2

vulgare, S. sylvaticus), Sheep Sorrel (Rumex acetosella), English Lawn Daisy (Bellum perenne), Pimpernell (Anagallis arvensis), Fescue (Festuca rubra), Morning Glory (Convolvulus arvensis), Cat's Ear (Hypochaeris radicata), Quaking Grass (Briza maxima, B. minor), Brome (Bromus vulgaris, B. hordeaceus, B. madritensis ssp. madritensis, B. diandrus), Yarrow (Achillea borealis), Thistle (Cirsium vulgare, C. arvense, C. occidentale var. venustum), Sweet Vernal Grass (Anthoxanthum odoratum), Velvet Grass (Holcus lanatus), Lupine (Lupinus arboreus), Horkelia (Horkelia californica var. californica), Barley (Hordeum marinum ssp. gussoneanum), Clover (Trifolium repens), Eryngium (Eryngium armatum), Quaking Grass (Briza maxima, B. minor) and associated plant species.

Elements of the coastal bluff scrub plant community include Angelica (Angelica hudsonii), Blackberry (Rubus ursinus), Coyote Brush (Baccharis pilularis), Hedge Nettle (Stachys ajugoides), Goose Grass (Galium aparine), Monterey Cypress (Cupressus macrocarpa), Eucalyptus (Eucalyptus globus), Willow (Salix sitchensis, S. hookeriana), Poison Oak (Toxicodendron diversilobum), Sow Thistle (Sonchus oleracea), Sword Fern (Polystichum munitum), Thimbleberry (Rubus parviflorus), Mugwort (Artemisia douglasiana), Wild Cucumber (Marah oreganus), Elderberry (Sambucus mexicana), Silktassel (Garrya elliptica), Clover (Trifolium dubium, T. repens), Seaside Daisy (Erigeron glaucus), Horsetail (Equisetum telmateia), Lupine (Lupinus littoralis, L. arboreus), Morning Glory (Calystegia purpurata ssp. purpurata), Phacelia (Phacelia californica), Poison Hemlock (Conium maculatum), Melic (Melica torryana), **Mendocino Paintbrush** (Castilleja mendocinensis), Bluegrass (Poa annua), Wood Rush (Luzula comosa), Monkey Flower (Mimulus guttatus, M. aurantica), Buttercup (Ranunculus californica), Coffee Berry (Rhamnus californica), California Poppy (Eschscholzia californica), Rush (Juncus holanderi, J. bufonius, J. effuses var. brunneus, J. patens), Seaside Woolly Daisy (Eriophyllum staechadifolium), Nettle (Urtica lyalii), Nutsedge (Cyperus eragrostis), Brome (Bromus diandrus, B. madritensis ssp. madritensis), Rape (Brassica rapa), Cudweed (Gnaphalium luteoalbum), Dudleya (Dudleya farinose), Ceanothus (Ceanothus griseus), Groundsel (Senecio sylvaticus), Buckwheat (Erigonium latifolium), Sedum (Sedum spathulifolium) and associated plant species.

Vegetation associated with the riparian plant community along the unnamed watercourse and impoundment includes Alder (Alnus rubra), Willow (Salix sitchensis, S. hookeriana), Poison Oak (Toxicodendron diversilobum), Coffee Berry (Rhamnus californica), Buckeye (Aesculus californica), Thimbleberry (Rubus parviflorus), Salmon Berry (Rubus spectabilis), Elderberry (Sambucus mexicana), Nettle (Urtica lyalii), Scirpus (Scirpus microcarpus), Water Parsley (Oenanthe pimpinelloides), German Ivy (Senecio mikanoides), Monkey Flower (Mimulus guttatus), Epilobium

Babbe Botanical Survey, Pg. 3

(*Epilobium ciliatum*), Cattail (*Typha sp.*), Seaside Woolly Sunflower (*Eriophyllum staechidifolium*), Yarrow (*Achillea borealis*), Lotus (*Lotus corniculatus*), Blackberry (*Rubus ursinus*), Sweet Vernal Grass (*Anthoxanthum odoratum*), Velvet Grass (*Holcus lanatus*), Rush (*Juncus bolanderi*), Spikerush (*Eleocharis macrostachya*) and associated plant species.

Vegetation associated with the inboard ditch along the road to the base of the bluff includes Buttercup (*Ranunculus californica*), Rush (*Juncus effuses var. brunneus*, *J. bolanderi*, *J. bufonius*), Scirpus (*Scirpus microcarpus*, *S. cernius*), Nutsedge (*Cyperus eragrostis*), Monkey Flower (*Mimulus guttatus*), Water Parsley (*Oenanthe sarmentosa*), Pennyroyal (*Mentha pulegium*) and associated plant species.

Vegetation associated with the watercourse that flows down the face of the bluff is essentially coastal bluff scrub, described above.

3. Survey Methodology and Date:

The site was surveyed on April 25, June 28 and July 19, 2002. The survey was conducted by walking all portions of the parcel where access was possible. Many areas of the bluff face were too steep, dangerous and vegetation covered to access. The species of riparian vegetation along the edges of the watercourse and impoundment were collected and identified, but no effort was made to collect plants growing in the open water of the impoundment. Field notes were made of the plant communities and species represented. Any material needing further identification was taken to the laboratory and keyed in one or more of the references listed below.

According to the California Native Plant Society's (CNPS) Electronic Inventory of Rare or Endangered Plants of California there are four rare or endangered plants known from the Mallo Pass quadrangle, wherein the project is located: Deceiving Sedge, Mendocino Paintbrush, Perennial Goldfields, and the Maple Leaved Checkerbloom. Roderick's Fritillary was added to the list because it is known from similar habitats further south. See Appendix A for a CNPS Fulldata printout for the Mallo Pass quadrangle search of the CNPS database.

At the time of the April 25 field survey the Mendocino Paintbrush, Perennial Goldfields, Roderick's Fritillary and the Maple Leaved Checkerbloom were known to be in bloom from CNPS data and/or reference populations.

At the time of the June 28 field survey the Deceiving Sedge, Mendocino Paintbrush Perennial Goldfields and the Maple Leaved Checkerbloom were known to be in bloom from CNPS data and/or reference populations.

Babbe Botanical Survey, Pg. 4

4. Results and Discussion:

There are several populations of Mendocino Paintbrush on the bluff face, growing in the coastal bluff scrub. Most of these were on areas of the bluff too steep to access or mark with surveyors tape or to map. These populations of Mendocino Paintbrush will be protected from disturbance or impact by bluff setback requirements.

Roderick's Fritillary, Deceiving Sedge, Perennial Goldfields and the Maple Leaved Checkerbloom were not discovered as a result of this botanical survey. No other rare or endangered plants were located as a result of this survey.

The boundary of the riparian plant community around the unnamed watercourse and impoundment was identified by an aerial photograph obtained from the WAC Corporation, 520 Conger Street, Eugene, Oregon 97402-2795. The area of the riparian vegetation was transcribed to a plot plan by..... The riparian plant community around the two confluent watercourses, the impoundment and subsequent watercourse that flows over the bluff to the ocean should be protected from disturbance by a 100 foot buffer, wherein no disturbance or development is permitted, measured from the edge of the riparian plant community as delineated on the aerial photograph and shown on the accompanying map.

The minimal riparian plant community along the inboard ditch along the road to the bluff base should be protected from disturbance as well, however there is considerable erosion associated with this inboard ditch. Should erosion control measures be proposed by present and/or future owners, I recommend allowing those measures to proceed in spite of temporary impacts to the riparian plant species. Erosion control measures would contribute significantly to the stability of the bluff, and that consideration in my opinion, would more than compensate for the temporary impact to associated riparian vegetation. Any proposed erosion control measures should be designed by a qualified civil engineer and reviewed by the Mendocino County Department of Planning and Building.

5. Impact Assessment and Mitigation Measures:

No mitigation measures are necessary for the protection of Roderick's Fritillary, Deceiving Sedge, Perennial Gold fields or the Maple Leaved Checkerbloom.

The populations of Mendocino Paintbrush on the bluff face are too dangerous to access and mark on a plot plan with surveyor's accuracy. Only one building envelope is proposed on the parcel, in the general area of the existing historic structure. The Mendocino Paintbrush populations are on the bluff face north of the point at which the beach access road originates, well over 100 feet away from the potential building

envelope. No additional mitigation measures are necessary for the protection of the Mendocino Paintbrush populations on the site.

Babbe Botanical Survey, Pg. 5

The riparian plant community along the two confluent watercourses, the impoundment and the subsequent watercourse that flows over the bluff to the ocean should be protected from disturbance by a 100 foot buffer, measured from the edge of the riparian plant community as shown on the aerial photograph and transcribed to the accompanying map. No development of disturbance should be permitted in the riparian plant community or the 100 foot buffer.

The minimal riparian plant community associated with the inboard ditch on the road to the beach should be protected, however it is a source of considerable erosion. Should erosion control measures be proposed on the inboard ditch I recommend that they be allowed. The temporary impact to the riparian vegetation would be mitigated by erosion control measures that would in the long run stabilize the bluff face. And the riparian vegetation will recover as long as the watercourse associated with the ditch continues to flow. I recommend that they be designed by a qualified civil engineer familiar with bluff stabilization technology.

6. References;

- Anon. 1985. Mendocino County General Plan – Coastal Element. Ukiah
- Anon. 1991. Zoning Mendocino County Code – Coastal Zone. Ukiah
- Hitchcock, A. S. 1950. Manual of the Grasses of the United States. U.S. Govt. Printing Office, Washington DC
- Hickman, J. C. (ed). 1993. The Jepson Manual the Higher Plants of California University of California Press, Berkeley
- Holland, R. F. 1986. Preliminary Descriptions of the Terrestrial Plant Communities of California. California Department of Fish and Game, Sacramento
- Mason, H. G. 1959. A Flora of the Marshes of California. University of California Press, Berkeley.
- Skinner, M and B. Pavlik 1994. Inventory of Rare and Endangered Vascular Plants Of California. California Native Plant Society Special Publication #1 (5th ed), Sacramento, CA.

**Bay Area Science Associates
9 Ridge Avenue
Mill Valley, CA 94941
415-383-8099**

Gowen and Robyn Smith
12A Reno Place
San Francisco, CA 94133

Dear Mr. and Mrs. Smith:

SUBJECT: Botanical Inspection of September 14, 2010

After reviewing your architect's drawings and the botanical report of July 2005, I visited your property at 12350 South Highway 1, Elk, California. Here are my findings regarding your three habitats of concern:

1. The proposed pump house is located well beyond 200 feet east of the mapped population of Mendocino paintbrush, *Castilleja mendocinoensis*, so any threat to this population is a nonissue.
2. The lake and its riparian drainage to the sea are located well beyond 200 feet south and southeast of the proposed buildings, presenting no threat to either.
3. I mapped the fragmented population of rushes, *Juncus sp.*, which are located more than 50 feet east of the proposed buildings. The architect has provided a buffer of at least 52 feet. It is my opinion that the original botanical survey did not specify this sparse, well-spaced population of *Juncus* because:
 - a. The small population is dominated by European annual grasses,
 - b. And is therefore unlikely to be exploited seasonally by wetland fauna.

Sincerely,



Terry Sullivan
Field Botanist

Christopher Thayer
905 Dewing Avenue
Lafayette, CA 94549
Phone: 925-200-0527

April 15, 2011
Mr. Gower Smith
Zoomsystems
22 Fourth Street, Floor16
SanFrancisco, CA 94103

Re: Evaluation of Wetland Soils and Hydrology at Three Data Points
Proposed Smith Residence
12350 South Highway One
South of Elk, Mendocino County, California
Assessor's Parcel Numbers 131-080-01 and 131-080-05

Dear Mr. Smith:

At your request, I visited the above-referenced property on March 5, 2011, for the purpose of documenting existing conditions for wetland soils and hydrology at three data points located within a 52-foot buffer zone between an existing seasonal wetland and a proposed residential development footprint. The existing seasonal wetland was identified and mapped earlier by others, and appears on the site plan provided me as background information (Sandy Chan Architect, September 1, 2010), The plan also depicts the development area and the buffer zone. This letter describes only soil and hydrology at the data points, as you have requested, and which, by your communications to me, is the information requested by the California Coastal Commission for approval of your project. It is my understanding that botanical studies of the site are to be provided by other parties. The soils and hydrology information requested are presented below, and summarize the results of my investigation.

During my survey, soil test pits were dug by hand to a depth of at least 18 inches at the three locations selected by you and marked by wooden stakes within the proposed buffer zone. Each location was within 10 to 15 feet of the existing wetland, which is dominated by dense Pacific rush (*Juncus effusus* var. *pacificus*). At the time of my visit, the previously identified wetland exhibited soil saturated at the surface in many places. The boundary of the wetland was clearly demarked from immediately adjacent land, including the buffer zone, which had a much sparser vegetative cover of obviously different species makeup.

Data on soils and hydrology were collected recorded following methods outlined in the U.S. Army Corps of Engineers (USACE) Wetland Delineation Manual (Environmental Laboratory, 1987) and supplemental guidance set forth in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (2008), and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (Version 2.0) (2010).

Each of the three sample points shared the same attributes:

Location: SE ¼ Section 24, T14N, R17W,
Landform: Terrace Local Relief: none Slope: 5%
Subregion (LRR): A Soil Map Unit Name: Mallopass Loam, 0 to 5% slopes

Climatic and hydrologic conditions of the site are typical for this time of year
Vegetation, soil, or hydrology were not significantly disturbed or problematic,
And “Normal Circumstances” were present

Soil Findings:

Data Point #1 – Lat:N39 03.616 Long:W123 41.613 Datum: WGS 84

Soil Matrix color from 0-18 inches was uniformly a very dark brown 10YR 3//1 with a clayey loam, somewhat crumbly texture, with no evidence of mottling, concentration, depletion, or reduction features.

Data Point #2 – Lat:N39 03.622 Long:W123 41.609 Datum: WGS 84

Soil Matrix color from 0-18 inches was uniformly a very dark brown 10YR 3//1 with a clayey loam, somewhat crumbly texture, with no evidence of mottling, concentration, depletion, or reduction features.

Data Point #3 - Lat:N39 03.627 Long:W123 41.601 Datum: WGS 84

Soil Matrix color from 0-18 inches was uniformly a very dark brown 10YR 3//1 with a clayey loam with small rock fragments (<2%), somewhat crumbly texture, with no evidence of mottling, concentration, depletion, or reduction features.

Based on these findings, none of the soils at the three data points would be considered hydric.

Hydrology Findings:

None of the tree data points showed any indication of soil saturation between 0 and 18 inches depth. Soil pits were examined about an hour following initial excavation, and there was no evidence of saturation from lateral seepage into the pits. There was no evidence of surface soil cracks, sediment deposits, or any other surficial indications of wetland hydrology.

Based on the evidence observed on March 5, 2011, none of the three data points support wetland hydrology.

I hope this letter suits your needs. Please accept my sincere apologies for taking so long to provide you with this information.

All the Best,

Chris

Christopher Thayer
Botanical, Biological, & Wetlands Science
Field Surveys, Assessments, & Consulting
905 Dewing Avenue
Lafayette, CA 94549
Phone 9252000527
chthayer@yahoo.com

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE # CDP 42-07 _____

HEARING DATE: November 20, 2009

OWNER: Blue Port LLC

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt

Negative Declaration

EIR

FINDINGS:

Per staff report

Modifications and/or additions

ACTIONS:

Approved

Denied

Continued _____

CONDITIONS:

Per staff report

Modifications and/or additions

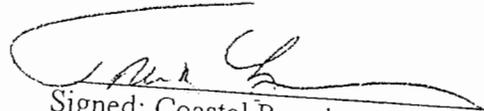
Approval of project based on elimination of the 192 square foot "new guest cabana."

Further, ADD to Special Condition 1 as follows:

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

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

11/20/09
Date


Signed: Coastal Permit Administrator



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

notice blue port llc cdp 42-2007

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

www.co.mendocino.ca.us/planning

Handwritten vertical text: 10-10-09

RECEIVED

OCT 13 2009

October 9, 2009

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

CALIFORNIA
COASTAL COMMISSION

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

CASE #: CDP #42-2007

DATE FILED: 7/27/2007

OWNER: Blue Port LLC

APPLICANT: Gower Smith

REQUEST: Construct ~5,183 ft² single-family residence with an attached ~675 ft² garage, and ~1,536 ft² of upper and lower attached decks (for a total structural size of ~7,394 ft²) and an average height of 18 feet above natural grade. Associated developments include ~2,400 ft² barn, ~600 ft² guest house with attached deck and ~192 ft² cabana, ~192 ft² hobby workshop, ~216 ft² garden storage shed, ~160 ft² cabana with attached deck, and replacement of existing shed. Install septic system, driveway, water storage tank, well, and roof mounted solar. Request for temporary use of a guest cottage during construction.

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

PROJECT COORDINATOR: Abbey Stockwell

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

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

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

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

Staff reports for agenda items may be accessed and printed from the County website. Go to www.co.mendocino.ca.us/planning

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

Frank Lynch, Coastal Permit Administrator

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

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

REQUEST: Construct ~5,183 ft² single-family residence with an attached ~675 ft² garage, and ~1,536 ft² of upper and lower attached decks (for a total structural size of ~7,394 ft²) and an average height of 18 feet above natural grade. Associated developments include ~2,400 ft² barn, ~600 ft² guest house with attached deck and ~192 ft² cabana, ~192 ft² hobby workshop, ~216 ft² garden storage shed, ~160 ft² cabana with attached deck, and replacement of existing shed. Install septic system, driveway, water storage tank, well, and roof mounted solar. Request for temporary use of a guest cottage during construction.

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

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

PERMIT TYPE: Standard

TOTAL ACREAGE: ~58.5 acres

GENERAL PLAN: RL 160 [FP]

ZONING: RL: L-160 [FP]

EXISTING USES: SFR

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

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

SUPERVISORIAL DISTRICT: 5

CA COASTAL RECORDS PROJECT: Image: 2005- 03765

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

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

PROJECT DESCRIPTION: The applicants propose to construct ~5,183 ft² single-family residence with an attached ~675 ft² garage and ~1,536 ft² of upper and lower attached decks (for a total structural size of ~7,394 ft²) and an average height of 18 feet above natural grade. Associated developments include: ~2,400 ft² barn with an average height of 25' above natural grade; ~600 ft² guest house with an average height of 18', with attached deck and ~192 ft² guest cabana with an average height of 13'; ~192 ft² hobby workshop with an average height of 13'; ~216 ft² garden shed with an average height of 13'; ~160 ft² cabana with attached deck and an average height of 13'; and replacement of ~1,250 ft² existing shed with an average height of 25'. Additional developments include installation of the septic system, driveway, water storage tank, production well, and roof mounted solar. The applicants request temporary occupancy of the guest cottage during construction.

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

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

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

Land Use

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

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

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

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

(D) Shops (non-business)

(E) Barns.

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

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

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

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

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

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

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

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

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

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

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

Sec. 20.460.025 Construction Support.

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

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

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

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

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

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

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

Public Access

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

Hazards

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

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

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

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

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

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

$$\text{Setback (meters)} = \text{structure life (75 years)} \times \text{retreat rate (meters/year)}$$

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

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

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

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

Grading, Erosion and Runoff

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

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

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

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

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

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

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

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

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

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

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

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

No trees are proposed to be removed. The building footprints are proposed on relatively flat grasslands. **Special Condition 7** is recommended to require a grading and erosion control plan. The grading and erosion control plan shall detail a grading schedule, and Best Management Practices, including but not limited to all areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding. Mulches may be used to cover ground areas temporarily.

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

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

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

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

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

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

Visual Resources

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

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

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

Policy 3.5-3 of the Coastal Element states:

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

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

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

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

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

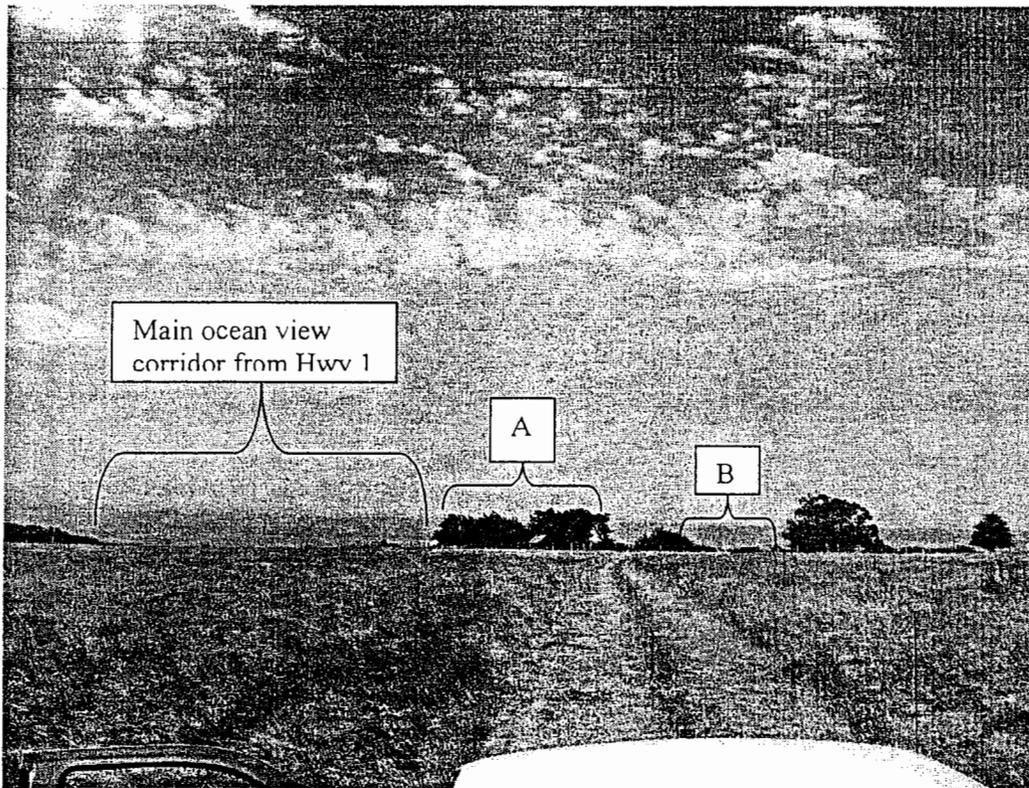


Figure 1. View looking west from just inside applicant's gate, adjacent to Hwy 1. Location A represents building sites that will cluster the proposed guesthouse –guest cabana, barn, storage building, and shed. Location B represent building sites for the proposed residence, workshop, and cabana.

Section 20.504.015(C) of the MCCZC also requires:

- (5) *Buildings and building groups that must be sited in highly scenic areas shall be sited:*
 - (a) *Near the toe of a slope;*
 - (b) *Below rather than on a ridge; and*
 - (c) *In or near a wooded area.*

- (7) *Minimize visual impacts of development on terraces by the following criteria:*
 - (a) *Avoiding development, other than farm buildings, in large open areas if alternative site exists;*
 - (b) *Minimize the number of structures and cluster them near existing vegetation, natural landforms, or artificial berms;*
 - (c) *Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*

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

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

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

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

Section 20.504.015(C) of the MCCZC also requires:

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

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

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

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

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

Section 20.504.015(C) of the MCCZC also requires:

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

Table 1. Proposed exterior materials and colors.

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

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

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

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

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

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

Natural Resources

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

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

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

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

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

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

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

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

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

Archaeological/Cultural Resources

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

Groundwater Resources

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

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

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

Transportation/Circulation

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

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

Zoning Requirements

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

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

FINDINGS:

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

STANDARD CONDITIONS:

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

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

SPECIAL CONDITIONS:

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

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

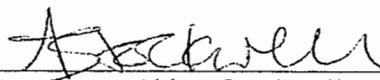
- e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
- f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
7. Prior to issuance of the every building permit, the applicants shall submit for approval by the Coastal Permit Administrator, a grading and erosion control plan that addresses disturbed earth caused by construction activities. A grading schedule shall be provided as well as erosion control Best Management Practices. All areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily. Alternatively, a complete grading and erosion control plan, which addresses all structures may be submitted with the initial building permit. However, subsequent building permit application shall note grading and erosion control measures.
8. Roof top runoff should be conveyed as sheet flow to landscaped vegetation to encourage infiltration and groundwater recharge. As a water storage tank is proposed, rainwater catchment may also be an option. The intent of this condition is to mitigate for the increased surface runoff that will occur from the increased impervious surfaces from the proposed structure.
9. Prior to final of the building permit for the proposed residence, the 4x4 fence posts running east-west and southwest-northeast shall be reduced in height to eight feet.
10. Prior to issuance of the Coastal Development Permit, the applicant shall submit for the review and approval of the Coastal Permit Administrator a landscape plan to provide a visual screen of the development as viewed from Highway One, north, east, and south of the site. The plan is intended to partially buffer the view of the project but is not expected to completely hide the project. The plan shall utilize native vegetation and provide tall enough vertical elements to provide the expected visual buffer. All required landscaping shall be installed prior to final clearance of the building permit for the residence, or occupancy of the residence, whichever occurs first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future vegetation removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit amendment. The existing vegetation shall be incorporated into the landscaping plan, noting the height, and location, and shall be maintained and replaced in perpetuity.
11. All power distribution lines shall be placed underground.

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

Staff Report Prepared By:

10.8.09

Date



Abbey Stockwell
Planner I

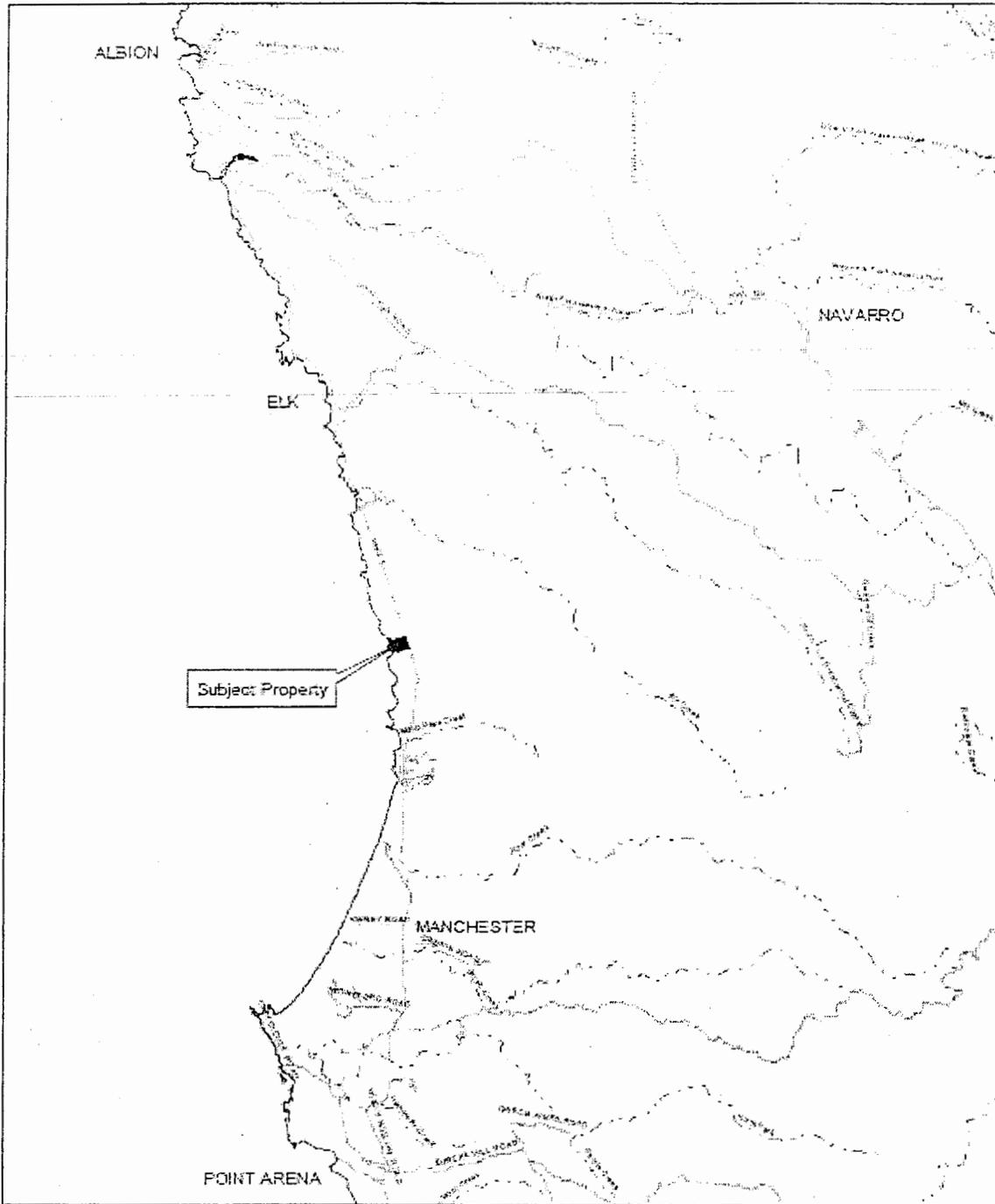
Attachments: Exhibit A Location Map
Exhibit B Zoning Map
Exhibit C Land Use Map
Exhibit D Flood Plain Map
Exhibit E Williamson Act Map
Exhibit F Rare Find Map
Exhibit G Site Plan
Exhibit H Proposed Residence Floor Plans
Exhibit I Proposed Residence Roof Plan
Exhibit J Proposed Residence Elevations
Exhibit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

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

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

SUMMARY OF REFERRAL AGENCY COMMENTS:

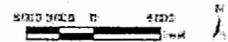
Planning – Ukiah	Cert. of compliance 55-81
Department of Transportation	No comment.
Environmental Health – Fort Bragg	Approved septic plan
Building Inspection – Fort Bragg	No comment.
Assessor	No response.
Caltrans	Standard road approach and encroachment permit required
Coastal Commission	No response.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

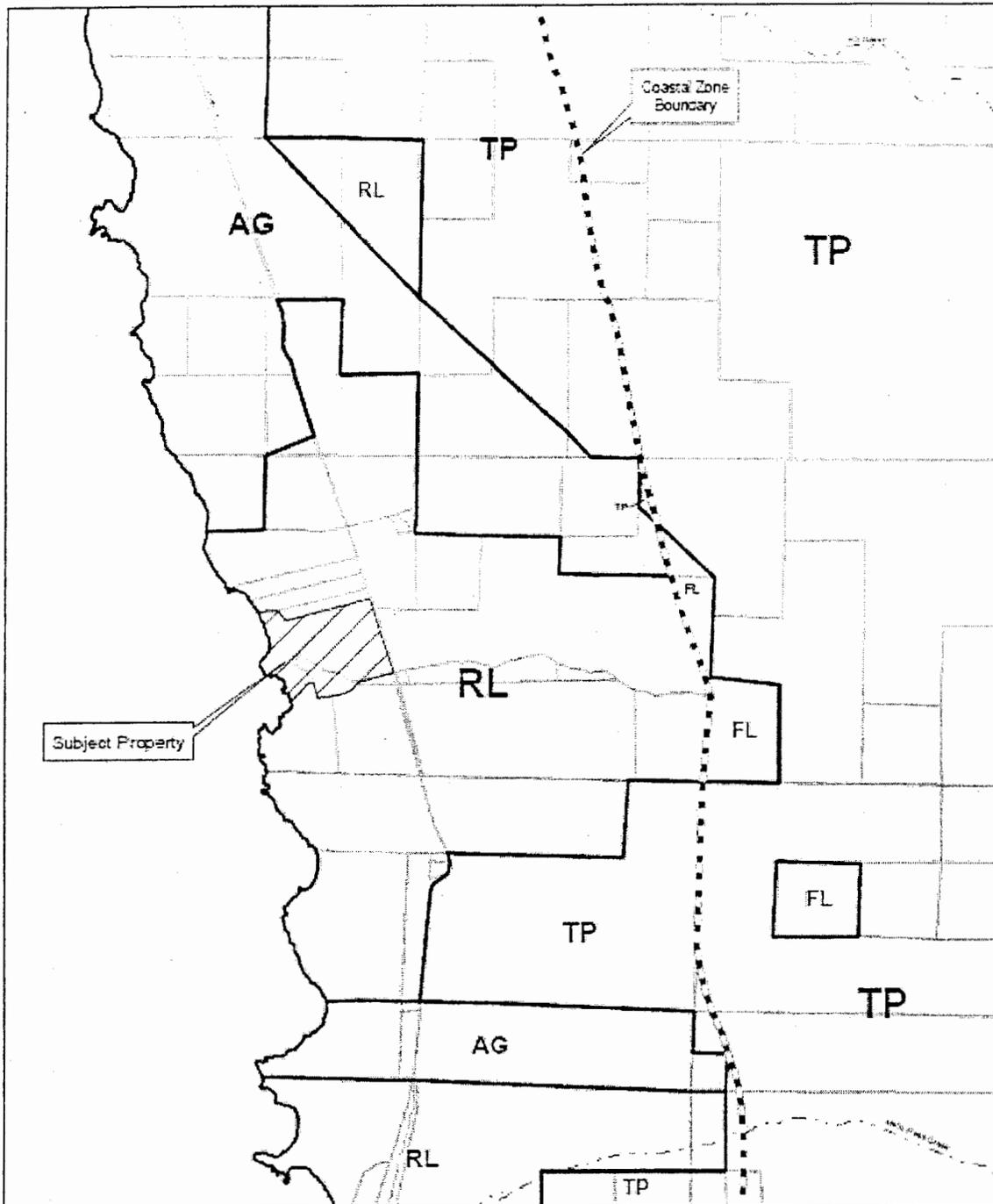


OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

LOCATION MAP

Parcel lines are approximate. Parcel lines are based on NDC SURVEY LINES. They are for viewing purposes only and should not be used to determine legal boundary lines. Parcel lines can be over 200 feet off. (Parcel lines as of September 2009)

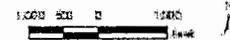


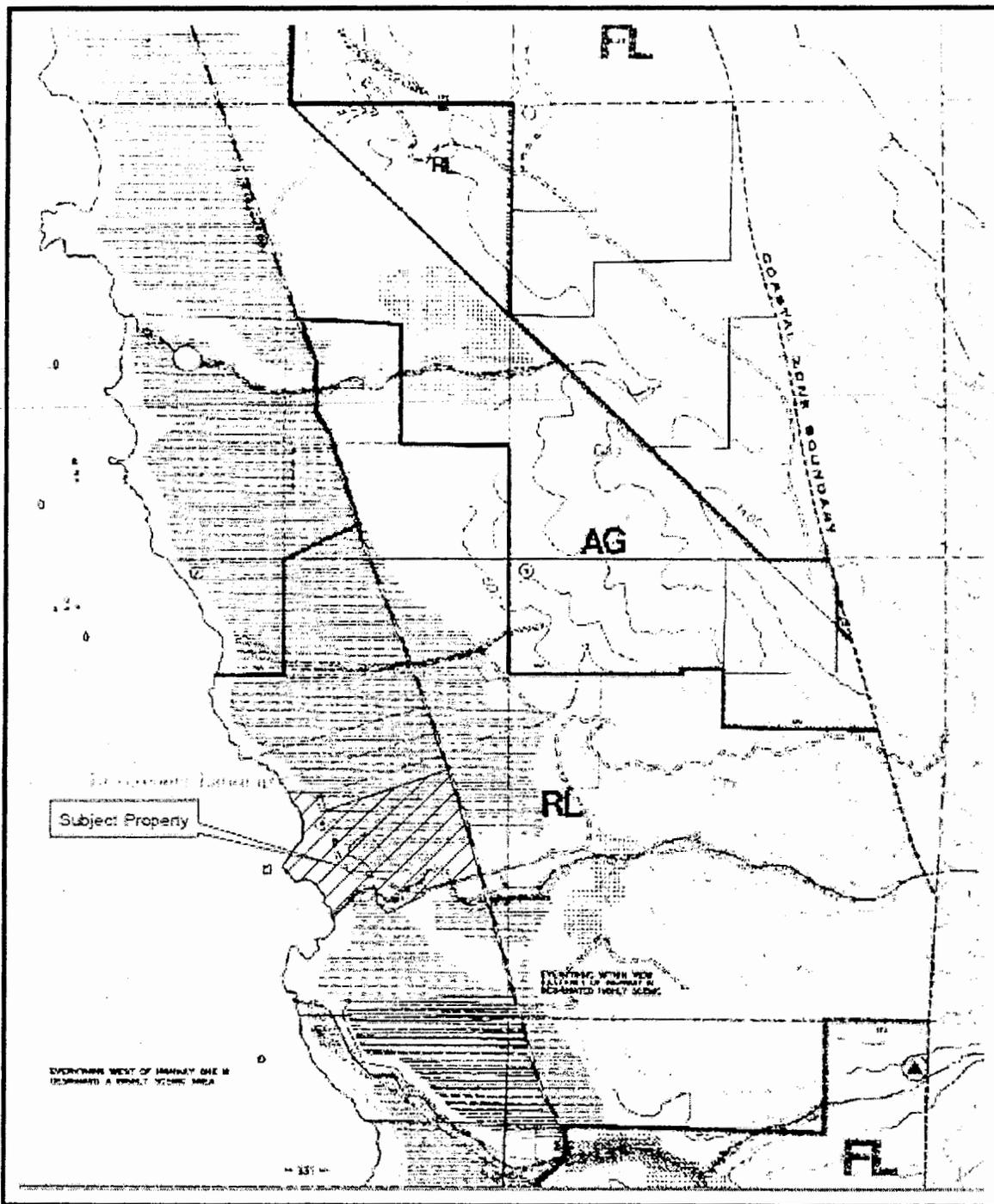


OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

ZONING DISPLAY MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LEVEL, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel lines can be over 200 feet off. (Parcel lines as of September 2009)





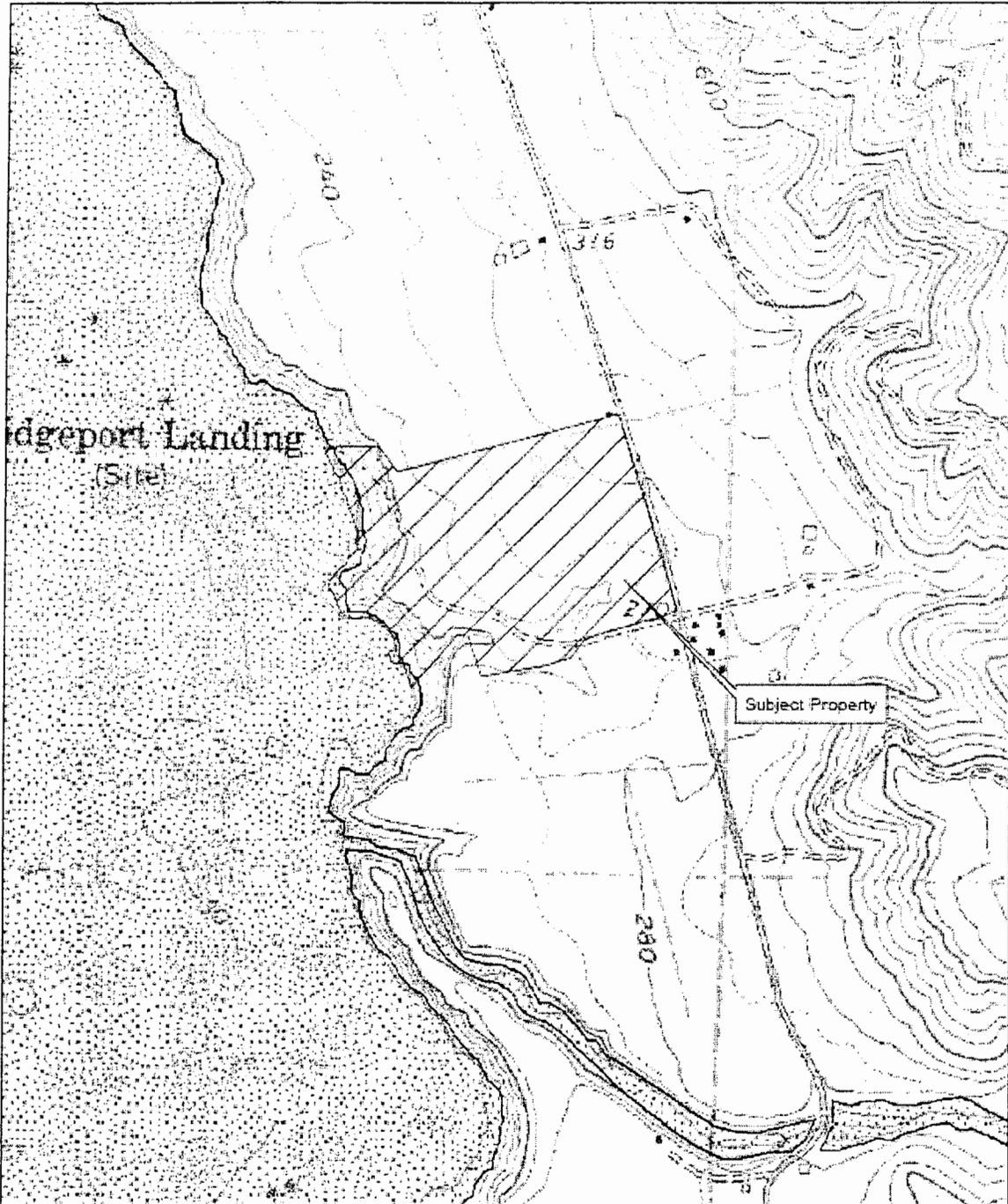
OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

COASTAL PLAN LAND USE MAP No. 21

Provide the user with a map. Partial lines on this map are NOT BOUNDARY LINES. They are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can't be over 200 feet off.

Not To Scale

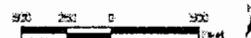


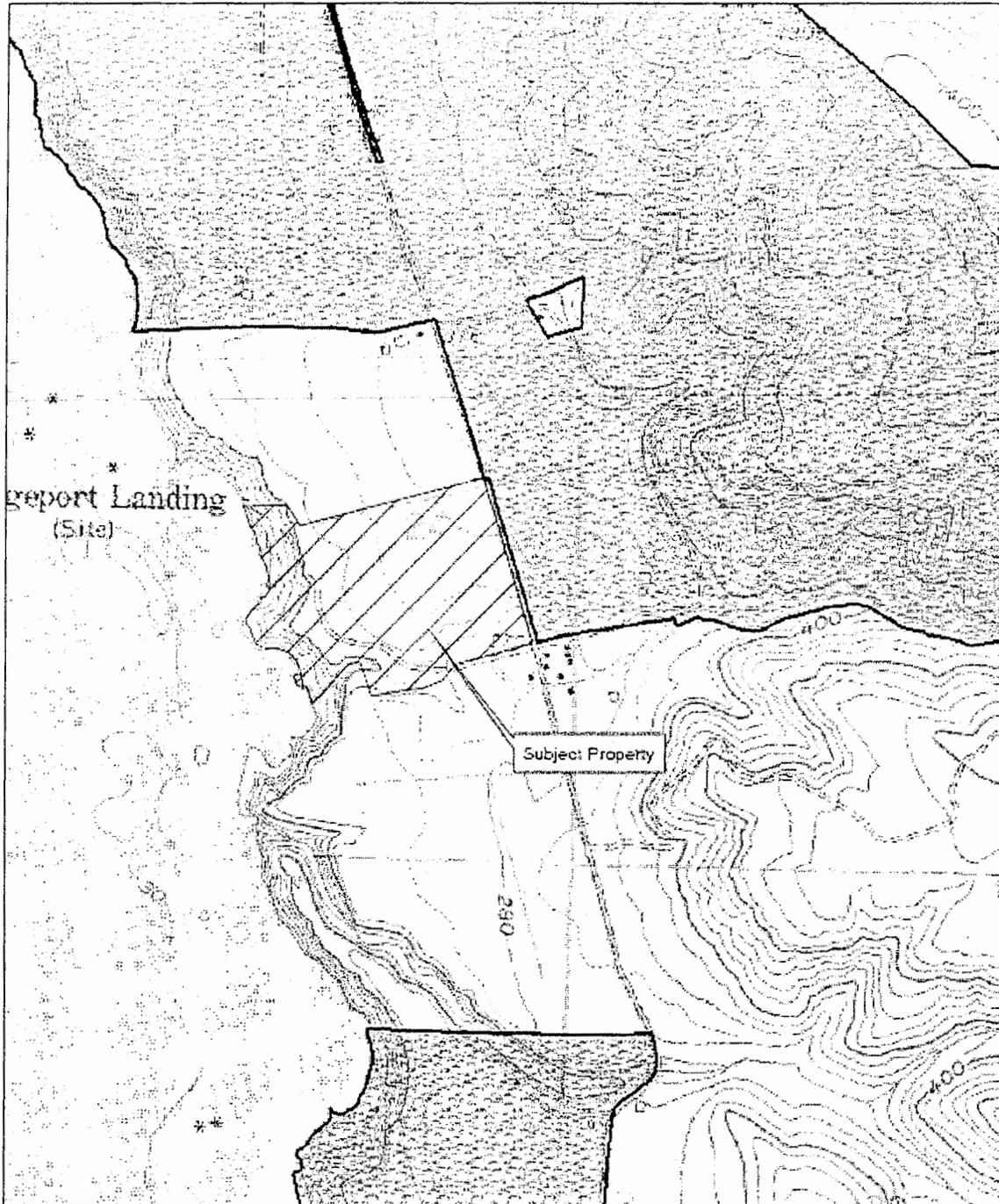


OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

 100 YEAR FLOOD ZONE

Parcel lines are approximate. Parcel lines on this map are NOT BOUNDARY 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 as of September 2007)



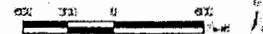


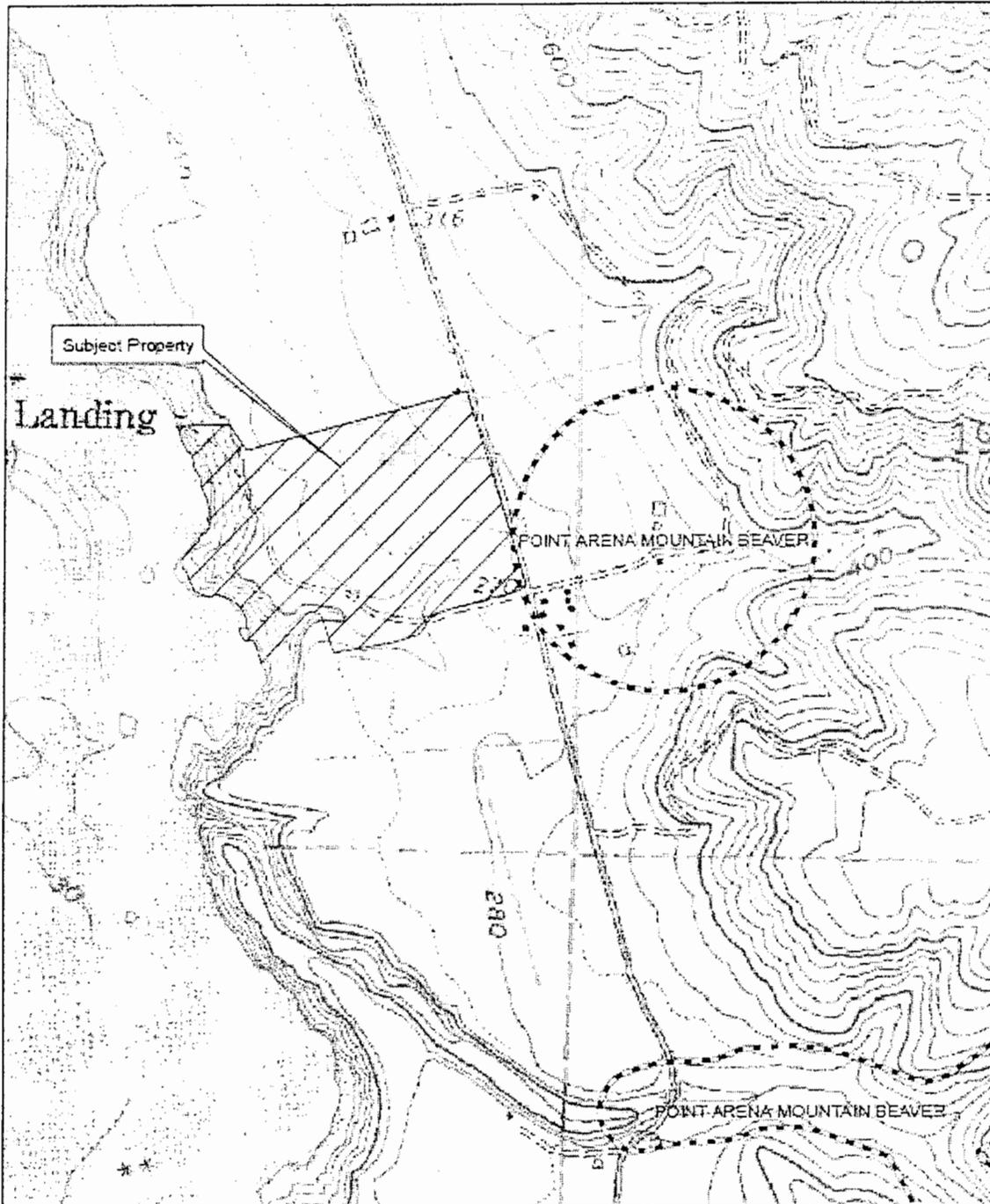
OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

LANDS WITHIN WILLIAMSON ACT

Williamson Act - Prime and Non Prime Land

Contour lines are approximate. Parcel lines on this map are NAD 83 CORRECTED LINE S. They are for planning purposes only and should not be used to determine legal boundary lines. Horizontal scale is over 330 feet of (Vertical scale is as of December 2007).

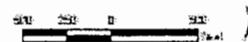




OWNER: BLUE PORT LLC
CASE #: CDP 42-2007
APNs: 131-080-01 & 131-080-05

CALIFORNIA NATURAL DIVERSITY
DATABASE RAREFIND (January 2009)

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 scale is over 200 feet off. (Parcel lines are as of September 2007)



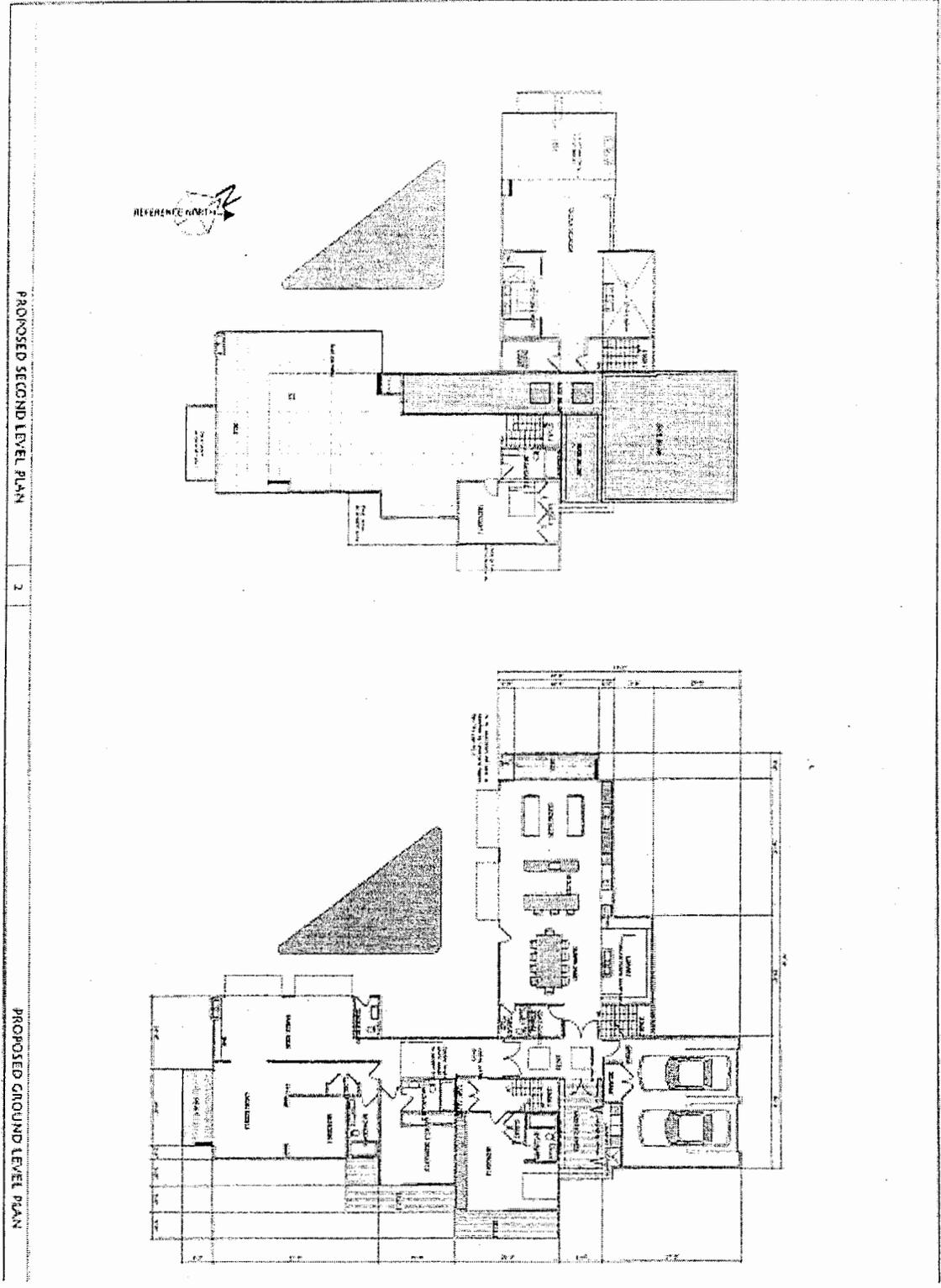
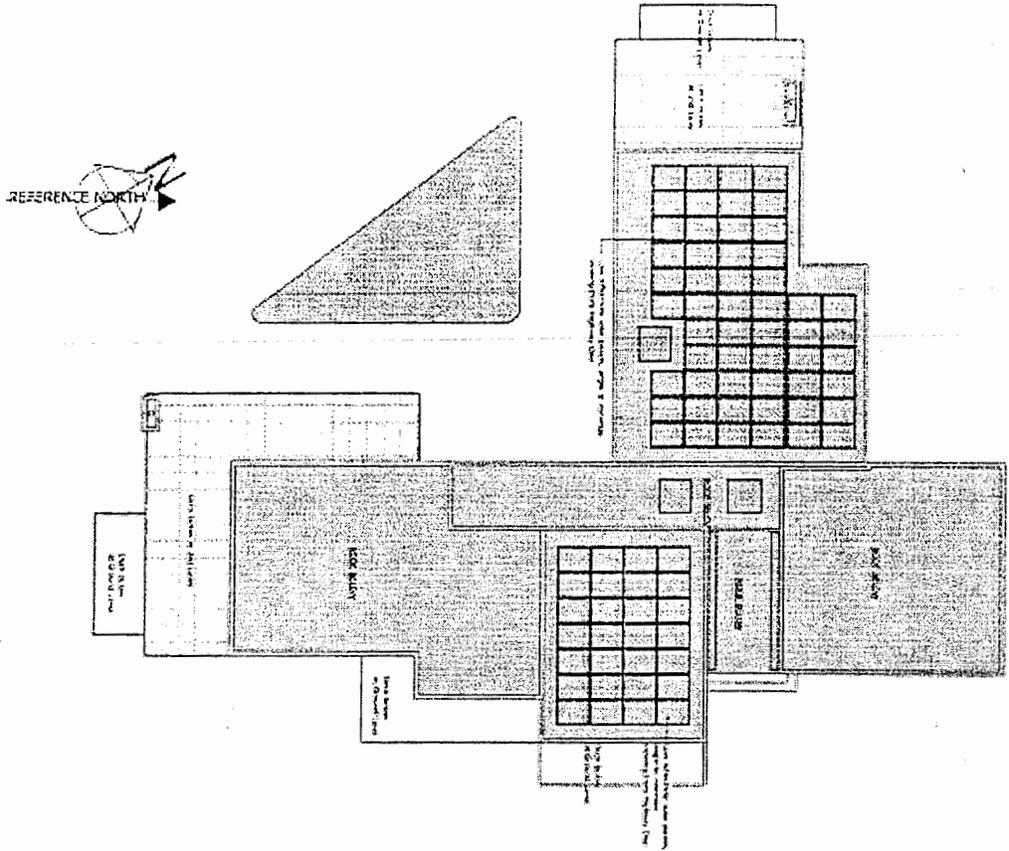
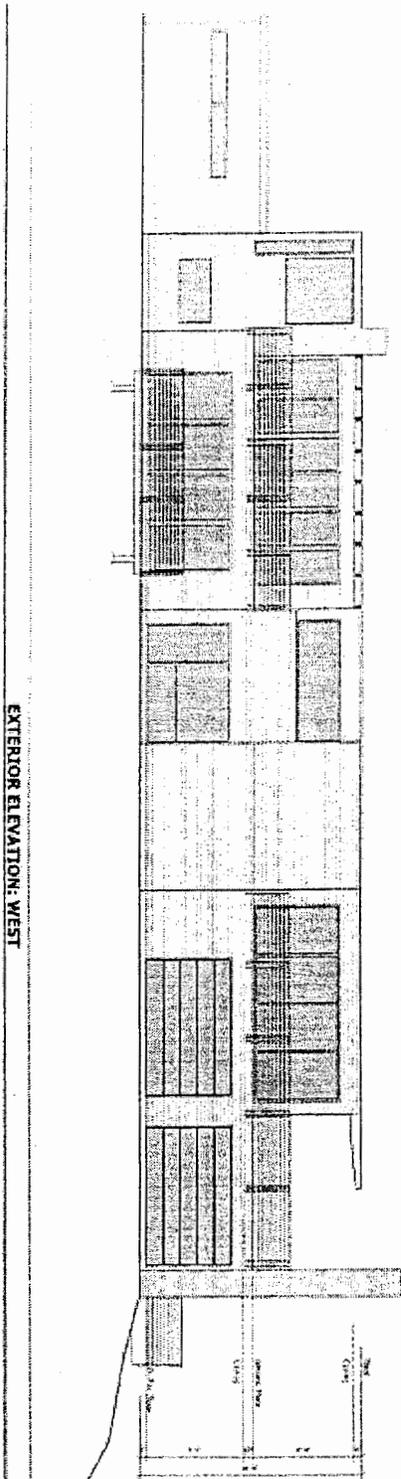


Exhibit H

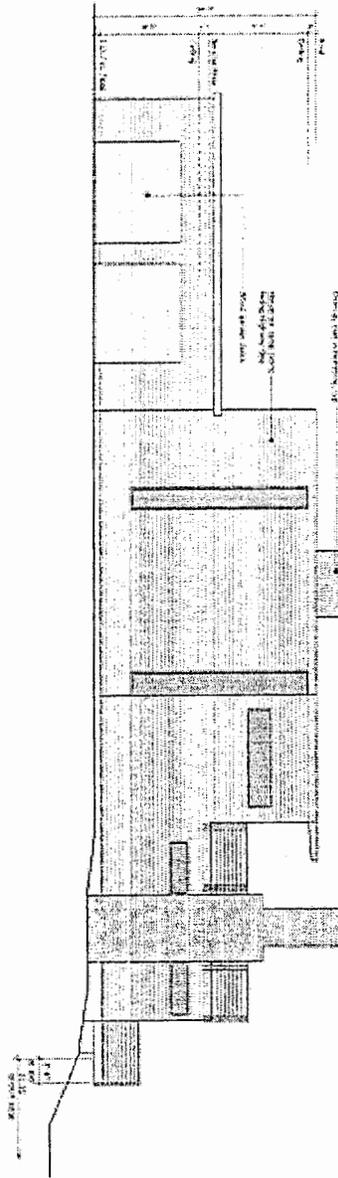
Proposed Residence Floor plan

PROPOSED ROOF LEVEL PLAN





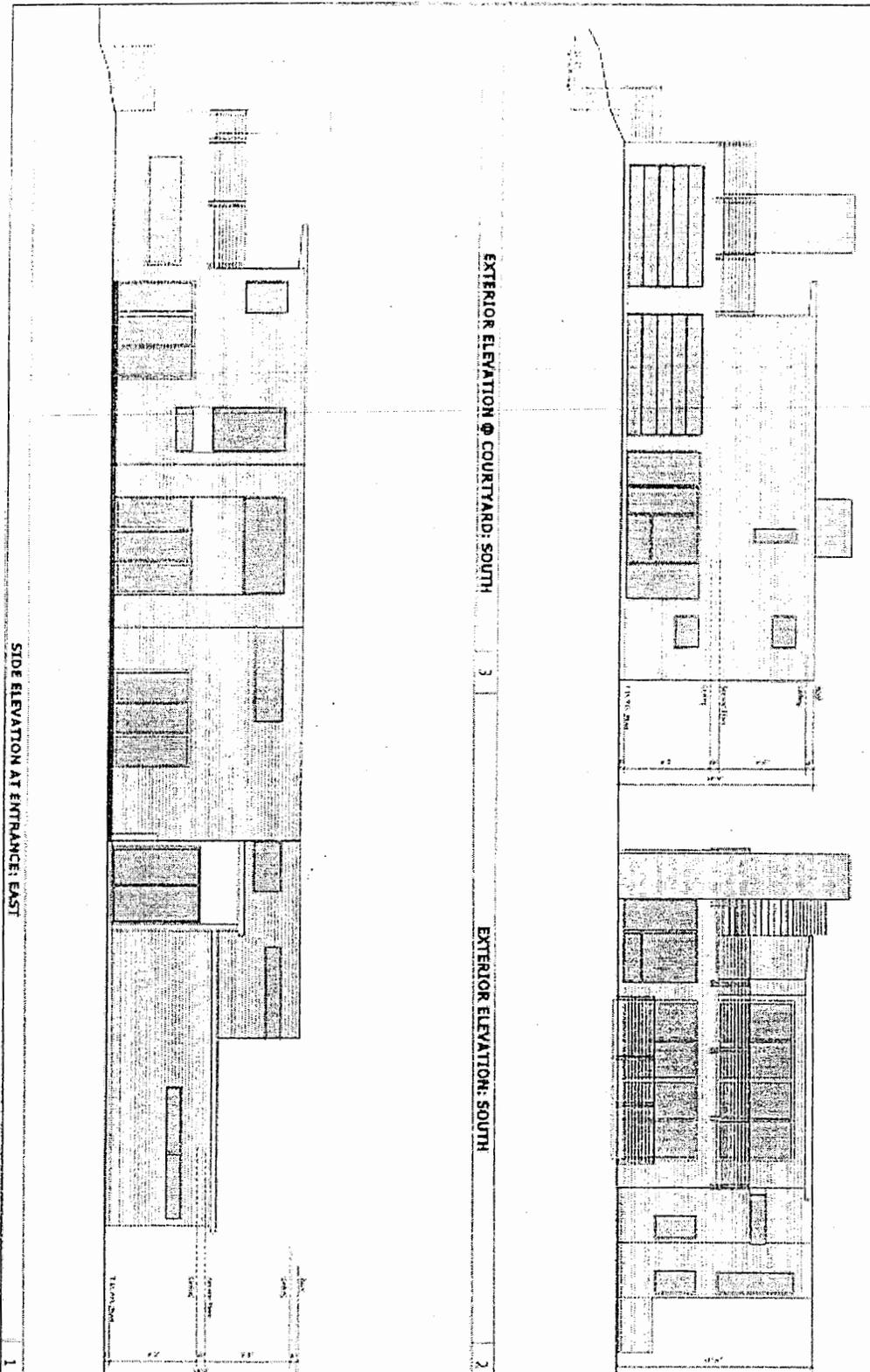
EXTERIOR ELEVATION: NORTH



Not to scale

Exhibit J

Proposed Residence Elevations



Not to scale

Exhibit K

Proposed Residence Elevations

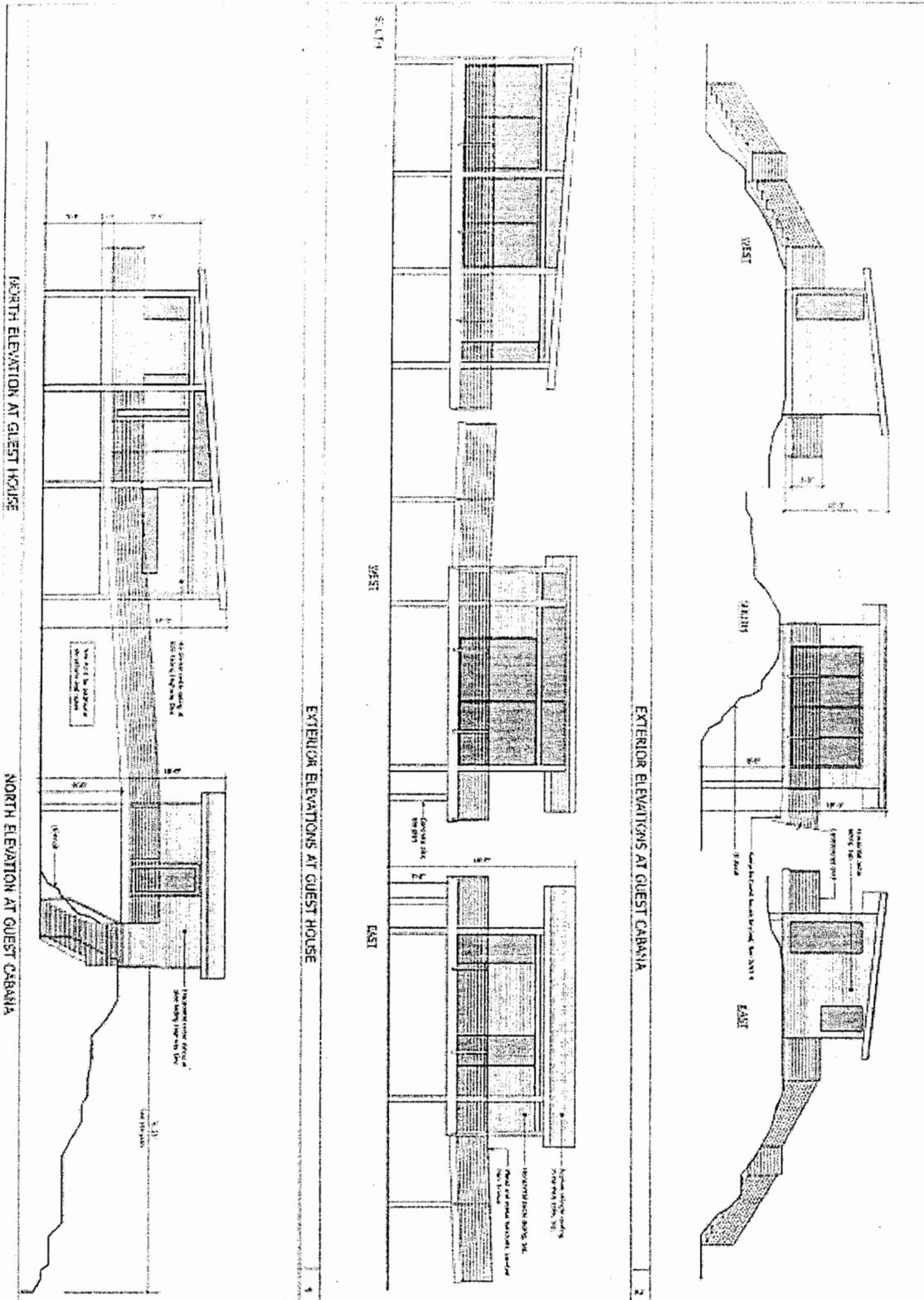
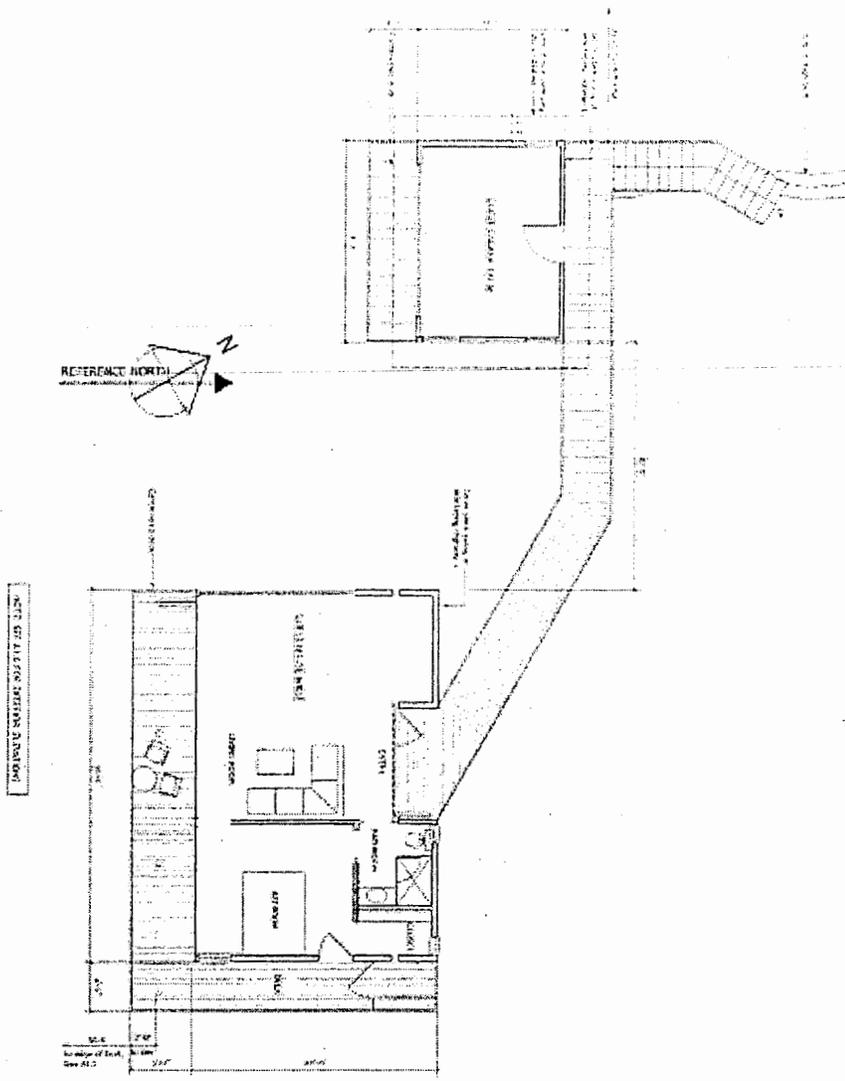
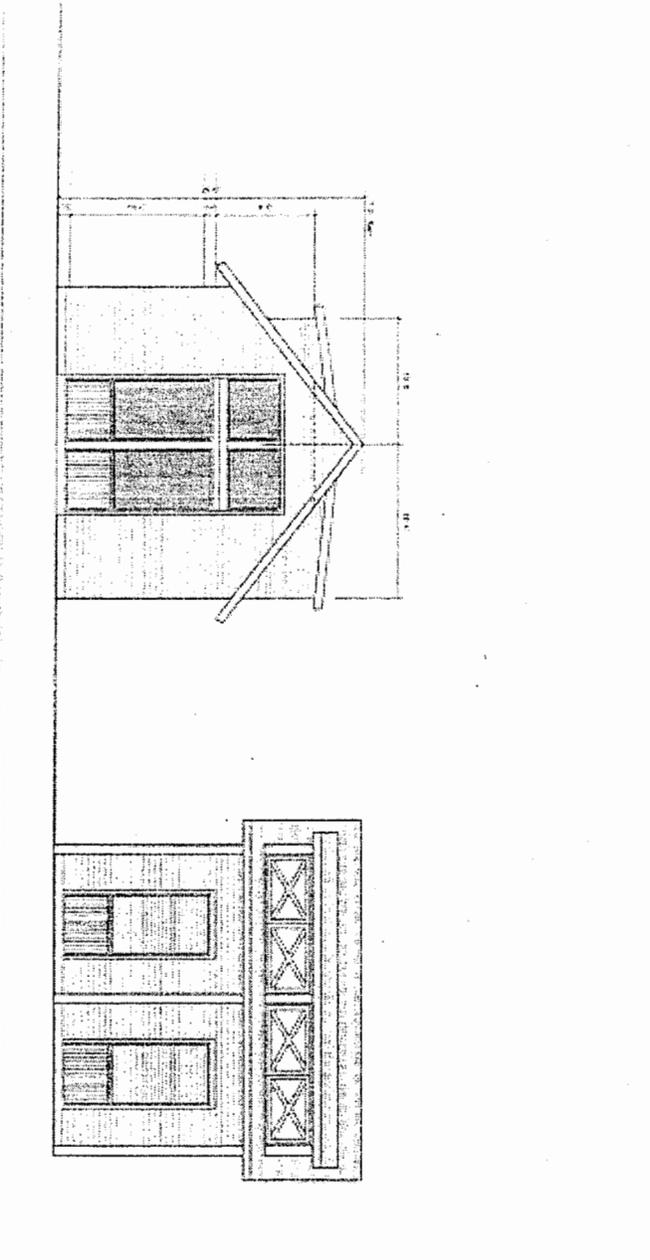
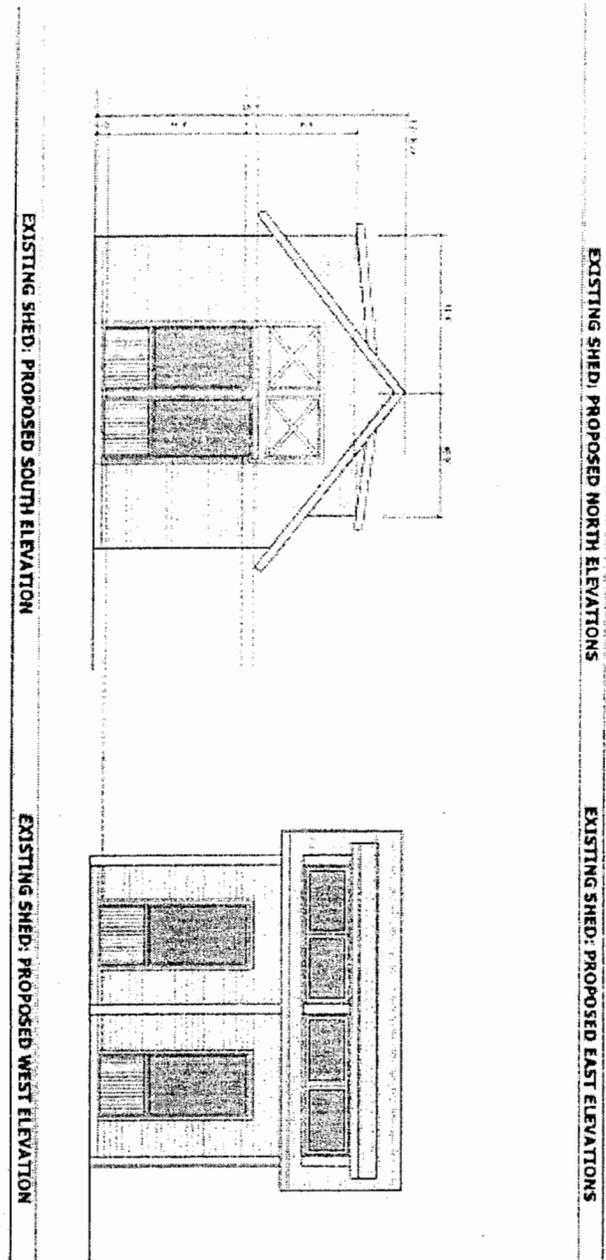


Exhibit L

Proposed Guest Cottage Elevations

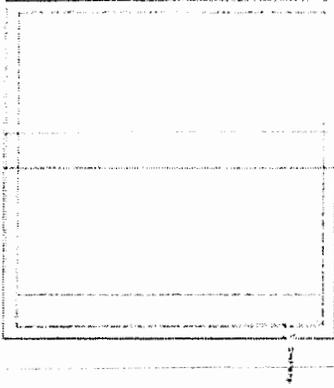
FLOOR PLANS AT PROPOSED 12X16' GUEST CABANA AND 20X30' GUEST HOUSE



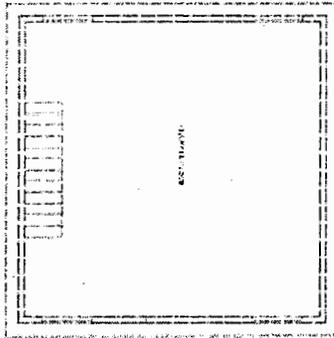


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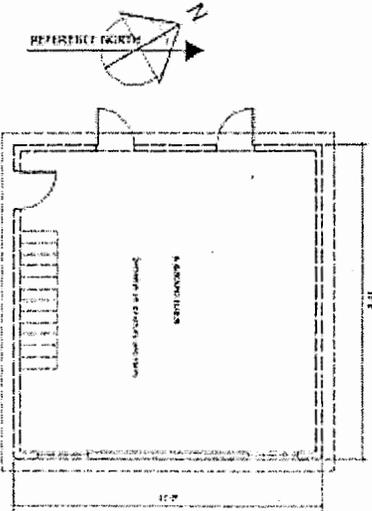
ROOF PLAN AT EXISTING SHED



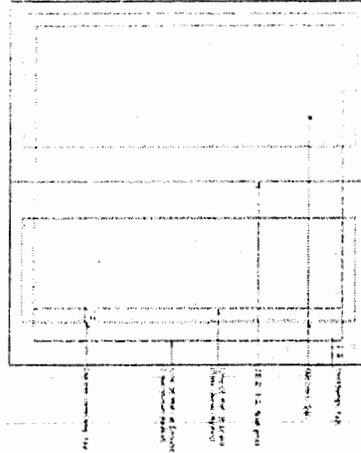
UPPER PLAN AT EXISTING SHED



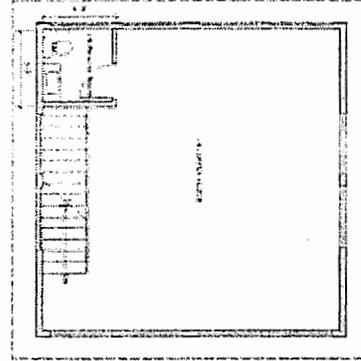
GROUND PLAN AT EXISTING SHED



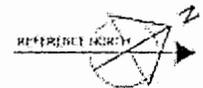
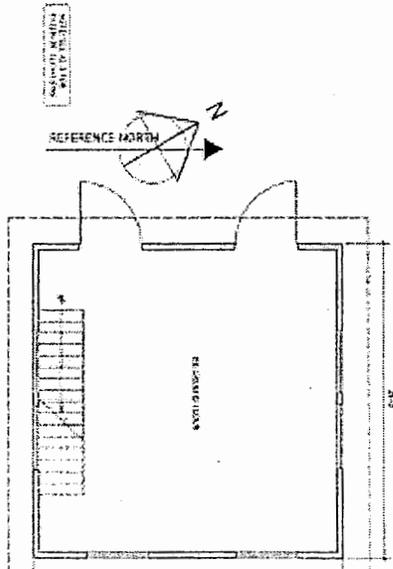
(N)ROOF PLAN AT PROPOSED SHED

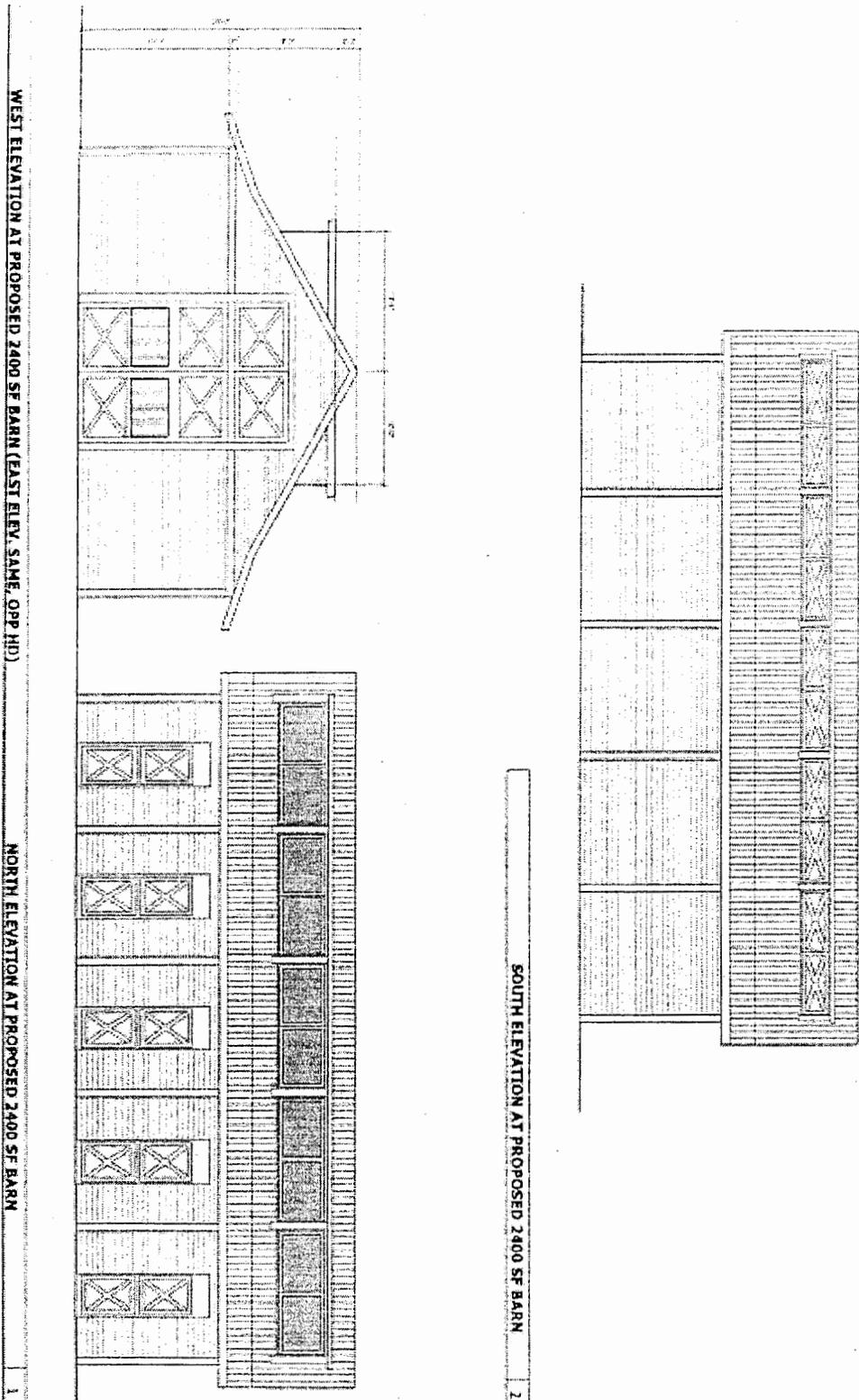


(N)UPPER PLAN AT PROPOSED SHED

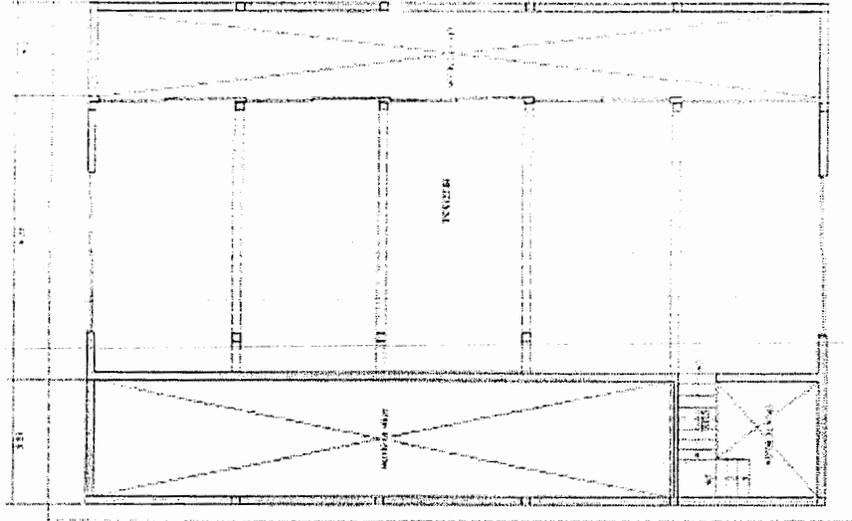


(N)GROUND PLAN AT PROPOSED SHED

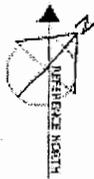




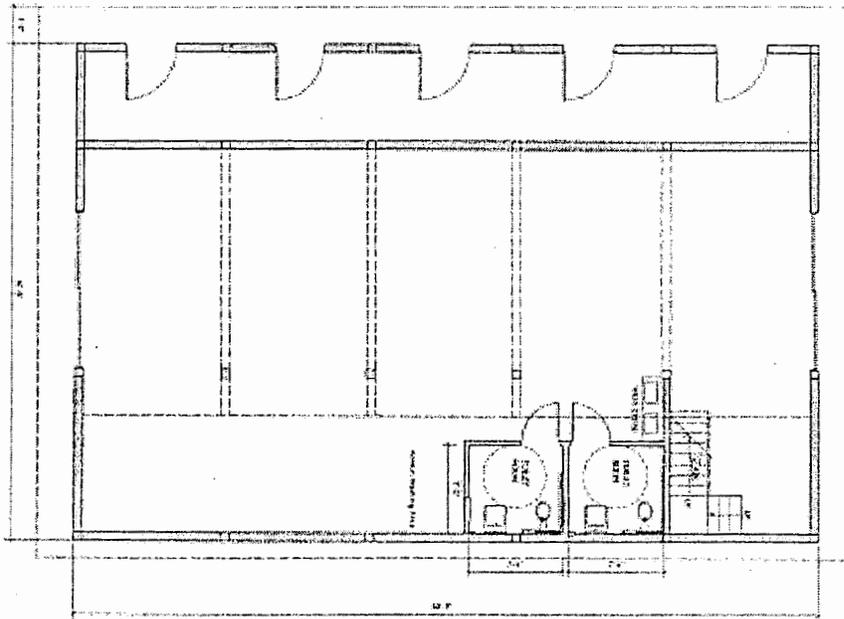
MEZZAINE PLAN @ PROPOSED 2400 SF BARN



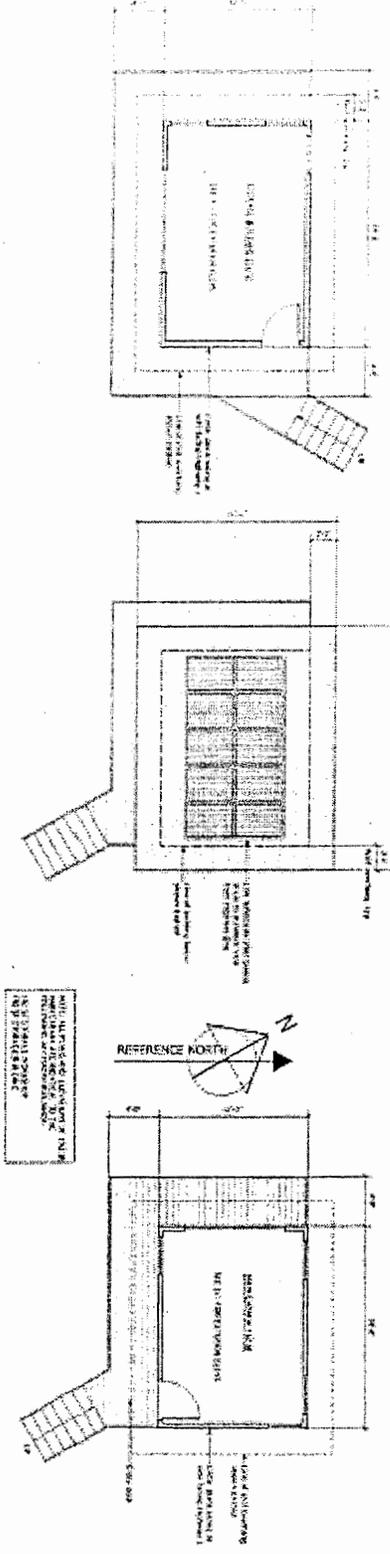
GROUND FLOOR PLAN @ PROPOSED 2400 SF BARN



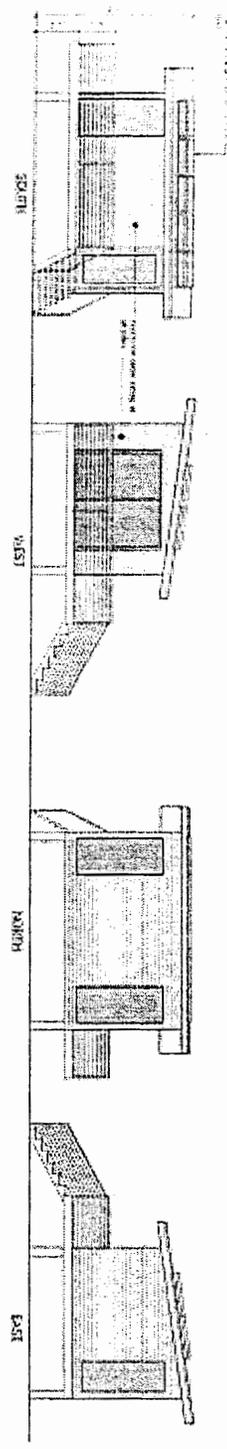
MEZZAINE FLOOR ELEVATION



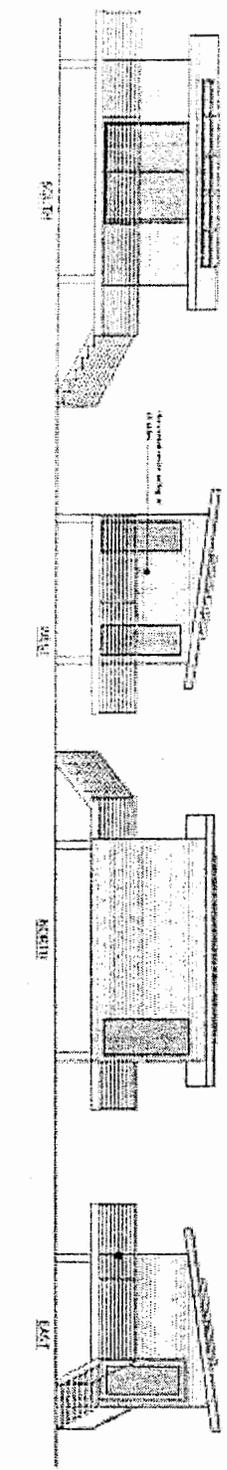
FLOOR PLAN OF PROPOSED 216 SF STORAGE BLDG. 2 ROOF PLAN OF PROPOSED 162 SF MAIN CABANA FLOOR PLAN OF PROPOSED 162 SF MAIN CABANA. 1



EXTERIOR ELEVATIONS AT PROPOSED 162 SF MAIN CABANA. 3



EXTERIOR ELEVATIONS AT PROPOSED 216 SF STORAGE BLDG. 4



Not to scale

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: See Attachment A

Mailing Address:

City:

Zip Code:

Phone:

SECTION II. Decision Being Appealed

1. Name of local/port government:

Mendocino County Department of Planning and Building Services

2. Brief description of development being appealed:

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

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

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

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

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

EXHIBIT NO. 16
APPEAL NO.
A-1-MEN-09-052
BLUE PORT, LLC
APPEAL (1 of 12)

RECEIVED

DEC 21 2009

CALIFORNIA
COASTAL COMMISSION

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
VOICE (707) 445-7833 FAX (707) 445-7877



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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-09-052

DATE FILED: 12/21/09

DISTRICT: North Coast

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

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

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

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

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

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

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

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

(1)

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See Attachment B

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 3

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

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

SECTION V. Certification

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

Signed: [Signature] Signature on File
Appellant or Agent [Signature]

Date: 12/21/09

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

Signed: _____

Date: _____

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.)

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Signed: (Signature on File
Appellant or Agent _____

Date: 12/21/09

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

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

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

(415) 904-5200

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

(858) 551-4390

ATTACHMENT B

APPEALABLE PROJECT:

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

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

REASONS FOR APPEAL:

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

The approval of CDP No. 42-2007 by Mendocino County is inconsistent with the policies and standards of the certified Local Coastal Program (LCP) including, but not limited to, policies and standards regarding the protection of visual resources in Highly Scenic Areas.

LCP Policies on the Protection of Visual Resources:

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

...

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

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

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

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

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

LUP Policy 3.5-4 states as follows:

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

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

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

LUP Policy 3.5-5 states as follows:

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

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

...

(C) Development Criteria.

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

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

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

...

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

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

...

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

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

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

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

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

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

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

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

Discussion:

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

The project, as approved by Mendocino County, is inconsistent with the policies of the certified LCP including, but not limited to, the following:

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

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

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

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