

CALIFORNIA COASTAL COMMISSION

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



F12a

Appeal Filed:	5/30/12
49 th Day:	7/18/12
Staff:	R. Merrill-E
Staff Report:	6/29/12
Hearing Date:	7/13/12

STAFF REPORT: APPEAL SUBSTANTIAL ISSUE

Appeal No.:	A-1-DNC-12-016
Applicants:	Del Norte County
Appellants:	Friends of Del Norte
Local Government:	County of Del Norte
Local Decision:	Approval with Conditions
Location:	Within the Hobbs-Wall Railroad Right-of-Way, extending approximately one mile easterly from the end of Second Street to Howland Hill Road, east of Crescent City (APNs 117-110-23, 117-110-20, and 115-180-02)
Project Description: (as approved by the County):	Construction of an approximately one-mile-long, eight-foot-wide paved bicycle and pedestrian trail.
Staff Recommendation:	No Substantial Issue

SUMMARY OF STAFF RECOMMENDATION

On May 30, 2012 the Commission's North Coast District office received an appeal of Del Norte County's approval of Coastal Grading Permit No. GP12-02C.

Appellant Friends of Del Norte raises five grounds for appeal that assert: 1) the County approved project lacks plans for maintaining the trail facility and controlling vandalism and homeless encampments which result in damage to the trail and disturbance of the surrounding ESHA; (2) construction of the trail will encroach into Elk Creek riparian buffer areas; (3) the trail has not been designed to a sufficient level of detail to ensure impacts to ESHA and wetlands will be minimized; (4) specific mitigation sites have not been identified and the proposed 3:1 mitigation ratio is insufficient to mitigate for the approved fill of wetlands for the trail; and (5) the approved trail route is not the least environmentally damaging alternative.

Regarding contention 1, staff believes that there is factual and legal support that the approved development will avoid the degree of vandalism and human abuse of the surrounding ESHA that would significantly degrade the adjoining ESHA or be incompatible with the continuance of the habitat and that the approved development is consistent with the ESHA protection policies of the certified LCP.

Regarding contention 2, staff believes that there is factual and legal support for the local government's decision to find that the approved trail is compatible with the productivity or maintenance of wetlands and ESHA, and that as an allowable use within ESHA, the trail does not require a buffer and is consistent with the LCP buffer policies.

Regarding contention 3, staff believes that with the resource information and project design criteria and mitigation measures that have been compiled and developed for the project, there is factual and legal support for the County's determination that the development will be sited and designed to minimize impact to ESHA consistent with LCP ESHA policies.

Regarding contention 4, staff believes given that (a) the general locations of the mitigation sites have been identified and are appropriate as they are on-site adjacent to existing wetlands where conditions for wetland restoration are favorable, and (b) the County's monitoring and remediation requirements will ensure that mitigation success standards are met, the County's determination to require a 3:1 wetland fill mitigation ratio in this case does not raise a substantial issue of conformance of the approved project with the requirements of LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy (a).

Finally, regarding contention 5, staff believes the alternative suggested by the appellant is not a feasible less environmentally damaging alternative as (a) the alternative route does not meet the project objective of providing a recreational and nature trail through the natural surroundings of the Elk Creek Wildlife Area and (b) the applicant does not own or otherwise control a significant portion of the right-of-way needed for the alternative route. Thus there is a high degree of factual support for the local government's decision to find that the approved trail route and the wetland fill required for the project is the least environmentally damaging feasible alternative.

Commission staff believes there is adequate factual and legal evidence in the record to support the County's action. Therefore, Commission staff recommends that the Commission find that the appeal raises no substantial issue with respect to the grounds on which it was filed.

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APPENDICES

Appendix A: Commission’s Appeal Jurisdiction Over Project

Appendix B: Excerpts from the Mendocino County Local Coastal Program

EXHIBITS

Exhibit 1 – Regional Location Map

Exhibit 2 – Vicinity Map

Exhibit 3 – Site Plan

Exhibit 4 – Path Cross-Section

Exhibit 5 – Aerial Photo

Exhibit 6 – Appeal

Exhibit 7 – Notice of Final Local Action and Findings for Approval

Exhibit 8 – Ecological Conditions Report

Exhibit 9 – Wetland Delineation

Exhibit 10 – Conceptual Wetland Mitigation and Monitoring Plan

I. MOTION & RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission determine and resolve that Appeal No. A-1-DNC-12-016 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion and resolution by voting “Yes” as is recommended by staff will result in a finding of **No Substantial Issue** and adoption of the following findings. The local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.

Resolution:

The Commission hereby finds that Appeal No. A-1-DNC-12-016 raises No Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act

II. FINDINGS AND DECLARATIONS

A. APPEAL JURISDICTION AND PROCEDURES

One appeal was timely filed with the Commission’s North Coast District Office on May 30, 2012, within 10 working days of receipt by the Commission of the County’s Notice of Final Action. The appeal was filed by Friends of Del Norte (Exhibit No. 6)

Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because the approved development is located within 100 feet of a wetland or stream. The grounds for an appeal are limited to an allegation that the approved 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 (in this case it is not), the public access policies set forth in the Coastal Act.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed¹. Commission staff has analyzed the County's Final Local Action Notice for the development (Exhibit No. 7), the appellant's claims (Exhibit No. 6), and the relevant requirements of the certified LCP (Appendix B) and is recommending that the Commission find that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed.

In this case, because the staff is recommending that the appeal raises no substantial issue, the Commission will hear arguments and vote on the substantial issue question. Proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

If the Commission determines that the appeal does raise a substantial issue, the Commission would continue the *de novo* portion of the appeal hearing to a subsequent meeting.

B. SITE DESCRIPTION AND PROJECT BACKGROUND

The approved project consists of the construction of an approximately one-mile-long, eight-foot-wide paved bicycle and pedestrian trail within the Hobbs-Wall Railroad Right-of-Way, extending easterly from the eastern end of Second Street to near the intersection of Elk Valley Road and Howland Hill Road, in an unincorporated adjacent to the east of Crescent City (Exhibit Nos. 1-5). The Hobbs-Wall Railroad was constructed to haul logs from timberlands to the former Hobbs-Wall Mill.

The approved multi-use recreational trail will offer wildlife and habitat viewing opportunities as it passes through the Elk Creek wetland special study area, a feature described in the Del Norte County LCP. The Elk Creek special study area consists of 4,120 acres that begin at the Elk Creek headwaters in Jedediah Smith Redwoods State park and end where Elk Creek flows into the Crescent City Harbor. The Elk Creek special study area supports habitats for wildlife and anadromous fish. Wildlife habitats include ponds, pastureland, marshland, forestlands, brush lands, and riparian communities.

Besides providing opportunities for nature study, the pathway will provide a more direct pedestrian and bicycle link between the commercial area and public buildings in downtown Crescent City with the Bertsch-Oceanview residential community, the Elk Valley Road industrial park, the Elk Valley Rancheria, and Redwoods State and National Parks (by continuing from the eastern end of the trail along Howland Hill Road). The approved pathway is also intended to

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

provide a safer alternative for bicyclists who currently must travel on a portion of Elk Valley Road and U.S. Highway 101.

According to the County staff report, the County has been working towards development of the Hobbs-Wall Trail over the past ten years, commissioning consultant studies, accepting input from the community, holding local public hearings, and working with the Local Transportation Commission to incorporate and prioritize the project in local transportation planning documents. The certified LUP contains a policy encouraging the establishment of a Hobbs-Wall Trail. Policy 11 of the Elk Creek Special Study Area (ECSSA) Policies states: “*The County should investigate the feasibility and seek funds to establish a bicycle/hiking trail along the old Hobbs-Wall railroad right-of-way in the lower portions of Elk Creek.*” In addition, development of the Hobbs-Wall Trail has been incorporated into several regional planning documents including the 2011 Del Norte Regional Transportation Plan, the Del Norte County and Crescent City 2-10 Bicycle Facilities Plan Update, and the 2008-2009 Trail Planning Report. Over the years an estimated \$100,000 in federal grant funds have been applied towards planning for the trail.

The paved pathway will be constructed as a Class 1 Bikeway. The bikeway will be an 8-foot-wide path with an asphalt surface and 2-foot-wide grade shoulders on each side (Exhibit No. 4). Interpretative signs are proposed to be installed at various locations to educate the public about the resources of the site and its history and thereby engage the public in resource protection and enjoyment.

The approved trail is composed of three major segments, including the western, central, and eastern segments. The western segment begins at the eastern end of Second Street at the Elk Creek Wetlands Wildlife Area owned and managed by the California Department of Fish and Game (CDFG) and extends 1,700 feet to and over an approved new bridge crossing of Elk Creek. The trail would be constructed on a portion of an existing looped trail that extends through the CDFG lands. The existing looped trail was built in the early 1990’s using Coastal Conservancy funds and maintained by the County. The approved clear-span bridge crossing of Elk Creek would be approximately 100 feet long and 12 feet wide and would be supported by concrete abutments located on the banks of the creek and positioned above the ordinary high water mark. The western segment of the approved trail would be constructed on the grounds of the old Hobbs-Wall mill site.

The central segment, begins at the afore-mentioned bridge crossing of Elk Creek and extends approximately 1,100 feet to Maiden Lane. This segment traverses through a woody area and construction of the trail would require the removal of woody vegetation.

The eastern segment begins at Maiden Lane and extends approximately 3,300 feet to the intersection of Elk Valley Road and Howland Hill Road. This segment of trail would meander through the 180-foot-wide County right of way. Currently, this segment consists of a partial dirt/gravel roadway and railroad rights-of-way that are overgrown with trees and shrubs of various types. The eastern segment is surrounded by sparse pockets of development.

The trail alignment is located within CDFG lands and County-owned railroad and road rights-of-way. Except for within the central segment, the trail, the proposed trail will largely be constructed where there are existing footpaths

According to the Natural Environment Study prepared for the project, three distinct vegetation associations occur in the project area, including a meadow/scrub association, a red alder/red

elderberry association, and Sitka Spruce forest. In addition, the project area includes the riverine Elk Creek community. The meadow/scrub association occurs west of elk Creek, and includes shrubs such as willows, Himalayan blackberry, California Blackberry, salmonberry, and bracken fern, as well as velvet grass California aster, rough cat's-ear, sweet vernal grass, and reed canary grass. The shrub/scrub component is dominant along the elevated trail corridor, while the meadow component occurs in lowlands just outside the trail corridor. The red alder/red elderberry association occurs between Elk Creek and Union Street. This association consists of an overstory of red alder and a subcanopy of red elderberry, with an understory of sword fern and English ivy. The forest community occurs along Union Street to Elk Valley road. A diverse assemblage of shrubs occurs below the Sitka spruce overstory. Common shrubs include common snowberry, salal, California huckleberry, ninebark, wild rose, Douglas' spiraea, and cotoneaster.

According to the Natural Environmental Study prepared for the project, the only special-status plants observed in the project area during the botanical study is Wolf's evening primrose (*Oenothera wolffii*; CNPS 1B:1). Wolf's evening primrose is on the California Native Plant Society's List 1B.1 (Plants Rare, Threatened, or endangered in California and Elsewhere Seriously Threatened in California). The Wolf's evening primrose was observed on the north side of Union Street near its intersection with Maiden Lane. The approved project includes mitigation for potential impacts to Wolf's evening primrose

According to the Natural Environmental Study, Elk Creek has been designated as Critical Habitat for the southern Oregon/northern California coho salmon and also contains summer run steelhead trout, coast cutthroat trout, northern red-legged frog, and western tailed frog. Because construction activities will not occur within the ordinary high water mark of Elk Creek, no mitigation measures were required for anadromous fish or amphibians except best management practices to ensure that sediment transport into the creek is minimized.

The extensive amount of trees and shrubs within the project area could potentially provide nesting bird habitat for migratory birds. In addition, Yuma myotis (*Myotis yumanensis*), a bat species and silver-haired bat (*Lasionycteris noctivagans*), two bat species have been found within the project area.

A wetland survey of the project area has been conducted and a total of 26,149 square feet (0.60 acres) of wetlands have been delineated that would be impacted by the project. A conceptual wetland mitigation and monitoring program was prepared for the project prior to approval by the County. The conceptual plan provides that the 26,149 square feet (0.60 acres) of wetlands that would be impacted by the project would be mitigated at a 3:1 ratio by creating 78,447 square feet (1.80 acres) of new wetlands in the project area.

The County granted its approval of the CDP subject to various special conditions (Exhibit No. 7), including, but not limited to, various conditions requiring mitigation to avoid or reduce impacts on wetlands, sensitive species, other ESHA to levels that are not significant. These wetland and rare plant mitigation conditions include requirements that:

- a. No grading shall occur between October 30 and April 30 of any year unless the applicant has obtained written permission from the County Engineer (Special Condition No 6);

- b. A pre-construction survey be conducted for Wolf's evening primrose and any such population of the sensitive plan discovered shall be fully avoided if feasible. If avoidance is not feasible, the County shall mitigate for the loss of Wolf's evening primrose by collecting seeds and planting to establish a new population at a suitable location within the trail corridor or vicinity subject to the standards of a final mitigation and monitoring plan. The targeted success rate shall be a minimum of two plants for each plant removed. (Special Condition No. 8/Mitigation Measure No. 2);
- c. To avoid impacts to nesting birds and/or raptors, all vegetation clearing and ground disturbance activities must occur outside of the nesting season or a pre-construction survey for nesting birds shall be conducted and all grading and construction shall be prohibited within a setback area as approved by CDFG until the young have fledged (Special Condition No. 8/Mitigation Measure No. 3);
- d. An erosion and sediment control plan and a spill prevention control plan be prepared prior to construction to reduce potential impacts to water quality (Special Condition No. 8/Mitigation Measure Nos. 4 and 12);
- e. To avoid impacts to bats, a pre-construction survey for evidence of bats shall be conducted and impacts to bats shall be avoided or minimized (Special Condition No. 8/Mitigation Measure No. 5);
- f. Impacts to mature trees shall be avoided where feasible by routing the trail around the trees (Special Condition No. 8/Mitigation Measure No. 7);
- g. The potential for the introduction and spread of noxious weeds and cape ivy be minimized by (i) using only certified weed-free erosion control materials, mulch, and seeds, (ii) limiting the export or import of fill to material known to be weed free, (iii) requiring the contractor to wash all equipment thoroughly before entering the County, and (iv) avoiding earthwork in the vicinity of Cape Ivy plants or if avoidance is not feasible, removing and bagging any Cape Ivy plants found and monitoring for two years and conducting any necessary additional plant removal (Special Condition No. 8/Mitigation Measure No. 9);
- h. The conceptual wetland mitigation and monitoring program prepared for the project must be implemented after construction to mitigate for the loss of wetlands. (Special Condition No. 8/Mitigation Measure No. 6).

C. ANALYSIS OF APPELLANT'S APPEAL CONTENTIONS

The Appellant Friends of Del Norte raise five grounds for appeal, claiming:

(1) ESHA Impacts from Human Disturbance Not Adequately Addressed. The County approved project lacks a plan for maintaining the trail facility and controlling vandalism and use of the trail area for homeless encampments which will result in damage to the trail facility and human disturbance of the surrounding ESHA habitat inconsistent with the ESHA protection policies of the LCP.

(2) **Encroachment into Elk Creek Wetland Buffers.** Construction of the trail will encroach into Elk Creek riparian buffer areas, inconsistent with LUP Elk Creek Special Study Area (ECSSA) Policies that require maintenance of a riparian buffer along Elk Creek wetlands.

(3) **Insufficient Planning and Design to Avoid Impacts.** The trail has not been designed to a sufficient level of detail to ensure that impacts to ESHA and wetlands will be minimized inconsistent with the LCP wetland protection and ESHA policies.

(4) **Wetland Mitigation Inadequate.** Specific mitigation sites have not been identified and the proposed 3:1 mitigation ratio is insufficient to mitigate for the approved fill of wetlands for the trail, inconsistent with the wetland fill policies of the LCP.

(5) **Less Environmentally Damaging Trail Alternative Exists.** An alternative trail route that would utilize in part existing roadways with bicycle lanes would result in substantially less coastal wetland impacts and therefore the approved project is inconsistent with the requirements of the LUP wetland policies which require that filling of wetlands shall only be permitted where there is no less environmentally damaging alternative.

As set forth in Section 30603 of the Coastal Act, after certification of its local coastal program, an appeal of a local government-issued coastal development permit is limited to allegations made on the grounds that the approved development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act where the development is located between the first public road and the sea. All five contentions of the appeal raise valid grounds for appeal. As discussed below, the Commission finds that the appeal raises no substantial issue of conformance of the approved development with the policies of the certified LCP.

1. ESHA Impacts from Human Disturbance Not Adequately Addressed.

The first contention asserts that the approved project lacks a plan for maintaining the trail facility and controlling vandalism and use of the trail area for homeless encampments which will result in damage to the trail facility and human disturbance of the surrounding ESHA habitat inconsistent with the ESHA protection policies of the LCP. The appellant cites, among other policies and standards of the LCP, LUP Marine and Water Resources Policy 6 and LUP Marine and Water Resources Section VII. D.4. Wetlands Policy f, both of which state in part that *“...development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.”*

The Appellant states that without a dedicated monitoring and maintenance plan, the trail will erode into a state of disrepair and ESHA impacts from human disturbance will prevail. The appellant cites the past history of the existing trail in the western segment of the proposed project as evidence that neglect of maintenance of the trail will lead to destruction of trail facilities and damage to surrounding habitat from vandalism and use of the trail area for homeless encampments. The Appellant states:

The existing trail was built in the early 1990's. CDFG provided land, California Coastal Conservancy provided funds, Dept. of Rehabilitation and Corrections provided labor,

and Del Norte County agreed to be responsible for maintenance. In the early 1990's the newly established trail was beautiful, and had a lovely hardwood bridge across Elk Creek...Then over the next two decades, the trail deteriorated without attention to maintenance...Nonnative species, especially Himalayan blackberry overtook the open meadow, picnic tables became rickety and dismantled. Information signage was smashed and remained smashed. Homeless persons scattered trash and hung out drunk at the picnic tables. Finally bit by bit, over the course of a year or two, the beautiful bridge across Elk Creek disappeared. Piece by piece, it was burned for firewood by homeless camps. Nature groups ceased going to the trail due to safety concerns. For nearly two decades responsible entities, including Del Norte County never prioritized maintenance for this area.

The Ecological Conditions Report prepared for the project acknowledges that habitats are impacted in the immediate area of the trail due to human (transient) encampments and the associated trash dumps and other transient uses. However, such activities are not uncommon to many coastal habitats on the outskirts of coastal cities and towns and no evidence has been presented that the adverse effects of such activities at this site have degraded the surrounding ESHA habitat to an uncommon or to a particularly significant degree. The Ecological Conditions Report demonstrates that Elk Creek and its wetlands continue to provide valuable habitat that that is not severely degraded.

As noted by the Appellant, the conditions of approval of Coastal Grading Permit GP2012-02C do not specifically require maintenance of the trail facility (Exhibit No. 7). However, the trail will be a County facility and the County will retain responsibility for its maintenance just as it does for other County facilities. The Appellant acknowledges in the appeal that County has performed maintenance of the existing trail facility, including an effort last summer when work crews cleaned up and removed debris and removed invasive vegetation, albeit not as carefully as the Appellant believes the crews should have performed the work.

Past misuse and disturbance of the trail and the surrounding habitat by members of the public does not necessarily mean such abuse will continue at a similar level and that the County will not maintain the facility. The County will have more incentive to maintain brand new trail, bridge, signage, and other improvements associated with the project that are in good condition and control abuse of the surrounding environment from inappropriate or illegal activities than it has had in recent years to maintain an already degraded trail and bridge facility. In addition, as noted in the Ecological Conditions Report prepared for the project, the installation of the new facilities will lead to increased public use for legitimate recreational and wildlife observation purposes, which will help deter homeless person encampments and inappropriate behavior that would disturb the adjoining habitat. The Ecological Conditions Report also notes that the County is proposing to install educational and interpretive displays along the trail to in part help educate the public and build greater appreciation for the natural resources of the area.

For all of the above reasons, the Commission finds that there is a high degree of factual and legal support for the local government's decision that the approved development will not foster vandalism and human abuse of the surrounding ESHA to a degree that will significantly degrade the adjoining ESHA or be incompatible with the continuance of the habitat. Therefore, the

Commission finds that the first contention of the appeal raises no substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP requiring that development be sited and designed to prevent impacts which could significantly degrade ESHA and be compatible with the continuance of such habitat, including LUP Marine and Water Resources Policy 6 and LUP Marine and Water Resources Section VII. D.4. Wetlands Policy f.

2. Encroachment into Elk Creek Wetland Buffers.

The second contention asserts that construction of the trail will encroach into Elk Creek riparian buffer areas, inconsistent with LUP Elk Creek Special Study Area (ECSSA) Policies that require maintenance of a riparian buffer along Elk Creek wetlands.

The appellant references LCP policies which state in part that a buffer strip shall be maintained in natural conditions around the Elk Creek wetlands and that riparian vegetation shall be maintained along streams, creeks, and slough, and other water courses. The appellant also notes that within the western segment of the approved project, the trail will follow a rich Elk Creek waterway and pond, with a narrow impacted riparian buffer. The Appellant states:

A native riparian vegetation buffer of willow and alder should be restored or encouraged to grow along the waterways, to provide for a riparian/wildlife buffer and visual screen. The creeks and ponds are home to many egrets and herons, ducks, and song birds, species of concern, that spook easily.

LUP Elk Creek Special Study Area (ECSSA) Policy 2 states that a buffer strip shall be maintained in natural conditions around the Elk Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands. Policy 6 states that riparian vegetation along the course of Elk Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones. In addition, LUP Marine and Water Resources Section VII. D.4. Policy (f) states that the primary tool to reduce impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. LUP Marine and Water Resources Policy 6 states in part that only uses dependent on the resources of an ESHA shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

The approved trail will support passive recreational uses that have minimal impact on the surrounding habitat. In addition, the trail has been designed and approved in a manner to minimize impacts to both protect resources and ensure that users of the trail can enjoy, observe, and interpret the natural environment that will surround the approved trail. The County found that the approved trail project has been designed and conditioned to be compatible with the productivity or maintenance of the wetland environment through which it passes. To minimize encroachment into the wetlands, the trail will be aligned within existing trail alignments as much as possible. The approved project does not include any development within Elk Creek, other than the construction of the trail bridge over the top of the creek. No bridge footings or abutment

would be located within the creek itself. Therefore, the County found that the project will not have a significant adverse impact on fisheries resources or amphibian species within the creek. No sensitive plant species would be affected by development of the trail with the possible exception of Wolf's evening primrose in the vicinity of Maiden Lane. The approved project includes requirements to resurvey for the plant species prior to construction and avoid disturbance of the plant to the furthest extent possible. If the plant cannot be avoided, the applicant must mitigate for the loss by establishing a new population of Wolf's evening primrose. In addition, pre-construction surveys of nesting birds and sensitive bat species must be conducted and construction must avoid disturbance of these wildlife resources. As discussed below in the section below analyzing Contention 4, the wetland fill impacts of the project would be mitigated in the project area pursuant to a mitigation and monitoring plan. Therefore, the approved trail can be considered a use that is compatible with the productivity or maintenance of wetlands and does not require a buffer under LUP Elk Creek Special Study Area (ECSSA) Policy 2.

In addition, the approved trail is for a use allowed in wetlands and within ESHA under both the Coastal Act and the Del Norte County LCP. The County found that the placement of 0.60 acres of fill for the approved trail is a form of nature study in that it will provide opportunities for wildlife viewing and interpretation of the surrounding environment. Interpretive panels with educational information regarding the historical and natural values of the site are planned. The Commission has considered the development of recreational trail segments through wetlands and other environmentally sensitive resource areas, where design efforts have been made to minimize such intrusions to the smallest feasible area or least impacting routes, and where the trail segment functions as a nature trail, to be a form of "nature study... or similar resource dependent activities" (see findings for County of Santa Barbara LCP Amendment No. STB-MAJ-3-02 (Toro Canyon Planning Area) County of Humboldt LCP Amendment No. HUM-MAJ-1-03 (Riparian Corridor Trails), and Coastal Development Permit 3-11-074, City of Santa Cruz, Applicant (Arana Gulch Master Plan)). As a form of nature study, the trail is an allowed use for wetland fill consistent with Section 30233(a)(7) of the Coastal Act and LUP Marine and Water Resources Section VII. D.4. Wetlands Policy (a). As a resource dependent use, a nature trail is an allowed use within ESHA consistent Section 30240 of the Coastal Act and LUP Marine and Water Resources Policy 6. As the trail will extend directly through the wetland and riparian ESHA as a resource dependent and nature study use allowable under the Coastal Act and LCP, it is not feasible to establish a buffer between the trail and the immediately adjoining wetland and riparian resources.

For all of the above reasons, the Commission finds that there is a high degree of factual and legal support for the local government's decision to find that the approved trail is compatible with the productivity or maintenance of wetlands and ESHA, and that as an allowable use within ESHA does not require a buffer. Therefore, the Commission finds that the second contention of the appeal raises no substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP regarding the establishment of buffers between development ESHA, including LUP Elk Creek Special Study Area (ECSSA) Policies 2 and 6, LUP Marine and Water Resources Section VII. D.4. Policy (f), and LUP Marine and Water Resources Policy 6.

3. Insufficient Planning and Design to Avoid Impacts.

The third contention asserts that the trail has not been designed to a sufficient level of detail to ensure that impacts to ESHA and wetlands will be minimized inconsistent with the LCP wetland protection and ESHA policies. The appellant states that the trail as shown in the site plans is sketchy, incomplete, and does not match conditions on the ground in several areas. In addition, the location of the bridge crossing of Elk Creek is not indicated on the trail maps. As a result, the appellant asserts that it is not clear whether impacts to ESHA will be minimized and therefore the approved development is inconsistent with LUP Marine and Water Resources Policy 6 and LUP Marine and Water Resources Section VII. D.4. Wetlands Policy f, both of which state in part that “...development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.” In addition, the appellant cites LUP Marine and Water Resources Policy 6 which states in part that “Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.”

The plans for the approved trail that are contained within the local record are conceptual. Copies of the plans are included in Exhibit No. 3. The plans include a generalized depiction of the trail route within the right-of-way superimposed against an aerial photo of the project vicinity, as well as a typical cross section of the trail showing the 8-foot width of the paved trail and its two foot earthen shoulders. Thus, as the appellant asserts, the plans by themselves make it difficult to determine whether the development will minimize impacts to ESHA.

However, the application and local record contains other information useful for assessing the impacts of the development on ESHA. Several surveys of environmental conditions have been performed for the project. At least two different wetland delineations have been performed, including the most recent in 2012 which delineates the wetland at the project site based on Coastal Act and Del Norte County LCP wetland definitions (See Exhibit No. 9). In March of 2008, ENPLAN prepared the Hobbs Wall Multi-use Trail Natural Environmental Study which surveyed the biological resources of the site. In addition, SHN Consulting Engineers & Geologists, Inc. prepared an update of the Natural Environmental Study in 2012. Furthermore, SHN prepared an ecological conditions report for the project dated March 14, 2012 to assist the County with completing CEQA documentation and obtaining project permits (See Exhibit No. 8). The report assesses project impacts and conformance with Coastal Act and Del Norte County LCP policies. The information compiled in these surveys and reports provides a detailed inventory of the natural resources at the project site.

The components of the narrative project description drawn from various parts of the local record provide details of the dimensions of the approved project and design criteria that will be followed in developing the trail. Besides detailing how the multi-use trail will be a paved pathway with an asphalt surface and 2-foot graded shoulders on each side, the composite description of the project provides other design criteria useful for assessing project impacts. These criteria include a design criterion that the approved bridge crossing of Elk Creek will be a

free-span crossing without supporting piers and with the abutments placed on the banks of the creek channel above the ordinary high water mark. The composite description also indicates that the trail will be constructed as much as possible on existing trails to minimize wetland fill. The project as approved includes a Conceptual Wetland Mitigation and Monitoring Plan (See Exhibit No. 10) which details the approach that will be followed for the creation of freshwater wetlands and riparian habitat as mitigation for impacts associated from development of the trail.

The County prepared a mitigated negative declaration for the project to satisfy CEQA requirements. The mitigation measures are incorporated into the project and must be implemented pursuant to Special Condition No. 8 of the County's approved Coastal Grading Permit. Many of the required mitigation measures address avoidance or reduction of impacts on wetlands, sensitive species, other ESHA to levels that are not significant. These wetland and ESHA mitigation measures include requirements that:

- a. A pre-construction survey be conducted for Wolf's evening primrose and any such population of the sensitive plant discovered shall be fully avoided if feasible. If avoidance is not feasible, the County shall mitigate for the loss of Wolf's evening primrose by collecting seeds and planting to establish a new population at a suitable location within the trail corridor or vicinity subject to the standards of a final mitigation and monitoring plan. The targeted success rate shall be a minimum of two plants for each plant removed. (Mitigation Measure No. 2);
- b. To avoid impacts to nesting birds and/or raptors, all vegetation clearing and ground disturbance activities must occur outside of the nesting season or a pre-construction survey for nesting birds shall be conducted and all grading and construction shall be prohibited within a setback area as approved by CDFG until the young have fledged (Mitigation Measure No. 3);
- c. An erosion and sediment control plan and a spill prevention control plan be prepared prior to construction to reduce potential impacts to water quality (Mitigation Measure Nos. 4 and 12);
- d. To avoid impacts to bats, a pre-construction survey for evidence of bats shall be conducted and impacts to bats shall be avoided or minimized (Mitigation Measure No. 5);
- e. Impacts to mature trees shall be avoided where feasible by routing the trail around the trees (Mitigation Measure No. 7);
- f. The potential for the introduction and spread of noxious weeds and cape ivy be minimized by (i) using only certified weed-free erosion control materials, mulch, and seeds, (ii) limiting the export or import of fill to material known to be weed free, (iii) requiring the contractor to wash all equipment thoroughly before entering the County, and (iv) avoiding earthwork in the vicinity of Cape Ivy plants or if avoidance is not feasible, removing and bagging any Cape Ivy plants found and monitoring for two years and conducting any necessary additional plant removal (Mitigation Measure No. 9); and
- g. The conceptual wetland mitigation and monitoring program prepared for the project must be implemented after construction to mitigate for the loss of wetlands. (Mitigation Measure No. 6).

The combination of reconnaissance information about the ESHA resources at the project site, the project design criteria, and the specific mitigation measures that must be followed has enabled the County to assess what project impacts would result from the project. These impacts include 0.60 acres of wetland fill and the possible removal of specimens of one sensitive plant, the Wolf's evening primrose. Mitigation for both of these impacts is incorporated into the project. The degree to which these and other project impacts are truly minimized will be dependent in part on how the design criteria and mitigation measures are implemented in the preparation of final plans and in the field during project construction. However, with the resource information and project design criteria and mitigation measures that have been compiled and developed for the project, the County's determination that the project will minimize impacts to ESHA is based on a relatively high degree of factual and legal support. Therefore, the Commission finds that the third contention of the appeal raises no substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP requiring that development be sited and designed to minimize impact to ESHA consistent with LUP Marine and Water Resources Policy 6 and LUP Marine and Water Resources Section VII. D.4. Wetlands Policy f and LUP Marine and Water Resources Policy 6.

4. Wetland Mitigation Inadequate.

The fourth contention asserts that specific mitigation sites have not been identified and the proposed 3:1 mitigation ratio is insufficient to mitigate for the approved fill of wetlands for the trail, inconsistent with the wetland fill policies of the LCP. The appellant states the following:

The wetland replacement mitigation areas are unidentified, yet the County claims replacement mitigation will be of high quality. The set ratio that is proposed is too low, given Del Norte's past history of compliance. The most likely restoration areas may be parking lots and/or areas adjacent to development. These areas would not be considered an ideal location for substitute replacement. Therefore, replacement ratios should remain at the Coastal standard of at least 4:1 or better. Within the mitigation plan text, the removal of English ivy is suggested. The ivy has engulfed and is strangling most of the large trees on the east side of Elk Creek and within the project area. The removal of the ivy should be made a required condition of the project, which is an omission, inconsistent with the mitigation text.

As a result, the appellant asserts the approved project is inconsistent with LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy (a) which requires in part that the diking, filling, or dredging of wetlands be permitted only where feasible mitigation measures have been provided to minimize adverse environmental effects.

The appellant asserts that the project mitigation is inadequate for three specific reasons, including (a) the mitigation sites that will be used are not ideally suited for wetland mitigation, (b) the mitigation ratio of 3:1 is too low, and (c) the project as approved is not required to remove ivy as was suggested in the project mitigation plan.

With respect to the propose mitigation sites, the Conceptual Wetland Mitigation and Monitoring Plan indicates that the 1.80 acres of mitigation will be provided at (1) an area close to the existing parking lot near the existing wetland and existing pond (within the Western segment of the project) and (2) along the corridor from Minnesota Avenue to Michigan Road. The

mitigation and monitoring plan does not include a site plan of the mitigation sites, but indicates that the vegetation in these areas consists of species adapted to disturbed habitat and degraded coastal prairie.

The appellant asserts that these sites would not be considered an ideal location for substitute wetland replacement. However, the appeal does not explain why the appellant believes these locations would not be appropriate. The sites adjoin existing wetlands which should facilitate restoration of habitat values at the mitigation sites. In addition, the first site is within an area already managed as a wildlife area by CDFG. The Conceptual Wetland Mitigation and Monitoring Plan includes monitoring provisions and specified performance or success standards and addresses remediation if the standards are not achieved. The performance standards include the establishment of 0.93 acres of tree-parameter wetland habitat and 0.86 acres of one-parameter wetland habitat. After 5 years the restored wetlands should have at least 75% of the native vegetation cover and plant species density as compare to an adjacent reference site of existing wetland habitat. Maintenance will be conducted as necessary to meet final performance standards. Weed eradication will be conducted as necessary to minimize competition that could prevent the establishment of native species. Weeds would be removed by hand or other manual means such as mowing. A five-year monitoring program is proposed. In the event the performance standards are not achieved after five years, a corrective action plan will be developed in consultation with resource agencies, including CDFG, the Regional Water Quality Control Board, the U.S. Army Corps of Engineers, and the Coastal Commission. Corrective actions and additional monitoring would continue until all standards are met or until the agencies determine that other mitigation measures are appropriate.

Special Condition No. 8 of the approved Coastal Grading Permit requires the application to implement mitigation measures included in the Initial Study prepared to comply with CEQA for the project. Mitigation Measure No. 6 of the Initial Study states that full implementation of the conceptual wetland mitigation and monitoring program is required. Thus, if restoration fails at the mitigation sites and the performance standards have not been achieved, the corrective measures specified in the conceptual wetland mitigation and monitoring plan must be followed. These corrective measures specify that corrective actions and monitoring must continue until all the performance standards are met or until certain reviewing agencies, including the Coastal Commission, determine that other mitigation measures are appropriate. Thus, wetland restoration adequate to mitigate for the impacts of the approved trail project are assured, even if features of the chosen mitigation sites somehow affect the success of initial restoration efforts.

With respect to the 3:1 mitigation ratio, the appellant is correct in asserting that the Coastal Commission will usually require a wetland mitigation ratio of 4:1 for mitigating the filling of wetlands. However, the Commission has not universally applied the 4:1 ratio to all wetland fill projects, in some cases allowing a smaller ratio depending on the nature of the affected habitat, the mitigation location, the degree of temporal loss, the likelihood of success and other factors. This appeal contention raises a valid issue as to whether the approved 3:1 mitigation ratio conforms with the requirements of LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy that feasible mitigation measures be provided to minimize adverse environmental effects of approved wetland fill projects. However, given (a) the relatively high mitigation ratio that is proposed, (b) the location of the mitigation sites within the project area

and adjacent to an extensive wetland system along Elk Creek where the site conditions necessary to support successful restoration are highly favorable, and (c) the requirements of the Coastal Grading Permit for remediation to achieve the mitigation success standards if initial restoration efforts are unsuccessful, the Commission finds that the County's determination to require a 3:1 wetland fill mitigation ratio in this case does not raise a substantial issue of conformance of the approved project with the requirements of LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy (a) that feasible mitigation measures be provided to minimize adverse environmental effects of approved wetland fill projects.

With respect to the removal of English ivy, the approved project does not require the removal of ivy from the numerous trees and large areas of the ground along the east side of Elk Creek that currently are covered by the invasive species as noted by the appellant. The ivy has invaded extensive acreage in and around the project area and its complete removal would be extremely difficult. However, the Coastal Grading Permit and the Conceptual Wetland Mitigation and Monitoring plan do include requirements to prevent the further spread of the ivy and other invasive species from activities associated with the approved development. In areas where wetland mitigation would occur, invasive vegetation would be removed as the mitigation work is conducted. During the monitoring period after conversion of the uplands to wetlands, weed eradication would be conducted as necessary to minimize competition that could prevent the establishment of native species. Weeds would be removed by hand or other manual means such as mowing. Mitigation Measure No. 9 specifically requires the removal and bagging in plastic until decomposed Cape Ivy plants within project areas where earth work will occur with follow up inspections for two years to ensure that no new populations have been established. As the Coastal Grading permit is conditioned to require implementation of the mitigation measures and Conceptual Wetland Mitigation and Monitoring plan, the measures described above to prevent the spread of invasives from project activities must be implemented. Therefore, the Commission finds that there is a factual and legal basis for the County to find that the project provides feasible mitigation measures to minimize adverse environmental effects associated with the spread of invasive species from project activities consistent with LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy (a).

For all of the above reasons, the Commission finds that there is a high degree of factual and legal support for the local government's decision that the approved development will provide adequate mitigation for wetland fill impacts. Therefore, the Commission finds that the fourth contention of the appeal raises no substantial issue regarding consistency of the approved development with the requirements of LUP Marine and Water Resources Section VII.D.4 (Wetlands) Policy (a) that feasible mitigation measures be provided to minimize adverse environmental effects.

5. Less Environmentally Damaging Trail Alternative Exists.

The fifth and final contention of the appeal asserts that an alternative trail route that would utilize in part an existing roadway with bicycle lanes would result in substantially less coastal wetland impacts and therefore the approved project is inconsistent with the requirements of LUP Marine and Water Resources - Section VII. D.4. Wetlands (a) that the filling of wetlands shall only be permitted where there is no feasible less environmentally damaging alternative.

The alternative route suggested by the appellant would involve utilizing the western segment of the approved trail from the end of Second Street adjacent to Crescent City at the Elk Creek Wildlife Area to its crossing of Elk Creek, but not using the approved central and eastern segments. Instead, after crossing Elk Creek, the suggested alternative route would turn due south along a dirt road through other portions of the CDFG Elk Creek Wildlife Area and continue to Elk Valley Road. At Elk Valley Road, trail users would turn northeast and either use the existing bike lanes or sidewalks along Elk Valley Road to travel approximately one mile to Elk Valley Road's junction with Howland Hill Road, the eastern endpoint of the approved trail.

The suggested alternative route would avoid a large portion of the wetland fill needed for the approved trail alignment. However, the alternative would not meet one of the primary objectives of the project of developing a recreational and nature study trail extending through the natural surroundings of the Elk Creek Wetland Study Area. Instead, approximately two-thirds of the route would not be a recreational and nature study trail at all, but would consist of travel along a busy urban collector roadway where bicyclists share the right-of-way with cars and trucks and pedestrians walk along a busy street past commercial and industrial facilities. In addition, traffic safety would be more of a concern for users of the route. Furthermore, an approximately ¼-mile long, 20-foot-wide right-of-way covering 0.60 acres would have to be obtained from CDFG, the owner of the lands that would be utilized for the alternative trail between the Elk Creek bridge and Elk Valley Road. Although CDFG has agreed to allow the use of other portions of the Elk Creek Wildlife Area for the western segment of the approved trail, this additional land area would have to be obtained from CDFG and it is not clear whether CDFG would be inclined to grant the right-of-way or not. Until an agreement is reached between the County and CDFG to allow use of these lands, the alternative route for the trail cannot be considered a feasible alternative.

In conclusion, the Commission finds that the alternative suggested by the appellant is not a feasible less environmentally damaging alternative as (a) the alternative route does not meet the project objective of providing a recreational and nature trail through the natural surroundings of the Elk Creek Wildlife Area and (b) the applicant does not own or otherwise control a significant portion of the right-of-way needed for the alternative route. Therefore, the Commission finds that there is a high degree of factual support for the local government's decision to find that the approved trail route and the wetland fill required for the project is the least environmentally damaging feasible alternative consistent with LUP Marine and Water Resources - Section VII. D.4. Wetlands Policy (a).

D. CONCLUSION

For the reasons stated above, the Commission finds that there is adequate factual and legal evidence in the record to support the County's approval of a Coastal Grading Permit for this project when it found that the project is consistent with the relevant LCP policies. The Commission therefore finds that the appeal raises no substantial issue with respect to the grounds on which it was filed.

APPENDIX A

COMMISSION'S APPEAL JURISDICTION OVER THE PROJECT

On May 2, 2012, the Del Norte County Planning Commission approved Coastal Grading Permit No. 2012-02C that authorized construction of an approximately one-mile-long, eight-foot-wide paved bicycle and pedestrian trail within the Hobbs-Wall Railroad Right-of-Way, extending easterly from the end of Second Street to Howland Hill Road, east of Crescent City.

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 within 100 feet of a wetland or stream. Portions of the approved trail facility are located adjacent to Elk Creek, a blue-line stream, and/or within 100 feet of other freshwater wetlands. As the approved development is located within 100 feet of a wetland feature, the subject development is appealable to the Commission pursuant to Section 30603(a)(2) of the Coastal Act.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received at the Commission's North Coast District Office on May 30, 2012 (Exhibit No. 7). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

One appeal was filed with the Commission's North Coast District Office on May 30, 2012 from the Friends of Del Norte (Exhibit No. 6). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action.

APPENDIX B

DEL NORTE COUNTY LOCAL COASTAL PROGRAM POLICIES CITED IN THE APPEAL AND IN THE SUBSTANTIAL ISSUE ANALYSIS

Land Use Plan Policies

Marine and Water Resources Policies:

1. *The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.*
3. *All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of public health and the biological productivity of coastal waters.*
4. *Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.*
6. *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Marine and Water Resources – Sensitive Coastal Habitats Specific Area Policies - Section VII. D.4. Wetlands:

- a. *The diking, filling, or dredging of wetlands shall be permitted in accordance with other applicable provisions of this program, where there is no feasible less environmentally damaging alternative and where feasible mitigation measures have been provided to minimize adverse environmental effects. Such projects shall be limited to those identified in Section 30233 of the Coastal Act.*
- f. *Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of one-hundred feet in width. A buffer of less than one-hundred feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to utilize a buffer area of less than one-hundred feet shall be done in cooperation with the California Department of Fish and Game and the County's*

determination shall be based upon specific findings as to the adequacy of the proposed buffer to protect the identified resource. Firewood removal by owner for on site use and commercial timber harvest pursuant to CDF timber harvest requirements are to be considered as allowable uses within one-hundred foot buffer areas.

- g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over the boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:*
 - i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.*
 - ii.) Vegetation map.*
 - iii.) Soils map.*

Review of this information shall be in cooperation with the Department of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Department of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

Marine and Water Resources – Sensitive Coastal Habitats Specific Area Policies - Section VII. E.4. Riparian Vegetation:

- a. Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.*

Elk Creek Special Study Area (ECSSA) Policies:

- 2. A buffer strip, shall be maintained in natural conditions around the Elk Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.*
- 3. New development adjacent to the Elk Creek wetlands shall not result in adverse levels or additional sediment, runoff, noise, wastewater or other disturbances.*
- 4. Snags shall be maintained within the Elk Creek wetland for their value to wildlife.*
- 5. No motorized vehicle traffic shall be permitted within the Elk Creek wetlands except for agriculture and forestry.*
- 6. Riparian vegetation along the course of Elk Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.*

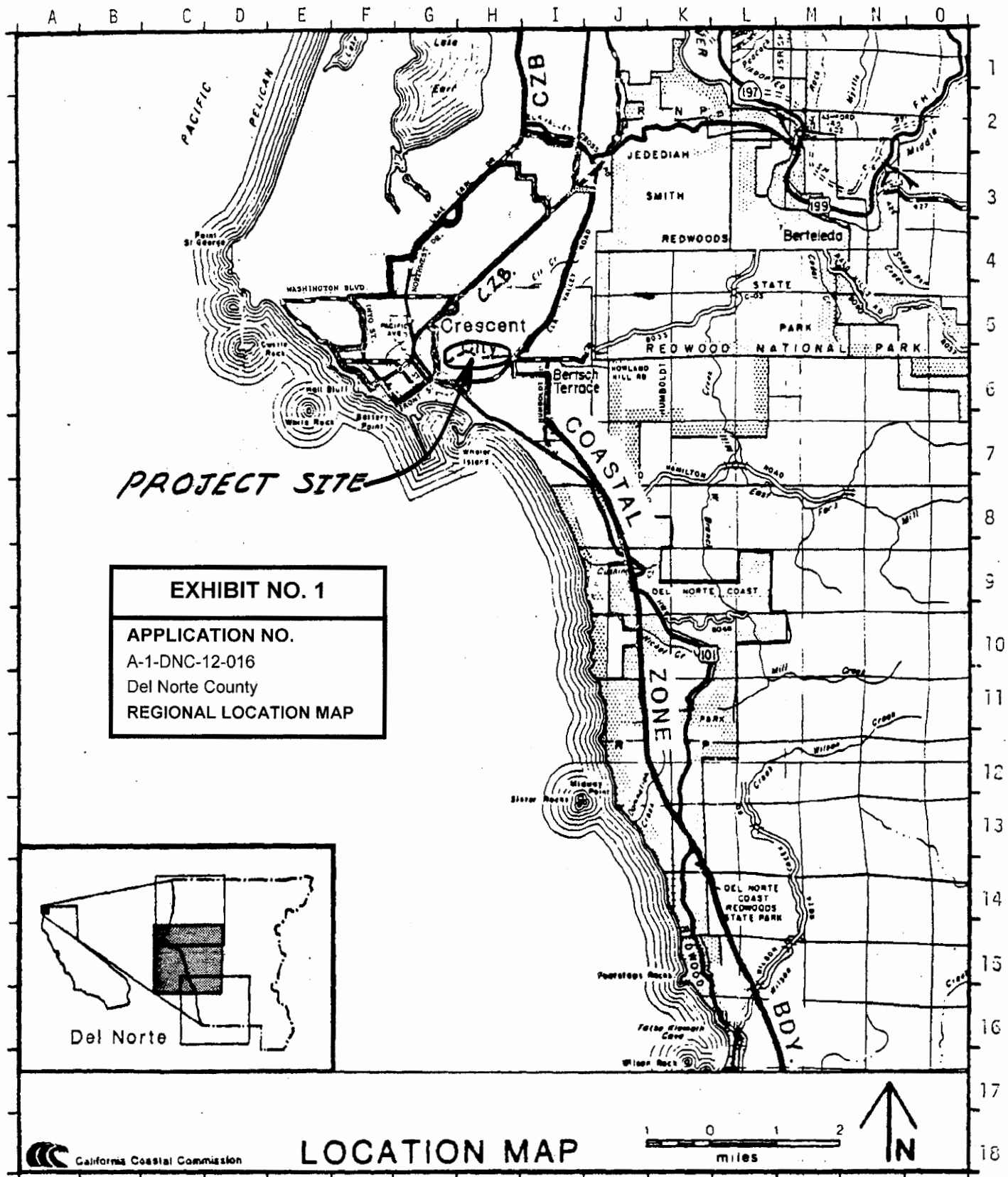
7. *In areas where the boundary of the Elk Creek wetland is in doubt, a detailed survey of a parcel and the location of the marsh shall be required to determine the suitability of said parcel for dwelling or other building site and sewage disposal system before a permit is issued.*
9. *Vegetation and debris removal in the Elk Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.*
11. *The County should investigate the feasibility and seek funds to establish a bicycle/hiking trail along the old Hobbs-Wall railroad right-of-way in the lower portions of Elk Creek.*

Recreation Policies

1. *The County encourages the continued maintenance of coastal recreation areas by both the private sector and public agencies.*
2. *New recreational development shall be located and distributed throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding.*
4. *The rights of private property owners shall be protected in all provisions for public and private recreation facilities.*
6. *Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development.*

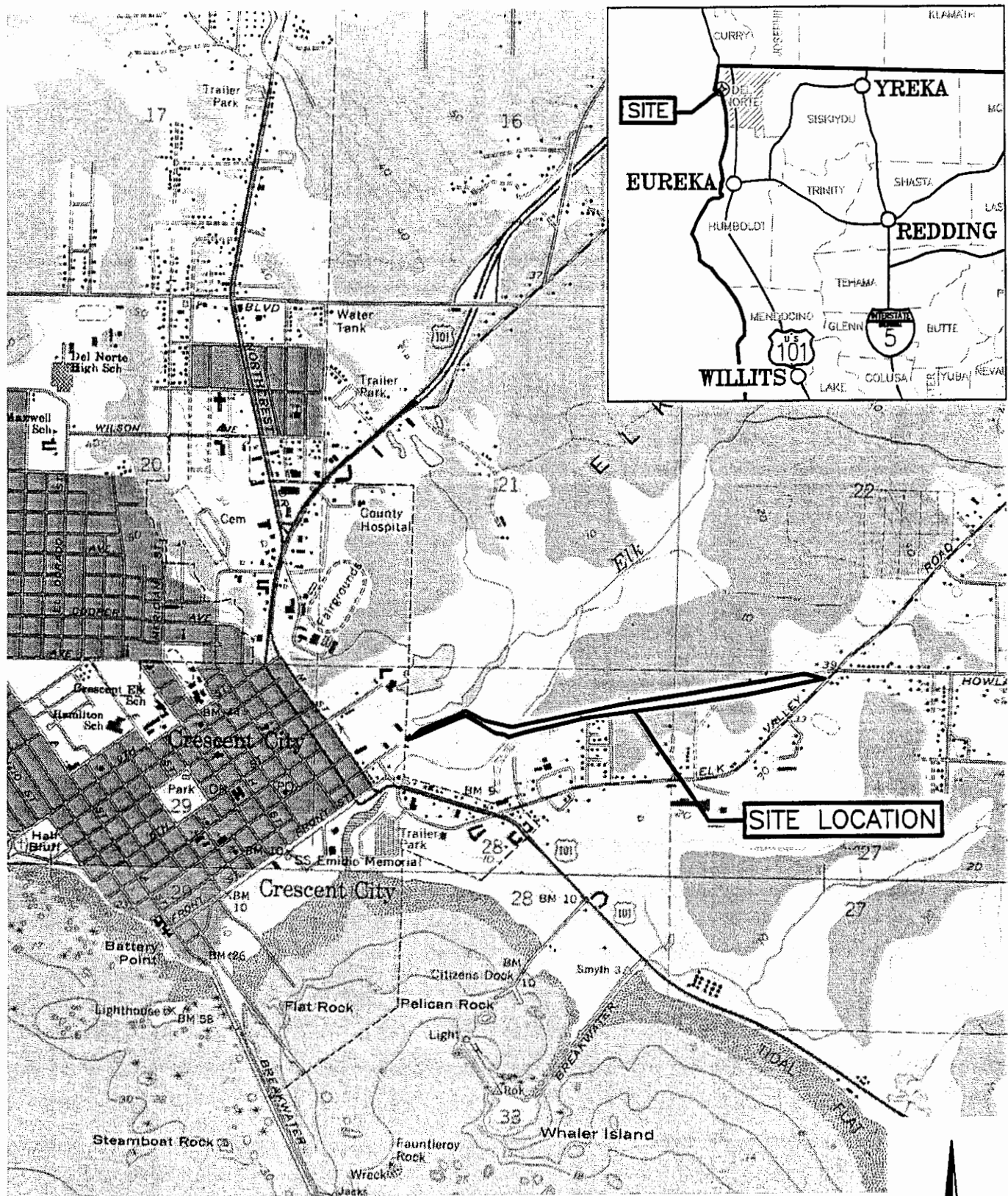
Implementation Program Standards

None cited.



County of Del Norte

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SOURCE: CRESCENT CITY & SISTER ROCKS
USGS 7.5 MINUTE QUADRANGLES

EXHIBIT NO. 2
APPLICATION NO.
A-1-DNC-12-016
DEL NORTE COUNTY
VICINITY MAP (1 of 2)

SEI
Consulting Engineers
& Geologists, Inc.

County of Del Norte
Hobbs Wall Trail
Crescent City, California
August 2011

011062-LOCA

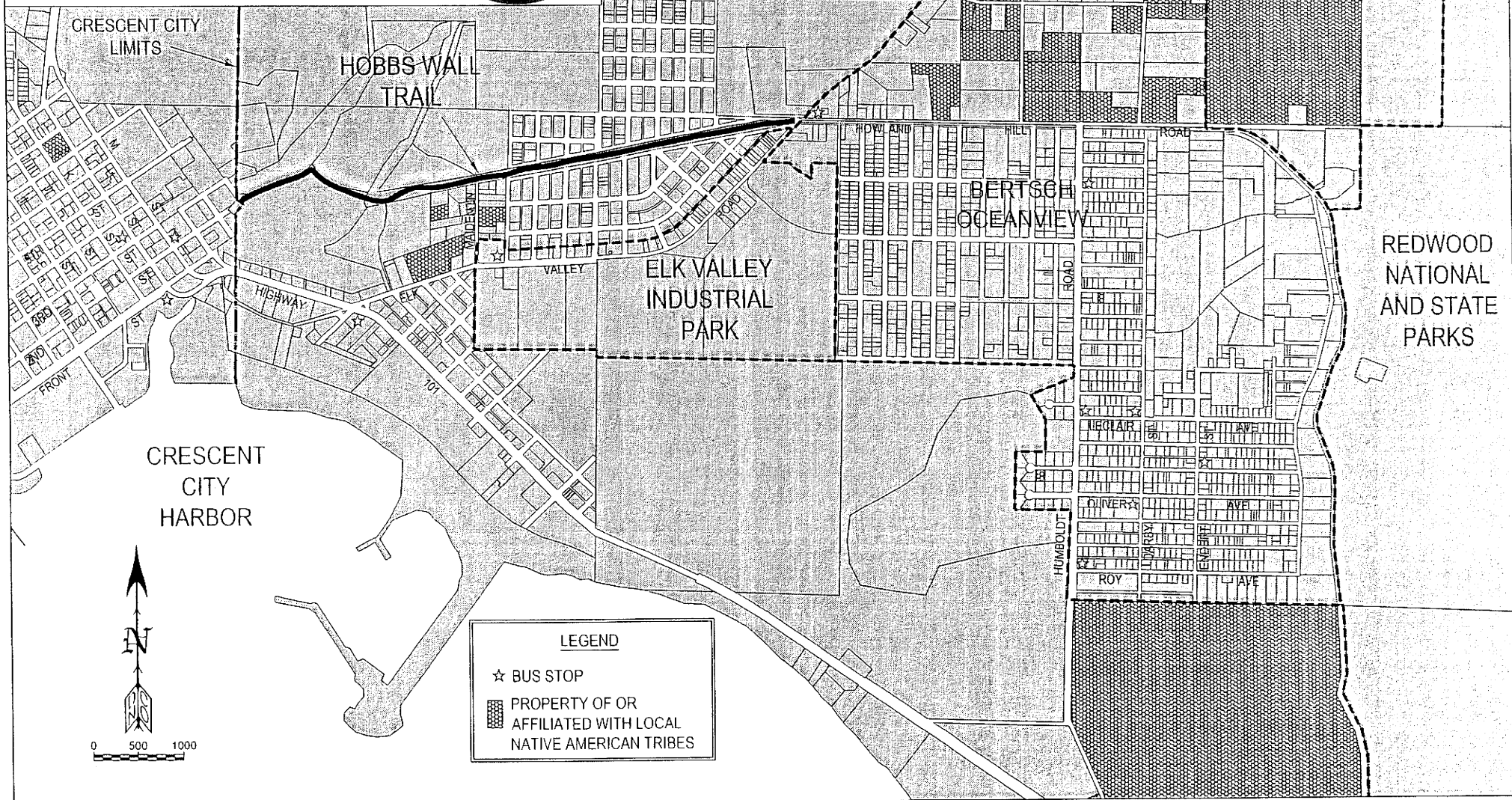
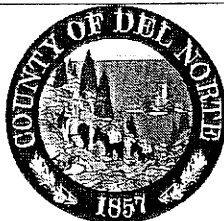
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Figure 1

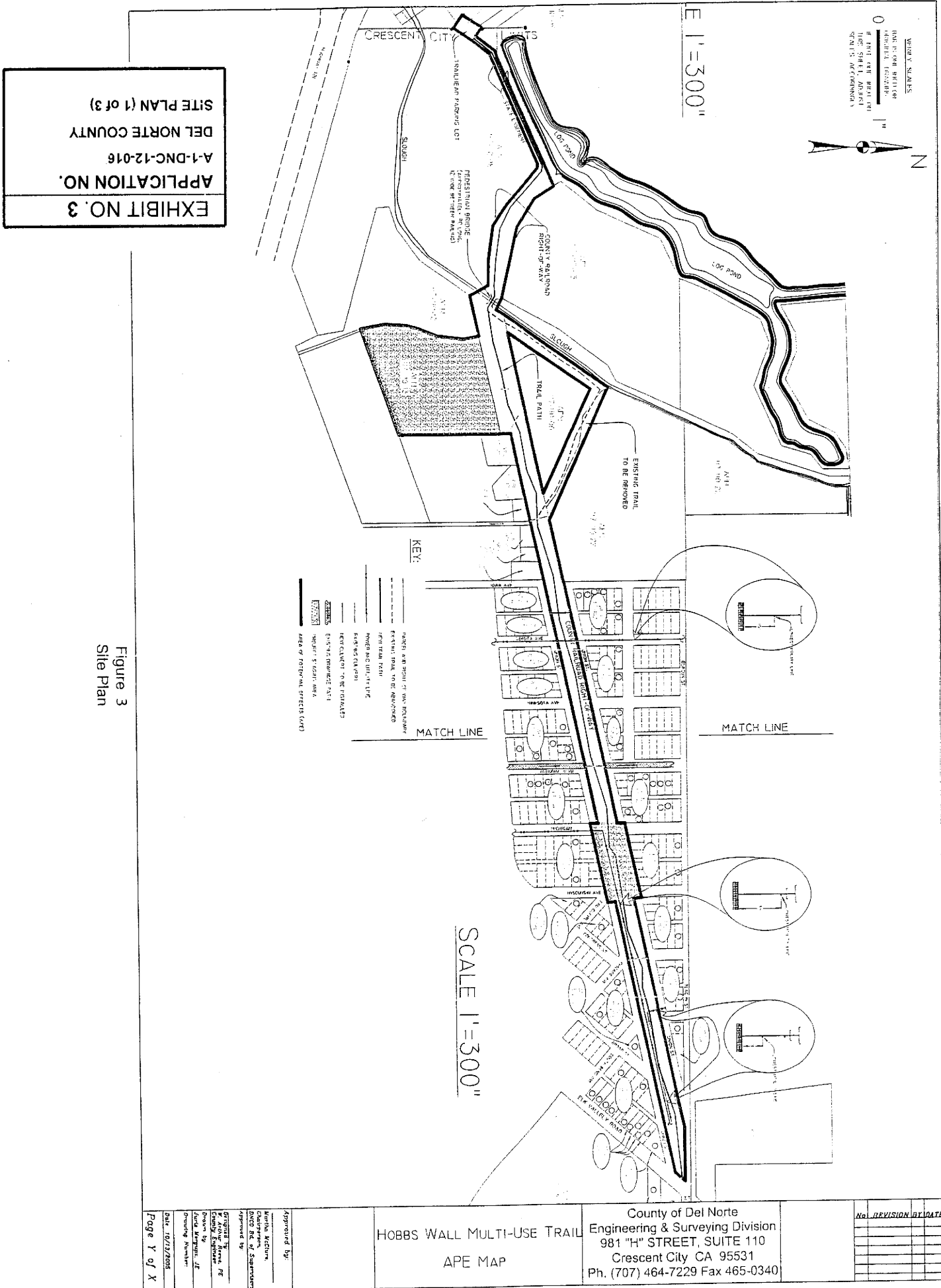
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HOBBS WALL TRAIL

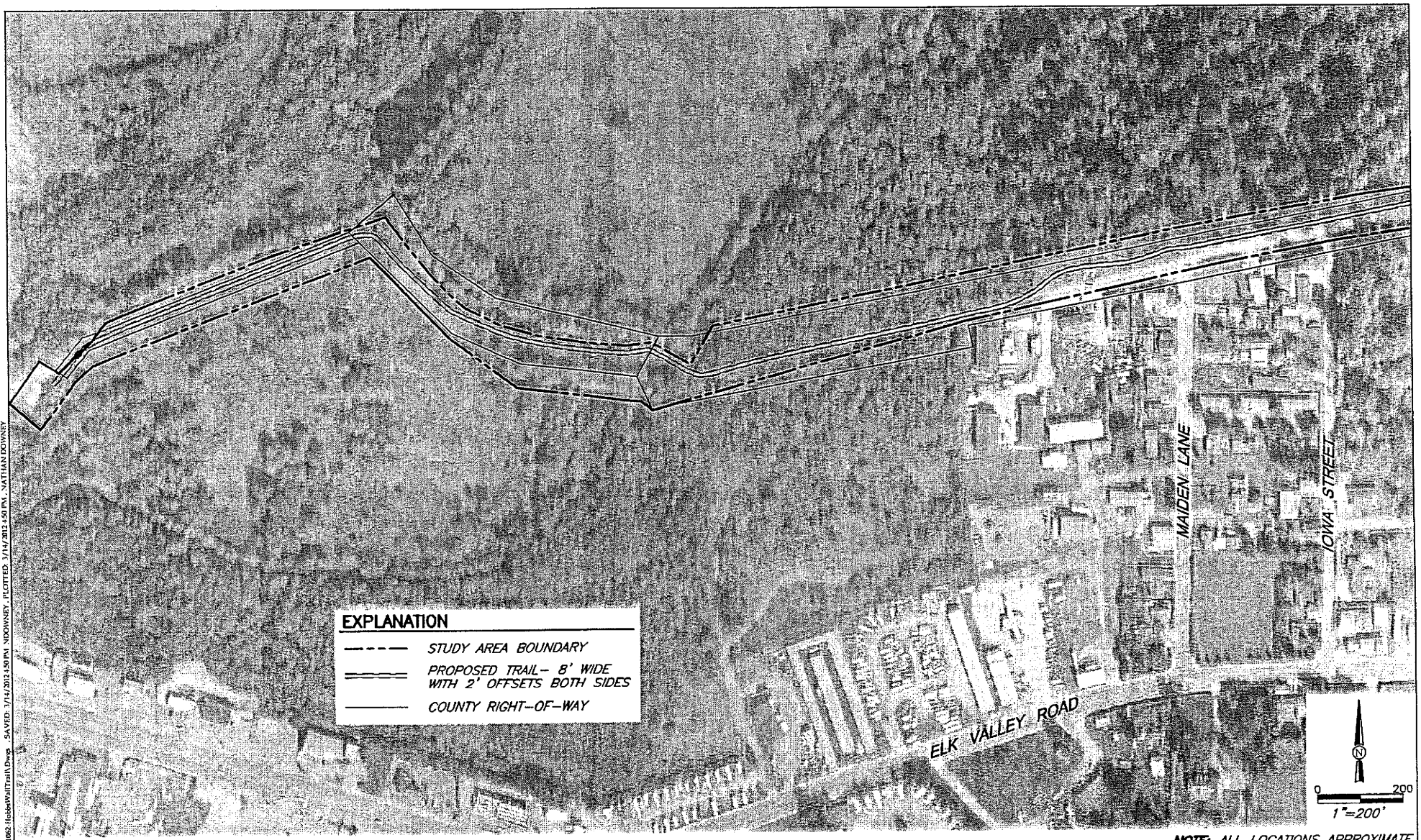
DEL NORTE COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT

APRIL 2012





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EXPLANATION

----- STUDY AREA BOUNDARY

===== PROPOSED TRAIL - 8' WIDE
WITH 2' OFFSETS BOTH SIDES

----- COUNTY RIGHT-OF-WAY

NOTE: ALL LOCATIONS APPROXIMATE

262


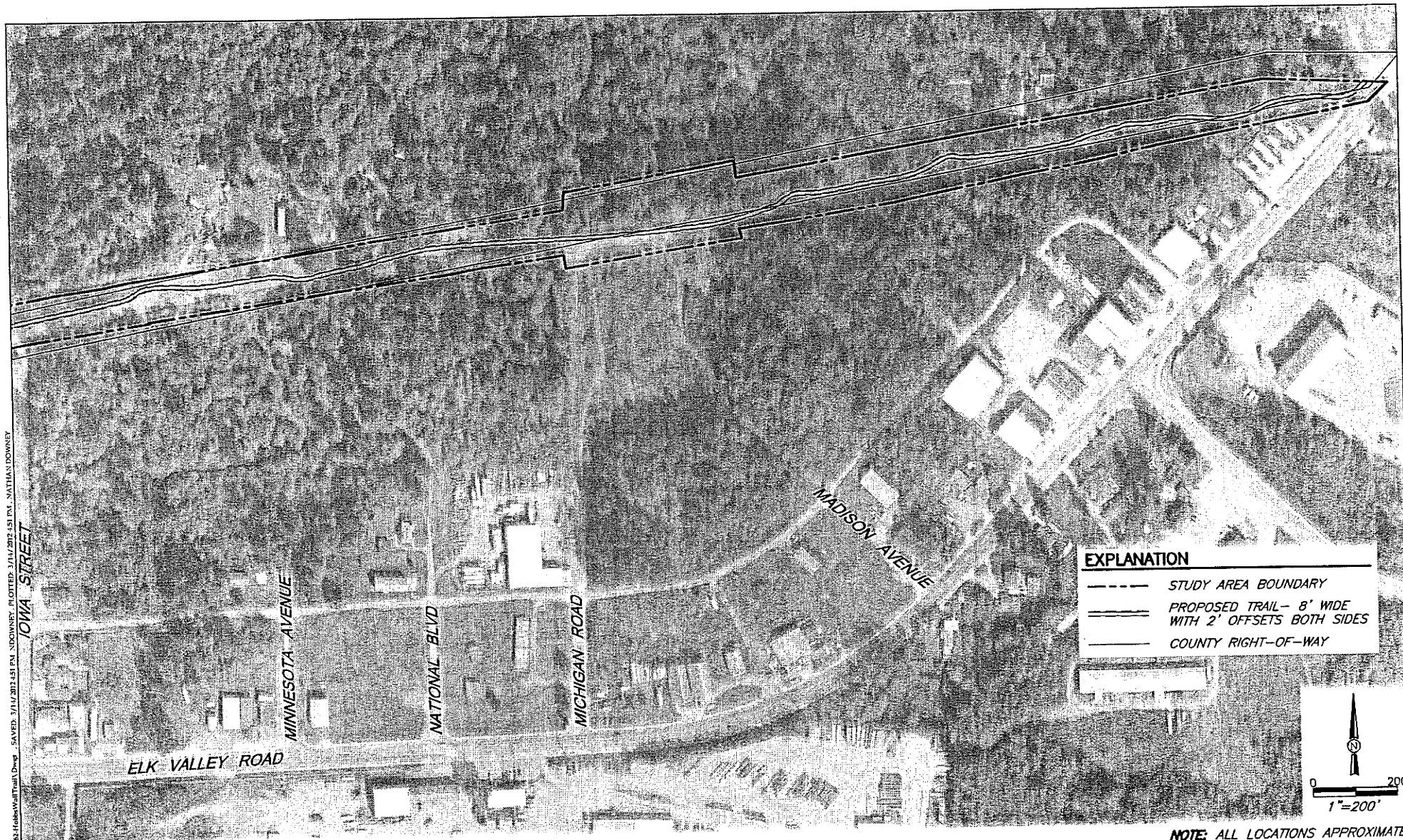
 SHN Consulting Engineers & Geologists, Inc.	County of Del Norte Hobbs Wall Trail Crescent City, California		Trail Layout West Portion of Site SHN 011062
	March 2012	011062-TRAIL	

Figure 2

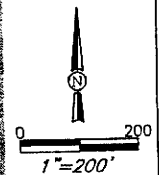
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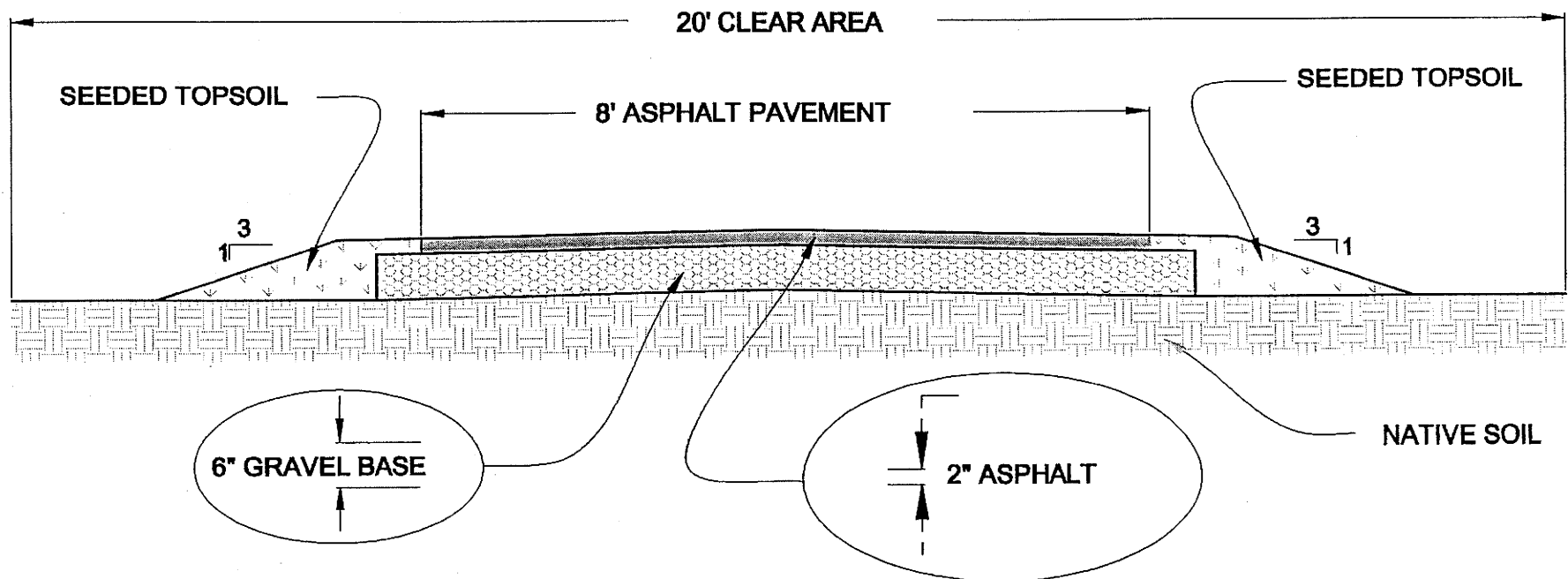
EXPLANATION

- STUDY AREA BOUNDARY
- ===== PROPOSED TRAIL - 8' WIDE
WITH 2' OFFSETS BOTH SIDES
- COUNTY RIGHT-OF-WAY




NOTE: ALL LOCATIONS APPROXIMATE

 Consulting Engineers & Geologists, Inc.	County of Del Norte Hobbs Wall Trail Crescent City, California		Trail Layout East Portion of Site SHN 011062
	March 2012	011062-TRAIL	Figure 3



TYPICAL CROSS-SECTION

SOURCE: COUNTY OF DEL NORTE DRAWING, DATED MARCH 23, 2010

 Consulting Engineers & Geologists, Inc.	County of Del Norte Hobbs Wall Trail Crescent City, California	Typical Bike Path Cross-Section
	August 2011	SHN 011062

011062-XSECT

Figure 4

EXHIBIT NO. 4

APPLICATION NO.

A-1-DNC-12-016

DEL NORTE COUNTY

PATH CROSS-SECTION

EXHIBIT NO. 5
APPLICATION NO.
A-1-DNC-12-016
DEL NORTE COUNTY
AERIAL PHOTO

Environmental Study Limits

Feature and boundary locations depicted are approximate only.

Figure 2
Environmental Study Limits

Feet
0 500 1,000



STATE OF CALIFORNIA - THE RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 445-7838 FAX (707) 445-7877

EXHIBIT NO. 6

APPLICATION NO.

A-1-DNC-12-016

DEL NORTE COUNTY

APPEAL (1 of 9)

EDWARD G. BROWN JR., Governor

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: Friends of Del Norte, P.O. Box 229

Mailing Address:

City: Gasquet

Zip Code:

95543

Phone:

707 465-8904

SECTION II. Decision Being Appealed

1. Name of local/port government: Del Norte County
2. Brief description of development being appealed:
Hobbs-Wall bike trail - one mile +
Class I, multi-use, paved
AP# 117-110-23, 117-110-20, 115-180-02
3. Development's location (street address, assessor's parcel no., cross street, etc.):
Hobbs-Wall right-of-way, from Second Street
to intersection of Elk Valley Rd & Howland Hill Rd.
4. Description of decision being appealed (check one.):
☐ Approval; no special conditions
☒ Approval with special conditions:
☐ Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

A-1-DNC-12-016

DATE FILED:

5/29/12

DISTRICT:

North Coast

RECEIVED

MAY 29 2012

CALIFORNIA
COASTAL COMMISSION

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:

NOD May 3, 2012
hearing 6PM May 2 2012

7. Local government's file number (if any):

GP 2012-02C

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:

Del Norte County Planning
(Rosanna Bower)
981 H Street
Crescent City CA 95531

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) Eileen Cooper
2644 Roy Ave
Crescent City, CA 95531

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

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

E Signature on File ew
Signature of Appellant(s) or Authorized Agent
Date: May 28 2012

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize Eileen Cooper
to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature on File W (VP FODN)
Signature of Appellant(s)
Date: May 28 2012

See IV - Reasons for Appeal (Pg 3)
as Attached
pgs (1) to (6)

Friends of Del Norte, Committed to our environment since 1973

A nonprofit, membership based conservation group, advocating sound environmental policies for our region. PO Box 229, Gasquet, CA 95543

May 28, 2012

ATT: California Coastal Commission, Bob Merrill

RE: Appeal of Coastal Grading Permit GP2012-02C, Hobbs-Wall Bike Trail

This grading permit is for an extensive 6000 plus feet of paved trail that is located in and directly adjacent to wetland and riparian coastal ESHA, the Elk Creek environs. This area is rich in sensitive biological resources including heron and egret breeding areas, Black Capped Chickadee breeding area (species of special concern, ssc), Red legged frogs (ssc), Coastal cutthroat trout (ssc) and Federally Endangered coho salmon, special status plants and forested riparian Sitka Spruce Series (S2). Most of our board members have walked the areas indicated for the trail. Although it would be advantageous to provide this bicycle link to the Crescent City shopping area from the Bertch Tract neighborhood, we list the following concerns, where we find inconsistency to Local Coastal Plan (LCP) Policy.

ESHA impacts resulting from human disturbance have not been addressed adequately.

Without a required maintenance plan, with a dedicated schedule, and dedicated monitoring plan, that is administered with strict conditions to incorporate biological impact avoidance, and oversight by Fish and Game Biologists, maintenance will not be performed adequately and severe impacts to sensitive species will occur. Without a dedicated monitoring and maintenance plan, the trail will erode into a state of disrepair, trashed, where homeless camps prevail, bridges will be dismantled, signs smashed, as it has been. ESHA impacts from human disturbance will prevail, and the trail will fail to gain popularity, due to public safety concerns.

The past history of this site and human disturbance impacts have been regrettably unacceptable. As stated in the Del Norte County staff report, page 2, the existing trail was built in the early 1990's. CDFG provided land, California Coastal Conservancy provided funds, Dept. of Rehabilitation and Corrections provided labor, and Del Norte County agreed to be responsible for maintenance. In the early 1990's the newly established trail was beautiful, and had a lovely hardwood bridge across Elk Creek. Nature groups frequented the area. Then over the next two decades, the trail deteriorated without attention to maintenance, with a brief exception when a College of the Redwoods biology professor adopted the area, and took classes out for trail maintenance work. Nonnative species, especially Himalayan blackberry overtook the open meadow, picnic tables became rickety and then dismantled. Informational signage was smashed and remained smashed. Homeless persons scattered trash and hung out drunk at the picnic tables. Finally bit by bit, over the course of a year or two, the beautiful bridge across Elk Creek disappeared. Piece by piece, it was burned for firewood by homeless camps. Nature groups ceased going to the trail due to safety concerns. For nearly two decades responsible entities, including Del Norte County never prioritized maintenance for this area. Suddenly, this past summer, presumably in preparation for this project, Del Norte County let loose a work crew to clean up the Elk Creek trail. The work appears to have been done without supervision regarding sensitive ESHA resources. The time period was scheduled between July and November, when breeding and rearing of herons and waterfowl is occurring, and during black capped chickadee (CA species of concern) breeding and rearing season. The work crews appropriately removed blackberry from the open meadow, but also riparian willow and alder and all blackberry from the riparian buffer between the trail and the waterways, severely impacting the waterways and wildlife along the trail. Invasive non-native English Ivy was left untouched, and continues to overwhelm and suffocate most of the large Spruce trees along the waterways, part of the ESHA riparian habitat, an S2 classification for all Sitka spruce series, of special concern in California

(VegCamp, www.dfg.ca.gov/biogeodata/vegcamp/pdfs/NaturalCommunitiesList_Oct07.pdf).

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Please note the strict LCP policies for Elk Creek as listed at the end of this appeal, that *A buffer strip shall be maintained in natural conditions around the Elk Creek wetlands, and riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses.* Although the work did result in an improved atmosphere, as far as trash removal, homeless camp reduction, overgrown meadow blackberry removal and fresh woodchips on the trail, the Elk Creek riparian buffer has been severely impaired and should be restored, and **ivy removal is critically needed.**

Vegetative buffers help to screen sensitive wildlife from human disturbance. Blackberry bushes have great wildlife value along the stream buffers, both for food and wildlife shelter. Hopefully the Coastal Commission and the Coastal Conservancy has now learned to require more strict management plans with appropriate oversight on projects such as this. Otherwise, it would be better for ESHA resources and wildlife not to have any trail. Educational signs to inform the public about how the wetland and riparian areas are to be maintained and by who would be helpful, and please make sure the signs are placed outside the stream buffers, or without the need to clear riparian vegetation.

Certainly, motorized vehicles should be restricted from using the bike trail as consistent with and required by Elk Creek LCP Policy.

To enable and clarify the design process, the proposed trail should be flagged in the field, allowing for ground proofing of design concepts. The trail as shown is sketchy, incomplete, and the map of the trail does not appear to match the existing cleared trail in the field in several areas. In the west segment, walking from second street we followed the existing Fish and Game trail. We came to several winding bends within a very wet area where the trail dips down. This stretch is mapped as being straight. The county staff report states that the existing trail will be followed (page 2), and that there are two wet areas. The existing trail is unpaved and much narrower than the proposed bike trail. The trail should be widened at the outer edge, away from the watercourse. There will be significant wetland impacts here.

How these dips into wet areas, or water crossings will be handled has not been adequately addressed here and throughout the entire trail. The Regional Water Quality Control Board comments emphasize the importance of designs that will not impede wetland function. ESHA wetland impacts should be minimized with carefully considered design requirements, especially at these critical points, in consultation with the Regional Water Quality Control Board/Fish and Game. The overall trail material and design has not been selected to minimize ESHA impacts. We recommend raised stream crossings, or boardwalks, wherever the trail dips into biologically rich ponded areas. This would enable redlegged frogs and other amphibians mobility. We recommend paving material and compaction methods that will prevent pollution of waterways, so that wetland ESHA hydrology and function will not be significantly disturbed. We note that other communities require special paving material on roadways adjacent to waterways, of specific density and compaction so as not to allow for bleed through contamination of adjacent waterways.

The west segment of the trail closely follows a rich Elk Creek waterway and pond, with a narrow impacted riparian buffer. A native riparian vegetation buffer of willow and alder should be restored or encouraged to grow along the waterways, to provide for a riparian/wildlife buffer and visual screen. The creeks and ponds are home to many egrets and herons, ducks and song birds, species of concern, that spook easily. The west segment ends at the proposed bridge, where abutments from a previous bridge exist. The location of the bridge is not indicated on the trail maps, as it should be.

Walking the central segment, from the existing bridge abutments on the east side of Elk Creek, an existing cleared trail follows the edge of an Elk Creek channel. The cleared trail goes through a rich ponded area, with skunk cabbages in the trail, where wetlands are being negatively impacted. Careful design of the trail crossings at these ponds, where side drainages enter the trail is needed. The map of the trail appears straight and does not appear to follow the actual cleared path. This segment has already recently been cut without permits, and cleared of some riparian vegetation, large willows and alders. In order to design for avoidance of further riparian tree removal, and accurately evaluate wetland impacts, the trail should be flagged. If this cleared area is a mistake, it needs to be restored. A raised walkway would be desirable here.

Walking the east segment from Maiden Lane, many large spruce trees line the right-of way. Although the county staff advises avoiding major vegetation removal, this may not be possible. The trail cannot block Union Street and must stay

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within the confines of the right-of-way. All large trees to be removed, including large spruce, should be marked in the field to better assess avoidance strategy, and to accurately survey the trail. Removal of suffocating ivy is critically needed.

The wetland replacement mitigation areas are unidentified, yet the County claims replacement mitigation will be of high quality. The set ratio that is proposed is too low, given Del Norte's past history of compliance. The most likely restoration areas may be parking lots and/or areas adjacent to development. These areas would not be considered an ideal location for substitute replacement. Therefore, replacement ratios should remain at the Coastal standard of at least 4:1 or better. Within the mitigation plan text, the removal of English Ivy is suggested. The ivy has engulfed and is strangling most of the large trees on the east side of Elk Creek and within the project area. The removal of the ivy should be made a required condition of the project, which is an omission, inconsistent with the mitigation text.

If upon this review the Coastal Commission is uncomfortable with permitting the full project, we propose an alternate route that provides a bicycle trail only within the lower parts of Elk Creek, consistent with LCP policy.

Alternative Trail

It is feasible to link the existing, newly created bike lanes along Elk Valley Rd. to the existing trails through Fish and Game property. One could bike along the existing Fish and Game trails from Second St., cross Elk Creek with a new bridge (as planned), but then follow the Fish and Game property line on the south-eastern most property boundary along an established dirt roadway to Elk Valley Rd. There would be no need to obtain rights of way on private land. This route brings you to Elk Valley Rd. near its junction with Hwy 101. This route is much shorter, and would more efficiently provide bike links to the Howland Hill trail, as well as the Harbor, but with substantially less Coastal Wetland impacts. It would achieve the same goal of linking trails, but with far less cost and maintenance. The only disadvantage is that the recently constructed Elk Valley bike lanes would have to actually continue to be utilized by bicycles. Some cyclists would find the full Hobbs Wall trail more enjoyable than traveling on a bike lane that, in part, follows a busy road, and some might find the full Hobbs Wall trail to be unsafe, remote and isolated.

When the Hobbs Wall bike trail was first planned, Elk Valley Rd. was unimproved, and did not provide safe passage for bikes. Extensive road improvements now provide both sidewalks and bike lanes along Elk Valley Rd., as well as Howland Hill Rd., that connect the Coast to Caves route and the Harbor area. It is somewhat redundant to parallel this existing new bike route with another bike route.

The Union St./Powerline right of way is a remote and isolated area with persistent dumping, threat of dogs, and homeless camps. The work crews that cleaned up the Fish and Game property to the west of Elk Creek, did not clean up this eastern part of the trail. The dumping and homeless camps are likely to persist, as there are several convenient side roads that connect Elk Valley Rd. to the right of way. This access cannot be controlled because there are many private "paper subdivision" lots along Union Street. It is an uncomfortable area to walk or bike through alone.

The full 6,000 foot trail would be a costly project, probably more than is expected, with an unidentified wetland mitigation area, and might fail to gain popularity because of public safety concerns, given Del Norte's maintenance history. Cleanups for illegal dumping would be desirable, expensive and necessary on a continual basis because of easy access and woodsy-remoteness. It would be desirable for cyclists of the Bertch Tract neighborhood to be able to conveniently cross Elk Creek to the shopping area. However, currently there avoidance of venturing alone along the backwoods of the Powerline/Union St. right of way and the Elk Creek trails because of safety concerns.

If the eastern segment of the trail is abandoned, the area can still be utilized for the project's wetland mitigation plan. The east trail comprises many of the wetland impacts, including cutting through a forested wetland area that appears to have skunk cabbage growing in tributary ponds. The Friends of Del Norte insists on a 4:1 mitigation ratio, as consistent with recently approved coastal bike trail projects. *1ref. By streamlining the project and linking into existing Elk Valley Rd. bike lanes, vital resources are conserved and costs are reduced.

Thank you, Eileen Cooper, vice president, FODN on behalf of the Board, 707-465-8904

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This project is inconsistent with the following LCP policies:

LCP Policy, Marine and Water Resources,

LCP IV: Sensitive Coastal Habitats:

Under Table 1: Sensitive Habitat Types and Their Principle Locations: Wetlands and Riparian

LCP Policy, Marine and Water Resources,

LCP VII.D: Wetlands, 4: Policies and Recommendations

f.) Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which could significantly degrade such areas, and shall be compatible with the continuance of such habitat areas. The primary tool to reduce the above impacts around wetlands between the development and the edge of the wetland shall be a buffer of 100 feet in width. A buffer of less than 100 feet may be utilized where it can be determined that there is no adverse impact on the wetland. A determination to be done in cooperation with the California Dept. of Fish and Game and the County's determination shall be based on specific findings as to the adequacy of the proposed buffer to protect the identified resource.

LCP Policy, Marine and Water Resources, VII. D. Wetlands:

4. g. Due to the scale of the constraints maps, questions may arise as to the specific boundary limits of an identified environmentally sensitive habitat area. Where there is a dispute over boundary or location of an environmentally sensitive habitats area, the following may be requested of the applicant:

i.) A base map delineating topographic lines, adjacent roads, location of dikes, levees, flood control channels and tide gates.

ii.) Vegetation map

iii.) Soils map

Review of this information shall be in cooperation with the Dept. of Fish and Game and the County's determination shall be based upon specific findings as to whether an area is or is not an environmentally sensitive habitat area based on land use plan criteria, definition, and criteria included in commission guidelines for wetland and other wet environmentally sensitive habitat areas as adopted February 4, 1981. The Dept. of Fish and Game shall have up to fifteen days upon receipt of County notice to provide review and cooperation.

LCP VII.E: Riparian Vegetation, 4: Policies a:

Riparian vegetation shall be maintained along streams, creeks and sloughs and other water courses within the Coastal Zone for their qualities as wildlife habitat, stream buffer zones, and bank stabilization.

LCP Policy, Marine and Water Resources, VI. C:

1. The County seeks to maintain and where feasible enhance the existing quality of all marine and water resources.

3. All surface and subsurface waters shall be maintained at the highest level of quality to insure the safety of the public health and the biological productivity of coastal waters.

4. Wastes from industrial, agricultural, domestic or other uses shall not impair or contribute significantly to a cumulative impairment of water quality to the extent of causing a public health hazard or adversely impacting the biological productivity of coastal waters.

6. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas. Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Recreation III.C- LCP Policies

2. New recreational development shall be located and distributed throughout the Coastal Zone in a manner to prevent undue social impacts, overuse or overcrowding

6. Fragile coastal resources shall be considered and protected to the greatest possible extent in all new coastal recreational development

Elk Creek Special Study VI.C- LCP Policies

2. A buffer strip shall be maintained in natural conditions around the Elk Creek wetlands where adjacent land uses are found incompatible with the productivity or maintenance of the wetlands.

3. New development adjacent to the Elk Creek wetlands shall not result in adverse levels or additional sediment, runoff, noise, wastewater or other disturbances.

4. Snags shall be maintained within the Elk Creek wetland for their value to wildlife.

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5. No motorized vehicle traffic shall be permitted within the Elk Creek wetlands except for agriculture or forestry.
6. Riparian vegetation along the course of Elk Creek and its branch streams shall be maintained for their qualities of wildlife habitat and stream buffer zones.
7. Vegetation and debris removal in the Elk Creek wetland shall be limited to that necessary to maintain the free flow of the drainage courses and only when excessive impediment creates flooding hazards on adjacent lands.
11. The County should investigate the feasibility and seek funds to establish a bicycle/hiking trail along the old Hobbs-Wall railroad right-of-way in the lower portions of Elk Creek.


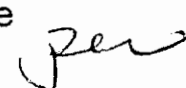
*ref1. County staff needs to check their claims of 3:1 wetland replacement ratio for Elk River Access:

Reference: City of Eureka, Application 1-11-037 Elk River Access Area/Hiksari Trail

Project, heard by Coastal Commission on March 9, 2012: Coastal staff wanted 4:1 but it ended up being 5.3:1 mitigation

Notwithstanding these proposed mitigation measures, the Commission has further conditioned the permit to ensure that all potentially significant adverse impacts to environmentally sensitive habitat areas are minimized: Special Condition No. 2 requires the applicant to submit, for the review and approval of the Executive Director, a final wetlands mitigation and monitoring plan that provides for the establishment of 48,356 square-feet of estuarine emergent salt marsh wetlands at a 5.3:1 replacement to compensate for the direct spatial and indirect temporal loss of wetlands to be filled or cleared for the trail's construction. Given the relatively small area affected, its location on the upland edge of the subject wetland ESHA, the relatively fast-growing nature of willows, and the lack of multi-stratum complexity of the resource area involved, the Commission finds the required mitigation at a 5.3:1 replacement ratio will be sufficient to mitigate for the filling.

Section 30240(b) of the Coastal Act requires that development adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitats. Though heavily degraded by homeless encampments and compromised by the presence of invasive exotic plant species, much of the immediate area surrounding the Elk River Access Area/Hiksari Trail Project area contain sensitive habitats composed of wetlands and related rare plant habitat, dune mat, unvegetated dunes, back dune deflation plain, and maritime forest ecotones. Consequently, the vegetation removal and planting associated with the project has the potential of negatively affecting these adjacent areas unless appropriate protective measures are included to avoid and minimize such potential adverse impacts.

 Signature on File 

Thank you,
Eileen Cooper, Vice President, FODN, on behalf of the Board

