

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE

710 E STREET • SUITE 200

EUREKA, CA 95501-1865

VOICE (707) 445-7833

FAX (707) 445-7877



F12c

Filed: 5/15/12
180th day: 11/11/12
Staff: M. Kraemer-E
Staff Report: 7/27/12
Hearing Date: 8/10/12

STAFF REPORT: REGULAR CALENDAR

Application No.: 1-09-013

Applicant: Paul and Kristen Decker

Agent: Streamline Planning Consultants

Location: 3058 Patricks Point Drive, approximately 4.5 miles north of the City of Trinidad, Humboldt County (APN 517-271-008).

Project Description: (1) Demolish/remove five historic visitor-serving lodging structures totaling 2,940 square feet; (2) develop three new pre-fabricated visitor-serving lodging structures totaling 6,091 square feet; (3) develop a new pre-fabricated 420-square-foot 1-bedroom cabin to be used as a caretaker's unit; (4) repair and maintain two existing 1-bedroom visitor-serving cabins involving interior remodeling and exterior reroofing; (5) improve the existing septic system; and (6) authorize after-the-fact the removal of five mature trees, which were removed in 2007 and 2008 without the benefit of a CDP, and the stationing of a private recreational vehicle on the property with a 700-square-foot canopy for the intermittent camping use of the property owners.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

The project site is located at 3058 Patricks Point Drive, approximately 4.5 miles north of the City of Trinidad, Humboldt County (**Exhibits 1-3**). The approximately 6.5-acre subject property is a bluff-top lot at an elevation of approximately 250 feet above mean sea level.

The Commission has issued at least four other permits and permit amendments for development on the subject property, including, most recently, a permit issued in 2004 for a lot line adjustment, improvements to an existing on-site sewage disposal system (now located on the adjacent parcel to the northwest), and the after-the-fact demolition and removal of a garage.

Currently, the applicant is proposing (**Exhibit 4**) to (1) demolish/remove five historic visitor-serving lodging structures totaling 2,940 square feet; (2) develop three new pre-fabricated visitor-serving lodging structures totaling 6,091 square feet; (3) develop a new pre-fabricated 420-square-foot 1-bedroom cabin to be used as a caretaker's unit; (4) repair and maintain two existing 1-bedroom visitor-serving cabins involving interior remodeling and exterior reroofing; (5) improve the existing septic system; and (6) authorize after-the-fact the removal of five mature trees, which were removed in 2007 and 2008 without the benefit of a CDP, and the stationing of a private recreational vehicle on the property with a 700-square-foot canopy for the intermittent camping use of the property owners.

Major Coastal Act issues associated with this project include the protection of the priority commercial visitor-serving recreational use of the site, minimization of geologic hazards, and protection of water quality and nearby environmentally sensitive creek habitat. Commission staff believes that as conditioned, the proposed development and any future new development will be fully consistent with policies of the Coastal Act requiring the protection, prioritization, and reservation of these priority uses and developments. Furthermore, staff believes that the development will be setback an adequate distance from the bluff edge to ensure safety from bluff retreat and erosion and staff is recommending special conditions prohibiting the future construction of bluff or shoreline protective devices to protect the development. To ensure consistency with all applicable Chapter 3 policies of the Coastal Act, staff recommends [Special Conditions 2 through 11](#), requiring restrictions on occupancy, minimization of geologic hazards, and protection of water quality, visual resources, and adjacent environmentally sensitive creek habitat.

Commission staff recommends **approval** of CDP application 1-09-013, as conditioned.

TABLE OF CONTENTS

I.	MOTION AND RESOLUTION	<u>4</u>
II.	STANDARD CONDITIONS	<u>4</u>
III.	SPECIAL CONDITIONS	<u>5</u>
IV.	FINDINGS AND DECLARATIONS	<u>9</u>
	A. PROJECT DESCRIPTION	<u>9</u>
	B. PERMITTING HISTORY AND BACKGROUND	<u>10</u>
	C. ENVIRONMENTAL SETTING	<u>11</u>
	D. OTHER AGENCY APPROVALS	<u>11</u>
	E. LOCATING AND PLANNING NEW DEVELOPMENT	<u>12</u>
	F. PROTECTION OF RECREATIONAL AND VISITOR-SERVING USES	<u>14</u>
	G. GEOLOGIC HAZARDS	<u>16</u>
	H. VISUAL RESOURCES	<u>20</u>
	I. PROTECTION OF WATER QUALITY AND ESHA	<u>21</u>
	J. PUBLIC ACCESS	<u>23</u>
	K. ALLEGED VIOLATION	<u>24</u>
	L. EVIDENCE OF APPLICANTS' LEGAL INTEREST IN PROPERTY	<u>24</u>
	M. LOCAL COASTAL PROGRAM	<u>25</u>
	N. LIABILITY FOR COSTS AND ATTORNEYS FEES	<u>26</u>
	O. CALIFORNIA ENVIRONMENTAL QUALITY ACT	<u>26</u>

APPENDICES

[Appendix A – Substantive File Documents](#)

EXHIBITS

- Exhibit 1 – Regional location map
- Exhibit 2 – Project vicinity map
- Exhibit 3 – Aerial photos
- Exhibit 4 – Proposed project plans
- Exhibit 5 – Humboldt County Environmental Health water system recommendations
- Exhibit 6 – Geologic report
- Exhibit 7 – Correspondence received

I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

Motion:

I move that the Commission approve coastal development permit 1-09-013 pursuant to the staff recommendation.

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

Resolution:

The Commission hereby approves coastal development permit 1-09-013 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment:** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration:** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable amount of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation:** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment:** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land:** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **California Department of Fish and Game Approval.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall provide, for the review and written approval of the Executive Director, a copy of a permit or other approval issued by the Department of Fish and Game for the proposed project, or evidence that no permit or other approval is required. The applicant shall inform the Executive Director of any changes to the project required by the DFG. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Restrictions on Occupancy.** The visitor-serving lodging units authorized under this coastal development permit shall be occupied on a transient basis only for periods no greater than 60 consecutive days, and shall not be rented to the same party for more than sixty 60 days in any 90-day period. The recreational vehicle authorized to be stationed on the property shall only be used for intermittent camping use by the property owners for periods no greater than 30 consecutive days at a time.
3. **Water Supply Health and Safety Plan.**
 - A. PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, a water supply health and safety plan that includes the following:
 - (i) Provisions for monitoring the property's water supply at least quarterly for coliform bacteria and at least once for the chemicals recommended by the Humboldt County Division of Environmental Health (**Exhibit 5**).
 - (ii) A description of who will conduct the testing, where the testing will occur, frequency of testing, schedule for testing, where the testing results will be analyzed, and who the results will be reported to;
 - (iii) Provisions for submittal of all water supply monitoring and testing results to the Executive Director and to the Humboldt County Division of Environmental Health (Drinking Water Program); and
 - (iv) Provisions for installing any treatment filters or other water supply health and safety improvements recommended by the Humboldt County Division of Environmental Health. Such improvements shall not be installed without a Commission amendment to this coastal development permit, unless the Executive Director determines no amendment is legally required.

- B. The permittee shall undertake development and monitor and test the water supply in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit, unless the Executive Director determines no amendment is legally required.
4. **Annual Reporting on the Use of the Structure for Transient Occupancy.** By May 1 of each year for the life of the authorized development beginning the first year following occupancy clearance, the permittee shall submit to the Executive Director documentation demonstrating the use of the lodging facility for transient occupancy for the previous reporting year. Documentation shall include a record of transient occupancy tax (TOT) payments to the Humboldt County Treasurer-Tax Collector, copies of the current marketing brochure/mailed or other device used to promote the business, and copies of TOT quarterly reports.
5. **Future Development Restriction.** This permit is only for the development described in coastal development permit application 1-09-013. All development authorized by this permit must occur in strict compliance with the proposal set forth in the application for the permit as modified by the special conditions. Any change in the legally authorized uses of the approved new structures including, but not limited to, lease or use of the lodging units or recreational vehicle stationed on the property for residential purposes, lease or use of the caretaker's unit by a tenant who is not a caretaker for the property, or any other changes to the proposed project and its approved uses may require a new coastal development permit or an amendment to this permit, unless the Executive Director determines that no amendment is legally required. In addition, pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(b) shall not apply to the development governed by the CDP 1-09-013. Accordingly, any future improvements to the structures authorized by this permit shall require an amendment to CDP 1-09-013 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government. In addition thereto, an amendment to CDP 1-09-013 from the Commission or an additional coastal development permit from the Commission or from the applicable certified local government shall be required for any repair or maintenance identified as requiring a permit in Public Resources Code Section 30610(d) and Title 14, California Code of Regulations Sections 13252(a)-(b).
6. **Deed Restriction Recordation of Permit Conditions.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed

restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. **No Future Bluff or Shoreline Protective Device**

- A. By acceptance of this permit, the applicants agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit 1-09-013, including, but not limited to, the visitor-serving cabins, caretaker's unit, or other development under this coastal development permit, in the event that the authorized development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this Permit, the applicants further agree, on behalf of themselves and all successors and assigns, that the landowner(s) shall remove the development authorized by this permit, including, but not limited to, the visitor-serving cabins, caretaker's unit, or other development authorized under this coastal development permit, if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. In the event the edge of the bluff recedes to within 10 feet of the authorized development but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the structures are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the structures without shore or bluff protection, including but not limited to removal or relocation of the structures. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the structures are unsafe for occupancy, the permittee shall, within ninety (90) days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the structure.

8. **Assumption of Risk, Waiver of Liability, and Indemnity Agreement.** By acceptance of this permit, the applicants acknowledge and agree (i) that the site may be subject to hazards from earthquakes, erosion, landslides, bluff failure, and other geologic hazards; (ii) to assume the risks to the applicants and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii)

to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

9. **Lighting Limitations.** All exterior lighting attached to the authorized structures shall be low-wattage and downcast shielded such that no glare will be directed beyond the bounds of the property or into adjoining coastal waters.
10. **Construction Responsibilities.** The applicant shall comply with the following construction-related requirements:
 - A. No construction materials, debris, or waste shall be placed or stored where it may be subject to entering coastal waters or wetlands;
 - B. If rainfall is forecast during the time construction activities are being performed, any exposed soil areas shall be promptly mulched or covered with plastic sheeting and secured with sand bagging or other appropriate materials before the onset of precipitation;
 - C. Silt screens, straw bales, and/or other appropriate erosion and runoff control devices shall be installed as appropriate in construction areas prior to the initiation of construction activities and shall be maintained throughout project construction;
 - D. Any and all debris resulting from construction activities shall be removed from the project site and disposed of at an authorized disposal location within 10 days of project completion; and
 - E. No drainage features shall be routed directly into the watercourse or associated riparian habitat but instead shall be routed into vegetated uplands and landscaping on the property for infiltration and water quality protection purposes.
11. **Revegetation Standards and Restrictions.**
 - A. Only native plant species shall be used on the property. All proposed plantings shall be obtained from local genetic stocks within Humboldt County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside of the local area may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a "noxious weed" by the State of California or the federal government shall be utilized within the property; and
 - B. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used on the property.

12. **Liability for Costs and Attorneys Fees.** The Permittee shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) required by a court) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit. The Permittee shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.
13. **Condition Compliance.** Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. PROJECT DESCRIPTION

The applicants propose to (1) demolish/remove five historic visitor-serving lodging structures totaling 2,940 square feet (including two 720-square-foot 2-bedroom mobile homes and three 500-square-foot 1-bedroom cabins); (2) develop three new pre-fabricated visitor-serving lodging structures totaling 6,091 square feet, including a 2,450-square-foot 3-bedroom cabin, a 1,716-square-foot 1-bedroom cabin, and a 1,925-square-foot 2-bedroom cabin, primarily within the footprint of existing structures to be demolished/removed; (3) develop a new pre-fabricated 420-square-foot 1-bedroom cabin to be used as a caretaker's unit; (4) repair and maintain two existing 1-bedroom visitor-serving cabins (520 sf and 725 sf) involving interior remodeling and exterior reroofing; (5) improve the existing septic system; and (6) authorize after-the-fact the removal of five mature trees, which were removed in 2007 and 2008 without the benefit of a CDP, and the stationing of a private recreational vehicle on the property with a 700-square-foot canopy for the intermittent camping use of the property owners.

The project site is an approximately 6.5-acre bluff-top parcel located along Patricks Point Drive, approximately 4.5 miles north of the City of Trinidad in northern Humboldt County (**Exhibits 1-3**). The subject property is currently developed with five separate visitor-serving cottages, two house trailers, related outbuildings, an existing camper with canopy, an on-site septic system, and an existing water intake, treatment, and distribution system.

According to the proposed plan of operations (**Exhibit 4**), each lodging unit would be rented for a minimum of three nights, and the maximum stay-length per unit would be 60 days. The rentals would be available year-round. A local property management/rental company would be contracted to run the facility and handle all logistics during the initial phase of the business development. If the lodging business is successful, the one unit proposed for the caretaker's unit

would eventually be occupied year-round for care and maintenance. The caretaker structure would be the only full-time occupied unit on the site.

B. PERMITTING HISTORY AND BACKGROUND

Decker Cabins (now called “Oceanside Lodge”) opened in 1958 on the subject property with the two cabins that are proposed to be retained and renovated (see **Exhibit 4**). The three cabins that are proposed to be removed were constructed in the mid-1960s and were never finished with interior surfaces. They have suffered severe water damage, are unsound, and would be near impossible to rehabilitate to meet current health and safety codes.

The property has previously been the subject of four separate coastal development permits (CDPs): (1) NCR-77-CC-462, approved with conditions April 8, 1976, authorized the development of a new septic system and a 360-square-foot addition onto an existing lodge building; (2) NCR-77-A-110, approved with conditions February 9, 1978, authorized the replacement of an existing externally lighted on-premise sign with a new internally lighted sign; (3) CDP 1-92-150, approved with conditions September 15, 1993, authorized a lot line adjustment between two existing parcels, approximately 9.8 acres and 1.3 acres in size, to result in two parcels approximately 7.6 acres and 3.8 acres in size; and (4) CDP 1-01-010, approved with conditions June 9, 2004, authorized improvements to the existing on-site sewage disposal system, the after-the-fact demolition and removal of a garage. The latter permit also reauthorized the previously approved lot line adjustment. The original permit for the lot line adjustment (CDP 1-92-150) had never become effective since one of the conditions of approval (recordation of an easement to ensure the continued provision of water supply service to the affected parcel) had never been satisfied prior to expiration of the CDP.

In November of 2008, Commission staff received a report of alleged unpermitted grading, gravel pad construction, construction of a metal shed over a recreational vehicle that allegedly had recently been brought onto the property, and major vegetation removal. Commission enforcement staff contacted the applicants requesting a written response to the allegations to determine if Coastal Act violations existed and submittal of a CDP application for any development that occurred without the benefit of a CDP. The subject CDP application was received on March 23, 2009. Commission staff requested various items of additional information necessary to file the application as complete in a letter to the applicants dated April 10, 2009. Commission staff visited the property with the applicants and agents in the summer of 2009 and determined that the alleged unpermitted grading and gravel pad construction actually involved re-graveling of an existing pad at the end of the existing gravel driveway, which staff determined was as a repair and maintenance activity exempt from coastal development permit requirements pursuant to Public Resources Code Section 30610(d) and Title 14, California Code of Regulations Sections 13252. The reported metal shed construction actually involved the erection of a canopy for the applicants’ RV parked on the property at the end of the driveway. The stationing of the RV on the property with the 700-square-foot canopy which the owners were using for intermittent camping use is new development requiring coastal development permit authorization. The major vegetation removal did not occur within environmentally sensitive habitat, but nonetheless constitutes major vegetation removal requiring coastal development permit authorization. The coastal development permit application seeks authorization for the development that has occurred without benefit of a coastal development permit.

C. ENVIRONMENTAL SETTING

The project site is located at 3058 Patricks Point Drive (APN 517-271-08), approximately 4.5 miles north of the City of Trinidad in northern Humboldt County (**Exhibits 1-2**). The approximately 6.5-acre subject property is a bluff-top lot at an elevation of approximately 250 feet above mean sea level (**Exhibit 3**). The eastern edge of the property fronts Patricks Point Drive, a public roadway considered the first public through road paralleling the sea in this location. Patricks Point Drive and the other roads in the area are narrow rural roads lined with mature, dense, forested vegetation. As a result, virtually no views to the ocean are available from public vantage points in this particular area.

Although Humboldt County has a certified local coastal program (LCP), the property is located in a non-certified area that includes all of the area to the west of Patricks Point Drive and Stagecoach Road between the City of Trinidad and Patricks Point State Park. As a consequence, the Commission retains CDP jurisdiction over the site, and the standard of review for issuance of a CDP is whether the development is consistent with the Chapter 3 policies of the Coastal Act. Nevertheless, the site lies within an area locally designated as “Coastal Scenic.” For this reason, the County processed a special permit for the proposed development for design review purposes (SP-10-17 approved March 30, 2012).

The subject lot is locally planned and zoned for Commercial Recreational uses, although it is located in a primarily rural residential area with most residential lots at least 2 acres in size. There also are properties nearby to the east planned and zoned for timberland uses (Commercial Timberland and Timber Production Zone properties).

An unnamed perennial creek bisects the southern portion of the property. According to a Department of Fish and Game environmental scientist familiar with the creek whom Commission staff consulted with, the Class II creek¹ does not support fish but does provide habitat for amphibians and other aquatic life. All demolition, new construction, structural and septic system improvements, and other development proposed under this CDP application would be located over 100 feet from the watercourse.

Environmentally sensitive habitat areas on the parcel include the afore-mentioned creek, which generally runs east west through the southern portion of the property, and the rocky intertidal area along shoreline of the parcel at the base of the coastal bluff.

D. OTHER AGENCY APPROVALS

Humboldt County

¹ Class II waters are defined under California Forest Practice Rules Section 936.4 as 1) fish always or seasonally present off-site within 1000 feet downstream and/or 2) aquatic habitat for non-fish aquatic species. Aquatic habitat indicators for Class II watercourses include free water, aquatic plants, water-dependent stages of aquatic insects and the physical condition of the channel and its position in the landscape. See <https://r1.dfg.ca.gov/portal/tabid/631/Default.aspx> for more information.

The proposed project requires a special permit from Humboldt County for the design review and major vegetation removal aspects of the proposed project. The County approved SP-10-17 on March 30, 2012.

Department of Fish and Game

The proposed project requires the applicant to notify and obtain a Streambed Alteration Agreement from the DFG pursuant to Section 1602 of the Fish and Game Code for the continued diversion of water from the stream to serve development on the site. The applicant notified DFG of the proposed project on June 26, 2012. To ensure that the project ultimately approved by the DFG is the same as the project authorized herein, the Commission attaches [Special Condition 1](#), which requires the applicant, prior to CDP issuance, to demonstrate that all necessary approvals from the DFG for the proposed project have been obtained.

State Water Resources Control Board

The applicants have been filing a statement of water diversion and use with the Board since at least 1994 (statement number 14247). The Board requires that water diversion statements be filed on an ongoing basis at three-year intervals documenting rate of diversion, quantity of water used, purpose of use, and other information. The Board automatically sends the filing form to the applicants for completion and submittal at the close of each three-year period. Since the applicants already are in compliance with the Board's filing requirements and no further authorization from the Board is required for the proposed project, there is no need for the Commission to condition this CDP to require submittal of Board approval.

E. LOCATING AND PLANNING NEW DEVELOPMENT

Section 30250(a) of the Coastal Act states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The subject property, which is developed with five existing lodging cabins and two manufactured homes and has been used as a visitor-serving lodging facility since 1958, is surrounded by rural residential development and commercial timberland. The subject lot is locally planned and zoned as Commercial Recreation, which is a designation that allows for the proposed visitor serving accommodations. The property is served by an on-site sewage disposal system, to which improvements are proposed under this CDP application (**Exhibit 4**). The RV holding tank occasionally pumps out when necessary to the existing on-site sewage disposal system. The County Division of Environmental Health (DEH) has determined that the proposed septic system improvements are acceptable for the intended use of the property. The DEH determination is based on the assumption that the RV will only be used intermittently for camping. Any proposed change to a residential use would require a reevaluation of the adequacy of the septic system to handle the increased demand for septic service such a change in use would engender.

The property also is served by an on-site water system that has been in place since approximately the 1940s. The system consists of an intake facility in the perennial creek on the property, two 4,000-gallon storage tanks, and water distribution lines extending from the water system to the existing cabins and manufactured homes. The existing intake structure consists of an approximately 3-foot-tall concrete and cement-block trapezoidal solid located in the creek bed. There is an internal baffle for silt retention inside the water intake structure. Water is pumped from the intake structure to an existing 4,000-gallon holding tank located on an “old wagon road” that bisects the property near its southern border. Water then flows by gravity into a second existing 4,000-gallon tank located on the south creek bank and subsequently flows into a pressure tank located next to the lower holding tank. From there the water is pumped to the cabins north of the creek. The applicants’ consultant completed water quantity testing in August of 2006 and determined that the creek’s daily flow rate (over 22,000 gallons per day) far exceeds the needed water for the proposed development (less than 1,500 gpd) and the needs of the neighboring single family residence (~1,000 gpd), which maintains other water rights to the creek and a water line easement across the subject property.

DEH commented on the proposed service connections to the existing water system for the proposed new development, stating

“...the water system will serve two connections with full time residents (including the caretaker home on the subject parcel and one on the neighboring parcel) and five vacation rentals which will have no rentals for more than 60 days. There will be no food facility constructed as part of the development. Therefore, we have determined that, if built and occupied as planned, the system will not be regulated under the State Small Water System Regulations (22 CCR Section 64211-64217) or the California Retail Food Code (October 2009).

However, if conditions on the site are to change, such as extended occupancy (for more than 60 days) of the vacations rentals, construction of additional residences, or the addition of a food facility, DEH must be notified immediately. We will determine at that time if the water system will be under our jurisdiction.

To ensure the health and safety of the users of this development, DEH strongly recommends that the water supply be monitored at least quarterly for coliform bacteria, and at least once for the chemicals on the attached list.” (Exhibit 5)

To ensure that the proposed development adheres to the DEH’s recommendations, the Commission attaches Special Conditions 2, 3, and 5. [Special Condition 2](#) restricts the occupancy of the visitor-serving lodging units to a transient basis only and for periods no greater than 60 consecutive days, and restricts use of the RV stationed on the property to intermittent camping use by the owners for periods no greater than 30 consecutive days. [Special Condition 3](#) requires submittal of a water supply health and safety plan that includes provisions for monitoring the property’s water supply at least quarterly for coliform bacteria and at least once for the chemicals recommended by the DEH. The plan must include provisions for installing any treatment filters or other water supply health and safety improvements recommended by the DEH. Such improvements shall not be installed without a CDP amendment, unless the Executive

Director determines no amendment is legally required. [Special Condition 5](#) requires that any change in use, including but not limited to any change of use of the lodging units, recreational vehicle, or caretaker's unit shall require additional CDP authorization to enable the Commission to review whether services will continue to be adequate to serve the development as amended.

Therefore, the Commission finds that, as conditioned, there are adequate water and sewage services to accommodate the proposed new commercial recreational development.

Although the subject site is located in a geologically hazardous area, as discussed in Finding IV.G below, the development has been conditioned to minimize geologic hazards. Furthermore, as discussed in Findings IV.H and I below, the project has been conditioned to protect visual resources, water quality, and nearby environmentally sensitive habitat areas.

Therefore, the Commission finds that as conditioned, the proposed development is consistent with Coastal Act Section 30250(a), in that it is located in a developed area, has adequate water and sewer capability to accommodate it, and will not cause significant adverse effects, either individually or cumulatively, to coastal resources.

F. PROTECTION OF RECREATIONAL AND VISITOR-SERVING USES

Section 30213 of the Coastal Act states, in applicable part, as follows:

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred...

Section 30221 of the Coastal Act states as follows:

Oceanfront land suitable for recreational use shall be protection for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30222 of the Coastal Act states as follows:

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

Section 30223 of the Coastal Act states as follows:

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The Coastal Act establishes provisions for the protection and reservation of areas for development of facilities for a variety of high-priority coastal-dependent, coastal-related, and visitor-serving uses. Priority is to be given to such highly desired uses, especially those functionally dependent upon locations on or near open coastline and watercourses.

As discussed above, the property is locally planned and zoned for commercial recreational uses (although the site is located within a non-certified area). The proposed project will support activities consistent with the priority use policies of the Coastal Act. The transient habitation component of the project is a lower-cost visitor-serving facility that provides an option for transient overnight use. This use is consistent with the requirements of Coastal Act Sections 30213, 30222, and 30223.

The County special permit issued for the project includes a condition limiting the length of stay at the proposed visitor-serving facility. Condition #15 states: *“The vacation home rental units shall be occupied on a transient basis and not for periods greater than 60 days without securing approval of a permit from the Division of Environmental Health for a State Small Water System.”* The permit also includes an informational note stating *“Occupancy of the cabin units shall require payment of Transient Occupancy Tax to the Treasurer-Tax Collector in accordance with the Humboldt County code.”* Humboldt County levies a transient occupancy tax (TOT) for the privilege of occupying a room or rooms or other living space in a hotel, inn, motel, mobile home or house trailer at a fixed location, or other lodging for a period of 30 consecutive days or less. Operators of establishments that provide occupancy to transients are required by law to collect 10% of the rent charged and forward that collected amount to the County Tax Collectors office on a quarterly basis (Humboldt County Code Section 712 *et seq.*). Operators are required to submit quarterly reports on total rents charged and received and the amount of tax collected for transient occupancies to the County Tax Administrator.

The introduction or substitution of new uses in the proposed structure could adversely affect the support of the lower-cost visitor-serving overnight accommodations at the site or preclude the establishment of other priority uses at the site. For example, the conversion of the proposed development to a residential use in the future would result in the privatization of the use of space that otherwise is planned and zoned for priority visitor-serving and commercial recreational uses. Accordingly, to prevent displacement of needed priority uses and the uses that facilitate such priority uses, the Commission attaches Special Conditions 2, 4, 5, and 6. [Special Condition 5](#) sets restrictions on future development at the project site, requiring that any change in the legally authorized use of the approved development including, but not limited to, lease or use of the lodging cabins for residential purposes, lease or use of the caretaker’s unit by a tenant who is not a caretaker for the property, or any other changes to the proposed project shall require a new CDP or permit amendment. In its review of any coastal development permit application submitted pursuant to this special condition, the Commission will be able to review whether any proposed change in a legally authorized use is consistent with the priority use policies of the Coastal Act. [Special Condition 2](#) restricts the visitor-serving lodging units authorized under this CDP to stays no greater than 60 consecutive days to ensure a transient use and consistency with County Division of Environmental Health regulatory authority of small domestic water systems. The condition also prohibits lodging units from being rented out to the same party for more than sixty days within any 90-day period, which will guard against renting cabins for residential use on a month-to-month basis. [Special Condition 4](#) requires submittal of annual reports to the Executive Director documenting the use of the visitor-serving lodging facility for transient occupancy. Finally, to ensure that all future owners of the property are aware of the restrictions on future development at the project site and of annual reporting requirements, [Special](#)

Condition 6 requires recordation of a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property.

As conditioned, the proposed development and any future new development will be fully consistent with policies of the Coastal Act requiring the protection, prioritization, and reservation of these priority uses and developments. Therefore, as the development as conditioned will (a) ensure a priority commercial visitor-serving recreational use of the site, and (b) not allow changes to legally authorized uses without a new CDP or an amendment to this permit, the Commission finds the development as conditioned is consistent with Sections 30213, 30221, 30222, and 30223 of the Coastal Act.

G. GEOLOGIC HAZARDS

Section 30253 of the Coastal Act states, in applicable part, as follows:

New development shall do all of the following:

- (a) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (b) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...*

The subject property is located on a bluff-top lot at an elevation of approximately 250 feet above mean sea level. The lot gently slopes westward before dropping off more steeply, at a slope of about 50%, to the ocean. According to County seismic safety maps, the proposed structures will be located in areas mapped as “low” or “moderate” instability. The property does not contain any mapped historic landslides or earthquake faults.

SHN Consulting Engineers and Geologists completed a geologic investigation for the subject property in 2004 for the developments approved under CDP 1-01-010 (**Exhibit 6**). The purpose of the report was to evaluate the suitability of the proposed location for the new septic system (now located on the adjacent parcel to the north and west, APN 517-271-09) in terms of avoiding bluff retreat related hazards. The report described the bluff-top at the site as a remnant marine terrace of the late Pleistocene that was eroded into the regional bedrock during a previous high sea level stand. The terrace was uplifted by regional tectonics. The bedrock at the site is the Cretaceous to Jurassic age Central belt of the Franciscan Complex consisting of “a tectonic mélange” of “rock blocks within a penetratively sheared, metamorphosed argillite matrix.”

The geotechnical investigation noted that the coastal bluff at the site is occupied by several 30 to 40 year old straight-standing spruce trees and contains several large rock outcrops. These features suggest that the bluff face is a relatively resistant rocky slope. The report noted a small slope failure to the north of APN 517-271-09 (the parcel adjacent to subject parcel) associated with the drainage point of a small creek as well as a slide to the south associated with drained road runoff from Patrick’s Point Drive, which exacerbated mass-wasting. Road runoff has since been re-routed and the movement of the slide area has reportedly slowed. The geotechnical

investigation included a review of historical bluff retreat information, which suggested that there had been no discernable bluff retreat since before at least 1942. The geotechnical report concluded that the proposed sewage disposal system on APN 517-271-09 was acceptable from a geologic standpoint and adequately set back (at least 50 feet) from the bluff to ensure a low potential for future damage. Coastal Commission staff geologist Dr. Mark Johnsson reviewed the SHN report, conducted a site visit to the property, and believed the report conclusions to be reasonable.

Based on SHN geologic mapping, the new development proposed under this CDP application will be located at least 100 feet from the bluff edge. As the new development will have setbacks from the bluff edge at least twice as large as the setback found to be adequate to ensure the safety of the development approved in 2004 under the previous permit, the proposed new development will be setback an adequate distance from the bluff edge to ensure safety from bluff erosion and retreat during its economic life. Although the proposed new development will be setback an adequate distance from the bluff edge to ensure safety, there is no guarantee that unexpected bluff retreat episodes that threaten development during the life of the garage structure will not occur. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, episodes of unexpected bluff retreat prompting the relocations of residences back from bluff failure areas sometimes still do occur. Examples include, but are not limited to, the following:

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989, the Commission approved the construction of a new house on a vacant bluff top parcel (Permit 1-87-230). Based on the geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the bluff top parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Niño storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.
- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984, the Commission approved construction of a new house on a vacant bluff top lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit 5-88-177) for a bluff top project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot bluff top

setback. An emergency coastal development permit (Permit 5-93-254-G) was later issued to authorize bluff top protective works.

The Commission notes that the examples above are not intended to be absolute indicators of bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form its opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates. Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the coastal bluff on the property is highly unstable and erosive, and that the proposed new development could be subject to geologic hazard and potentially someday require a bluff protective device, inconsistent with Section 30253 of the Coastal Act. The Commission finds that the proposed development could not be approved as being consistent with Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Based upon the geologic reports prepared for the site in the past, the Commission finds that the risks of geologic hazard are minimized if development is sited and designed according to the setback and construction recommendations and conditions of this permit. However, given that the risk cannot be eliminated and the geologic report cannot assure that shoreline protection will never be needed to protect the proposed cabins and other structures, the Commission finds that the proposed development is consistent with the Coastal Act only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 7. [Special Condition 7](#) prohibits the construction of shoreline protective devices on the parcel, requires that the landowners provide a geotechnical investigation and remove the authorized structures and their foundations if bluff retreat reaches the point where the structures are threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are consistent with Section 30253 of the Coastal Act, which states in part that new development shall minimize risk to life and property in areas of high geologic hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

The Commission also attaches [Special Condition No. 8](#), which requires the landowners to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicants have chosen to implement the project despite these risks, the applicants must assume the risks. In this way, the

applicants are notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicants to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards.

Furthermore, [Special Condition 6](#) requires the applicants to record a deed restriction to impose the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. This special condition is required, in part, to ensure that the development is consistent with the Coastal Act and to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a protective device could be constructed to protect the approved development and will ensure that future owners of the property will be informed of the Commission's immunity from liability, and the indemnity afforded the Commission.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, catastrophic slope failure, significant erosion, etc. could result in destruction or partial destruction of the new detached garage or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean-up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, [Special Condition 7](#), described above, also requires the landowners to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site and agree to remove the authorized development should the bluff retreat reach the point where a government agency has ordered that these facilities not be used.

As conditioned, the proposed development will not contribute significantly to the creation of any geologic hazards and will not have adverse impacts on slope stability or cause erosion. However, the Commission notes that Section 30610(b) of the Coastal Act exempts certain additions to structures other than single-family residential structures from coastal development permit requirements. Pursuant to this exemption, once a structure has been constructed, certain building additions that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. Depending on its nature, extent, and location, such an addition could contribute to geologic hazards at the site. For example, installing a sizable addition to one of the approved structures for additional parking, storage, or other purposes in a manner that does not provide for an adequate geologic setback from the bluff edge.

However, Section 30610(b) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(b) of the Coastal Act, the Commission adopted Section 13253 of Title 14 of the California Code of Regulations (CCR). Section 13253(b)(6) specifically authorizes the Commission to require a permit for additions to structures that could involve a risk of adverse environmental effect by indicating in the development permit issued for the original structure that any future improvements would require

a development permit. As noted above, certain additions or improvements to the approved structure could involve a risk of creating geologic hazards at the site. Therefore, pursuant to Section 13253(b)(6) of Title 14 of the CCR, the Commission attaches [Special Condition 5](#), which requires that all future development on the subject parcel that might otherwise be exempt from coastal permit requirements requires an amendment or coastal development permit. This condition will allow future development to be reviewed by the Commission to ensure that future improvements will not be sited or designed in a manner that would result in a geologic hazard. As previously discussed, [Special Condition 6](#) requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Special Condition 6 will also help assure that future owners are aware of these CDP requirements applicable to all future development.

In conclusion the Commission finds that the proposed development, as conditioned, is consistent Section 30253 of the Coastal Act, since the development as conditioned (1) will not contribute significantly to the creation of any geologic hazards, (2) will not have adverse impacts on the stability of the coastal bluff or on erosion, and (3) will not require the construction of shoreline protective works.

H. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in applicable part, as follows:

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

Some of the proposed new cabins will be visible from Patricks Point Drive, as the existing cabins are, but because of the wooded nature of the majority of the property, no public views to the ocean are available through the property, and the proposed new structures will not block any public views to the ocean or scenic coastal areas. The proposed design of the cabins (**Exhibit 4**) will use hardi-plank or pine siding and composition roofing materials, which is compatible with the rustic nature of the existing cabins that are proposed to be repaired and maintained on the property.

The subject site lies within an area locally designated as “Coastal Scenic” (though as mentioned above in Finding IV-C (Environmental Setting), the County LCP has not been certified for this particular area). For this reason, the County processed a special permit for the proposed new garage for design review purposes (approved on March 30, 2012). The County found the proposed project to be consistent with the visual resource protection policies of the (uncertified) Trinidad Area Plan, which includes Section 30251 of the Coastal Act, in part because (1) the proposed one-story structures with a maximum height of 20 feet will be well below the maximum height limit for the CR zone, which is 45 feet; (2) the proposed hardi-plank or pine siding and composition roofing materials will not be reflective and will be compatible with the

rustic feel of the two original cabins that are proposed to be retained on the property; and (3) ground disturbance will be minimized by siting the proposed development on the most level portions of the property and within previously disturbed areas where no major vegetation removal will be required. The County's special permit included a condition requiring that "All new and existing outdoor lighting shall be compatible with the existing setting and directed within the property boundaries." Likewise, the Commission imposes exterior lighting limitations as [Special Condition 9](#) for the proposed development in this rural area.

Therefore, the Commission finds that the proposed project, as conditioned, will protect public views to the ocean, minimize the alteration of natural land forms, and be visually compatible with the character of surrounding area, consistent with Section 30251 of the Coastal Act.

I. PROTECTION OF WATER QUALITY AND ESHA

Section 30230 of the Coastal Act states as follows:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states as follows:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240(b) of the Coastal Act states as follows:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

As cited above, Coastal Act Sections 30230 and 30231 require in part that marine resources and coastal wetlands and waters be maintained, enhanced, and where feasible restored. These policies specifically call for the maintenance of the biological productivity and quality of marine resources, coastal waters, streams, wetlands, and estuaries necessary to maintain optimum populations of all species of marine organisms and for the protection of human health. Also as discussed above, environmentally sensitive habitat areas (ESHA) on the parcel include the unnamed perennial creek that bisects the southern portion of the property and the rocky intertidal area along shoreline of the parcel at the base of the coastal bluff. Section 30240(b) of the Coastal

Act requires that development in areas adjacent to ESHA be sited and designed to prevent impacts which would significantly degrade those areas and be compatible with the continuance of those habitat areas.

The creek is a perennial watercourse that originates east of Patricks Point Drive, flows through a culvert beneath the road, and enters the subject property through and around the culvert. Vegetation adjacent to and overhanging the creek includes plant species typical of redwood forest habitats in the region such as thimbleberry, red elderberry, sword fern, lady fern, English ivy, and various other native and nonnative species. The creek does not contain fish, but it does provide habitat for amphibians and other aquatic life. The applicants' existing water system consisting of an intake facility, an abandoned filtration device, two 4,000-gallon storage tanks, and above-ground distribution lines to the existing cabins, is situated in the creek bed and adjacent areas. No improvements to the water system are proposed under this CDP application.

Various project components have the potential to impact the water quality of coastal waters, specifically the creek ESHA that flows along the southern portion of the property to the Pacific Ocean. Sediment and other pollutants entrained in runoff from the construction site and new impermeable areas that reach the watercourse on the property would contribute to degradation of the quality of coastal waters and any intervening sensitive habitat. Site runoff that is infiltrated through vegetation areas reduces water quality impacts. The proposed new development, including the demolition/ removal of five historic visitor-serving lodging structures, development of three new pre-fabricated lodging structures and a new caretaker's cabin primarily within the footprint of existing structures to be demolished/removed, repairs to the two existing cabins, improvements to the existing septic system, and the stationing of the private RV and its associated canopy cover located on the existing gravel pad at the end of the gravel driveway, will all be sited over 100 feet from the creek.

The Commission finds that with the following special conditions described below, the proposed buffer distances between proposed new development and creek ESHA will be adequate to prevent impacts which would significantly degrade those areas and be compatible with the continuance of those habitat areas. The Commission bases its determination on the following factors (a) the lands adjacent to the creek ESHA are not biologically significant given that they have been developed with residential and commercial uses since at least the 1940s; (b) the creek ESHA is not known to contain any rare plant or animal species; (c) there is little susceptibility for erosion to occur between the proposed new cabin units and the creek habitat given that the buffer area is in general flat to gently sloping; (d) the proposed development will not cause significant ground disturbance or necessitate major vegetation removal; (e) the type and scale of development proposed is similar to the type and scale of existing development on the property and will be located mostly in the same development footprint as existing development; and (f) all new development will be over 100 feet from the creek ESHA.

The Commission attaches [Special Condition 10-E](#) to prohibit drainage features associated with the proposed new development from being routed into the watercourse area or associated riparian habitat. Instead the condition requires that drainage features be routed into vegetated uplands and landscaping on the property. In addition, [Special Condition 10-A, 10-B, 10-C, and 10-D](#) address potential runoff impacts associated with proposed construction. These conditions

prohibit construction materials or debris from being placed or stored where they may be subject to entering coastal waters and require the implementation of erosion control best management practices in the event of rainfall during construction.

Furthermore, [Special Condition No. 11-A](#) requires that only native and/or non-invasive plant species be planted on the subject property. The Commission finds that the perennial creek could be adversely affected if nonnative, invasive plant species were introduced in landscaping at the subject site. If any of the proposed landscaping were to include introduced invasive exotic plant species, the weedy landscaping plants could colonize (e.g., via wind or wildlife dispersal) the nearby creek ESHA over time and displace native vegetation, thereby disrupting the functions and values of the ESHA. The applicant has not proposed any landscaping as part of this permit. Nevertheless, Special Condition 11-A will ensure that the ESHA near the site is not significantly degraded by any future landscaping that would contain invasive exotic species.

Finally, the Commission notes that certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland interface areas. As these target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, the pest control compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. To avoid this potential cumulative impact to environmentally sensitive wildlife species, [Special Condition No. 11-B](#) contains a prohibition on the use of such anticoagulant-based rodenticides.

Therefore, the Commission finds that the proposed project, as conditioned, will maintain, enhance, and restore coastal waters consistent with Sections 30230 and 30231, and the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the habitat area, consistent with Section 30240(b) of the Coastal Act.

J. PUBLIC ACCESS

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety. In applying Sections 30211 and 30212, the Commission is limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential public access.

The subject property is located on a bluff-top lot between the first through public road (Patrick's Point Drive) and the sea. As previously discussed, the property has been the subject of four

separate CDPs issued between 1976 and 2004. A condition of approval of NCR-77-CC-462 approved in 1976 required the applicant at that time to offer to dedicate a 25-foot-wide lateral public access easement along the beach area of the property at the base of the coastal bluff. This trail easement dedication offer, which was recorded in 1978, was ultimately accepted by the McKinleyville Land Trust, a private nonprofit corporation.

There is no evidence of public use of the bluff top portions of the property for public access. There is no evidence of trails on the bluff top and no indication from the public that the site has been used for public access purposes in the past. The (non-certified) Trinidad Area Land Use Plan identifies a number of trails over privately held lands in the surrounding area, which the public has used historically to gain access to the sea for beachcombing, sport fishing, and other recreational activities, but none of these identified trails are located on the subject property. Furthermore, the proposed development will not increase the demand for public access to the shoreline, as it will not increase the number of visitor-serving and residential units that have historically existed on the site. Therefore, the Commission finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

K. ALLEGED VIOLATION

Although certain development has taken place at the project site without the benefit of a coastal development permit (including the removal of five mature trees and the stationing of a private recreational vehicle on the property with a 700-square-foot canopy for the intermittent camping use of the property owners), consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

L. EVIDENCE OF APPLICANTS' LEGAL INTEREST IN PROPERTY

Section 30601.5 of the Coastal Act states as follows (emphasis added):

Where the applicant for a coastal development permit is not the owner of a fee interest in the property on which a proposed development is to be located, but can demonstrate a legal right, interest, or other entitlement to use the property for the proposed development, the commission shall not require the holder or owner of any superior interest in the property to join the applicant as coapplicant. All holders or owners of any other interests of record in the affected property shall be notified in writing of the permit application and invited to join as coapplicant. In addition, prior to the issuance of a coastal development permit, the applicant shall demonstrate the authority to comply with all conditions of approval.

The applicants have submitted copies of property deeds, current property tax bills, trust documents, and a preliminary report from a licensed title insurance company to demonstrate their legal interest in the subject property indicating that title in the property is currently vested in the applicants, Paul E. Decker and Kristen R. Decker. The Commission has received correspondence (**Exhibit 7**) from Mr. Robert Markin alleging that, as one of three beneficiaries and co-trustees to

the Decker Revocable Trust dated January 3, 1986 (the other two beneficiaries being his two siblings Paul Decker and Marilyn Whitbeck), he “has never signed off on his share of the property” and “no one can come up with a deed that was recorded showing that I sold my 1/3 share of 3058 Patricks Point Dr...”

The applicants submitted copies of recorded deeds date back to 1996. The deeds show that in 1996, the applicants obtained 50% fee interest in the property, in 2003 they obtained 90% interest, and in 2004 they obtained 100% interest. In addition, the applicants submitted a copy of a recorded document indicating that Mr. Markin resigned as a co-trustee of the Decker Revocable Trust in June of 1991, prior to the initial sale of the property from the Decker Revocable Trust to the applicants and their partners in the property in 1996.

The Commission does not opine on the property dispute between the applicants and Mr. Markin. In evaluating the coastal development permit application, the Commission’s role is to review the conformance of the proposed project with the Chapter 3 policies of the Coastal Act. As discussed in the findings above, the Commission has approved the project subject to certain conditions and has found that as conditioned, the project is consistent with the Chapter 3 policies of the Coastal Act.

Pursuant to Section 30601.5 of the Coastal Act, the applicants must demonstrate that they have the authority to comply with the conditions of approval of the CDP. Included among the conditions of approval is [Special Condition 6](#), which requires that a deed restriction be recorded that imposes the special conditions of the permit as covenants, conditions and restrictions on the use and enjoyment of the property. To record such a deed restriction and satisfy the requirements of the special condition, the applicants must submit evidence such as a title report showing that title to the property is vested in their names. As noted above, the applicants have already submitted such a title report showing that property is vested in their names. In addition, this evidence indicates that the applicants have the authority to comply with the other special conditions of approval. Therefore, the applicants have satisfied the requirements of Section 30601.5 of the Coastal Act.

M. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states as follows:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

This section of the Act provides that the Commission shall issue a CDP only if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with the Chapter 3 policies of the Coastal Act.

The area to the west of Patricks Point Drive and Stagecoach Road between the City of Trinidad and Patricks Point State Park, including the subject site, lacks a certified LCP. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act, and approval of the project will not prejudice the ability of Humboldt County to prepare a LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

N. LIABILITY FOR COSTS AND ATTORNEYS FEES

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications.² Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the applicants. Therefore, consistent with Section 30620(c), the Commission imposes [Special Condition 12](#) requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit.

O. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Humboldt County served as the lead agency for the project for CEQA purposes. The County determined that the project qualified for CEQA categorical exemptions under Class 3, Sections 15302 (replacement or reconstruction) and 15303(c) (construction and location of a new store, motel, office, or similar structure) of CEQA Guidelines.

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

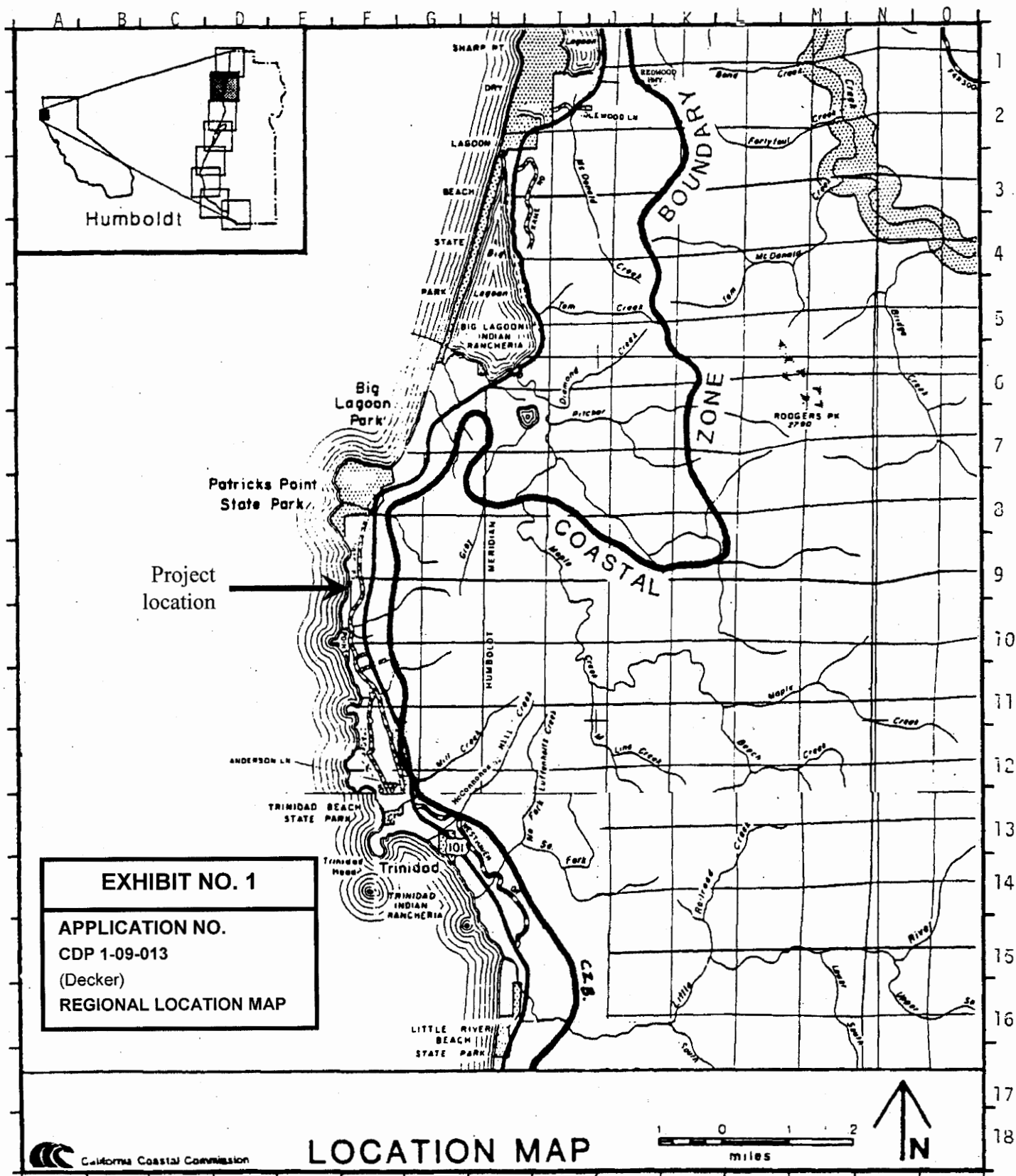
The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. The findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the

² See also California Code of Regulations Title 14 Section 13055(g).

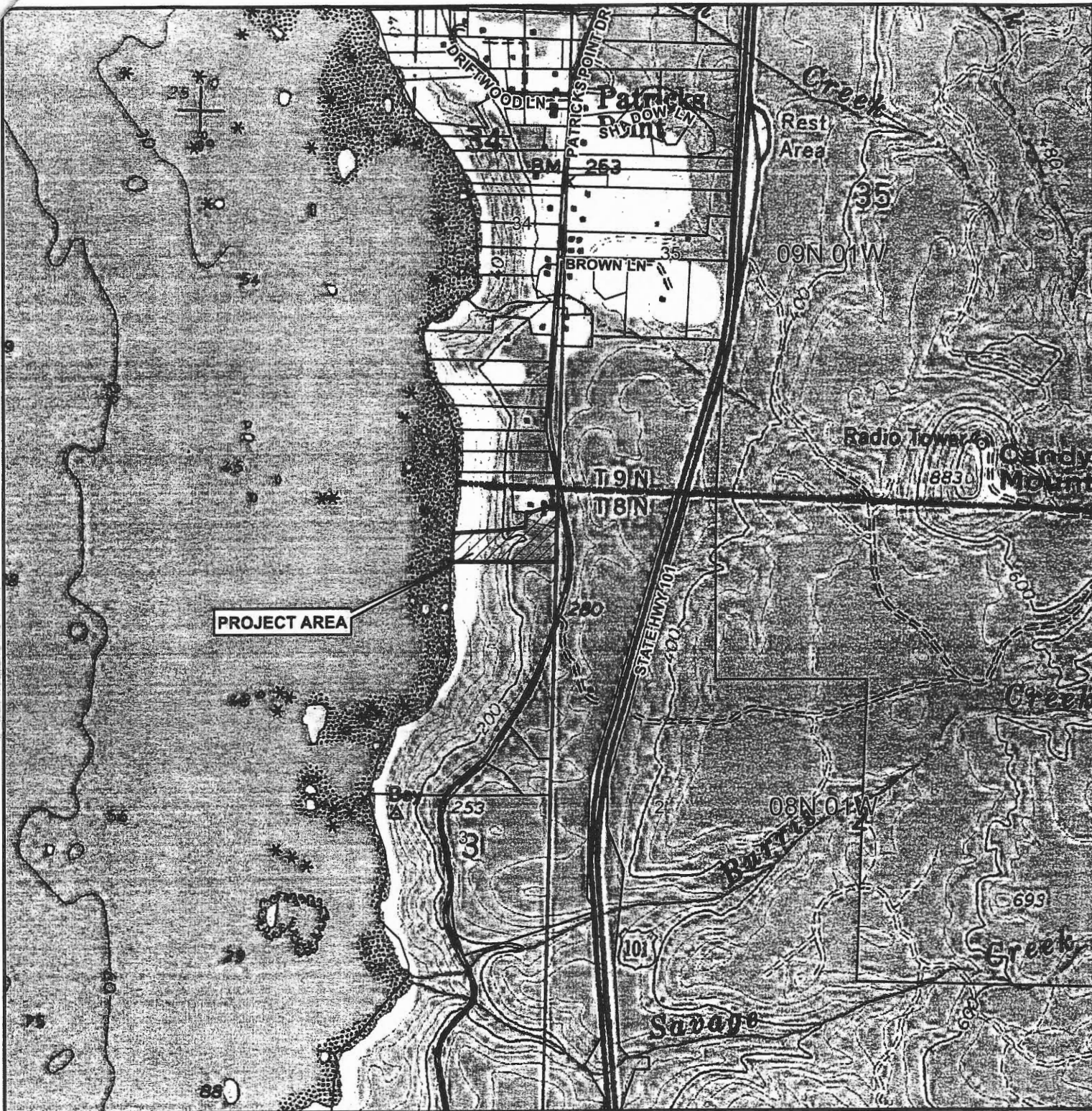
Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

- Application File for CDP 1-09-013, received March 23, 2009
- Staff report for CDP 1-92-150, approved with conditions September 15, 1993
- Staff report for CDP 1-01-010, approved with conditions June 9, 2004
- Humboldt County Special Permit 10-17 approved on March 30, 2012
- Commission Violation File V-1-08-012
- County of Humboldt Local Coastal Program



County of Humboldt



Project Area = 

EXHIBIT NO. 2
APPLICATION NO.
1-09-013
DECKER
VICINITY MAP

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



0 0.25 Miles





3058 Patricks Point Drive

EXHIBIT NO. 3

APPLICATION NO.

1-09-013

DECKER

AERIAL PHOTOS (1 of 3)

Photography Copyright © 2009 Kenneth & Gabrielle Adelman



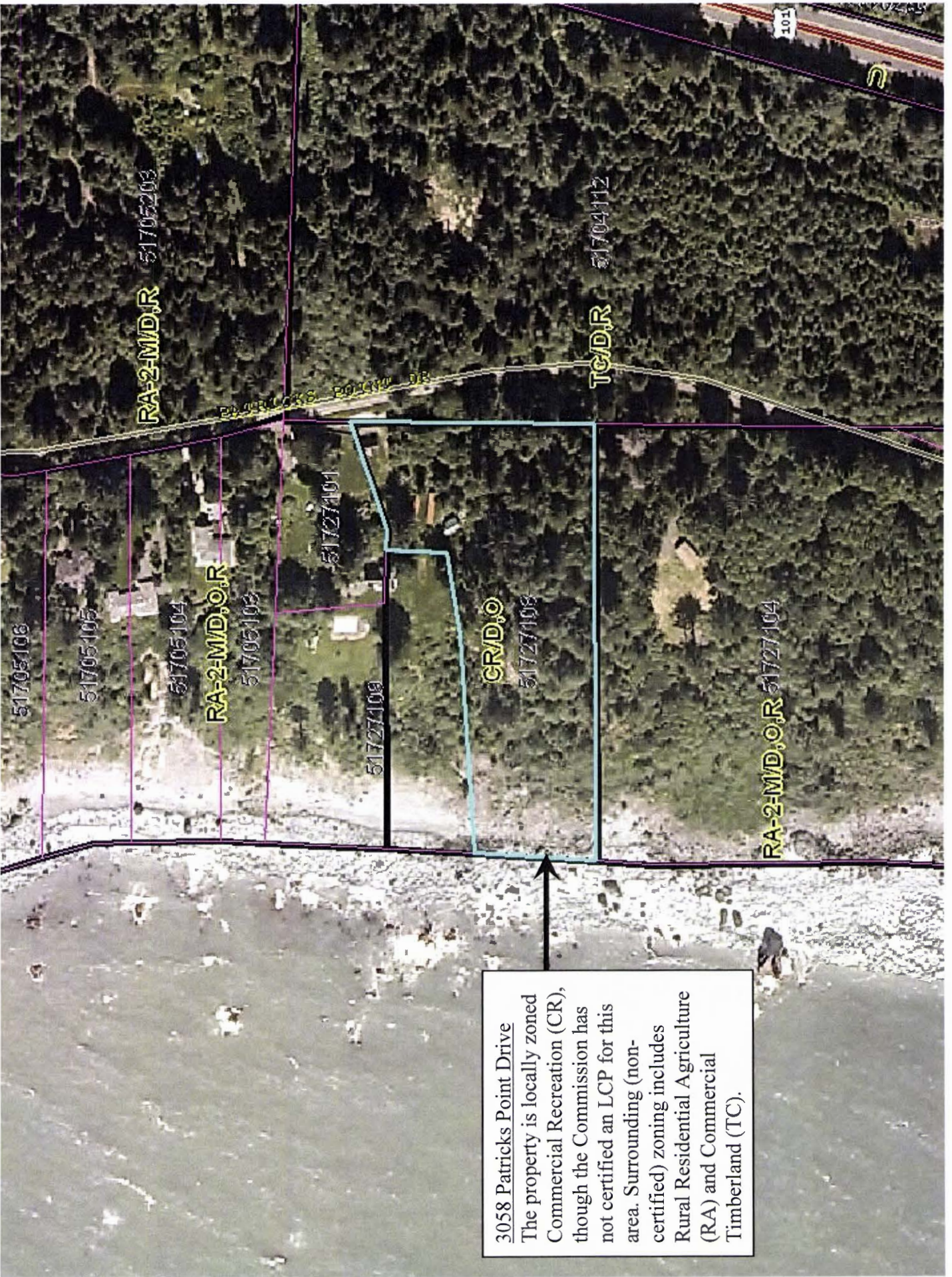
197-9

CDBW-BBK-C

6-16-93

3058 Patricks Point Drive

203



3058 Patricks Point Drive
The property is locally zoned Commercial Recreation (CR), though the Commission has not certified an LCP for this area. Surrounding (non-certified) zoning includes Rural Residential Agriculture (RA) and Commercial Timberland (TC).

Photos and History of Buildings to be Retained or Removed:

Decker Cabins began in 1958 with the two cabins that are proposed be retained at the front of the property. The three cabins that are proposed to be removed are in poor shape and would be near impossible to rehabilitate to meet current health and safety codes, even with use of the Historic Building Code. These three cabins were built in the mid-1960's and were never finished off with interior surfaces; most interior walls consist of exposed studs and exterior siding. All three exhibit extensive water damage and rot. The three cabins have been covered in vegetation and would most likely fall if the vegetation was removed. Any sound materials from these three cabins will be salvaged for subsequent use.

The two structures being retaining at the front of the property will continue to be appropriately restored and maintained, as they provide charmed history to the property and the area. You can see these structures in attached photographs.

The parcel was run by the Decker family as a lodge since 1959. The existing five cabins were rented nightly and weekly during the summer months to tourist and monthly during the winter to students. This activity continued until Mrs. Decker became unable to care for herself and moved off the property for nursing care in the early 1990s. The existing mobile homes (proposed to be removed), where used for month-to-month rentals from the 1970's through mid-2003.

The future use of the cottages is as detailed in the following Plan of Operations:

PLAN OF OPERATION REPORT FOR DECKER COTTAGES AT APN 517-271-08:

The project consists of 3 proposed vacation rentals. Each prefabricated structure will be placed on the property as seen in Site Plan (labeled <P> for proposed, in contrast to <E> existing structures).

Each unit will be rented for a minimum of 3 nights, using a local property management/rental company to run the operations. All logistics will be accomplished by the local company, so at the beginning there will be no employees on-site hours for the operation of the cottages.

The rentals will be available year round, but most likely the occupancy will be seasonal during the local tourist season.

If successful, the one unit proposed for the caretaker unit (as seen on the site plan as <P> Caretaker Cabin) will eventually be occupied year round for care and maintenance. This structure will be the only full time occupied unit on site.

Project structure overview:

- 1.) Remove 5 structures: 2 mobile homes, and 3 (one-room) cabins.
- 2.) Replace with 4 structures:

Replace the 2 mobile homes with 1 new prefabricated house, totaling 2,450 sf

2 of 21

Replace the 3 cabins with 2 prefabricated homes, totaling 1,716 sf and 1,925 sf

Add 1 new prefabricated home, totaling 420 sf (Proposed Caretaker Cabin)

3.) Repair and maintain 2 existing one-bedroom cabins consisting of interior remodeling and exterior re-roofing, making no changes to the existing footprint or exterior facade (As seen on site plan, nearest the road (not labeled to be removed, as they will remain).

The resultant square footage of the 4 new dwellings on the property will total 6,511 sf.

No new grading or major vegetation removal will be required.

All work done relating to this project will only help to improve the scenic views of this area. Currently the cabins fronting onto Patrick's Point Drive are in poor shape as well as the two older manufactured homes on the property. Once the project is completed the aesthetics of the area will be improved as well as the viewshed.

Cabin 1 (North Westernly Cabin proposed to be removed)



Cabin proposed to be removed (most NW cabin)



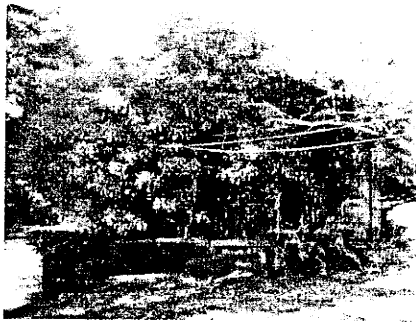
Rear side of most NW cabin



Much of the siding is termite ridden and decayed



Back porch overhang rotting away



Tree damage to entire side of most NW-ernly cabin, and missing siding and skirting

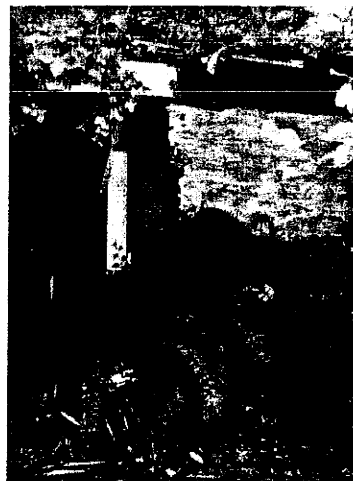


Corner post support columns decayed and suffering exposed water damage on most NW-ernly cabin



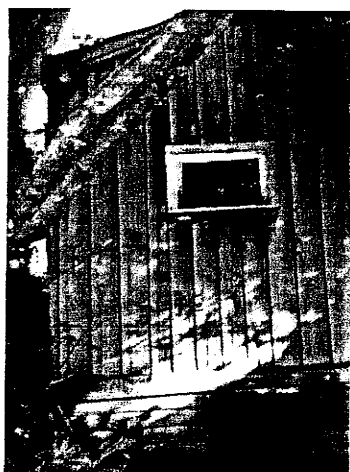
Roof and side mold damage and missing gutter elements

Cabin 2 (center proposed to be removed):



Cabin 2 (center proposed removed cabin)

Front window missing and boarded up missing siding



Side water damage, missing skirting

Rear porch area on cabin 2 (center)



Rear porch support failing



Front overhang failing/missing window framing/siding

6421

Cabin/Shed 3 proposed to be removed:



3rd house/shed proposed to be removed



failing exterior wall



View of rear exterior wall from inside



Roof damage to 3rd structure proposed for removal

Structures to remain and be restored/rehabilitated: (viewable from Patricks Point Dr.)

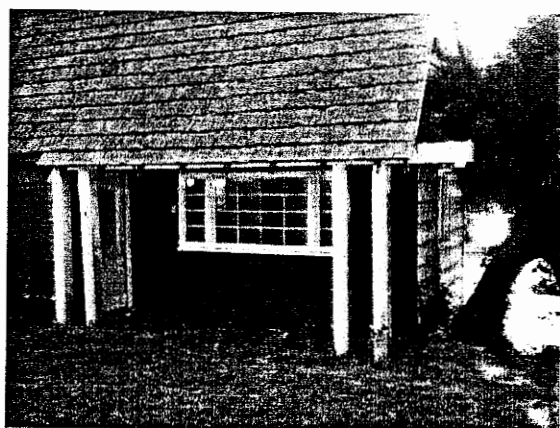
South West Cabin (viewable from PP Drive):



West facing side



East facing side (street frontage view)



East facing side (street frontage view)



South facing side

North East Cabin (viewable from PP Drive):



West and North facing sides



South Facing side



South and West facing sides



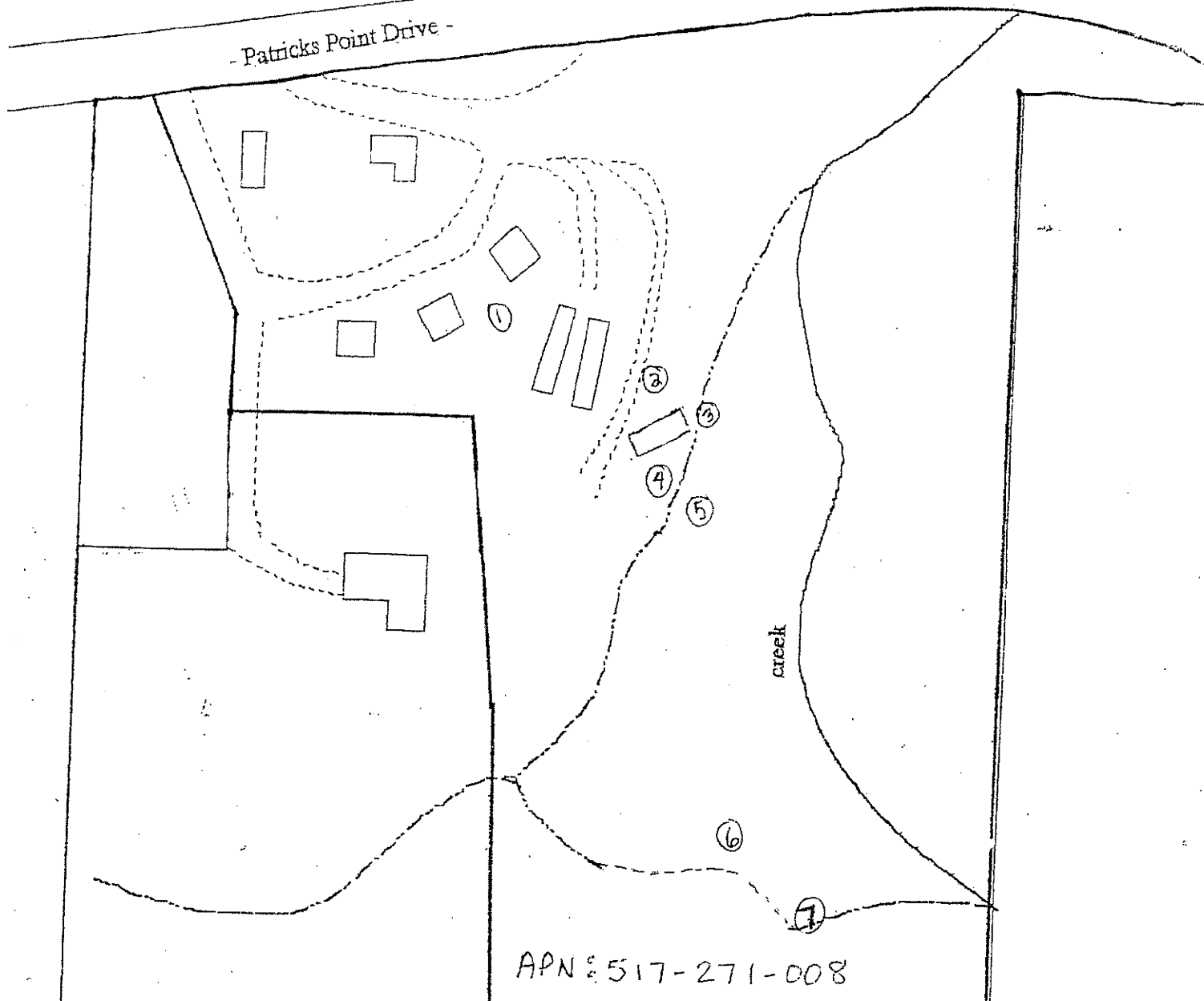
North facing side (taken from gravel driveway)

Interior Remodeling/Reroofing Plan Information:

Repairs and maintenance on the 2 existing one-bedroom cabins located at the front of the lot will consist of interior remodeling and exterior re-roofing, making no changes to the existing footprint or exterior facade (As seen on site plan, nearest the road (not labeled to be removed, as they will remain).

The proposed interior improvements include replacing the carpeting and other floor coverings, repairing sheetrock, replacing appliances, replacing bathroom and kitchen fixtures, repairing plumbing and electrical, and replacing windows. The proposed re-roofing would not include any change to the pitch or addition of new gables, but would be the replacement of roofing materials on the existing roof lines.

- Patricks Point Drive -



- ① 4' Fir: Fell naturally during winter storms 2005-2006
- ② 2' Fir: Fell naturally during winter storms 2006-2007
- ③ 3-1/2' Fir: Fell naturally during winter storms 2006-2007
- ④ 2 Alder trees @ 1-1/2': There was a cluster of three Alder trees, 2 of which were leaning over existing structures. The 2 leaning trees were cut the summer of 2008
- ⑤ 3' Fir: This tree was dying and leaning precipitously over the existing trailer and two mobile homes. This tree was cut the summer of 2008.
- ⑥ 4' Spruce: This tree was leaning and adding to the slumping of the bluff. Paul received permission from Bob Merrill and removed this tree the fall of 2007
- ⑦ 3' Spruce: This tree was leaning and adding to the slumping of the bluff. Paul received permission from Bob Merrill and removed this tree the fall of 2007

- Pacific Ocean -

11 of 21

Harriet Hill, R.E.H.S.
Humboldt County Division of Environmental Health
100 H Street, Suite 100
Eureka, CA 95501

Koken

1870 Golfcourse Rd.
Bayside, California
95524-9322
phone/fax/modem:
707-822-8961

Re: Decker Water System
3058 Patricks Point Drive Trinidad, CA
APN 517-271-008

Dear Ms. Hill,

The following information is being provided in order for DEH to address the adequacy of the water system on the above referenced parcel, and to allow the approval of the Coastal Development permit.

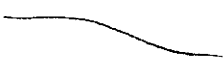
Three maps accompany this letter. Map I shows the existing intake facility for the water system, along with the existing pipes to former and existing dwellings. Map II shows the proposed distribution system for the remodeled and rebuilt dwellings. It is an upgrade of the original distribution layout on Map I, which served the original five cabins and two mobile homes on the property. As drawn, there is one lateral that serves the neighboring parcel, and one lateral that serves the upper and lower cabins and the caretaker cabin.

The existing intake and treatment facility on the unnamed creek is composed of an up-flow sand filter and a chlorinator, which is now maintained by the permanent residence on the adjoining property, APN 517-271-009 which has deeded access to the creek.

The Decker Property will have a total of six residences, which includes one small caretaker cottage and five vacation rentals. Other than the caretaker cottage, the property will have no permanent residences and no rentals for periods of more than 60 days. The septic system is sized for a maximum of 18 people. Please see Map III showing proposed cabins and sewage disposal systems.

The distribution pipe from the treatment facility and storage tank will be pressurized 1.25-inch schedule 40 PVC and each rental shall be equipped with a drop valve allowing delivery of standard pressures and flow rates.

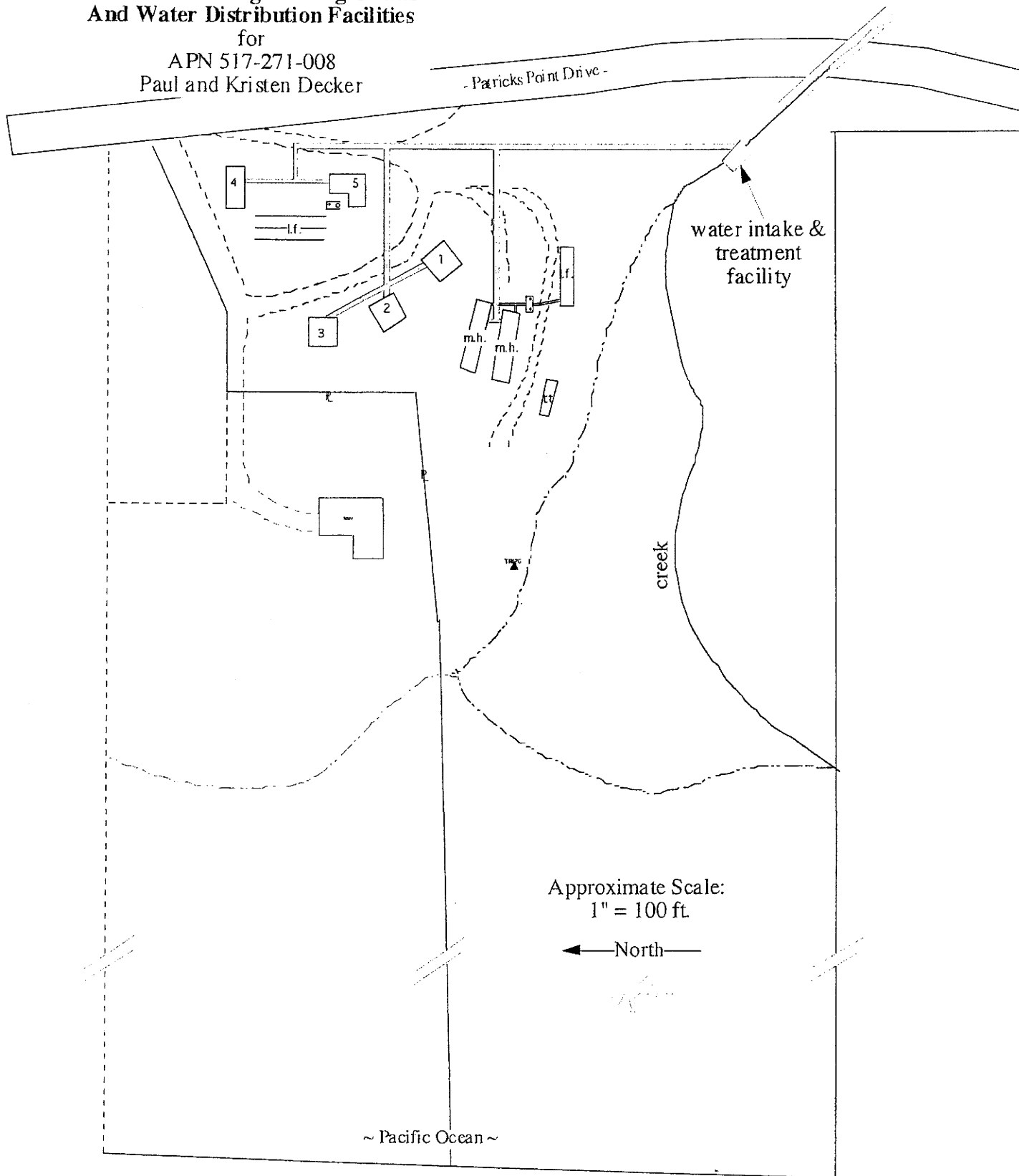
Please contact me with any questions you have regarding this matter.
Sincerely,


Angela R. Koken
16 April 2010

12 of 21

Map I
Plot Plan Showing Existing Cabins
And Water Distribution Facilities

for
 APN 517-271-008
 Paul and Kristen Decker

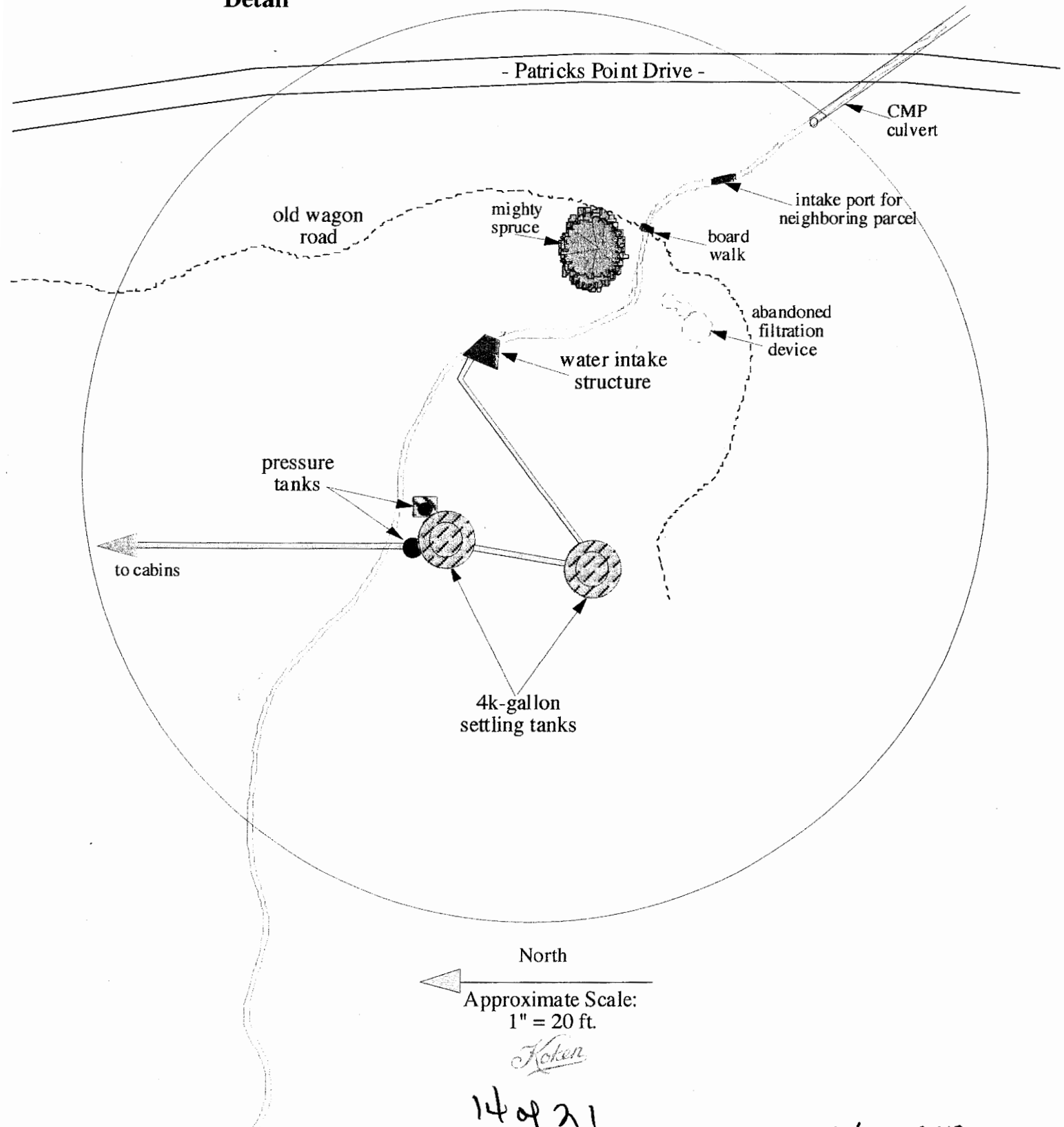


RECEIVED

JUN 27 2012

CALIFORNIA
COASTAL COMMISSION

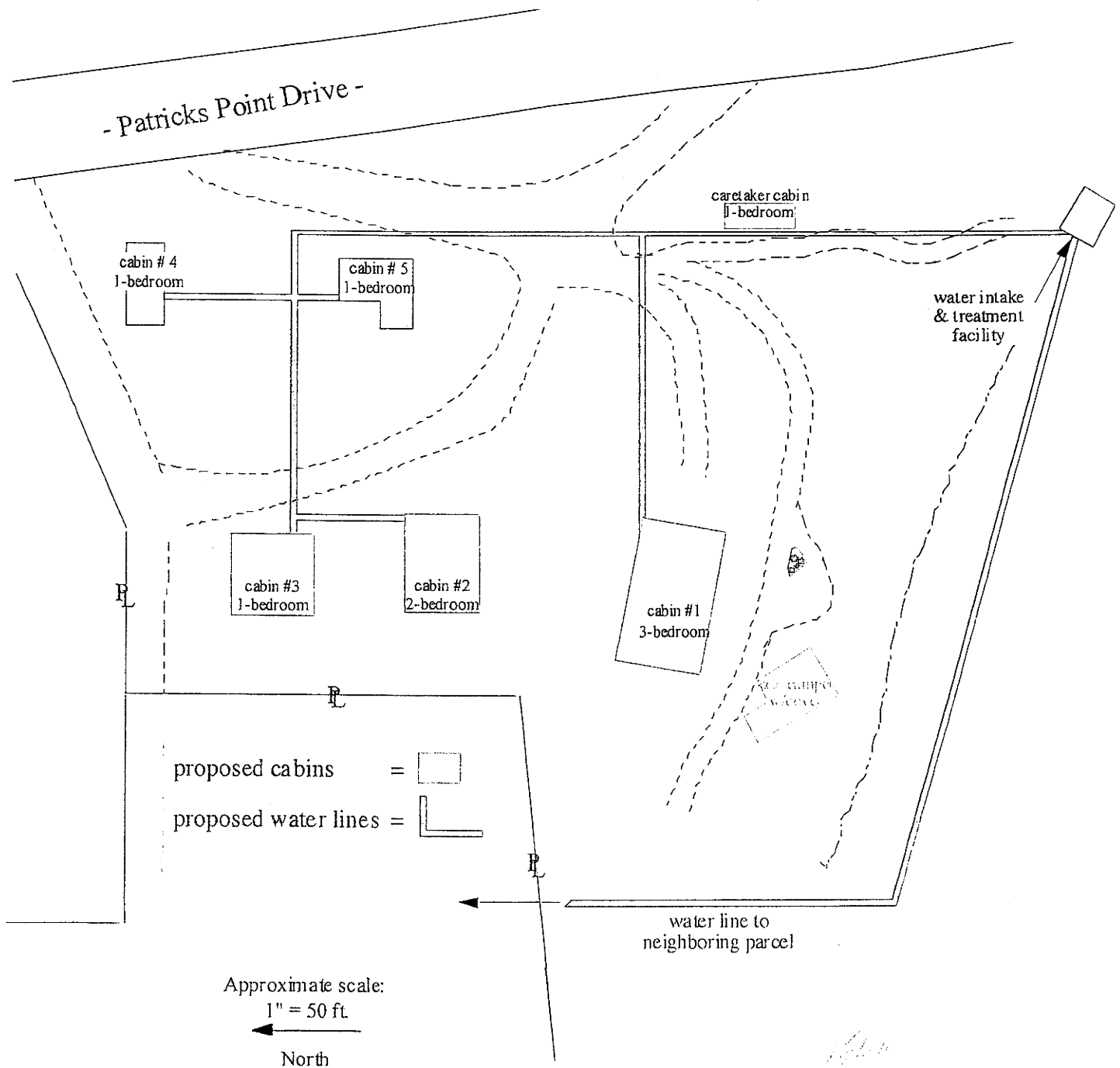
Paul and Kristen Decker
APN 517-271-008
Water Intake Facilities
Detail



27 June 2012

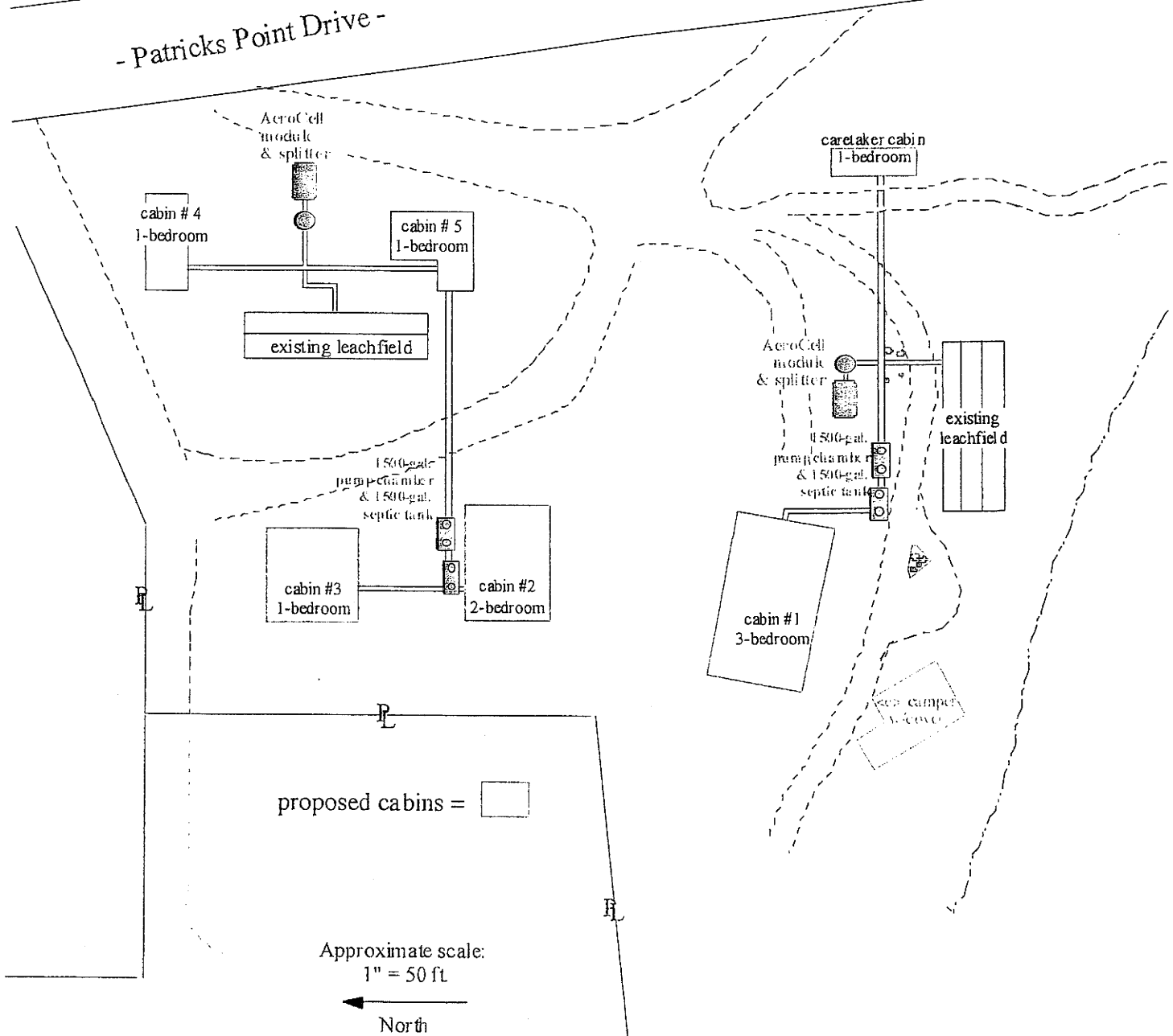
Map II
Plot Plan Showing Proposed Cabins
& Water Distribution Facilities

for
Paul And Kristen Decker
APN 517-271-008
3058 Patricks Point Drive
Trinidad, Ca



**Map III
Plot Plan Showing Proposed Cabins
and Sewage Disposal Systems
for**

Paul And Kristen Decker
Apn517-271-008
3058 Patricks Point Drive
Trinidad, Ca

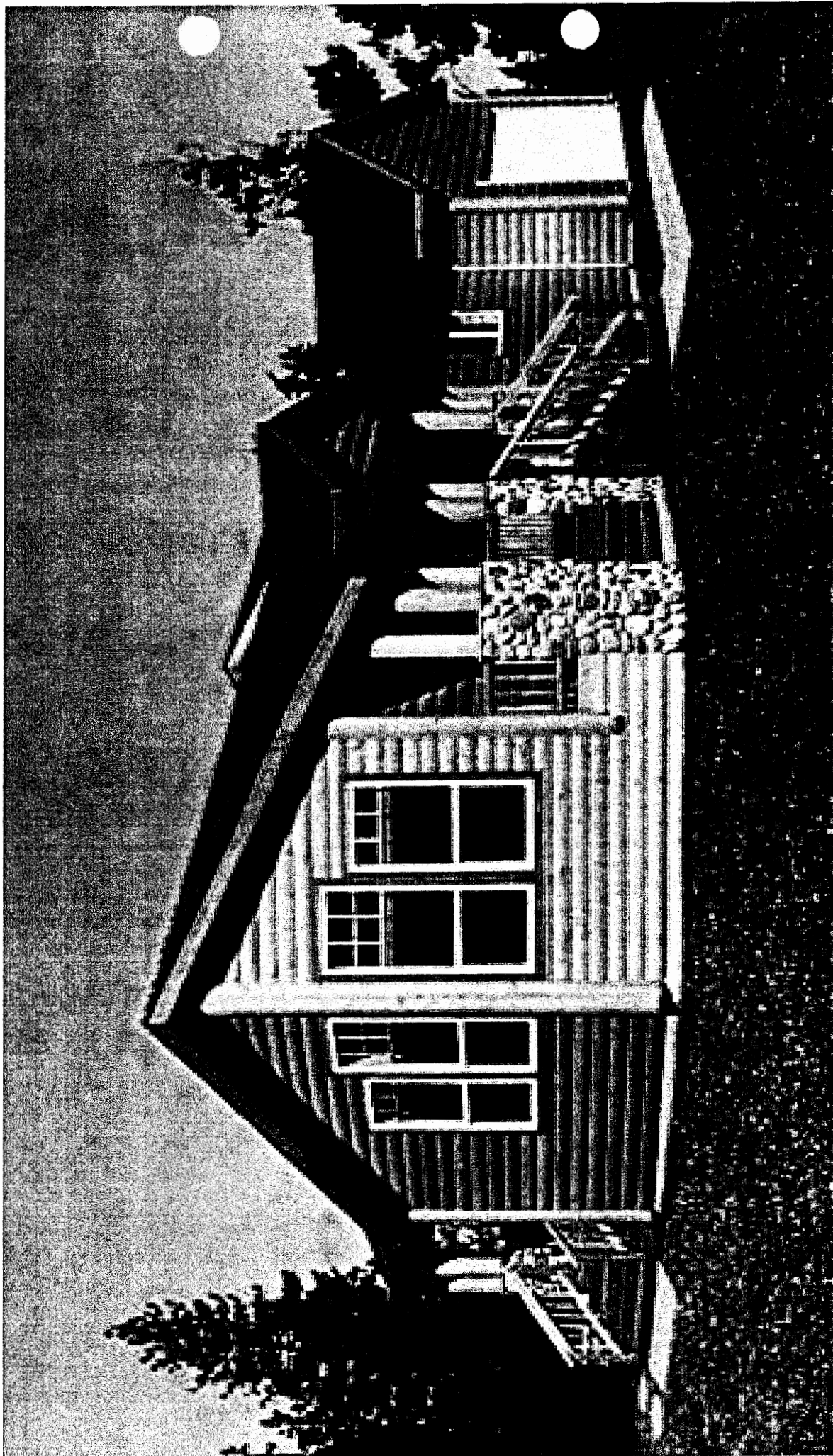


16 of 21
[Handwritten signature]

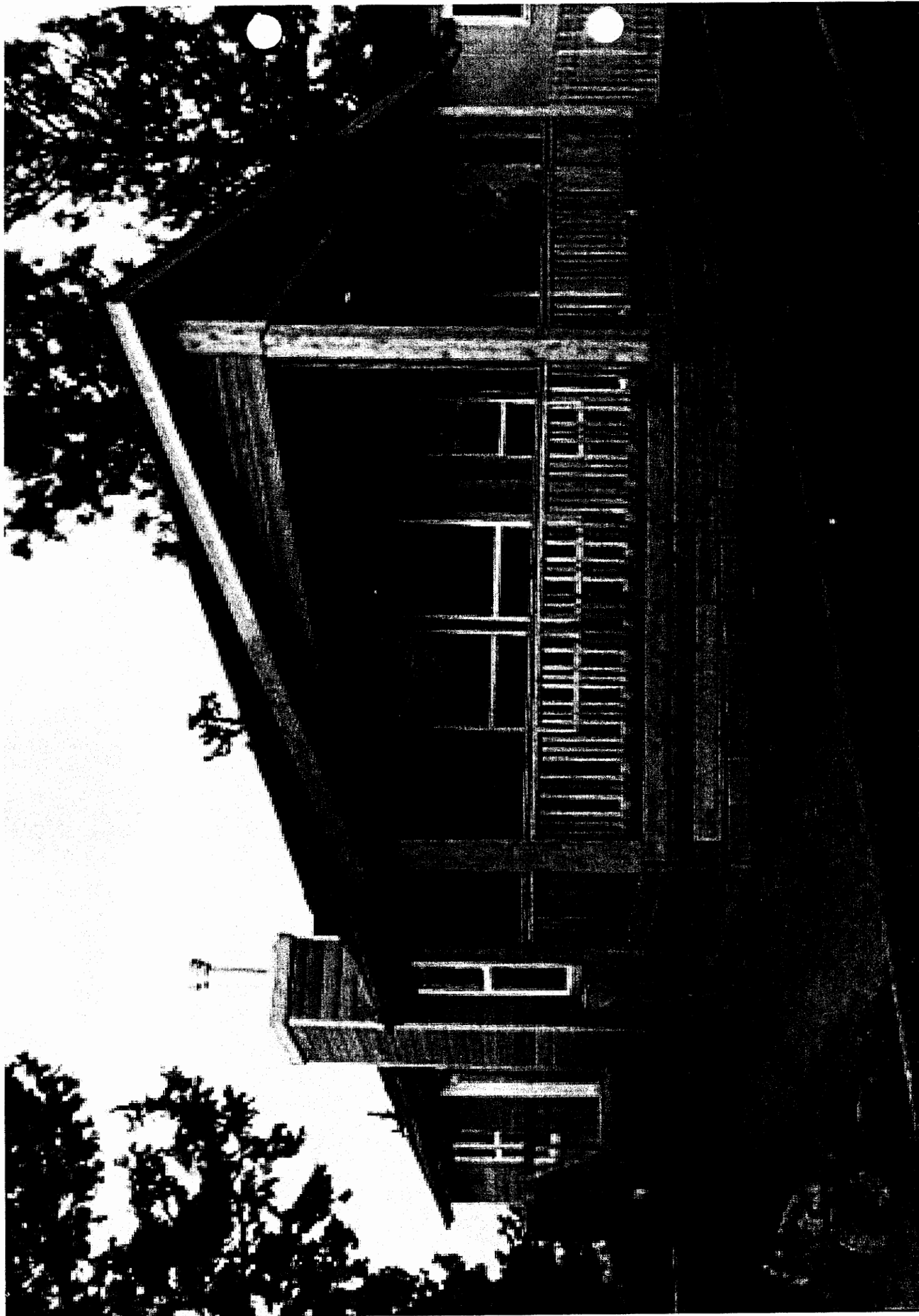
Images of Proposed Fugua homes for the Decker property



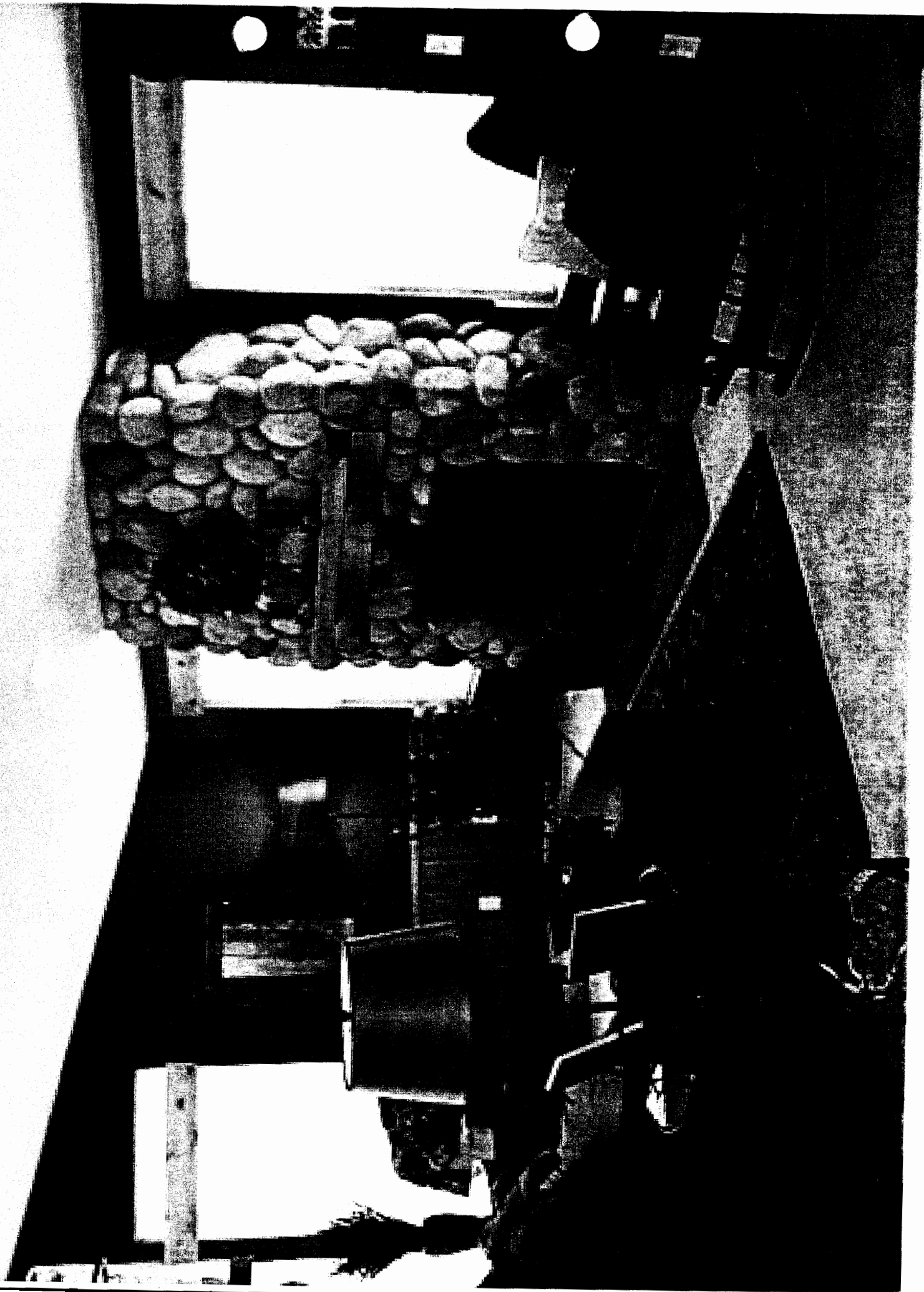
17421

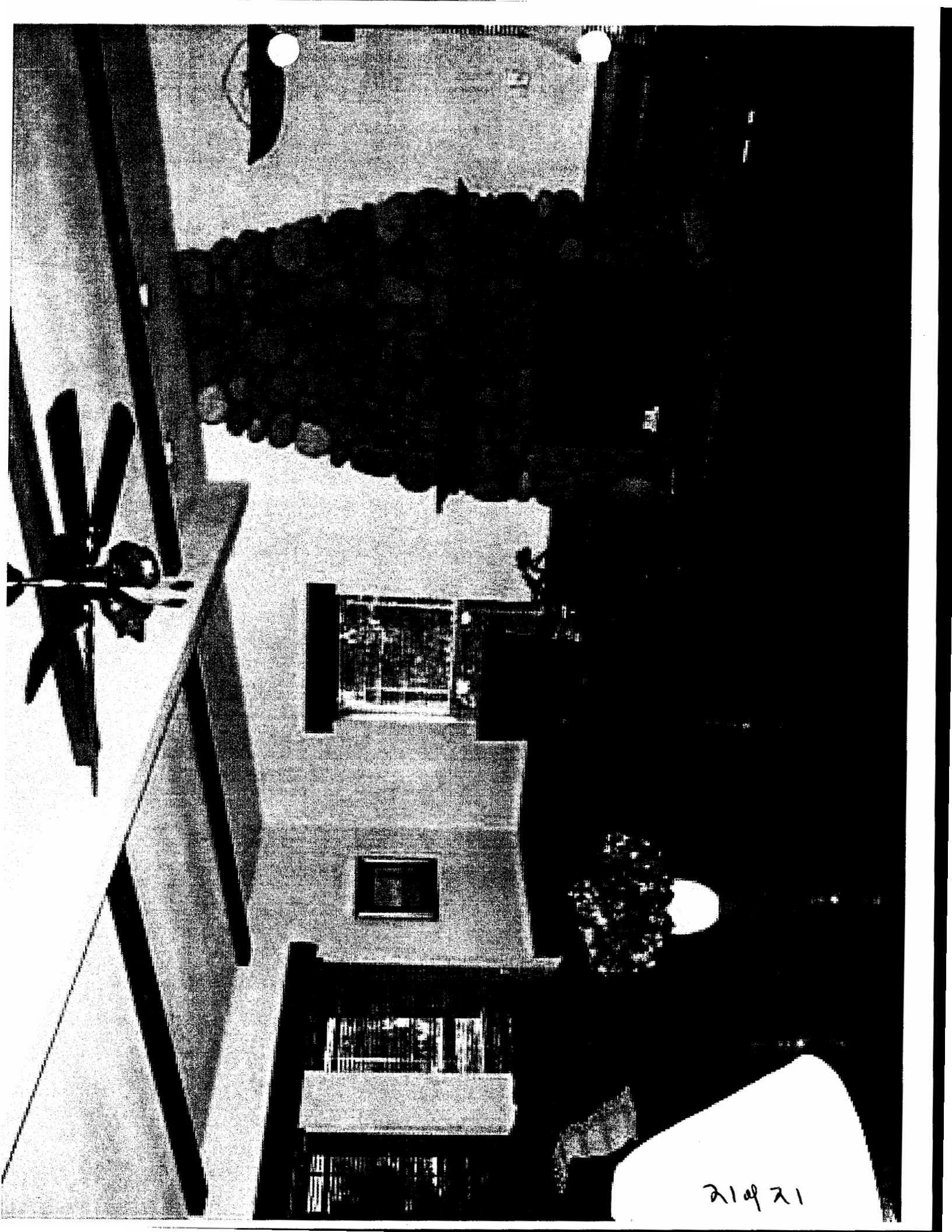


18021

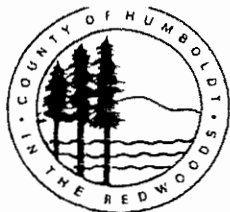


04
21





21421



**Humboldt County Department of Health and Human Services
Division of Environmental Health**

100 H Street - Suite 100 - Eureka, CA 95501
Voice: 707-445-6215 - Fax: 707-441-5699 - Toll Free: 800-963-9241
envhealth@co.humboldt.ca.us

August 16, 2010

Angela Koken
1870 Golf Course Road
Bayside, CA 95524-9322

Re: Decker Water System, 3058 Patrick's Point Drive, Trinidad, CA; APN 517-271-008

Dear Ms. Koken:

We have reviewed your letter of April 16, 2010 (received July 1, 2010) regarding the service connections for this water system. Based on your maps and descriptions, the water system will serve two connections with full time residents (including the caretaker home on the subject parcel and one on the neighboring parcel) and five vacation rentals which will have no rentals for more than 60 days. The maximum capacity on the property's septic system is 18 people. There will be no food facility constructed as part of the development. Therefore, we have determined that, if built and occupied as planned, the system will not be regulated under the State Small Water System Regulations (22 CCR Section 64211-64217) or the California Retail Food Code (October 2009).

However, if conditions on the site are to change, such as extended occupancy (more than 60 days) of the vacation rentals, construction of additional residences, or the addition of a food facility, DEH must be notified immediately. We will determine at that time if the water system will be under our jurisdiction.

To ensure the health and safety of the users of this development, DEH strongly recommends that the water supply be monitored at least quarterly for coliform bacteria, and at least once for the chemicals on the attached list.

Please contact me at 707-268-2228 between the hours of 8:00-9:30 and 4:00-5:00 if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harriet Hill".

Harriet Hill
Drinking Water Program
Consumer Protection Program

Attachment

RECEIVED
SEP 29 2010
CALIFORNIA
COASTAL COMMISSION

EXHIBIT NO. 5

APPLICATION NO.

1-09-013 - DECKER

COUNTY ENVIRONMENTAL
HEALTH WATER SYSTEM
RECOMMENDATIONS

(1 of 2)

A. Inorganic Contaminants and Their Potential Health Effects and Maximum Contaminant Levels as per 22 CCR §64431(a) (in milligrams/liter unless otherwise shown):

1) Aluminum - nervous system problems (1.0)	10) Fluoride - bone disease; tooth discoloration (2.0)
2) Antimony - increased cholesterol; decreased blood sugar (0.006)	11) Mercury - kidney damage (0.002)
3) Arsenic - cancer risk, cardiovascular & skin problems (0.01)	12) Nickel - lower body weight; heart & liver damage (0.1)
4) Asbestos - increased risk of benign intestinal polyps (7 million fibers/liter)	13) Nitrate (as NO ₃) - blue baby syndrome; increased urine production (45.0)
5) Barium - increased blood pressure (1.0)	14) Nitrate + Nitrite (sum as nitrogen) - health effects same as nitrate (10.0)
6) Beryllium - intestinal lesions (0.004)	15) Nitrite (as nitrogen) - same as nitrate (1.0)
7) Cadmium - kidney damage (0.005)	16) Perchlorate - reduction of iodide uptake (0.006)
	17) Selenium - hair loss, numbness, circulatory problems (0.05)
8) Chromium - dermatitis (0.05)	18) Thallium - hair loss, blood changes; kidney/liver/intestinal problems (0.002)
9) Cyanide - thyroid & neurological effects (0.15)	

B. Secondary Contaminants and Their Potential Aesthetic Effects and Secondary Maximum Contaminant Levels as per 22 CCR §64449 (in milligrams/liter):

1) Aluminum - colored water (0.2)	4) Manganese - black/brown color, black staining, bitter metallic taste (0.05)
2) Chloride - salty taste (500)	5) Total Dissolved Solids - hardness; deposits; colored water; staining; salty taste (1,000)
3) Iron - rusty color, sediment, metallic taste, reddish staining (0.3)	

**CONSULTING ENGINEERS & GEOLOGISTS, INC.**

812 W. Wabash • Eureka, CA 95501-2138 • 707-441-8855 • Fax 707-441-8877 • info@shn-eureka.com

Reference: 004039

February 12, 2004

Paul and Kristen Decker
5086 Lakeville Hwy
Petaluma, CA 94954

EXHIBIT NO. 6**APPLICATION NO.**

1-09-013

DECKER

GEOLOGIC REPORT (1 of 6)

Subject: Geologic Evaluation of APN 517-271-09 Focusing on Bluff Stability

Mr. and Ms. Decker:

This letter report presents the results of our focused geologic evaluation of your property (APN 517-271-09) north of Trinidad, California (location shown on Figure 1). It is our understanding that the property is pending Coastal Commission approval of a proposed lot line adjustment and installation of an improved on-site sewage disposal system. The site is located on a coastal bluff and the sewage disposal system is proposed to be constructed on the seaward side of the existing residence at the site; therefore the Coastal Commission has requested a geologic evaluation of bluff stability. This report documents the findings and conclusions of that geologic evaluation. Our evaluation is focused solely on the suitability of the placement of the sewage disposal system, and does not include an assessment of other geologic aspects of the proposed project. Our work scope for this evaluation included site reconnaissance, interpretation of aerial photography, and review of pertinent literature and maps. We visited the site with your agent, Mr. Mickey Fleschner, of Trinidad Realty on February 3, 2004.

We reviewed a report detailing the proposed Sewage Disposal System, which was prepared by Ms. Angela Koken in 1998. The proposed disposal system is designed to accommodate up to 7 bedrooms in the residence, accounting for up to 900 gallons per day of discharge. The proposed system includes a septic tank, sand filters, and a leachfield consisting of four groups of six 20-foot laterals. We have conducted our evaluation assuming that the location of the leachfield and other system components will be constructed as shown in the Sewage Disposal System design report (shown on the accompanying site map, Figure 2).

Topographic and Geologic Setting

The project site occupies a generally westward-sloping coastal bluff top. The bluff top at the site is a remnant of a marine terrace. The site is bordered on the western side by the Pacific Ocean and an associated narrow beach strip and coastal bluff. Slopes at the site are gentle on the bluff top (<10% to 20%) to steep (up to about 80%) on the bluff face. An existing residence is present at the site, an older structure built in the 1930's or 1940's. Some minor grading is apparent at the site; the house rests on an apparently graded bench, and there is some geomorphic evidence of minor grading on the bluff top seaward of the house.

The marine terrace at the site is a late Pleistocene age feature eroded into the regional bedrock during a previous high sea level stand. Marine terraces are preserved along the coast of California as erosional remnants of raised shore platforms and associated cover sediments. Sea level has fluctuated throughout the late Pleistocene in response to the advance and retreat of large

Paul and Kristen Decker

Geologic Evaluation of APN 517-271-09 Focusing on Bluff Stability

February 12, 2004

Page 2

continental ice sheets. Marine terraces preserved along the coast represent surfaces eroded during the highest levels of these sea level fluctuations, superimposed on a coastline being uplifted by regional tectonics.

Bedrock at the site is the Cretaceous to Jurassic age Central belt of the Franciscan Complex. The Franciscan Complex is a regional bedrock unit that is composed of three broad belts: the Eastern, Central, and Coastal belts. These belts represent "terrane", discrete fault bounded masses of highly deformed oceanic crust that have been welded to the western margin of the North American plate over the past 140 million years. The belts become progressively older, more deformed, and metamorphosed to the east. The Central belt of the Franciscan Complex consists of a tectonic mélange composed of rock blocks within a penetratively sheared, metamorphosed argillite matrix. Individual rock blocks can range in size from very small gravel-size fragments to very large mountain-scale blocks (i.e., Trinidad Head). The Central belt is commonly described as a mélange due to its block-in-matrix textural character, its assemblage of disassociated rock types, and its pervasively sheared character.

Slope failures in mélange terrain include earthflows that deform the low strength mélange matrix, and rotational slides and block falls that occur in rockier settings. Earthflow movement is complex and commonly involves relatively slow, plastic deformation or flow of cohesive (i.e., clay-rich) materials. The displaced mass in an earthflow is typically strongly internally deformed, particularly along the flow margins. In material with a block-in-matrix texture such as the Franciscan mélange, earthflows tend to occur within the sheared, clay-rich matrix. The matrix flows downslope around the large, relatively stable rock blocks. The blocks may remain on the hillside in relatively stable positions depending on their depth of penetration relative to the depth of sliding. Deep-seated rotational slumps are less common, but may also be present locally within the Franciscan mélange where slope mechanics are more influenced by the presence of large rock masses. Slumps are most common along coastal bluffs where wave action can remove toe support in rocky slopes and gravitational forces can overcome the resisting forces of the materials within the bluff face. One such slump occurred on the adjacent parcel to the north of the subject lot.

Results of Investigation

To evaluate the suitability of the area west of the existing residence for a sewage disposal system, we conducted field reconnaissance of the lot and adjacent bluff, interpreted aerial photography of the site and vicinity, and reviewed a historical account of coastal bluff retreat. The house is located 200 feet from the bluff crest, and was constructed on a graded building pad. Beyond the graded pad that the existing house rests upon, the bluff top at the site rolls gently toward the bluff crest, with slope gradients increasing gradually toward the crest. The area seaward of the house is a grass-covered field with a few large spruce trees. We note that the subject parcel is visible in an on-line aerial photograph at www.californiacoastline.org; refer to frame 7573 (look to left side of image, 3 white structures are visible to north, house is brown building in shade, next to a small bright white shed).

The coastal bluff at the site is a steep, relatively planar slope, which is occupied by several 30 to 40 year old, straight-standing spruce trees. Several large rock outcrops are present on the bluff face. The geomorphic expression of the bluff face suggests it is a relatively resistant rocky slope. As

Paul and Kristen Decker
Geologic Evaluation of APN 517-271-09 Focusing on Bluff Stability
February 12, 2004
Page 3

discussed above, slope processes in block-in-matrix earth materials such as Franciscan mélange are controlled by the presence or absence of rock blocks. Where rock blocks are present, the area stands out in relative resistance; where highly sheared, low strength matrix is present, low gradient, earthflow-prone slopes form. The available geomorphic information at this site suggests the bluff face below the proposed leachfield area is a rock-controlled slope.

Slope failures are present both north and south of the subject parcel. To the north, a significant rotational slump is present in the upper half of the bluff face. This slide appears to be about 75 feet wide, and is associated with a 6 to 8 foot high arcuate head scarp. The failure has been fenced off, and the residence at that site has reportedly been moved. The slide appears to be at the drainage point for a small creek, which the resident appears to have impounded into a small landscaped pond. Springs were noted on the slopes adjacent to the watercourse, one of which occurs along the common property line with the subject parcel (see site map; Figure 2). The area around this failure appears very wet (abundant hydrophilic vegetation is present), and we infer that this failure is a result of run-off and stream related saturation. Review of the on-line aerial photograph described above suggests that this failure does not penetrate to the base of the bluff, but rather is confined to the upper one-half of the bluff face (above bedrock exposed on the beach). The proposed leachfield on the subject parcel is approximately 120 feet from the nearest spring along the northern property line, and at least 150 feet from the slide.

To the south of the subject parcel, apparent earthflow deformation is occurring in a broad, bowl-shaped amphitheater. Scarps at the head of this failure expose gray sheared argillite (i.e., mélange matrix). It is our understanding that the County previously drained road runoff from Patrick's Point Drive onto this slope, which reportedly significantly exacerbated mass wasting. Run-off has since been re-routed, and movement in this area has reportedly slowed. There is however, evidence of recent movement in the form of fresh scarps and warped, leaning conifer saplings. The reserve area of the proposed leachfield on the subject property is about 55 feet from the bluff crest above this unstable area; the closest approach of the slide area is about 80 feet away. The primary field is over 100 feet from this unstable area.

Based on the presence of mass wasting features on either side of the subject parcel, we conclude that the subject site represents a relatively stable "promontory", a rock-controlled slope bordered by areas of low-strength mélange matrix. The owner's agent whom we visited the site with indicates no knowledge of mass wasting or bluff retreat at this site since the 1970's, the extent of his experience with the property. The proposed reserve area of the leachfield, the most seaward element of the proposed sewage disposal system, is between 70 and 80 feet from the bluff directly west of the site; the primary leachfield is 105 to 115 feet from the bluff.

We reviewed a historical account of coastal bluff retreat in northern Humboldt County, prepared in 1981 by Don Tuttle (former Humboldt County Deputy Public Works Director), which was based on review of aerial photographs dating back to 1942. The nearest coastline transects evaluated in that report are near Scotty's Point, about 4,000 to 4,500 feet to the south. These transects are interpreted to be relevant to the subject site based on similarities in geology and geomorphic expression of the bluffs. The coastal transects at White Rock do not indicate any bluff retreat between 1942 and 1974.

Paul and Kristen Decker

Geologic Evaluation of APN 517-271-09 Focusing on Bluff Stability

February 12, 2004

Page 4


Conclusions and Recommendations

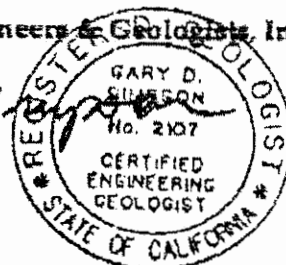
1. It is our opinion that the proposed Sewage Disposal System is acceptably located from a geologic standpoint. The bluff below the site appears to have been historically stable, and appears to be a resistant rock-dominated slope. As discussed above, relative stability in block-in-matrix bedrock such as that at the site is controlled by the presence or absence of rock blocks. Slope failures on adjacent parcels appear to be localized features related to the absence of rocky materials (i.e., they are underlain by weak, sheared melange matrix), and/or saturation due to natural or man-made run-off.
2. Despite the historic stability of the bluff at the site, we acknowledge that coastal bluffs are inherently dynamic geomorphic features that may experience mass wasting due to a combination of wave undercutting, seismic triggering, and/or excess saturation. As such, developments (including sewage disposal systems) should be adequately setback from coastal bluffs to account for uncertainty regarding future bluff retreat potential. It is our opinion that the proposed sewage disposal system is adequately set back from the bluff to ensure a Low potential for future damage. The reserve area of the leachfield, the most westward element of the system, is between 70 and 80 feet from the bluff directly west of the site; the primary leachfield is 105 to 115 feet from the bluff. The reserve area is 55 feet from the bluff crest above the unstable area to the southwest; the closest approach of the slide area is about 80 feet away. The primary field is over 100 feet from this unstable area.
3. Bluff retreat hazards diminish with distance from the bluff edge. The reserve leachfield area is the element of the proposed sewage disposal system that is closest to the coastal bluff. However, it may be several years before that area is utilized, if at all. As such, we recommend that should the primary field become unusable, and the reserve area is developed, that the site be re-assessed to ensure that conditions at the site have not changed significantly (i.e., that no significant bluff retreat has occurred).
4. We concur with the sewage disposal system designer, Ms. Koken, that surface flows and gutter run-off be routed away from the leachfield area. From a geologic standpoint, re-routing of this run-off will help offset the impacts associated with the additional water discharged from the leachfield.

I hope that this report provides you with the information that you need at this time. If you should have any questions, or require clarification of our findings presented herein, please call our office. We appreciate the opportunity to assist you on this project.

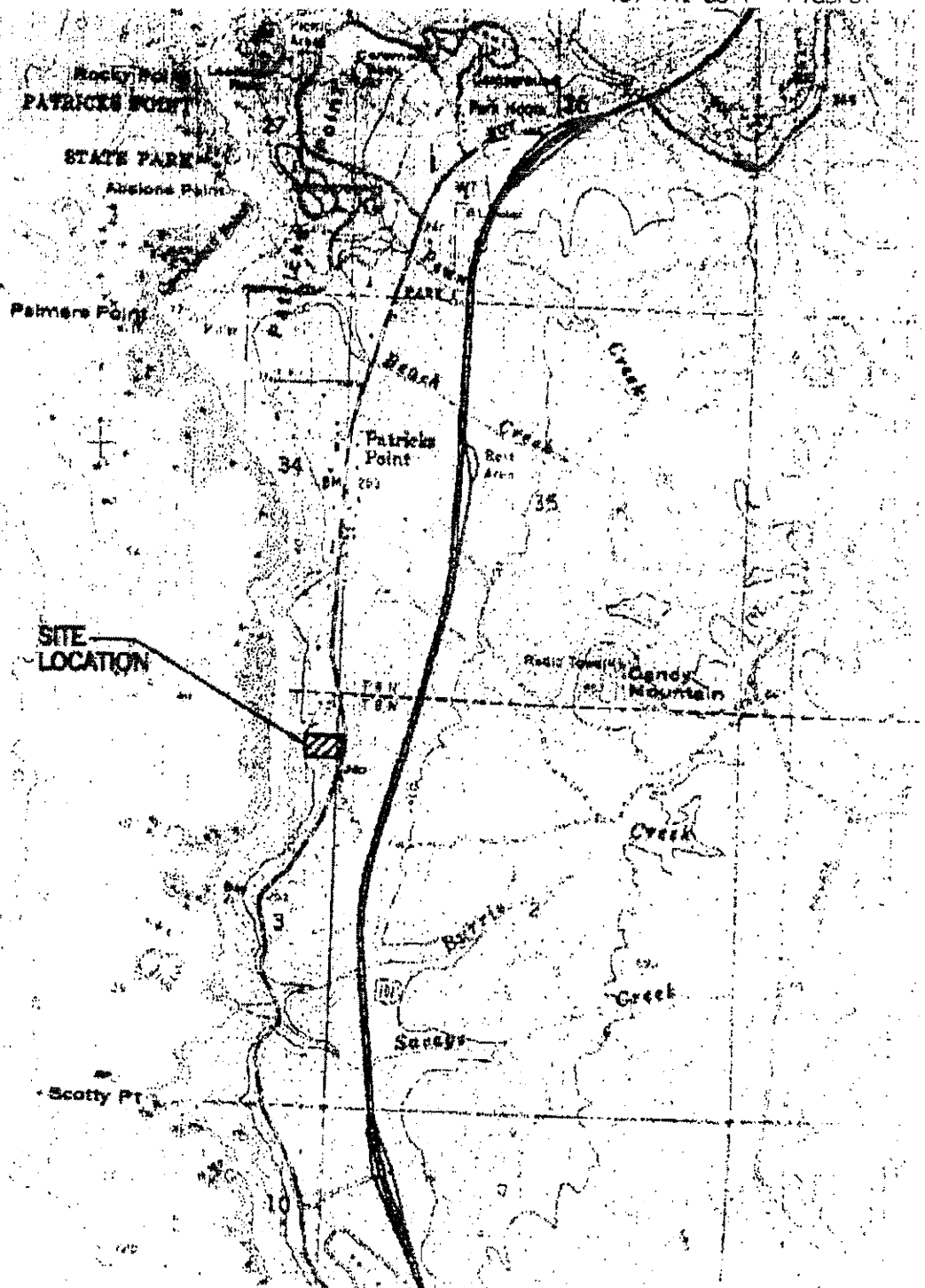
Respectfully,

SHN Consulting Engineers & Geologists, Inc.


Gary D. Simpson, C.E.G.
Senior Geologist



GDS:med



NO SCALE

Site Location Map

SHN
Consulting Engineers
& Geologists, Inc.

Decker
APN 517-271-09
Patrick's Point Drive, Trinidad, Ca.

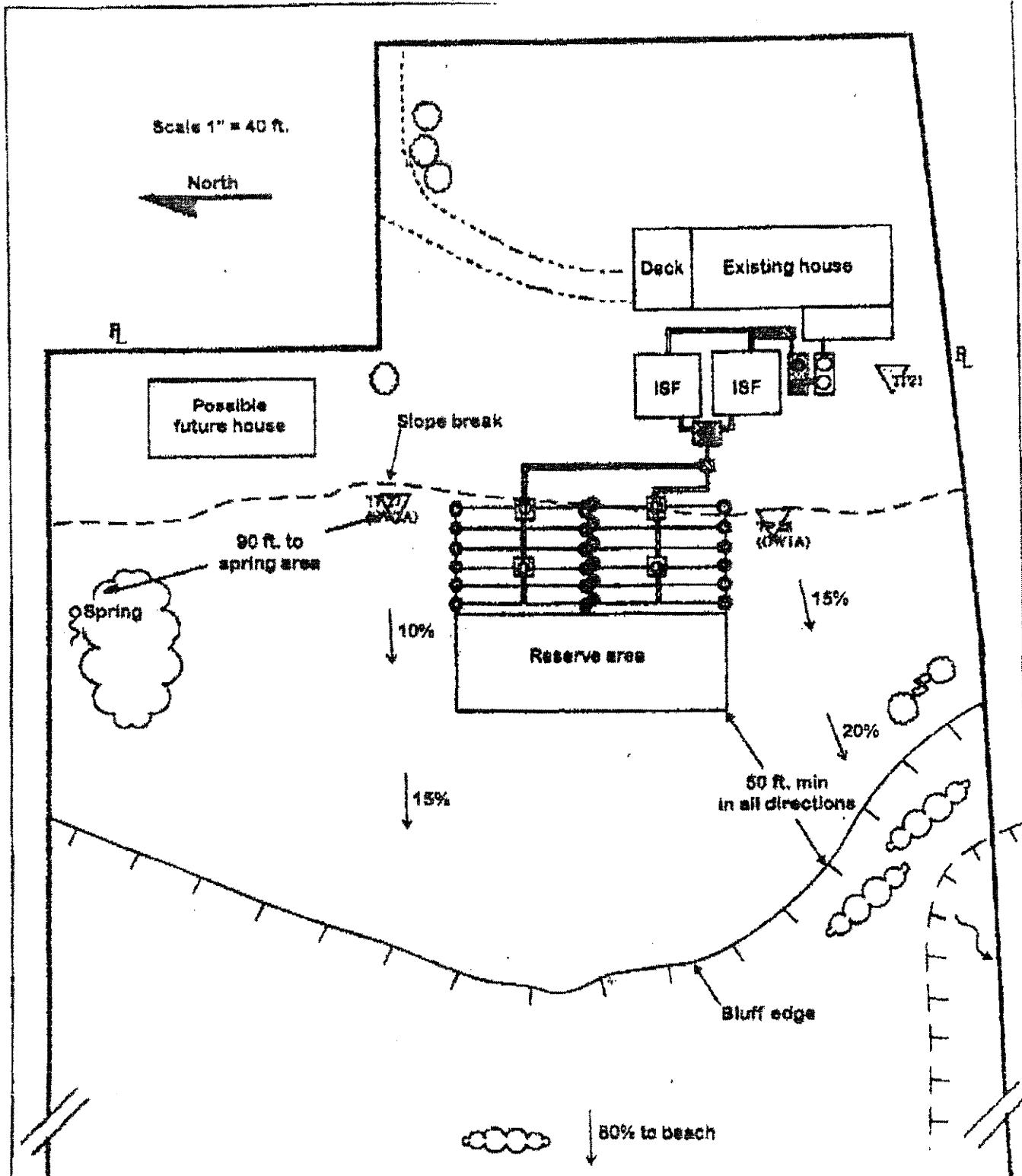
February, 2004

SHN 004039

004039-af-1

Figure 1

5 of 6



Modified figure from Angela R. Koken "Sewage Disposal System Design for Paul Decker"

SHN
Consulting Engineers
& Consultants, Inc.

Decker
APN 517-271-09
Patrick's Point Drive, Trinidad, Ca.

Site Map
SHN 006039

Figure 2
TOTAL P. 27

6 of 6

7-12-12

RECEIVED

JUL 16 2012

CALIFORNIA COASTAL COMMISSION
EUREKA, CALIF.

CALIFORNIA
COASTAL COMMISSION

ON JANUARY 3, 1986 MY MOTHER METHA DECKER HAD A DECKER REVOCABLE TRUST MADE UP CONCERNING HER PROPERTY AT 3058 PATRICKS POINT DR, TRINIDAD, CALIF.

ON FEBRUARY 4, 1988 AT HER REQUEST SHE HAD ME RECORD THE TRUST AT THE HUMBOLDT CO RECORDERS OFFICE IN EUREKA, CALIF. IN THIS TRUST FORM I WAS ONE OF THREE CHILDREN LISTED AS A BENEFICIARY ENTITLED TO ONE SHARE OF THE PROPERTY AFTER THE ESTATE HAS BEEN DIVIDED INTO THREE (3) EQUAL SHARES. TRUSTEES AT THAT TIME WERE, PAUL DECKER AND MARILYN WILBRECK THE OTHER TWO BENEFICIARIES IN THE TRUST. MY MOTHER PASSED AWAY IN MAY 1995. I HAVE NEVER SOLD MY 1/3 SHARE OF THE PROPERTY AND NO ONE CAN COME UP WITH A DEED THAT WAS RECORDED SHOWING THAT I SOLD MY 1/3 SHARE OF 3058 PATRICKS POINT DR, TRINIDAD CALIF. ON NOVEMBER 17, 2006 PAUL E. DECKER FILED A STATEMENT WITH THE SUPERIOR COURT OF CALIF. COUNTY OF HUMBOLDT THROUGH THE HARLAND LAW FIRM. MR DECKER, STATED, THE PROPERTY WAS SOLD AFTER OUR MOTHERS DEATH AND THE PROCEEDS WENT INTO THE TRUST. THE SALE FOR THIS PROPERTY CLOSED IN LATE JANUARY OF 1996. MR DECKER DECLARED UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

THIS WAS SIGNED BY MR DECKER 11-6-2006. MY UNDERSTANDING IS THAT MR PAUL DECKER AND KRISTEN DECKER HAVE A REQUEST FOR A PERMIT TO REMOVE BUILDINGS AND PUT IN NEW ONES AT 3058 PATRICKS POINT DR, TRINIDAD CALIF. I STILL OWN 1/3 OF ALL OF THE ELEVEN ACRES AT THIS ADDRESS, EVEN THAT WHICH THEY SOLD OFF WITH MY MOTHERS HOUSE. IF YOU CAN COME UP WITH A RECORDED DEED SHOWING I SOLD THE PROPERTY AS MR. DECKER CLAIMS THEN I WILL ISSUE THE PERMIT. I HAVE NEVER SIGNED OR ON THIS ELEVEN ACRES.

Signature on File

EXHIBIT NO. 7
APPLICATION NO.
1-09-013
DECKER
CORRESPONDENCE RECEIVED (1 of 2)

MARCH 9, 2010

CALIFORNIA STATE COASTAL COMMISSION

ATT: MALISA CRAMER.

THESE FORMS ARE THE ONES THAT WE TALKED ABOUT ON THE PHONE. ON JANUARY 3, 1986 MY MOTHER, META DECKER WHO OWNED 3058 PATRICKS POINT DR, TRINIDAD, CALIF PLACED THIS PROPERTY INTO THE DECKER REVOCABLE TRUST. IN THIS TRUST I WAS LISTED AS ONE OF THREE BENEFICIARIES. I HAVE NEVER SIGNED OFF ON MY SHARE OF THIS PROPERTY.

I LIVED ON THE PROPERTY FROM 1968 TO 1991. I HAD TWO MOBIL HOMES ON THE PROPERTY WITH MY MOTHERS APPROVAL. THE MOBIL HOMES WERE HOMESTEAD ON 9-13-83. THE HOMESTEAD ON THE MOBIL HOMES WAS ABANDONED ON 1-16-96. I HAVE BEEN REPEATEDLY INFORMED THAT I HAVE SOLD AND SIGNED OFF ON MY SHARE OF THE PROPERTY AT 3058 PATRICKS POINT DR. TRINIDAD CALIF. THE ONLY THING I HAVE SIGNED OFF ON IS THE HOMESTEAD I HAD ON THE TWO MOBIL HOMES I OWNED AND WERE PARKED ON THE PROPERTY OWNED BY MY MOTHER.

I AM GIVING YOU COPIES OF A QUIT CLAIM DEED, THAT I WAS REQUESTED TO SIGN REGARDING PARCELS 517-271-009 AND PARCEL 517-271-008 ON 6-7-04. THIS WAS TO TAKE PLACE AT HUMBOLDT LAND TITLE CO. EUREKA, CA. I REFUSED TO SIGN THE FORMS AND YOU NOW HAVE COPIES TO VERIFY THIS.

HUMBOLDT LAND TITLE CO SAYS I DID SIGN OFF ON THE PROPERTY. THIS IS A FALSE CLAIM. ANY FORM SHOWING I HAVE SIGNED OFF ON MY SHARE OF THIS PROPERTY WOULD HAVE TO BE A FORGERY.

RECEIVED

MAR 09 2010

CALIFORNIA
COASTAL COMMISSION

Signature on File

2 of 2