

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE  
710 E STREET, SUITE 200  
EUREKA, CA 95501  
VOICE (707) 446-7833 FAX (707) 446-7877



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

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

**SECTION I. Appellant(s)**

Name: Melissa Hays <sup>Albion Residents Association</sup> and Rixanne Wehren for the Sierra Club

Mailing Address: PO Box 415

City: Albion

Zip Code: Ca 95410

Phone: 707-937-0090

**SECTION II. Decision Being Appealed**

EXHIBIT NO. 7  
APPEAL NO.  
A-1-MEN-09-034  
MARR & MALIN  
APPEAL (1 of 6)

1. Name of local/port government:

Mendocino County Planning and Building

2. Brief description of development being appealed:

Construct a 2,524 +/- square foot single family residence with a 634 +/- square foot attached garage and 329 +/- square foot covered porches for a total of 3,487 +/- sq feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516 +/- sq foot garage/workshop, a 501 +/- sq foot guest cottage and 121 +/- covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138 +/- sq feet. The guest cottage would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway 1, construct a 900 +/- foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

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

In the Coastal Zone, 1/4 +/- mile south of Albion and immediately north of Salmon Creek, on the east side of Highway 1 at 2800 North Highway 1 (APN: 123-350-06).

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

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

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CALIFORNIA  
COASTAL COMMISSION

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

**TO BE COMPLETED BY COMMISSION:**  
APPEAL NO: A-1-MEN-09-034

STATE OF CALIFORNIA - THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA COASTAL COMMISSION**

NORTH COAST DISTRICT OFFICE

710 E STREET, SUITE 200

EUREKA, CA 95501

VOICE (707) 446-7833 FAX (707) 445-7877



DATE FILED:	<u>7/27/09</u>
DISTRICT:	<u>North Coast</u>

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

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

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

6. Date of local government's decision: June 25, 2009

7. Local government's file number (if any): CDP 57-2008

**SECTION III. Identification of Other Interested Persons**

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

a. Name and mailing address of permit applicant:

Michael Marr and Judith Malin  
43 Hillside Ave  
Portsmouth RI 02871

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

(1) Melissa Hays, PO Box 415, Albion Ca 95410

(2) Rixanne Wehren, ~~27401 Albion Ridge Rd~~, Albion Ca 95410  
27401 Albion Ridge Rd.

(3)

(4)

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**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)****SECTION IV. Reasons Supporting This Appeal****PLEASE NOTE:**

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

We are appealing this coastal permit decision of local government because it is inconsistent with these sections of our Local Coastal Plan:

1. 3.1-2 and 3.1-7 The ESHA along the highway is not protected by the 100' buffer that is required.
2. 3.5-1, 3.5-2, 3.5-3 This proposed development is not sited and designed to protect views to and along the ocean and scenic coastal areas. It does not minimize the alteration of natural land forms and is not visually compatible with the character of surrounding areas. It is not subordinate to the character of its setting, but instead is too tall and visible from the highway and makes no effort to "tuck" into the setting. There are no other developments of its style in the area and it is not within the scope and character of existing development.
3. 3.5-3 This location is designated Highly Scenic. This proposed development is over 5,600 sq ft and does not provide for the protection of ocean and coastal views from public areas including Highway 1, Salmon Creek beach, and stream and the ocean. The public has been looking at the story poles for months recognizing that this 5,600 sq ft project is going to tower over the Highway and destroy the Highly Scenic ridgeline view. The special condition of planting trees is unrealistic as we have a tree virus which is killing our trees. The proposed site is located in a very windy area close to the ocean which is difficult for the growth and health of trees.
4. 3.5-4 This proposed location is sited on the top of a ridge. The parcel was created from a CoC and a boundary line adjustment and the site is zoned Rangeland 160. The magnitude of the proposed project is inappropriate for the site. The property is not buildable without destroying the intent of the Local Coastal Plan and intended zoning. The property is too small to tuck this massive development out of site. There is no fundamental or constitutional right to development of a CoC. The planner himself suggests that the site is so visible that any height of a building would be highly visible.
5. 3.5-8 Power transmission lines which will be visually intrusive within highly scenic corridors should be placed underground and there is no comment regarding this point in the application.
6. 3.5-9 The proposed application creates an encroachment onto Highway 1 and a 900 +/- foot long driveway to the home on top of the ridge. This road will parallel Highway 1 and be extremely visible as it will be placed in grassland destroying the scenic vista of the Anderson Ranch. Direct access to Highway 1 does not protect the coastal views. This road also crosses an ESHA. The application does not take into consideration the fact that Cal Trans is going to widen the road and replace the Albion Bridges,

and Salmon Creek

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7. Mendocino County Zoning Code Division II of Title 20

- a) Section 20.524.010 (B)
- b) Section 20.504.005, 20.504.010, 20.504.015
- c) Section 20.532.050, 20.532.095

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

**SECTION V. Certification**

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

\_\_\_\_\_  
Signature on File  
Signat. \_\_\_\_\_  
Appellant(s) or Authorized Agent

Date: 7/24/09

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

**Section VI. Agent Authorization**

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

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

6 of 6



COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES  
790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

IGNACIO GONZALEZ, DIRECTOR  
Telephone 707-964-5379  
FAX 707-961-2427  
www.co.mendocino.ca.us/planning

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CALIFORNIA  
COASTAL COMMISSION

July 8, 2009

NOTICE OF FINAL ACTION

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

**CASE#:** CDP #57-2008

**OWNER:** Michael Marr & Judith Malin

**APPLICANT:** Bob Hartstock

**REQUEST:** Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

**LOCATION:** In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

**PROJECT COORDINATOR:** Rick Miller

**HEARING DATE:** June 25, 2009

**APPROVING AUTHORITY:** Coastal Permit Administrator

**ACTION:** Approved with Conditions.

See staff report for the findings and conditions in support of this decision.

The project was not appealed at the local level.

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

EXHIBIT NO. 8

APPEAL NO.

A-1-MEN-09-034

MARR & MALIN

NOTICE OF FINAL LOCAL  
ACTION (1 of 40)

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDP # 57-2008 HEARING DATE: 6/25/09

OWNER: Marr / Malin

ENVIRONMENTAL CONSIDERATIONS:

Categorically Exempt

Negative Declaration

EIR

FINDINGS:

Per staff report

Modifications and/or additions

SEP ~~15~~ June 24, 2009 Memo "ADDENDUM to CDP 57-2008"  
THAT ILLUSTRATE 10 FINDINGS

ACTION:

Approved

Denied

Continued

CONDITIONS:

Per staff report

Modifications and/or additions

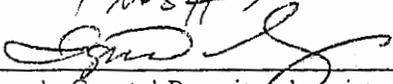
*\* MODIFICATIONS of SPECIAL CONDITIONS  
ON PG CPA-15*

Modified CONDITION 3d ADDING sentence at end of condition  
to read: "However, this shall not be applicable to those  
areas within Caltrans Right-of-Way."

Modify COND #4 twenty first sentence to read:

"Prior to issuance of the Coastal Permit,  
the Applicant shall submit for review  
and approval of the Coastal Permit

Administrator a landscape/planting plan to  
provide a visual buffer of the development  
as viewed from Highway One, south of

*(Nestff)*  
  
Signed: Coastal Permit Administrator

Mendocino County Dept. of Planning & Building Services  
Coastal Planning Division  
790 South Franklin Street  
Fort Bragg, CA 95437  
707 964-5379 (tel) • 707 961-2427 (fax)

## MEMORANDUM

TO: Coastal Permit Administrator  
FROM: Rick Miller, Project Coordinator   
DATE: June 24, 2009  
SUBJECT: Addendum to CDP 57-2008 (Marr & Malin)

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The intent of this addendum is to provide additional analysis for the project findings found on Page CPA 12-13 of the staff report required to approve the project and provide a preliminary response to the public comments received in response to the staff report.

Section 20.532.095 of the MCCZC lists the required findings for any coastal development permit. These findings are generally supported by the body of the staff report which methodically analyzes the project's consistency with the LCP. This analysis is broken down into section headings in the report which mirror the order and content of the coastal zoning code, the implementing ordinance for the Coastal Element. Page CPA-2 of the report provides a summary of issues as they relate to the LCP that staff identified as presenting potential issues. The proposed project raises issues regarding: (1) use of the proposed guest cottage for residential use before and during construction of the residence, (2) geotechnical bluff setback, (3) visual impacts due to its location in a designated Highly Scenic Area and its visibility from Highway One, and (4) natural resources protection and mitigation measures. Regarding the fourth issue, natural resources, staff recommends adding supplemental findings for approval as required by Section 20.532.100 (A) (1) of MCCZC to provide a greater assurance for the CPA that the project is in compliance with the intent of natural resource protection requirements of the LCP.

### FINDINGS:

1. *The proposed development is in conformity with the certified Local Coastal Program; and*

The proposed residential development is a principally permitted use of the Range Lands Zoning District per Chapter 20.368 of MCCZC. Use of the proposed accessory structure for occupancy prior to and during construction of the proposed SFR is addressed in Special Condition Number 1. The site is located east of Highway One and the project does not create any public access issues. Hazards have been adequately addressed in the report including hazards associated with the river bluff per Chapter 20.500 of the MCCZC, see Special Conditions Number 2 and 3. Also, Calfire has reviewed the project and provided a Fire Safe Standards clearance for the project, see Standard Condition Number 4. The development is located in a designated Highly Scenic Area on the East side of Highway One. Page CPA 5-8 provide detailed analysis of the project's compliance with visual resource protection requirements of the LCP. Special Condition Number 4 has been added for this purpose. Grading, erosion and runoff requirements have been analyzed and a Special Condition Number 5 has been added. The natural resource analysis has been extensive for the project. A comprehensive report has been prepared for the project. The project was modified to eliminate wetland impacts by using the existing ranch gate encroachment of Highway One as opposed to installing a new driveway encroachment in wetland habitat, see Special Condition Number 6. This

topic will be discussed in greater detail below and staff is recommending the adoption of supplemental findings for the encroachment. An Archaeological report has been prepared and approved by the Mendocino County Archaeological Commission for the project and Standard Condition Number 8 is added for extra assurance. The County Division of Environmental Health has reviewed the project and the development would be served by an on-site septic disposal system and on-site water well. The owner has obtained an encroachment permit from Caltrans for the driveway onto Highway One.

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

As discussed throughout the staff report, adequate utilities, access and other necessary facilities can be provided.

3. *The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and*

With the exception of the legal non-conforming parcel size for the RL 160 Zoning District, the project is consistent with the purpose and intent of the LCP as discussed in detail in the staff report.

4. *The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.*

Staff has determined the project is categorically exempt from CEQA per Class 3 and the project would not have any significant adverse impacts on the environment.

5. *The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*

This finding can be made, see Page CPA 12 and Standard Condition Number 8.

6. *Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.*

The project is within the service district of Empire Waste Management and is in close proximity to the Albion Transfer Station located on Albion Ridge Road for solid waste disposal. An encroachment permit has been issued by Caltrans for the driveway opening onto Highway One. Telephone, and PG&E power can be extended to the project site.

Section 20.532.100 of MCCZC provides required supplemental findings where they are applicable. The site is zoned Range Lands so the following finding was added to Page CPA 13 of the report. The subject parcel is only four acres in size. The parcel was legally recognized through the Certificate of Compliance process. The project does not preclude the use of the property for grazing or farming purposes anymore than the parcel would enjoy without the proposed residential improvements. Therefore Finding Number 7 was included in the staff report.

Natural Resources (wetlands adjacent to the highway):

Section 20.532.100 (A) (1) of MCCZC provides supplemental findings for development within an ESHA. The project does not propose any new development within the identified ESHAs. Due to state budget constraints, the Department of Fish and Game personnel who usually provides a site review and consultation on the reduced ESHA buffers and proposed mitigation measures was not permitted to travel during our project review period. However, the project has been carefully designed to reduce and eliminate project impacts. Page CPA 9-12 discusses the ESHAs and their respective protective buffers. The proposed driveway encroachment was relocated south of the original area in order to avoid the need to fill a previously undisturbed wetland. By utilizing the existing ranch gate opening, the project eliminated the need to place any new fill material in the wetland. The original area was proposed where the wetland is the widest and has not previously been disturbed. The encroachment relocation also eliminated the need for the second Calfire turnout which clipped the edge of the wetland because it reduced the overall length of the driveway. There is no alternative access to the site except directly off Highway One. Extensive mitigation measures have been added to the project per Special Condition Number 6 to ensure that the resources will not be degraded by the project. Section 20.532.100 (A) (1) of MCCZC requires the following findings for development in an ESHA:

8. The resource as identified will not be significantly degraded by the proposed development.
9. There is no feasible less environmentally damaging alternative.
10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

**Public Comments:**

A letter was received from the Sierra Club, Mendocino Group on the project. They request the CPA deny the project due to inconsistencies with the Range Lands Zoning District, visual resource protection and ESHA protections. A second letter received from Melissa Hays also recommends denial of the project due to SB 497 and the County's use of Certificates of Compliance.

**Zoning:** The subject parcel was recognized through the Certificate of Compliance process. The four acre site is a legal non-conforming parcel size. It is no unusual to have existing parcels which do not meet the current minimum lot size of the district. The four acre site simply cannot be subdivided. Each legal parcel of record is eligible to have one single family residence and accessory structures as long as the proposal meets the requirements for development per the LCP. The staff report documents the projects compliance with the LCP.

**Visual Resources:** The site is located in a designated Highly Scenic Area on the east side of Highway One. The maximum height limit is 28 feet. The height limit on the west side of Highway One is 18 feet and a single story unless an increase in height can be shown to not have a substantial negative impact and is found to be in character with surrounding development. This limitation does not apply to the east side of the highway. The height limit is simply 28 feet. The project complies with this height limit.

**Natural Resources:** The project has been carefully designed and revised to minimize and reduce all resource impacts as discussed in great detail in the report and this addendum.



COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES  
790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

notice marr malin cdp 57-2008  
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www.co.mendocino.ca.us/planning

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JUN 19 2009

CALIFORNIA  
COASTAL COMMISSION

June 11, 2009

PUBLIC NOTICE OF PENDING ACTION  
STANDARD COASTAL DEVELOPMENT PERMIT

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, June 25, 2009 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

**CASE #:** CDP #57-2008  
**DATE FILED:** 10/6/2008  
**OWNER:** Michael Marr & Judith Malin  
**APPLICANT:** Bob Hartstock  
**REQUEST:** Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.  
**LOCATION:** In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).  
**PROJECT COORDINATOR:** Rick Miller

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

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

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

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

*Staff reports for agenda items may be accessed and printed from the County website. Go to [www.co.mendocino.ca.us/planning](http://www.co.mendocino.ca.us/planning)*

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

Frank Lynch, Coastal Permit Administrator

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)  
June 25, 2009  
CPA-1

OWNERS: Michael Marr & Judith Malin  
43 Hillside Ave.  
Portsmouth, RI 02871

APPLICANT/AGENT: Bob Hartstock  
PO Box 319  
The Sea Ranch, CA 95497

REQUEST: Construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. Construct a detached accessory structure which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the accessory structure would be occupied as a temporary residence before and during construction of the proposed residence. Associated development includes: upgrading an existing encroachment onto Highway One, construct a 900± foot long driveway, place a construction trailer, install a septic disposal system, drill a water well and install a water storage tank.

LOCATION: In the Coastal Zone, ¼ ± mile south of Albion and immediately north of Salmon Creek, on the east side of Highway One at 2800 North Highway One (APN: 123-350-06).

APPEALABLE AREA: Yes (Highly Scenic Area & ESHA)

PERMIT TYPE: Standard

TOTAL ACREAGE: 4.17 ± Acre

ZONING: Range Lands

GENERAL PLAN: RL - 160

EXISTING USES: Undeveloped

SUPERVISORY DISTRICT: 5th

ENVIRONMENTAL DETERMINATION: Categorically Exempt Class 3

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)  
June 25, 2009  
CPA-2

CALIFORNIA COASTAL RECORD IMAGE: 200503594

**OTHER RELATED APPLICATIONS:** This parcel was originally part of a larger ranch, the Anderson Ranch. Certificate of Compliance # CC 27-92 and CC 1-2000 recognized 29 legal parcels on the original ranch. The current parcel configuration of the subject parcel was the result of Coastal Development Boundary Line Adjustment (CDB) 76-2004 which reconfigured four of the CC parcels into three. CDB 76-2004 was approved by the CPA 3/25/05 and a BLA completion certificate was issued 1/4/2006. As a side note, #CDB 36-2000 was a project to reconfigure the parcels recognized by CC 27-92 & CC 1-2000 which was approved by the Coastal Permit Administrator on June 29, 2001 but was subsequently appealed to the Coastal Commission. The application has since been withdrawn. Additionally, #CDB 28-96 was approved by the Coastal Permit Administrator October 25, 1996, which reconfigured two of the CC parcels but the application was never completed.

**PROJECT DESCRIPTION:** The owner would construct a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet on an approximately four acre parcel situated on the north side of Salmon Creek adjacent to Highway One. The proposed single story structure would have a maximum average height of 21 feet above natural grade. A detached accessory structure would be built which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. The guest cottage portion of the structure would be occupied as a temporary residence while the proposed home is being constructed. Both structures would be clad in redwood shingle siding with a clear finish, black or charcoal grey composition shingles and bronze anodized aluminum windows. Associated development includes upgrading an existing encroachment onto Highway One north of the building site and a 900± foot long driveway which parallels the highway and then turns east to the proposed building sites. A construction support trailer would be placed near the proposed workshop. A new on site septic disposal system would be installed northeast of the proposed residence. A new on site water well would be drilled and a 2,000 gallon water storage tank would be installed behind a six foot tall fence. An LPG tank would be installed behind a five foot tall fence surround near the northwest side of the proposed workshop.

The agent explained that the owner intends to build the workshop/guest cottage structure first. The guest cottage will have a temporary kitchen, bath and multi-use room. Once the workshop structure has been completed, the owner will proceed to construct the single family dwelling and attached garage. During construction, the owner will be living in the guest cottage portion of the workshop. Once the main dwelling is complete, the owner will move out of the guest cottage and remove the temporary kitchen.

**SUMMARY OF ISSUES:** The proposed project raises issues regarding: (1) use of the proposed guest cottage for residential use before and during construction of the residence, (2) geotechnical bluff setback, (3) visual impacts due to its location in a designated Highly Scenic Area and its visibility from Highway One, and (4) natural resources protection and mitigation measures.

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

**Land Use:** The parcel is classified on the Coastal Plan Map as Range Lands (RL). The parcel is similarly zoned: RL: L-160. The proposed single-family residence and associated development are permitted uses within the Range Lands Zoning District, and are consistent with the Range Lands land use classification.

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)  
June 25, 2009  
CPA-3

The required yard setbacks for a parcel in a RL zone are usually 50 feet from all property lines but the subject parcel is less than five acres so the setbacks can be reduced to 20 feet. Calfire is requiring a minimum setback of 30 feet for all structures through their Fire Safe Regulations. As shown on the Site Plan, the structures comply with setbacks required by the County Zoning Code and Calfire.

The site is within a designated highly scenic area on the east side of Highway One, therefore the height limit is 28 feet above natural grade. The proposed residence and detached workshop structures would enjoy maximum average heights of 21 and 24 feet above natural grade respectively. Additionally, the project complies with lot coverage limits.

The proposed use is compatible with the long-term protection of agricultural resource lands, and the supplemental finding for resource lands with the Range Lands designation, found in Section 20.532.100(A)(2) of the Mendocino County Coastal Zoning Code (MCCZC), is included as Finding Number 7 near the end of this report.

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

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

*(D) Shops (non-business)*

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

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

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

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

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

As explained in the Project Description above, the owner would occupy the guest cottage as a "temporary" residence until the proposed main residence is completed. The agent stated that when the guest cottage is remodeled to remove the kitchen the stove would be removed but the wetbar (counter and sink) and refrigerator would remain for future guests to use. However, the guest cottage regulations state that cottages shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food. Therefore, the wetbar and refrigerator would need to be removed from the guest cottage.

Special Condition Number 1 is recommended to ensure the guest cottage will not have a kitchen or cooking facilities, will be clearly subordinate and incidental to the primary dwelling and will not be

separately rented, let, or leased whether compensation be direct or indirect. The condition also addresses the temporary use of the guest cottage as a residence before and during construction of the proposed single family residence.

**Public Access:** The project site is located east of Highway 1 and public access to the shoreline will not be affected by the project.

**Hazards:** The subject parcel is adjacent to a bluff associated with the north bank of the Little-Big Salmon Rivers. The LUP contains policies relating to development on parcels subject to threats from geologic hazards.

Policy 3.4-7 of the Coastal Element of the General Plan states:

*The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*

$$\text{Setback (meters)} = \text{Structure life (years)} \times \text{Retreat rate (meters/year)}$$

*The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.*

*All grading specifications and techniques will follow the recommendations cited in the Uniform Building Code or the engineering geologists report*

Blufftop setback requirements for new structures pursuant to Coastal Element Policy 3.4-7 are codified by Section 20.500.020(B)(1) of the MCCZC. The owner obtained a Geotechnical and Geologic Investigation report (dated June 2008) from SHN Consulting Engineers and Geologists, Inc. which addresses the proposed project. According to SHN, the subject property is located approximately ¼ mile south of Albion on a gently, southwest sloping stream valley wall or bluff-top. The bluff top is composed of an uplifted marine terrace that is bound to the south by the left bank of the Little-Big Salmon Rivers and to the west by Highway One. The southerly boundary of the project area abuts the crown of a southwest facing cliff that parallels the north bank of the river. Slope gradients on the face of the bluff range from 50% to near vertical, with the steeper areas affiliated with resistant bedrock outcrops. The bluff has an access road cut across the lower benches. Recent and historic ground movement is evident along portions of the bluff edge as well as on the surfaces of the bluff slope leading down to the Little and Big Salmon Rivers. SHN goes on to say that vegetation at the site consists mainly of grasses and forbs covering the open sites and several stands of trees to the east, with dense brush extending down the face. Elevations in the project area range from 140 feet above Mean Sea Level (MSL) at the bluff edge to about 20 feet MSL along the southern margin of the project site.

The steep-faced valley wall situated below the project area is located along the inner edge of a broad, northward migrating meander of the Big and Little Salmon Rivers. This meander is positioned near the back edge of Whitesboro Cove. This bluff was analyzed by SHN to ensure the proposed structures would be set back a safe distance from this natural feature. SHN's report explains that if the long term average rate of retreat to the design life (75 years) is applied to the project site, about 4 feet of retreat would occur. However, given the site's proximity to the San Andreas Fault, there is a potential it will experience strong

seismic shaking during the lifetime of the structure. Such shaking could lead to coseismic landsliding along slopes that have not yet experienced recent mass wasting. The earliest aerial photograph, taken in 1963, was nearly 60 years after the 1906 earthquake. Evidence of coseismic slope failure in the site vicinity from the 1906 event could not be discerned in the photographs. In order to assess an appropriate setback, SHN included geomorphic observations from their field assessment. A possible older scarp feature was observed south west of the proposed residence, and the head of a small gully (an erosion feature) exists immediately south of the project. Given the relatively low rates of erosion observed, and the proximity of the San Andreas Fault, SHN recommends a setback of 40 feet from both the potential scarp and bluff edge. The project has been designed to accommodate the recommended setback.

The SHN report makes additional recommendations for site preparations, foundations, drainage and erosion and grading. SHN also recommends that they monitor subgrade preparations, grading of structural fill and monitor foundation excavations. Staff recommends Special Condition Number 2, requiring that the recommendations in the geotechnical report prepared by SHN be incorporated into the design and construction of the proposed development. Prior to construction the final grading and building plans would be reviewed by SHN or another qualified geotechnical or civil engineer.

The property is in an area that has a "moderate" fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention (Calfire). Calfire has submitted recommended conditions of approval (CDF# 315-08) for address standards, driveway standards, structural setbacks and defensible space standards. Standard Condition Number 4 is recommended to achieve compliance with Calfire fire safe standards.

It is the policy of the Coastal Commission and the County to require recordation of a deed restriction as a condition of development on blufftop parcels (usually ocean bluff parcels), prohibiting the construction of seawalls and requiring that permitted improvements be removed from the property if threatened by bluff retreat. This project was analyzed in a similar fashion to ocean front blufftop parcels even though the parcel sits above bluff which is not immediately adjacent to the ocean. The recommended restriction also requires that the landowner be responsible for any clean up associated with portions of the development that might fall onto the river or beach. Therefore, staff finds that a similar restriction is warranted in this situation and recommends the inclusion of Special Condition Number 3.

**Visual Resources:** The parcel is located in a designated "Highly Scenic Area" east of Highway 1 and the proposed project is subject to the following development criteria:

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

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

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Policy 3.5-3 of the Coastal Element states:

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

Sec. 20.504.015 (C) (3) of the Coastal Zoning Code states in part:

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

Section 20.504.015(C) (6) of the MCCZC provides criteria to minimize visual impacts of development on hillsides (pertinent part):

*(c) Designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites;*

*(d) Concentrate development near existing major vegetation, and*

*(e) Promote roof angles and exterior finish which blend with hillside.*

The proposed development would be visible from Highway 1. Story poles for both of the proposed buildings have been erected on site to provide staff with a reference to assist in analyzing the potential visual resource impacts of the project. The building site is a relatively gently sloping open grassland which provides stunning views of the Little-Big Salmon Rivers mouth, bridge and ocean beyond. The building site is highly visible from Highway 1 south of the site. When a traveler is south of the Salmon River Bridge heading north, the proposed buildings will be highly visible. When a traveler is on the bridge travelling north the buildings will silhouette the skyline. The building site is more hidden from the north of the site as one travels south along the highway due to topography and natural vegetation.

Two buildings are proposed for the project. The westerly building would be a 2,524± square foot single family residence with a 634± square foot attached garage and 329± square feet of covered porches for a total size of 3,487± square feet. The proposed single story structure would have a maximum average height of 21 feet above natural grade. The building features a raised clear story window ridge above the residence portion of the building. The southwest elevation of the structure is approximately 55 feet long. The southeast elevation is approximately 70 feet long. The attached garage is tucked in behind the house from public view. East of the proposed house site, a detached accessory structure would be built which includes a 1,516± square foot garage/workshop, a 501± square foot guest cottage and 121± covered porch. The proposed accessory structure would have a maximum average height of 24 feet above natural grade and a total size of 2,138± square feet. This building also features a raised clear story window ridge. These raised ridge features do increase the overall height of the buildings but they also provide an interesting architectural design feature. The clear story windows also provide an alternative to roof skylights which tend to spill light and illuminate the night sky. The owner provided staff with many photographic examples of buildings on the coast which have a similar design in an effort to show that the design concept was common.

Staff was originally uncomfortable with the building heights considering these were single story buildings, however after conducting several site views it was evident that the buildings would be highly

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visible regardless of their maximum heights. Additionally, the building site is rather confined due to lot line setbacks, ESHA buffer areas, septic and well locations and the bluff setback. Considering the subject parcel is four acres, there are not a lot of options of where a residence and customary accessory structure could be built. Staff believes that shorter buildings would still be highly visible and would silhouette the skyline when viewed from the center of the Salmon Creek Bridge. If staff had found that shorter buildings would be less visible from the highway or be more protective of public views to or along the ocean, a reduction in building height may have been recommended but this was not the case. Furthermore, the maximum building height in designated highly scenic areas east of Highway 1 is 28 feet. The location of the accessory structure east (behind) the residence will help hide that building from the main public view of the project. Staff focused more on the proposed exterior materials, exterior lighting and the potential use of view screening landscaping to achieve compliance with visual resource policies of the LCP. Both buildings would use the same exterior material palettes.

Proposed exterior materials and colors are as follows:

	Material	Color
Siding	Redwood shingles	Clear finish
Trim	Redwood	Clear finish
Chimney	Brick	Red
Roofing	Fiberglass Comp. Shingle	Black or charcoal grey
Window Frames	Anodized aluminum	Bronze
	All exposed metal	Black/charcoal grey except copper

The proposed exterior colors are natural, dark and provide minimal contrast with each other and the surrounding environment. The development would blend with the surrounding environment. Reflective surfaces are minimized. Building materials and colors have been carefully selected to blend in hue and brightness with their surroundings. The lack of contrasting trim color also allows the structures to recede into the viewshed as opposed to standing out.

Section 20.504.15(C) (10) of the MCCZC states:

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

Native tree and bush planting is being recommended as part of a landscape plan to help buffer the development from public views. The recommended planting would occur on the southwest side of the residence to break up the view of the proposed buildings.

Section 20.504.15(C) (13) of the MCCZC states:

*Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible.*

The project will gain access directly off of Highway 1. No alternate configuration is available. As discussed in greater detail under the Transportation/Circulation section of the report, the access is a proposed upgrade to a historic ranch opening approximately 630 feet north of the proposed building site. An alternative encroachment scenario was originally proposed north of the existing opening which would have required significant grading (fill) and would have required a longer access driveway fronting the

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highway to the building site. The applicant was able to have Caltrans change their sight distance requirement to allow the use of the existing encroachment. The encroachment location change significantly reduced potential impacts to wetland (ESHA) but also reduced the visual impacts as well.

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

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

Exterior lighting is proposed to be custom made wooden boxes closed on all sides except the bottom. This exterior fixture would ensure they fully shielded and downcast. These lights are consistent with the intent of the exterior lighting regulations of the LCP.

In summary, staff recommends Special Condition Number 4 be added by the Coastal Permit Administrator to address all the visual resource issues raised in the staff report. The condition would include the requirement for a screening landscape plan, no changes to the proposed exterior building materials and colors and ensure that the proposed exterior lighting fixtures are used for the project. The inclusion of Special Condition Number 4 would make the project consistent with the visual protection policies of the LCP including those specific to designated Highly Scenic Areas east of Highway 1.

**Grading, Erosion and Runoff:** The agent has estimated very little grading would be required to construct the project. However, there is no information provided regarding erosion control measures associated with the development.

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

- (A) The erosion rate shall not exceed the natural or existing level before development.*
- (B) Existing vegetation shall be maintained on the construction site to the maximum extent feasible. Trees shall be protected from damage by proper grading techniques.*
- (C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.*

Due to the presence of ESHA on site and the close proximity of the project to Salmon Creek, Special Condition Number 5 is recommended to require that an erosion control plan be submitted and approved that complies with the MCCZC prior to the issuance of the building permit.

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

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

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

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

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

The proposed footprint of the residence and workshop is on a relatively flat knoll, above the bluff. The proposed development would increase the amount of impervious surfaces on this lot, therefore increasing post-construction runoff. Increases in impervious surfaces in a watershed, such as roofs and roads, increases surface runoff from a site creating the potential to cause erosion and degrade aquatic health. Development in any watershed can have incremental impacts on watershed health therefore, it is recommended that roof top runoff be directed as sheet flow to landscaped areas to slow the rate of runoff and increase infiltration. Native and drought tolerant plants are recommended for landscaped areas. The landscaped area that accepts roof runoff may be considered a rain garden. Rain gardens are a stormwater infiltration and treatment option that include a shallow landscaped depression with designed soil and plant palate that are adapted to the local climate and soil moisture conditions. A rain garden may act as a landscape amenity, while providing an environmental benefit of storing and infiltrating roof runoff, and increasing groundwater recharge. Special Condition Number 5 is recommended to reflect this suggestion.

**Natural Resources:** Botanical and biological consultants, William Maslach and Playalina Nelson have conducted a comprehensive botanical survey and ESHA assessment of the subject parcel. Mr. Maslach prepared an initial report dated November 2007 and a revised report dated February 2009. Ms. Nelson provided an addendum report which was submitted on June 1, 2009. The addendum, addressed the revised driveway encroachment location (which lessened project impacts) and a restatement of project impacts and recommended mitigation measures. The reports provide the required analysis of the resources and required protective buffers per Chapter 20.496 of the MCCZC.

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

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

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

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

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*buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width.*

Mr. Maslach summarized the site's vegetation as predominately non-native grassland composed of exotic grasses and herbs. Some northern coyote brush scrub occurs on the south-facing slope at the end of the parcel and a grand fir forest occurs on the eastern side of the parcel and has Douglas fir and grand fir as dominant trees. The site contains two special-status species, one special-status plant community, and a California Coastal Act wetland. Much of the wetland is caused by impoundment of subsurface water at the base of Highway 1 fill prism, causing an unnatural condition on site. Essentially, the existing alignment of Highway 1 bisects a wet meadow and the construction of the highway now impedes the natural subsurface flow of water, causing the water to collect and spread along the uphill side of the road prism. Mr. Maslach conducted his field survey for botanical and wetland resources on April 17, May 3 and June 20, 2005 and May 6, June 18 and July 7, 2007.

William Maslach's report documented approximately 75 individual Point Reyes checkerblooms (CNPS List 1B.2), approximately one acre of grand fir forest (G1/S1.1), and approximately one acre Coastal Act wetland. The checkerblooms will be provided with a minimum 100 foot buffer. They occur within the wetland adjacent to Highway 1, north of the proposed driveway encroachment area. The grand fir forest would have a 50 foot minimum buffer to the proposed workshop and septic disposal system. The grand fir forest area is located in the northern end of the project site.

The need for safe vehicular access to the subject parcel off the highway and identified wetland posed the greatest design challenge from a resource protection standpoint. The applicant was able to reduce project impacts by getting Caltrans to accept a driveway encroachment where the existing rocked ranch gate was already installed and to move the driveway to the eastern most edge of the easement to avoid the wetland. The relocation significantly reduced the potential negative impacts. Playalina Nelson stated the design change reduced impacts by 85% and allowed the encroachment to completely avoid the 100 foot rare plant setback. She stated that with the implantation of the proposed mitigation measures, the road construction would not have a significant impact on the wetland. A series of mitigation measures has been proposed by the consultants in order to reduce the impacts to a level below significant.

Ms. Nelson's report states:

Because of the project modifications, mitigation measures are reevaluated from the previous report and presented here. Little has changed in the analysis of the proposed project utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) from the previous report other than a lessening of the wetland impact and avoiding the rare plant (Pt. Reyes checkerbloom) 100 foot buffer as mentioned above. The construction of the road would have a direct, minor impact on seasonal wetland habitat by crossing it with approximately 500 sq. ft. of crushed rock road, but the potentially significant loss is mitigated to a level that is less than significant. Mitigation measures have been provided to minimize adverse environmental effects. The construction of the road will be compatible with the continuance of the ESHAs by maintaining the functional capacity of the wetland and its ability to be self-sustaining, including maintaining natural species diversity. No significant change in topographic landforms is needed by constructing the road because the existing road is being utilized, and as a result there are no drainage modifications that would significantly alter the hydrology.

**Impact 1:** The proposed construction of the paved driveway approach and crushed rock road will result in crossing approximately 500 sq. ft. of Coastal Act wetland. Although an existing ranch

road and gate exist in the proposed location, a crushed rock road surface will be placed on the road to meet the California Fire Code requirements.

**Mitigation Measure 1a:** Enhance the quality of the disturbed wetland (approximately 500 sq. ft.) at the base of the Highway 1 berm. (This is a mitigation ration greater than 10:1.)

Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs. All exotic plants can be removed from the location with shovels. It will be the botanist's job to document the extent of exotic plants annually after each removal effort, and to make sure the owner or the owner's employee knows how to identify the aforementioned weeds.

**Mitigation Measure 1b:** Use permeable surfaces for road surfaces.

To reduce the potential for concentrated water runoff from leaving the proposed develop sites, a semi-permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway.

**Mitigation Measure 1c:** Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.

Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the outer edge of the road where it leaves the asphalt apron. This will ensure that equipment used in the construction of the road or extra piles of dirt do not intrude on the wetland.

**Mitigation Measure 1d:** Design the entrance road so that it is on the easternmost side of the access easement past the Highway 1 approach.

By making use of the easternmost side of the easement, a greater buffer is given to the seasonal wetland. The road will make use of the existing road that crosses the wetland and then it will avoid the wetland by paralleling it along the easement.

**Potential Impact 2:** The proposed development (house, workshop, and septic system) within the 50-100 foot buffer area from the grand fir forest ESHA may introduce levels of use not compatible with the long-term viability of the rare plants.

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

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

blue gum eucalyptus (*Eucalyptus globulus*)

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

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

periwinkle (*Vinca major*)

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

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

Special Condition Number 6 has been added requiring that the recommended mitigation measures become a mandatory part of the project.

**Archaeological/Cultural Resources:** The owner obtained an archaeological report. The report was prepared by Thad Van Bueren, dated March 26, 2005. No cultural, historical or archaeological sites were observed. The application and report was reviewed by the Mendocino County Archaeological Commission on February 11, 2009 and the report was accepted. Therefore, it is unlikely that any significant resources would be uncovered or destroyed as a result of the project. Nonetheless, Standard Condition Number 8 advises the applicant of the requirements of the County's Archaeological Ordinance, which establishes procedures to be followed in the event that archaeological or cultural materials are unearthed during site preparation or construction activities.

**Groundwater Resources:** The site is located within an area mapped as a Critical Water Resource Area (CWR). The development would be provided with sewage disposal by an on-site septic system. The system would be installed southeast of the proposed residence and the design has been approved by the County Division of Environmental Health. Domestic water would be provided from an on-site well located on the south side of the driveway and west of the proposed building site. The proposed project would have an incremental, but not significant, effect on groundwater resources.

**Transportation/Circulation:** Access to the project would be provided directly from Highway 1 at an existing ranch opening located approximately 630 feet north of the proposed building site. Minimal grading would be required to upgrade the existing ranch encroachment. As discussed above in the Natural Resources section of the report, the encroachment and driveway location have been revised and designed to achieve the required Caltrans sight distance requirements while providing maximum natural resources protection. The applicant already has secured an encroachment permit approval from Caltrans for the proposed encroachment onto Highway 1.

The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned.

**Zoning Requirements:** The project complies with the zoning requirements for the Range Land Zoning District set forth in Chapter 20.368 of the Coastal Zoning Code, and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

**PROJECT FINDINGS AND CONDITIONS:** Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions.

**FINDINGS:**

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities: and

3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and
7. The proposed use is compatible with the long-term protection of resource lands.

**STANDARD CONDITIONS:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.  
  
To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit is subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
  - a. The permit was obtained or extended by fraud.

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

**SPECIAL CONDITIONS:**

1. The owner shall be permitted to occupy the proposed guest cottage as a residence before and during the construction of the proposed single family residence. Prior to final building inspection of the residence, the owner shall remove all permanent or temporary and portable cooking or preparation of food areas including wetbars and refrigerators. The owner shall obtain a building inspection of the guest cottage unit to verify the food areas have been removed. Once owner occupancy of the guest cottage has ceased, the use of the guest cottage shall remain consistent with the provisions of Section 20.308.050(G)(I) and 20.308.070(K)(B) of the Coastal Zoning Code, in that it shall not contain facilities, either permanent or temporary and portable, for the cooking or preparation of food, it shall not be used as an independent dwelling unit, and it shall only be used by the occupants of the primary dwelling on the property or their guests, without compensation.
2. The recommendations in the Geotechnical and Geologic Investigation report (dated June 2008) from SHN Consulting Engineers and Geologists, Inc., shall be incorporated into the design and construction of the proposed project. Prior to issuance of the building permit, the applicant shall submit evidence that a qualified geotechnical or civil engineer has reviewed the final grading and building plans. No development shall be permitted within 40 feet of the blufftop edge.
3. Prior to the issuance of the Coastal Development Permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Coastal Permit Administrator which shall provide that:

- a) The landowner understands that the site may be subject to extraordinary geologic and erosion hazards and the landowner assumes the risk from such hazards;
  - b) The landowner agrees to indemnify and hold harmless the County of Mendocino, its successors in interest, advisors, officers, agents and employees against any and all claims, demands, damages, costs, and expenses of liability (including without limitation attorneys' fees and costs of the suit) arising out of the design, construction, operation, maintenance, existence or failure of the permitted project. Including, without limitation, all claims made by any individual or entity or arising out of any work performed in connection with the permitted project;
  - c) The landowner agrees that any adverse impacts to the property caused by the permitted project shall be fully the responsibility of the applicant;
  - d) The landowner shall not construct any bluff or protective devices to protect the subject single-family residence, garage, septic system, or other improvements in the event that these structures are subject to damage, or other erosional hazards in the future;
  - e) The landowner shall remove the house and its foundation when bluff retreat reaches the point where the structure is threatened. In the event that portions of the house, garage, foundations, leach field, septic tank, or other improvements associated with the residence fall to the river or beach before they can be removed from the blufftop, the landowner shall remove all recoverable debris associated with these structures from the beach and ocean and lawfully dispose of the material in an approved disposal site. The landowners shall bear all costs associated with such removal;
  - f) The document shall run with the land, bind all successors and assigns, and shall be recorded free of all prior liens and encumbrances, except for tax liens.
4. Prior to issuance of the coastal permit, the applicant shall submit for the review and approval of the Coastal Permit Administrator a landscape plan to provide a visual screen of the development as viewed from Highway One, south of the site. The plan is intended to partially buffer the view of the project but is not expected to completely hide the project. The plan shall utilize native vegetation and provide tall enough vertical elements to provide the expected visual buffer. All required landscaping shall be installed prior to final clearance of the building permit for the residence, or occupancy of the residence, whichever occurs first. All required landscaping shall be irrigated, staked, maintained, and replaced, as necessary, to ensure that a vegetative screen is established and maintained in perpetuity. Any future vegetation removal on the site shall require prior authorization from the Planning Division or, if it constitutes "major vegetation removal," shall require a coastal development permit amendment.

Any change in submitted and approved exterior colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.

STAFF REPORT FOR  
STANDARD COASTAL DEVELOPMENT PERMIT

CDP# 57-2008(Marr & Malin)  
June 25, 2009  
CPA-16

All exterior lighting fixtures shall match those submitted with the permit application and shall be downcast and shielded. Any changes shall be subject to the review and approval by the Coastal Permit Administrator for the life of the project.

5. Prior to issuance of the building permit, an erosion control plan which addresses disturbed earth caused by construction activities, shall be submitted for approval by the Coastal Permit Administrator. All areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily.

Roof top runoff should be conveyed as sheet flow to landscaped vegetation to encourage infiltration and groundwater recharge. The intent of this condition is to mitigate for the increased surface runoff that will occur from the increased impervious surfaces of the proposed structure.

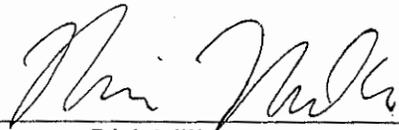
6. Mitigation measures provided in the biological report addendum received by the County on June 1, 2009, prepared by Playalina Nelson outlining mitigation measures for the project shall be mandatory requirements of the project (these measures are described in detail on page 11 of the staff report.)

It shall be the responsibility of the applicant to provide a copy of the mitigation measures outlined in this Coastal Development Permit as recommended by the consulting botanist, DFG, and planning staff, to any contractors, organizations, or volunteer groups engaged to perform work on the site in order that they are fully aware of the conditions of this permit and that all work performed is in compliance with all applicable mitigation measures and conditions.

Staff Report Prepared By:

6.12.09

Date



Rick Miller  
Senior Planner

Attachments: Exhibit A: Location Map  
Exhibit B: Site Plan  
Exhibit C: ESHA Site Plan  
Exhibit D: Residence Plans  
Exhibit E: Workshop/Guest Cottage Plans  
Exhibit F: Workshop Guest Cottage Plans with Kitchen  
Exhibit G: Workshop Guest Cottage Plans without Kitchen

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

Appeal Fee: \$945.00 (For an appeal to the Mendocino County Board of Supervisors.)





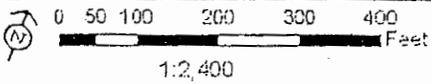
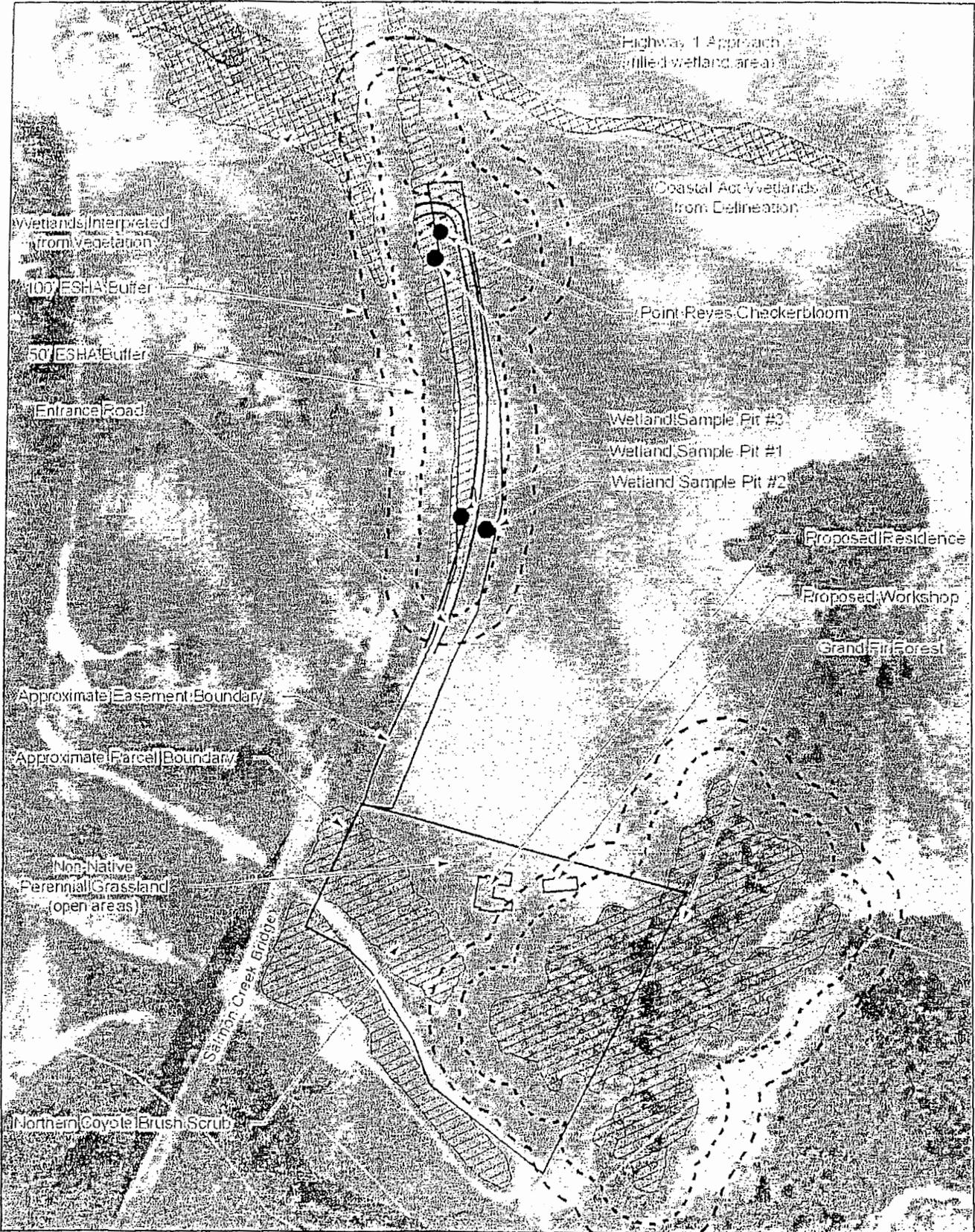
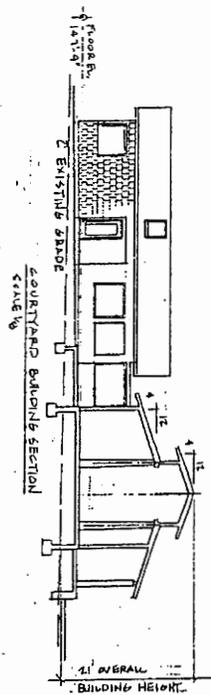
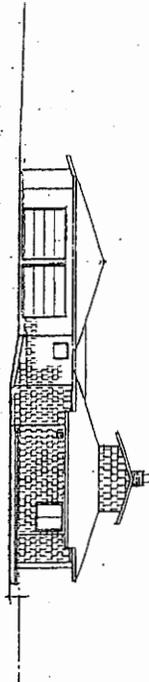


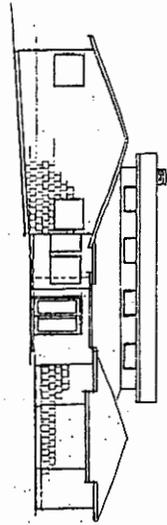
Figure 1. ESHA Map with Buffers. Wetland delineation pits are shown.



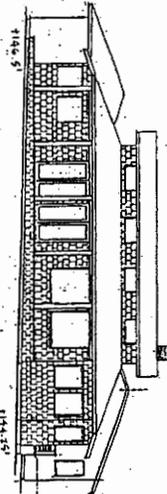
NORTHWEST ELEVATION



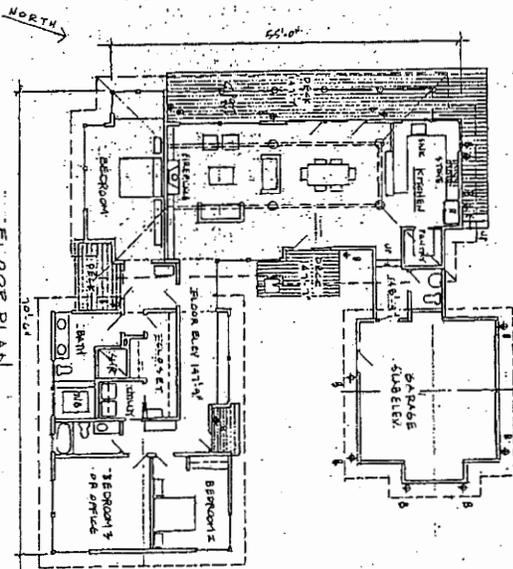
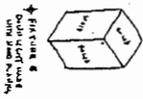
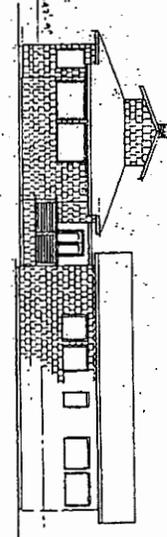
NORTHEAST ELEVATION



SOUTHWEST ELEVATION  
 SCALE 1/8\"/>



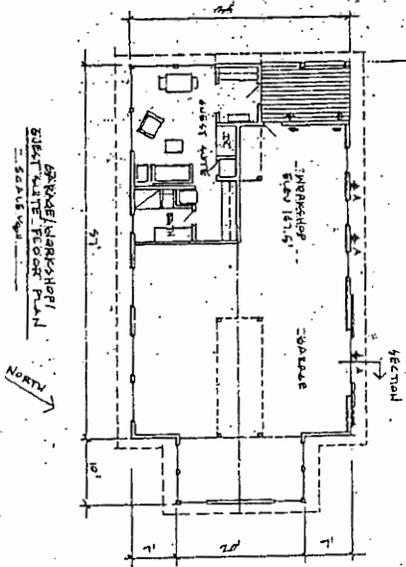
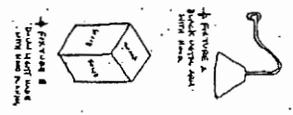
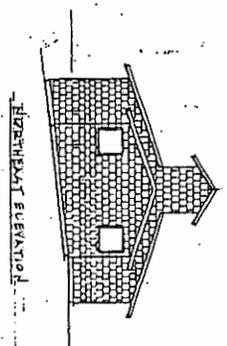
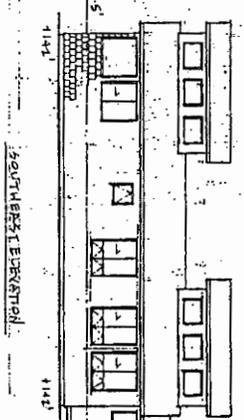
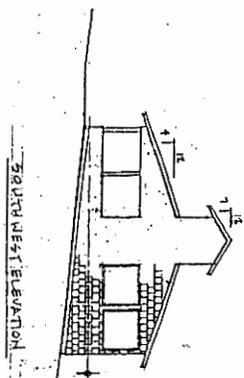
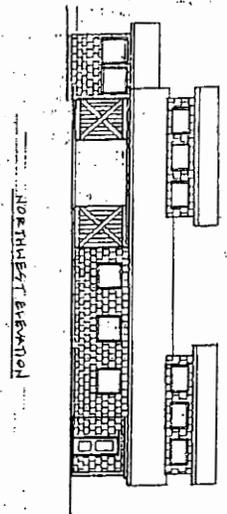
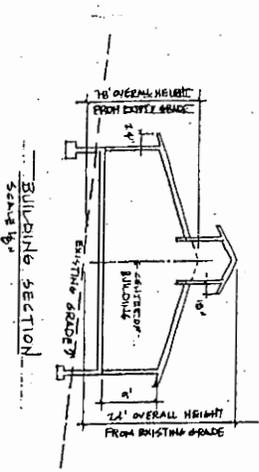
SOUTH EAST ELEVATION



FLOOR PLAN  
 SCALE 1/8\"/>

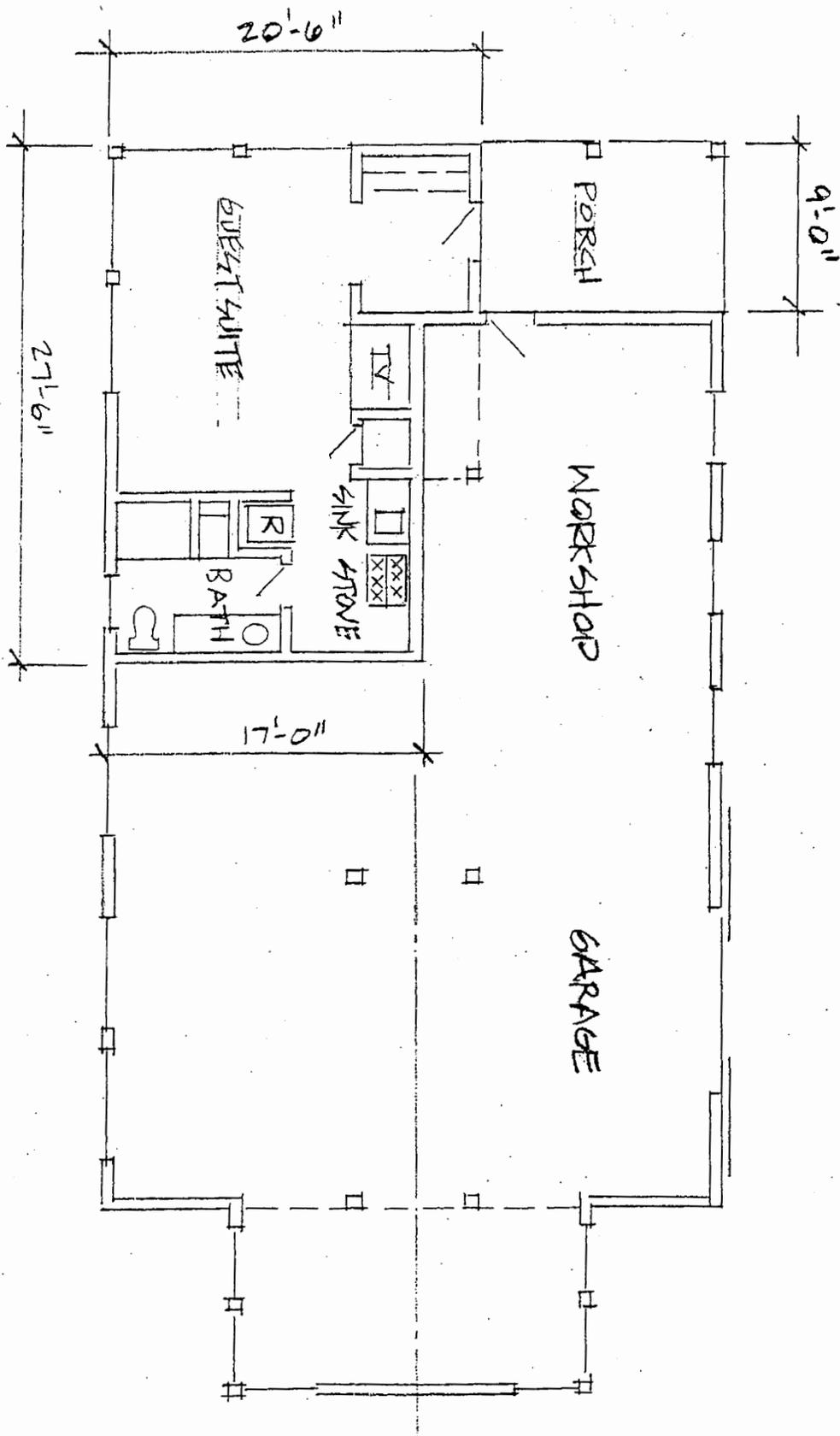
- MAIN RESIDENCE:**  
 EXTERIOR BUILDING MATERIALS:
- 1) Siding shall be vertical shingles with a clear finish.
  - 2) Windows shall be double hung, 2" Fiberglass insulator, white black or colored vinyl.
  - 3) Windows shall be insulated. Bronze Anodized Aluminum with steel.
  - 4) All material shall be painted white/colored gray, second option.

**MAIN RESIDENCE:**  
 BUILDING SIZE:  
 HOUSE: 3,434 sq. ft.  
 GARAGE: 2,214 sq. ft.  
 COVERED PORCHES: 228 sq. ft.



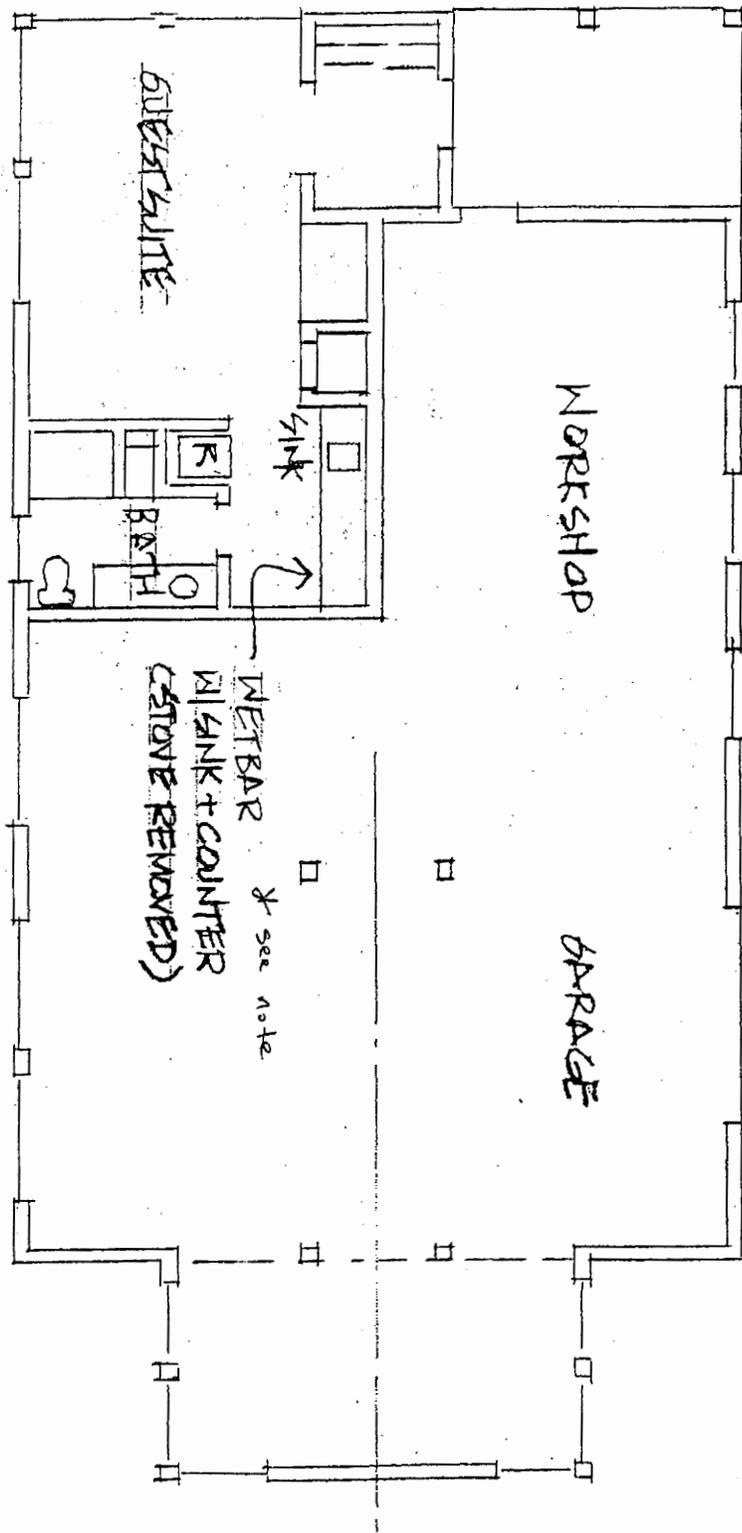
- BUILDING 2**  
 GARAGE/WORKSHOP/GUEST SUITE  
 EXTENSION BUILDING MATERIALS:
- 1) All masonry shall be finished with a 1/2" x 1/2" brick.
  - 2) All wood framing shall be a minimum of 2" x 4" Douglas fir-larch, select grade.
  - 3) Work shall be finished with a minimum of 1/2" of 1/2" x 1/2" aluminum with steel.
  - 4) All metal shall be painted with a minimum of 2 coats of primer.

BUILDING 2	
GARAGE/WORKSHOP/GUEST SUITE	
BUILDING SIZE:	
WORKSHOP/GARAGE	3,854 sq. ft.
GUEST SUITE	803 sq. ft.
COVERED PORCH	521 sq. ft.
<b>TOTAL</b>	<b>2,138 sq. ft.</b>



PLAN 'A' GARAGE/WORKSHOP/GUEST SUITE  
W/ TEMPORARY KITCHEN 02-25-09

MARR/MALIN RESIDENCE  
2800 HIGHWAY ONE



PLAN 'B' GARAGE/WORKSHOP/GUEST SUITE  
w/ WET BAR  
02-25-09

MARR/MALIN RESIDENCE  
2800 HIGHWAY ONE

\* per Special Condition 1,  
staff recommends all food  
prep. and storage be removed.



COUNTY OF MENDOCINO  
 DEPARTMENT OF PLANNING AND BUILDING SERVICES  
 790 SOUTH FRANKLIN STREET · FORT BRAGG · CALIFORNIA · 95437

RAYMOND HALL, DIRECTOR  
 Telephone 707-964-5379  
 FAX 707-961-2427  
 www.co.mendocino.ca.us/planning

**RECEIVED**

DEC 01 2008

CALIFORNIA  
 COASTAL COMMISSION

November 26, 2008

Planning-Ukiah  
 Environmental Health  
 Building Inspection (FB)  
 Assessor

Arch Commission  
 Caltrans  
 US Fish & Wildlife Service  
 Dept of Fish & Game

Coastal Commission  
 Albion-Little River Fire District

**\*CASE#:** CDP #57-2008  
**OWNER:** Michael Marr & Judith Malin  
**AGENT:** Bob Hartstock  
**REQUEST:** Construct a 2,524+- square foot single-family residence with a 634+- square foot attached garage and approximately 330 square feet of covered porches for a total size of 3,437 square feet. The proposed single-story residence is to have a maximum average height of 21 feet above grade. Construct a detached accessory structure, which includes a 1,516+- square foot garage/workshop, 501 square foot guest cottage and 121 square foot covered porch. The structure is to have a maximum average height of 24 feet above grade and a total size of 2,138 square feet. Associated development includes: creation of a new driveway encroachment on to Highway One, a septic disposal system, water well, driveway, water storage tank.

**APPEALABLE AREA:** Yes

**LOCATION:** In the coastal zone, approximately 1/2 mile S of Albion and immediately N of Salmon Creek, on the E side of Highway One at 2800 N. Highway One, Albion (APN 123-350-06).

**\*PROJECT COORDINATOR:** Rick Miller  
**RESPONSE DUE DATE:** December 11, 2008

**\*PLEASE NOTE THE CASE NUMBER AND NAME OF PROJECT COORDINATOR WITH ALL CORRESPONDENCE TO THIS DEPARTMENT.**

Attached to this form is information describing the above noted project(s). The County Department of Planning and Building Services is soliciting your input, which will be used in staff analysis. If we do not receive a response within fifteen (15) days, we will assume no response is forthcoming.

You are invited to comment on any aspect of the proposed project(s). Please address any concerns or recommendations on environmental considerations and specific information regarding permits you may require to the project coordinator at the above address.

**REVIEWED BY:** Name \_\_\_\_\_ Department \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ No Comment

\_\_\_\_\_ Comment to follow

\_\_\_\_\_ Comments attached or Below

# COASTAL DEVELOPMENT PERMIT REVIEW SHEET

STANDARD     ADMINISTRATIVE     MODIFICATION  
 USE PERMIT     VARIANCE     \_\_\_\_\_  
APPEALABLE AREA:  YES     NO    H.S.A.

CDP # 57-2008  
DATE FILED: 10.6.08  
GOV'T CODE DATE: \_\_\_\_\_

OWNER: Michael Merr + Judith Melin

APPLICANT: Bob Hartstock

AGENT: Bob Hartstock

REQUEST: Construct a 2,524± sq. ft. single family residence w/ a 634± sq. ft. attached garage and approx. 330 sq. ft. of covered porches. Proposed single story residence to have a new avg. height of 21 ft. above grade. Construct a detached accessory structure which includes 1,516± sq. ft. garage/workshop, 501 sq. ft. guest cottage, and 121 sq. ft. covered porch. Structure to have max. avg. height of 24 ft. above grade and total size of 2,138 sq. ft. \*

LOCATION: In the coastal zone, approx. 1/2 mile S of Albion + immediately N of Salmon Creek, on the E side of Hwy 1 at 2800 N Highway One (APN: 123-350-00).

STREET ADDRESS: 2800 N. Highway One    APN: 123-350-06

GENERAL PLAN: RL 160    ZONING: RL 160    PARCEL SIZE: ± 16± sq. ft. (A)

EXISTING USES: Vacant    SUPERVISORIAL DISTRICT: 5

RELATED CASES: COB 76-2004, ST 25095 (septic)

PERMITS ON HOLD PENDING CDP: \_\_\_\_\_

## REFERRAL AGENCIES:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Environmental Health  | <input type="checkbox"/> Air Quality Management District                   |
| <input checked="" type="checkbox"/> Building Inspection   | <input type="checkbox"/> RWQCB   |
| <input checked="" type="checkbox"/> Assessor  | <input type="checkbox"/> MHRB  |
| <input checked="" type="checkbox"/> Coastal Commission  | <input type="checkbox"/> GMAC  |
| <input type="checkbox"/> Sonoma State/CHRIS   | <input type="checkbox"/> _____ Sewer District                              |
| <input type="checkbox"/> DOT  | <input type="checkbox"/> _____ Water District                              |
| <input checked="" type="checkbox"/> Caltrans  | <input checked="" type="checkbox"/> <u>Albion</u> Fire District            |
| <input type="checkbox"/> Dept. of Parks and Recreation  | <input type="checkbox"/> _____ Community Services District                 |
| <input checked="" type="checkbox"/> Dept. of Fish and Game - <i>save referral for hand delivery w/ report</i> | <input type="checkbox"/> _____ City Planning Department                    |
| <input type="checkbox"/> Native Plant Society   | <input type="checkbox"/> _____ School District                             |
| <input checked="" type="checkbox"/> US Fish and Wildlife Service - <i>send copy of botanical report</i>       | <input checked="" type="checkbox"/> <u>Arch. Comm. - include report</u>    |
| <input type="checkbox"/> Army Corps of Engineers  | <input checked="" type="checkbox"/> <u>Ukiah PBS (info from COB 76-04)</u> |
| <input type="checkbox"/> County Water Agency  | <input type="checkbox"/> _____   |

PROJECT COORDINATOR: Rick Melin    PREPARED BY: RH    DATE: 11.24.08

# ENVIRONMENTAL DATA

- S NO
1. CDP Exemption or CDP Exclusion
  2. LUP Map Number 18
  3. Blufftop Parcel
  4. Highly Scenic Area: East or West of Hwy 1
  5. Adjacent to State Forest/Park/Recreation Area
  6. Within/Adjacent to Agriculture Preserve or TPZ
  7. Within Mendocino Historical Preservation District: Zone A or B
  8. Alquist-Priolo Earthquake Fault Zone (from Manchester to Gualala)
  9. Floodplain/Floodway
  10. Natural Diversity Data Base #s See report
  11. ESHA - Riparian, Wetland, Rare Plants, Sand Dunes,  
Pygmy Vegetation and/or Soils
  12. Building Envelopes/Buffer Zones see report + geology
  13. Geotechnical Hazards: Coastal Bluff, > 20% Slopes see report
  14. Coastal Groundwater Zone: SWR MWR CWR CWRbr
  15. Fire Hazard Classification: CDF Exempt or CDF# 315-08  
Moderate High Very High

QA Status: \_\_\_\_\_

ADDITIONAL INFORMATION:

COUNTY OF MENDOCINO  
 DEPT OF PLANNING & BUILDING SERVICES  
 790 SOUTH FRANKLIN STREET  
 FORT BRAGG, CA 95437  
 Telephone: 707-964-5379

Case No(s) 57-2008  
 CDF No(s) \_\_\_\_\_  
 Date-Filed \_\_\_\_\_  
 Fee \_\_\_\_\_  
 Receipt No. \_\_\_\_\_  
 Received by \_\_\_\_\_  
 Office Use Only

COASTAL DEVELOPMENT PERMIT APPLICATION FORM

Name of Applicant <u>BOB HARTSTOCK</u>	Name of Owner(s) <u>MICHAEL MARR</u> <u>JUDITH MALIN</u>	Name of Agent <u>BOB HARTSTOCK</u>
Mailing Address <u>P.O. BOX 319</u> <u>THE SEARANCH, CA</u> <u>95497</u>	Mailing Address <u>43 HILLSIDE AVE.</u> <u>PORTSMOUTH, RI</u> <u>02871</u>	Mailing Address <u>P.O. BOX 319</u> <u>THE SEARANCH, CA</u> <u>95497</u>
Telephone Number <u>707-785-2036</u>	Telephone Number <u>401-683-9362</u>	Telephone Number <u>707-785-2036</u>

Project Description:  
CONSTRUCT SINGLE FAMILY DWELLING W/ ATTACHED  
GARAGE AND DETACHED BUILDING FOR WORKSHOP  
AND GUEST SUITE

Driving Directions  
 The site is located on the E (N/S/E/W) side of HIGHWAY ONE (name road)  
 approximately 1/2 (feet/miles) W (N/S/E/W) of its intersection with  
ALBION RIDGE ROAD (provide nearest major intersection).

Assessor's Parcel Number(s)  
123-350-00

Parcel Size <u>4</u> <input type="checkbox"/> Square Feet <input checked="" type="checkbox"/> Acres	Street Address of Project <u>2800 HIGHWAY ONE</u> <u>ALBION, CA 95410</u> Please note: Before submittal, please verify correct street address with the Planning Division in Ukiah.	33 of 40
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# COASTAL DEVELOPMENT PERMIT APPLICATION QUESTIONNAIRE

The purpose of this questionnaire is to relate information concerning your application to the Planning & Building Services Department and other agencies who will be reviewing your project proposal. The more detail that is provided, the easier it will be to promptly process your application. Please answer all questions. Those questions which do not pertain to your project, please indicate "Not Applicable" or "N/A".

1. Describe your project and include secondary improvements such as wells, septic systems, grading, vegetation removal, roads, driveways, propane tanks, oil tanks, water storage tanks, solar panels, etc.

Construct single family dwelling with attached garage and second detached building for a workshop and guest suite. Improvements will also include a septic system, well, driveway, water storage tank, minor grading and moving an existing driveway entrance off highway one per Cal trans requirements.

2. If the project is residential, please complete the following:

TYPE OF UNIT	NUMBER OF STRUCTURES/UNITS	EXISTING SQ. FEET PER STRUCTURE	PROPOSED SQ. FEET PER STRUCTURE	TOTAL SQ. FEET PER STRUCTURE
<input checked="" type="checkbox"/> Single Family	1		3487	3487
<input type="checkbox"/> Mobile Home				
<input type="checkbox"/> Duplex/Multifamily				
<input checked="" type="checkbox"/> Detached Structures (List individually)	1		2138	2138

3. Are there existing structures on the property?  Yes  No  
If yes, describe below and identify the use of each structure on the site plan.

4. Utilities will be supplied to the site as follows:

- A. Electricity  
 Utility Company (service exists to the parcel).  
 Utility Company (requires extension of services to site: 100 feet \_\_\_\_\_ miles)  
 On Site generation, Specify: \_\_\_\_\_  
 None
- B. Gas  
 Utility Company/Tank  
 None
- C. Telephone:  Yes  No

5. Will there be any new exterior lighting?  Yes  No  
If yes, provide lighting details and specifications for all exterior lighting fixtures. Please ensure that all fixtures are downcast and shielded. Identify the location of all exterior lighting on the site plan and building plans.

6. What will be the method of sewage disposal?  
 Community sewage system, specify supplier \_\_\_\_\_  
 Septic Tank (indicate primary + replacement leachfields on plot plan)  
 Other, specify \_\_\_\_\_

7. What will be the domestic water source?  
 Community water system, specify supplier \_\_\_\_\_  
 Well  On-site  Off-site  
 Spring  On-site  Off-site  
 Other, specify \_\_\_\_\_

8. Is any grading or road/driveway construction planned?  Yes  No  
Estimate the amount of grading in cubic yards: 10 c.y. **If greater than 50 cubic yards or if greater than 2 feet of cut or 1 foot of fill will result, please provide a grading plan.**  
Estimate the length of the proposed road/driveway: 1180 feet.  
Describe the terrain to be traversed (e.g., steep, moderate slope, flat, etc.).  
FLAT

9. Will vegetation be removed on areas other than the building sites and roads?  Yes  No  
If yes, explain:  
How many trees will be removed to implement the project: 0. Indicate on the site plan all trees to be removed which are greater than 12-inches in diameter (measured four feet from the ground). If applicable, please indicate on the site plan the size, location and species of all on-site trees that provide screening from public view areas.

10. Will the proposed development be visible from:  
A. State Highway 1?  Yes  No  
B. Park, beach, or recreation area?  Yes  No  
If you answered yes to either question, explain.  
PROPERTY FRONTS HIGHWAY 1

11. Project Height. Maximum height of structure(s): \_\_\_\_\_ feet  
HOUSE IS 21', BUILDING 2 IS 24' AT MAXIMUM HEIGHT.

12. Describe all exterior materials and colors of all proposed structures.

Siding material	<u>REDWOOD</u>	Color	<u>NATURAL</u>
Trim material	<u>REDWOOD</u>	Color	<u>NATURAL</u>
Chimney material	<u>BRICK</u>	Color	<u>RED</u>
Roofing material	<u>CLASS A COMPOSITION</u>	Color	<u>BLACK/GREY</u>
Window frame material	<u>BRONZE ANODIZED ALUM</u>	Color	<u>BRONZE</u>
Door material	<u>" "</u>	Color	<u>" "</u>
Fencing material	<u>CEDAR</u>	Color	<u>NATURAL</u>
Retaining walls material	<u>-</u>	Color	<u>-</u>
Other exterior materials	<u>-</u>	Color	<u>-</u>

13. Are there any water courses, anadromous fish streams, sand dunes, rookeries, marine mammal haul-out areas, wetlands, riparian areas, pygmy vegetation, rare or endangered plants, animals or habitat which support rare and endangered species located on the project site or within 100 feet of the project site?

YES, SEASONAL WETLANDS EXIST IN DRIVEWAY EASEMENT RESULTING FROM HIGHWAY ONE BISECTING AND MODIFYING THE SUBSURFACE FLOW.

14. If the project is commercial, industrial, or institutional, complete the following:

Total square footage of all structures: \_\_\_\_\_  
Estimated employees per shift: \_\_\_\_\_  
Estimated shifts per day: \_\_\_\_\_  
Type of loading facilities proposed: \_\_\_\_\_

Will the proposed project be phased?  Yes  No

If Yes, explain your plans for phasing.

Parking will be provided as follows:

Number of Spaces Existing: \_\_\_\_\_ Proposed: \_\_\_\_\_ Total: \_\_\_\_\_

Number of standard spaces: \_\_\_\_\_ Size: \_\_\_\_\_

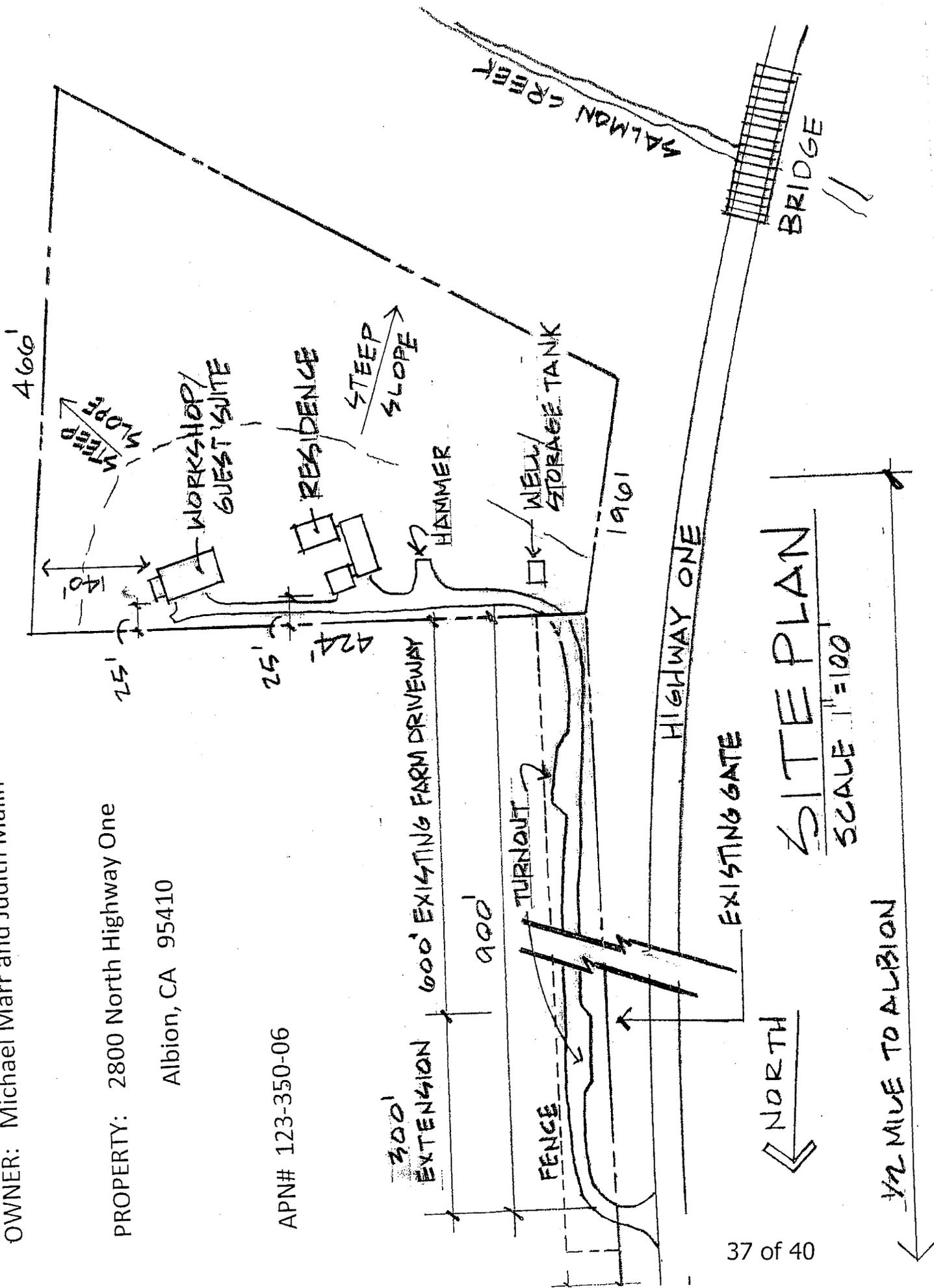
Number of handicapped spaces: \_\_\_\_\_ Size: \_\_\_\_\_

OWNER: Michael Marr and Judith Malin

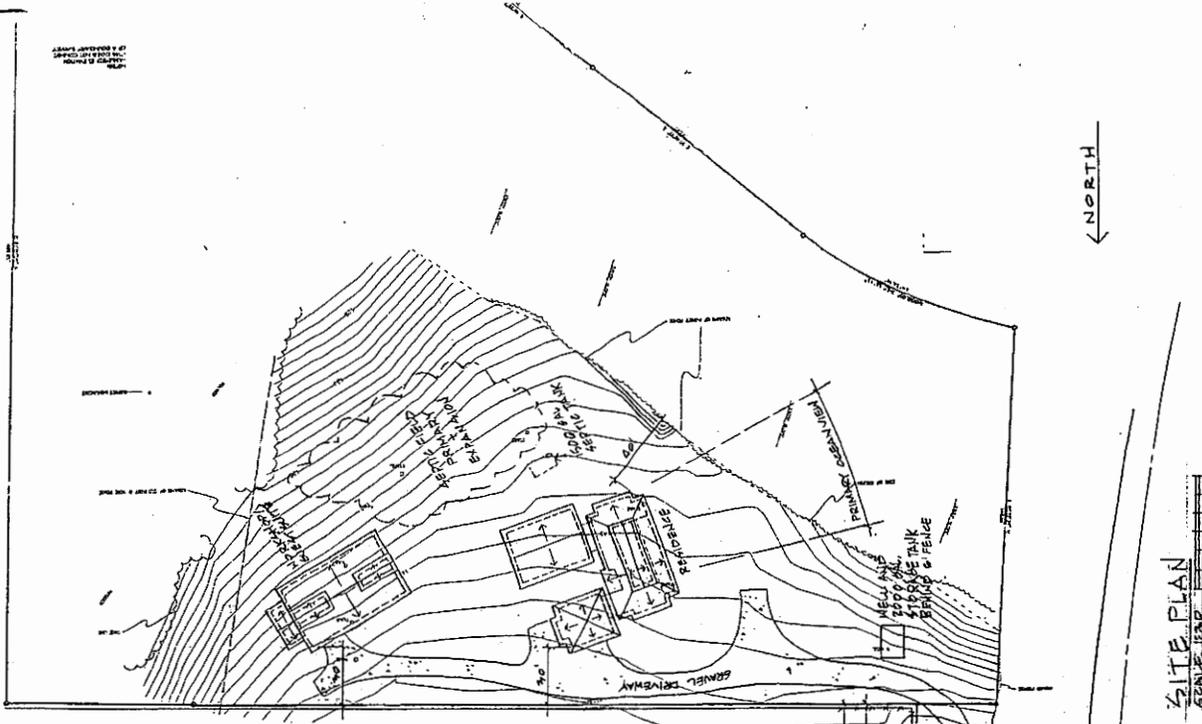
PROPERTY: 2800 North Highway One

Albion, CA 95410

APN# 123-350-06

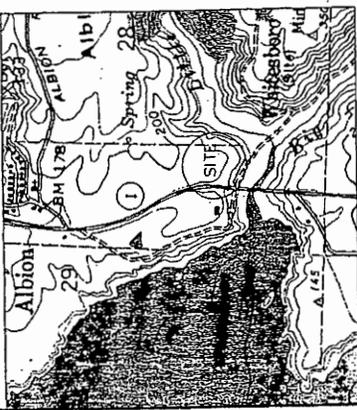


<p><b>A NEW RESIDENCE FOR:</b> MICHAEL HAAR AND JUDITH MALIN 2800 NORTH HIGHWAY ONE ALBION, CA 95410</p>	<p><b>BUILDING DESIGNER:</b> BOB HARTSTOCK PO BOX 319 36455 TAMBER RIDGE ROAD THE SEA RANCH, CA 95497 PHONE 707.785.2036 FAX 707.785.2125</p>	<p><b>STRUCTURAL ENGINEER:</b> SUMMIT ENGINEERING, INC. 483 AVENUE Blvd. Suite 200 SANTA ROSA, CA 95403 707.527-0775 / 707.527-0212 FAX</p>	<p>1 SEPTEMBER 98 1 OF 7</p>
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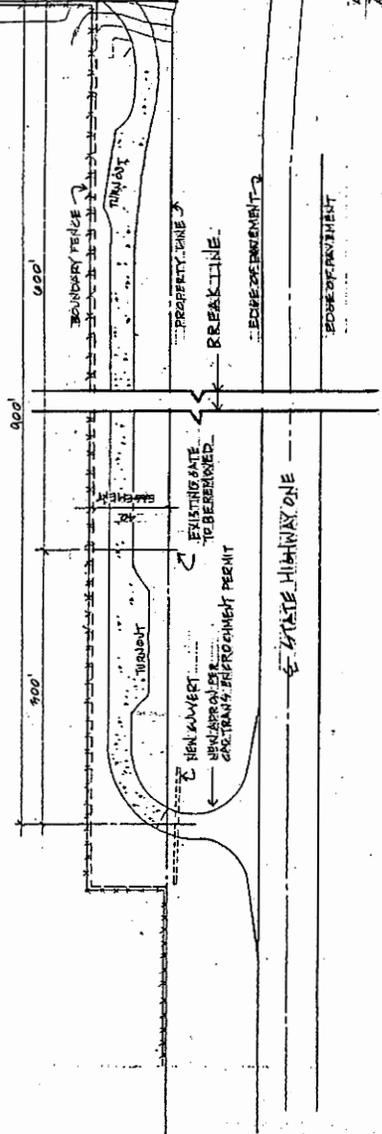


NORTH

**SITE PLAN**  
SCALE: 1/8" = 1' @ 50'



VICINITY MAP NO SCALE

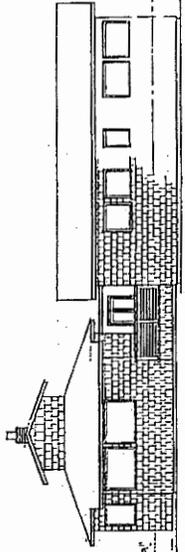


A NEW RESIDENCE FOR:  
MICHAEL MARR AND JUDITH MARR  
2800 North Highway One  
Aldion, CA 95410

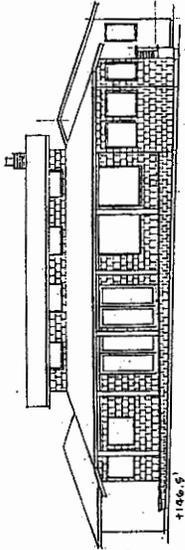
BUILDING DESIGNER:  
BOB HARTSTOCK  
PO BOX 319  
38455 TIMBER RIDGE ROAD  
THE SEA RANCH, CA 95497  
phone 707.785.2036 fax 707.785.2125 fax

STRUCTURAL ENGINEER:  
SUMMIT ENGINEERING, INC.  
465 AVIATION BLDG. Suite 200  
SANTA ROSA, CA 95403  
707-527-0775 / 707-527-0212 FAX

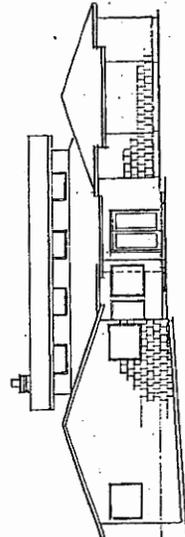
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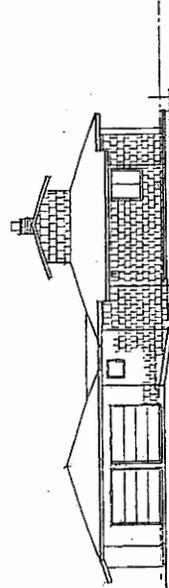
SOUTH EAST ELEVATION



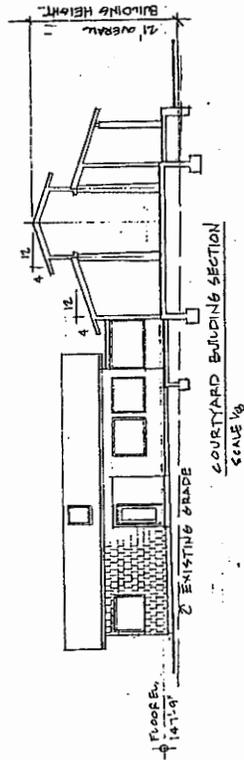
SOUTH WEST ELEVATION  
SCALE 3/8"



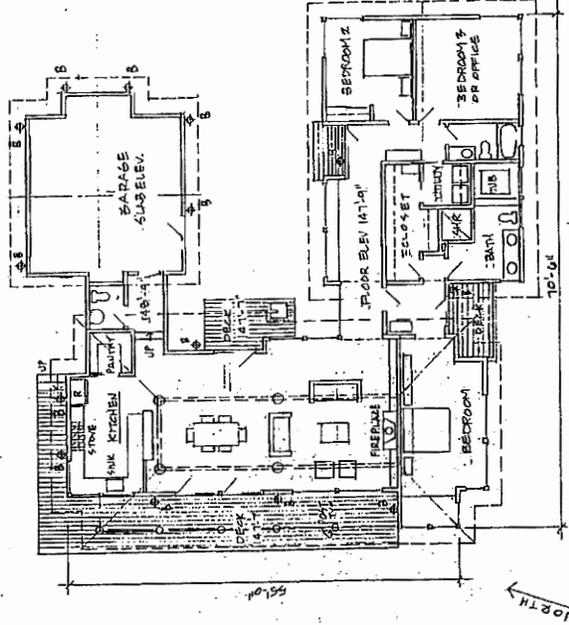
NORTH EAST ELEVATION



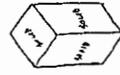
NORTH WEST ELEVATION



COURTYARD BUILDING SECTION  
SCALE 3/8"



FLOOR PLAN  
SCALE 1/8"



FIXTURES  
FIXTURES SHALL BE  
WITH HARD FINISH

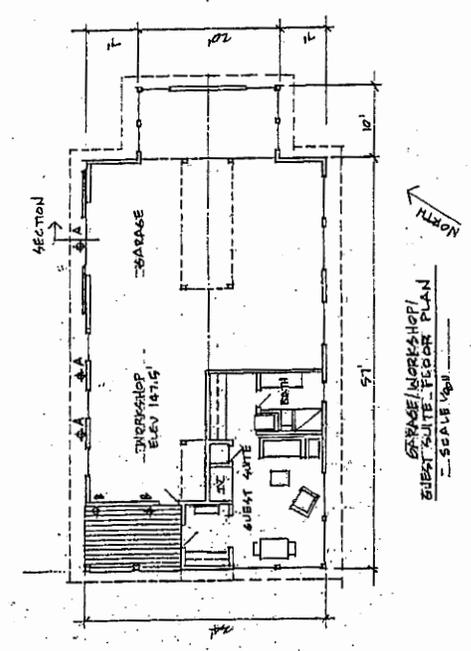
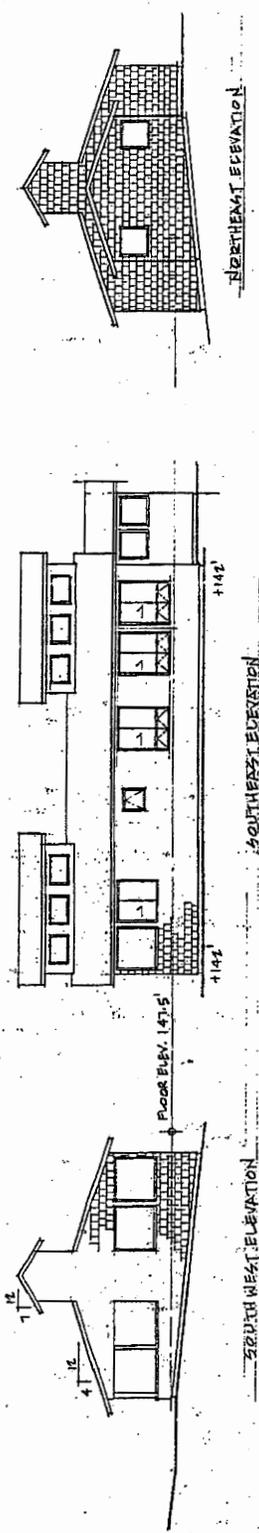
MAIN RESIDENCE:  
BUILDING SIZE:

HOUSE: 2,624 sq. ft.  
GARAGE: 634 sq. ft.  
COVERED PORCHES: 329 sq. ft.

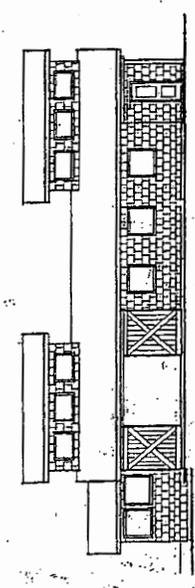
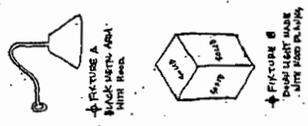
EXTERIOR BUILDING MATERIALS:

- 1) Siding shall be redwood shingles with a clear finish.
- 2) Roof Shingles shall be a Class "A" Fibreglass shingle, color black or charcoal gray.
- 3) Windows shall be Milgard, Bronze Anodized Aluminum with clear glass.
- 4) All metal shall be painted black/charcoal gray, except copper.

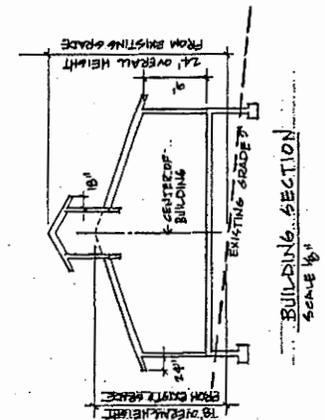
BUILDING DESIGNER: BOB HARTSTOCK 3485 TIMBER RIDGE ROAD THE SEA RANCH, CA 95497 phone 707.785.2038 fax 707.785.2125	STRUCTURAL ENGINEER: SUMMIT ENGINEERING, INC. 463 WARDON BLVD., SUITE 200 SANTA ROSA, CA 95403 707.527-0775 / 707.527-0212 FAX	A NEW RESIDENCE FOR: MICHAEL MARR AND JUDITH MALLIN 2800 North Highway One Afton, CA 95410
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GARAGE/WORKSHOP/  
GUEST SUITE FLOOR PLAN  
SCALE 1/8" = 1'-0"



NORTHWEST ELEVATION



BUILDING SECTION  
SCALE 1/8" = 1'-0"

**BUILDING 2**  
**GARAGE/WORKSHOP/GUEST SUITE**  
 EXTERIOR BUILDING MATERIALS

1) Siding shall be redwood shingles with a clear finish.  
 2) Roof Shingles shall be a Class 'A' Fiberglass shingle, color black or charcoal gray.  
 3) Gutters shall be aluminum, heavy Anodized Aluminum with clear finish.  
 4) All metal shall be painted black/charcoal gray, except copper.

**BUILDING 2**  
**GARAGE/WORKSHOP/GUEST SUITE**  
 BUILDING SIZE:

WORKSHOP/GARAGE: 1,610 sq.ft.  
 GUEST SUITE: 601 sq.ft.  
 COVERED PORCH: 122 sq.ft.  
 TOTAL: 2,133 sq.ft.



## BOB HARTSTOCK DESIGNER

post office box 319  
the sea ranch  
california 95497  
707.785.2036 Tel  
707.785.2125 FAX

bobhart@mcn.org

Ship To:

36455 timber ridge road  
the sea ranch  
california 95497

**EXHIBIT NO. 10**

**Correspondence from  
Applicant**

**No. A-1-MEN-09-034  
(Marr-Malin)**

**1 of 4**

### MEMO

TO: Bob Merrill or Tamara

DATE: 28 June 2011

COMPANY: California Coastal Commission  
North Coast District Office  
710 E Street, Suite 200  
Eureka, CA 95501

PROJECT: Marr/Malin residence, 2800 Highway One, Albion

BOB: Last week you asked a few questions about the lot in an email dated  
Wednesday June 22, 2011.

Specifically:

- 1) Lot Legality.....I believe you have all the information I provided to support the legality of the lot and you will be speaking with the CCC attorneys.
- 2) Rangeland/ Ag land. Last week I sent a memo detailing my conversations with the NRCS and the rating of "Prime" Ag land. According to their rating system, the Marr/Malin land is not prime ag land, nor suitable for agriculture according to USA standards. See memo for specifics.

Recently we spoke with an older resident of Albion whom once owned the property. According to his records, his family leased the land with their adjacent

land holdings for cow grazing from the late 1970's to the late 1990's. At the time, the cows grazed approximately 2 acres of the property. Fencing (still existing) kept the cows off the highway....and off the steep slopes along the south and south east property. Marr/Malin bought the property in 2005. Shortly after that, the adjacent property sold and the current owner constructed a new fence bordering his 300 +/- acre property. In 2006 he constructed a fence along the common property lines and grazes the land to a herd of cows. Number of animals has not been disclosed. The Owner lives in southern California but maintains a residence and barn on the east side of the land. He currently leases the property to another rancher.

Because of the adjoining property fence, we believe the Marr/Malin development will have no impact on the neighbor's property. The common property fence will separate the cows from the Marr residence and driveway. And offer a second impediment from animals wandering on highway one.

Because of the small size of the Marr/Malin property, it is not feasible to graze animals on their land. Less than 2 acres have slopes of 5% or less. According to a report from the University of Arizona, College of Agriculture 11/2004, (assuming 450 lbs of forage/ acre, far below the USDA average), one 1000 lb cow could graze 2 acres in 15 days. Beyond that, hay and water would have to be trucked in, on a regular basis.

Because of the soils types, it cannot support agriculture without irrigation. And NCRS does not promote changing the soil rating by irrigation. It is Mikes and Judys intention to live lightly on the land and leave the native grasses, shrubs and trees as is. That is one of the reasons they bought the land.

### 3) Alternative driveway approach and location.

We approached the adjacent neighbor, John Danhaki about a driveway easement through his property, accessing from Albion Road. His short, concise answer was NO! Actually, HELL NO! He could not understand the logic of constructing a

driveway of considerable length that would transverse his lands and interfere with his grazing operations. We concur that this concept would not only damage the pastoral setting, but also interfere with the daily grazing schedules of the cows and would place the cows in harms way....by vehicle traffic.

The current driveway has minimal visibility from highway one, has an established gate from highway one, is supported by Caltrans and meets the safety rules of Caltrans codes and CalFire fire safe standards and the Mendocino/Coastal rules. We believe the current driveway with mitigations is far less damaging to the land. And protects the environment.

Thanks for your help.

BOB HARTSTOCK, Designer

cc: Marr/Malin

**(4 of 4)**

# BOB HARTSTOCK DESIGNER

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the sea ranch  
california 95497  
707.785.2036 Tel  
707.785.2125 FAX

bobhart@mcn.org

## TRANSMITTAL

TO: Robert Merrill, District Manager  
COMPANY: CALIFORNIA COASTAL COMMISSION  
North Coast District Office  
710 E Street, Suite 200  
Eureka, CA 95501

DATE: 3 March 2011

PROJECT: CDP #57-2008  
Michael Marr & Judith Malin  
Commission Appeal No. A-1-MEN-09-034

Dear Mr. Merrill:

I would like to follow up on a comment you made during our last phone call on February 9<sup>th</sup>, 2011. You questioned if we need to bring the elevation down to support the wetland expansion as proposed for the loss of wetlands. Upon discussion with our consulting Botanist, Playalina Nelson we believe this issue has been address thoroughly in our 2010 Wetland Mitigation Plan, with a focus towards increasing the wetland function in the wetland and the buffer. See section 3.1 Mitigation in the report.

In brief, Ms Nelson states ( section 3.2b) that the objective of the wetland enhancement for this project is to remove invasive nonnative plants. And like the impacted wetland, there is no standing water in this area...and that hydrology is not a factor in measuring the success of enhancement.

We ask that you and the CC botanist please refer to this important section in the wetland Mitigation Plan prepared by Ms Nelson.

Thank you for your consideration.

Also, I would like to follow up with the time line of reviewing our project and scheduling a de novo hearing. Time is of the essence and flying by too quickly. We see that the March agenda has been established without our hearing. Could you please get our project on the next agenda?

Sincerely,  
BOB HARTSTOCK,  
Building Designer/Applicant

**EXHIBIT NO. 11**

**Excerpts of 2009  
Botanical Report**

**No. A-1-MEN-09-034  
(Marr-Malin)  
1 of 19**

**BOTANICAL SURVEY  
AND  
ESHA ASSESSMENT**

**FOR  
2800 HIGHWAY ONE  
ALBION, CALIFORNIA  
MENDOCINO COUNTY  
APN 123-350-04**

**RECEIVED**  
JUN 28 2011  
CALIFORNIA  
COASTAL COMMISSION

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

November 2007  
*revised*  
*02.2009*

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## **1.0 Summary**

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A survey on an approximately 4-acre parcel zoned rural-residential and adjacent access easement was conducted to locate rare plants, plant communities and wetlands within the project area. An occasionally-used unpaved road exists on the Project Site. Two special-status plant species, one special-status plant community, and a California Coastal Act wetland occur on the parcel. One species is on a watch list and the other is considered rare.

The construction of a paved driveway apron and crushed rock access road will result in the fill of approximately 10,100 ft<sup>2</sup> (~0.23 acres) of California Coastal Act wetland. Much of the wetland is caused by impoundment of subsurface water at the base of the Highway 1 fill prism, causing an unnatural condition on the site. Essentially, the existing alignment of Highway 1 bisects a wet meadow, and the construction of the highway now impedes the natural subsurface flow of the water, causing the water to collect and spread along the uphill side of the road prism.

The entrance road in the proposed location is the least environmentally damaging alternative and it avoids the small stand of rare plants. The alternative is to remove at least 900 yd<sup>3</sup> (~ 100 truckloads) of native soil occurring on the eastern cut bank of the Highway 1 through-cut north of the Salmon Creek Bridge. This would create the line-of-sight necessary for leaving the driveway as required by CalTrans. To mitigate for the loss of the Coastal Act wetland mitigation at 2:1 is proposed. Mitigation is primarily the enhancement of the existing wetland through the removal of exotic vegetation and vegetation management to enhance native vegetation, including special-status plants.

---

## **2.0 Background/Project Description**

On April 17, May 3, and June 20, 2005 and May 6, June 18, and July 7, 2007 botanical surveys were conducted on the parcel located at 2950 Highway One (approximately 4 acres) (APN 123-350-04) Albion, California ("Project Site") (Figure 1). The purpose of the study was to describe the existing vegetation communities, survey the parcel for special-status (rare) plants, plant communities, and wetlands, and recommend appropriate mitigation measures that help to reduce the impacts to wetland-, riparian-, and rare plant- and plant community-buffers, which are considered Environmentally Sensitive Habitat Areas (ESHA's) under the Mendocino County Local Coastal Plan (Mendocino County, 1991).

The Project Site is within the California Coastal Zone. The botanical/ESHA survey was conducted as a condition of the permit necessary to build within the Coastal Zone in Mendocino County. The development project consists of a main residence (~2,100 ft<sup>2</sup>), detached garage (~400 ft<sup>2</sup>), and a detached workshop (~1,100 ft<sup>2</sup>), septic and leach field, and driveway.

## **3.0 Project Site Description**

The Project Site is an approximately 4-acre parcel zoned rangeland, east of Highway 1 and within the California Coastal Zone. It is located at 2950 Highway One Albion, California (APN 123-350-04). It occurs on the SW ¼ of Section 28, Township 16 N, Range 17 W of the Mount Diablo Base Meridian.

The Project Site vegetation is predominantly a non-native grassland composed of exotic grasses and herbs such as sweet vernal grass (*Anthoxanthum odoratum*), bent grass (*Agrostis stolonifera*) rough cat's ear (*Hypochaeris radicata*), and vetch (*Vicia sativa*). Some northern coyote brush scrub occurs on the south-facing slope at the south end of the parcel. Dominant species are coyote bush (*Baccharis pilularis*),

poison oak (*Toxicodendron diversilobum*), sword fern (*Polystichum munitum*), and hedge-nettle (*Stachys ajugoides*). A grand fir forest (*Abies grandis*) occurs on the eastern side of the parcel and has Doug-fir (*Pseudotsuga menziesii*) and grand fir as dominant trees.

A seasonal Coastal Act wetland occurs mainly along the entrance road that parallels Highway 1. The vegetation is predominantly prickly coyote thistle (*Eryngium armatum*), bent grass (*Agrostis stolonifera*), sweet vernal grass (*Anthoxanthum odoratum*) and sedge (*Carex obnupta*).

Topography is mostly gently sloping with steep hillsides at the south and east of the parcel.

Improvements to the Project Site include an occasionally-used unpaved road and a well.

## **4.0 Methods**

### **4.1 BOTANICAL SURVEY**

A field survey for botanical and wetland resources was conducted on the Project Site on April 17, May 3, and June 20, 2005 and May 6, June 18, and July 7, 2007. The survey protocol was based on Guidelines for Assessing the Effects of Proposed Developments on Rare, Threatened, and Endangered Plants and Plant Communities developed by James Nelson (CDFG 2000). The rare plants and plant communities considered in the survey are the native plants of limited abundance in California with known occurrence or distribution in Mendocino County, and were derived from the following lists:

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

These special-status plants were further segregated regionally based on known occurrence on the USGS 7.5’ quadrangle (Albion) for the Project Site and the adjacent quadrangles (Mendocino, Elk, Mallo Pass Creek and Mathison Peak). The regional assessment utilized the California Native Plant Society’s (CNPS) electronic inventory (CNPS 2007) and the California Department of Fish and Game’s (CDFG), Natural Diversity Data Base Rare Find (CDFG 2007). These special-status species and all other species derived from the aforementioned lists, their associated habitats, and their potential for occurrence in the project area are listed in Table 1. Vegetation descriptions are based on Sawyer and Keeler-Wolf (1995), Holland (1986), and California Department of Fish and Game (2003).

#### 4.1.1 Blooming Period

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

#### 4.2 WETLAND DELINEATION

A wetland delineation study was conducted to describe the location and extent of waters, including wetlands, which may be considered jurisdictional by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act on the Project Site. Wetland vegetation, hydrology, and soils were examined to determine the presence of potential wetlands as defined by the Corps of Engineers.

The Clean Water Act gives the Corps jurisdiction over “Waters of the United States,” which include, in part: lakes, rivers, streams (including intermittent streams) and wetlands. Under the Clean Water Act, the term “wetlands” means:

*... those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (33 CFR § 328.3)*

The Corps has published a wetland delineation manual including data sheets to use in the determination of the presence or absence of wetlands. These procedures and delineation results are presented in this report.

This delineation study has been conducted in accordance with the *U.S. Army Corps of Engineers Wetlands Delineation Manual* (Corps Manual) (Environmental Laboratory 1987). This study evaluated the presence or absence of indicators of three wetlands parameters described in the Corps Manual. The three parameters used to determine the presence of wetlands are (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. According to the Corps Manual (1987):

*“...[E]vidence of a minimum of one positive wetland indicator from each parameter (hydrology, soil, and vegetation) must be found in order to make a positive wetland delineation.” (p. 12)*

The California Coastal Commission, under the California Coastal Act, regulates wetlands in the California Coastal Zone. The Commission’s criteria for a wetland definition is more general than the Corps’ – depending on the site, one or two parameters may only be needed for a wetland.

Prior to conducting field studies, available reference materials were reviewed, including the Mendocino County Soil Survey, Western Part (Natural Resource Conservation Service, 2001). The Project Site was field-inspected on June 18, 2007 for the areas that had the potential to meet the Corps and Coastal Act wetland definitions.

#### 4.2.1 Vegetation

The indicator status assigned to a species designates the probability of that species occurring in a wetland. A species with an indicator of OBL, FACW, or FAC (excluding FAC-) is considered to be typically adapted for life in a wetland (hydrophytic vegetation). A species indicator of FAC-, FACU and NL

determines an upland species. The wetland occurrence probability and abbreviations utilized in the lists are presented below.

INDICATOR STATUS	DESCRIPTION	OCCURRENCE IN WETLANDS
OBL	obligate wetland plants	>99%
FACW	facultative wetland plants	67-99%
FAC	facultative plants	34-66%
FACU	facultative upland plants	1-33%
UPL	obligate upland plants	<1%
NI	no indicator (insufficient information) for the region (rated neutral)	-
NL	not listed (rated upland)	-
plus sign (+)	frequency toward higher end of a category	-
minus sign (-)	frequency toward lower end of a category	-
asterisk (*)	indicates tentative assignment based on limited information	-

The dominant vegetation at each sample point was noted and evaluated for prevalence of hydrophytes. Indicator status follows USFWS (1996).

#### 4.2.2 Hydrology

Wetland hydrology is a term which encompasses hydrologic characteristics of areas that are periodically inundated or saturated within 12 inches of the surface at some time during the growing season. Recorded data can be used when available to determine wetland hydrology.

When studies are conducted at a time of year when surface water, ground water, or saturated soils can not be observed, evidence of wetland hydrology is based on observation of the hydrologic indicators described in the 1987 *Corps Manual*. Evidence of wetland hydrology can include direct evidence (primary indicators), such as visible inundation or saturation, surface sediment deposits, and drift lines, or indirect indicators (secondary indicators), such as oxidized root channels and algal mats. If indirect or secondary indicators are used, at least two secondary indicators must be present to conclude that an area has wetland hydrology. The parcel was examined for these hydrologic indicators. The presence of any primary or secondary wetland hydrologic indicators was noted at each sample point.

#### 4.2.3 Soils

The Natural Resource Conservation Service defines a hydric soil as:

*“A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part.”*

(Federal Register July 13, 1994, US Department of Agriculture, Natural Resource Conservation Service.)

Soils formed over long periods of time under wetland (anaerobic) conditions sometimes possess characteristics that indicate that they meet the definition of hydric soils.

At each sample point a soil pit was dug to a minimum of a 20-inch depth where possible. In each pit distinct soil layer depths were noted and their matrix and mottle colors (if present) were compared to the Munsell soil color chart (GretagMacbeth 2000) for color appearance (hue), intensity (value), and shade (chroma). Redoximorphic features and soil texture were noted.

## 5.0 Survey Results

### 5.1 DOCUMENTED OCCURRENCES

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

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

SCIENTIFIC NAME	COMMON NAME	STATUS	NUMBER OF OCCURRENCES	POPULATION SIZE	ESHA
<i>Lotus formosissimus</i>	coastal lotus	CNPS List 4.2	1 - scattered	~ 150-200 individuals	No
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	CNPS List 1B.2	1	~ 75 individuals	Yes
-	grand fir forest	G1 / S1.1	1	~ 1.1 acres on Project Site (part of a larger forest up canyon)	Yes
-	northern coyote brush scrub	G4 / S4	1	~ 0.8 acres on Project Site (vegetation extends beyond parcel)	No
-	non-native grassland	G4 / S4	1	~ 1.5 acres on Project Site (vegetation extends beyond parcel)	No
-	Coastal Act wetland	-	1	~ 1.07 acres on Project Site (wetland extends beyond parcel)	Yes

Vegetation and special-status plant descriptions follow.

*Sidalcea calycosa* ssp. *rhizomata* – Pt. Reyes checkerbloom is a perennial plant with pink to light-purple flowers that bloom from April to August (Figures 8-9). It is found in wet meadows and freshwater marshes near the coast. It has a wetland indicator status of “obligate” (USFWS 1996), and is therefore usually found where there is standing water or thoroughly saturated soil for extended periods throughout the year. Its leaves are distinctive and can be recognized when the plant is not blooming.

A stand approximately 5’ by 15’ with approximately 75 individuals occurs in the wettest part of the seasonal wetland at the base of Highway 1. Construction of the paved driveway apron and the rock entrance road will avoid the stand of Point Reyes checkerbloom.

*Lotus formosissimus* – Coast lotus (*Lotus formosissimus*) is a sprawling, multi-stemmed perennial herb, about 20-50 cm long, with compound, pinnate leaves. The pink-magenta and yellow pea-like flowers are showy and arranged in umbels.

The presence of coastal lotus was strongly associated with the mowed entrance road. Mowing eliminates the thick cover of grass that reduces the amount of light coastal lotus can receive. It typically prefers habitat that is low-growing and damp. Several hundred individuals occur scattered throughout the entrance road area and those areas to the side where mowing has occurred.

Coast lotus is a CNPS List 4 species and not considered an ESHA in the Coastal Zone but it is presumed to be one of the larval foodplants of the lotis blue butterfly (*Lycaeides idas lotis*), a butterfly that is listed as endangered by the US Fish and Wildlife Service (USFWS 1985). Although habitat requirements of the butterfly are poorly known, it has been found in association with wet meadows and sphagnum-willow bogs adjacent to the pygmy forests of coastal Mendocino County. Since 1977, the lotis blue has been known from only one boggy area about 2.5 miles north of the town of Mendocino. However, historical records suggest it has been found at several coastal localities in Mendocino and Sonoma counties, and possibly in northern Marin County (USFWS 1985).

Although the reasons for the lotis blue's decline is not known, it is likely related to the changes in vegetation that have occurred over the past quarter century at the butterfly's last known occurrence (Aarnold 1991). If the coast lotus is the butterfly's larval food plant, indeed, local butterfly populations would show a decline where open wet meadows become brushy and eventually wooded. Coast lotus is often found in recently cleared areas, ditches, or other areas that may be temporarily mesic due to disturbance. Through the natural succession of a previously disturbed site, larger, woody shrubs replace the abundance of annual and perennial forbs such as coast lotus.

One scattered stand of coast lotus occurs on the Project Site in the seasonal wetland, and primarily where on the entrance road where vehicles have compacted the vegetation and mowing has reduced the abundance of perennial exotic grasses.

Based on the lotis blue range and habitat, the Project Site does not appear to be suitable habitat for the butterfly. The site is 9 miles south of the last known occurrence of lotis blue. The habitat of the site is an open meadow with wetter areas of slough sedge (*Carex obnupta*) and forbs, with an increase in hydrology at the base of the Highway 1 berm where the area becomes more shrubby with *Juncus* spp. and coyote brush (*Baccharis pilularis*). It is not habitat typical of the pygmy forest or its edges.

During the botanical surveys, if any blue butterfly was seen, which would likely be Acmon's blue, it would have been recorded. On the Project Site, no Acmon's blues or other unidentifiable blue butterflies were observed.

Coast lotus is ranked as List 4 (lowest priority) by the California Native Plant Society. Avoidance is recommended, but buffers are not drawn around the occurrence. The plant is located within the wetland identified in Figure 1. Buffers were not drawn around the occurrences of this species. Some areas of coast lotus will be covered by crushed rock, and other areas will likely become habitat for coast lotus as a mowing schedule is implemented. This mowing, will be, in part, mitigation for the construction of the road and loss of seasonal Coastal Act wetland and coast lotus.

Grand Fir Forest – A forest of grand fir (*Abies grandis*) with occasional Doug-fir (*Pseudotsuga menziesii*) occurs on the eastern side of the parcel and onto the adjacent parcels. Sword fern is a common herbaceous plant throughout the forest.

Buffers are drawn around the outer edge of the forest for this plant community that is considered an ESHA. No impact to this plant community will occur.

Wetland – Approximately 1.07 acres of California Coastal Act wetland were documented on the Project Site. The wetland was based on the prevalence of hydrophytic plants and some areas of wet soils.

Dominant plants included *Eryngium armatum*, *Carex obnupta*, and *Agrostis stolonifera*. Figures 1-2 illustrate the wetland and the entrance road. Wetland field data sheets are included in Appendix D.

Although there are Coastal Act wetlands upslope of the proposed driveway area, the wetlands that form at the base of Highway 1 exist, in part, due to the impoundment of subsurface and seasonal surface water at the base of the fill prism used to construct Highway 1. This artificial topography increases the spatial extent and degree of saturation along the highway. Additionally, the mowing along the access road creates an unnatural element to the wetland. However, it is the artificial highway berm and seasonal mowing that actually enhance the wetland by increasing its size and species composition – without the mowing, there would be fewer wetland forbs, including coast lotus (*Lotus formosissimus*). The Point Reyes checkerbloom has become established in the lowest area at the base of the highway berm. The occurrence of the special-status plants increase the biological value of the wetland, but there is a significant amount of disturbance that allows the wetland to persist as it does.

The wetland survey resulted in the seasonally wet meadow being classified as a Coastal Act wetland. Results of the sample pits are listed in Table 4 and their location and the extent of the wetland is depicted in Figure 1. Adjacent wetland areas are mapped based on similar wetland vegetation. Those wetlands identified from this delineation are indicated as such in Figure 1 (Also see Figures 1-7).

**Table 4. Summary of Wetland Delineation Sample Pits.**

PIT	PLANT COMMUNITY	DOMINANT SPECIES	WETLAND SOIL	WETLAND HYDROLOGY	WETLAND VEGETATION	CALIFORNIA COASTAL ACT	US CLEAN WATER ACT	ACRES
1	Seasonally wet meadow	<i>Eryngium armatum</i> <i>Agrostis stolonifera</i> <i>Anthoxanthum odoratum</i>	Yes	Yes	Yes	Yes	No (isolated due to disturbance)	~ 1.07
2	Non-native grassland/meadow	<i>Agrostis stolonifera</i> <i>Anthoxanthum odoratum</i>	No	No	No	No	No	
3	Seasonally wet meadow	<i>Carex obnupta</i> <i>Holcus lanatus</i> <i>Agrostis stolonifera</i>	Yes	Yes	Yes	Yes	No (isolated due to disturbance)	

Northern Coyote Brush Scrub – This plant community occurs on the south-facing slope at the southern end of the parcel above Salmon Creek. It is comprised of coyote brush (*Baccharis pilularis*) as a dominant occurring with sword fern (*Polystichum munitum*), poison oak (*Toxicodendron diversilobum*) and hedge-nettle (*Stachys ajugoides*).

It is not considered an ESHA and buffers are not drawn around the occurrence. The proposed development will not impact the vegetation, which is approximately 70' away and on the slope.

Non-Native Grassland – The dominant vegetation community on the Project Site is perennial non-native grassland comprised of exotic grasses and herbs such as sweet vernal grass (*Anthoxanthum odoratum*), bent grass (*Agrostis stolonifera*) rough cat's ear (*Hypochaeris radicata*), and vetch (*Vicia sativa*).

It is not considered an ESHA and buffers are not drawn around the occurrence. The proposed development will not impact the vegetation, which is approximately 70' away and on the slope.

## Appendices

### **Appendix A. Figures and Maps**

- Figure 1. ESHA Map with Buffers
- Figure 2. Highway 1 Approach Design
- Figure 3. Project Site Oblique Aerial Photo Overview
- Figure 4. Project Site Oblique Aerial Photo Close-Up
- Figure 5. South View of the Mowed Entrance Road
- Figure 6. General Habitat of Wetland along Proposed Crushed-Rock Driveway, Facing Southeast
- Figure 7. General Habitat of Proposed Driveway Apron Area, Facing East
- Figure 8. Point Reyes Checkerbloom Habitat
- Figure 9. Point Reyes Checkerbloom Flower

### **Appendix B. List of Plant Species Documented in the Study Area**

### **Appendix C. List of Invasive Landscaping Plants to Avoid Using**

### **Appendix D. Wetland Delineation Field Data Sheets, Data Points (Sample Pits) #1-3.**

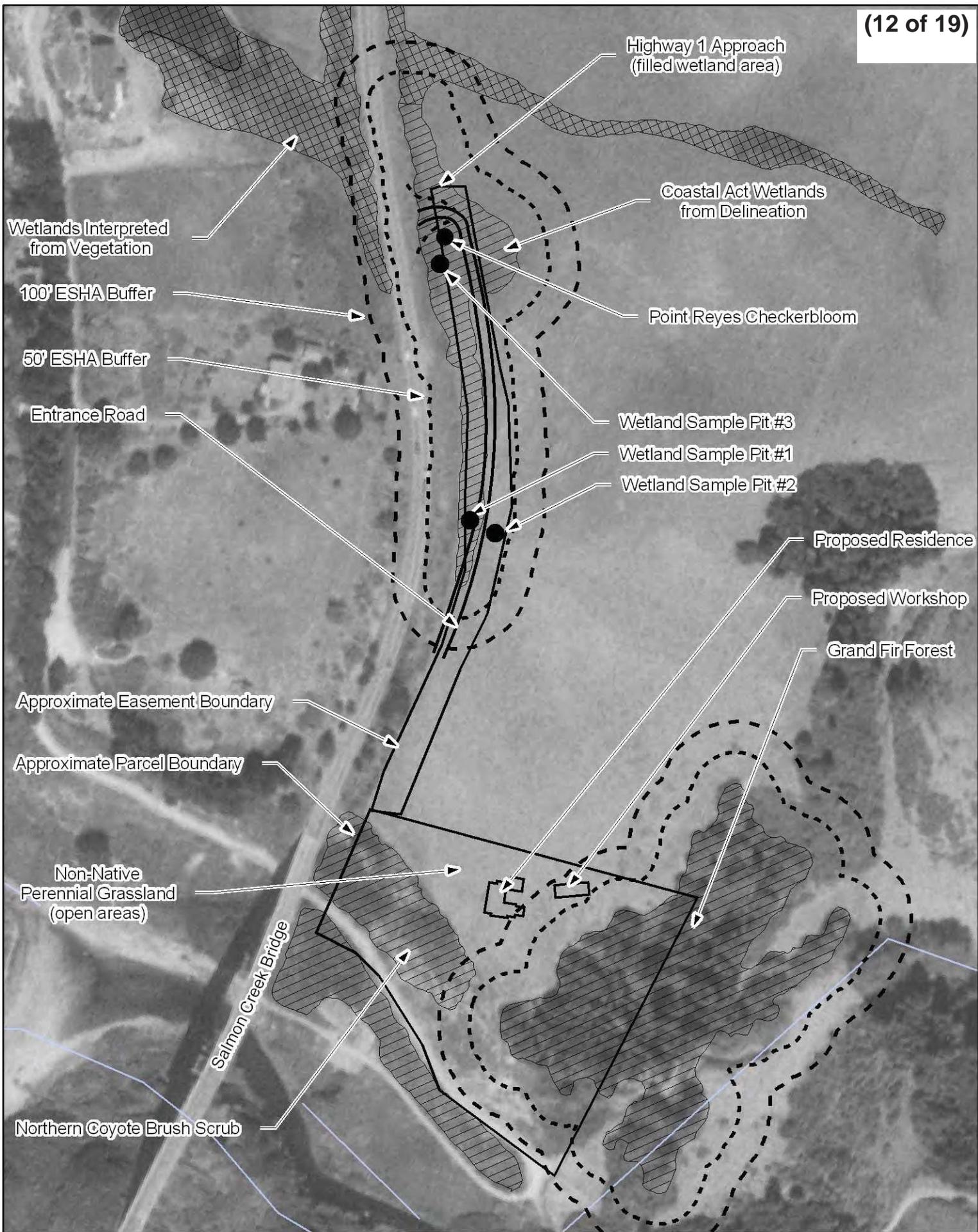
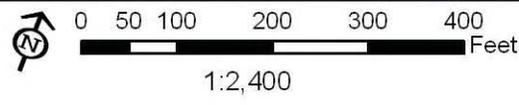
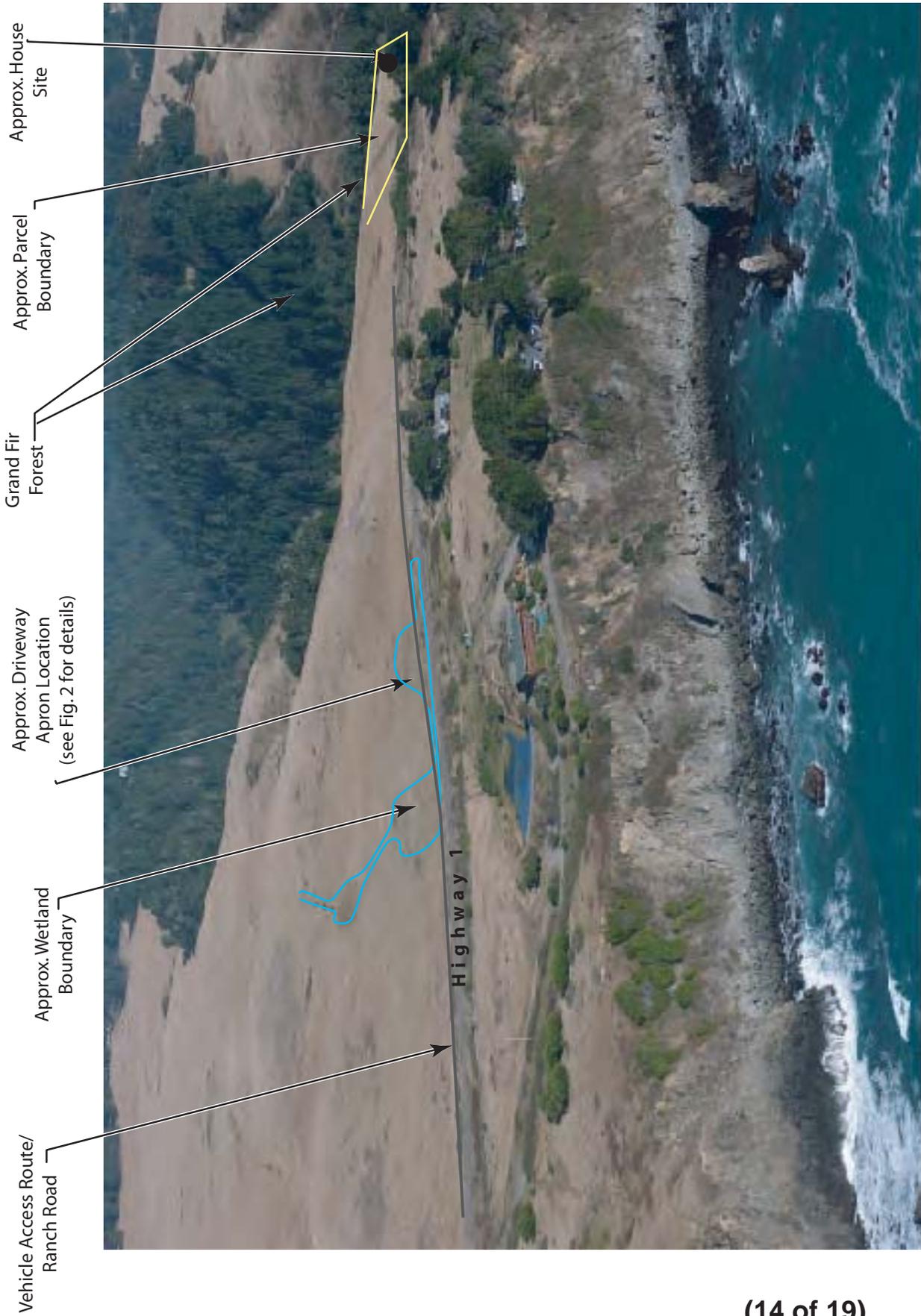


Figure 1. ESHA Map with Buffers. Wetland delineation pits are shown.







**Figure 3. Project Site Oblique Aerial Photo Overview.** Various aspects of the project are illustrated in the photograph.

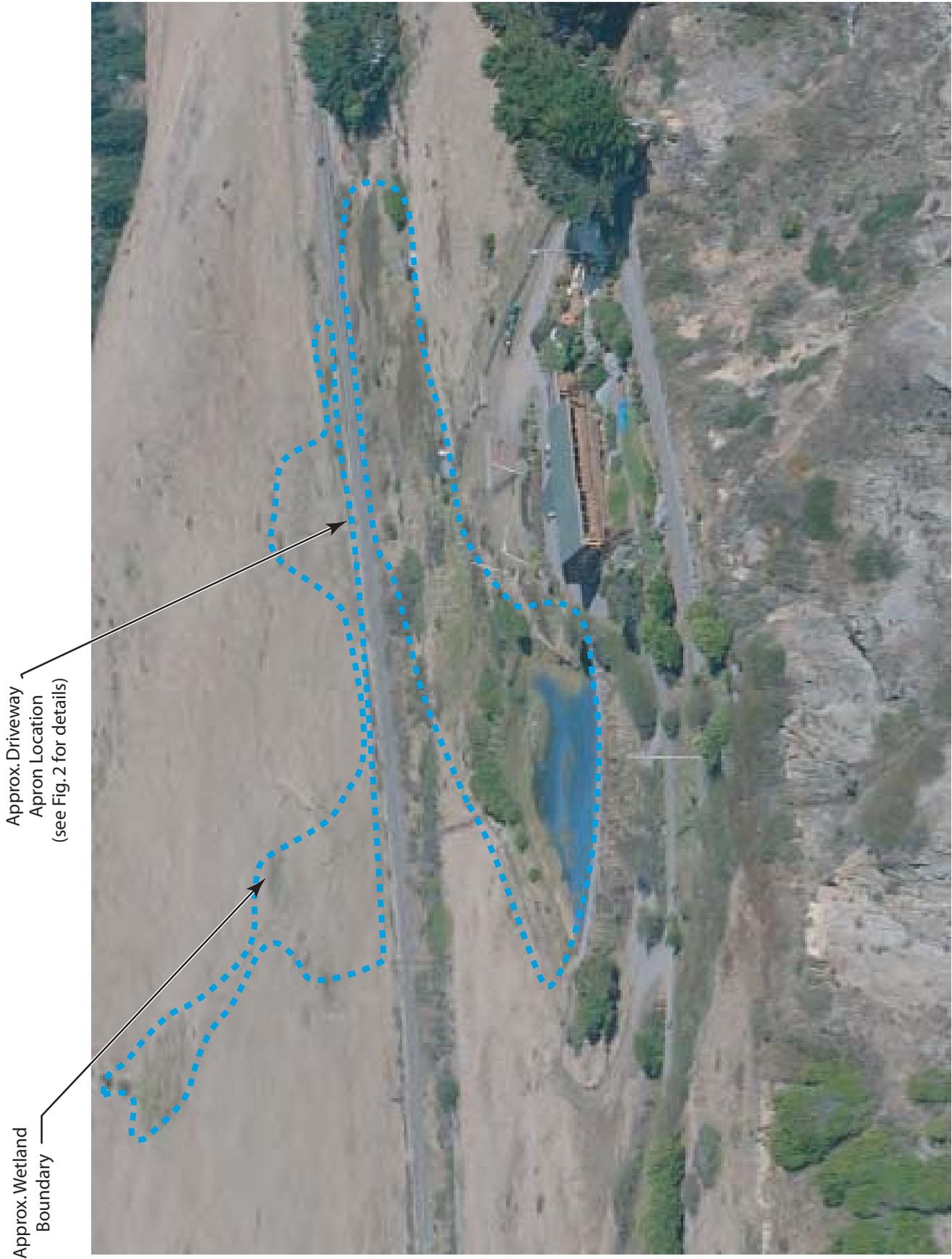
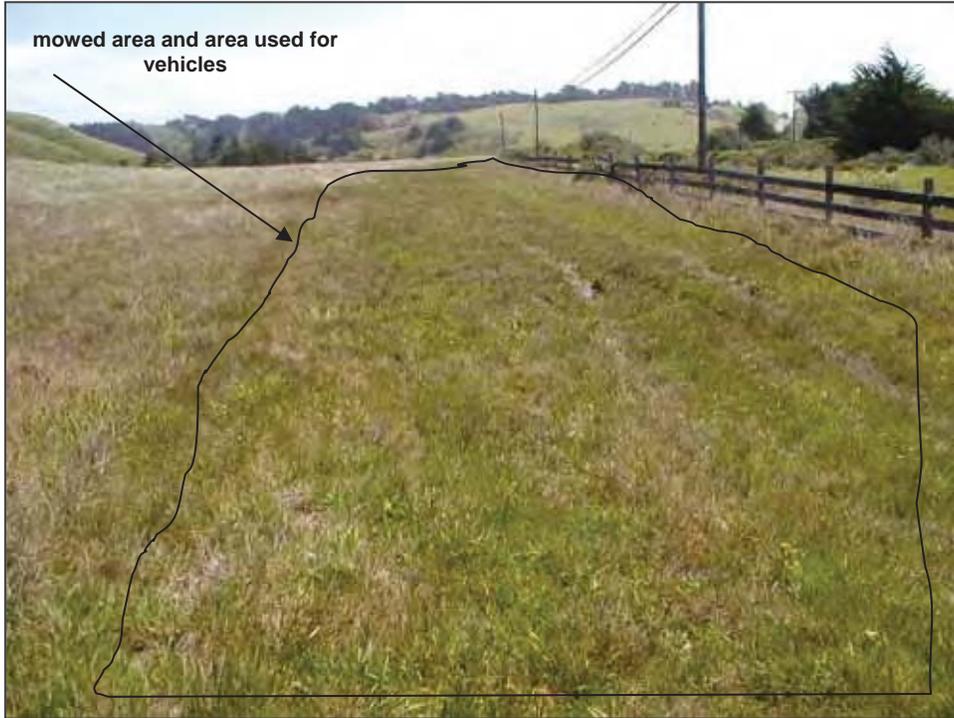
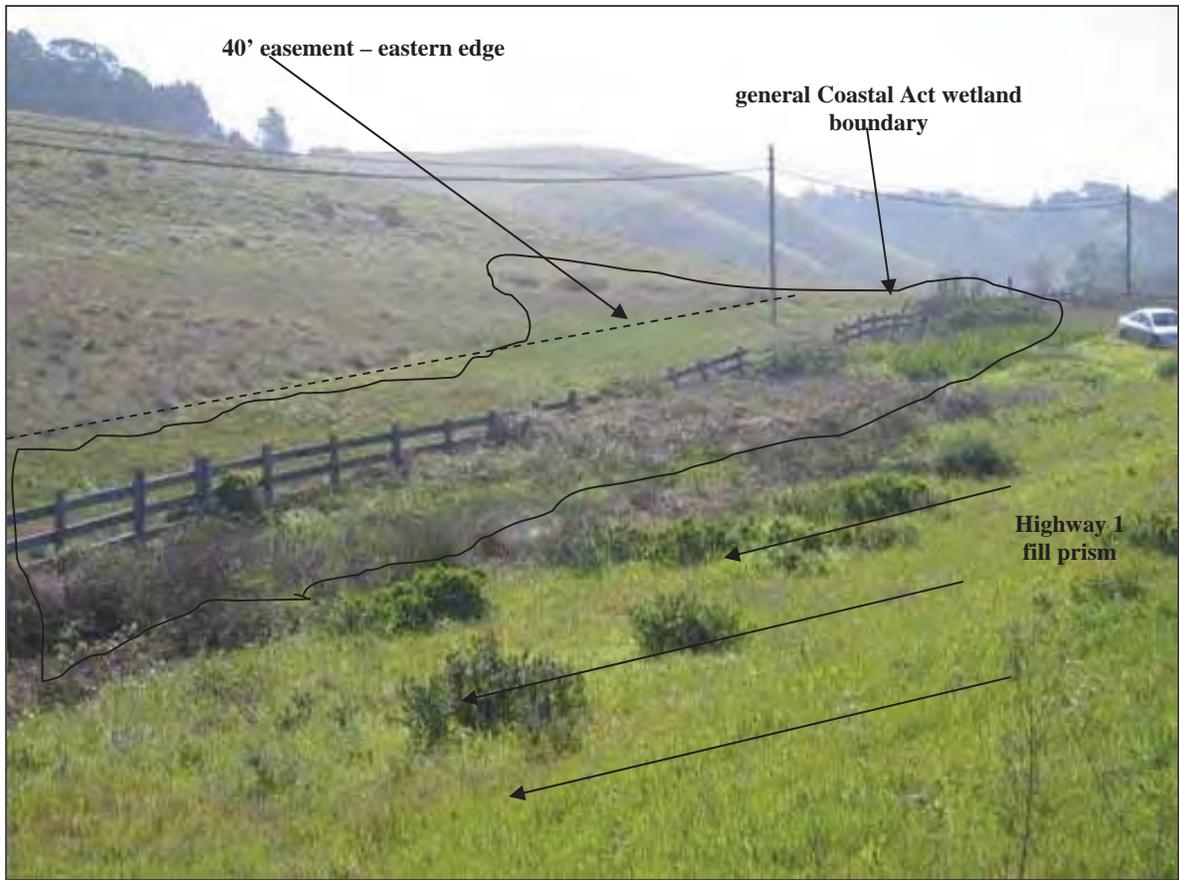


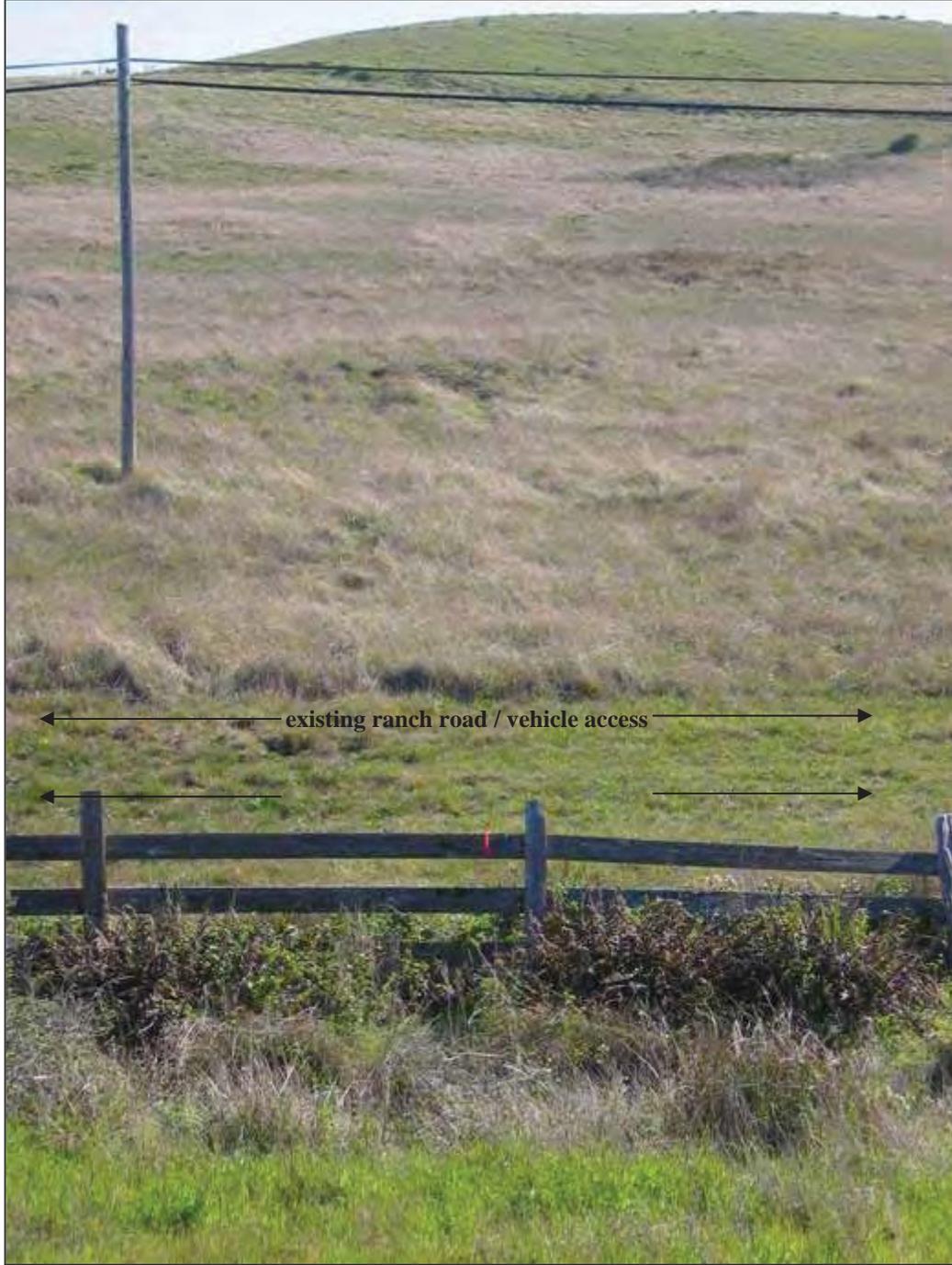
Figure 4. Project Site Oblique Aerial Close-Up. The generalized boundary of the wetland shows how Highway 1 has bisected and modified the subsurface flow of the seasonal wetland. Photo from californiacoastline.org.



**Figure 5. South View of the Mowed Entrance Road.** This area is used for vehicle access.



**Figure 6. General Habitat of Wetland along Proposed Crushed-Rock Driveway, Facing Southeast.** The wetland is not of high-quality as it is disturbed by vehicle use and is formed in part by the impoundment of subsurface flow at the base of the Highway 1 fill prism.



**Figure 7. General Habitat of Proposed Driveway Apron Area, Facing East.** The wetland is primarily formed by subsurface flow through a natural swale above the area near the fence. The construction of the Highway 1 fill prism has caused subsurface water, and surface water to a lesser extent, to become saturated at the base of the highway fill material.



**Figure 8. Point Reyes Checkerbloom Habitat.** Habitat of *Sidalcea calycosa* ssp. *rhizomata* is found in low depressions that are at least seasonally wet.



**Figure 9. Point Reyes Checkerbloom Flower.** This close-up photograph of *Sidalcea calycosa* ssp. *rhizomata* shows the pink flowers and the palmate (palm-shaped) leaves.

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**Mitigation Measures for Project Changes**  
**at 2800 Highway One, Albion, California (APN 123-350-04)**  
*prepared by Playalina Nelson, Consulting Botanist*  
PO Box 5765  
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<b>EXHIBIT NO. 12</b>
<b>APPLICATION NO.</b>
A-1-MEN-09-034
MARR & MALIN
JUNE 1, 2009 BIOLOGICAL ADDENDUM (1 of 2)

The project at 2800 Highway One includes the construction of a residence, garage, workshop, and associated access ways and utilities. The only feasible access to the site is off the east side of Highway 1, north of the Salmon Creek Bridge. Immediately north of the bridge there is a through-cut created for the highway that continues for approximately 450' with rather steep cut banks, and it continues for approximately 100' further with a decreasing height of cut banks. Any feasible approach to the parcel will have to cross a Coastal Act wetland (no hydrology was documented at the wetland, only hydric soils and hydrophytic plants). Any other approach along Highway 1 that is designed to avoid the wetland would result in a large amount of excavation of the eastern bank along Highway 1, thus altering what little natural topography remains along the cut bank. Additionally, this approach would not meet the requirements of line-of-sight establish by CalTrans and would render the project unfeasible.

In spring of 2009, Mendocino County Planner Rick Miller visited the site and suggested a change in the proposed design by moving the driveway access further south (an asphalt driveway apron is required by CalTrans to the Highway 1 approach). This new location lessens the impact by using the existing ranch road gated entrance and road along the property line that currently goes through the wetland. By changing the design, there will be an 85% reduction in impact to the wetland as estimated in the previous report, and it completely avoids the rare plant by more than 100 feet. With mitigating measures for the project design, the road construction will not have any significant impact to the wetland.

Because of the project modifications, mitigation measures are reevaluated from the previous report and presented here. Little has changed in the analysis of the proposed project utilizing the ESHA development criteria in the Mendocino LCP Ordinance 20.496.020(A) through (4)(k) from the previous report other than a lessening of the wetland impact and avoiding the rare plant (Pt. Reyes checkerbloom) 100 foot buffer as mentioned above. The construction of the road would have a direct, minor impact on seasonal wetland habitat by crossing it with approximately 500 sq. ft. of crushed rock road, but the potentially significant loss is mitigated to a level that is less than significant. Mitigation measures have been provided to minimize adverse environmental effects. The construction of the road will be compatible with the continuance of the ESHAs by maintaining the functional capacity of the wetland and its ability to be self-sustaining, including maintaining natural species diversity. No significant change in topographic landforms is needed by constructing the road because the existing road is being utilized, and as a result there are no drainage modifications that would significantly alter the hydrology.

**Impact 1:** The proposed construction of the paved driveway approach and crushed rock road will result in crossing approximately 500 sq. ft. of Coastal Act wetland. Although an existing ranch road and gate exist in the proposed location, a crushed rock road surface will be placed on the road to meet the California Fire Code requirements.

**Mitigation Measure 1a: Enhance the quality of the disturbed wetland (approximately 500 sq. ft.) at the base of the Highway 1 berm. (This is a mitigation ration greater than 10:1.)**

Exotic plant species: Himalaya blackberry (*Rubus discolor*), periwinkle (*Vinca major*), and watsonia iris (*Watsonia bulbifera*) will be removed over a 3 year period in the wetland at the base of the Highway 1 berm. A qualified botanist will submit a brief annual report to Mendocino County Planning and Building documenting the progress. Additionally, the entrance area along the road will be moved to promote the growth of native wetland forbs. All exotic plants can be removed from the location with shovels. It will be the botanist's job to document the extent of

exotic plants annually after each removal effort, and to make sure the owner or the owner's employee knows how to identify the aforementioned weeds.

**Mitigation Measure 1b: Use permeable surfaces for road surfaces.**

To reduce the potential for concentrated water runoff from leaving the proposed develop sites, a semi-permeable surface such as crushed rock will be used in place of concrete or asphalt for the entrance road. However, it is necessary to pave the approach to the highway.

**Mitigation Measure 1c: Install temporary fencing to ensure grading and/or material storage does not occur in the rare plant area or wetland.**

Temporary fencing, such as orange plastic fencing or black silt cloth, will be placed on the outer edge of the road where it leaves the asphalt apron. This will ensure that equipment used in the construction of the road or extra piles of dirt do not intrude on the wetland.

**Mitigation Measure 1d: Design the entrance road so that it is on the easternmost side of the access easement past the Highway 1 approach.**

By making use of the easternmost side of the easement, a greater buffer is given to the seasonal wetland. The road will make use of the existing road that crosses the wetland and then it will avoid the wetland by paralleling it along the easement.

**Potential Impact 2:** The proposed development (house, workshop, and septic system) within the 50-100 foot buffer area from the grand fir forest ESHA may introduce levels of use not compatible with the long-term viability of the rare plants.

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

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

blue gum eucalyptus (*Eucalyptus globulus*)

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

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

periwinkle (*Vinca major*)

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

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

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