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STAFF REPORT: COASTAL DEVELOPMENT PERMIT APPLICATION

APPEAL NO.: **A-2-MAR-10-022**

APPLICANT: **Tony Magee and Carissa Brader**

AGENT: Larry Kennings and Associates

LOCATION: 17990 Shoreline Highway, Marshall, Marin County (APN 106-220-20) (Exhibit 1)

PROJECT DESCRIPTION: Agricultural operations on 150-acre parcel zoned C-APZ-60 (coastal agricultural production zone) consisting of sheep grazing, vegetable and fruit production, and a vineyard to supply on-site brandy distillery; construction of a brandy barn and equipment barn with attached shed, an open-sided hopyard shelter, two open-sided sheep shelters, and a greenhouse; a 3,165 sq.ft. farmhouse with attached 648 sq.ft. garage; infrastructure including five water tanks, a water well, septic system and leach field, fire hydrants, propane tanks, and sewer, water, and power lines; and an affirmative agricultural conservation easement. Applicant also proposes to remove specified unpermitted development and to restore such areas to their pre-development status.

STAFF RECOMMENDATION: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

Tony Magee and Carissa Brader propose agricultural operations on a 150-acre property on the inland side of Highway 1 south of Marshall in the Marin County coastal agricultural production zone. Proposed development includes vegetable and fruit production, a greenhouse, a vineyard to supply an on-site brandy distillery, equipment and brandy barns, hopyard shelter, two sheep shelters, a farmhouse, utility infrastructure (water, power, and sewer), and an affirmative agricultural conservation easement. The Applicants also propose to remove specified unpermitted development and restore such areas to their pre-development status. The standard of review for the project is the Marin County Unit II Local Coastal Program (LCP). The key LCP issues raised by the project are the protection of agriculture, wetlands, streams and riparian habitat, upland environmentally sensitive habitat, water quality, and visual resources.

The project has undergone significant revisions subsequent to the Commission finding in September 2010 that a substantial issue was raised by the appeal of the Marin County approval of the project. In response to concerns expressed by the Commission and project opponents, the Commission staff obtained more detailed information on the proposed agricultural operations, the distribution of sensitive habitats, and the potential adverse effects from proposed development on agriculture, habitat, rare species, water quality, and visual resources. As a result of additional biological resources inventory and analysis undertaken by the Applicant in consultation with Commission staff, the locations of the driveway, several structures, and agricultural fields were modified to avoid sensitive habitat and buffer areas. New wetland areas were identified and existing coastal terrace prairie habitat was protected from development. Setbacks from the stream, pond, and riparian corridors were increased consistent with or exceeding LCP requirements. As approved, an Agricultural Conservation Easement and a Habitat Protection Deed Restriction Area will permanently protect the vast majority of the property from future development, consistent with the agricultural and natural resource policies of the LCP.

The modifications to the project development plan made by the Applicants, and the additional conditions attached to this permit will ensure that the proposed project avoids significant adverse impacts on sensitive habitat and species, protects the property for continued agricultural operations, and protects significant public views consistent with the requirements of the LCP. The evidence accumulated by the Commission addresses the issues raised by project opponents regarding the project's consistency with the Marin County LCP. Therefore, the Commission staff recommends approval of coastal development permit application A-2-MAR-10-022, as conditioned.

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** Coastal Development Permit Application No. A-2-MAR-10-022 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves coastal development permit A-2-MAR-10-022 and adopts the findings set forth below on the grounds that the development as conditioned will be in conformity with the policies of the certified Marin County LCP. Approval of the permit complies with the California Environmental Quality Act because either (1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or (2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgement.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.

2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. **Interpretation.** Any questions of intent and interpretation of any condition will be resolved by the Executive Director or the Commission.

4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Revised Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the permittees shall submit two full-size sets of Revised Project Plans to the Executive Director for review and approval. The Revised Project Plans shall be substantially in conformance with the proposed project plans dated October 31, 2012, received on November 14, 2012, and titled "Brader-Magee Farm"(see **Exhibits 2 and 9**) except that they shall be revised and supplemented to comply with the following requirements:

A. **Project Design.** The design and appearance of all above ground and visible development shall reflect a rural agricultural theme (i.e., simple and utilitarian lines and natural materials, including use of boards and bats, corrugated metal, muted earth tone clors, Corten steel, etc.). The plans shall clearly identify all measures that ensure that the project design, including all structures and other project elements (e.g., driveway, fencing, lighting, landscaping) reflects this theme and that it limits the appearance of bulk and mass and blends with the surrounding environment. Exterior materials shall appear natural and non-reflective, including through the use of wood, stone, brick, and earth-tone colors. All exterior lights, including any lights attached to the outside of the farmhouse, shall be the minimum necessary for the safe ingress and egress of the farmhouse, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundary of the subject property. Plans shall clearly identify all structural elements, materials, and finishes (including through site plans, elevations, materials palettes and representative photos, product brochures, etc.)

B. **Utilities.** All utilities shall be installed underground, except for the extension of the existing aerial power line to the farmhouse, and the placement of flexible hose water lines connecting the water well, water tanks, livestock watering troughs, and the vegetable garden and existing hopyard on the southern half of the property.

C. **Disturbed Areas Restored.** All areas on the property temporarily disturbed through construction activities, including areas where development is to be located underground (e.g., utility lines, wastewater system components), shall be restored to pre-project conditions to the maximum extent feasible, including through recontouring and relandscaping.

D. **Brandy Barn Parking Area.** No portion of the brandy barn parking area shall be located within the 150-foot stream setback area required by **Special Condition 10** and generally depicted on **Exhibit 6** and on Figure 2 of **Appendix E**.

E. **Livestock Enclosure and Water Diversion.** The plans shall indicate the removal of the existing fenced livestock enclosure structure, the adjacent excavated basin, and the water diversion and conveyance works located in the northwest corner of the property. The plans shall include a restoration plan for these areas, including restoration to original grade and landscaping with vegetation similar to that of the adjacent non-disturbed areas of the property. The plans shall indicate that removal of the enclosure, filling of the basin, removal of the diversion works, and restoration of these areas shall be completed prior to the start of any other development authorized under this permit, except for the tree thinning required under **Special Condition 15**.

F. **Landscaping.** The plans shall include landscape and irrigation parameters that shall identify all plant materials (size, species, quantity), all irrigation systems, and all proposed maintenance measures for the entire property, including measures for maintaining areas outside of the building and driveway footprint area (e.g., for fire safety, etc.). All plant materials shall be native and non-invasive species selected to be complimentary with the mix of native habitats in the project vicinity, prevent the spread of exotic invasive plant species, avoid contamination of the local native plant community gene pool, and appropriately address fire risk. Landscaping (at maturity) shall also be capable of partial/mottled screening and of minimizing the appearance of development (e.g., the brandy barn, equipment barn, and farmhouse) as seen from Highway 1 and the Marconi Cove area west of the property. All landscaped areas on the project site shall be maintained in a litter-free, weed-free, and healthy growing condition. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be so identified from time to time by the State of California, and no plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be planted or allowed to naturalize or persist on the site.

G. **Hopyard Expansion Eliminated.** The plans shall indicate that the proposed hopyard expansion adjacent to the existing hopyard area is eliminated.

H. **Agricultural Conservation Easement Mapped.** The plans shall identify the location of all areas on the property that are to be included in the affirmative agricultural conservation easement being dedicated by the Permittees consistent with S**pecial Condition 3** and as generally depicted on **Exhibit 3**.

I. **Habitat Protection Deed Restriction.** The plans shall identify the location of all areas on the property that are to be included in the Habitat Protection Deed Restriction Area, including required buffer setback areas, consistent with the requirements of **Special Condition 10** and as generally depicted on **Exhibit 4**.

J. **Relocation of Water Supply Hoses.** The water supply hoses between southern water well and the southeastern water tank shall follow the existing farm road to avoid any portion of the Habitat Protection Deed Restriction Area required by **Special Condition 10** and generally depicted on **Exhibit 4**.

All requirements above and all requirements of the approved Revised Project Plans shall be enforceable terms of this coastal development permit. The Permittee shall undertake development in accordance with the approved Revised Project Plans and all requirements of this coastal development permit.

2. **Agricultural Uses Conform to the Brader-Magee Farm Master Plan.** All agricultural activites on the subject property shall conform to the Brader-Magee Farm Plan, as modified by the conditions of this coastal development permit, including the requirements that habitat setback areas be provided consistent with the requirements of **Special Condition 10** and the hopyard expansion outlined in the *Farm Plan* be eliminated. Any proposed changes to the buffer setback requirements or expansion of the existing hopyard requires approval of an amendment to this permit.

3. **Affirmative Agricultural Conservation Easement.**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the Agricultural Resource areas depicted on **Exhibit 3** except for the Agricultural Uses defined in Subparagraphs B1 and B2 and:

1. The following development as authorized by this coastal development permit north of the riparian corridor as generally depicted on **Exhibit 2**:
    a. Vineyard and drip irrigation system
    b. Compost pile or pit adjacent to the vineyard
    c. Buried wastewater/septic system disposal pipeline
    d. Underground septic system leach field
    e. Water well, pump, and portable generator
    f. Buried water lines between the well and the farmhouse
    g. Surface irrigation hoses between the water well and the vineyard
    h. Two 4,950-gallon water tanks
    i. Aerial power line between the existing power pole adjacent to the pond and the farmhouse
    j. Restoration, protection, or enhancement of native habitat and/or sensitive species
    k. Drainage and erosion control measures as required by **Special Conditions 11 and 12**.
    l. Landscaping required by **Special Condition 1.**

2. The following development as authorized by this coastal development permit south of the riparian corridor and generally depicted on **Exhibit 2**:
    a. Sheep grazing in fenced pastures
    b. Permanent and temporary/portable livestock fencing and gates
    c. Two 4,950-gallon water tanks
    d. Two 1,500 sq-ft. sheep shelters
    e. One 1,800 sq.ft. hopyard shelter
    f. Surface water lines and irrigation hoses connecting the water well, water tanks, livestock watering troughs, and the existing hopyard.

g. Drainage and erosion control measures as required by **Special Conditions 11 and 12**.
h. Landscaping required by **Special Condition 1**.

3. Repair and maintenance, if authorized by a coastal development, of the development listed in A.1. and A.2., above, and of the following existing development in the Agricultural Resource areas:
   a. Farm track road north of the riparian corridor
   b. Farm track roads south of the riparian corridor
   c. Hopyard
   d. Water well, pump, and portable generator
   e. 4,950-gallon water tank
   f. Surface irrigation hoses and water lines between the water tanks, wells, and hopyard
   g. Livestock fencing and gates

4. Any future agricultural use as defined in Subparagraphs B1 and B2 below, if authorized by a coastal development permit amendment.

B. All portions of the property generally depicted in **Exhibit 3** shall remain in active agricultural use as defined in subparagraphs 1 and 2 below except for the areas on or in the existing farm roads, and on or in the existing or approved septic system leach field, water wells, tanks, landscaping, and water lines and hoses generally depicted on **Exhibit 2.**

1. Agricultural production activities defined as "activities that are directly related to the cultivation of agricultural commodities for sale. Agricultural commodities are limited to food and fiber in their raw unprocessed state, and ornamental plant material. Such activities include the continuing grazing operations identified in the *Agricultural Production and Stewardship Plan* dated May 2009, as modified by the **Special Condition No. 13**.

2. Agricultural support facilities directly related to the cultivation of food, fiber, and ornamental plants being undertaken on the site, such as agricultural barns, fences, and agricultural ponds.

C. All portions of the property identified as the Agricultural Conservation Area on **Exhibit 3** and shall at all times be maintained in active agricultural use. Active agricultural use shall be defined as the use of land for the purpose of producing an agricultural commodity for commercial purposes. The Permittees may satisfy this requirement either by engaging in good faith in agriculture at a commercial scale and/or by leasing the Agricultural Conservation Area, in whole or in part, to a farm operator for commercial agricultural use consistent with the requirements of this CDP. The terms of any lease agreement for purposes of this condition shall be based at or below the current market rate for comparable agricultural land in the region and shall reflect a good faith effort on the part of the Permittees to maintain continued agricultural use of the property. The

Permittees shall be responsible for ensuring that an adequate water supply and other necessary infrastructure and improvements are available for the life of the approved development to sustain the agricultural viability of the property.

D. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and after approval of the revised plans required by **Special Condition 1**, the Applicant Permittees shall dedicate an agricultural conservation easement to the County of Marin, or another public agency or private association approved by the Executive Director (hereinafter referred to as the "Grantee"). The agricultural conservation easement shall be for the purposes of implementing the requirements of Paragraphs A, B, and C above and shall be in a form acceptable to the Executive Director. Such easement shall be located over the portions of the property to be used for agriculture as generally depicted on **Exhibit 3**. After acceptance, this easement may be transferred to and held by any entity that qualifies as a Grantee under the criteria herein stated. The easement shall be subject to a covenant that runs with the land providing that the Grantee may not abandon the easement until such time as Grantee effectively transfers the easement to an entity that qualifies as a Grantee under the criteria stated herein.

E. In the event that an acceptable Grantee cannot be identified, the Applicant Permitteesmay in the alternative, prior to issuance of the CDP, execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural conservation easement consistent with the purposes and requirements described above.

F. The recorded document required pursuant to this special condition, whether it is an Agricultural Conservation Easement Deed or an Irrevocable Offer to Dedicate an Agricultural Conservation Easement Deed, shall include legal descriptions of both the Applicant's entire parcel and the easement area. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition. The document shall be recorded free of prior liens, and encumbrances that the Executive Director determines may affect the interest being conveyed. The easement document shall run with the land in favor of the People of the State of California, binding all successors and assignees, in perpetuity, and if an Irrevocable Offer to Dedicate an Agricultural Conservation Easement is recorded, that document shall be irrevocable for a period of 21 years, such period running from the date of recording.

G. The landowners shall submit to the Executive Director and/or Grantee such information as may reasonably be required to monitor the landowners' compliance with the terms of this condition. Such information may include a written report describing current uses and changes in uses (including residential uses). The written report and any other required information shall be provided as needed upon the request of the Executive Director and/or Grantee, in a form as shall be reasonably required by same. If the landowner enters into a lease agreement with a farm operator for any portion of the property, a copy of the lease agreement may also be required as further documentation of compliance with this condition.

H. If circumstances arise in the future beyond the control of the landowner or operator that

render continued agricultural production on the property infeasible, the easement may be converted to an open space and conservation easement upon Commission certification of an amendment to the Local Coastal Program changing the land use designation of the property to Open Space and Conservation in accordance with all applicable policies of the certified LUP and the Coastal Act, and the requirements of Paragraph B of this condition may be extinguished upon Commission approval of an amendment to this coastal development permit.

I. By acceptance of this permit, the Permittees acknowledge and agree: (a) that the permitted residential development is located on and adjacent to land used for agricultural purposes; (b) users of the property may be subject to inconvenience, discomfort or adverse effects arising from adjacent agricultural operations including, but not limited to, dust, smoke, noise, odors, fumes, grazing, insects, application of chemical herbicides, insecticides, and fertilizers, and operation of machinery; (c) users of the property accept such inconveniences and/or discomforts from normal, necessary farm operations as an integral part of occupying property adjacent to agricultural uses; (d) to assume the risks to the Permittees and the property that is the subject of this permit of inconveniences and/or discomforts from such agricultural use in connection with this permitted development; and (e) to indemnify and hold harmless the owners, lessees, and agricultural operators of adjacent agricultural lands against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any issues that are or in any way related to the property that is the subject of this permit.

4. **Grazing Limitations.** No grazing of sheep or other livestock is allowed to occur in any of the wetlands, stream and riparian corridors, or their respective setback areas, as generally depicted on **Exhibit 6** of this report.

5. **Livestock Fencing.** All fencing shall be installed on the property outside the habitat conservation deed restriction area required by **Special Condition 10** and generally depicted on **Exhibit 4** and shall be wildlife friendly to allow for the continued movement of wildlife through and across the property, including to the blue-line stream. Wetlands, riparian areas, and their buffer areas south of the blue-line stream adjacent to the proposed sheep grazing pastures will be protected by livestock fencing. The height and wire-grid spacing of the fence will prohibit sheep in the grazing pastures from entering these areas while allowing deer and other animals to move over or under fences to reach the blue-line stream, its intermittent tributaries, and the stock pond.

6. **Monitor Grazing.** The Permittees shall submit an annual report to the Executive Director, for his review and approval, summarizing the results of the monitoring program of grazing operations on the southern half of the property and providing recommendations on changes in grazing management to best protect resources. Grazing may continue where it has historically in grassland areas consistent with the proposed *Agricultural Production and Stewardship Plan,* dated May 2009, as modified by **Special Condition 13**. The *Agricultural Production and Stewardship Plan* proposes a rotational grazing system of the sheep pastures based on available forage to ensure long-term protection of the grasslands to be grazed.

7. **Brandy Barn Operations.** Brandy Barn Operations are confined to the development envelope generally depicted on **Exhibit 5**. Brandy which is distilled, aged, and bottled on-site, using grapes harvested only from the vineyard on the property, may be sold in the brandy barn. Limited, reservation-only public tours of the brandy barn may be conducted. No tasting will be allowed. No vans or buses will be allowed. No signage would be installed at the farm entrance or along the Shoreline Highway. The appointment-only tours would be restricted to Saturday only, between the hours of 11:00 AM to 3:00 PM. The tours would be restricted to adults (21 and over) only. The sampling would be olfactory only (sniffing), no on-site consumption would be allowed. On-site sales would be allowed only during the limited tours.

8. **No Importing of Grapes and Alternate Brandy Barn Use.** No grapes harvested off-site are allowed to be imported to the distillery operation in the brandy barn, either during the time period before grapes are harvested from the on-site vineyard or in the event that the vineyard fails to produce a crop suitable in quality or volume to produce brandy. Should the distillery operation not be constructed or operations be terminated at a future date, the brandy barn may only be used to produce a jam/jelly product using fruits and berries grown on the subject property. Other proposed uses of the brandy barn shall require an amendment to this permit.

9. **Protection of Sensitive Species.**

   A. **Birds of Prey.** As foraging habitat for birds of prey exists on the property, construction during the February 1 – August 15 nesting season should occur no closer than 500 feet from active raptor nests, which shall be identified by a qualified biologist through a focused survey within 15 days prior to the start of construction. Interior work that does not result in loud noises could continue during this period.

   B. **American Badgers.** Grassland habitat in this part of Marin County is probably suitable badger habitat and may be periodically occupied, and potential burrows have been observed in the eastern portion of the property. Therefore, before any ground disturbing activities take place a qualified biologist shall ensure that badgers are not present.

   C. **California Red-Legged Frogs and Western Pond Turtles.** California red-legged frogs, a federally threatened species and a California Species of Special Concern, and Western pond turtles, a California Species of Special Concern, have been documented on the subject property. To reduce the potential for adverse impacts from project construction on these species, the following protective measures are required:

      1. A qualified biologist shall be on-site once each day prior to the start of construction activity to survey the current work sites, including material and vehicle storage areas and the protective barriers installed around construction and storage areas. If California red-legged frogs are found within work areas, the biologist shall contact the U.S. Fish and Wildlife Service and consult as to the required course of action. If Western pond turtles are found within work areas, all

development within the affected area shall cease until after the biologist contacts the California Department of Fish and Wildlife and consults as to the required course of action.

2. All construction work areas and material and vehicle storage areas shall be surrounded with a plastic barrier to prevent entry into these areas by California red-legged frogs and Western pond turtles.
3. Before any construction activities begin, a qualified biologist shall conduct a training session for all construction personnel. At a minimum, the training shall include photographs of the California red-legged frog and Western pond turtles, a description of both species and their habitats, the importance of both species and their habitats, the general measures that are being implemented to conserve both species as they relate to the project, and the boundaries within which the project may be accomplished. Personnel shall also be instructed on the penalties for not complying with avoidance and minimization measures. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work.
4. During project activities, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of regularly. Following construction, all trash and construction debris shall be removed from work areas.
5. All construction-related holes shall be covered to prevent entrapment of California red-legged frogs and Western pond turtles.
6. Plastic mono-filament netting or similar material shall not be used at the project site because California red-legged frogs and Western pond turtles may become entangled or trapped in it. Acceptable substitutes include coconut coir matting or tackified hydro-seeding compounds.

10. Habitat Conservation Deed Restriction Area

A. No development, as defined in section 30106 of the Coastal Act, shall occur in the Habitat Conservation areas identified below and generally depicted on **Exhibit 4** except for:

1. The following development, as authorized by this coastal development permit:
    a. An extension of an aerial power line from the existing power pole at the north side of the pond to the farmhouse.
    b. 600 sq.ft. greenhouse with portable generator and a one-quarter-acre vegetable garden, all of which are located outside the required buffer areas set forth below.
    c. Surface flexible irrigation hoses placed on the existing farm track providing access to the greenhouse and vegetable garden area.
    d. Drainage and erosion control measures consistent with the requirements of **Special Conditions 11 and 12**.

2. Repair and maintenance, if authorized by a coastal development permit, of the development listed in Section 1, above, and of the following existing development in the Habitat Conservation areas:
    a. Earthen dam and farm road on crest
    b. Power poles and aerial power line
    c. Pump shed (housing an electrical panel and meter, water pump, and pressure tank) on northern side of pond
    d. Water tank at northern side of pond
    e. Farm road providing access to greenhouse/vegetable garden site
    f. Fencing and gates

3. Future development authorized by a coastal development permit.

B. The habitat conservation area, generally depicted on **Exhibit 4**, shall encompass all wetlands, streams, riparian corridor, and sensitive habitat areas identified in the *Wetland Delineation Report*, dated October 2012 and in **Appendix E** of this report (Dr. John Dixon's February 5, 2013, Memorandum on the Magee Project, including Figures 1 and 2), and shall also include a 100-foot buffer from wetlands and riparian habitats, a 150-foot buffer from the blue-line stream, and a 300-foot buffer from the stock pond, all as generally depicted on **Exhibit 6**. For riparian areas, the buffer shall be measured from the limit of riparian vegetation or the high water point if no riparian vegetation exists. For wetlands, the buffer shall be measured from the outermost line of wetland vegetation.

C. PRIOR TO ISSUANCE OF THIS CDP, and following approval of the revised plans required by **Special Condition 1**, the Applicant shall execute and record a document restricting the habitat conservation area identified in subsection B in a form and content acceptable to the Executive Director. The recorded deed restriction shall include (1) a formal legal description and graphic depiction of the entirety of the property known as APN 106-220-20 and (2) a metes and bounds legal description and corresponding graphic depiction prepared by a licensed surveyor and drawn to scale, of the portion of the subject property identified in Subsection B. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances that the Executive Director determines may affect the enforceability of the restriction and shall run with the land in perpetuity.

11. Construction Responsibilities and Standards. The authorized work shall comply with the following construction responsibilities and standards:

A. Prior to the commencement of any development authorized under this CDP, the Permittees shall ensure that all on-site workers and contractors understand and agree to observe the standards for work outlined in this permit and in the detailed project description included as part of the application submittal and as revised by these conditions.

B. Prior to commencement of ground-disturbing activities, appropriate erosion, sediment, and runoff control measures shall be deployed in accordance with the final Storm Water

Pollution Prevention Plan approved pursuant to **Special Condition 12**, and all measures shall be properly maintained throughout the duration of construction activities.

C. Prior to the commencement of construction, the limits of the work areas and staging areas shall be delineated in consultation with a qualified biologist, limiting the potential area affected by construction and ensuring that all agricultural lands, wetlands, and other environmentally sensitive habitats adjacent to construction areas are avoided during construction. All vehicles and equipment shall be restricted to pre-established work areas and haul routes and to established or designated staging areas;

D. During construction, all trash shall be properly contained, removed from the work site, and disposed of on a regular basis to avoid contamination of habitat during construction activities. Any debris inadvertently discharged into coastal waters shall be recovered immediately and disposed of consistent with the requirements of this coastal development permit;

E. During construction, when topsoil is removed by grading operations, it shall be stockpiled for reuse and shall be protected from compaction and wind or erosion during stockpiling.

F. The following seasonal restrictions shall apply to the authorized construction work:

   1. Grading, excavation, and other earth-moving activities shall only be conducted between June 1 through October 15 except as provided below. If rainfall is forecast during the time construction activities are being performed, BMPs shall be implemented in conformance with the final SWPPP approved pursuant to **Special Condition 12.** Any grading, excavation, and other earth-moving activities that cannot feasibly be conducted within the June 1 through October 15 time period may be conducted between April 15 and May 31 and/or between October 16 and November 30 subject to the following conditions:

      a. All work shall cease upon the onset of precipitation at the project site and shall not recommence until the predicted chance of rain is less than 40 percent for the Marshall area;

      b. The work site(s) shall be winterized between work cessation periods by installing stormwater runoff and erosion control barriers around the perimeter of each construction site to prevent the entrainment of sediment into coastal waters; and

      c. Adequate stocks of stormwater runoff and erosion control barrier materials shall be kept onsite and made available for immediate use.

G. Excess ground water shall not be pumped or discharged into wetland areas on surrounding fields outside of the project area footprint to prevent sediment-laden water from entering coastal waters or wetlands;

H. Equipment staging and materials stockpiling areas shall be limited to the locations and sizes specified in the approved final plans. Construction vehicles shall be restricted to designated haul routes. Construction equipment and materials shall be stored only in designated staging and stockpiling areas as depicted on the final approved plans;

I. Any fueling and maintenance of construction equipment shall occur within upland areas outside of environmentally sensitive habitat areas or within designated staging areas. Mechanized heavy equipment and other vehicles used during the construction process shall not be refueled or washed within 100 feet of coastal waters;

J. Fuels, lubricants, and solvents shall not be allowed to enter the coastal waters or wetlands. Hazardous materials management equipment including oil containment booms and absorbent pads shall be available immediately on-hand at the project site, and a registered first-response, professional hazardous materials clean-up/remediation service shall be locally available on call. Any accidental spill shall be rapidly contained and cleaned up; and

12. Final Storm Water Pollution Prevention Plan.

A. PRIOR TO COMMENCEMENT OF ANY DEVELOPMENT, the Applicant shall submit, for the review and approval of the Executive Director, a final Storm Water Pollution Prevention Plan (SWPPP). The final SWPPP shall include provisions for all of the following:

1. Runoff from the project site shall not increase sedimentation in coastal waters or wetlands post-construction. During construction, runoff from the project site shall not increase sedimentation in coastal waters beyond what's allowable under the final Water Quality Certification approved for the project by the San Francisco Regional Water Quality Control Board;

2. Runoff from the project site shall not result in other pollutants entering coastal waters or wetlands during construction or post-construction;

3. Best Management Practices (BMPs) shall be used to prevent the entry of polluted stormwater runoff into coastal waters and wetlands during construction and post-construction, including use of relevant BMPs as detailed in the current California Storm Water Quality Best Management Handbooks (http://www.cabmphandbooks.com);

4. An on-site spill prevention and control response program, consisting of best management practices (BMPs) for the storage of clean-up materials, training, designation of responsible individuals, and reporting protocols to the appropriate public and emergency services agencies in the event of a spill, shall be implemented at the project to capture and clean-up any accidental releases of oil, grease, fuels, lubricants, or other hazardous materials from entering coastal waters or wetlands;

5. A schedule for installation and maintenance of appropriate construction source-control BMPs to prevent entry of stormwater runoff into the construction site and the entrainment of excavated materials into runoff leaving the construction site; and

6. The SWPPP shall be consistent with the provisions of all other terms and conditions of Coastal Development Permit No. A-2-MAR-10-022.

B. The Permittees shall undertake development in accordance with the approved final storm water pollution prevention plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur

without a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required

13. **Revised Agricultural Production and Stewardship Plan.** Prior to the construction of either the vineyard or the vegetable garden, the Permittees shall submit a revised *Agricultural Production and Stewardship Plan* to the Executive Director for review and approval including the following elements: (a) construction BMPs pursuant to **Special Condition 11;** (b) inclusion of structural erosion control systems to intercept and diffuse water flow and encourage infiltration into the vineyard such as drop inlets with sediment traps, outlets to vegetated swales, energy dissipaters, sediment basins, cover crops, or filter strips; and (c) manure management and fertilizer control plan.

14. **RWQCB Approval.** Prior to the start of construction of the brandy distillery, the Permittees shall submit written evidence to the Executive Director of approval by the San Francisco Regional Water Quality Control Board of the distillery wastewater disposal system.

15. **Tree Thinning Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit a plan for the review and approval of the Executive Director for the removal and retention of certain cypress trees previously planted by the Permittees along the western border of the property adjacent to the Highway 1 shoulder. This plan shall ensure that significant public views from Highway 1 across the subject property are not obstructed or impaired by the height and width of the trees when they reach maturity. The plan shall meet the following criteria: (1) trees planted between the southwest corner of the property up to that location where Highway 1 begins a right-hand curve and begins to dip below the right shoulder embankment shall be removed to preserve unobstructed views of coastal hillsides to the east; and (2) trees planted north of this removal location may be retained as they are in a location that will not obstruct views to the east. Implementation of the thinning program shall be completed prior to the start of any other development authorized under this permit, excluding the livestock enclosure and water diversion restoration work required under Special Condition 1(e).

16. **Changes Require Coastal Development Permit Amendment.** No proposed changes to the development approved under this permit, or any new development not included in this permit may occur unless and until the permittees obtain an amendment to this permit.

17. **Deed Restriction.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the Permittees shall submit to the Executive Director for review and approval documentation demonstrating that the permittees have executed and recorded against the property governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the special conditions of this permit as covenants, conditions, and restrictions n the use and enjoyment of the property. The deed restriction shall include a legal description and site plan of the property governed by this permit. The deed restriction shall also indicate that, in the event of

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

18. **Liability for Attorneys Fees.** The Permittees shall reimburse the Coastal Commission in full for all Coastal Commission costs and attorneys fees (including but not limited to such costs/fees that are: (1) charged by the Office of the Attorney General; and (2) requird by a court that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Permitees against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this permit, the interpretation and/or enforcement or permit conditions, or any other matter related to this permit. The Permittees shall reimburse the Coastal Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

19. **County Conditions.** All conditions of approval of Coastal Permit CP-09-39 imposed on the project by Marin County pursuant to an authority other than the California Coastal Act remain in effect, but do not alter the Permittee's responsibility to satisfy all conditions of approval as specified herein.

IV. FINDINGS AND DECLARATIONS

A. PROJECT LOCATION AND SITE DESCRIPTION

The subject 150-acre property is located on the east side of State Highway 1 and overlooks the east shore of Tomales Bay, at the southern extent of the unincorporated community of Marshall in Marin County. The area between the small communities of Point Reyes Station (to the south) and Tomales (to the north) is largely rural and comprised of ranches, residential development, public lands, and open space, and also supports commercial visitor-serving amenities such as restaurants and boating facilities. The subject property is mostly undeveloped agricultural land which has supported cattle grazing over several decades until around 2007, shortly before the Applicants leased the property (prior to their subsequent purchase of the property in 2011) and initially applied to the County for the subject CDP in or around 2008. The CDP proposes to continue livestock grazing as discussed herein. The applicant has maintained his interest in continuing livestock grazing during the pendency of various permit applications. Development on the property currently consists of numerous unpaved, two-track farm roads accessing all portions of the property; a partially silted-in stock pond behind an earthen dam on the lower reach of the blue-line stream which flows across the property from east to west; perimeter and interior livestock fencing and gates; a one-quarter acre hops cultivation field, water well with portable generator, water tank, and flexible above-ground irrigation lines on the south side of the parcel; four empty water tanks stored in the southeast corner, southwest corner, and the northern side of the property; an aerial power line extending from the aerial power line which parallels Highway 1; a pump shed (housing an electrical panel and meter, water pump, and pressure tank associated with the stock pond) and water tank on the northern edge of the stock pond; and a water well in the northeast corner of the property. Except for the hops field, the adjacent water

tank and irrigation lines, the empty water tanks, the water well on the northern side of the property, and repairs to livestock fencing and gates, all the existing development on the property occurred prior to the permit Applicant taking ownership of the property and is associated with historic livestock operations by previous owners.

The property is zoned C-APZ-60 (Coastal Agricultural Production Zone, Planned District, one primary dwelling unit per 60 acres maximum density); there are no dwelling units currently on-site. The adjacent properties to the south and east are undeveloped agricultural lands. The adjacent property to the north includes a single-family residence, several out-buildings, and a swimming pool in the southwest corner of the parcel; an olive tree grove is located further east on that parcel. To the west of the property between Highway 1 and Tomales Bay is the undeveloped Marconi Cove unit of Tomales Bay State Park. Portions of the subject property are visible from Highway 1, the adjacent state park property on the eastern shore of Tomales Bay, and from the west shore of Tomales Bay, one mile distant.

The dominant vegetation on the subject parcel is native and non-native grassland, coastal scrub, and mixed-evergreen riparian forest. A blue-line stream bordered by riparian forest runs through the central portion of the property and flows into Tomales Bay. Two intermittent water courses in the southern half of the parcel are tributary to the blue-line stream. The area adjacent to the stock pond and several other areas on the parcel show evidence of aquatic and emergent wetland plant communities. Elevations range from 490 feet in the northeast corner of the property to 20 feet at the Highway 1 frontage. The area proposed for the equipment barn, brandy barn, and farmhouse is free of landslide potential and does not include unstable soils. No known active, potentially active, or inactive fault traces exist within the subject property, and the nearest active fault is the San Andreas Fault zone in Tomales Bay, approximately 0.4 miles west of the property. An archaeological resource is located on the south side of the blue-line stream just below the stock pond dam, and is completely within an area off-limits to any proposed development.

B. PROJECT DESCRIPTION

The proposed project is comprised of agricultural operations, construction of a farmhouse, barns, and livestock shelters, and construction of infrastructure to support agricultural operations.

The proposed agricultural development includes the following elements:

- Continued livestock grazing on 50 acres south of the blue-line stream with sales targeted to local and regional markets. Approximately 25-35 ewe/lamb pairs would ultimately be raised; sheep numbers would be adjusted annually depending on forage availability and carrying capacity in three fenced pastures. Grazing would occur year-round using a structured grazing rotation plan and permanent and temporary fencing; pasture irrigation and hay supplements would be used in extremely dry seasons. The southern water well and tanks would supply water for sheep and pastures via flexible hoses placed on the ground. Two predator-proof sheep shelters, for overnight bedding and sun and rain protection, would be constructed, and locally-raised guard dogs may also be employed for predator

protection. No livestock crossing of, or grazing within, stream and riparian corridors or wetland areas would be allowed.

- A vegetable and fruit garden would be planted on one-quarter acre of land located approximately half-way between the southern edge of the stock pond and Highway 1. The garden and the greenhouse would be accessed via existing dirt farm tracks which cross a habitat and buffer area to the south. A tube-frame, poly-film covered greenhouse would be constructed at this site. The southern water well and tank would supply water via flexible hoses placed on the ground and electricity supplied by a small mobile generator. Harvested products would be sold in local and farmer's markets.

- A six-acre vineyard growing English dessert wine grapes (600 vines/acre) would be planted in the wind shadow of the ridge line on the northern property boundary. A drip irrigation system supplied by the northern water well and tank would be installed in the vineyard, located approximately 1,500 feet east of Highway 1 at an elevation ranging between 300-360 feet.

- A distillery located in the brandy barn would process, bottle, and package the on-site grape harvest into brandy. At peak production, the vineyard harvest is estimated to annually produce 280 gallons of finished brandy, which equals approximately 80 to 100 cases (960-1200 bottles) of brandy per year. In addition, the proposed project includes public tours on Saturdays between 11:00 am and 3:00 pm; the tours would be limited to three per day for adults over the age of 21, a maximum of eight adults per tour, no tasting (only sniffing), and tours only by advanced reservation. On-site brandy sales in the 140 sq.ft. public retail space within the barn would only occur during tour hours, and no exterior signage or advertising of any type on the property would be permitted, nor would busses or vans be allowed to bring tour participants to the barn.

- Agricultural Structures:

  Equipment Barn. This is a 1,788 sq.ft. (27.5' x 65'), 12.5-foot-high structure, with the finished floor at an elevation of 90 feet above sea level. Vehicle access and two parking spaces are via the main driveway. To set this structure (and the attached shed) into the hillside requires 360 cu.yds. of cut and 500 cu.yds. of fill.

  Equipment Barn Shed. This is a 950 sq.ft. (20' x 47.5') three-sided structure attached to the southern side of the Equipment Barn, with the finished floor elevation ranging from 90 to 79 feet, and a height ranging from 13 to 8 feet. To set this structure into the hillside requires 500 cu.yds. of cut and 300 cu.yds. of fill. This structure will also provide shelter for several horses and a chicken coop.

Brandy Barn. This is a 1,456 sq.ft. L-shaped building (27.5' x 65' maximum dimension) with two covered porch areas totaling 496 sq.ft. The building floor is at an elevation of 33 feet and reaches a height of 15 feet. Vehicle access and five parking spaces are via the main driveway.

Hopyard Shelter. This is a 1,788 sq.ft. (27.5' x 65') open-sided structure. The western half of the structure is at an elevation of 167 feet and a height ranging from 18 to 10 feet; the eastern half floor sits at 173 feet and the height ranges from 12 to 10 feet. All terrain vehicle (ATV) access to this portion of the site would use existing two-track, dirt farm roads. To set this structure into the hillside requires 25 cu.yds. each of cut and fill. This structure will also store equipment used to support agricultural operations on the southern side of the property.

Sheep Shelter #1. This is a 1,500 sq.ft. (30' x 50') chain-link-fencing-sided structure, with the finished floor elevation at 358 feet and a height ranging from 6 to 3.5 feet. ATV access to this site would use existing two-track, dirt farm roads. To set this structure into the hillside requires 12 cu.yds. each of cut and fill.

Sheep Shelter #2. This is a 1,500 sq.ft. (30' x 50') chain-link-fencing-sided structure, with the finished floor at an elevation of 50 feet and a height ranging from 6 to 3.5 feet. ATV access to this site would use existing two-track, dirt farm roads. To set this structure into the hillside requires 12 cu.yds. each of cut and fill.

Greenhouse. This is a 600 sq.ft. (20' x 30') pre-fabricated hoop and poly-film structure, with the finished floor at an elevation of 64 feet and a height ranging from 8.5 to 4 feet. ATV access to this site would use existing two-track, dirt farm roads. To set this structure into the hillside requires 25 cu.yds. each of cut and fill.

Fencing. Wetlands, riparian areas, and their buffer areas south of the blue-line stream adjacent to the proposed sheep grazing pastures will be protected by livestock fencing. The height and wire-grid spacing of the fence will prohibit sheep in the grazing pastures from entering these areas while allowing deer and other animals to move over or under fences to reach the blue-line stream, its intermittent tributaries, and the stock pond. The project also includes installation of a replacement agricultural gate along the perimeter fence line at the southwest corner of the property, outside of sensitive habitat and setbacks, to facilitate agricultural use of the property.

- The *Brader-Magee Farm Master Plan* was completed (and submitted to Marin County) in May 2009. The document includes the following elements: project location, existing and adjacent land uses, project goals and objectives, crop production without the use of herbicides and pesticides, site characteristics,

compliance with County plans and ordinances, geotechnical analysis, biological report, traffic analysis, visual simulation, agricultural production and stewardship plan, landscape plan, grading plan, drainage plan, septic system plan, site plans, and building floor plans and elevations.

- The proposed project includes the Applicant's proposal to grant an affirmative Agricultural Conservation Easement to the County of Marin over all portions of the property proposed for agricultural use. The purpose of the Grant of Easement is to maintain the agriculturally related portions of the property (outside the building envelope and the habitat conservation area) in agricultural production in perpetuity. The easement would also extinguish any additional residential and/or subdivision development potential.

The proposed farmhouse is a three-level structure cut into the existing slope with a maximum height above grade of 25 feet. The building is comprised of 3,028 sq.ft. of living space, a 648 sq.ft. attached two-car garage, an exterior entry stairway and court, decking, a metal roof and board/batten exterior siding, "green" building design features, earth-tone exterior colors, two exterior parking spaces and a fire truck turnaround, retaining walls along the north and west sides of the building pad, and native drought-resistant landscaping with no lawn/turf areas. To set this structure into the hillside requires 850 cu.yds. of cut and 200 cu.yds. of fill.

Two primary, unimproved two-track farm roads run east-west across the property, one on the northern half of the parcel from the shared paved driveway to the proposed vineyard site and northern water well, and a second extending from a gate at Highway 1 generally eastward along the southern boundary of the property to the proposed agricultural structures and operations south of the blue-line stream. (The Applicant has an agreement with the adjacent property owner to the south to use a short section of the existing southern property line farm road that crosses onto the adjacent property in order to loop south around the head of the intermittent stream corridor east of the existing hopyard). These farm tracks would not be improved and would only be maintained for fire safety. Other existing two-track, dirt farm roads on the property would rarely be used and not maintained. The proposed driveway does not cross the blue-line stream and does not enter riparian corridors or wetlands, or their buffer areas; no construction of new farm roads is proposed.
The proposed project includes the following infrastructure support elements:

- Driveway/parking areas and surface materials. A proposed 1,276-foot-long, all-weather, pervious-surface driveway would take off from an existing paved driveway (which provides access from Highway 1 to the subject property and several other private properties and residences to the north), switchback up the hillside, and provide access to the proposed brandy barn, equipment barn, and farmhouse; the latter would be located 600 feet east of Highway 1. The driveway would be constructed of a minimum six-inch-thick, aggregate base placed on excavated and recompacted earthen base; approximately 5,500 cu.yds. of soil would be excavated and replaced within the driveway corridor to create a stable base for the pervious aggregate surface. An additional 520 cu.yds. of cut and 750

cu.yds. of fill, with retaining walls at certain locations to support the cut and fill areas, are required to construct the driveway.

- Retaining walls would be constructed at several locations along the driveway route, at the uphill edge of the brandy barn parking area, the uphill side of the equipment barn parking area, and along the uphill and downhill sides of the single family residence. Downhill-side retaining walls (approximately 2,015 sq.ft.) will be constructed using modular block-keystone materials, and uphill-side walls (approximately 2,440 sq.ft.) would use wood lagged walls and steel beam soldier piers.

- One new water well located near the northeast corner of the property (this structure was drilled in October 2010 with authorization from Marin County), a portable generator to pump water from this well, six water tanks, and underground and surface distribution lines connecting the wells with the water tanks and the tanks with the single family residence, equipment and brandy barns, livestock watering troughs, and the vineyard and greenhouse/ vegetable garden areas. No water lines will cross the blue-line stream. Both water wells produce adequate volumes to serve the proposed agricultural operations and domestic uses in the two barns and farmhouse. The County previously determined that well yield data for the historic southern well confirmed that it could supply all proposed uses and meet fire and safety requirements. The new northern well was calculated to have a sustained yield of 10 gallons per minute, more than adequate to serve the water requirements for proposed development on the northern half of the property.

- Septic system, pumps, and leach field. Domestic wastewater from the farmhouse and the equipment and brandy barns, and seasonal wastewater from the brandy distillery, would be pumped through a buried sanitary sewer line uphill and discharged into a leach field located approximately 1,270 feet east of the farmhouse at an elevation ranging between 346 and 358 feet. The proposed leach filed is situated on the northern side of the proposed vineyard and is set back from the latter by 40 feet on the west side and 20 feet on the south and east sides.

- Electrical power would be provided to the farmhouse and equipment and brandy barns through underground and/or aerial lines connected to the existing overhead power line that runs from Highway 1 to the existing electrical panel in the pump shed adjacent to the stock pond. Underground water lines will connect the northern water well to the farmhouse and the brandy and equipment barns. Water, sewer, and electrical lines will be buried in a trench connecting the brandy and equipment barns, and will be buried underneath the driveway between the equipment barn and the farmhouse. A water line will be buried in a trench connecting the northern water well and the farmhouse. Fire hydrants and 250-gallon propane storage tanks would be located at the farmhouse, equipment barn, and brandy barn.

The proposed project includes removal of an unused livestock enclosure pen in the extreme northwest corner of the property, restoration of this area to pre-development conditions, and removal of a surface water flow capture/diversion device and a connected PVC pipeline conveying diverted water westward along the northwest property boundary to the existing paved driveway. These structures were constructed in August 2010 and January 2011, respectively. **Special Condition 1** of this permit states that prior to issuance of the coastal development permit, the Permittees shall submit revised project plans that, in part, indicate removal of the livestock enclosure, the excavated basin, and the water diversion works, and which indicate that this work shall be completed prior to the start of other development authorized under this permit, except for the tree thinning project required under **Special Condition 14**.

The proposed project also includes the preparation of a tree thinning plan for the unpermitted ornamental trees previously planted by the Applicant along the western property line adjacent to State Highway 1, in order to ensure that significant scenic views from the highway are not obstructed or impaired as these trees reach their mature height and width. **Special Condition 14** of this permit states that prior to issuance of the coastal development permit, the Permittees shall submit a plan for the tree thinning and/or removal of the cypress trees that meets the following criteria: (1) trees planted between the southwest corner of the property up to that location where Highway 1 begins a right-hand curve and begins to dip below the right shoulder embankment shall be removed to preserve unobstructed views of coastal hillsides to the east; and (2) only trees planted north of this removal location may be retained as they are in a location that will not obstruct views to the east. Implementation of the thinning plan shall be completed prior to the start of any other construction authorized by this permit, except for the removal of the animal enclosure and water diversion works proposed by the Applicant and required under **Special Condition 1**.

As a result of additional biological resources inventory and analysis undertaken by the Applicant in consultation with Commission staff, the following modifications to proposed structures were made by the applicant: (1) the driveway was relocated to the east to avoid a wetland buffer area in the northwest corner of the property; (2) the equipment barn footprint was moved to avoid a wetland buffer area to the east; (3) the brandy barn footprint was moved to avoid a riparian corridor buffer area; (4) the vegetable garden area was reduced in size and the garden and adjoining greenhouse were relocated to the west to avoid a western pond turtle buffer area; (5) sheep shelter #2 was slightly moved to avoid coastal terrace prairie habitat; (6) the hopyard shelter was moved to avoid coastal terrace prairie habitat; and (7) the hopyard expansion was eliminated due to uncertainties regarding the presence of coastal terrace prairie habitat within and immediately adjacent to the expansion footprint. **Special Condition 1** of this permit requires that revised project plans be submitted that reflect the aforementioned modifications to the project so that all development proceeds consistent with the revised project proposed by the Applicant as modified by the conditions of this permit.

C. LOCAL GOVERNMENT ACTION

On May 10, 2010, the Marin County Board of Supervisors conditionally approved a coastal permit application (CP-09-39) submitted by Tony Magee and Carissa Brader for establishment of an agricultural operation at 17990 Shoreline Highway (State Highway 1), south of Marshall in

Marin County[1]. The approved development included livestock (sheep) production over 50 acres of land, hop cultivation over six areas of land, production of fruit and vegetable crops for sale at local farmers' markets on 2.3 acres of land, a six-acre vineyard for brandy production, three barns (1,792 sq.ft., 15-ft-high equipment barn; 896 sq.ft., 15-ft.-high open-sided hop barn; and 1,456 sq.ft., 15-ft.-high brandy barn), a 960-sq.ft. shed adjacent to the equipment barn, a 3,165 sq.ft., 22-ft-high farmhouse with attached 648 sq.ft. garage, two open-sided 7-ft.-high sheep shelters, an 8.5-ft.-high greenhouse, five 4,950-gallon water tanks, a septic system leach field, a new water well, and an 850-foot-long driveway constructed from an existing private driveway that parallels Highway 1 in order to provide access to the brandy barn, equipment barn, and farmhouse. The County also approved the applicant's conveyance to the County of an "Affirmative Agricultural Conservation Easement and Declaration of Restrictions." The County approved the coastal permit subject to 41 special conditions dealing with development, agricultural operations, inspections, building permits, and other issues. The County also imposed these 41 conditions as requirements of the local design review and use permits. This CDP replaces the coastal development permit conditions imposed by the County, as indicated in Special Condition 19. However, this CDP has no effect on local conditions imposed pursuant to an authority other than the Coastal Act.

D. APPEAL HISTORY

Pursuant to Coastal Act Section 30603(a)(4), the County's approval was appealable to the Commission because the approved project involves development approved by a coastal county (i.e., the proposed farmhouse) that is not designated as the principal permitted use in the Coastal, Agricultural Production Zone (C-APZ-60) in the certified zoning ordinance. The County's permit approval was subsequently appealed to the Commission on June 1, 2010, by Scott Kivel and Lia Lund, the owners and residents of the adjacent property to the north of the subject property. The permit Applicant signed the 49-Day Waiver on June 7, 2010, and on September 15, 2010, the Commission conducted a public hearing on the six substantial issue questions raised in the appeal: project impacts on environmentally sensitive habitat areas (ESHA), public views, and Highway 1 traffic, adequacy of water supply, the County's waiver of an agricultural master plan, and inadequate CEQA review by the County.

After conclusion of the substantial issue portion of the appeal hearing, the Commission determined that the appeal of the Marin County-approved coastal permit CP-09-39 raised a substantial issue with respect to the policies of the certified Unit II Local Coastal Program (in particular, potential project impacts on ESHA and public views, and the County's waiver of the agricultural master plan requirement), that the County's approval of CP-09-39 no longer governed, and that the Commission would consider the consistency of the proposed project with

[1] At the same time the County also: (1) approved a Design Review and Use Permit for the project; and (2) found that the project was categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the CEQA Guidelines, which allows for the construction of small facilities or structures, and their associated equipment, including single-family residences and accessory structures, provided that their construction would not result in significant amounts of grading and vegetation removal that could result in potentially significant impacts on the environment. The Board also determined that the residence and agricultural structures were accessory to the agricultural use of the property, and that the project was "minor and incidental in nature."

the certified LCP *de novo* at a later date. During the *de novo* portion of the appeal hearing the Commission may approve, approve with conditions (including conditions in addition to or different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified an LCP, the applicable standard of review for the Commission to consider is whether the development is consistent with Marin County's certified Unit II LCP. Testimony may be heard from all interested parties at the *de novo* portion of the appeal hearing.

E. AGRICULTURE AND DEVELOPMENT

The Marin County LUP Agriculture and Resource Development policies and the associated LCP zoning measures applicable to the proposed project are found in **Appendix B** of this staff report. A brief summary is provided here. The LUP policies state that Marin County intends to protect and preserve the existing and future viability of agricultural land in the coastal zone, foster agricultural development, assure that non-agricultural development does not conflict with agricultural uses, concentrate development in suitable locations, and protect coastal wildlife, habitat, and scenic resources. The LCP established a planned district zone known as the Agricultural Production Zone (APZ) with a maximum (but not guaranteed) density of one unit per sixty acres; the subject 150-acre property is within the C-APZ-60 coastal agricultural production zone.

The LCP states that all development in the APZ shall be accessory, incidental, or in support of agricultural land uses, and shall conform to the development standards, requirements, and conditions articulated in the LUP Agricultural Resource policies. These policies include measures to protect and enhance agricultural use, contribute to agricultural viability, avoid significant adverse impacts on natural habitats and scenic resources, cluster development to retain maximum amount of land for agricultural use, locate development close to existing roads, and require permanent conservation easements over land not used for physical development. The LUP also includes public services policies governing water supply (including individual water wells), fire protection, and on-site sewage disposal. The applicable LCP zoning code sections address agricultural master plans, project design standards (including clustering, roads and driveways, and agricultural and open space uses), principal permitted uses, conditional uses, density, development standards and requirements, conservation easements, and required findings and conditions for approved development.

The analysis of the proposed project's conformance with the agriculture and development policies of the Marin County LCP is organized under the following three subjects: (1) agricultural protection and master plan requirements; (2) development constraints, clustering, and alternatives; and (3) the brandy distillery.

Agricultural Protection and Master Plan Requirements. LUP Agricultural Policy No. 4 states that all land divisions (not applicable to the proposed development) and developments in the APZ shall require an approved master plan showing how the proposed land division or development would affect the subject property, and requires a set of findings to be made and conditions to be required during the review and approval of the master plan. Chapter 22.045.040 of the zoning ordinances states that the following items must be included in a master plan submittal: preliminary conceptual grading plans, description of the existing use of the property,

preliminary landscaping plan, proposed site plan, description of the proposed development, conceptual drainage and flood control plan, and a preliminary geological reconnaissance report.

Conformity With Master Plan Requirements
As noted in **Section B** (Project Description) above, the Applicant submitted the *Brader-Magee Farm Master Plan* [*Master Plan*] for development of the subject property to Marin County in May 2009 and that document is included as an element of the subject coastal development permit application. In 2010 the County waived the requirement for submittal and review of a Master Plan for the proposed project, finding in part that the project established:

> *. . . a comprehensive plan for development of the property that complies with the Local Coastal Program and all development standards pertinent to the C-APZ zoning district under Marin County Code Section 22.57.030. The application has provided information that, in many instances, is more detailed than the submission requirements for a Master Plan under Marin County Code Section 22.45.040.* [May 8, 2012, letter from Thomas Lai, Assistant Director, Planning Division, Community Development Agency, County of Marin, to California Coastal Commission.]

The County also determined that a waiver of the Master Plan requirement was consistent with the LCP zoning regulations (Sections 22.56.026.A and C.) for the C-APZ zoning district.

However, rather than waiving this requirement, the Commission is instead reviewing the submitted *Brader-Magee Farm Master Plan* (*Master Plan*) for conformance with LUP Agricultural Policies 4 and 5. To that end, the Commission finds that the *Master Plan* document conforms to the submittal requirements of Chapter 22.045.040 and includes the following elements: project location, existing and adjacent land uses, project goals and objectives, site characteristics, compliance with County plans and ordinances, geotechnical analysis, biological report, traffic analysis, visual simulation, agricultural production and stewardship plan, landscape plan, grading plan, drainage plan, septic system plan, site plans, and building floor plans and elevations.

Conformity With Required Master Plan Findings
Under LUP Agriculture Resource Policy No. 4 and Zoning Code Chapter 22.37.036, the Commission is required to review the *Master Plan* and make the following findings:

> *a. The development would protect and enhance continued agricultural use and contribute to agricultural viability.*
>
> *b. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.*

c. The land division or development would not conflict with the continuation of agriculture on that portion of the property which is not developed, on adjacent parcels, or those within one mile of the perimeter of the proposed development.

d. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.

e. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.

f. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.

g. Development consists of permitted and conditional uses as authorized in the APZ.

The *Master Plan* for the subject property proposes grazing and production, a vineyard, hop field, vegetable garden, barns, fences, utilities, other accessory structures, and one farmhouse, all of which are principally permitted uses. (The existing one-quarter-acre hopyard would remain but its proposed expansion is no longer an element of this application.) The *Master Plan* also proposes a greenhouse (for growing fruits and vegetables), a brandy distillery for processing grapes grown on the property, and a small, 140 sq.ft. retail space in the brandy barn for appointment-only sales of the brandy product bottled on-site, all of which are conditional uses.

The *Master Plan* proposes only principally permitted and conditional uses allowed in the C-APZ zoning district. LUP Agricultural Resource Policy No. 6 and zoning code Chapter 22.57.032 state that the principally permitted uses allowed on the subject property include the following:

- Agricultural uses (livestock and poultry; livestock and poultry products; field, fruit, nut and vegetable crops; nursery products).

- One single-family dwelling per parcel.

- Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind, but including barns, fences, stables, corrals, coops and pens, and utility facilities.

The conditional uses on the subject property allowed by the aforementioned Policy No. 6 and zoning code Chapter 22.57.033 include "facilities for processing or retail sale of agricultural products" and "greenhouses."

Continued agricultural use of the property remains feasible and the proposal does not include a subdivision or non-agriculturally development. Rather, the Applicant proposes to cultivate a mix of agricultural products on the property with a single farmhouse clustered close to the road and other existing development. The agricultural development would therefore protect and enhance continued agricultural use and contribute to agricultural viability. The proposed agricultural development and farmhouse would not conflict with existing agricultural operations (primarily livestock grazing) within one mile of the perimeter of the subject property. As is documented in this section and in other sections of this report, adequate public services are available for the proposed agricultural development and farmhouse and no provision of these services is necessary for other development as none is proposed in the *Master Plan*. As is documented in this section below and in other sections of this report, the Commission finds that the proposed project as conditioned will conform to LUP Agricultural Resource Policy No. 4 and LCP Zoning Code Chapter 22.37.036.

Under LUP Agriculture Resource Policy No. 5 and zoning code section 22.57.035, the Commission must also find that the following conditions have been met by the *Master Plan*:

> *a. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development, including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.*
>
> *b. Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that they are retained as a single unit and are not further subdivided.*
>
> *c. The creation of a homeowner's or other organization and/or the submission of agricultural management plans may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of community roads or mutual water systems*

As noted in **Section B** (Project Description) above, the proposed driveway, brandy and equipment barns, and farmhouse are located in the northwest corner of the property, adjacent to an existing paved driveway off Highway 1. Other proposed development not in this location are agricultural operations (e.g., sheep pastures, vineyard, vegetable garden and greenhouse, sheep and hopyard shelters, water wells and tanks). The proposed septic system leachfield, which would serve the two agricultural barns and the farmhouse, is located adjacent to the proposed vineyard approximately 1,500 feet east of the barns and residence. Non-agricultural development comprises less than one acre of the 150-acre property, which is less than the LCP-required limit of 7.5 acres (5% of the gross acreage of the property limited to non-agricultural development). As is documented in other sections of this report, the proposed developments are sited and conditioned to minimize impacts on scenic resources, sensitive habitat, riparian corridors, and adjacent agricultural operations.

Proposed Affirmative Agricultural Easement
An element of the *Master Plan*, and of this permit application, is the proposal by the Applicant to convey to Marin County an Affirmative Agricultural Conservation Easement and Declaration of Restrictions with provisions for a variety of perpetual uses and restrictions over the portion of the property proposed for agricultural use, outside of both the development envelope and the habitat protection areas, as summarized below:

- The terms of the Easement include the imposition of a perpetual obligation for the active conduct of agricultural production within a designated Agricultural Production Zone that would be delineated and recorded in accordance with the Agricultural Management Plan.

- The terms of the Easement establish a process whereby an outside agricultural operator may lease the subject property at reasonable rates in the event the owner of the property is unable or unwilling to continue active agricultural production on the property.

- The terms of the Easement establish permitted and prohibited uses, and practices to which the property owner would be bound to adhere to.

- Finally, the Easement would extinguish all residual zoning potential on the property.

Special Condition 3 of this permit governs agricultural uses on the subject property and further states that prior to issuance of the coastal development permit, the Applicant shall dedicate the proposed affirmative agricultural conservation easement to a public agency or private association approved by the Executive Director over the portion of the property outside of the development area generally depicted in **Exhibit 5** and the habitat conservation area required by **Special Condition 10** and generally depicted on **Exhibit 4**.

The Applicant's *Agricultural Production and Stewardship Plan* (an element of the *Master Plan*) expressly proposes the Affirmative Agricultural Easement:

> *We also agree, as part of this Agricultural Production and Stewardship Plan, to grant an Agricultural Conservation Easement over the portion of the property proposed for agricultural use. This Agricultural Conservation Easement will*

extinguish the second A-60 based development right and will be in a form to be approved and held by the Marin County Board of Supervisors for the purpose of maintaining the agricultural related portion of the property in agriculture production.

The proposed Affirmative Agricultural Easement conforms with the easement dedication requirements of LUP Agriculture Resource Policy 5b and zoning code Chapter 22.57.035(3).

Agricultural Production and Stewardship Plan
The Applicant's *Agricultural Production and Stewardship Plan* includes four principle components:

1) Expand the existing ½ acre hop yard cultivation area to 6 acres;

2) Continue historic grazing activities by placing approximately 25-35 ewe/lamb pairs on approximately 50 acres south of the blue-line stream; three fenced pastures will be grazed under a seasonal rotation plan. (The subject property is undeveloped agricultural land which has supported cattle grazing over several decades until around 2007, shortly before the Applicant leased and then purchased the property and initially applied to the County for the subject CDP in or around 2009. The CDP proposes to continue livestock grazing as discussed herein. The Applicant has maintained his interest in continuing livestock grazing during the pendency of various permit applications associated with the property.)

3) Develop a level portion of the north side/south facing area of the parcel in grape cultivation for use in small-scale on-site brandy production; and

4) Create a one-acre vegetable farming project for local sales.

However, and as noted previously in this report, the proposed hopyard expansion is no longer an element of this permit application.

The *Agricultural Production and Stewardship Plan* includes a statement of purpose, farm goals (agricultural production timeline, production without the use of herbicides and pesticides, quality of life goals, and natural resource and water quality goals), facilities inventory (buildings, corrals, fences, pastures, fields, and water developments), natural resources inventory (soils, vegetation, climate, and wildlife), and the agriculture and production stewardship program (overview, sheep management (livestock and grazing operations, animal inventory, forage requirements, grazing system, and forage inventory), hopyard, vineyard and brandy barn, brandy barn waste facilities, and vegetable garden). As conditioned, the contents of the *Agricultural Production and Stewardship Plan* conform with the requirements of LUP Agriculture Resource Policy 5c and zoning code Chapter 22.57.024(1)(i). **Special Conditions 2, 4, 5, and 6** of this permit state that all agricultural uses on the property must conform to the *Farm Master Plan* except as modified by the conditions of the CDP, including but not limited to the requirement that: (a) no grazing of livestock occur in wetlands, riparian areas, or their buffer areas; (b)

livestock fencing design and installation not block wildlife movement across the property; and (c) sheep grazing be monitored to ensure protection of coastal terrace prairies habitat and avoidance of soil erosion and water quality degradation.

In conclusion, the Commission finds that, as conditioned, the development described in the *Brader-Magee Farm Master Plan* conforms with the requirements of LUP Agriculture Resource Policies 4 and 5, and zoning code Chapters 22.37.036, 22.45.040, 22.57.024, 22.57.032, 22.57.033, and 22.57.035. As is also documented in other sections of this report, the development described in the proposed *Brader-Magee Farm Master Plan*, as conditioned, will not adversely affect scenic visual resources and will conform to all LCP policies on the protection of streams, riparian habitats, wetlands, and other natural resources.

Development Constraints, Clustering, and Alternatives. The Applicant submitted a constraints map illustrating the sensitive biological resources found on the property that limited the potential locations for agricultural operations, buildings, and accessory structures. This map yielded the original development plan reviewed and approved by Marin County in 2010. Subsequent to the Commission's finding of substantial issue on the appeal of the County's coastal permit approval, and after additional biological resource survey and analysis work by the Applicant's consultants in consultation with Commission staff, a revised constraints map was developed and modifications were made to the proposed development plan (See **Special Conditions 1 and 2** of this permit). It is this modified development plan that is now before the Commission and not the plan that was approved by the County in 2010. The constraints map identified those areas of the property suitable for development, and the proposed agricultural operation was set into those suitable areas. The goal of the proposed development plan is to satisfy LCP requirements to cluster proposed development near existing roads and development, and avoid potential adverse impacts on sensitive habitat and significant views from public areas, thereby providing for a mix of existing and proposed agricultural operations on the property.

The constraints map illustrates both the natural habitats to be avoided by proposed development, existing development associated with historic livestock grazing operations, and proposed development elements. The subject property and its existing development were described previously in **Section A** of this report; a detailed description of the riparian, wetland, and sensitive upland habitats is provided below in **Section F** of this report. The constraints map shows that the dominant natural feature here is the blue-line stream (and associated riparian corridor) that essentially bisects the property into northern and southern halves. A silting-in stock pond is located behind an earthen dam on the lower end of the stream course. Large expanses of wetland habitat are located along the lower reach of the stream, along a corridor to the south of the stream, and in the upper southeast quadrant of the property. Smaller areas of wetland habitat are found adjacent to seeps in the northwest corner and south of the upper reaches of the stream. Coastal terrace prairie, a rare and environmentally sensitive habitat, is not identified on the constraints map but is present across large areas of the southern half of the property. The northwest corner of the property was the subject of a detailed geotechnical investigation and found to be suitable for the development types proposed for that area. State Highway 1 runs along the western side of the property. An existing paved driveway intersects the highway just north of the stream crossing/culvert and provides vehicle access to the subject property and to several developed parcels to the north. The parcel bordering to the north is

developed with a single family residence, outbuildings, swimming pool, driveway, and olive orchard. Moving north on Highway 1, there are residential structures on the bay side and a conference facility on the inland side of Highay 1, and this area essentially serves as the southern gateway to the community of Marshall.

Given the property's topography, natural resource constraints, and the LCP goals of clustering development to retain the maximum amount of land available for agricultural uses and to locate development close to existing roads, the Applicant proposed locating the three primary structures and access driveway in the northwest corner of the property, near the existing driveway off Highway 1, near existing development to the north on both sides of the highway, outside of coastal terrace prairie habitat on the hillsides south of the stream, and outside of mapped wetlands and riparian habitat on the property. The proposed vineyard, septic leach field, and northern water well are located on non-native, annual grasslands (and just to the south of an olive tree orchard on the parcel to the north), and accessed via an existing farm road that will intersect the driveway near the farmhouse. No proposed development (roads, utility lines, livestock movement) will cross the blue-line stream and riparian corridor. All the proposed agricultural structures and operations on the southern half of the property will be accessed via an existing, unimproved, two-track farm roads, and equipment will be stored at the hopyard shelter to minimize the movement of ATVs between the two halves of the property. Utility lines (electricity, water, sewer) will be buried underground and are designed to avoid sensitive habitat areas. However, a 300-foot-long extension of the existing aerial power line that runs into the property from the main line along Highway 1 will run from its current terminus near the stock pond dam north to the farmhouse. Flexible hoses will be placed on the ground surface on existing dirt farm tracks to convey water from tanks to the proposed vegetable garden and sheep watering troughs on the southern half of the property. The proposed development plan avoids all wetlands, stream and riparian habitats, and coastal terrace prairie habitat and their required buffers (See **Exhibits 1 and 6**).

As previously noted, vehicle access to the proposed brandy barn, equipment barn, and farmhouse will be via a pervious-surfaced driveway extending from the existing paved driveway which intersects Highway 1 at the northwest corner of the property, thereby avoiding the need to construct a new driveway intersection at Highway 1 on another section of the property's highway frontage. The Applicant's traffic analysis for the proposed development (Transpedia Consulting Engineers, April 28, 2009) evidences that the proposed project would have less-than-significant impacts on the operation of Highway 1, that the collision rate on Highway 1 in the vicinity of the existing driveway does not show any patterns that could indicate a safety issue at this location, the sight distance at the driveway intersection exceeds Caltrans' minimum sight distance standards, and that installation of a left-turn lane from southbound Highway 1 into the driveway is not warranted given peak hour traffic volumes, collision rate, and sight distance.

Commission staff also spoke with a Caltrans consultant analyzing traffic and circulation patterns associated with potential development plans proposed by California State Parks for its Marconi Cove Unit of Tomales Bay State Park, located directly across Highway 1 from the Magee property. The plans include a public boat launch, docks, picnic facilities, bay observation sites, a six-site campground, restroom, and parking lot, all consistent with the General Plan for Tomales

Bay State Park (2004) and the Recreation Assessment for Tomales Bay State Park (State Parks February 2010). The Marconi Cove development project would be funded in-part by Caltrans as mitigation for public access impacts from Highway 1 rock slope protection north of Marconi Cove (approved by the Commission in September 2011 under CDP 2-11-011). However, the proposed State Parks project at Marconi Cove has not yet received coastal development permit approval. In November 2012 Commission staff provided the Caltrans consultant a copy of the proposed development site plan for the Magee property and the related 2009 traffic analysis; no questions about the analysis, the proposed development on the Magee property, or the latter's potential effect on the possible State Parks project were subsequently directed to the Commission staff.

The Appellants and others opposed to the current project development plan have suggested that the development currently proposed for the northwest corner might be better suited to the southwest corner of the property, further away from the riparian and wetland habitats in the northwest corner and further away from the Appellants' property, which is directly adjacent to this one. However, placing the three primary structures and the access driveway in the southwest corner would require construction of a new driveway intersection off of Highway 1, would defeat the goal of clustering and locating new development close to the existing driveway and the development on the adjacent northern property and the likely future development at Marconi Cove, and would potentially be more visible to travelers on Highway 1.

The Appellants have also suggested an alternative driveway route should the primary development envelope remain in the northwest corner. Initially, the Applicant's proposed driveway alignment headed north past the brandy barn up a slope parallel to the existing private paved driveway off Highway 1, turned east just south of the northern property line, passed the equipment barn, and then curved southeast to the farmhouse. Additional biological survey work on the property in 2011 confirmed the presence of two small wetland areas in the northwest corner. This discovery made the initial driveway alignment inconsistent with the LCP wetland protection policies and necessitated a new driveway route that switchbacks up the slope between the brandy and equipment barns to avoid the buffer zones surrounding the two wetlands. The new driveway route then curves north around the eastern wetland buffer and terminates at the farmhouse. The alternative route suggested by the Appellants would have the driveway pass by the northern side of the brandy barn, intersect the route of an existing unimproved two-track farm road east of the barn, climb the slope up to the farmhouse, and then loop back around to the equipment barn. This route would avoid the need to switchback up the slope to the equipment barn. However, this proposed alternative is not feasible as it is inconsistent with the stream, riparian, and wetland buffer requirements of the LCP. Given the width of the stream and riparian buffer and the width of the wetland buffer associated with the small wetland located between the equipment barn and farmhouse, the buffer areas would overlap east of the brandy barn, effectively prohibiting any non-allowable uses in this area, including the construction of an improved access driveway from the brandy barn eastward to the farmhouse and equipment barn.

In conclusion, the Commission finds that the proposed project conforms with the requirements of LUP Agriculture Resource Policies 1 and 5, and Zoning Code Chapters 22.57.024 and 22.57.035, by providing a site plan that concentrates development in suitable locations, clusters proposed development to retain the maximum amount of land for agricultural use, is located

close to existing roads, and is sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.

Brandy Distillery. The proposed Brader-Magee farm project also includes installation and operation of a small brandy distillery in the brandy barn. At this barn, dessert wine grapes harvested from the vineyard on the property would be de-stemmed, crushed, fermented, distilled, and barrel-aged to produce brandy. The Applicant states that it will take four to five years after establishment of the vineyard for it to produce an adequate harvest of grapes suitable for brandy production. After distillation and a three- to four-year-long barrel aging process, the finished brandy is then bottled and made ready for sale. In the event of a highly productive vineyard, approximately 1,500 gallons of grape juice would be produced each season, and after fermentation and distillation the operation would annually yield up to 1,000 750-ml bottles, or 80-100 finished cases of brandy. By comparison, the largest brandy distiller in the United States produces three million cases per year, and craft and boutique distilleries typically see production levels in the thousands of cases per year.

Conformity of Brandy Distillery With Agricultural Resource Policies
The proposed brandy distillery (using grapes produced on the subject property) and the limited sales of the finished brandy product – with both operations taking place in the proposed brandy barn – are activities provided for in the Marin County LCP. LUP Agriculture Resource Policy No. 6 (Definitions and Uses) states that conditional uses on this Agriculture Production Zone (APZ) property include "Facilities for processing or retail sales of agricultural products." LCP Zoning Code Chapter 22.57.033 (Conditional Uses) states that:

> *The following uses are permitted in all Coastal Agricultural Production Zone Districts, subject to the securing of a Use Permit in each case. When it is determined by the Planning Director that any of the following uses constitute a major land use change, a Master Plan submitted in accordance with 22.45 may be required.*
>
> . . .
>
> *9. Facilities for processing or retail sale of agricultural products.*

Thus the small brandy distillery to be located in the proposed brandy barn is a permissible use as defined by LCP Agricultural Resource Policy 6, which states in part that "agricultural uses shall be defined as uses of land to grow and/or produce agricultural commodities for commercial purposes," including livestock and poultry and their products; field, fruit, nut, and vegetable crops; and nursery products. Further, Agricultural Resource Policy 6 also states that "facilities for processing or retail sales of agricultural products" are a conditional use allowed on Agricultural Production Zone property. The proposed distillery would process grapes (harvested solely from a proposed vineyard on the subject property) into a brandy product for retail sales, thereby qualifying the distillery as a conditional agricultural use on the subject APZ property. The distillery would foster agricultural development on the subject property by supporting development of a small dessert grape vineyard, supporting diverse agricultural land uses,

enhancing agricultural operations and viability, and not conflicting with other existing and proposed agricultural operations (including at the distillery site). The distillery would not adversely affect public services, not adversely affect wetlands, streams, riparian habitats, or freshwater inflows to Tomales Bay by its use of well water pumped on the property, and, as determined in Section F of this report, would be consistent with all stream and natural resource policies of the LCP. The distillery would be placed inside the brandy barn, which is located in the northwest corner of the property, clustered with other proposed buildings, utilities, existing paved access off Highway 1, and adjacent development in order to minimize potential project impacts on proposed agricultural operations and existing sensitive habitat and scenic resources. Therefore, the Commission finds that the proposed distillery is consistent with the Agricultural Resource policies of the LCP.

*Brandy Barn Operating Restrictions*Once the vineyard grapes are harvested and processed over a one- to two-week period in late summer/early fall, the grape juice is transferred to a fermentation vessel where it is inoculated with a yeast strain and fermented for 30 to 45 days. The distillation process is contained entirely inside a closed unit and no noise or odors would emanate from the barn. The Applicant provided the following description of the distillation process that would occur in the brandy barn:

- *The resultant wine is transferred to the distillation unit, which consists of a wine boiler and low pressure external steam heating jacket. The wine is heated (172 degrees F) until the steam is driven upward to the fractionating column. The steam will be generated by a single two-horsepower low-pressure boiler powered by propane gas. A 500 gallon reserve propane container will be stored outside the brandy barn building.*

- *During the fractionating process, the steam vapors are separated into ethanol and other products. The lightest products rise to the top of the distillation column and are collected and cooled to 50 degrees F. The cooling condenser recycles the water in an integrated system using a one-horsepower water refrigeration compressor powered by electricity. No water is discharged from this closed loop system.*

- *The distillate is collected and immediately diluted from 90% alcohol to 50% alcohol by volume for barrel aging.*

- *The diluted brandy is aged in wood barrels for 36 to 120 months before being bottled in glass bottles and stored on site in the brandy barn. Both the barrels and glass bottles are trucked to the farm in small quantities. Six to ten barrels will be trucked in once a year. The wood barrels are replaced every three to ten years. The retired barrels will be sold to a brewery for beer aging.*

- *The energy used during the process will be 210 volts, 18 amps, 12 hours per day, seven days a week for three months.*

- *During the brandy making process, one full-time and two part-time employees will used.*

- *No significant adverse exterior noise or odors will be generated by the process. Tractor operation noise, typical of agricultural activities will be generated during the grape*

harvest and compost movement. The Marin County Code allows reasonable agricultural related noises and odors in West Marin.

- *An overhead fire suppression sprinkler system will be installed in the brandy barn, as specified by the Marin County Fire Marshall.*

- *No hazardous materials will be used in the brandy making process. The building's concrete pad for the both the indoor and outdoor operations will be constructed in such a manner to provide a secondary containment and drainage system in the unlikely event of a spill of either raw grape juice, sanitizing agents, fermented wine, or distilled spirits.*

- *Limited, reservation-only public tours of the brandy barn may be conducted. No tasting will be allowed. No vans or buses will be allowed. No signage would be installed at the farm entrance or along the Shoreline Highway. The appointment-only tours would be restricted to Saturday only, between the hours of 11:00 AM to 3:00 PM. The infrequent tours would be restricted to adults (21 and over) only. The sampling would be olfactory only (sniffing), no on-site consumption would be allowed. On-site sales would be allowed only during the limited tours. One to two employees would be required to run the operation, depending on the tour size and frequency.*

Special Condition 7 of this permit includes operating restrictions for the brandy barn, as described above.

The brandy production process will generate waste products. The stems, skins, and leaves that remain after the stemming and crushing process, and the unrecovered fermented juice wine and other solid matter and liquid collected from the fermentation tank, would be collected during the harvest and fermentation period in the fall. This material would then be composted on-site and later applied as fertilizer at the vineyard and/or the vegetable garden. A liquid waste stream consisting of cleaning agents and rinse water from the distillery would move into floor drains and processed in the septic system. At maximum theoretical production, the project is estimated to generate the equivalent of 2,600 gallons of waste that would be diverted to the compost system and 5,400 gallons of wastewater diverted to the septic system. Further analysis of the project's conformance with LCP water quality protection policies is provided in **Section G** (Water Quality) of this report.

Given the four to five years required for the vineyard to produce a grape harvest suitable for use in the brandy distillery, and the three to four years of aging required before the finished brandy product is available for sale, it would be at least seven years after planting of the vineyard that the proposed limited public tours and sales at the brandy barn would commence. The proposed distillery/brandy barn project includes a commitment by the Applicant that under no circumstances would grapes be imported to the property for use in the distillation process, either before grapes are harvested from the on-site vineyard or in the event that the vineyard fails to produce a crop suitable in quality or volume to produce brandy. Should distillation not occur or is terminated, the brandy barn would be used to produce a jam/jelly product using fruits and berries grown on-site. Other potential uses of the brandy barn would require an amendment to

this permit. **Special Condition 8** of this permit includes the aforementioned restrictions on the importation of agricultural products to the subject property for processing in the distillery and alternate uses of the brandy barn.

The proposed brandy barn would be constructed on non-native grassland in the northwest corner of the property, approximately 75 feet east of the existing paved driveway. The structure is also set back at least 100 feet from riparian vegetation that borders the blue-line stream and is setback at least 150 feet from the stream bank itself. As discussed in Section F of this report, these setbacks are sufficient to prevent impacts that would degrade the blue-line stream and the adjacent riparian habitat. However, according to the most recent habitat maps of the property (Exhibit XXXX, dated February 5, 2013), the extreme southeast corner of the parking area adjacent to the brandy barn is slightly within the 150-foot stream setback area. **Special Condition 1** of this permit states that prior to issuance of the coastal development permit, the permittee shall submit revised project plans that, in part, indicate that no part of the proposed parking area is located within the mapped 150-foot stream setback area.

The Appellants and others opposed to certain elements of the proposed project have raised questions about the proposed distillery and brandy barn, in particular, whether this is an appropriate use in this area of the coastal zone, the adequacy of fire suppression plans, the potential adverse effects of the operation of the distillery on the blue-line stream and Tomales Bay, and potential traffic impacts from public tours and potential off-site import of grapes to supply the distillery process. However, the Commission finds that these concerns have been adequately addressed in the design of the project. The proposed distillery is an allowable agricultural use under the LCP on this APZ-zoned property as a facility for processing agricultural products, and the proposed limited retail sales of the processed agricultural product (i.e., the bottled brandy) is also an allowable conditional use under the LCP on this property. The proposed project plans illustrate a fire hydrant and water tank located 60 feet and 100 feet, respectively, from the brandy barn. A sprinkler system will be installed within the barn, and a final fire suppression plan will be reviewed and approved by the Marin County Fire Marshall during the building permit process for the barn. The design of the distillery, its containment within the barn, the very small production volume, the waste product management plan, and the setback from the stream corridor and riparian vegetation will together adequately protect sensitive habitat and water quality on and off the property. The project, both as proposed and as conditioned, will not import grapes or other agricultural products that could be used in the distillery or in other agricultural product process, and will limit public visits to the brandy barn (which as noted above would not likely commence until the year 2020, at the earliest) to the hours of 11:00 am to 3:00 pm on Saturdays with a maximum of 24 adults across that time period. As a result, private vehicle use associated with the project would not create an adverse effect on traffic patterns and coastal access on Highway 1, nor would the limited hours of public visitation to the brandy barn introduce a significant commercial operation and presence to this location.

Conclusion

In conclusion, the Commission finds that the proposed distillery and brandy barn elements of the project conform with the requirements of LUP Agriculture Resource Policy 6 and Zoning Code Chapter 22.57.033 regarding conditional land uses, and that these project elements (as conditioned) are designed to avoid sensitive stream and riparian habitats and to protect water

quality on and adjacent to the subject property. The Commission further finds that the *Brader-Magee Farm Master Plan* includes sufficient details on the proposed agricultural development plans, includes only principally permitted and conditional uses, and concentrates and clusters development to retain the maximum amount of land for agricultural use. As is documented in other sections of this report, the proposed agricultural development, as conditioned, will not adversely affect sensitive habitats, water quality, or visual resources. The proposed agricultural development, as outlined in the *Brader-Magee Farm Master Plan* and as conditioned herein, is therefore fully consistent with the Marin County LUP agricultural resource and development policies and the related LCP zoning measures.

F. WETLANDS/STREAMS/ENVIRONMENTALLY SENSITIVE HABITAT

The Marin County LUP Natural Resources policies state in part:

1. *Streams and Riparian Habitats. The policies contained in this section shall apply to all streams in the Unit II coastal zone, perennial or intermittent, which are mapped by the United States Geological Survey (U.S.G.S.) on the 7.5 minute quadrangle series.*

   . . .

   c. Stream Buffers. Buffers to protect streams from the impacts of adjacent uses shall be established for each stream in Unit II. The stream buffer shall include the area covered by riparian vegetation on both sides of the stream and the area 50 feet landward from the edge of the riparian vegetation. In no case shall the stream buffer be less than 100 feet in width, on either side of the stream, as measured from the top of the stream banks.

   d. Development in Stream Buffers. No construction, alteration of land forms or vegetation removal shall be permitted within such riparian protection area. Additionally, such project applications shall identify a stream buffer area which shall extend a minimum of 50 feet from the outer edge of riparian vegetation, but in no case less than 100 feet from the banks of a stream. Development shall not be located within this stream buffer area. When a parcel is located entirely within a stream buffer area, design review shall be required to identify and implement the mitigation measures necessary to protect water quality, riparian vegetation and the rate and volume of stream flows. The design process shall also address the impacts of erosion and runoff, and provide for restoration of disturbed areas by replacement landscaping with plant species found naturally on the site. Where a finding based on factual evidence is made that development outside a riparian protection or stream buffer area would be more environmentally damaging to the riparian habitat than development within the riparian protection or stream buffer area, development of principal permitted uses may occur within such area subject to design review and appropriate mitigation measures.

4. *Wetlands. Wetlands in the Unit II coastal zone shall be preserved and maintained consistent with the policies in this section, as productive wildlife habitats, recreational open space, and water filtering and storage areas. Land uses in and adjacent to wetlands shall be evaluated as follows:*

   a. Diking, filling, and dredging of wetlands shall be permitted only in conformance with the policies contained in the LCP on this subject, presented on page 136. In conformance with these policies, filling of wetlands for the purposes of single-family residential development shall not be permitted.

   b. Allowable resource-dependent activities in wetlands shall include fishing, recreational clamming, hiking, hunting, nature study, birdwatching and boating.

   c. No grazing or other agricultural uses shall be permitted in wetlands except in those reclaimed areas presently used for such activities.

   d. A buffer strip 100 feet in width, minimum, as measured landward from the edge of the wetland, shall be established along the periphery of all wetlands. Where appropriate, the required buffer strip may be wider based upon the findings of the supplemental report required in (e). Development activities and uses in the wetland buffer shall be limited to those specified in (a) and (b) above.

   e. As part of the application for a coastal development permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands pursuant to the Coastal Commission's guidelines, the applicant shall be required to submit supplemental biological information prepared by a qualified ecologist at a scale sufficient to identify the extent of the existing wetlands, based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.

5. *Coastal Dunes and Other Sensitive Land Habitats. Development in or adjacent to sensitive habitats shall be subject to the following standards:*

   . . .

   b. Other Environmentally Sensitive Habitats. Other sensitive habitats include habitats of rare or endangered species and unique plant communities. Development in such areas may only be permitted when it depends upon the resources of the habitat area. Development adjacent to such areas shall be set back a sufficient distance to minimize impacts on the habitat area. Public access to sensitive habitat areas, including the timing, intensity, and location of such access, shall be controlled to minimize disturbance to wildlife.

> *Fences, roads, and structures which significantly inhibit wildlife movement, especially access to water, shall be avoided.*

The associated LCP zoning measures applicable to the proposed project are found in **Appendix C** of this staff report. In summary, these measures address development requirements, standards, and conditions to protect streams, wetlands, and environmentally sensitive habitat, including identification of all stream, riparian and wetland areas, allowable use restrictions, prohibitions against construction or vegetation removal in riparian protection areas, buffer zones around stream, riparian, and wetland areas, and wildlife habitat and native plant community protection measures.

In analyzing the proposed development for conformance with the Marin County LCP, the Commission will evaluate project impacts to: (1) wetland habitat which meets the Coastal Act and LCP wetland definition; (2) riparian habitat and native coastal terrace prairie grassland on the property which meet the Coastal Act and LCP definition of environmentally sensitive habitat area (ESHA);(3) and sensitive animal and plant species found on the property.

The original development site plan for the property followed mapping of the property's sensitive habitats, based on numerous site investigations between 2008 and 2010 undertaken by the Applicant's biological consultant. Subsequent to the Commission's finding in September 2010 of substantial issue on the appeal of Marin County's coastal permit approval, including questions regarding the extent of wetlands and other sensitive habitat on the property, and the location of proposed development adjacent to these habitat types, additional biologic survey work was completed by the applicant's consultants, occasionally accompanied by Commission staff. As a result of the additional survey work, modifications to the proposed site plan discussed previously in this report (e.g., re-routing of the driveway, adjusting the footprint of several structures, elimination of the hopyard expansion) were made between 2010 and 2012 to reflect the additional sensitive habitats identified on the property and the development setbacks required by the Marin County LCP to protect those areas from potential impacts from proposed development.

The *Wetland Delineation* report prepared for the subject property by Zander Associates (October 2012, **Appendix F**) commences by providing a description of all the natural habitats located on the property: grassland, coyote bush scrub, California bay forest, arroyo willow thicket, and riparian woodland. In addition, aquatic and emergent wetland communities are associated with the pond and other areas of the stream course, and seasonal wetlands are associated with hillside seeps and developed springs. The *Wetland Delineation* also includes a review of the vegetation, soil, and hydrologic survey methods used, and the statutory requirements followed, to identify and locate wetland and riparian areas on the property, including the additional field work on the property requested by and undertaken in cooperation with the Commission staff in 2011 and 2012. The report summarizes the wetland, stream, and riparian habitats located on the subject property and includes a map illustrating U.S. Army Corps of Engineers Section 404 jurisdictional wetlands and Coastal Commission jurisdiction wetlands.

In October 2011 and November 2012, the applicant's biological consultant provided additional information requested by the Commission staff regarding upland plant communities and their

proximity to proposed development on the property. This information included composition of grassland where structures are proposed for agricultural areas south of the blue-line stream, characterizations of the grassland along a meandering transect from the eastern to western ends of the property south of the blue-line stream, an updated plant communities map for the property, sampling of plant species between the equipment barn and farmhouse sites, and confirmation that proposed structures are not located within native grassland habitat. The two Zander Associates reports included the following:

- The composition of grassland, including native and non-native species and percent cover, at the proposed sites of the greenhouse, hopyard shelter, and both sheep shelters.

- Grassland along a transect from the southeast property corner in a southwesterly direction toward Highway 1 was characterized, including species composition, percent cover, and GPS location. There is a noticeable trend toward non-native grasslands at the lower elevations of the site.

- The 2008 Plant Communities Map was updated to reflect changes in the riparian border near the proposed brandy barn, boundaries of seeps south of the riparian corridor were remapped, the mapped mixed evergreen forest was divided into California bay forest and arroyo willow scrub, the springs identified north of the riparian corridor were mapped.

- Additional grassland survey work indicated that the original locations of the hopyard shelter and sheep shelter 2 were in areas with 35-50% cover of native perennial grassland species. As a result, these structures were relocated into nearby areas where the building footprint and an area 100 feet beyond were within non-native grasslands.

- The footprints of the farmhouse, brandy and equipment barns, vineyard, leach field, sheep shelter 1, greenhouse, driveway, water tanks, and utility line trenches were all determined to be located within non-native grassland.

The Commission staff also requested updated information on the location and conditions of sensitive animal and plant species found on the property. Zander Associates (November 2012) reported that four special status species have been identified on the property: California red-legged frog (CRLF), western pond turtle (WPT), American badger and Marin checker lily. The pond and associated riparian corridor on the site provide the primary breeding, dispersal, and foraging for CRLF and WPT, and upland grassland areas on the site provide some potential dispersal and foraging habitat for the CRLF but none for WPT. The small development footprint and setbacks of the project coupled with appropriate timing and exclusion fencing during construction would assure against incidental effects on CRLF and WPT. There are anecdotal reports of badger sightings on the Magee property and potential burrows may be located in the dry grassland habitat in the southeast portion of property. No signs of badger burrow activity were observed within the proposed development area north of the main stream corridor. The majority of potentially suitable badger habitat on the Magee property (approximately 91 acres of open grasslands, in areas of low to moderate slope) will remain unaffected. A population of approximately 20 plants of Marin checker lily was identified in two locations near the pond on

the lower reach of the blue-line stream. These plants are far removed from the proposed building sites and agricultural activities are not expected to be impacted by the project.
Zander (November 2012) also noted that the original site of the proposed greenhouse was relocated at the suggestion of Commission staff to respect a 300-foot buffer around the existing farm pond on the lower reach of the blue-line stream, habitat for the California red-legged frog and western pond turtle.

As a result of the additional biological survey work completed on the property since September 2010 (when the Commission found substantial issue on the appeal of the project's Marin County-approved coastal development permit), work undertaken in close coordination with Commission staff, updated maps illustrating existing sensitive habitat on the property and proposed development locations were completed in February 2013 by Zander Associates. These maps confirm that all proposed structures and related development is located outside of wetlands, streams, riparian corridors, and native grasslands, and outside of the development setback areas required by the Marin County LCP to protect sensitive habitat.

Beginning in early 2011, the Commission's senior ecologist, Dr. John Dixon, has worked to identify and evaluate the biological resources on the subject property, and has studied the potential effects from the proposed development on those resources. This effort included reading the relevant project reports and literature, and conducting site visits to the property to understand the proposed development site plan and the distribution and type of wetlands, riparian habitat, native grassland, and rare animal and plant species on the property. Dr. Dixon prepared a memorandum summarizing his analysis, conclusions, and recommendations regarding the proposed development (**Appendix E**). The following are the significant conclusions from this memorandum:

- The Applicant's biologists have conducted biological surveys of the property on 29 separate occasions that included all seasons. The surveys conducted are sufficient in number, type, and quality to identify and locate the important resources on the site.

- There are three major resource categories of biological concern on the property: open coastal waters (a pond and stream) and wetlands, rare species, and rare vegetation communities.

- There are extensive stands of coastal terrace prairie ESHA on the property south of the blue-line stream. Dr. Dixon recommended that the four agricultural structures proposed for south of the stream be located such that each footprint and the area within 100 feet of the footprint is clearly not native grassland or other ESHA. (This has been proposed by the Applicant.)

- The upland habitats north of the stream in the general area proposed for development are most appropriately characterized as either non-native grassland or ruderal and do not meet the definition of ESHA in the Coastal Act.

- The willow scrub and mixed riparian woodland along the blue-line stream and tributaries are ESHA. Dr. Dixon recommends that all development be set back a minimum of 100 feet from the drip line of the trees and shrubs that define these riparian habitats, consistent with the minimum requirements of the certified LCP.

- Protocol surveys were conducted for the California red-legged frog (present), the foothill yellow-legged frog (not present), and the western pond turtle (present). Dr. Dixon does not recommend that additional focused surveys for those rare species that have not been observed on the property be required.

- There is foraging habitat on the property for a variety of birds of prey. Although roosting or nesting near the areas proposed for development is unlikely, Dr. Dixon recommends that construction during the February 1 – August 15 nesting season occur no closer than 500 feet from active raptor nests.

- American badgers (a California Species of Special Concern) and their burrows have been observed in the eastern portion of the property. Dr. Dixon recommends that before any ground disturbing activities take place that a biologist ensure that badgers are not present.

- Focused surveys have demonstrated that the pond on the property is breeding habitat of the California red-legged frog, a federally threatened species and California Species of Special Concern, and is therefore ESHA. The Applicant proposes no development within 300 feet of the documented breeding pond. Dr. Dixon agrees that this is appropriately and adequately protective of the California red-legged frogs that occupy the site and is sufficient to prevent impacts that would degrade the ESHA.

- The blue-line stream course and associated riparian corridor on the property is the most likely dispersal corridor for non-breeding habitat for the frogs. Dr. Dixon recommends that development be set back at least 100 feet from riparian vegetation or 150 feet from the stream bank, whichever distance is greater, consistent with the minimum requirements of the certified LCP. Such a setback is adequately protective of the dispersal requirements of the California red-legged frog and is sufficient to prevent impacts that would degrade the ESHA.

- Although no development is intended within the riparian and stream buffer, the corner of the brandy barn parking area is shown on the project plans to intrude a few feet into the buffer. The plans need to be corrected prior to the start of project construction.

- Focused surveys of the project site conducted in 2011 documented the presence of western pond turtles, a California Species of Special Concern, in the pond on the blue-line stream. No development is proposed within this ESHA and the minimum development setback from the pond is 300 feet and from the stream is 150 feet. The proposed development is sited and designed to prevent impacts that would degrade the ESHA or negatively affect the western pond turtle consistent with the minimum requirements of the certified LCP.

- The threatened Marin checker lily is present in one location near the pond on the property and the habitat that supports this plant is ESHA. The distance from the lily population to the proposed greenhouse is over 200 feet and to the proposed brandy barn is over 400 feet. These developments therefore are sited and designed such that they will not significantly degrade and are compatible with the continuance of this ESHA consistent with the minimum requirements of the certified LCP.

- The wetland delineation on the property was appropriately conducted following the wetland definitions in the Coastal Act and the Commission's Regulations. The mapped wetland boundaries on the property are accurate based on Dr. Dixon's review of the report and data sheets and on Dr. Dixon's field assessments in 2011 and 2012.

- A disturbed area proposed as the site for the brandy barn has been identified as potential wetlands by project opponents. Observations and comparisons of vegetation cover and soil characteristics of this potential wetland and of an adjacent upland grasslands site rebut the wetland presumption and demonstrate that at the proposed brandy barn site the wetland indicator plant species which are present are growing as upland plants.

- In January 2011 water diversion works were installed by the Applicant in the northwest corner of the property to capture runoff from the adjacent parcel and direct it into a PVC pipe running downhill to the west to the existing paved driveway. Project opponents suggest that this action may have modified a potential wetland downslope from the diversion, altered the composition of vegetation in this area, and reduced the size of downslope wetlands. Vegetation sampling was undertaken in November 2012 at different locations at and adjacent to the diversion site to test whether the water diversion altered vegetation in this area. There was no difference in the wetland characteristics of the vegetation at either location. The construction of the water diversion structure did not have any short-term effects on the character of the vegetation and did not affect the accuracy of the wetland delineation. Even if, in the absence of the water diversion, there would have been a short-term increase in the area of saturated soils at wetland W1, the larger area of saturated soils would have occurred downslope; and, even if an additional downslope area were categorized as new wetland, the altered buffer zone would not affect any proposed development.

Dr. Dixon's memorandum concludes as follows:

> *Numerous and detailed biological surveys have been conducted on the Magee property. As a result, the wetlands, vegetation communities, and sensitive species that are on the property have been identified and their locations have been accurately mapped. The footprints of the proposed development have been adjusted so as to avoid all sensitive natural resources on the property and have been set back at least 100 feet from wetlands, riparian vegetation, and rare plants, 150 feet from streams, and 300 feet from the pond that supports California red-legged frogs and western pond turtles. I conclude that the proposed development has been sited and designed to prevent impacts that*

would degrade environmentally sensitive habitat areas and wetlands, and is compatible with the continuance of those habitats.

Questions were asked by Commission staff, the Appellants, and others about potential adverse effects on stream flow, springs, riparian vegetation, and wetlands from pumping water out of the new northern water well to support project developments. The Applicant commissioned a reconnaissance level survey to assess whether, in light of the proposed project, "hydrologic support to the stream, wetlands, and seeps on the property can be protected." The northern well was drilled with the intent to supply irrigation water to the adjacent vineyard, the brandy barn and distillery operation, the equipment barn, and the farmhouse. (Agricultural operations south of the blue-line stream will be supplied with water from an existing well south of the stream.) The November 2012 Balance Hydrologics, Inc. report reviewed the Brader-Magee Farm Plan, the wetland delineation for the property, the project's geotechnical report, water well drillers' logs for both wells on the property, a drainage/runoff report for the property, and a comment letter from biological consultants representing the adjacent landowner to the north. The Balance Hydrologics report discusses the hydrologic environment, the technical approach to the survey, field work conducted, and groundwater occurrence; it then analyzes comparative groundwater quality, a well-pumping simulation for the northern well, and a water-budget surplus evaluation for the property. The report concludes that:

- The measured specific conductance of water in the northern well is substantially lower than values measured at the stream or in other wetlands on the property. This difference is attributed to the well being supplied by a different aquifer than the one supporting the stream, springs, and wetlands on the property. The measured differences in salinity are consistent with values observed elsewhere on the eastern side of Tomales Bay.

- Little or no hydrologic connection was observed between the well and the wetlands or springs during the habitat-significant periods of early and late summer.

- The bottom of the well is approximately 200 feet above the blue-line stream. Calculations were made to determine whether the well, if pumped continuously for 120 days with no recharge, would develop a cone of depression substantially reaching the stream channel. The simulated cone did not reach the channel, and little effect on the stream channel or associated wetlands is expected.

- Neither the springs nor the stream are likely to be impacted by pumping the well. The calculated radius of influence of the pumping well for a 120 day season is 189 feet. The shortest distance from the well to the stream is 370 feet and the distance from the well to the nearest mapped spring is 1,960 feet.

- The watershed appears to have a small water surplus; until this is offset, the stream and the wetlands along it are likely to be fully protected from water depletion.

The Commission staff consulted with staff from the California Department of Fish and Wildlife (CDFW), U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service regarding potential project impacts on wetland and riparian habitats, and on environmentally sensitive

habitat located on the upland portions of the property. An Environmental Scientist from the CDFW accompanied Commission staff and the Applicant's biological consultant on a site visit to the Magee property in February 2012. Project development footprints, wetlands, riparian habitat, potential raptor habitat, and upland areas were examined, and potential habitat and species protective measures were discussed. The CDFW submitted a memorandum to the Commission staff in January 2013 summarizing the Department's review of the proposed project and the measures it believes necessary to protect the fish and wildlife resources under its jurisdiction. The Department concluded that:

- The project will not obstruct the natural flow of the blue-line stream, or change the bed, channel, or bank of the stream.

- The proposed buffer distances around the wetlands (100 feet), pond (300 feet), and riparian corridor (150 feet from the top of bank or 100 feet from the edge of the riparian corridor vegetation, whichever is greater) should be considered a minimum buffer.

- Protective measures are recommended for trees and snags that provide wildlife habitat.

- Protective measures are recommended for California red-legged frogs, Western pond turtles, American badgers, and rare plants and their habitats.

- Construction best management practices, low-impact design features, wildlife-friendly fencing, landscape plans, and revegetation of areas by construction should be included in the development project plans.

These recommendations are included in the proposed project and are also addressed in a number of special conditions attached to this permit, specifically, **Special Condition 1** (Revised Project Plans), **4** (Grazing Limitations), **5** (Livestock Fencing), **6** (Monitor Grazing), **9** (Protection of Sensitive Species), **11** (Construction Responsibilities and Standards), **12** (Final Storm Water Pollution Prevention Plan) and **13(**Revised Agricultural Production and Stewardship Plan).

Regulatory staff from the Corps of Engineers San Francisco District visited the subject property in March 2012 to investigate importation and placement of fill material into an onsite creek channel and to undertake fieldwork to prepare an approved jurisdictional map depicting the location and extent of waters of the United States on the property. The Corps concluded in a May 3, 2012, letter to the project Applicant that:

> *Based on this visit, it is clear that rock material was imported for the maintenance of a ranch road and that various other activities were initiated for the preparation of construction on the site. However, no evidence of unauthorized fill into jurisdictional waters of the U.S. was observed during the visit.*

Accompanying this letter was a delineation map depicting the extent and location of wetlands and other waters of the U.S. on the subject property that are subject to Corps of Engineers

regulatory authority under Section 404 of the Clean Water Act. However, as noted elsewhere in this report, no development is proposed in wetlands or other jurisdictional waters.

The Coastal Division in the U.S. Fish and Wildlife Service's (Service) regional office in Sacramento was contacted in February 2012 requesting information on whether the Service would be reviewing the proposed project, given the presence of federally threatened California red-legged frogs on the property, but notwithstanding that the property is not within an area designated by the Service as critical habitat for this species. The Service replied that if the project would result in a take of that species, the project proponent would need to pursue incidental take coverage under Section 10 of the Endangered Species Act, and the Service would be involved in that process. The alternative option would be to design the project so that the listed specie is not affected. The reply concluded that to date they had not heard of or worked on the proposed project. A September 2012 request to the Service for an update on any involvement by that agency in reviewing the proposed project received no response. However, the project design and the special conditions attached to this permit require protection of California red-legged frogs and their breeding and dispersal habitats on the subject property to ensure no adverse effects on this listed species.

The Appellants and others opposed to the proposed development have consistently raised a number of issues regarding potential adverse impacts from the project on wetlands, riparian habitat, the blue-line stream, sensitive upland habitat, and listed species. These issues include a lack of accurate and detailed habitat mapping on the property, a lack of documentation of the full extent of ESHA and rare species on the property, a complete accounting of potential adverse impacts on sensitive habitats and rare species from all elements of the project, inadequate setbacks and buffer areas from wetlands, streams, riparian corridors, and native grasslands, and impacts from existing development on the property (e.g., farm roads, the northwest water diversion and livestock enclosure). In response to these concerns articulated over the last 30 months since the Commission's substantial issue determination in September 2010, and as the Commission staff confirmed the need to obtain more detailed information on sensitive habitats on the property and on the potential adverse effects from proposed development, the Commission staff periodically requested that the Applicant undertake additional biological survey and impact analysis work on the property, and that the Applicant respond to both the staff's information requests and the questions raised by the Appellants. All information requests were provided to the Commission staff. All modifications to the project development plan requested by the Commission staff to avoid and/or minimize potential project impacts on sensitive habitat and species were made by the Applicant, including revisions to habitat buffer areas either consistent with or exceeding the minimum LCP setback requirements.

The Commission finds that the concerns raised by the Appellants and others have been adequately addressed by the additional biological resources survey and analysis work undertaken since September 2010 by the Applicant's consultants, other state and federal resource agencies, and the Commission staff, and by the resulting modifications made to the project by the Applicant. The extensive record indicates that the design and site plan of the proposed project was periodically revised to protect sensitive biological resources as new information on their geographical extent across the property was documented. As currently designed, and as further restricted by a number of special conditions to this permit, the project avoids all wetlands, the

blue-line stream and its intermittent tributaries, riparian habitat, seeps and springs, native grassland habitat, and the required setbacks from these areas. As designed and conditioned, the project will not adversely affect sensitive habitat and species on the property, nor will it adversely affect adjacent sensitive habitat in Tomales Bay.

In conclusion, the Commission finds that the currently proposed project, as further conditioned by this permit, is designed to and will be undertaken in a manner that is consistent with: (a) the Marin County LUP Natural Resources Policies 1, 4, and 5 on streams and riparian habitats, wetlands, and other environmentally sensitive habitats; and (b) the related Marin County LCP zoning measures found in Chapters 22.56.130 and 22.57.024 on development requirements, standards, and conditions to protect streams, wetlands, and environmentally sensitive habitat, including identification of all stream, riparian and wetland areas, allowable use restrictions, prohibitions against construction or vegetation removal in riparian protection areas, buffer zones around stream, riparian, and wetland areas, and wildlife habitat and native plant community protection measures.

G. WATER QUALITY

LUP New Development and Land Use policies state in part:

> *6. Watershed and water quality protection/grading. In order to ensure the long-term preservation of water quality, protection of visual resources, and the prevention of hazards to life and property, the following policies shall apply to all construction and development, including grading and major vegetation removal, which involve the movement of earth in excess of 150 cubic yards.*
>
> > *a. Development shall be designed to fit a site's topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum. Natural features, landforms, and native vegetation shall be preserved to the maximum extent feasible. Areas of a site which are not suited to development because of known soil, geologic, flood, erosion, or other hazards shall be kept in open space.*
> >
> > *b. For necessary grading operations, the smallest practicable area of land shall be exposed at any one time during development and the length of exposure shall be kept to the shortest practicable time. The clearing of land shall be avoided during the winter rainy season and all measures for removing sediments and stabilizing slopes shall be in place before the beginning of the rainy season.*
> >
> > *c. Sediment basins (including debris basins, desilting basins, or silt traps) shall be installed on the project site in conjunction with initial grading operations and maintained through the development process to remove sediment from runoff waters. All sediment shall be retained on site unless removed to an appropriate dumping location.*

> *d. Temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils which have been exposed during grading or development. Cut and fill slopes shall be stabilized immediately with plantings of native species, appropriate non-native plants, or with accepted landscaping practices.*
>
> *e. Where topsoil is removed by grading operations, it shall be stockpiled for reuse and shall be protected from compaction and wind or erosion during stockpiling.*
>
> *f. The extent of impervious surfaces shall be minimized to the greatest degree possible. Provisions shall be made to conduct surface water to storm drains or suitable watercourses to prevent erosion. Drainage devices shall be designed to accommodate increased runoff resulting from modified soil and surface conditions as a result of development. Grassed waterways are preferred to concrete storm drains, where feasible, for runoff conveyance. Water runoff beyond natural levels shall be retained on site whenever possible to facilitate groundwater recharge.*

The associated LCP zoning measures applicable to the proposed project are found in **Appendix D** of this staff report. In summary, these zoning measures address development requirements, standards, and conditions to protect water quality, including standards for and restrictions on grading and excavation, avoidance of development in known hazardous areas, and implementation of soil erosion, drainage control, and revegetation measures.

As mentioned in the project description, the subject property contains a number of water features including a blue-line stream running through the central portion of the property, two intermittent water courses in the southern half of the property (tributaries to the blue-line stream), a farm pond, seasonal seeps, springs, and wetlands. The primary drainage on the parcel is into the blue-line stream that subsequently drains into Tomales Bay. As a result of this drainage pattern, any impacts to the water features on the property from the proposed development could potentially result in water quality impacts to Tomales Bay. The LCP specifically outlines the importance of improving and maintaining the water quality of Tomales Bay in the Natural Resource policies and states in part:

> *1.<u>Water quality.</u> The County encourages the Regional Water Quality Control Board, State Department of Health, and other responsible agencies to continue working on identifying sources of pollution in Tomales Bay and to take steps to eliminate them. LCP policies which address specific development-related water quality problems, such as septic system discharges, are contained in the LCP sections on Public Services and New Development. Other LCP policies on the location and concentration of development and protection of riparian habitats address water quality concerns from a broader perspective.*

Therefore, any new development or agricultural activities proposed must be analyzed for consistency with the watershed and water quality protection/grading LCP polices and zoning measures, as well as the aspects of water quality addressed in the Agriculture Resources and Public Services policies found in **Appendix B**.

New Development:
The various elements of the proposed project have been located and designed to fit the site's topography, soils, geology, and hydrology, minimizing cut and fill operations. No known active, potentially active, or inactive fault traces exist within the subject property. The area proposed for the clustered development of the equipment barn, brandy barn, and residence, is free from landslide potential and contains stable soils. No development has been proposed in the portion of the northwest corner of the property where erosion has occurred due to the uncontrolled drainage of a spring or in the numerous slide areas around the stream channel. Development of the driveway, brandy barn, equipment barn, equipment shed, residence, greenhouse, sheep shelters, and hopyard shelter, and the over-excavation activities, would require 8,009-cubic-yards of cut and 7,529-cubic-yards of fill. All cut materials would be used to construct the improvements, leaving minor amounts of excess earth material on-site. The proposed residence, brandy barn, equipment barn, and greenhouse would create new impervious surfaces that cover approximately 7,000 total square-feet. However, the 1,276-foot-long driveway would have a pervious, crushed gravel surface layer, as would all parking areas adjacent to the brandy barn, equipment barns, and residence. The other proposed structures (hopyard barn, two sheep shelters, and equipment shed) are open-sided, with ground surfaces partially exposed to the elements.

A drainage plan was prepared for the project that analyzed the increase in storm water runoff from the new development and designed management features that would collect and disperse the run-off on-site. This plan included a hydrology analysis based on Caltrans Rainfall Intensity-Duration-Frequency Analysis and Marin County's Hydrology Manual (Revised August 2, 2000). To manage the increased runoff from the impervious surfaces, the project would include appropriately placed ditches, drainage inlets, swales, and dissipaters. Storm drainage from the driveways would be filtered through existing vegetation, lined swales with permanent turf reinforcement mat, and bioretention swales and dissipaters. Any storm drainpipes installed would also be connected to the bioretention swales and dissipaters (see **Exhibit 2**). The drainage plan concluded that with these measures, there would not be a significant increase in site runoff and that the development would not affect the downstream drainage system. The project would also employ best management practices (BMPs) for grading operations and other construction activities including seasonal time of grading, use of erosion and sedimentation control features, and revegetation of disturbed areas. Erosion and siltation control measures (sediment traps, fiber rolls, and sandbags) would be installed at the time of construction.

The following siting, design, and construction elements for the portion of the project discussed above are consistent with the watershed and water quality protection/grading policies of the LCP:

- Siting of the project to fit the property's topography, geology, and soils, away from potential known erosion and slide hazards (Policy 6a).
- Minimization of cut and fill and the reuse of cut soils on-site (Policy 6a and 6e).
- Use of runoff control features to manage surface runoff, such as storm drains, bioretention swales, and dissipaters (Policy 6f).
- Minimization of impervious surfaces by using pervious driveways and open sided structures with exposed ground surfaces (Policy 6f).
- BMPs for construction (Polices 6b-6e)

However, since explicit details on construction and operation of the development are absent from the project materials, to ensure that these activities would be fully consistent with the water quality policies of the LCP, **Special Conditions 11 and 12** have been included**.** These special conditions outline more specific construction and operation BMPs relative to water quality protection, including development of a storm water pollution and prevention plan (SWPPP). With the addition of **Special Conditions 11 and 12**, the new development discussed above would be consistent with the watershed and water quality protection/grading policies of the LCP.

Agriculture:
The new proposed agricultural uses for the property include a vineyard and vegetable garden. The sheep grazing operation continues livestock grazing that has occurred for several decades prior to the Applicant's lease and purchase of the property and subsequent permit applications. The Applicant's *Agricultural Production and Stewardship Plan* (discussed in **Section E**) acknowledges the potential for adverse impacts related to erosion control and livestock waste containment due to the proximity to Tomales Bay and the site's drainage. General elements contained within this plan consistent with maintaining on-site water quality include:

- Maintaining 100-foot setbacks from riparian areas (no development, road grading, cultivation, or grazing allowed in these areas).
- Maintaining 100-foot setbacks for southern watercourses except for 2 livestock crossings. Crossings would be restricted to non-flow periods to minimize erosion.
- Implementing erosion control programs in areas of the creek prone to erosion including slope revegetation, water bar placement, and slope stabilization activities.
- Restoring control over a minor erosive area around an uncontrolled spring.
- Allowing unused farms roads to return to their natural state and implement erosion control practices during the transition period.

The proposed six-acre vineyard would be located on gently sloping (the steepest slope is 18%), south-facing land near the northern property line in rocky loam, well-drained soil. The proposed 2.3-acre vegetable garden would be located on the central western edge of the property in a grassland area (15% slope), south of the drainage channel and outside of the stream setback area. The vineyard and vegetable garden would be watered using drip irrigation and no pesticides or herbicides would be applied to these areas.
Locating the vineyard in an area consisting of rocky loam soil, with a grade of less than 30%, and using drip irrigation will reduce the potential for runoff and erosion, consistent with the watershed and water quality/grading policies of the LCP policies (Policy 6a). The erosion control programs, restoration of erosive areas, and implementation of erosion control for unused farm

roads are also consistent with these Policies (Policies 6a and 6d). As discussed in **Section F**, the riparian vegetation on the property helps to maintain a high level of water quality by filtering sediment from surface runoff and stabilizing soil on adjacent stream banks. The designated setbacks from riparian areas would be consistent with maintaining the services and functions provided by these habitats and the water quality of the area, consistent with LCP Natural Resource Policies 1c and 1d.

Section E outlines the grazing plan detailed in the *Agricultural Production and Stewardship Plan*. The continued grazing of 50 acres that drain into Tomales Bayis subject to the requirements of the Resolution R2-2008-0054 of the San Francisco Bay Regional Water Quality Control Board (RWQCB) (Conditional Waiver Of Waste Discharge Requirements For Grazing Operations In The Tomales Bay Watershed (Tomales Bay, Lagunitas Creek, Walker Creek and Olema Creek) In The San Francisco Bay Region). The waiver conditions require submittal of a Ranch Water Quality Plan that shows how the landowner/operator would minimize delivery of sediment, pathogens, nutrients and mercury from ranching lands to surface waters. In addition, RWQCB waiver conditions require the landowner/operator to manage manure operations, grazing operations, animal use areas, road development and access of animals to surface waters in order to minimize discharges of pollutants to surface waters. The landowner/operator is also required to implement site-specific Management Practices (MPs) that reduce nonpoint source pollution due to grazing and protect water quality. The RWQCB waiver conditions also require the landowner/operator to conduct visual inspections of the ranch facility to verify that chosen MPs are being implemented and that the waiver conditions are being met. **Special Condition 6** of this permit requires the Applicant to submit an annual monitoring report to the Executive Director summarizing the results of the monitoring program of sheep grazing operations, coastal terrace prairie habitat, and soil erosion. The requirements of this waiver, the grazing plan as designed in the *Agricultural Production and Stewardship Plan*, and the grazing monitoring condition are sufficient to ensure that the grazing operations would not impact water quality on the site.

The construction and operation of the vineyard and vegetable garden could lead to water quality impacts from pesticides entering runoff, or from increased erosion, sedimentation, and slope instability. Because the Applicant will not be using pesticides or herbicides on these agricultural features, water quality impacts from these pollutants is not a concern. Typically, the *Agricultural Production and Stewardship Plan* would also detail soil conservation techniques and erosion control measures to be employed. However, the information provided by the Applicant does not ensure that the construction and operation of the vineyard and vegetable garden would be fully consistent with the watershed and water quality protection/grading policies. Therefore, to ensure this portion of the project is consistent with the rest of the development's water quality protections, the Commission has included **Special Condition 13.** This condition requires the Applicant to revise their *Agricultural Production and Stewardship Plan* to implement construction BMPs pursuant to **Special Condition 11** and to implement structural erosion control systems for the vineyard and vegetable garden operation. With this condition, the construction and operation of the vineyard and vegetable garden would be consistent with the LCP water quality policies. In addition, **Special Condition 1** of this permit states that prior to issuance of the coastal development permit, the Permittee shall submit revised

project plans that, in part, indicate that all areas on the subject property temporarily disturbed due to construction activities shall be restored to pre-project conditions to the maximum extent feasible. This condition will further ensure that post-construction water quality impacts are minimized. Lastly, since there would be sheep, a small number of horses, and a small chicken coup on the property, **Special Condition 13** also requires the Applicant to include a fertilizer and manure management plan within their Agricultural Production and Stewardship Plan.

Distillery Waste Water and Septic System:
Domestic wastewater would be treated with an on-site disposal system, which includes a pretreatment process, and would eventually discharge to a leach field on the property. Toilet facilities are proposed for the main house, the equipment barn, and the brandy distillery barn. Wastes from the main house would initially go to a 1,500 gallon septic tank and then would be pumped uphill to a transitional tank before draining by gravity to a 2,000 gallon septic tank (Septic Tank A) adjacent to the brandy barn. Domestic wastes from toilets in the equipment barn and brandy barn would use the same pipe to drain to Septic Tank A. The purpose of septic tanks is to allow dense solids (sludge) to settle out and lighter than water materials (scum) to be collected. The residual water is called septic tank effluent (effluent) and domestic effluent can usually be applied to land in properly designed and located "leach fields" without further treatment. As described below, the effluent from Septic Tank A would be combined with effluent from the distillation process that has high levels of biodegradable materials and particulates and requires additional treatment ("pretreatment") before being discharged to a leach field.

In addition to domestic wastewater, this project would generate wastes associated with the production of brandy from grapes. It is estimated that 8,000 gallons of total waste would be generated annually by the brandy operation (2,600 gallons of solid wastes and 5,400 gallons of liquid waste). The solid wastes generated by brandy production are those generated by the stemming and crushing of grapes. The Applicant plans to store the solid wastes in grape tub(s) in the brandy barn as they crush and ferment grapes. Depending on the harvest and production schedules, they would transport the solids up to a lined compost pile or pit at the vineyard every few days. After the solids are successfully turned into compost, they would be spread on the vineyard as needed.

The liquid wastes from the distillery would be made up of residual liquid from the distillation process and water used to wash out tanks and distillation equipment. Although the distillery process water would only be generated during a short period each year (about 30 days), the liquid wastes have much higher Biochemical Oxygen Demand (BOD) and higher Total Suspended Solids (TSS) than effluent from domestic wastewater and require specialized treatment. BOD is caused by the presence of readily degradable organic materials that can stimulate natural bacteria in the environment and lead to low oxygen, stagnant water quality. High TSS in the discharge can transport bacteria and lead to clogging of the leach field. The Applicant proposes to use the Advantex commercial wastewater system produced by Orenco, Inc. as pretreatment prior to discharging the waste water to the leach field. The Advantex system sprays effluent onto a filter media at low rates where bacteria metabolize organic compounds and bind particulate materials, in what is called a "trickling filter" system. The effluent drains to a recirculation tank and is passed through the media filters at least four times before being pumped

to the leach field. In order for this system to adequately pretreat the combined domestic and distillery effluent, it must reduce the BOD below 30 milligrams per liter (mg/L) and TSS below 30 mg/L.

The sizing of the wastewater pretreatment system is based on information from other alcohol distillation operations used by the wine and beer industry in Northern California. This distillery is expected to generate an average of 100 gallons per day of high BOD wastewater over a 30 day production cycle. In order to avoid overloading the trickling filter system, the high BOD and TSS distillery effluent would be mixed with domestic effluent prior to pretreatment. The wastewater treatment consultant for the project has determined that the mixing of 50 gallons per day of distillery process waste with the domestic wastewater from the farm would create an effluent that is well within the treatment capacity of the proposed system. The system has been designed using conservative assumptions, such as assuming that the liquid wastes prior to mixing and pretreatment would have a BOD of 4000 mg/L. The Applicant believes, based on his experience with beer fermentation, that the process water would actually have less than 1,000 mg/L BOD.

The distillery process water would first be drained to a second 2,000 gallon septic tank (Septic Tank B) to allow removal of sludge and scum before the effluent is combined with domestic effluent. The septic tanks for both waste streams would be periodically pumped and the sludge would be hauled off-site to a licensed waste handling facility. During the 30 day brandy production and distillation process, and for about 30 days after that, 50 gallons per day of distillery process wastewater would be mixed with 200 to 600 gallons per day of domestic wastewater for treatment with the Advantex system. Since the distillation process would be creating 100 gallons per day of wastewater over the 30 day annual production, the excess wastewater would be retained in the Septic Tank B until it can be mixed and treated. It is expected that all the wastewater from the distillery process would be treated over a 60 day period. The wastewater would be tested to ensure that influent to the pretreatment system is within operational limits for pH and alkalinity. After pretreatment the water discharged to the leach field would be tested for BOD, TSS, pH and coliform bacteria to be sure the pretreatment system is working properly. To further ensure that the proposed wastewater disposal system for distillery will not adversely affect the septic system and leach field, and water quality on the subject property or in Tomales Bay, **Special Condition 14** of this permit states that prior to the start of construction of the brandy distillery, the permittees shall submit written evidence to the Executive Director of approval by the San Francisco Regional Water Quality Control Board of the distillery wastewater disposal system.

The Applicant proposes to place the leach field about 1,000 feet north of the main house and about 200 feet higher in elevation. Soil tests of the proposed area conducted in August of 2012 were used to develop the design of the leach field which would have two parallel distribution systems. Each of the systems can handle the full discharge of the wastewater system and the duplication is meant to provide a contingency in the case of an unusually wet year or unexpected system problems. The testing showed the soils to be clay loam and sandy clay in texture and to have average percolation rate of 1.2 minutes per inch at 18 to 30 inch depths. The soil tested showed 65 to 73% silt and clay, and the clays were tested to verify that they did not have

excessive shrink-swell potential that might impede infiltration. Each of the two leach fields would have two pressure distribution pipes that are 75 feet long and the maximum loading rate would be 1.8 gallons per foot per day of the pretreated effluent. The pressure distribution pipes would be placed 30 inches deep on top of 15 inches of gravel and below 12 inches of soil cover. The leach field is proposed to be within the vineyard boundary with 20 feet of buffer from the vines uphill and to the side of the distributions lines and a buffer of 40 feet downhill from the distribution lines. At least six monitoring wells would be distributed through leach field to detect if the water table rises to less than 54 inches below the ground surface. If ground water rises to that level, then the effluent would be switched to the second distribution system. If ground water rises to within 54 inches of the surface in both fields or on a regular basis, the system would need to be redesigned, the waste hauled off site to a licensed treatment system or the distillation process halted to address the problem.

Commission water quality staff has reviewed the proposed wastewater system as described in a letter and plans from the consultant (Rich Lincoln and Sons) dated November 14, 2012 and November 29, 2012 respectively and further discussed the system with the Applicant and his consultants by phone on February 7 and 11, 2013. Water quality staff agrees that the wastewater system is adequate to support the operation as described.

The LCP Public Service Policies in **Appendix B** state that on-site sewage disposal must meet the standards of either the RWQCB or County's code 18.06. As analyzed above, the septic system meets the standards set forth in this code, has the appropriate setbacks from well, vineyard, and water resources on the property, and is in an area with low erosion potential. Therefore, as designed, the operation of the distillery would not impact water quality on the project site or surrounding area as there would be adequate sewage disposal systems to serve the operation consistent with the LCP Agriculture Policy 4d and Public Services Policy 3a.

Individuals opposed to elements of the proposed project have raised questions about potential adverse impacts to water quality on and adjacent to the property, in particular impacts from the disposal of domestic and distillery wastewater on groundwater, surface water (the blue-line stream), and Tomales Bay; whether a separate septic system and leach field are required for the distillery wastewater stream; and the potential erosion and sedimentation impacts on the blue-line stream and Tomales Bay from vineyard construction and operations. However, the analysis in this section of the staff report of the proposed wastewater management and disposal systems for the project, including wastewater from domestic sources and from the proposed distillery operation, evidences that the systems are designed to avoid adversely affecting groundwater and surface water on the property and in Tomales Bay.

As discussed in this section, the siting, design, and construction of the new development, with the addition of **Special Conditions 11 and 12** is consistent with the LCP Watershed and Water Quality Protection/Grading Policies. Elements contained within the Agricultural Production and Stewardship Plan and the siting of the vineyard and vegetable garden would further protect water resources on the site consistent with the LCP Watershed and Water Quality Protection/Grading Policies and Natural Resource Policies. **Special Condition 11** has been included to ensure the full suite of BMPs is applied to prevent water quality impacts from erosion and run-off as a result of the construction and operation of the vineyard and vegetable garden consistent with the

LCP Water Shed and Water Quality Protection/Grading. As conditioned, no impacts to the water quality on the site would result from the grazing operation as designed in the *Agricultural Production and Stewardship Plan* and these efforts would be further supported by the required RWQCB waiver reporting. The wetland and riparian setbacks from all project elements are consistent with the LCP Natural Resource policies and would ensure the water quality functions and services provided by these habitats are not degraded. The brandy operation has sufficient on-site disposal mechanisms for its waste streams, and the septic system has been designed consistent with the standards set forth in the LCP Public Services and Agriculture Policies. To further safeguard coastal water quality, **Special Condition 14** is included to ensure that the SFRWQCB reviews and approves the wastewater disposal system for the proposed distillery operation. Therefore, the proposed project, as conditioned, is consistent with the water quality protection policies of the Marin County LCP.

H. VISUAL RESOURCES

LUP New Development and Land Use policies state in part:

> *3. Visual Resources*
>
> > *a. The height, scale, and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places.*
> >
> > *b. Development shall be screened with appropriate landscaping; however such landscaping shall not, when mature, interfere with public views to and along the coast. The use of native plant material is encouraged . . . .*

LUP Agriculture Resource Policy 5(b) states in part that:

> *Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.*

The applicable LCP Zoning Code sections regarding visual resources state in part:

> *Chapter 22.56.130: DEVELOPMENT REQUIREMENTS, STANDARDS AND CONDITIONS*
>
> *O. Visual Resources and Community Character*
>
> . . .
>
> *2. To the maximum extent feasible, new development shall be designed and sited so as not to impair or obstruct existing coastal views from Highway 1 or Panoramic Highway.*

3. The height, scale and design of new structures shall be compatible with the character of the surrounding natural or built environment. Structures shall be designed to follow the natural contours of the landscape and sited so as not to obstruct significant views as seen from public viewing places.

4. Development shall be screened with appropriate landscaping; however, such landscaping shall not, when mature, interfere with public views to and along the coast. The use of native plant material is encouraged.

. . . .

Chapter 22.57.024: DESIGN STANDARDS

The following requirements for project design, site preparation, and use shall be imposed through the Master Plan, Development Plan and/or Design review process, as necessary, to implement the goals and policies of the LCP, the Marin Countywide Plan and any applicable community plan.

1. Project Design:

(a) Clustering. Buildings shall be clustered or sited in the most accessible, least visually prominent portion or portions of the site. Clustering or siting buildings in the least visually prominent portion or portions of the site is especially important on open grassy hillsides. In these areas, the prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography. In areas with wooded hillsides, a greater scattering of buildings may be preferable to save trees and minimize visual impacts. In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.

(b) Ridgelines. There shall be no construction permitted on top of within three hundred feet horizontally, or within one hundred feet vertically of visually prominent ridgelines, whichever is more restrictive, if other suitable locations are available on the site. If structures must be placed within this restricted area because of site size or similar constraints, they shall be on locations that are least visible from nearby highways and developed areas.

. . .

(d) Roads, Driveways and Utilities. . . . In areas with undeveloped agricultural land, efforts shall be made to keep road and driveway construction, grading and utility extensions to a minimum. This shall be

> *accomplished through clustering and siting development so as to minimize roadway length and maximize the amount of undivided agricultural land.*
>
> . . .
>
> *(g) Building Height. No part of a residential building shall exceed twenty-five (25) feet in height above natural grade, and no accessory structure, including water tanks, shall exceed fifteen feet in height above natural grade*
> . . . .
>
> *Chapter 22.57.035(1): DEVELOPMENT STANDARDS AND REQUIREMENTS*
>
> *1. . . . Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.*
>
> *Chapter 22.57.036(6): REQUIRED FINDINGS*
>
> *The proposed land division and/or development will have no significant adverse impacts on . . . scenic resources.*

The Marin County LCP recognizes the scenic visual resources of the Tomales Bay region:

> *Tomales Bay and adjacent lands in the Unit II coastal zone form a scenic panorama of unusual beauty and contrast. The magnificent visual character of Unit II lands is a major attraction to the many tourists who visit the area, as well as to the people who live there. New development in sensitive visual areas, such as along the shoreline of Tomales Bay and on the open rolling grasslands east of the Bay, has the potential for significant adverse visual impacts unless very carefully sited and designed.*

Location of proposed project
The proposed project is located on a 150-acre hillside property on the east side of Highway 1 above Tomales Bay, approximately eight miles north of Point Reyes Station and two miles south of Marshall (**Exhibit 7**). The property is currently mostly undeveloped agricultural land, save for a network of unimproved, two-track farm roads that supported historic cattle grazing, a partially silted-in farm pond behind an earthen dam on the lower reach of a blue-line stream, perimeter and interior livestock fencing and gates, two water wells, water tanks, an aerial power line to a pump shed near the pond dam, a quarter-acre hops cultivation field, and other minor agricultural improvements previously described in **Section A** of this report. The most visually-dominant element on the property is the riparian forest which borders the blue-line stream, extending from the northeast corner of the property down to Highway 1. The balance of the property north and south of this corridor is comprised primarily of open grassland.

The subject property is located at the southern reaches of the rural community of Marshall. The property is most easily and commonly viewed by the public from Highway 1, and in particular,

by those traveling north. After leaving the rural residential area on the northern side of Point Reyes Station, one travels though a transitional area of development, passing through a moderately wooded landscape interspersed with small dairy farms, ranches, a winery, and residential structures (**Exhibit 13**). Buildings, barns, driveways, fences, and signs are common as one continues north on the highway, but ultimately open views of Tomales Bay, the Point Reyes peninsula, and the grassland-dominated hills east of the bay begin to dominate the view several miles north of Point Reyes Station (**Exhibit 14**). The landscape is now one of little obvious development, save for livestock fencing, the occasional driveway and residential structure, and the Tomales Bay Oyster Company complex five miles north of town. At approximately 6.5 miles, the Kivel/Lund residential structure on the adjacent property to the north of the Magee property comes into view as does the lower portion of the Magee property (**Exhibit 15**). Soonafter one sees the story poles and orange netting representing several of the proposed structures on the Magee property, but one is still drawn primarily to the view northwest towards Tomales Bay, including the Marconi Cove area and several structures on the shoreline side of Highway 1 north of the cove (**Exhibit 16**). Unobstructed views of rolling grassland hillsides are soon lost as the highway curves slightly to the right and begins its descent to Marconi Cove and the blue-line stream crossing. Prior to arriving at the intersection of Highway 1 and the paved driveway that provides access to the Magee property and the Kivel/Lund residence, the view eastward is intermittently blocked by tall, mature trees along the highway shoulder and the raised highway embankment; the view westward to Tomales Bay remains dominant.

Driving north on Highway 1 at the 35 MPH speed limit, it is approximately 45 seconds between the time the Kivel/Lund residence first comes into view until the driveway intersection is reached; it is a 20-second-long drive from the time one first sees the orange netting on the Magee story poles until the driveway intersection. Commencing at this location, essentially the southern gateway to the community of Marshall, the viewshed changes as the topography east of the highway steepens and is heavily vegetated, the view towards the bay dominates (**Exhibit 17**), and more development presents itself as you enter Marshall. If one reverses the direction of travel to the Magee property, and moves north to south along Highway 1, views of Tomales Bay towards the west dominate from south of Marshall and it is not until just north of the driveway intersection does a view (through the trees) of the Magee property appear, first towards the southeast and then after passing the embankment brief views up the hillside to the east (**Exhibit 18**).

Other public views of the property are from the undeveloped Marconi Cove unit of Tomales Bay State Park (directly across Highway 1 from the property, and discussed previously in Section E of this report), certain locations on Tomales Bay and its western shoreline, and from segments of the Meadow Trail on the grounds of the Marconi Conference Center State Historic Park, approximately one-half mile to the north.

It is useful at this point to examine the Marconi Cove development plans proposed by California State Parks, to better understand the geographical context in which the proposed Magee project sits. Marconi Cove is located across Highway 1 from the Magee property and was once the site of a private marina and boat docks, boat ramp, gas station, and parking area. The marina and boat docks no longer exist, the ramp is still present, and a deteriorating remnant wooden buiding

sits on the site. California State Parks obtained the property in 2002 but it remains closed to the public due to a lack of funding for redevelopment. In September 2011 the Commission approved a coastal development permit applcation from Caltrans (CDP 2-11-011) for installation of 115 linear feet of rock slope protection along the west side of Highway 1 at Reynold's Cove (north of Marconi Cove). As a part of that action, the Commission approved Caltrans' proposal to mitigate for the public access impacts of the Highway 1 project by paying an in-lieu fee that would facilitate the improvement and opening of the Marconi Cove property to the public. The proposed improvements would include facilities for motorized and non-motorized boat launches, signage, parking, pedestrian pathways, picnic areas, an environmental campground, bathroom facilities, fencing, and lighting. However, approval of CDP 2-11-011 did not authorize construction of the Marconi Cove project at this time. This mitigation project will require future environmental and coastal development review, consistent with Marin County LCP and Coastal Act policies, which California State Parks and the Department of Boating and Waterways have committed to undertake.[2]

The relevance of this recent Commission action to support the efforts behind development of visitor-serving recreational facilities at Marconi Cove, in regards to the immediately adjacent proposed Magee project, is that this location on the east side of Tomales Bay is not a pristine, undeveloped landscape but rather is the point at which the southern reach of the rural community of Marshall begins to assert its presence along the Highway 1 corridor. The Commission's recent approval in concept of new public recreational activities and structures on the shoreline of Tomales Bay at Marconi Cove indicates that development at this southern gateway to Marshall need not be automatically avoided in order to maintain parcels free of all development activities. While development on the Magee property should be designed to take into account future public recreational activities at Marconi Cove, and not obstruct or impair coastal views from that location (albeit views eastward and away from Tomales Bay), the introduction of agricultural operations and related structures on the Magee property, consistent with LCP agricultural policies, does not necessarily imply that LCP protected visual resources will be impaired or obstructed.

Applicant's Proposed Mitigation Measures

The Applicant states that the proposed development was designed with a goal to minimize impacts on scenic coastal views from public areas to the maximum extent practicable. The site plan clusters the three major buildings in the northwest corner of the property, near existing structures on the adjacent property, near the existing power line line terminus at the farm pond, and near the existing paved driveway intersection at Highway 1. The equipment barn and farmhouse will be set into their hillside locations to minimize height above natural grade. Proposed agricultural structures south of the stream/riparian corridor (sheep shelters, hopyard shelter, and greenhouse) are smaller in size and height, and take advantage of topography and vegetation to minimize their visibility. All of the buildings and structures adhere to the height

[2] The Commission staff contacted staff at Point Reyes National Seashore and California State Parks to inquire if either agency had concerns about potential visual resource impacts on their jurisdictional lands (the National Seashore and Tomales Bay State Park, including the Marconi Cove unit, respectively) from the proposed Magee development project. Both agencies reported back (California State Parks in November 2012 and Point Reyes National Seashore in February 2013) that they had no comments on the proposed project.

limitations in the LCP, and incorporate design features, building materials, and earth-tone colors to blend in with the natural landscape to the extent practicable. All exterior lighting will be the minimum necessary for safety and have a directional cast downward to eliminate lights shining beyond the property. The revised driveway route to the equipment barn and farmhouse now avoids the riparian corridor, wetlands, and their required setbacks by curving up the northwest hillside between the wetland buffer areas. While this route will be more visible from Highway 1 than the original alignment, it is necessary in order to avoid sensitive habitats and setbacks while still clustering the project buildings in the northwest corner of the property. Restoration of disturbed construction areas will return those areas to pre-disturbance conditions, and will include revegetation with native plant materials. Retaining walls along the driveway and at other visible locations will use natural-appearing construction materials and native vegetation screening to minimize their appearance. **Special Condition 1** of this permit requires in part that the Applicant implement all proposed visual resource protection measures.

The Applicant first installed story poles and orange netting to represent the location, outline, and mass of the proposed structures during the Marin County coastal permit process (**Exhibit 20**). These remained in place through the Commission's substantial issue process in the summer and fall of 2010. Since that time, inclement weather removed or caused the Applicant to remove poles and netting, new poles were installed, and the locations of several of the proposed structures were slightly adjusted to reduce their visibility or to account for updated identification and mapping of senstive habitat on the property. In late 2012, the Applicant re-installed story poles at the locations of all proposed structures in their currently proposed locations, painted the tops of the poles bright orange, and installed colored rope to represent building outlines and rooftop lines. In late January 2013, strips of orange netting were wrapped around the perimeter story poles at the brandy barn, equipment barn, and farmhouse sites to make these structures more visible from Highway 1 and Marconi Cove. This latest effort, combined with previous story pole and netting installations on the property and visual simulations of the proposed structures, are adequate to evaluate potential impacts to public views from the proposed development.

The proposed brandy barn, equipment barn, and farmhouse, even with post-construction screening vegetation and the numerous design features incorporated into the project to minimize their appearance on the property, will nevertheless be visible to some degree and from some locations along Highway 1 and Marconi Cove, and to a far lesser degree from distant public viewing areas on Tomales Bay and the Point Reyes Peninsula. The smaller agricultural shelters and the greenhouse will be much less visible, if at all, due to their size and locations across the southern half of the property. *Consistency With LCP*
The Marin County LCP does not require that new development, agricultural or otherwise, be invisible from public viewing areas, but rather that it be:

- Sited so as not to obstruct significant views as seen from public viewing spaces.
- Designed and sited so as not to impair or obstruct existing coastal views from Highway 1.
- Clustered in the least visually prominant portion or portions of the site.
- Compatible with the character of the surrounding natural or built environment.
- Designed to follow the natural contours of the landscape.
- Kept off visually prominent ridgelines.

The proposed development, as conditioned, meets all of these criteria. The proposed project is located east of Highway 1. While the proposed structures would be visible from a 400-foot-long segment of northbound Highway 1, from portions of the Marconi Cove property, and from more distant public viewing areas, the structures would clearly not obstruct significant public views or impair or obstruct existing coastal views from Highway 1. The structures are sited away from ridgelines and clustered near the existing and highly visible residential development on the parcel immediately adjacent to the north, are designed and conditioned by this permit to be agrarian in design and to blend into the landscape, and the site plan preserves nearly all of the open grasslands and all of the highly scenic riparian woodlands on the subject parcel. The structures are located over 3,500 feet from a visually prominent ridgeline, and the equipment barn and farmhouse are set into the hillside, thereby lowering the profile of each building. Highly scenic views towards Tomales Bay would remain unchanged by the project. Views eastward across grasslands and hillsides would not be obstructed or impaired but rather would be slightly affected from certain locations due to the placement of structures supporting new agricultural development.

The proposed project also includes the preparation of a tree thinning plan for the ornamental trees previously planted by the Applicant along the western property line adjacent to Highway 1, in order to ensure that significant scenic views eastward from the highway are not obstructed or impaired as these trees reach their mature height and width. **Special Condition 15** of this permit states that prior to issuance of the coastal development permit, the Permittee shall submit a plan for the thinning and/or removal of the cypress trees that meets the following criteria: (1) trees planted between the southwest corner of the property up to that location where Highway 1 begins a right-hand curve and begins to dip below the right shoulder embankment shall be removed to preserve unobstructed views of coastal hillsides to the east; and (2) trees planted north of this removal location may be retained as they are in a location that will not obstruct views to the east.

The Appellants and others have expressed numerous concerns about the potential adverse impacts to visual resources. These concerns center on their observations about impacts to public views due to the location of buildings, structures, and the driveway, the adverse impacts on scenic hillside views, the lack of accurate story poles and netting to visualize building and structure locations and impacts, the absence of staking and flagging of all proposed development, and the need for more detailed and sophisticated visual simulation analysis of all proposed developments and of development alternatives. The Commission finds that these concerns have been adequately addressed in the preceeding analysis and that there is substantial evidence that the project is consistent with the Marin County LCP visual resource policies. Therefore, the Commission finds that while the project will introduce structures on the property that will be visible from various locations in the vicinity, that development will not obstruct or impair significant coastal views inconsistent with the requirements of the certified LCP.

Conclusion

In conclusion, the proposed development would introduce agricultural operations across a relatively undeveloped landscape. There will be changes to public views of the Magee property from what exists now. The project will introduce agriculture operations across the property, but

in a way that minimizes public view impacts. This is a parcel zoned for agricultural production and the project will consist of a variety of agricultural activities, including barns and structures in support of those activities. The Commission determined in **Section E** of this report that these operations would be consistent with the agricultural protection provisions applicable to the property and would meet the LCP goals to protect and support agriculture in this region of the Marin County coastal zone. In this section, the Commission must determine whether these operations would also be consistent with LCP policies established to protect the visual resources that are present across those same agricultural lands. It has been established in this report that views of the lower portion of the property from Highway 1 and Marconi Cove will be affected due to the placement of three buildings and other agricultural structures, construction of an access driveway, but such development is clustered, conditioned to be agrarian in nature and sited and designed to limit perceived mass and bulk, and the planting of screening vegetation will reduce the visibility of those structures. Views of the property from Tomales Bay, the Marconi Conference Center State Historic Park's Meadow Trail, and from across the bay at locations in Point Reyes National Seashore will be affected only minimally by the introduction of the aforementioned development. A variety of agricultural operations are present along Highway 1 between Point Reyes Station and Marshall. The fact that the proposed project occurs at the southern gateway to Marshall rather than several miles south amidst a relatively undeveloped stretch of Highway 1 further ameliorates the effects on public views from project strcutures. In order to comply with clear LCP prohibitions on development in sensitive habitat and adjoining setback areas, to comply with LCP requirements for clustering new development near existing development and roads, and to preserve the vast majority of the property outside of protected habitat areas for agricultural uses, the Applicant has submitted a development site plan that meets those requirements while avoiding the obstruction and impairment of significant coastal views, and remaining compatible with the adjoining built environment to the north and the natural environment to the south and east. Therefore, the Commission determines that the proposed project, as conditioned, is consistent with Marin County LUP New Development and Land Use Policy 3 (Visual Resources) and the applicable LCP Zoning Code Sections (Chapters 22.56.130, 22.57.024, 22.57.035, and 22.57.036).

I. UNPERMITTED DEVELOPMENT

There are allegations of unpermitted development and/or violations of the Marin County LCP undertaken by the applicant on the subject property:

- **Development of a livestock enclosure**. In August 2010 the applicant constructed an open-fenced livestock enclosure pen approximately, 30-feet by 120-feet in size, near the northern boundary and in the northwest corner of the property. In addition, the applicant dug a 3-foot deep basin (15-feet by 15-feet), adjacent to and downslope of the enclosure. This construction and the short-term (approximately several days) placement of several pigs within the enclosure resulted in trampling of grassland in the enclosure, and a depth profile change to the area where the basin was dug. The area affected does not contain any wetlands or environmentally sensitive habitats or species. Due to the short time that the animals inhabited the enclosure, it is unlikely that any significant disturbance to water quality resulted from the installation of the enclosure. Through this permit, the animal enclosure would be removed and the disturbed habitat revegetated and restored to its

original condition, including pre-construction contours and elevation. Removal and restoration of the enclosure would occur prior to any new development authorized by this permit. **Special Condition 1(e)** of this permit enforces this requirement.

- **Installation of pipes to divert water.** In January 2011 the applicant installed surface storm water diversion works, consisting of a six-inch diameter U-shaped plastic pipe and four-inch diameter closed PVC pipe, along the upslope edge of the animal enclosure in the northwest corner of the property. The pipes were used to divert surface water flows downslope and to the west to a paved swale and storm water drain on the existing paved driveway. This stormwater eventually discharges into the blue-line stream and Tomales Bay. Prior to the diversion, surface water would flow across and downslope through this part of the property. Through this permit, the storm water diversion works would be removed and the site would be restored to its original condition. Questions regarding potential impacts to wetlands on the property from the diversion works are addressed in Section F of this report. Removal of the diversion works would occur prior to any new development authorized by this permit. **Special Condition 1(e)** of this permit enforces this requirement.

- **Development of the northern water well**. The northern water well was approved in February 2010 by Marin County Environmental Health Services and was drilled by the applicant in late 2010. The development of the northern well is included in this coastal development permit application and is addressed in **Sections B and E** of this report.

- **Planting of a cypress tree hedge.** The applicant planted a row of approximately 100 cypress trees on the western edge of the property adjacent to Highway 1 in 2008. Prior to the plantings, this edge of the property was open grassland. The potential exists that these trees, as they reach their mature height and width, will block and/or adversely affect scenic views eastward across the property from Highway 1. The applicant states that the trees were planted to mitigate for any visual impacts resulting from the planned development. Potential visual impacts from the cypress trees themselves are further analyzed in **Section H** of this report. As discussed in **Section H**, this permit application includes the submittal of a tree thinning plan to address this matter and ensure protection of visual resources. **Special Condition 15** of this permit enforces this requirement.

- **Installation of a metal gate.** The applicant installed a metal gate within the property boundary fence at the southwest corner of the property. The new metal gate was to replace an existing, deteriorating gate made of wire and poles. The replacement of the gate is included in this coastal development permit application.

- **Development of new farm roads**. It has been alleged that the applicant developed a number of new farm roads throughout the property. The applicant states that the farm roads existed on the property prior to his ownership, that he only used the farm roads necessary to access the property, and that he has not created any new roads. There is no evidence that establishes any new farm roads were created by the applicant.

- **Fill of wetlands.** It has been alleged that the applicant filled wetland habitat north of the blue-line stream near the western property border at Highway 1. Evidence indicates that a previous property owner placed gravel on an existing dirt farm road. A site investigation conducted by the Army Corps of Engineers revealed no evidence that there had been unauthorized fill into Corps jurisdictional waters. Additional site investigations by Commission staff also confirm that the area in question has been restored with native vegetation.

- **Vegetation removal**. The applicant mowed portions of the proposed vineyard area, comprised of non-native annual grasses, to provide vehicle access for surveying, water well drilling, and septic leach field investigation work. The development of the vineyard, water well, and septic leach field are included in the coastal development permit application.

Although allegations of development undertaken on the subject property without a coastal development permit and allegations of violations of the Marin County LCP exist, consideration of the permit application by the Commission has been based solely upon the policies of the Marin County LCP. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations, nor does it constitute an implication of the legality of any development undertaken on the subject site without a coastal permit, or that all aspects of the violation have been fully resolved.

J. OTHER.

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition **17** requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

Marin County served as the lead agency for the project, in its processing of the Magee/Brader Coastal Permit, Design Review, and Use Permit (Application Number CP-09-39, DR 09-71, and UP 09-26). The County found the project to be categorically exempt from CEQA review pursuant to Section 15303, Class 3 of the CEQA Guidelines, which allows for the construction of small facilities or structures, and their associated equipment, including single-family residences

and accessory structures, provided that their construction would not result in significant amounts of grading and vegetation removal that could result in potentially significant impacts on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. The Commission has reviewed the relevant coastal resource issues with the proposed project, and has identified appropriate and necessary modifications to address adverse impacts to such coastal resources. All public comments received to date have been addressed in the findings above. All above findings are incorporated herein in their entirety by reference.

The Commission finds that as modified and conditioned by this permit, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects that approval of the proposed project, as conditioned, would have on the environment within the meaning of CEQA.

APPENDIX A

1. Brader-Magee Project File, including materials associated with Marin County Coastal Permit CP-09-39, the Coastal Commission Substantial Issue Determination Appeal A-2-MAR-10-022, and the Coastal Commission's De Novo review, including materials submitted by the project applicant and associated consultants, as well as materials submitted by the Brader-Magee project opponents and associated consultants.
2. John D. Dixon, Ph.D., Memorandum on Magee Project, February 5, 2013, including all documents reviewed and cited in this memorandum.
3. Marin County Unit II Local Coastal Program.
4. May 3, 2012, Letter from Jane M. Hicks, Chief, Regulatory Division, San Francisco District, U.S. Army Corps of Engineers, to Mr. Tony Magee.
5. January 10, 2013, Memorandum from Scott Wilson, Acting Regional Manager, Bay Delta Region, California Department of Fish and Wildlife, to Mr. Larry Simon, California Coastal Commission.
6. California Coastal Commission, Coastal Development Permit 2-11-011 to California Department of Transportation for Rock Slope Protection along Highway 1 at Reynold's Cove, Marshall, Marin County, September 8, 2011.

APPENDIX B

Marin County LUP Agriculture Resource and Public Services policies, and applicable chapters of the Marin County LCP Zoning Code

1. General Policy. Marin County intends to protect the existing and future viability of agricultural lands in its coastal zone, in accordance with Sections 30241 and 30242 of the Coastal Act. The County's LCP policies are intended to permanently preserve productive agriculture and lands with the potential for agricultural use, foster agricultural development, and assure that non-agricultural development does not conflict with agricultural uses or is incompatible with the rural character of the County's coastal zone. These policies are also intended to concentrate development in suitable locations, ensure that adequate public services are available to serve new development, and protect coastal wildlife, habitat, and scenic resources, in accordance with Sections 30240, 20250, and 30251 of the Coastal Act.

2. Agricultural Production Zone. To implement the goals stated in Policy #1 above, the County shall adopt a planned district zone for all privately owned lands in the Unit II coastal zone currently zoned A-60 or other agricultural zoning district, such as A-20, which are outside of the community expansion boundaries identified in the LCP. Agricultural lands in Unit I which are zoned A-60 shall also be included. The planned district zone shall be known as the Agricultural Production Zone (APZ) and shall have a maximum density of 1 unit per 60 acres. The actual density of permitted development may be less and shall be determined based on the standards in Policy #4 below. The County recognizes that parcel sizes of 60 acres are too small, generally, to independently support existing agricultural operations in the coastal zone. However, 60-acre densities, when combined with the protective standards in Policy #4, do on balance adequately protect agriculture on the coast. The APZ should be reviewed in 5 years to determine its effectiveness, and necessary changes considered at that time.

3. Intent of the Agricultural Production Zone. The intent of the Agricultural Production Zone is to preserve lands within the zone for agricultural use. The principal use of lands in the APZ shall be agricultural. Development shall be accessory, incidental, or in support of agricultural land uses, and shall conform to the policies and standards in #4 and #5 below.

4. Development standards and requirements. All land divisions and developments in the APZ shall require an approved master plan showing how the proposed division or development would affect the subject property. In reviewing a

proposed master plan and determining the density of permitted units, the County shall make all of the following findings:

a. The development would protect and enhance continued agricultural use and contribute to agricultural viability.

b. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.

c. The land division or development would not conflict with the continuation of agriculture on that portion of the property which is not developed, on adjacent parcels, or those within one mile of the perimeter of the proposed development.

d. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made for existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.

e. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.

f. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.

g. Development consists of permitted and conditional uses as authorized in the APZ.

5. <u>Conditions</u>. As part of the approval of a master plan, the following conditions shall be required:

a. All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Development, including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on

scenic resources, wildlife habitat and streams, and adjacent agricultural operations.

b. Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the County shall require the execution of a covenant not to divide for the parcels created under this division so that they are retained as a single unit and are not further subdivided.

c. The creation of a homeowner's or other organization and/or the submission of agricultural management plans may be required to provide for the proper utilization of agricultural lands and their availability on a lease basis or for the maintenance of community roads or mutual water systems

6. Definitions and Uses. The definition of agricultural uses in the APZ is given below, along with permitted and conditional uses.

a. Definitions. For the purposes of the Agricultural Production Zone, agricultural uses shall be defined as uses of land to grow and/or produce agricultural commodities for commercial purposes, including:

c. Livestock and poultry – cattle, sheep, poultry, goats, rabbits, horses unless they are the primary animals raised.

d. Livestock and poultry products – milk, wool, eggs.

e. Field, fruit, nut, and vegetable crops – hay grain, silage, pasture, fruits, nuts, and vegetables.

f. Nursery products – nursery crops, cut plants.

b. Permitted Uses. Permitted uses include the following:

g. Agricultural uses as defined above.

h. One single-family dwelling per parcel. "Parcel" is defined as all contiguous assessor's parcels under common ownership

i. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other than dwelling units of any kind, but including barns, fences, stables, corrals, coops and pens, and utility facilities.

c. Conditional Uses. Conditional uses include the following:

. . .

s. Facilities for processing or retail sales of agricultural products

t. Greenhouses

. . . .

Marin County LUP Public Services policies, in part:

1. General Policy. Prior to the issuance of a coastal development permit, the County shall make the finding, based on information provided by environmental documents, staff analysis, and the applicant, that adequate public services and resources (i.e. water supply, sewage disposal, and road access and capacity) are available to serve the proposed development. Lack of available services or resources shall be grounds for denial of the project or for a reduction in the density otherwise indicated in the land use plan.

2. Water Supply.

a. Type of service. Except as provided herein, new development, including land divisions, outside the service area of a community or mutual water system may utilize individual wells or other private on-site water sources. . . . Additionally, wells or water sources shall be at least 100 feet from property lines, or a finding shall be made that no development constraints are placed on neighboring properties. . . . All new development shall be required to incorporate low flow water fixtures and other water-saving devices.

. . .

e. Development standards for wells and other sources.

(1) Permit required. A coastal permit shall be required to drill any well, including individual and community wells, and exploratory wells. A permit shall also be required to tap other water sources, such as springs or streams.

(2) Individual sources. In areas where individual water wells or other individual domestic water sources are permitted, the applicant shall demonstrate from on-site tests that a sustained water yield of at least 1.5 gpm per residential unit is available prior to the issuance of a building permit or tentative map. Higher yields may be required for fire protection purposes, as recommended by the appropriate fire protection agency.

. . .

f. Fire protection. All proposed building permits and land divisions shall be reviewed by the County Fire Chief or other appropriate fire protection agency prior to the issuance of a coastal development permit so that additional requirements for fire protection, including water storage facilities, sprinkler systems, or fire hydrants, may be added as necessary.

3. Sewage Disposal.

a. On-site sewage disposal. All on-site sewage disposal systems in the coastal zone shall be evaluated as follows:

(1) Septic systems. All septic systems shall meet the standards contained in either the Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal System adopted by the Regional Water Quality Control Board on April 17, 1979 or the County's revised septic system code, when approved by the Regional Board. No waivers shall be granted unless a public entity has formally assumed responsibility for inspecting, monitoring, and enforcing the maintenance of the system in accordance with criteria adopted by the Regional Board, or such waivers have otherwise been reviewed and approved by the Regional Board. (See Appendix C)

The applicable Marin County LCP Zoning Code sections, in part:

Chapter 22.56.026: COASTAL MASTER PLAN DISTRICTS

The following C districts shall be subject to the requirements of Chapter 22.45 in addition to the requirements of this chapter:

C-ARP C-RSP C-RMP C-CP C-APZ C-RSPS C-RMPC C-RCR

All coastal project permits in coastal master plan districts, including approval of a master plan, are appealable under Section 30603(a) of The Coastal Act. The conceptual land uses approved in any master plan shall not be considered subject to appeal to the California Coastal Commission upon issuance of any subsequent coastal project permit within the master plan district.

The requirements of Chapter 22.45 may be waived by the Planning Director when:

A. One single family dwelling unit is proposed for construction on a legal building site.

B. A tentative map requiring a parcel map for four parcels or less is proposed, except in C-APZ districts.
C. The Planning Director determines that a proposed development is minor or incidental in nature and within the intent and objectives of the Local Coastal Plan.

In granting a waiver from the requirements of Chapter 22.45, the Planning Director may designate such conditions therewith as will, in the opinion of the Planning Director, secure substantially the objectives of the regulation or provision for which such waiver is granted.

If Master Plan requirements are waived, a proposal shall be submitted which meets the requirements of Chapter 22.82 (Design Review).

Chapter 22.57.024: DESIGN STANDARDS

1. Project Design:

(a) Clustering. Buildings shall be clustered or sited in the most accessible, least visually prominent portion or portions of the site. Clustering or siting buildings in the least visually prominent portion or portions of the site is especially important on open grassy hillsides. In these areas, the prominence of construction shall be minimized by placing buildings so that they will be screened by existing vegetation, rock outcroppings or depressions in topography. In areas with wooded hillsides, a greater scattering of buildings may be preferable to save trees and minimize visual impacts. In areas where usable agricultural land exists, residential development shall be clustered or sited so as to minimize disruption of existing or possible future agricultural uses.

. . .

(d) Roads, Driveways and Utilities. The development of roads, driveways and utilities shall conform to the applicable standards contained in Title 24 of Marin County Code, including but not limited to Sections 24.04.020 through 24.04.320 (Roads and Driveways), and Sections 24.04.840 through 24.04.860 (Utilities). In areas with undeveloped agricultural land, efforts shall be made to keep road and driveway construction, grading and utility extensions to a minimum. This shall be accomplished through clustering and siting development so as to minimize roadway length and maximize the amount of undivided agricultural land.

. . .

(i) Agricultural and Open Spaces Uses. Agricultural uses shall be encouraged in ARP zones. As part of the development review process, usable agricultural land should be identified and efforts made to preserve and/or promote its use.

Agricultural land, not presently in use, may be preserved as undeveloped private open space to be made available, on a lease basis, in the future, for compatible agricultural uses. The primary intent shall be to preserve open lands for agricultural use, not to provide open space/recreational land uses which will interfere or be in conflict with agricultural operations. Lands to be preserved for agricultural and/or open space use may require the creation of a homeowner's association or other organization for their maintenance. The nature and intensity of large scale agricultural uses should be described in the form of an Agricultural Management Plan.

Management plans should consider intensity of grazing, runoff protection, chemical and fertilizer use and, in order to preserve agricultural land practices, separation from existing or proposed residential uses . . . .

Chapter 22.57.030: C-APZ DISTRICTS, COASTAL, AGRICULTURAL PRODUCTION ZONE DISTRICTS

Chapter 22.57.031: Purpose: The purpose of the Agricultural Production Zone is to preserve lands within the zone for agricultural use. The principal use of lands in the C-APZ Districts shall be agricultural. Development shall be accessory, incidental, or in support of agricultural land uses, and shall conform to the policies and standards as set forth herein.

Chapter 22.57.032: PRINCIPAL PERMITTED USES

The following uses are permitted in all C-APZ Districts subject to an approved Master Plan:

1. Agricultural Uses. For the purposes of the Coastal Agricultural Production Zone, agricultural uses shall be defined as uses of land to grow and/or produce agricultural commodities for commercial purposes, including:

- *a. Livestock and poultry: cattle, sheep, poultry, goats, rabbits, horses unless they are the primary animals raised.*
- *b. Livestock and poultry products: milk, wool, eggs.*
- *c. Field, fruit, nut, and vegetable crops: hay, grain, silage, pasture, fruits, nuts, and vegetables.*
- *d. Nursery products: nursery crops, cut plants.*

2. One single-family dwelling per parcel. Parcel is defined as all contiguous assessor's parcels under common ownership (unless legally divided as per Title 20, Marin County Code).

3. Accessory structures or uses appurtenant and necessary to the operation of agricultural uses, other then dwelling units of any kind; but, including barns, fences, stables, corrals, coops and pens, and utility facilities.

Chapter 22.57.033: CONDITIONAL USES

The following uses are permitted in all Coastal Agricultural Production Zone Districts, subject to the securing of a Use Permit in each case. When it is determined by the Planning Director that any of the following uses constitute a major land use change, a Master Plan submitted in accordance with 22.45 may be required.

. . .

9. Facilities for processing or retail sale of agricultural products.

10. Greenhouses.

Chapter 22.57.034: DENSITY

The ordinance adopting a C-APZ District shall specify the minimum number of acres per dwelling unit, which will be required within the C-APZ District. The C-APZ District shall have a maximum density of one unit per 60 acres; actual density shall be determined through the master plan process.

Chapter 22.57.035: DEVELOPMENT STANDARDS AND REQUIREMENTS

All development permits in the C-APZ shall be subject to the following standards and requirements:

2. *All development shall be clustered to retain the maximum amount of land in agricultural production or available for agricultural use. Developments, including all land converted from agricultural use such as roads and residential support facilities, shall be clustered on no more than five percent of the gross acreage, to the extent feasible, with the remaining acreage to be left in agricultural production and/or open space. Development shall be located close to existing roads and shall be sited to minimize impacts on scenic resources, wildlife habitat and streams, and adjacent agricultural operations.*

3. *Permanent conservation easements over that portion of the property not used for physical development or services shall be required to promote*

the long-term preservation of these lands. Only agricultural uses shall be allowed under the easements. In addition, the County shall require the execution of a covenant not to divide the parcels created under this division so that they are retained as a single unit and are not further subdivided.

. . .

4. Design standards as set forth in 22.57.024

Chapter 22.57.036: REQUIRED FINDINGS

Review and approval of development permits, including a determination of density shall be subject to the following findings:

1. The development will protect and enhance continued agricultural use and contribute to agricultural viability.

2. The development is necessary because agricultural use of the property is no longer feasible. The purpose of this standard is to permit agricultural landowners who face economic hardship to demonstrate how development on a portion of their land would ease this hardship and enhance agricultural operations on the remainder of the property.

3. The land division of development will not conflict with the continuation or initiation of agriculture, on that portion of the property which is not proposed for development, on adjacent parcels, or those within one mile of the perimeter of the proposed project.

4. Adequate water supply, sewage disposal, road access and capacity and other public services are available to service the proposed development after provision has been made fro existing and continued agricultural operations. Water diversions or use for a proposed development shall not adversely impact stream habitats or significantly reduce freshwater inflows to Tomales Bay, either individually or cumulatively.

5. Appropriate public agencies are able to provide necessary services (fire protection, police protection, schools, etc.) to serve the proposed development.

6. The proposed land division and/or development will have no significant adverse impacts on environmental quality or natural habitats, including stream or riparian habitats and scenic resources. In all cases, LCP policies on streams and natural resources shall be met.

Chapter 22.56.130: DEVELOPMENT REQUIREMENTS, STANDARDS AND CONDITIONS

A. Water Supply: Coastal project permits shall be granted only upon a determination that water service to the proposed project is of an adequate quantity and quality to serve the proposed use.

. . .

2) Prior to the authorization of subdivision or construction of projects utilizing individual water wells, the applicant shall demonstrate a sustained water –well yield of at least 1 gallon per minute per residential unit. Additional requirements for fire protection, including increased yield rates, water storage facilities and fire hydrants shall be installed as recommended by the applicable fire protection agency.

. . .

4) New development shall be required to incorporate low-flow water fixtures and other water saving devices.

B. Septic System Standards: The following standards apply for projects which utilize septic systems for sewage disposal.

1) All septic systems within the coastal zone shall conform with the Minimum Guidelines for the Control of Individual Wastewater Treatment and Disposal Systems adopted by the Regional Water Quality Control Board of April 17, 1979 or, Marin County Code whichever is more stringent. No waivers shall be permitted except where a public entity has formally assumed responsibility for inspecting, monitoring and enforcing the maintenance of the system in accordance with criteria adopted by the Regional Water Quality Control Board, or where such waivers have otherwise been reviewed and approved under standards established by the Regional Water Quality Control Board.

APPENDIX C

Marin County LCP Zoning Code Chapter 22.56.130 (streams, wetland resources, and environmentally sensitive habitat)

Chapter 22.56.130: DEVELOPMENT REQUIREMENTS, STANDARDS AND CONDITIONS

G. Streams and Wetland Resources

The following standards shall apply to all development within or adjacent to streams identified as blue-line streams on the most recent edition of 7 ½ minute quadrangle map(s) for the project area.

. . .

3) For proposed projects located adjacent to streams, application submittals shall include the identification of existing riparian vegetation as a riparian protection area. No construction, alteration of land forms or vegetation removal shall be permitted within such riparian protection area. Additionally, such project applications shall identify a stream buffer area which shall extend a minimum of 50 feet from the outer edge of riparian vegetation, but in no case less than 100 feet from the banks of a stream. Development shall not be located within this stream buffer area. When a parcel is located entirely within a stream buffer area, design review shall be required to identify and implement the mitigation measures necessary to protect water quality, riparian vegetation and the rate and volume of stream flows. The design process shall also address the impacts of erosion and run-off, and provide for the restoration of disturbed areas by replacement landscaping with plant species naturally found on the site. Where a finding based upon factual evidence is made that development outside a riparian protection or stream buffer area would be more environmentally damaging to the riparian habitat than development within the riparian protection or stream buffer area, development of principal permitted uses may occur within such area subject to design review and appropriate mitigation measures.

4) Development applications on lands surrounding Bolinas Lagoon and other wetlands as identified on the appeals area map(s) shall include the designation of a wetland buffer area. The buffer area shall include those identified or apparent wetland related resources but in no case shall be less than a minimum of 100 feet in width from the subject wetland. To the maximum extent feasible, the buffer area shall be retained in a natural condition and development located outside the buffer area. Only those uses

dependent upon the resources of the wetland shall be permitted within the wetland buffer area.

5) The diking, filling, dredging and other alterations of wetlands shall occur only for minor, public works projects and shall be in conformance with the Coastal Act Section 30233. No physical improvements along the County Parklands surrounding Bolinas Lagoon shall occur. Land uses in and adjacent to wetlands shall be evaluated as follows:

a. Filling of wetlands for the purposes of single-family residential development shall not be permitted.

b. Allowable resource-dependent activities in wetlands shall include fishing, recreational clamming, hiking, hunting, nature study, birdwatching and boating.

c. No grazing or other agricultural uses shall be permitted in wetlands except in those reclaimed areas presently used for such activities.

d. A buffer strip 100 feet in width, minimum, as measured landward from the edge of the wetland, shall be established along the periphery of all wetlands. Where appropriate, the required buffer strip may be wider based upon the findings of the supplemental report required in (e). Development activities and uses in the wetland buffer shall be limited to those allowed pursuant to Section 30233 of the Coastal Act of 1976.

e. As part of the application for a coastal development permit on any parcel adjacent to Tomales Bay, except where there is no evidence of wetlands pursuant to the Coastal Commission's adopted guidelines, the applicant shall be required to submit supplemental biological information prepared by a qualified ecologist at a scale sufficient to identify the extent of the existing wetlands, based on Section 30121 of the Coastal Act and the area of the proposed buffer areas.

f. All conditions and standards of the LCP, relating to diking, filling and dredging shall be met.

The applicable LCP Zoning Code sections state in part:

<u>Chapter 22.56.130</u>: DEVELOPMENT REQUIREMENTS, STANDARDS AND CONDITIONS

I. <u>Wildlife Habitat Protection</u>

1) Proposals to remove significant vegetation on sites identified on the adopted natural resource map(s) and generally described in Section 2 of the LCP shall require a coastal permit. Significant alteration or removal of such vegetation shall not be permitted except where it poses a threat to life or property.

2) Siting of New Development. Coastal project permit applications shall be accompanied by detailed site plans indicating existing and proposed construction, major vegetation, water courses, natural features and other probable wildlife habitat areas. Development shall be sited to avoid such wildlife habitat areas and to provide buffers for such habitat areas. Construction activities shall be phased to reduce impacts during breeding and nesting periods. Development that significantly interferes with wildlife movement, particularly access to water, shall not be permitted.

J. Protection of Native Plant Communities

Where the officer or body reviewing a coastal project application determines that a project site contains a significant number or type of nonindigenous, invasive plant species which would threaten the preservation or re-establishment of native plant species, either on or off site, the project's approval shall be conditioned upon the removal of such non-indigenous plant material.

Chapter 22.57.024: DESIGN STANDARDS

2. Site Preparation.

(d) Trees and Vegetation. In all instances, every effort shall be made to avoid removal, changes or construction which would cause the death of trees or rare plant communities and wildlife habitats.

APPENDIX D

Marin County LCP Zoning Code Chapters 22.56.130 and 22.57.024 (water quality and erosion control)

Chapter 22.56.130: DEVELOPMENT REQUIREMENTS, STANDARDS AND CONDITIONS

C. Grading and Excavation: The following standards shall apply to coastal projects which involve the grading and excavation of 150 cubic yards or more of material.

1) Development shall be designed to fit a site's topography and existing soil, geological, and hydrological conditions so that grading, cut and fill operations, and other site preparation are kept to an absolute minimum and natural landforms are preserved. Development shall not be allowed on sites, or areas of a site, which are not suited to development because of known soil, geology, flood, erosion or other hazards that exist to such a degree that corrective work, consistent with these policies (including but not limited to the protection of natural landforms) is unable to eliminate hazards to the property endangered thereby.

2) For necessary grading operations, the smallest practicable area of land shall be exposed at any one time during development and the length of exposure shall be kept to the shortest practicable time. The clearing of land shall be discouraged during the winter rainy season and stabilizing slopes shall be in place before the beginning of the rainy season.

3) In addition to such standards as may be imposed under MCC Chapter 23.08.090, the following standards shall be required:

a) Sediment basins (including debris basins, desilting basins, ponding areas or silt traps), shall be installed at the beginning of grading operations and maintained throughout the development process to remove sediment from runoff waters. Temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soils which have been exposed during grading or development. Cut and fill slopes shall be permanently stabilized as soon as possible with native plants or other suitable landscaping techniques.

b) The extent of impervious surfaces shall be minimized to the greatest degree possible. Water runoff beyond natural levels shall be retained on-site whenever possible to facilitate maximum groundwater recharge. In order to prevent gullying on-site and down-stream erosion of existing

stream channels, the velocity of runoff on and off the site shall be dissipated through the application of appropriate drainage controls so that the runoff rate does not exceed the storm water runoff from the area in its natural or undeveloped state. Grassed or natural waterways are preferred to concrete storm drains for runoff conveyance.

c) Pollutants such as chemicals, fuels, and other harmful materials shall be collected and disposed of in an approved manner.

d) Where topsoil is removed by grading operations, it shall be stockpiled for subsequent re-use, where appropriate.

e) All debris shall be removed from the site upon the completion of the project.

f) Permit applications for grading which involve cut slopes in excess of 8 feet or fill in excess of 5 feet shall include a report from a registered soils or civil engineer.

Chapter 22.57.024: DESIGN STANDARDS

2. Site Preparation.

(b) Erosion Control. Grading plans shall include erosion control and revegetation programs. Where erosion potential exists, silt traps or other engineering solutions may be required. The timing of grading and construction shall be controlled by the Department of Public Works to avoid failure during construction.

APPENDIX E

John Dixon, Ph.D., Ecologist

February 5, 2013, Memorandum on Magee Project

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT
710 "E" STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7873

MEMORANDUM

FROM: John D. Dixon, Ph.D.
Ecologist

TO: Larry Simon

SUBJECT: Magee Project

DATE: February 5, 2013

Documents reviewed:

Barbour, M.G. and J. Major, eds. 1988. Terrestrial vegetation of California. Sacramento, California Native Plant Society.

Barbour, M.G., T. Keeler-Wolf, and A.A. Schoenherr, eds. 2007. Terrestrial vegetation of California. 3rd Edition. Berkeley, University of California Press.

EMC Planning Group Inc. 2011. Draft Environmental Initial Study/Policy Consistency Analysis, Magee Distrillery Project (A-2-Mar-10-022). A report prepared for J. Bridges (Fenton & Keller) dated September 6, 2011.

Goggin, W. (EMC). 2011a. Letter to L. Simon (California Coastal Commission) dated June 6, 2011 regarding "Follow-up letter to biological site visit – Local Coastal Program permit application, A-2-Mar-10-022 (Magee Project), West Marin County, California."

Goggin, W. (EMC). 2011b. Letter to J. Bridges (Fenton & Keller) dated October 21, 2011 regarding "Comments on Zander Associates' October 2011 Biological Resources Report – Local Coastal Program permit application, A-2-Mar-10-022 (Magee Project), West Marin County, California."

Goggin, W. (EMC). 2012a. Memorandum to J. Bridges (Fenton & Keller) dated February 13, 2012 regarding "Outstanding unresolved biological resource issues, Local Coastal Program permit application, A-2-Mar-10-022 (Magee Project), West Marin County, California."

Goggin, W. (EMC). 2012b. Memorandum to J. Bridges (Fenton & Keller) dated April 4, 2012 regarding "Identification of western pond turtle on adjacent property and habitat connectivity issues, Local Coastal Program permit application, A-2-Mar-10-022 (Magee Project), West Marin County, California."

Goggin, W. (EMC). 2012c. Memorandum to J. Bridges (Fenton & Keller) dated May 16, 2012 regarding "Response to Zander Associates letter, A-2-Mar-10-022 (Brader-Magee Project), West Marin County, California."

Goggin, W. (EMC). 2012d. Letter to J. Dixon (California Coastal Commission) dated September 12, 2012 regarding "Summary of biological concerns, Local Coastal Program Permit Application, A-2-Mar-10-022 (Magee Project), West Marin County, California."

Goggin, W. (EMC). 2012e. Compact Disk (CD) sent to J. Dixon (California Coastal Commission) dated September 12, 2012 containing "Magee Site Hydrology Videos" of unknown provenance.

Hicks, J. (U.S. Army Corps of Engineers). 2012. Letter to T. Magee dated May 03, 2012 regarding possible wetland fill and approval of a jurisdictional wetland delineation at 17900 Shoreline Highway, Marshall, CA.

Herzog, C. (Herzog Geotechnical). 2011. Letter report dated March 24, 2011 to T. Magee regarding the impact of water flowing on to the Magee property from the neighboring property to the north.

Holland, R.F. 1986. Preliminary descriptions of the terrestrial natural communities of California. California Department of Fish and Game.

Jennings, M. (Rana Resources). 2011. Ocular surveys and habitat assessment for the California red-legged frog (*Rana draytonii*), foothill yellow-legged frog (*R. boylii*), and western pond turtle (*Actinemys marmorata*) on the Magee farm project site, Marin County, California. A report prepared for Leslie Zander (Zander Associates) dated September 7, 2011.

Sissem, R. (EMC). 2011a. Letter report to S. Kivel dated April 22, 2011 regarding "Supplemental information regarding to Coastal Act and responsible agency permit violations at 17990 Shoreline Highway (State Route 1), Marshall, Marin County, CA.

Sissem, R. (EMC). 2011b. Letter report to S. Kivel dated May 5, 2011 regarding "Supplemental information regarding additional Coastal Act and Marin County Local Coastal Program/Development Standard violations at 17990 Shoreline Highway (State Route 1), Marshall, Marin County, CA.

Sissem, R. (EMC). 2011c. Letter report to J. Bridges (Fenton & Keller) dated May 6, 2011 regarding "Preliminary biological issues review letter – Local Coastal Program permit application, A-2-Mar-10-022 (Magee Project), Marin County, California."

U.S. Fish and Wildlife Service. 2001. Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the California Red-legged Frog; Final Rule. 66 Federal Register 49 (March 13, 2001), pp. 14626-14674.

U.S. Fish and Wildlife Service. 2006. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Red-Legged Frog, and Special Rule Exemption Associated With Final Listing for Existing Routine Ranching Activities; Final Rule. 71 Federal Register 71 (April 13, 2006), pp. 19244-19292.

U.S. Fish and Wildlife Service. 2010. Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the California Red-Legged Frog. Final Rule. 75 Federal Register 51 (March 17, 2010), pp. 12816-12959.

Zander Associates. 2012. Wetland delineation, Magee Property, Marshall, Marine County, California. A report dated October 2012 prepared for T. Magee.

Zander, L. (Zander Associates). 2008. Letter report to T. Magee dated October 29, 2008 regarding a Biological Resources Assessment at 17990 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2009a . Letter to T. Magee dated March 30, 2009 regarding a special-status plant survey at 17990 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2009b. Letter to T. Magee dated June 30, 2009 regarding an additional plant survey at 17990 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2010. Letter to V. Corella-Pearson (Marin County) dated March 29, 2010 regarding the biological resources at 17990 State Route 1, Marshall, CA relative to a development project referred to as "Brader-Magee."

Zander, L. (Zander Associates). 2011a. Letter to T. Magee dated May 22, 2011 regarding vegetation surveys, technical wetland delineation, and sensitive wildlife surveys at 17990 State Route 1, Marshall, CA, with an attached letter from Herzog Geotechnical dated March 24, 2011 regarding water flowing onto the property from 18400 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2011b. Letter to L. Simon (California Coastal Commission) dated September 27, 2011 regarding biological resources at 17990 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2012a. Memorandum to J. Dixon & L. Simon (California Coastal Commission) dated January 12, 2012 transmitting a map (titled Figure 3) of wetlands and other waters with buffer zones in a portion of the property at 17990 State Route 1, Marshall, CA.

Zander, L. (Zander Associates). 2012b. Letter dated February 10, 2012 to L. Kennings (LAK Associates) responding to the October 21, 2011 letter from EMC Planning Group concerning Zander Associates September 27, 2011 letter report.

Zander, L. (Zander Associates). 2012c. Letter to J. Dixon (California Coastal Commission) dated April 26, 2012 regarding "Additional grassland data, Magee property, Marshall, California."

Zander, L. (Zander Associates). 2012d. Letter to J. Dixon (California Coastal Commission) dated November 2, 2012 regarding "Additional information, Magee property, Marshall, California."

Zander, L. (Zander Associates). 2012e. Field Notes from November 12, 2012 site visit to Magee property with Sandra Meyers and John Dixon. Includes the vegetation map that resulted from the vegetation analysis and GPS mapping conducted during the site visit.

In addition to reading relevant reports and literature, I have visited the 150-acre Magee property on three occasions. On May 24, 2011, I visited the site with Commission staff, Mr. Magee and his representatives, including biologist Leslie Zander, and with Bill Goggin, a biologist for the appellants, Mr. Kivel and Ms. Lund. We visited the following areas at or near proposed sites of development on the north side of the blue-line stream: 1) the area proposed for a road), 2) the area of an animal enclosure[1] where water enters the Magee property from the Kivel-Lund property and where a water diversion structure (ditch & diversion pipe) was placed along the property line, 3) the area proposed for a barn, 4) the area proposed for a vineyard, 5) the area next to the stream where an old road enters the property, and the area proposed for a brandy distillery. We also visited a large wetland swale adjacent to Highway 1 on the south side of the stream. The purpose of the visit was to generally familiarize myself with the portions of the property proposed for development, to search for evidence of wetlands and rare vegetation communities, and to give Mr. Goggin an opportunity to identify biological issues that he felt were important.[2] On February 14, 2012, I visited the property with Commission staff, biologist Tim Dodson from the California Department of Fish and Game[3], and Mr. Magee and his representatives, including Ms. Zander. The purpose of the visit was to assess potential wetland areas, including several problem areas[4], and to provide Mr. Dodson an opportunity to familiarize himself with the biological resources on the property. On November 12, 2012, I visited the site with Ms. Zander and Sandra Myers of Zander Associates to characterize and map the

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[1] The animal enclosure has not been used except for several days in September 2010, when it held pigs.

[2] The concerns Mr. Goggin expressed during the site visit were general: the effects of the water diversion structure, the delineation of seeps and other wetlands, possible fill of the blue line stream adjacent to Highway 1, the identification of rare plants and animals, and provision of adequate buffers around important natural resources.

[3] Now the Department of Fish and Wildlife.

[4] The 1987 Army Corps of Engineers Wetland Delineation Manual defines "problem areas" as areas where conditions make difficult the application of field indicators of one or more wetland parameters (wetland vegetation, wetland soils, and wetland hydrology). Because the Corps requires evidence of all three parameters there is little risk of false positives. The Corps' sole focus is on false negative determinations where a wetland is present but indicators of one or more parameters may not be apparent. However, the wetland definition in Section 13577 of the Coastal Commission's Regulations requires only a single parameter as evidence of a wetland. As a result, the Commission is also concerned with false positives where an indicator of a parameter is present in an upland area. On the Magee property there are several areas where indicator plants that are common in both uplands and wetlands are growing in areas that do not appear to have wetland hydrology.

boundaries of the vegetation communities present in the general area proposed for development north of the blue-line stream.

The appellant's consultants (EMC 2011) have questioned whether there have been adequate biological surveys to properly identify wetlands and Environmentally Sensitive Habitat Areas, such as areas that support rare plants or animals or rare vegetation communities. The applicant's biologists, particularly Ms. Leslie Zander and Dr. Mike Zander, have conducted biological surveys of the property on 29 separate occasions that included all seasons (Appendix A). Besides myself, participants in some of these surveys included Mr. Bryan Matsumoto from the Army Corps of Engineers, Mr. Tim Dodson from the California Department of Fish and Game, and Dr. Mark Jennings, a herpetologist with particular expertise in the study of California red-legged frogs and western pond turtles. Based on the appropriate biological focus and areal extent of the surveys documented in Appendix A, it is my professional opinion that the biological surveys that have been conducted are sufficient in number, type, and quality to identify and locate the important resources on the site.

There are three major resource categories of biological concern on the Magee property. These are: 1) the presence of open coastal waters (a pond & stream) and wetlands; 2) the presence of rare species; and, 3) the presence of rare vegetation communities.

Rare Vegetation Communities

The identified vegetation communities (Figure 1) on the Magee property are (1) grasslands, including (i) non-native grasslands that are variously dominated by wild oats (*Avena fatua*), velvet grass (*Holcus lanatus*), rye grass (*Lolium perenne*), dogtail grass (*Cynosurus echinatus*) and rattlesnake grass (*Briza maxima*) with scattered native species, and (ii) native coastal prairie that is variously dominated by blue wild rye (*Elymus glaucus*), purple needlegrass (*Nassella pulchra*), red fescue (*Festuca rubra*), and California melic (*Melica californica*) in addition to non-native grasses, (2) coastal scrub, generally dominated by coyote bush (*Baccharis pilularis*), (3) riparian communities, including arroyo willow (*Salix lasiolepsis*) scrub, and mixed riparian woodland vegetation dominated by California bay laurel (*Umbellularia californica*), wax myrtle (*Myrica californica*), and hazelnut (*Corylus cornuta*), (4) upland California bay forest with coast live oak (*Quercus agrifolia*), (5) ruderal vegetation dominated by poison hemlock (*Conium maculatum*), and (6) ornamental trees (incense cedar and Monterey pine). Of these, riparian habitats and native coastal prairie meet the definition of an Environmentally Sensitive Habitat Area (ESHA) in the Coastal Act.

Coastal Prairie

Native grassland is one the most severely impacted vegetation communities in California. Both the California prairie characteristic of the Central Valley and southern California, and the coastal prairie characteristic of the fog zone in central and northern California have been so reduced that there no longer exist large pristine areas of these

communities. The California Department of Fish and Game considers native grasslands to be rare and "highly imperiled." They have been destroyed or degraded by the introduction of non-native annual grasses and other exotic species, increased grazing pressure from the introduction of domestic animals, the elimination of annual fires, cultivation, and urban and residential development. Coastal terrace prairie is both a rare habitat and easily degraded by human activities and therefore meets the definition of an Environmentally Sensitive Habitat Area (ESHA) in Section 30107.5 of the Coastal Act. I recommend that development adjacent to coastal prairie be setback at least 100 feet from the ESHA.

Historically, coastal prairie was probably a dominant habitat on the coastal hillsides throughout this area adjacent to Tomales Bay. There are still extensive stands of this community type on the Magee property. South of the blue-line stream and riparian corridor, there are areas of coastal prairie that are remarkable for the unusually high cover (30% - 90%) of native grasses, with a significant admixture of other native herbaceous species in some areas (Table 1). Four small agricultural structures[5] are proposed for the area south of the stream (Figure 1). As a result of the almost universal admixture of non-native grasses in stands of native grassland, delineating a discrete boundary for native grassland ESHA is technically difficult. Therefore, rather than asking the applicant to embark on a large and detailed mapping effort in order to provide a line from which a 100-foot buffer could be measured, I have instead recommended that the agricultural structures south of the stream be located such that each development footprint and the area within 100 feet of the footprint is clearly not native grassland or other ESHA. This has been done. The data in Table 2 demonstrate that the development footprints and the habitats within 100 feet of the developments are properly characterized as non-native grassland or coastal scrub and do not include coastal prairie ESHA.

The grasslands north of the stream (Figure 2) are overwhelmingly dominated by non-native species, especially velvet grass (*Holcus lanatus*), Italian rye grass (*Lolium perenne=Festuca perrenis*), rattlesnake grass (*Briza maxima*), dogtail grass (*Cynosurus echinatus*), and wild oats (*Avena fatua*). There are also scattered individuals of native species. The grassland types were broadly characterized in the field (Table 3) and their boundaries estimated (Figure 2). Although mapped in discrete polygons, these non-native vegetation communities do not have sharp edges, but rather are bounded by transition areas where the relative cover and dominance shifts from one suite of species to another. In addition to mapping community types over broad areas, visual estimates of vegetative cover were made in 17 discrete, approximately 100-m^2 plots (Figure 2, Table 4). The average cover of native grasses was 3% and the maximum observed cover was 10% in two of these small plots. The highest cover of native grasses in or adjacent to the proposed development footprints was 5%. The upland habitats north of the stream in the general area proposed for development are most appropriately characterized as either non-native grassland or ruderal and do not meet the definition of ESHA in the Coastal Act.

[5] From left to right in Figure 1: sheep shelter 1, greenhouse & garden, hopyard shelter, sheep shelter 2.

Riparian Habitats

There was once over one million acres of riparian habitat in the California central valley alone. By 1979, 90% of that habitat was destroyed[6] and by 1989 the estimate had risen to 99%[7]. Riparian habitat throughout the rest of the state has also suffered from degradation associated with urban development and poor agricultural and forestry practices. Riparian habitats are rare, provide many especially valuable ecosystem services[8], are easily degraded by human activities, and therefore meet the definition of ESHA in the Coastal Act.

The willow scrub and mixed riparian woodland along the blue-line stream and tributaries are ESHA. I recommend that all development be set back a minimum of 100 feet from the drip line of the trees and shrubs that define these riparian habitats, as is required by the Marin County Local Coastal Plan.

Rare Species

The applicant's biologists conducted a standard search of the California Department of Fish and Game's California Natural Diversity Database (CNDDB) for rare species occurrences within a 5-mile radius of the Magee Property. The appellant's biologists conducted a search of the four U.S. Geological Survey quadrangles closest to the property, which produced additional regional occurrences of rare species of plants and animals. At my request, the applicant's biologist included these additional species in a revised analysis (Zander 2012c and Appendix B, below). Of the 63 species that have been identified as potentially present, 59 have never been observed on the site and are not likely to occur there because of lack of suitable habitat, or the species is extremely rare and its only known occurrences are localized elsewhere, or it is presumed extinct.

The appellants' consultants have suggested that focused surveys should be conducted for nearly all the sensitive animals identified in the CNDDB searches (Sissem 2011c). Typically, intensive surveys are only conducted for those species for which there is a reasonable probability of actual occurrence and where knowledge of their presence or distribution can contribute to the protection of the species or their habitat. Protocol surveys were conducted for the California red-legged frog (present), the foothill yellow-legged frog (not present), and the western pond turtle (present). I do not recommend that additional focused surveys be required either for the American badger or for those rare species that have not been observed on the site.

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[6] http://www.dfg.ca.gov/wildlife/nongame/publications/bm_research/docs/86_27.pdf

[7] Abell, D.A. 1989. Preface to Proceedings of the California Riparian Systems Conference: protection, management, and restoration for the 1990s. General Technical Report PSW-110. Berkeley, Pacific Southwest Forest and Range Experiment Station, Forest Service, USDA.

[8] For example, see Faber, P.M., E. Keller, A. Sands, and B.M. Massey. 1989. The ecology of riparian habitats of the southern California coastal region: A community profile. U.S. Fish and Wildlife Service Biological Report 85.; Warner, R.E. and K.M. Hendrix, eds. 1984. California Riparian Systems. Berkely, U.C. Press; Vagnti, M.G. and S.E. Greco. 2007. Riparian vegetation of the great valley. Pages 425-455 in M.G. Barbour, T. Keeler-Wolf, and A.A. Schoenherr, eds. Terrestrial vegetation of California. Berkeley, U.C. Press.

All the sensitive animal species identified in the CNDDB searches are discussed in Appendix B. Here I will address briefly those species not known to be present, but for which the appellants' biologists have suggested focused surveys. The rationales for not expecting them on the Maggee property are presented in Appendix B and are summarized as follows. Bats may use the area for foraging but appropriate roosting habitat is not present. There is also foraging habitat for a variety of birds of prey. Although, roosting or nesting near the areas proposed for development is unlikely, I recommend that construction during the nesting season (February 1 – August 15) occur no closer than 500 feet from active raptor nests[9]. Heron rookeries are conspicuous features and have not been observed in the areas of appropriate habitat on the site. Some portions of the site may contain physical habitat that is appropriate for the Point Reyes jumping mouse (*Zapus trinotatus orarius*), a California Species of Special Concern. This small rodent is a subspecies of the Pacific jumping mouse (*Z. trinotatus*). According to the Department of Fish and Game, this subspecies is restricted to the Point Reyes Peninsula in southern and western Marin County[10]. The presence of anadromous fish is very unlikely due to barriers to movement and none were observed during aquatic surveys. No Myrtle's silverspot butterflies have been observed and their larval food plant is not present. The stream habitat is not appropriate for California freshwater shrimp due to an inappropriate gradient and none were observed during the aquatic surveys. Tricolored blackbirds are conspicuous and were not observed in the appropriate habitats associated with the onsite pond and stream course.

The following sensitive species are known to be present on the Magee property (Table 5).

American Badger

The four subspecies of the American badger (*Taxidea taxus*) inhabit grasslands, meadows, and open scrub habitats with friable soils in 24 central and western U.S. states, central and northern Mexico, including Baja California, and central and western Canada[11]. In several areas, including California, there has been a decline in badger populations and the species has been designated a California Species of Special Concern. There is appropriate habitat for badgers in the grasslands facing Tomales Bay and there are reports by Mr. Magee and the appellants of its presence on their properties. Potential burrows have been observed in the southeast portion of the Magee property and have also been reported by the appellant, Ms. Lund, as occurring on the portion of her property near the proposed vineyard (Goggin 2011a, b). Although badgers appear to be present in the area, their life history and behavior[12] are such that

[9] Interior work that does not result in loud noises could continue during this period.
[10] http://www.dfg.ca.gov/wildlife/nongame/ssc/docs/mammal/species/41.pdf
[11] Long, C.A. 1972. Taxonomic Revision of the North American Badger, *Taxidea taxus*. Journal of Mammalogy 53(4):725-759; Long, C.A. 1973. *Taxidea taxus*. Mammalian Species 26:1-4
[12] Hoodicoff, C.S., K.W. Larsen, and R.D. Weir. 2009. Home range size and attributes for badgers (*Taxidea taxus jeffersonii)* in south-central British Columbia, Canada. American Midland Naturalist 162:305–317; Goodrich, J.M. and S.W. Buskirk. 1998. Spacing and ecology of North American Badgers (*Taxidea taxus*) in a

defining a particular area of habitat as especially valuable for this species is not feasible and the habitat itself is not rare. Badgers are solitary except during the breeding season and occupy large home ranges[13] that commonly vary from about 400 to 2000 acres. They feed on small grassland mammals such as ground squirrels, gophers, rabbits and mice. Badgers may periodically occupy dozens of burrows within their home range, sometimes digging a new one, sometimes occupying an existing one, and typically[14] move from one to another on a daily basis, generally traveling 1/4 mile to a mile between burrows. Burrows are very seldom occupied twice in succession. All grassland habitat in this part of Marin is probably suitable badger habitat and much of it is probably periodically occupied. There is no basis upon which to identify areas that are especially valuable. I do not recommend that a focused survey for badgers be required since the results would not inform any action. However, I recommend that before any ground disturbing activities take place that a biologist ensure that badgers are not present.

California Red-Legged Frog

The California red-legged frog (*Rana draytonii*) is listed as "Threatened" by the U.S. Fish and Wildlife Service and as a "Species of Special Concern" by the California Department of Fish and Game. In their designations of critical habitat, the U. S. Fish and Wildlife Service (2001, 2006, 2010) found that the habitats necessary to sustain the frog ("primary constituent elements") were aquatic breeding habitat, non-breeding aquatic and riparian habitats, associated uplands, and barrier-free dispersal corridors between nearby breeding ponds. In order to complete metamorphosis, the red-legged frog requires standing water for an average of 20 weeks, generally at least through August. On the Magee property, the dammed pond along the blue-line stream meets this criterion and focused surveys have demonstrated that the pond is actually used as breeding habitat by the frog (Jennings 2011). This pond and nearby stream pools are the only potential breeding sites on the property. There are no other records of California red-legged frogs on the east side of Tomales Bay less than 4 miles from this breeding pond.

The dammed pond on the Magee property performs an important ecosystem function for this rare species, could be easily disturbed or degraded by human activities, and meets the definition of an Environmentally Sensitive Habitat Area in the Coastal Act. In prior actions, the Commission has found that documented breeding habitat for the California red-legged frog is ESHA.

In the 2001 critical habitat designation, a primary constituent element of critical habitat was upland habitat in a 300-foot radius around breeding ponds. This was changed to

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prairie-dog (*Cynomysleucurus*) complex. Journal of Mammalogy 79(1):171-179; Lindzey, F.G. 1978. Movement patterns of badgers in northwestern Utah. Journal of Wildlife Management 42(2):418-422; Sargeant, A.B. and D.W. Warner. 1972. Movements and denning habits of a badger. Journal of Mammalogy 53(1):207-210

[13] Home range is that area used by an individual in its normal activities of food gathering, mating and caring for young but does not include dispersal movements.

[14] Except during the winter in areas with cold winters when badgers are relatively inactive.

200 feet in the 2006 designation and a case-by-case determination was substituted for a specific distance in the 2010 critical habitat rule. Although California red-legged frogs are capable of moving several hundred yards from aquatic habitats, most individuals remain within around 100 feet (Jennings 2011). The applicant proposes no development within 300 feet of the documented breeding pond and I believe that this is appropriately and adequately protective of the California red-legged frogs that occupy the site and is sufficient to prevent impacts that would degrade the ESHA.

The various seasonal wetlands on the property meet the definition of non-breeding aquatic habitat and have the potential to be used by dispersing frogs. California red-legged frogs may migrate up to about two miles from breeding habitat in a single season and this movement can occur in straight lines across considerable expanses of uplands. However, the average seasonal movement of a dispersing frog is around one mile and dispersal is affected by landscape characteristics. The U.S. Fish and Wildlife Service finds, for example, that where an area is crossed by a riparian corridor surrounded by drier habitat, frogs tend to avoid the drier area and use the riparian area as a movement corridor (USFWS 2010). On the Magee property, the blue-line stream course and associated riparian corridor is the most likely dispersal avenue. I recommend that development be set back at least 100 feet from riparian vegetation or 150 feet from the stream bank, whichever distance is greater. I believe that such a setback is adequately protective of the dispersal requirements of the California red-legged frog and is sufficient to prevent impacts that would degrade the ESHA. In this regard, Jennings (2011) notes that the goal of the U.S. Fish and Wildlife Service is to ensure that the frogs can freely move between aquatic habitats and between aquatic and adjacent upland habitats, and concludes that "...the project does that by limiting its total development footprint, siting all facilities well over 100 feet away from the edge of the central riparian corridor on site and by not creating any potential barriers to direct overland movements by CRLF to off site aquatic and riparian habitats or to potential on site refugia."

Although no development is intended within the riparian and stream buffer, the corner of a parking lot is shown to intrude a few feet into the buffer in Figures 1 and 2. The plans need to be corrected prior to construction.

Western Pond Turtle

The western pond turtle (*Actinemys marmorata*) was once found in most Pacific slope drainages from Washington to northern Baja California. Although not formally listed, it is now considered Threatened or Endangered throughout California and has been designated a "Species of Special Concern" by the California Department of Fish and Game[15]. Western pond turtles inhabit quiet or slow-moving waters with ample basking sites in the form of emergent rocks or large woody debris. Although they periodically move to upland habitats as a refuge from drying or flooding, for nesting, for hibernation,

[15] Jennings, M.R. and M.P. Hayes. 1994. Amphibian and reptile species of special concern in California. (http://www.dfg.ca.gov/habcon/info/herp_ssc.pdf).

or for resting and basking, they generally remain in aquatic habitats, frequently moving substantial distances along streams.

The nearest documented occurrence of western pond turtles in the California Natural Diversity Database is about four miles northeast at the bridge over Walker creek on the Marshall-Petaluma road. In addition, a western pond turtle was recently reported to have been observed on a neighbor's property about 1,400 feet north of the Magee parcel (Goggin 2012b). Focused surveys of the project site conducted in 2011 documented the presence of western pond turtles in the dammed stock pond (Jennings 2011). The stock pond and blue-line stream on the Magee parcel provide important ecosystem functions for both the California red-legged frog and the western pond turtle, and could be easily disturbed or degraded by human activities. Therefore, the pond and stream meet the definition of an Environmentally Sensitive Habitat Area in the Coastal Act. No development is proposed within the ESHA and the minimum development setback from the pond is 300 feet and from the stream is 150 feet.

Based on his habitat analysis, Jennings (2011) concluded that the proposed project would not impact any potential nesting habitat and would not impede the movement of western pond turtles between occupied habitats on the Magee property and suitable nearby aquatic habitats. Therefore, based on the width of the setbacks and Jennings's expert analysis, the proposed development is sited and designed to prevent impacts that would degrade the ESHA or negatively affect the western pond turtle.

Marin Checker Lily

The Marin checker lily (*Fritillaria lanceolata* var. *tristulis*) is designated "1B.1" (Rare, threatened or endangered in California and elsewhere, and seriously threatened in California) by the California Native Plant Society. It is rare and it and its habitat are easily disturbed or degraded by human activities. Therefore, the habitat that supports this rare lily meets the definition of ESHA under the Coastal Act. Typically, the Commission designates as ESHA the maximum convex polygon that includes all current and known historical local occurrences of a rare plant and requires a 100-foot development setback. One small population has been found near the dammed pond along the blue-line stream (Figure 1). The distance from the lily population to the proposed greenhouse is over 200 feet and the distance to the location proposed for a brandy barn is over 400 feet. Therefore, these proposed developments are sited and designed such that they will not have impacts that would significantly degrade the ESHA and they are compatible with the continuance of the ESHA.

Wetlands and Other Waters of the State[16]

The wetland delineation (Zander Associates 2012) was appropriately conducted following the wetland definitions in Section 30121 of the Coastal Act and Section 13577 of the Commission's Regulations, and appropriately utilized the methods developed by the Army Corps of Engineers and promulgated in the 1987 Wetland Delineation Manual and the 2008 Regional Supplement for the Arid West. At my request, the wetland indicator status[17] of plants observed during the field surveys was revised[18] for the wetland delineation report to reflect the indicator status contained in the recently adopted National Wetland Plant List.[19] The wetland boundaries are accurate based on my review of the report and data sheets, and on my field assessments in 2011 and 2012. The boundaries of wetland areas delineated according to the Federal wetland definition have been verified by the Army Corps of Engineers (Hicks 2012). These areas are also wetlands as defined by the Coastal Act and the Commission's Regulations. In addition, several areas of wet meadow meet the Coastal Commission's wetland definitions but not that of the Corps (Figure 1).

In the areas proposed for development, there are several "problem areas" that merit a separate discussion, which requires some background information. For an area to meet the wetland definition in Section 13577 of the Commission's Regulations, it must be wet enough long enough and frequently enough to promote the formation of hydric soils[20] or to support the growth of hydrophytes[21] and the hydric soils or hydrophytic vegetation must be "predominant." In most cases, it is the predominance of hydrophytes that defines a wetland for the Coastal Commission. However, no methods for identifying "hydrophytes" or for determining their "predominance" are included in California law.

Given this void, delineators rely on methods developed by the Army Corps of Engineers in the context of various federal laws. These federal procedures require positive evidence of all three wetland criteria or "parameters": wetland hydrology, hydric soils, and a "prevalence"[22] of hydrophytes. Under federal procedures, species listed as OBL,

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[16] "Waters of the state" means any surface water or groundwater, including saline waters, within the boundaries of the state. Water Code section 13050(e).

[17] Obligate Wetland (OBL) - Almost always is a hydrophyte, rarely in uplands; Facultative Wetland (FACW) - Usually is a hydrophyte but occasionally found in uplands; Facultative (FAC) - Commonly occurs as either a hydrophyte or non-hydrophyte; Facultative Upland (FACU) - Occasionally is a hydrophyte but usually occurs in uplands; Obligate Upland (UPL) - Rarely is a hydrophyte, almost always in uplands; NL – not listed because never observed growing as a hydrophyte.

[18] The delineator originally used the wetland status found in: Reed, P.B. Jr. 1988. National list of plant species that occur in wetlands: California (Region 0). U.S. Fish and Wildlife Service Biological Report 88 (26.10). This has since been revised with the new list effective June 1, 2012.

[19] http://wetland_plants.usace.army.mil/

[20] Soils that formed under conditions of inundation or saturation long enough to develop anaerobic conditions in the upper part.

[21] "Hydrophytes" are plants that grow in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

[22] "Prevalence" and "predominance" are equivalent. According to the 1987 Corp of Engineers Delineation Manual, the "prevalent vegetation" has the character of the majority of the dominant plant species in the community and "Dominant species" are those that define the character of the community because of their high relative ground cover, basal area, or other measure of standing stock.

FACW, or FAC are defined as "hydrophytes," despite the fact that, for any individual species, occurrence in upland may vary from "rare" to "common."[23] In other words, "hydrophyte" is an individualistic concept; individuals of the same species may grow in soil that is frequently saturated and on a nearby dry hillside. The former are hydrophytes; the latter are not. This causes no conflict for the Corps because even those FAC species that commonly occur in uplands[24] can be assumed to be growing as hydrophytes where the presence of hydric soils and indicators of hydrology provide independent evidence of wetness. In past actions, the Coastal Commission has also recognized OBL, FACW, and FAC species as *presumptively* hydrophytic and, in general, a preponderance of those species has been accepted as *presumptive* evidence of a wetland. However, where the wetland character of a site is ambiguous because of the presence of substantial upland features, characterizing a species as "hydrophytic" requires professional judgment[25]. In such cases, the wetland presumption can be rebutted by substantial evidence of upland conditions, the most persuasive of which is soil moisture similar to nearby uncontested uplands and unlike nearby delineated wetlands following significant rainfall.

There are several areas at or near the sites proposed for development that appear from topography and soil conditions to be uplands but that support small to quite large patches of wetland indicator species. For example, an earlier wetland map (Zander 2011b) included as a wetland a tiny (2 ft x 6 ft) depression (sample point S-18 in Figure 2) along the edge of a larger swale dominated by blackberry. Using the 2012 National Wetland Plant List that changed the status of blackberry from FACW to FACU, the sample point does not have a preponderance of wetland vegetation. Also, on February 14, 2012 following an inch of rainfall during the previous week, I sampled the soil to a depth of 28 inches in a low point in the blackberry patch. There were no hydric soil indicators and the soil was little more than moist throughout and similar to the soil in nearby upland grassland. A nearby delineated wetland had standing water at 10 inches below the surface. The evidence indicates that the wetland indicator species that were present were not growing as hydrophytes and this area is properly characterized as upland.

Large areas in the general vicinity of proposed development north of the blue-line stream are non-native grasslands, some of which include Italian ryegrass (FAC) or velvet grass (FAC) as a dominant (Figure 2). In general, upland species are also relatively abundant and there generally is not a predominance (>50%) of potential hydrophytes among the dominant plant species (Table 4). However, within these non-native grasslands there are small patches (SP 17, 19, 24, 26, 27, 29 & 30 in Figure 2)

[23] Previously estimated as between 1% and 67% of occurrences in upland. The distinction between being included in a list of species that occur in wetlands or being defined by the Corps as a "hydrophyte" for methodological purposes and actually growing as a hydrophyte is an important one.

[24] Some species designated "FAC" may actually occur more frequently in uplands than in wetlands.

[25] Professional judgment takes into account such factors as recent rainfall patterns, comparisons to obvious upland and wetland areas after significant rainfall, topography, drainage patterns, soil permeability, presence of a shallow confining layer in the soil, technical indicators of hydrology or hydric soils, adjacency to obvious wetland areas, number of associated FACW or OBL species, and presence of facultative adaptations to inundation such as adventitious roots.

with a predominance of wetland indicator species, generally FAC grasses mixed with FACW rushes (*Juncus* sp.). However, these small patches are not distinguishable in terms of topography, soil characteristics, and soil moisture following rainfall from the immediately adjacent substrate that supports upland vegetation. For these reasons, I believe these areas are properly characterized as "upland."

Two areas require additional discussion. The area within and adjacent to the pig pen along the northern property line has been identified by the appellants and their consultants as potential Coastal Act wetlands and the disturbed area proposed for the brandy barn supports a large patch of poison hemlock (*Conium maculatum*), a FACW species, intermixed with velvet grass (FAC), teasel (Dipsacus fullonum, FAC) and blackberry (FACU).

The dominant species growing in the area proposed for a brandy barn are common in moist disturbed areas. Poison hemlock is a weed that is common in uplands, particularly where there has been ground disturbance, and it has invaded both dry and wet areas in all but two of the conterminous United States. Teasel is an invasive species[26] also common in disturbed areas and characterized by the Jepson Manual (the standard California flora) as sometimes occurring in moist areas. The applicant's biological consultant, Ms. Zander, observed this area on December 29, 2010, one day after about 2 inches of rain and there was no standing water or shallow soil saturation. On May 24, 2011, after one inch of rainfall during the previous week, I observed that the shallow soil moisture was essentially the same within the *Conium* patch and within the adjacent upland grassland. On February 14, 2012, I compared the soil profile from a low area within the stand of poison hemlock and in a nearby area dominated by upland grasses. Within the poison hemlock, the sandy clay loam soil was dry to a depth of 28 inches with no hydric soil indicators until a depth of 24 inches, suggesting that long-term soil saturation occurs at depth but does not take place in the shallow ($\leq$2") soil where saturation is necessary to support wetland species. The shallow soil profile was similar at nearby areas dominated by upland grasses. These observations provide ample evidence to rebut the wetland presumption and to demonstrate that at this site the wetland indicator species that are present are growing as upland plants and not as hydrophytes.

The area where an animal pen was constructed along the northern property line includes a portion of a gentle swale that directs water from the appellants' (Kivel and Lund) property onto the northwest corner of the Magee parcel. December 2010 was an extremely wet month with around 10 inches of rainfall that resulted in substantial surface flow across the area that includes the pig pen (L. Zander, personal communication on January 13, 2013). Sometime in January 2011, Mr. Magee constructed along the property line a short (c. 50-ft), plastic-lined ditch that captures runoff from the neighboring property and directs it into a PVC pipe that runs along the western property line and discharges into a shared driveway. The appellants' consultants suggest that this water diversion may have modified a potential wetland, altered the composition of the vegetation, and reduced the size of wetlands downslope

[26] Characterized as a "moderate threat" by the California Invasive Plant Council.

(Sissem 2011a, Goggin 2012d). Between March 20 and March 26, 2011, the appellants documented the effects of this diversion in a video (Goggin 2012e). A substantial amount of water from the appellants' property was flowing into the newly-constructed ditch and being diverted to the driveway. Despite this diversion, there was standing water in the animal pen. Without question, the northwest corner of the Magee property would have experienced more flooding in 2011 in the absence of the water diversion and wetland W1 may have had a larger area of saturated soils for a longer period during the winter of 2010-2011 than is usually the case. However, in the context of a wetland delineation, the significance of the events captured in the video is not obvious because they occurred following an extraordinary period of rainfall. In the 12 days from March 15 through March 26, 2011 there was about 11 inches of rain.

Wetlands are relatively persistent features of the landscape and are not defined by unusual or ephemeral events. For example, the Corps defines wetland hydrology as inundation or shallow soil saturation for at least 14 continuous days during most years. Hydric soils take many years to develop; and, wetland vegetation is generally present year after year, although the species composition may change and the boundaries fluctuate in response to inter-annual variability in the moisture regime. Therefore, construction of the water diversion would not cause a wetland to disappear or change significantly in the short term. As part of the wetland delineation, sample points in the vicinity of the pig pen were examined in January, in May, or in June 2011. A reduction in the amount of water flowing across the area during a portion of the winter of 2010-2011 is unlikely to have biased the technical wetland delineation conducted a few months later. As a test of the notion that this water diversion altered the vegetation in the area, I asked Leslie Zander to sample paired plots across the property line. On November 12, 2012, we placed one sample pair across the water diversion ditch and another sample pair just east of the beginning of the ditch (respectively, PP1 and PP2 in Figure 2). If the ditch affected the vegetation, one would expect a difference in the vegetation at the first location and no difference at the second location. There was no difference in the wetland characteristics of the vegetation at either location (Table 6). Based on the weight of the evidence, I conclude that the construction of the water diversion structure did not have any short-term effects on the character of the vegetation and did not affect the accuracy of the wetland delineation. Even if, in the absence of the water diversion, there would have been a short-term increase in the area of saturated soils at wetland W1, the larger area of saturated soils would have occurred downslope; and, even if an additional downslope area were categorized as new wetland, the altered buffer zone would not affect any proposed development.

Summary and Conclusions

Numerous and detailed biological surveys have been conducted on the Magee property. As a result, the wetlands, vegetation communities, and sensitive species that are on the property have been identified and their locations have been accurately mapped. The footprints of the proposed development have been adjusted so as to avoid all sensitive natural resources on the property and have been set back at least 100 feet from

wetlands, riparian vegetation, and rare plants, 150 feet from streams, and 300 feet from the pond that supports California red-legged frogs and western pond turtles. I conclude that the proposed development has been sited and designed to prevent impacts that would degrade environmentally sensitive habitat areas and wetlands, and is compatible with the continuance of those habitats.

TABLES

Table 1. Vegetation characteristics within haphazardly placed, approximately 80-m^2 circular sample plots (Figure 1) along a transect from the eastern to the western boundary of the Magee property on the south side of the blue-line stream (from Zander 2011b).

Sample Point	Grassland Description
G-1	Dominant species is *Cynosurus echinatus* (50% cover) with *Lolium perenne* (20% cover), *Briza maxima* (10% cover) and *Avena fatua* (10% cover). *Nassella pulchra* and *Elymus glaucus* present but less than 5% cover.
G-2	Native species more dominant. *Elymus glaucus* (30% cover), *Nassella pulchra* (30% cover). *Lolium perenne* (20% cover) and *Cynosurus echinatus* (10% cover) also present but not as dominant as above. Herbaceous species more prominent; *Lessingia filaginifolia* (5% cover) and *Hypochaeris radicata* (5% cover).
G-3	Natives also dominant here but associates a little different than G-2. *Nassella pulchra* (40% cover), *Festuca rubra* (30% cover). More open grassland. Herbaceous species include *Cirsium quercetorum* (15% cover) and *Lessingia filaginifolia* (10% cover).
G-4	Dense stand of *Holcus lanatus* (60% cover) with some *Vulpia bromoides* (20% cover). Minor associates all at 5% cover include *Cynosurus echinatus*, *Linum usitatissimum*, *Nassella pulchra* and *Elymus glaucus*.
G-5	*Avena fatua* dominant (60% cover) with *Cynosurus echinatus* (20 % cover and *Briza maxima* (15% cover). Some *Nassella pulchra* (5% cover).
G-6	*Nassella pulchra* (40% cover) and *Elymus glaucus* (30% cover) dominant with *Festuca rubra* (20% cover) and *Cirsium quercetorum* (5% cover).
G-7	*Nassella pulchra* still dominant (40% cover) but new associate *Melica californica* (30% cover). *Festuca rubra* (10% cover) and *Lolium perenne* (10% cover) also present. Associated herbs include *Cirsium quercetorum* (5% cover) and *Lessingia filaginifolia* (5% cover).
G-8	*Nassella pulchra* still dominant (40% cover) but associated with *Festuca rubra* (20% cover), *Briza maxima* (15% cover) and *Cynosurus echinatus* (15% cover). Associate herbs include *Hypochaeris radicata* (5% cover) and *Lessingia filaginifolia* (5% cover).
G-9	*Avena fatua* (50% cover) and *Briza maxima* (35% cover) dominated stand. Minor associates include *Cynosurus echinatus* (5% cover), *Bromus carinatus* var. *maritimus* (5% cover) and *Nassella pulchra* (5% cover).
G-10	Even mix of native and non-native species. *Nassella pulchra* (30% cover), *Cynosurus echinatus* (30% cover), and *Avena fatua* (20% cover. Herbs include *Plantago lanceolata* (5% cover), *Linum usitatissimum* (5% cover), and *Hypochaeris radicata* (5% cover). At edge of drainage with dense bay tree canopy.
G-11	Around drainage and at western edge of bay tree canopy. Back to *Avena fatua* dominant (70% cover). *Briza maxima* (15% cover), *Bromus carinatus* var. *maritimus* (10% cover), and *Nassella pulchra* (5% cover)

Table 1 (continued).

Sample Point	Grassland Description
G-12	Mixture of native and non-native again with *Nassella pulchra* (40% cover), *Avena fatua* (40% cover), *Lolium perenne* (10% cover) and *Bromus carinatus* var. *maritimus* (10% cover).
G-13	Non-natives dominant. *Avena fatua* (40% cover), *Lolium perenne* (20% cover), *Briza maxima* (10% cover), *Bromus hordeaceus* (10% cover), *Cynosurus echinatus* (10% cover), *Carduus pycnocephalus* (5% cover), *Hypochaeris radicata* (5% cover).
G-14	Natives more prominent. *Nassella pulchra* (30% cover), *Elymus glaucus* (20% cover), *Lolium perenne* (20% cover), *Cynosurus echinatus* (20% cover), and *Bromus carinatus* var. *maritimus* (10% cover).
G-15	Relatively dense *Nassella pulchra* (50% cover) with *Lolium perenne* (20% cover) and *Cynosurus echinatus* (20% cover). Herbs include *Hypochaeris radicata* (5% cover) and *Linum usitatissimum* (5% cover)
G-16	Dense *Briza maxima* (60% cover) with mostly non-native associates. *Avena fatua* (20% cover), *Holcus lanatus* (20% cover), *Nassella pulchra* (2% cover), *Elymus glaucus* (2% cover).
G-17	Dense stand of *Holcus lanatus* (80% cover). Some *Briza maxima* (10% cover) and *Cynosurus echinatus* (10% cover). Few herbs.
G-18	Even distribution of non-natives. *Briza maxima* (30% cover), *Avena fatua* (30% cover), *Holcus lanatus* (20% cover), *Lolium perenne* (15% cover). Some *Nassella pulchra* (2% cover).
G-19	Small patch where natives occur in more or less equal amounts with non-natives. *Elymus glaucus* (30% cover), *Nassella pulchra* (20% cover), *Holcus lanatus* (20% cover), *Briza maxima* (20% cover), and *Lolium perenne* (10% cover). Doesn't extend far.
G-20	*Holcus lanatus* dominant (60% cover) with *Cynosurus echinatus* (30% cover), *Danthonia californica* (5% cover), *Carex densa* (2% cover), *Carex praegracilis* (2% cover). Close to large seep.

Table 2. Vegetation characteristics (percent ground cover) within the development footprints (and adjacent 100 feet) proposed for the area south of the blue-line stream on the Magee property (after Zander 2012c). Due to layering, ground cover can exceed 100%. These areas are appropriately characterized as non-native grassland or coyote bush scrub and do not meet the definition of ESHA in the Coastal Act. i = introduced (non-native); n = native.

Species	Sheep Shelter 1	Sheep Shelter 2	Hopyard Shelter#	Greenhouse & Garden
Wild oats (i)	0	30%	10%	10%
Velvet grass (i)	0	30%	0	50%
Rattlesnake grass (i)	30%	20%	20%	10%
Italian ryegrass (i)	20%	15%	0	0
Dogtail grass (i)	30%	0	30%	0
Hair barley (i)	10%	0	0	0
Soft chess (i)	0	0	0	0
Purple needlegrass (n)	0	<5%	<5%	0
Italian thistle (i)	10%	0	0	0
Bull thistle (i)	0	0	0	30%
Cat's ear (i)	0	0	0	0
Coyote bush scrub*	0	0	50%	0
Douglas iris (n)	0	0	0	10%
Common aster (n)	0	0	0	10%
Total Non-native Species:	100%	95%	60%	100%
Total Native Grasses:	0	<5%	<5%	0
Total Native Species:	0	<5%	~50%	20%

*Comprised of coyote bush (n), French broom (i), poison oak (n), and bracken fern (n)
#A few Bay trees are also present in this plot but are not included in cover estimates

Table 3. General characterization of the non-native grasslands, ruderal vegetation, and mixed shrub vegetation in the area north of the blue-line stream that is proposed for development (after Zander 2012e). These vegetation communities are mapped in Figure 2. The actual boundaries of these communities are generally not discrete but tend to be zones of transition from one group of dominant plants to another.

***Lolium*-Dominated Non-Native Grassland.** These areas contain >50% cover of Italian ryegrass (*Lolium perenne=Festuca perennis*) and about 20% cover both of rattlesnake grass (*Briza maxima*) and of dogtail grass (*Cynosurus echinatus*). Associated forbs[2] include English plantain (*Plantago lanceolata*), bull thistle (*Cirsium vulgare*), cat's ear (*Hypochaeris radicata*), and bristly ox tongue (*Picris echioides=Helminthotheca echioides*), all non-native species.
***Holcus*-Dominated Non-Native Grassland**. These are dense stands of velvet grass (*Holcus lanatus*) with a thick thatch. Most stands approach 100% cover of velvet grass. The patch adjacent to the proposed residence is an exception. It was previously dominated by rattlesnake grass and dogtail grass, but is now about 60% velvet grass and 40% rattlesnake grass. Blackberry (*Rubus ursinus*) and coyote bush (*Baccharis pilularis*), both native shrubs, occur in patches within these stands. There are few associated forbs in this grassland type, probably as a result of the thick thatch.
***Avena*-Dominated Non-Native Grassland**. Wild oats (*Avena fatua*) is the dominant component of this grassland stand, comprising > 50% cover. Italian rye grass is a common associate, occurring in varying densities throughout the stand. Forbs observed include English plantain, soap lily (*Chlorogalum pomeridianum*) and bull thistle (*Cirsium vulgare*).
***Conium* Patch**. This is a patch of non-native poison hemlock (*Conium maculatum*) that includes areas where velvet grass and teasel (*Dipsacus fullonum*) are abundant. Each of the three species tend to dominate separate areas, with the poison hemlock dominant in approximately 70% of the overall patch, velvet grass dominating 20% and teasel dominating 10%. Poison hemlock seedlings were very abundant.
***Briza/Cynosurus*-Dominated Non-Native Grassland**. Together, rattlesnake grass and dogtail grass comprise about 50-80% of the ground cover, with Italian rye grass occurring at about 20% cover. Velvet grass is also present, particularly at the transition zone between *Briza/Cynosurus*-dominated and *Holcus*-dominated grasslands. Associated forbs are similar to those in wild oats stands but appear to occur at higher densities, possibly due to the lower stature of the grassland.
Shrubland/Non-Native Grassland Mix. This area consists of a mixture of scattered native shrubs and non-native grasses. The shrub component is primarily coyote bush. The dominant grasses are wild oats, rattlesnake grass and, to a lesser extent, dogtail grass. The grasses are less dense in and around the scattered shrubs.

Table 4. Estimated abundance (percent ground cover) of various species and groups of species in approximately 100-m^2 sample plots (Figure 2) within the non-native grassland and ruderal areas north of the blue-line stream that are proposed for development (from Zander 2012c). Cover for dominant species is bold. For there to be a "preponderance" of wetland indicator species, greater than 50% of the dominant species present must listed as OBL, FACW, or FAC (see footnote 17) in the National Wetland Plant List.

Species	Plot Identification in Figure 2 (G/)														
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O
Native grasses	5	5	0	5	0	5	0	2	5	0	5	10	0	0	10
Other native graminoids & forbs[27]	7	5	10	7	0	7	10	0	2	10	5	5	20	10	0
Native shrubs	0	0	0	0	5	0	0	0	0	0	0	0	0	10	10
Total natives:	12	10	10	12	5	12	10	2	7	10	10	15	20	20	20
Wild oats (*Avena fatua*,NL[14])	0	0	**30**	**40**	**50**	**20**	0	0	0	0	0	0	0	0	0
Rattlesnake grass (*Briza maxima*, NL)	**50**	**35**	0	0	0	**30**	10	**40**	**40**	0	**20**	**70**	**40**	**25**	**40**
Velvet grass (*Holcus lanatus*, FAC)	0	**50**	0	0	10	0	**70**	15	0	**45**	10	0	0	0	**40**
Dogtail grass (*Cynosurus echinatus*, NL)	5	0	0	0	0	10	0	**40**	20	0	0	0	**30**	**50**	0
Italian ryegrass (*Lolium perenne*, FAC)	**20**	0	**55**	**40**	**30**	**30**	0	0	**30**	0	**50**	15	0	0	0
Poison Hemlock (*Conium maculatum*, FACW)	0	0	0	0	0	0	0	0	0	**45**	0	0	0	0	0
Other non-native grasses and forbs	15	6	5	10	5	0	10	5	5	0	10	0	10	5	0
Total non-natives:	90	91	90	90	95	90	90	100	95	90	90	85	80	80	80
Percentage of dominant species that are potential hydrophytes (OBL, FACW, or FAC):	50	50	50	50	50	33	100	0	50	100	50	0	0	0	50

[27] Graminoids are grass-like plants and include grasses, sedges and rushes. Forbs are all other herbaceous (non-woody) species.

Table 5: Special Status Species Observed on the Magee Property (after Zander 2012c).

Animal Species	Status[28] Fed/CA/ CNPS	Habitat	Findings[3]
Fritillaria lanceolata var. tristulis (Marin checker lily)	--/--/1B.1	Coastal bluff scrub, coastal scrub and coastal prairie, often on serpentine, 30-300 meters; February – May.	Small population observed in grassland near pond. Location mapped using GPS.
Rana draytonii (California red-legged frog)	T/SSC/--	Lowlands and foothills in or near permanent sources of deep water, preferring shorelines with extensive vegetation (disperses far during and after rain); larvae require 11-12 weeks of permanent water to develop	Found 1 adult and two subadults in onsite pond during directed surveys.
Emys marmorata marmorata (Western pond turtle)	--/SSC/--	Associated with permanent or nearly permanent water in a wide variety of habitats	Found one turtle in onsite pond during directed surveys.
Taxidea taxus (American badger)	--/SSC/--	Principal habitat requirements include sufficient food, friable soils, and relatively open, uncultivated ground. Grasslands, savannas, and mountain meadows near timberline are preferred. Prey primarily consists of burrowing rodents such as gophers, ground squirrels, marmots, and kangaroo rats.	Potential to occur in the grasslands on the property. Potential burrows observed in dry grasslands in southeast portion of property. Anecdotal observations by local residents. Assumed present.

[28] "1B.1" = California Native Plant Society designation as rare in California and elsewhere, and seriously threatened in California; "T" = federally threatened; "SSC" = California Species of Special Concern

Table 6. Comparison of vegetation in adjacent, approximately 40-ft^2 plots across the line separating the Magee and Kivel-Lund properties (Figure 2). The paired plots were separated by a water diversion ditch at PP1 but not at PP2. Vegetative cover was visually estimated in a half circle of about a 5-ft radius. The Prevalence Index[29] is a useful way of comparing the wetland characteristics of the whole plant community rather than just the dominant plants. A prevalence index ≤3.0 is usually indicative of wetland vegetation.

A. PP1 (plots separated by diversion ditch)

Species (Wetland Status)	Percent Cover (Kivel-Lund)	Percent Cover (Magee)
Holcus lanatus (FAC)	90	90
Cirsium vulgare (FACU)	2	10
Cupressus sp. (UPL)	10	0
Plantago lanceolata (FAC)	2	0
Linum usitatissimum (UPL)	0	present
Prevalence Index:	3.2	3.1

B. PP2 (no diversion ditch)

Species (Wetland Status)	Percent Cover (Kivel-Lund)	Percent Cover (Magee)
Rubus ursinus (FACU)	50	50
Holcus lanatus (FAC)	30	40
Cotoneaster sp. (UPL)	5	5
Cupressus sp. (UPL)	10	0
Cirsium vulgare (FACU)	0	2
Festuca arundinaceae (FACU)	0	2
Carex sp. (FAC-OBL)	present	0
Prevalence Index:	3.8	3.7

[29] The Prevalence Index (PI) is a weighted average, ranging from 1 to 5, obtained by assigning weights to the wetland indicator categories (UPL=5, FACU=4, FAC=3, FACW=2, & OBL=1). PI=Σ(% Cover * Weight)/Total Cover. The smaller the value of the prevalence index, the "wetter" the vegetation.

Appendix A

Biological Survey Effort by the Applicant's Consultants

Appendix A: Summary of Biological Surveys Conducted on Magee Property during the Period of March 19, 2008 through November 12, 2012 (after Zander 2012c)

Survey Date	Area Surveyed /Personnel	Purpose / Focus	Method
March 19, 2008	Entire property / L. Zander, Tony Magee (applicant)	Initial site reconnaissance. Evaluate existing conditions and identify potentially sensitive habitats.	General reconnaissance. Visual observations of entire property via vehicle and on foot.
April 30, 2008	Entire property / L. Zander, M. Zander	Characterize and generally map plant communities, including potential wetlands. Plant survey and general wildlife observations.	Focused on ponded and saturated areas and riparian corridor to evaluate vegetation composition and map habitat boundaries. By vehicle and on foot.
May 29, 2008	Grassland, seep and scrub habitats on entire property. / L. Zander	Plant survey and general wildlife observations	Walked meandering transects starting at higher elevations and working towards Hwy 1. Both sides of main stream corridor. All plant species encountered recorded and wildlife observations noted.
July 22, 2008	Main stream corridor. Grassland, seep and scrub habitats on entire property. / L. Zander, M. Jennings	Evaluated aquatic habitat for CRLF, FYLF, WPT and fisheries. Plant survey and general wildlife observations.	Aquatic surveys focused around perimeter of pond and up and down main stream course. Plant and wildlife survey - walked meandering transects starting at higher elevations and working towards Hwy 1. Both sides of main stream corridor. All plant species encountered recorded and wildlife observations noted.
September 16, 2008	Grassland, seep and scrub habitat on entire property. / L. Zander	Plant survey and general wildlife observations.	Walked meandering transects starting at higher elevations and working towards Hwy 1. Both sides of main stream corridor. All plant species encountered recorded and wildlife observations noted.
March 12, 2009	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. / L. Zander	Late winter / early spring survey for special status plants. Focused on proposed development area.	Walked meandering transects through the survey area. All plant species encountered recorded. Incidental wildlife observations noted.
June 30, 2009	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. / L. Zander	Late spring / summer survey for special status plants. Focused on proposed development area.	Walked meandering transects through the survey area. All plant species encountered recorded and. Incidental wildlife observations noted.

Appendix A (continued).

Survey Date	Area Surveyed /Personnel	Purpose / Focus	Method
January 24, 2010	Area surrounding central spring north of main stream corridor (W-2 on wetland map). / L. Zander	Evaluate water flowing from central spring and surrounding habitat conditions.	Focused wetland hydrology assessment.
March 10, 2010	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. / L. Zander, M. Zander	Begin collecting vegetation, soils & hydrology data for CCC wetland delineation focused on proposed development area.	Wetland delineation.
December 29, 2010	Northwest corner of property. / L. Zander	Evaluate storm runoff originating from adjacent property upslope and observe where surface water or ponding present following 2" rain event.	Focused wetland hydrology assessment.
January 26, 2011	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. / L. Zander, M. Zander	Continue data collection for CCC wetland delineation	Wetland delineation.
February 2, 2011	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. Also, area of proposed vineyard and leach field. / L. Zander, J. Valerius	Late winter / early spring survey for special status plants. Revisit wetland data points to further identify plant species.	Walked meandering transects through the survey area. All plant species encountered recorded. Incidental wildlife observations noted.
May 20, 2011	Proposed locations of vineyard, homesite, barns, hopyard, and ancillary agricultural structures (sheep shelters and hopyard shelter) and for an area approximately 500 feet beyond. / L. Zander, M. Zander, J. Valerius	Spring survey for special status plants..	Walked meandering transects through survey area. All plant species encountered recorded. Incidental wildlife observations noted.

Appendix A (continued).

Survey Date	Area Surveyed /Personnel	Purpose / Focus	Method
May 24, 2011	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. Also, area of proposed vineyard and large seep and grassland south of main stream course. / L. Zander, M. Zander, Larry Simon (CCC), John Dixon (CCC), Tony Magee (Applicant), Bill Goggin (EMC Planning – biologist for appellants), David Weinsoff and Ralph Faust (Counsel for applicant), Larry Kennings (Planning Consultant for applicant), Craig Herzog (Geotechnical consultant for applicant)	Site visit with CCC staff. General habitat assessment. Review of riparian/wetland boundary along main stream course; evaluation of nature and extent of wetlands; evaluation of reported swale near northern property boundary; assessment of habitat in proposed vineyard location; assessment of wetland associated with large seep south of main stream course; assessment of lower elevation grassland south of main stream course.	Focused on specific areas for review.
June 2, 2011	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. Proposed locations of vineyard, homesite, barns, hopyard and ancillary agricultural structures (sheep shelters and hopyard shelter) and for an area approximately 500 feet beyond. / L. Zander, J. Valerius, S. Meyers.	Additional data collection for wetland delineation as requested by CCC. Survey of adjusted riparian boundary determined in the field with CCC on 5/24/11. Spring survey for special status plants.	Wetland delineation. GPS riparian boundary. Plant survey – walked meandering transects through survey area. All plant species encountered recorded.
June 9, 2011	Entire length of stream channel from eastern property boundary to Highway 1. / M. Jennings	Daytime surveys for FYLF, CRLF and WPT. General survey of aquatic habitat.	Following accepted protocol for CRLF and methods employed by surveyor for other species based on years of experience conducting such surveys.

Appendix A (continued).

Survey Date	Area Surveyed /Personnel	Purpose / Focus	Method
June 22, 2011	Proposed development area north of main stream corridor. Area bordered by property boundary to the north, Hwy 1 to the west, main stream corridor to the south and about elevation 200 to the east. / L. Zander, M. Zander	Quantitative sampling of grassland as requested by CCC Staff.	Quantitative sampling of grassland. One 12' x 20' plot and two meter square plots – point intercept. All flora encountered recorded.
June 24, 2011	Main stream corridor and pond. Upstream and downstream. / M. Jennings.	Nighttime survey for CRLF.	Following accepted protocol for CRLF.
June 25, 2011	Main stream corridor and pond. Upstream and downstream. / M. Jennings.	Nighttime survey for CRLF	Following accepted protocol for CRLF.
June 26, 2011	Main stream corridor and pond. Upstream and downstream. / M. Jennings.	Nighttime survey for CRLF	Following accepted protocol for CRLF.
July 1, 2011	Main stream corridor and pond. Upstream and downstream. / M. Jennings.	Daytime surveys for FYLF, CRLF and WPT. General survey of aquatic habitat	Following accepted protocol for CRLF and methods employed by surveyor for other species based on years of experience conducting such surveys
July 7, 2011	Grasslands within proposed agricultural areas south of main stream corridor - hopyard, sheep shelters and hopyard shelter - and for an area approximately 500 feet beyond footprint. / L. Zander	Generally characterize grasslands south of main stream corridor and evaluate composition of grasslands where structures proposed. Summer survey for special status plants.	Systematic transect from top to bottom of property. Visual estimate of relative percent cover of all plants in ±15 foot radius plot at points along transect. Visual estimate of relative percent cover of grassland species in area of proposed agricultural structures. All plant species encountered while walking through site recorded.
July 20, 2011	Main stream corridor and pond. Upstream and downstream. / M. Jennings	Daytime surveys for FYLF, CRLF and WPT. General survey of aquatic habitat	Following accepted protocol for CRLF and methods employed by surveyor for other species based on years of experience conducting such surveys.
February 8, 2012	Development area north of the main stream corridor in the areas where the homesite, barns, driveway and vineyard are proposed. / L. Zander, M. Zander	Characterize grasslands north of main stream corridor.	Walked east/west transects through the survey area. Sampled seventeen 10-meter-square plots and estimated percent absolute cover for each species identified in the plot.

Appendix A (continued).

Survey Date	Area Surveyed /Personnel	Purpose / Focus	Method
February 14, 2012	Potential wetland areas north of main stream corridor. / L. Zander, John Dixon, Larry Simon, Cassidy Teufel (CCC staff), Tim Dodson (DFG), Tony Magee (applicant).	Revisit sample points in blackberry patch and collect additional data. Evaluate conditions of reported swale/drainage at northern property boundary.	Focused on wetland delineation sample points and area of reported swale/drainage.
March 7, 2012	Wetlands within 122 acre study area defined by Corps. / L. Zander, Bryan Matsumoto (Corps), Tony Magee (applicant).	Verification of Section 404 CWA jurisdictional wetlands and waters	Evaluation of nature and extent of wetlands following procedures in Corps Manual and Arid West Supplement
September 24, 2012	Wetlands and grasslands south of main stream corridor. / L. Zander, ILS Engineers – survey crew	Additional data collection for wetland delineation. Relocate sheep shelter #2 to non-native grassland area.	Wetland delineation - collection of data at upland/wetland boundary where wetland within 200 feet of any ancillary structure. Identify non-native grassland stands, locate and stake structure footprint.
October 1, 2012	Wetlands and grasslands south of main stream corridor. / L. Zander, ILS Engineers – survey crew	Relocate hopyard shelter to non-native grassland/scrub area.	Identify non-native grassland stands, locate and stake structure footprint.
November 12, 2012	Area north of blue-line stream in area proposed for development. / L. Zander, Debra Meyers and John Dixon.	Map vegetation communities, especially non-native grasslands.	Generally characterize vegetation communities, mark edges with flags, and map with GPS; also sample soils and plants across community boundaries and examine vegetation uphill and downhill from water diversion on Magee property.

APPENDIX B.

Sensitive species with a potential to occur on the Magee property but not observed.

Appendix B. Sensitive species with some potential to occur on the Magee property but not observed.

Plant Species	Status[2] Fed/CA/CNPS	Habitat/Blooming Period	Findings[3]
Agrostis blasdalei (Blasdale's bent grass)	--/--/1B.2	Coastal dunes, coastal bluff scrub, coastal prairie on sandy or gravelly soils close to rocks, often on nutrient poor soil with sparse vegetation, 5-150 meters; May-July.	No suitable habitat. Not observed during field surveys.
Alopecurus aequalis var. sonomensis (Sonoma alopecurus)	E/--/1B.1	Wet areas, freshwater marshes and swamps, riparian banks; May – July.	Potential habitat along stream channel. Not observed during field surveys.
Amsinckia lunaris (Bent-flowered fiddleneck)	--/--/1B.2	Annual herb found in coastal bluff scrub, cismontane woodland, and valley and foothill grassland; March-June.	Potential habitat in grasslands. Not observed during field surveys.
Arctostaphylos virgata (Marin manzanita)	--/--/1B.2	Broad leafed upland forest, closed-cone coniferous forest and chaparral on sandstone or granitic soil at 60-700 meters; January -March.	No suitable habitat. Not observed during field surveys and no *Arctostaphylos* observed on the property.
Blennosperma nanum var. robustum (Point Reyes blennosperma)	--/R/1B.2	Coastal prairie and coastal scrub on open hills in sandy soil, 10-145 meters; February-April.	No suitable habitat. Not observed during field surveys.
Calystegia purpurata ssp. saxicola (Coastal bluff morning glory)	--/--/1B.2	Coastal dunes and scrub. Known only from southern Sonoma County and Pt. Reyes peninsula.; May – September.	Habitat marginal. Not observed during field surveys. Found *C. purpurata* ssp. *purpurata* in grassland on property during field surveys.
Campanula californica (Swamp harebell)	--/--/1B.2	Perennial rhizomatous herb found in bogs and fens, closed-cone coniferous forest, coastal prairie, meadows and seeps, freshwater marshes and swamps, and mesic north coast coniferous forests; June-October.	Potential habitat in seeps. Not observed during field surveys.
Castilleja ambigua ssp. humboldtiensis (Humboldt Bay owl's-clover)	--/--/1B.2	Coastal salt marsh, generally with *Spartina, Distichlis, Salicornia* and *Jaumea* at 0-3 meters; April-August.	No suitable habitat. Not observed during field surveys.
Ceanothus masonii (Mason's ceanothus)	--/R/1B.2	Chaparral on serpentine ridges or slopes, 180-460 meters; March-April.	No suitable habitat. Not observed during field surveys
Chorizanthe cuspidate var. cuspidate (San Francisco Bay spineflower)	--/--/1B.2	Sandy soil on terraces and slopes; coastal dunes, bluff scrub, scrub and prairie; April-July.	No suitable habitat. Not observed during field surveys.
Chorizanthe cuspidate var.villosa (Wooly-headed spineflower)	--/--/1B.2	Sandy places near the beach; coastal dunes, scrub and prairie; April-July.	No suitable habitat. Not observed during field surveys.

Appendix B (continued).

Plant Species	Status2 Fed/CA/CNPS	Habitat/Blooming Period	Findings3
Chorizanthe robusta var. robusta (Robust spineflower)	E/--/1B.1	Sandy soils in cismontane woodland openings and coastal dune and scrub habitats; May- September	No suitable habitat. Not observed during field surveys.
Cirsium andrewsii (Franciscan thistle)	--/--/1B.2	Coastal bluff scrub, broadleaf upland forest, coastal scrub; sometimes serpentine seeps; May-July.	Potential habitat but not observed during field surveys. Found *Cirsium quercetorum* – a close relative - in the southeast portion of the property during field surveys.
Clarkia concinna ssp. raichei (Raiche's red ribbons)	--/--/1B.1	Coastal bluff scrub; highly exposed rocky bluffs with a near vertical slope. April-May.	Only known from one location in Marin County. No suitable habitat and not observed during field surveys.
Chloropyron maritimum ssp. palustris (Point Reyes bird's-beak)	--/--/1B.2	Coastal salt marsh, generally with *Spartina, Distichlis, Salicornia* and *Jaumea* at 0-15 meters; June-October.	No suitable habitat and not observed during field surveys.
Delphinium bakeri (Baker's larkspur)	E/E/1B.1	Coastal scrub and grasslands, 90-205 meters; March-May.	Known from only one occurrence along Salmon Creek, Marshall Petaluma Road; fewer than 70 individuals known as of 2000. Not observed during field surveys.
Delphinium luteum (Yellow larkspur)	E/R/1B.1	Chaparral, coastal prairie and coastal scrub habitats; March – May.	Known occurrence SW of Tomales at HWY marker 44.92. Potential habitat in grassland and scrub. Not observed during field surveys.
Eriogonum luteolum var. caninum (Tiburon buckwheat)	--/--/1B.2	Chaparral, coastal prairie, valley and foothill grassland, serpentine; June-September	Potential habitat in scrub and grassland . Not observed during field surveys.
Fritillaria liliacea (Fragrant fritillary)	--/--/1B.2	Coastal scrub, valley/foothill grassland, and coastal prairie; February – April.	Mapped along the south side of Marshall-Petaluma Road in vicinity of Marshall School. Potential habitat in grassland and coastal scrub. Not observed during field surveys.
Gilia capitata ssp. chamissonis (Blue coast gilia)	--/--/1B.1	Coastal dunes and coastal scrub at 2-200 meters; April-July.	No suitable habitat and not observed during field surveys.
Gilia millefoliata (Dark-eyed gilia)	--/--/1B.2	Coastal dunes at 2-20 meters; April-July.	No suitable habitat and not observed during field surveys.

Appendix B (continued).

Plant Species	Status2 Fed/CA/C NPS	Habitat/Blooming Period	Findings3
Grindelia hirsutula var. □aritime (San Francisco gumplant)	--/--/3.2	Sandy or serpentine slopes in coastal scrub, bluff scrub, valley and foothill grassland; June-September.	No suitable habitat and not observed during field surveys.
Hemizonia congesta ssp. congesta (Pale yellow hayfield tarplant)	--/--/1B.2	Grassy valleys and hills, often in fallow fields in coastal scrub and valley and foothill grasslands; April-November.	Potential habitat in grassland and scrub. Not observed during field surveys.
Hesperevax sparsiflora var. brevifolia (Short-leaved evax)	--/--/1B.2	Sandy bluffs and flats in coastal bluff scrub and coastal dunes; March-June.	No suitable habitat and not observed during field surveys.
Hesperolinon congestum (Marin western flax)	T/T/1B.1	Often on serpentine soil in chaparral or valley/foothill grassland; May – July.	Potential habitat in scrub and grassland. Not observed during field surveys.
Horkelia cuneata ssp. *sericea* (Kellogg's horkelia)	--/--/1B.1	Perennial herb found in closed-cone coniferous forest, chaparral, and coastal scrub habitats, old dunes and coastal sand hills; April-September.	Soils not suitable and not observed during field surveys.
Horkelia marinensis (Point Reyes horkelia)	--/--/1B.2	Sandy flats and dunes near the coast in grassland or scrub plant communities; May-September	Soils not suitable and not observed during field surveys.
Lasthenia californica ssp. macrantha (Perennial goldfields)	--/--/1B.2	coastal slopes and mesas in coastal bluff scrub, coastal dunes, coastal scrub; January-November.	Habitat marginal and not observed during field surveys.
Leptosiphon rosaceus (Rose leptosiphon)	--/--/1B.1	Sandy slopes and downs of the Point Reyes peninsula, 0-100 meters; April-July.	No suitable habitat and not observed during field surveys.
Lilium maritimum (Coast lily)	--/--/1B.1	In Marin only known from marshy areas on Point Reyes Peninsula where it is at southern limit. May-August.	No suitable habitat present onsite and not observed during field surveys..
Lupinus tidestromii (Tidestrom's lupine)	E/E/1B.2	Partially stabilized dunes immediately near the ocean; April-June	Known in Marin only from the dunes on the Pt. Reyes Peninsula. No suitable habitat and not observed during field surveys.
Microseris paludosa (Marsh microseris)	--/--/1B.2	Open grassy slopes or on the edge of brush, many plant communities; April-June	Potential habitat but not observed during field surveys.
Navarretia leucocephala ssp. bakeri (Baker's navarretia)	--/--/1B.1	Cismontane woodland, lower montane coniferous forest, vernal pools, seeps, meadows, and valley/foothill grassland; May – July.	Potential habitat in seeps. Not observed during field surveys.
Phacelia insularis var. continentis (North coast phacelia)	--/--/1B.2	Open maritime bluffs in coastal bluff scrub or coastal dune, 10-160 meters; March-May.	No suitable habitat and not observed during field surveys.
Plagiobothrys mollis var. vestitus (Petaluma popcorn-flower)	--/--/1A	Valley and foothill grasslands and coastal salt marshes; June – July.	Not observed since 1938, presumed extinct. No Plagiobothrys observed during field surveys.

Appendix B (continued).

Plant Species	Status2 Fed/CA/CNPS	Habitat/Blooming Period	Findings3
Rhynchospora californica (California beaked-rush)	--/--/1B.1	Marshes and swamps, lower montane coniferous forest, 45-1000 meters; May-July.	Recorded from Point Reyes near Ledum Swamp in 1945, not observed there since. Potential habitat around pond but not observed during field surveys.
Sidalcea calycosa ssp. rhizomata (Point Reyes checkerbloom)	--/--/1B.2	Freshwater marshes and swamps near the coast, 5-75(245) meters; April-September.	Potential habitat around perimeter of pond and wetlands associated with the stream. Not observed during field surveys.
Trifolium amoenum (Showy Indian clover)	E/--/1B.1	Valley and foothill grassland, sometimes on serpentine soils; April – June.	Potential habitat in grasslands. Not observed during field surveys.
Triphysaria floribunda (San Francisco owl's-clover)	--/--/1B.2	Coastal prairie, valley and foothill grassland on serpentine and non-serpentine substrate, 10-160 meters; April-June.	Potential habitat in grasslands. Not observed during field surveys.
Animal Species	**Status[2] Fed/CA**	**Habitat**	**Findings[3]**
Syncaris pacifica (California freshwater shrimp)	E/E	Endemic to gentle gradient (less than 1%), low elevation streams in Marin, Napa and Sonoma Counties. Inhabits quiet portions of the tree-lined streams with underwater vegetation and exposed tree roots.	Not observed during surveys of aquatic habitat in main stream course and pond. Stream gradient too steep. No crayfish found in stream.
Speyeria zerene myrtleae (Myrtle's silverspot butterfly)	E/--	Medium sized butterfly found in coastal dune or prairie habitat. Violets (typically *Viola adunca)* are the larval food plants.	No *Viola adunca* found onsite. No suitable habitat for butterfly.
Oncorhynchus kisutch (Coho Salmon) Central California ESU	E/E	Naturally spawning populations in streams between Punta Gorda, Humboldt Co. and the San Lorenzo River, Santa Cruz County.	No fish observed in main stream during directed aquatic surveys. Steep gradient below pond and barrier at culvert under HWY 1 preclude fish moving into stream. Steep gradient and waterfalls above pond prevent fish from moving upstream. Not identified as Coho salmon or steelhead stream on Marin County watershed map.

Appendix B (continued).

Animal Species	Status[2] Fed/CA	Habitat	Findings[3]
Oncorhynchus mykiss irideus (Steelhead) *Central California DPS*	T/--	Coastal basins from the Russian River south to Soquel Creek.	No fish observed in main stream during directed aquatic surveys. Steep gradient below pond and barrier at culvert under HWY 1 preclude fish moving into stream from Ocean. Steep gradient and waterfalls above pond prevent fish from moving upstream. Not identified as Coho salmon or steelhead stream on Marin County watershed map.
Lavinia symmetricus (Tomales roach)	--/SSC	Habitat generalist. Found in warm intermittent streams as well as cold well-aerated streams.	Found in Walker Creek on Walker Creek Ranch. No fish observed in main stream during directed aquatic surveys.
Rana boylii (Foothill yellow-legged frog)	--/SSC	Partially shaded, shallow streams and riffles with a rocky substrate in a variety of habitats; need at least some cobble-sized substrate for egg-laying; need at least 15 weeks to attain metamorphosis	Not found onsite during directed surveys.
Ardea spp and Egretts thula (Great Egret, Great blue heron, Snowy Egret) (nesting colonies)	--/--	These birds nest in colonies in large trees nearby feeding areas; ponds, marshes, mudflats. The nest are large and are typically a platform of sticks placed at least 1 to 2m above ground to avoid predators. Males go through elaborate displays during all stages of the breeding season. Sensitive to human disturbance during breeding/nesting season (.February through May).	No herons or egrets observed on the property during nesting season. No nests or evidence of nesting (pruned/cleaned trees, broken egg shells) observed in or below trees along Hwy 1 frontage and trees along main stream corridor or around pond. Heron and Egret Atlas for the Bay Area identifies nearest rookery at Blake's Landing, about 4 miles north.
Aquila chrysaetos (Golden eagle) (nesting and nonbreeding wintering)	--/FP	Rolling foothills, mountain areas, sage-juniper flats and desert.	Potential foraging habitat but unlikely to nest in project area.
Falco peregrinus anatum (American peregrine falcon) (nesting)	--/FP	Near wetlands, lakes, rivers or other water; on cliffs, banks, dunes, mounds. Also human-made structures. Nest consists of a scrap on a depression or ledge in an open site.	Potential foraging habitat but unlikely to nest in project area.

Appendix B (continued).

Animal Species	Status2 Fed/CA	Habitat	Findings3
Laterallus jamaicensis coturniculus *(California black rail)*	--/T	Requires high marshes with little annual and/or daily fluctuations in water levels. Prefers marshlands with unrestricted tidal influence	Not likely to occur. No suitable habitat present. Not found during surveys.
Rallus longirostris obsoletus *(California clapper rail)*	E/E	Perennial inhabitant of tidal salt marshes of the greater San Francisco Bay. Some individuals use brackish marshes during spring breeding season.	Not likely to occur. No suitable habitat present. Not found during surveys
Charadrius alexandrinus nivosus (western snowy plover)	T/SSC	Found along beach above the high tide limit; also uses shores of salt ponds and alkali or brackish inland lakes. Intermittent nesting sites along the Pacific Coast from Washington to Baja California	Not likely to occur. No suitable habitat present. Not found during surveys
Athene cunicularia (California burrowing owl)	--/SSC	Ground nester in open dry annual or perennial grasslands, deserts and scrublands with low-growing vegetation, dependent upon burrowing mammals (i.e. California ground squirrel)	Potential to occur in grasslands. No owls or evidence of owl use found during surveys.
Strix occidentalis caurina (Northern spotted owl)	T/SSC	Evergreen forests including old growth redwood as well as second growth coast redwood, Douglas fir, bishop pine, and mixed hardwood forests. Most coniferous forests include a significant component of hardwood trees but often with a limited understory of shrubs and ferns. Need large trees with existing nest structure and prefer many layers of branch cover.	Not likely to nest on the property. Bay forest canopy dense with dense understory and forest fragmented. No occurrences nearby on east side of Tomales Bay.
Geothlypis trichas sinuosa (Saltmarsh common yellowthroat)	--/SSC	Freshwater marshes, coastal swales, swampy riparian thickets, brackish and salt marshes, and edges of disturbed weed fields and grasslands that border soggy habitats.	Potential to occur in emergent wetland and riparian habitats associated with pond and stream course. Not found during surveys.
Agelaius tricolor (Tricolored blackbird)	--/SSC	Breeds near fresh water, preferably in emergent wetland with tall, dense cattails or tules, but also in thickets of willow, blackberry, wild rose, tall herbs. Feeds in grassland and cropland habitats	Potential to occur in emergent wetland and riparian habitats associated with pond and stream course. Not found during surveys.
Antrozous pallidus *(Pallid bat)*	--/SSC	Variety of habitats, most common in open, dry habitats with rocky areas for roosting	Potential day roost habitat in California bay forest. No suitable night roost or maternity roost sites.
Corynorhinus townsendii *(Townsend's western big-eared bat)*	--/SSC	Humid coastal regions of northern and central California; roosts in caves, mines, buildings, etc.	Potential foraging but no suitable roosting habitat.

Appendix B (continued).

Animal Species	Status2 Fed/CA	Habitat	Findings3
Lasiurus blossevilli (Western red bat)	--/SSC	Broad-leafed woodlands, usually in riparian areas	Only one occurrence recorded in Marin County. Typically roosts in large diameter cottonwood, sycamore and orchard trees. Potential to roost in California bay forest.
Zappas trinotatus orarius (Point Reyes jumping mouse)	--/SSC	Inhabits moist meadows, marshlands, open, shrubby grasslands and riparian areas	Potential to occur on the property. Not found during surveys.

1. Species list developed from a query of the CNDDB and Spotted Owl Observations Database (Drakes Bay, Inverness, Tomales and Point Reyes NE USGS 7.5 Minute quadrangles), and review of CNPS lists for Marin County.

2. Status Explanations

Federal (Fed):
E Listed as endangered under the federal Endangered Species Act
T Listed as threatened under the federal Endangered Species Act
-- No designation.

California State (CA):
R Listed as rare under the California Endangered Species Act
E Listed as endangered under the California Endangered Species Act
T Listed as threatened under the California Endangered Species Act
SSC California Department of Fish and Game species of special concern
FP Fully Protected
-- No designation

California Native Plant Society (CNPS):
1A Presumed extinct in California
1B Rare, threatened or endangered in California and elsewhere
3 Plants for which more information is needed
Threat Rank
0.1-Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)
0.2-Fairly threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)

3. Findings based on knowledge of species habitat requirements, results of numerous seasonally-timed field surveys and species-specific and habitat-specific surveys conducted during the period of March 2008 through September 2012.

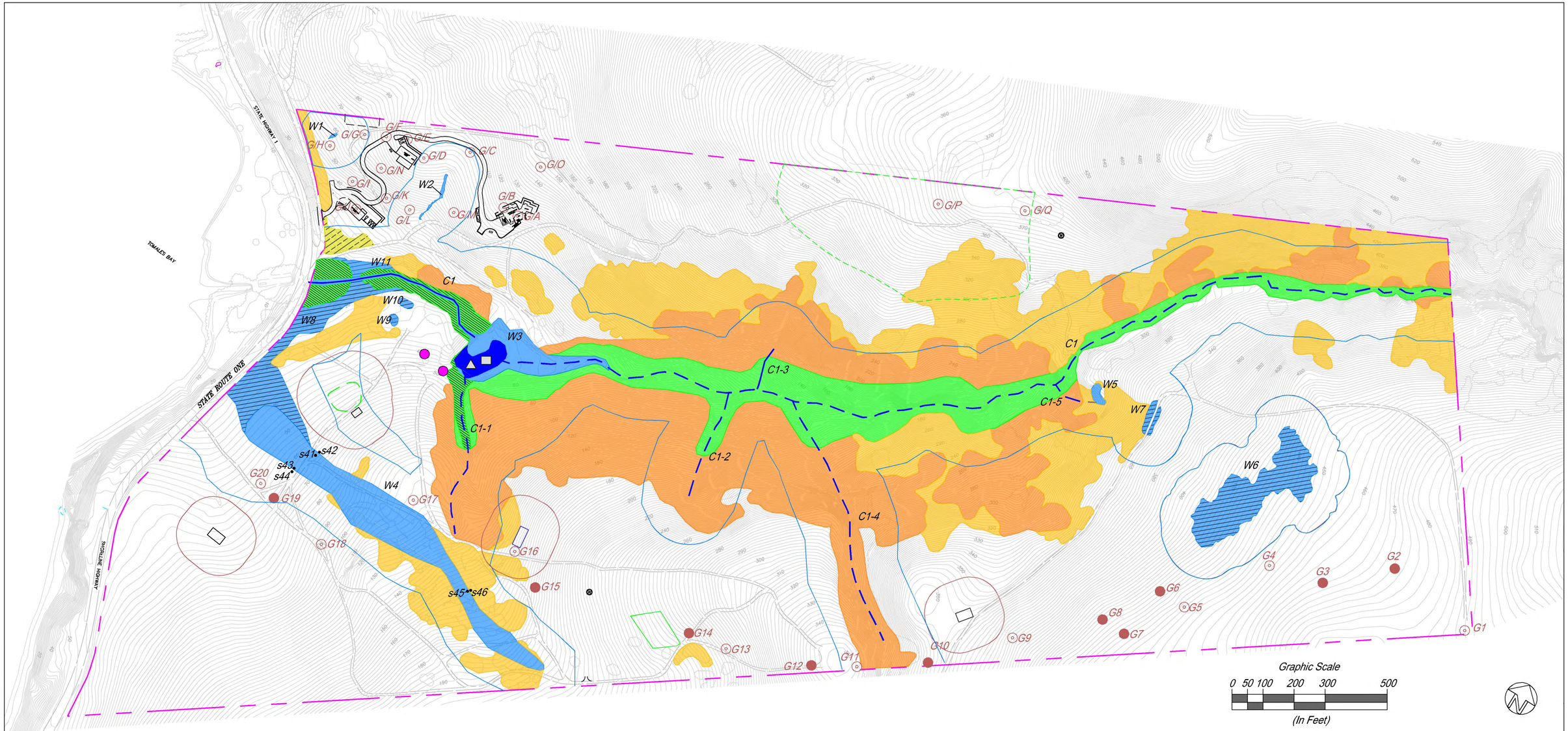
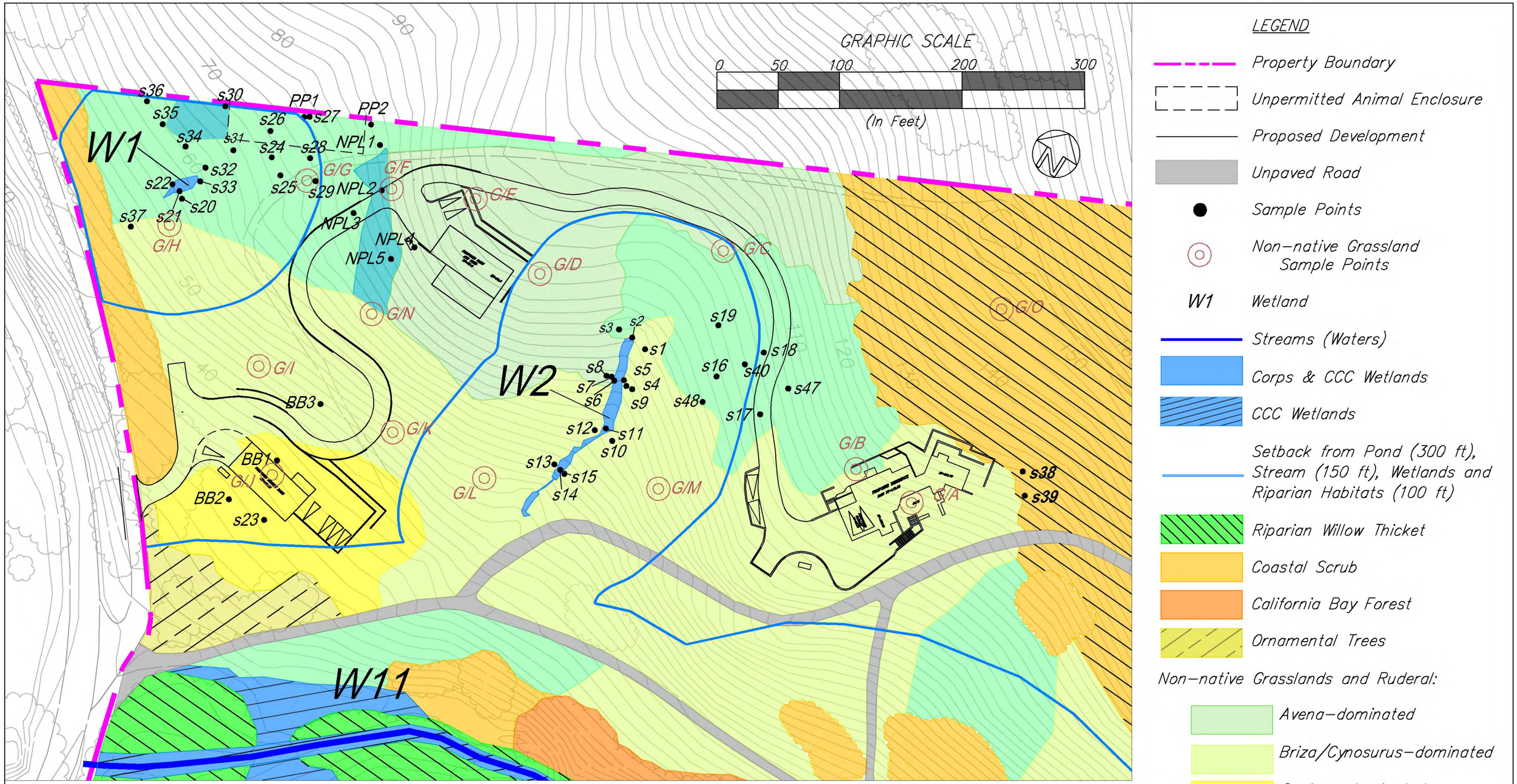


Figure 1. Proposed development on the Magee property in relation to natural resources.

California Coastal Commission
All Locations Approximate.
For Illustrative Purposes Only.
Source: Zander Associates..

LEGEND

- Native Grassland Sample Point
- Non-native Grassland Sample Point
- W1 Wetland
- s1 Wetland Sample Point
- C1 Main Stream Channel
- C1-1 Tributary Channel
- Streams (Waters)
- Intermittent Streams (Waters)
- Unpermitted Animal Enclosure
- Unpaved Road
- Marin Checker Lily
- California Red-legged Frog
- Western Pond Turtle
- Existing Well
- Pond (Waters)
- Corps & CCC Wetlands
- CCC Wetlands
- Mixed Riparian Woodland
- Riparian Willow Thicket
- Grassland
- Coastal Scrub
- California Bay Forest
- Ornamental Trees
- 100-Ft. Setback Around Agricultural Facilities
- Setback from Pond (300 ft), Stream (150 ft), Wetlands and Riparian Habitats (100 ft)
- Existing Hopyard
- Proposed Vegetable Garden
- Proposed Vineyard
- Proposed Site Plan
- Property Boundary



California Coastal Commission
All Locations Approximate.
For Illustrative Purposes Only.
Source: Zander Associates.

Figure 2. Proposed development in the northwest corner of the Magee property in relation to natural resources.

APPENDIX F

Wetland Delineation
Magee Property
Marshall, Marin County, California
Zander Associates
October 2012

(Note: Due to space limitation, Plate 1 and Appendices A-E of the Wetland Delineation are not included in this CCC staff report **Appendix F**)

Wetland Delineation
Magee Property
Marshall
Marin County, California

Prepared for:
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Represented by:
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October 2012

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List of Figures and Plates

Appendices

1.0 INTRODUCTION

This report was prepared by Zander Associates in response to a request from California Coastal Commission staff (email from John Dixon dated September 5, 2012) for a formal wetland delineation for the Magee property in Marshall, California (Figure 1). It is intended to provide a compilation of all of the data and information previously submitted to CCC staff with respect to wetland areas on the Magee property and includes a textual description of the methods used and an explanation of the wetland boundary decisions that were made in the field.

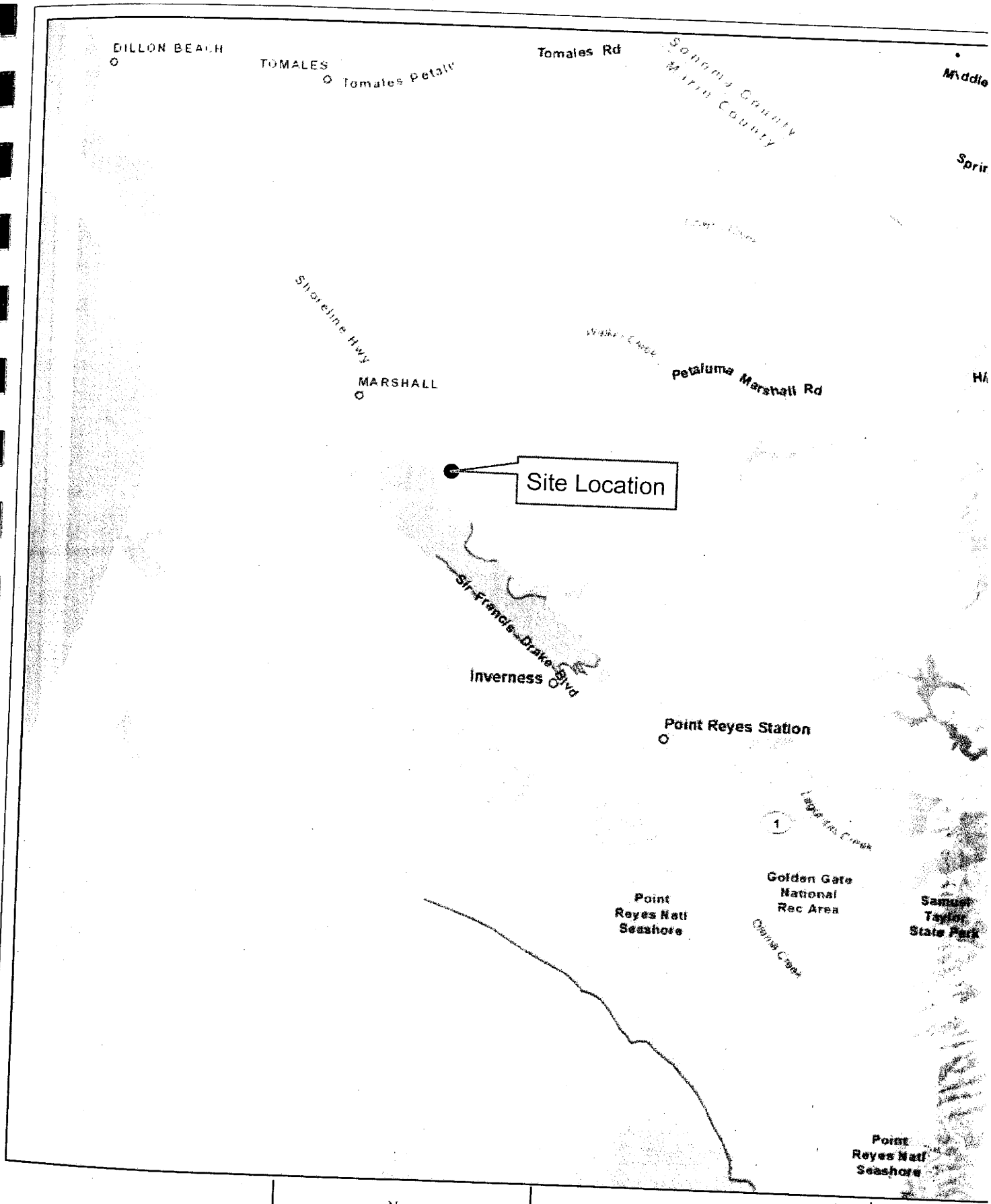
1.1 Background

Zander Associates first visited the Magee property in 2008 to evaluate existing conditions and identify potentially sensitive habitats. Between March and September, 2008, we conducted five site visits (March 19, April 30, May 29, July 22, September 16), each time walking the property to characterize and map vegetation types present. We observed two relatively large areas south of the main stream within the grasslands that had surface water present in March and a predominance of hydrophytic vegetation. Since both areas were on slopes and not associated with drainages, we assumed the water supporting them originated from underground seeps. These areas were mapped in March and April based on the extent of surface water observed, soil saturation, and presence of hydrophytic plant species – which formed a distinct boundary from the adjacent grasslands. Two spring boxes were located north of the main drainage but no surface water or predominance of hydrophytic vegetation was observed around these boxes during our 2008 site visits.

The product of the 2008 field work was a biological resources assessment that described existing conditions, evaluated potential special status species habitat and provided recommendations with respect to future uses of the property. A map generally delineating the various plant communities identified, including wetlands (seeps, channel, pond, emergent wetland) accompanied that assessment.

In March, 2010, following email correspondence with CCC staff, Zander Associates began collecting data for a wetland delineation in the area that had been designated for development of a new residence and barn – the study area (Figure 2). We returned to the site on January 26, 2011 in response to a specific request from CCC staff for a technical wetland delineation in general areas proposed for development (e.g., around the generally mapped existing springs) in the vicinity of the proposed homesite and barns. The data sheets and a map indicating the location of each corresponding sample point completed for the delineation in this area of the property were submitted to CCC staff on May 22, 2011 in preparation for a May 24, 2011 site visit with CCC staff to review site conditions. The data, map, and sampling procedures were discussed with CCC Ecologist, Dr. John Dixon during the May 24, 2011 site visit. Additional wetland data were collected during and subsequent to this site visit with Dr. Dixon and those data sheets, along with a map indicating the location of all of the points sampled within the study area were provided to CCC staff on September 27, 2011.

On February 14, 2012, another site visit with CCC staff (John Dixon and Cassidy Teufel) was conducted to re-visit specific sample points (e.g. S-18 and S-19), collect additional data around



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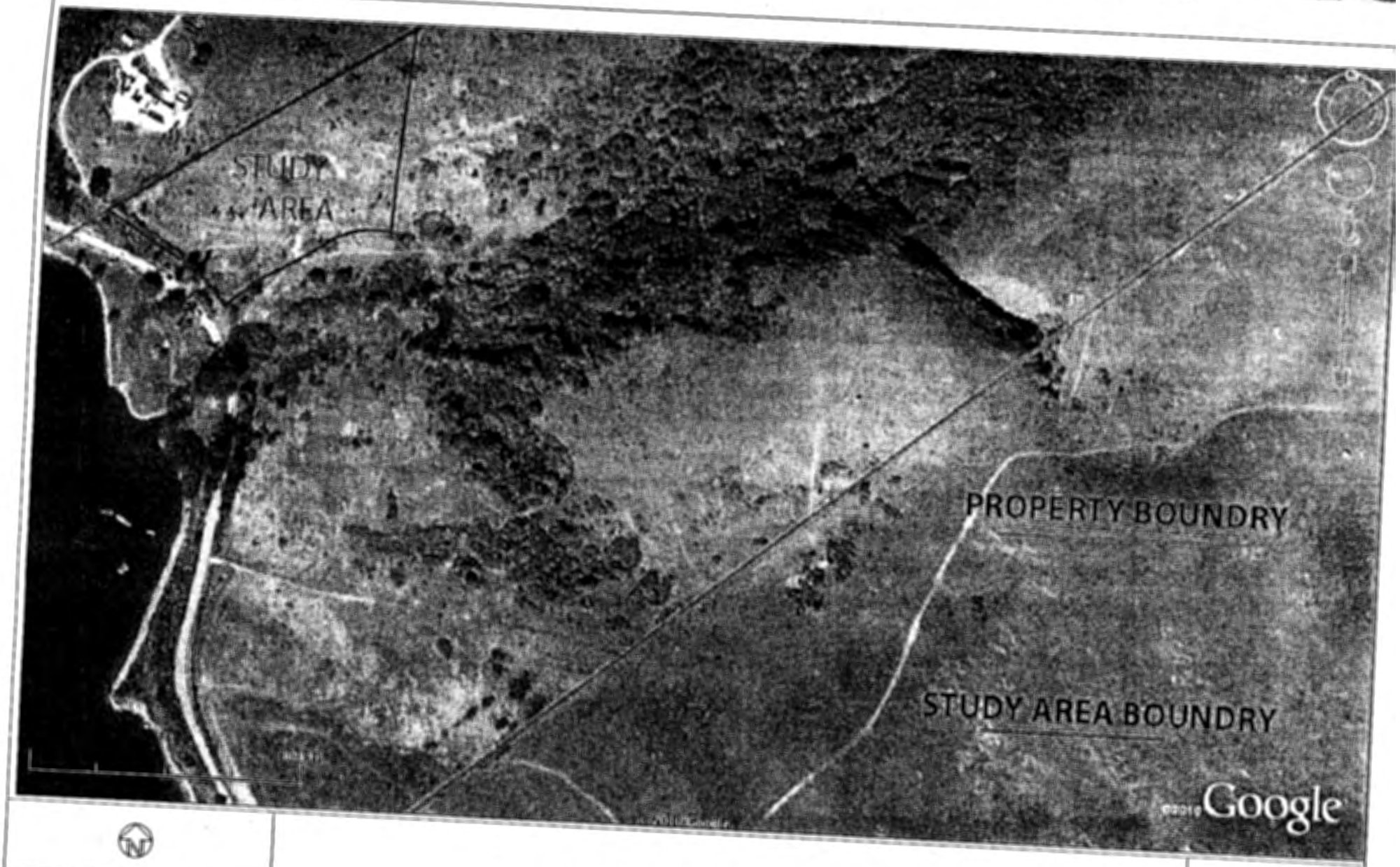
N

0 1 2 Miles

Site Location
Magee Property
Marin County, California

Date: 10/12

Figure
1



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Study Area for 2011 Wetland Delineation
Magee Property
Marin County, California

Date: 10/12

Figure
2

those points, and to further evaluate a swale originating on the neighboring property to the north and crossing the northern boundary of the Magee property. Tim Dodson, a biologist from the California Department of Fish and Game, also attended this site visit.

On March 7, 2012, Bryan Matsumoto of the U.S. Army Corps of Engineers, Regulatory Division, conducted a site visit to investigate potential fill activity and to confirm the extent of Section 404 jurisdictional wetlands and other waters occurring within a defined study area on the Magee property. The Corps' study area included approximately 121 acres of the 150-acre property and was determined based on where the majority of waters/wetlands were previously mapped and considering where new development or agricultural activities were being proposed. The Corps issued an approved jurisdictional determination for the defined study area, date certified April 27, 2012, based on field verification of existing conditions, review of available photographic imagery, and review of other data included in its files (copy provided in Appendix C)

2.0 WETLAND DELINEATION OVERVIEW

The delineation work for this report was conducted in accordance with the wetland definition in the California Coastal Commission Regulations (Section 13577). The Corps jurisdictional determination was based on the wetland definition contained in Section 404 of the federal Clean Water Act. A brief summary of the definitions and general procedures followed for Corps and CCC delineations is presented below.

2.1 Section 404 Wetlands

The Corps defines the term "wetlands" as follows:

> *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 provided standard methods, procedures and data reporting forms for wetland delineation in its *U.S. Army Corps of Engineers Wetlands Delineation Manual* ("Corps Manual"; Environmental Laboratory 1987) and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)* ("Arid West Supplement"; Corps 2008). Three parameters are typically used by the Corps to determine the presence of wetlands. They are: (1) hydrophytic vegetation, (2) wetland hydrology, and (3) hydric soils. According to the Corps Manual:

> *....[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.*

2.2 Coastal Act Wetlands

The Coastal Act (Section 30121) defines wetlands as follows:

Wetland means lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, or fens.

Furthermore, the California Coastal Commission Administrative Regulations (Section 13577 [b]) provide the following definition:

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

There are no manuals published by the Coastal Commission, the Department of Fish and Game, or the County on the procedures used to determine wetland boundaries using this definition. However, the Corps Manual referenced above contains guidance on the use of the National Wetland Plant List (Corps, 2012) (NWPL), the use of hydric soil maps and hydric soil indicators, and descriptions of hydrologic methods to determine wetland hydrology. While the Corps Manual states that jurisdictional wetlands occur where all three criteria (hydrophytic vegetation, wetland hydrology, and hydric soils) are met, the Coastal Commission administrative definition cited above expresses that wetlands occur where hydrology is sufficient to support either hydrophytic vegetation or hydric soils, or both. In the absence of specific objective evidence regarding hydrologic conditions (e.g. shallow monitoring wells), the prevalence of hydrophytic vegetation or presence of hydric soils ("one parameter approach") is often used to define Coastal Act wetlands.

The Coastal Commission's regulations do not provide guidance on defining what constitutes hydrophytic vegetation. Guidance documents such as the National Wetland Plant List (Corps, 2012) (NWPL) are used but there are situations where plants included on that list (primarily FAC and FACW species) are not growing in wetland conditions and therefore do not meet the definition of hydrophyte; any plant growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (Cowardin et al, 1979) or, plants that grow in water or on a substrate that is saturated at a frequency and duration during the growing period sufficient to affect plant occurrence (Tiner, 2012).

2.3 Streams

As a subset of waters of the United States and wetlands ("other waters"), streams (and, in many cases, associated riparian areas) are also considered in wetland delineations. According to California Coastal Commission statewide interpretive guidelines (CCC 1981),

A stream or river is a natural watercourse as designated by a solid line or dash and three dots symbol shown on the United States Geological Survey map most recently published,

or any well-defined channel with distinguishable bed and bank that shows evidence of having contained flowing water as indicated by scour or deposit of rock, sand, gravel, soil, or debris.

The cross-sectional limits of a stream (exclusive of adjacent wetlands or riparian habitat) typically extend to the ordinary high water mark (OHW), which has been defined as follows:

The term "ordinary high water mark" means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impresses on the bank, shelving, changes in the characteristics of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(Federal Register Vol. 51, No. 219, Part 328.3 (d). November 13, 1986).

2.4 Riparian Habitats

The Statewide Interpretive Guidelines (CCC 1981) state:

"For the purpose of interpreting Coastal Act policies, another important distinction is between "wetland" and "riparian habitat." While the Service's classification system includes riparian areas as a kind of wetland, the intent of the Coastal Act was to distinguish these two areas. "Riparian habitat" in the Coastal Act refers to riparian vegetation and the animal species that require or utilize these plants. The geographic extent of a riparian habitat would be the extent of the riparian vegetation.

...For the purposes of this guideline, riparian vegetation is defined as that association of plant species which grows adjacent to freshwater watercourses, including perennial and intermittent streams, lakes, and other freshwater bodies. Riparian plant species and wetland plant species either require or tolerate a higher level of soil moisture than dryer upland vegetation, and are therefore generally considered hydrophytic. However, riparian vegetation may be distinguished from wetland vegetation by the different kinds of plant species... "

The guidelines include a list of representative riparian plants which are meant to help distinguish wetland areas from riparian areas. The list includes many common riparian trees and shrubs such as willows, cottonwood, alders, and sycamores. Therefore, under the Coastal Act, riparian areas do not have to be wetlands, and are determined based primarily on vegetation and that vegetation's ability to provide habitat to animal species.

3.0 STUDY AREA DESCRIPTION

The Magee property comprises approximately 150 acres of mostly hilly terrain located on the east side of Tomales Bay in Marin County (Figure 1). The site rises from an elevation of close to 20 feet on the western boundary along Highway 1 to a high of 490 feet at the eastern property line. It is bisected by a densely vegetated stream corridor that flows in a westerly direction towards the bay. An earthen dam constructed in the stream course has created a relatively large

pond with open water area and emergent wetland vegetation around the perimeter. The dam has a manual weir with a long rock-lined spillway that grades into the natural channel below. The National Wetlands Inventory maps this feature as a freshwater pond but does not identify any other wetlands on the property.

3.1 Vegetation

Four main plant communities occur on the property; grassland, coyote brush scrub, California bay forest, arroyo willow thicket and riparian woodland (Figure 3). Aquatic and emergent wetland communities are associated with the pond and other areas of the stream course. Seasonal wetlands are associated with two hillside seeps and two developed springs on the property.

The grasslands are a patchy mosaic of native and non-native species throughout the property. Non-native grassland stands are dominant in the area north of the main stream corridor and at lower elevations south of the main stream corridor while native grassland stands are primarily found at higher elevations in the southeast portion of the property. Non-native stands consist of dense (almost monotypic) stands of velvet grass (*Holcus lanatus),* rattlesnake grass (*Briza maxima*), Italian rye grass (*Lolium perenne*), or wild oat (*Avena fatua*) with very few herbaceous associates and native stands are dominated by purple needlegrass (*Nassella pulchra*) with wild rye (*Elymus glaucus)*, California melic grass (*Melica californica*), red fescue (*Festuca rubra*), and a variety of herbaceous species as associates in varying densities.

Coastal scrub vegetation occurs in patches within the grasslands and on the south-facing slope of the canyon that follows the main drainage through the property. The primary species in this vegetation type are coyote brush (*Baccharis pilularis* ssp. *consanguinea*), California blackberry (*Rubus ursinus*), poison oak (*Toxicodendron diversilobum*), and coffeeberry (*Rhamnus californica*).

The California bay forest, arroyo willow thicket and riparian woodland are found along the main stream course running east to west through the property and up the adjacent canyon. The arroyo willow thickets and riparian woodland are found down along the channel bottom and the vegetation transitions to California bay forest moving up the north-facing slopes of the canyon and coastal scrub and grassland vegetation moving up the south-facing slope. The riparian woodland vegetation consists of California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), hazelnut (*Corylus cornuta* var. *californica*), and California wax myrtle (*Myrica californica*). Going upslope and away from the creekbed, the canopy is dominated by California bay laurel and coast live oak (*Quercus agrifolia*).

The aquatic habitats on the property include the east-west trending stream and the pond created in the stream course. Both of these features have open water areas with some aquatic and emergent wetland vegetation. Portions of the stream above the pond have associated wetland terraces that support emergent wetland plants such as horsetail (*Equisetum arvense*) and sedge (*Carex* spp.) and the pond has stands of cattail (*Typha latifolia*) and bulrush (*Scirpus* sp.) around the perimeter.

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LEGEND

- Springs
- Channels
- Pond
- Hydrophytic-dominated Grassland
- Hydrophyte/Scrub Mix
- Arroyo Willow Thicket
- Riparian/Woodland
- Grassland
- Coyote Brush Scrub
- California Bay Forest
- Property Boundary

Scale: 1" = 450'

Plant Communities
Magee Property
Marin County, California

Date: 09/11
Revised 10/12

Figure
3

Seeps located south of the main stream corridor surface at a point on the hillside and water moves downslope saturating soils and creating conditions suitable for the establishment of hydrophytic plants. The largest seep originates within coastal scrub vegetation and continues downslope into grasslands. The area within the scrub influenced by the seep contains horsetail, rush (*Juncus* spp.) and sedge (*Carex* spp.) intermixed with coyote brush, blackberry and coffeeberry. The grasslands below are dominated by rush, sedge and associated wetland herbs including pennyroyal (*Mentha pulegium*) and coyote thistle (*Eryngium armatum*). The area influenced by the seep varies seasonally and annually based on the extent of surface water and soil saturation. The other seeps are within grasslands and contain a similar palette of hydrophytic species.

There are two springs north of the main stream corridor that have been developed (spring boxes present) and that periodically have surface water flowing out and downslope of the spring. When these areas were first observed in 2008, there was no surface water or wetland vegetation present in or around the spring. In 2010, water was observed flowing out of one of the springs in response to a relatively large storm event but no wetland vegetation had established. Since 2010, some wetland vegetation has established around both springs but both areas are completely dry by summer.

3.2 Soils

There are four different soil series identified on the property by the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS); Felton Variant-Soulajule Complex, Tocaloma-Saurin, Yorkville Clay Loam, and Olompali Loam (Appendix B). The Felton Variant-Soulajule and Yorkville Clay Loam series are both well-drained soils derived from sandstone or shale with moderately slow permeability. The Tocaloma-Saurin is also well-drained soil derived from shale with rapid permeability. Olompali Loam is somewhat poorly drained and is typically found on coastal terraces. It formed in alluvium derived from various kinds of rocks, has very slow permeability below 13 inches, and can have a seasonal perched water table.

There are three phases of the Felton Variant-Soulajule complex mapped on the property; 9 to 15% slopes, 15 to 30% slopes and 30 to 50% slopes. Combined, these map units cover most of the property. Yorkville Clay Loam 15 to 30% slopes is found only in the northwest corner of the property, where the new homesite is proposed. The Tocaloma-Saurin, Very Steep phase follows the steep slopes of the main drainage through the property and the Olompali Loam, 15 to 30% Slopes occurs along the Highway 1 frontage.

3.3 Hydrology

The Magee property ranges in elevation from approximately 20 feet to 490 feet above mean sea level. The mean annual temperature for Marshall, 1.5 miles to the north, is reported to be 58.5°F and the mean annual rainfall is cited as 44.4 inches.[1] Frequent fog moderates temperatures at the site and for several miles inland (Miller, 1972).

[1] Source: http://www.usa.com/marshall-ca-weather.htm

Water enters the property as direct precipitation or as runoff from the watershed for the main stream course; which is about 280 acres and includes most of the property. Water is conveyed off the site primarily through the main stream which flows westward towards Tomales Bay. The small pond built within the stream outfalls through a rock spillway to continue flows off the property under Highway 1 and into the bay. Four springs have been mapped on the property. Two of these have been developed and have water at the surface periodically. The other two have no evidence of surface water. There are two areas south of the main stream corridor where groundwater surfaces seasonally and has created conditions suitable for establishment of hydrophytic plants (see Section 3.1). The extent of surface water and soil saturation downslope of the point where groundwater surfaces fluctuates, probably linked to annual and seasonal rainfall amounts.

4.0 METHODS

A reconnaissance survey of the entire property was conducted in March 2008 to generally identify and locate potential wetland and riparian areas. Follow up visits were completed in April and May, 2008 to field verify the location and extent of the pond, main stream channel and tributaries, approximate extent of riparian habitat, and to delineate general wetland boundaries around the seeps and other areas where we observed a predominance of hydrophytic plant species. The stream channels and riparian habitats were mapped using a combination of topographic maps, aerial photographs and field observations. Wetland areas were mapped based on field observations of vegetation and hydrology. The primary indicator for determining the wetland/upland boundary was the occurrence of hydrophytic plants such as *Juncus* spp., *Carex* spp., or *Scirpus* sp. at greater than 50% cover. The map produced from this effort was used to identify constraints and to sight general areas suitable for development of the proposed single family residence and ancillary structures.

After building sites were selected and a study area was defined, a wetland delineation was initiated. This delineation was focused on the northwest portion of the property in areas that were found to have standing water or soil saturation during a preliminary evaluation conducted on March 10, 2010[2] in the vicinity of the proposed homesite and barns. The methods and procedures for data collection described in the 1987 Corps Manual and the 2008 Arid West Supplement were used in this delineation. Although state agencies have regulatory responsibilities based in state rather than federal law, the Corps wetland determination methods have been accepted by the California Department of Fish and Game and the California Coastal Commission for data observations used in determining whether one or more of the wetland criteria are satisfied at sites within the coastal zone. We relied on the Corps' data collection methods, but applied the wetland definition in the CCC Regulations (Section 13577) in delineating the wetland boundary.

At the request of CCC staff, additional data were collected south of the main stream corridor in 2012 where structures associated with anticipated farming operations (e.g. greenhouse, sheep shelters, hopyard shelter) are proposed within 200 feet of any wetland previously mapped in that

[2] This site visit followed a December and January of greater than average rainfall and was preceded by a week of about 2.5 inches of recorded rainfall.

area. Paired points were sampled at the wetland boundary nearest to the proposed structure to document the accuracy of the boundary determination. Data were collected as described above.

The methods applied in our delineation for evaluating wetland indicators under each of the three parameters established by the Corps are summarized in the following sections.

4.1 Vegetation

For the data collected in 2010 and 2011, plant species identified in the study area were assigned a wetland status primarily following the U.S. Fish and Wildlife Service list of plant species that occur in wetlands (Reed 1988). In 2012, the Corps issued an update to that list and as requested by CCC staff, we reevaluated our original vegetation data and assigned a wetland status using the new National Wetland Plant List (Corps, 2012) for this report. While some species may be assigned a different status in the 2012 NWPL, the wetland classification system remains the same and is based on the expected frequency of occurrence in wetlands as follows:

OBL Always found in wetlands >99% frequency
FACW(±) Usually found in wetlands 67-99%
FAC Equal in wetland or non-wetlands 34-66%
FACU Usually found in non-wetlands 1-33%
UPL/NL Upland/Not listed (upland) <1%

Plants with OBL, FACW, and FAC classifications are usually considered wetland vegetation but are not necessarily hydrophytes. The National Technical Committee for Wetland Vegetation (NTCWV) (Tiner 2012) proposes the following definition of hydrophyte:

> *"Hydrophytes grow in water or on a substrate that is saturated at a frequency and duration during the growing period sufficient to affect plant occurrence*

While only evidence of wetland hydrology needs to be confirmed for OBL species to be considered hydrophytes, wetland soil and hydrology indicators must be verified in order for FACW and FAC types to be considered hydrophytes (Tiner 2012). Particularly in coastal California, FAC plants may be responding to the foggy coastal environment and not necessarily to wetland conditions (NPS, 2009).

Therefore, in situations where FAC and/or FACW plants comprise more than 50 percent of the dominant species, wetland soil and hydrology indicators must be verified in order for these plants to be considered hydrophytes. If positive evidence of upland soil and hydrology is demonstrated, then these plants are not growing as hydrophytes and the hydrophytic vegetation criterion is not met. Positive evidence of upland hydrology includes steep slopes that drain rapidly, permeable soil with no confining layer, and dry soil following significant rainfall. Observed interannual changes in hydrology and floral composition as well as comparisons of soil wetness with nearby uplands and wetlands following documented rainfall provide good field evidence of positive upland conditions.

For this delineation, if positive evidence of upland conditions was found where FAC and FACW plants comprised more than 50 percent of the dominant species, the vegetation was not

considered hydrophytic. This situation primarily occurred where there was a predominance of velvet grass (*Holcus lanatus*)(FAC), Italian ryegrass (*Lolium perenne*)(FAC), poison hemlock (*Conium maculatum*)(FACW) and spreading rush (*Juncus patens*)(FACW); species that are commonly found in upland habitats throughout coastal California. In all cases where these plants were among the dominant species, positive evidence of upland conditions was found: they were growing on hillsides underlain by well-drained soils with no confining layer; soils were dry or moist and consistent with adjacent areas dominated by upland species following documented rainfall; no surface ponding or soil saturation was observed at these sample points during repeated site visits.

The vegetation criterion was re-evaluated for sample points S-1 through S-39 using the 2012 National Wetland Plant List. Revised data forms for each of those points are provided in Appendix A in front of the scanned original data sheet.

4.2 Soils

The Marin County Soil Survey (USDA, Soil Conservation Service 1978), the online U.S. Department of Agriculture Natural Resources Conservation Service (NRCS) Web Soil Survey (http://websoilsurvey.nrcs.usda.gov/app/HomePage.htm), the annually updated online NRCS *National List of Hydric Soils in the United States* (http://soils.usda.gov/use/hydric/), and the *Field Office Official List of Hydric Soil Map Units in Marin County, California* (March 27, 1992) were all consulted as guides for determining the general distribution of hydric soils in the study area. The NRCS 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, U.S. Department of Agriculture, Natural Resource Conservation Service.)

Two of the soils mapped on the Magee property have components that are rated as hydric on the Marin County hydric solis list prepared by the NRCS (March 27, 1992). The Felton Variant-Soulajule Complex, 9 to 15 percent slopes and the Tocaloma-Saurin Association, very steep both have unnamed inclusions that occur in upland seeps listed as hydric. All of the other soils found on the property are not listed as hydric.

For the purposes of this delineation, hydric soils were determined to occur at a data point only if positive field indicators were present and/or an aquic moisture regime was observed or confidently inferred to occur on the basis of surface hydrologic indicators. Aquic moisture regime was considered to mean long-duration ponding or saturation to within less than 12 inches of the surface.

Soils test pits were excavated to depths of about 12-14 inches below the surface. Soils observed were evaluated from the surface through the lower layers where texture, color, and other characteristics such as indications of oxygen reduction (redoximorphic) conditions, gleyed or depleted matrix conditions, a hydrogen sulfide (rotten egg) odor, or high organic matter content were recorded. Soils (non-sandy) formed under wetland (anaerobic) conditions typically have a

characteristic low chroma matrix color, designated 0, 1, or 2, used to identify them as hydric soils. Chroma designations are determined by comparing a soil sample with a standard Munsell soil color chart (Gretag/Macbeth 2000). Soils with a chroma of 0 or 1 are considered hydric; soils with a chroma of 2 must also have other indicators (e.g. "redox concentrations") to be considered hydric.

Hydric soils were determined to be present if any of the soils samples met one or more of the hydric soil indicators described by NRCS, including saturation within less than 12 inches of the surface (observed or inferred from previous observations) for a prolonged period of time.

4.3 Hydrology

The Corps jurisdictional wetland hydrology criterion is satisfied if an area is inundated or saturated for a period sufficient to create anoxic soil conditions during the growing season (a minimum of 14 consecutive days in the Arid West Supplement). Evidence of wetland hydrology can include direct observation of surface water or groundwater during a site visit or indicators of flooding, ponding or saturation in the absence of direct observations (e.g. water marks, drift deposits, oxidized root channels, algal mats and salt crusts). Primary and secondary wetland hydrology indicators have been identified in the Arid West Supplement based on their reliability in the region. Only one primary indicator is required to meet the wetland hydrology criterion; however, if secondary indicators are used, at least two secondary indicators must be present to conclude that an area has wetland hydrology.

Rainfall data were obtained to evaluate conditions in and around the time of our field visits relative to precipitation trends and events. Data were obtained from two sources for three different stations: Weather Underground data for Hog Island Cove near Marshall and Marin County Flood Control and Water Conservation District data for Point Reyes Station and Oceana Marin at Dillon Beach. The Hog Island Cove station is closest to the site, but we were unable to obtain records prior to December 17, 2010 for that station. For comparison and a longer period of record, we used Marin County data from the two nearest stations both north and south of the site. Available data for December 2010, and January through May 2011 for all stations, and the 7-year average for those six months from the two Marin County stations are summarized on the table below.[3] Available daily rainfall data from all three stations for those six months are included in Appendix D.

[3] Gaps in the data record for the Dillon Beach station for the 2008-2009 rain year were filled by extrapolating from the Point Reyes Station record.

Table 1: Available Rainfall Data for Three Stations in the Vicinity of the Magee Property

	Hog Island	Pt. Reyes Station		Dillon Beach	
	2010/2011	2010/2011	7 yr avg	2010/2011	7 yr avg
Dec. 1-16	na	2.49 in	2.77 in	3.31 in	2.52 in
Dec. 17-31	6.92 in	8.27 in	6.31 in	6.45 in	5.36 in
January	1.65 in	1.92 in	6.27 in	1.8 in	4.52 in
February	3.99 in	6.88 in	7.34 in	4.88 in	4.86 in
March	8.20 in	12.92 in	5.99 in	8.07 in	4.27
April	0.64 in	1.11 in	2.76 in	0.63 in	2.06
May	2.12 in	1.81 in	1.84 in	1.99 in	1.8

Rainfall amounts at Point Reyes Station (approximately 7.5 miles south of the site) for the second half of December 2010 were well over an inch above both the Hog Island and Dillon Beach stations, but amounts at all stations exceeded the 7-year average for that period. January 2011 rainfall was more or less comparable at all stations and well below the 7-year average based on the County records. February was slightly below average at Point Reyes, about average at Dillon Beach, but lower than both at the Hog Island station. March was well above average at all stations and April and May were slightly below and about average, respectively. Total rainfall amounts for the 2010-2011 rain year for both Dillon Beach and Point Reyes Station (and for Hog Island, by extrapolation) were well above (by at least 3.5 inches) the 7-year average.

Measurable rain events occurred about 13 days prior to the January 26, 2011 site visit (a little more than 0.5 inch) and 2 days before the February 2, 2011 site visit (about 0.5 inch). About one week prior to the May 24, 2011 site visit, over an inch of rain fell in the Marshall area, and an additional 0.25 inch was recorded prior to the June 2, 2011 site visit.

Observations of surface flow, shallow ponding, surface saturation and other hydrology indicators were made during multiple site visits and when the data sheets were being completed for this delineation. In several cases, points sampled on January 26, 2011 were revisited on February 2, 2011 or May 24, 2011 to evaluate hydrology indicators such as the duration and extent of surface ponding and soil saturation following documented rainfall. Notations of multiple site visits to specific data points are made on the corresponding wetland determination data form (Appendix A). At many of the sample locations for this assessment, the hydrology criterion was evident from direct observation (e.g. where ponding or soil saturation was apparent).

5.0 RESULTS

The Corps Section 404 jurisdictional wetlands and other waters, and the CCC wetlands, streams and riparian habitats identified on the Magee property are delineated on Plate 1. All of the areas mapped as Section 404 jurisdictional wetlands and other waters are also considered CCC wetlands and streams. There are additional CCC wetland and riparian areas identified over which the Corps did not assert jurisdiction.

Wetlands identified in the vicinity of the proposed homesite and barns were mapped based on paired sample points (Figure 4). Wetlands identified south of the main stream corridor were mapped based on field observations of the limits of hydrophytic vegetation and hydrology indicators. Paired sample points were taken at the upland/wetland boundary wherever structures associated with proposed agricultural operations would be within 200 feet of these wetlands (Plate 1). Data sheets corresponding to all sample points identified on Figure 4 and Plate 1 are included in Appendix A.

5.1 Section 404 Jurisdictional Wetlands and Other Waters

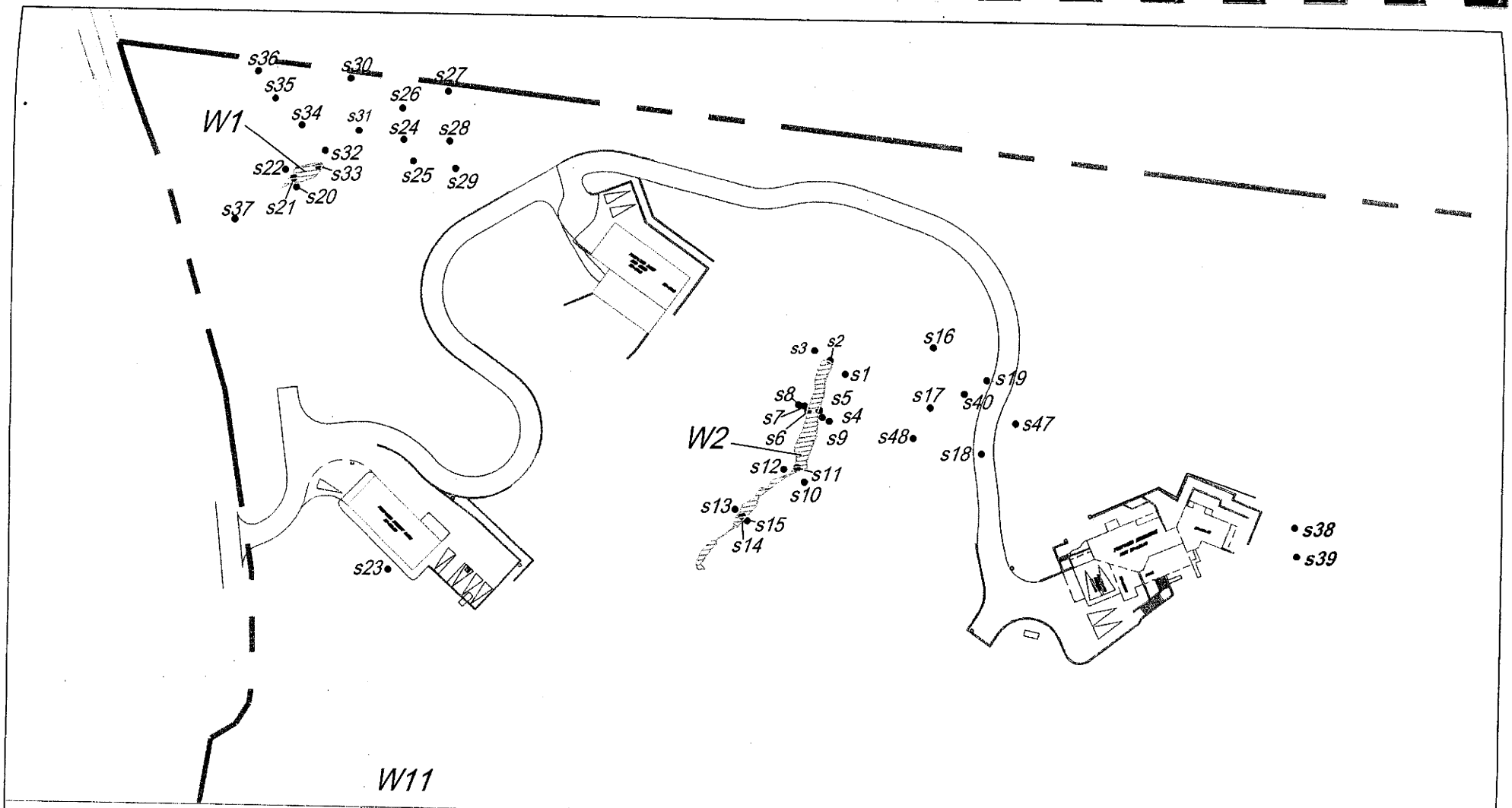
On March 7, 2012, Bryan Matsumoto of the U.S. Army Corps of Engineers, Regulatory Division, conducted a site visit to verify the location and extent of waters of the United States occurring within a defined study area on the Magee property. The Corps study area included approximately 121 acres of the 150-acre property and was determined based on where the majority of waters/wetlands were previously mapped and considering where new development or agricultural activities were being proposed. The Corps issued an approved jurisdictional determination for the defined study area, date certified April 27, 2012. A copy of the jurisdictional determination is provided in Appendix C and those jurisdictional areas are identified separately on Plate 1.

Five areas were identified as Section 404 jurisdictional wetlands within the Corp's study area. These areas met all three parameters used by the Corps to determine the presence of wetlands; they are hydrologically connected to a traditional navigable water; and they appear to be of natural origin. These wetland areas were dominated by hydrophytes and primary hydrology indicators (standing water / saturated soils / algal matting) were observed during the March 7, 2012 site visit. Hydric soil indicators such as redox concentrations were also observed in these areas.

The main stream channel, its tributaries and the in-stream pond were identified as Section 404 jurisdictional waters. The limit of jurisdiction in the stream was placed at the boundary of the ordinary high water mark. The pond limit was mapped at the margins of open water with the adjacent emergent wetland designated as jurisdictional wetland.

5.2 CCC wetlands

The CCC wetlands include all five areas mapped by the Corps and six additional areas that met the CCC wetland definition. The six additional areas were mapped based on a predominance of hydrophytic vegetation (as defined in Section 4.1) and direct evidence of hydrology (standing



Scale: 1" = 100'

Zander Associates
Environmental Consultants
4460 Redwood Hwy, Suite 16-240
San Rafael, CA 94903

LEGEND

- s2 ● Sample Point
- Streams (Waters)
- Corps & CCC Wetlands
- CCC Wetlands
- Riparian
- Development Plan (ILS Associates 04/18/12)
- Property Boundary

Wetland Delineation in Development Area
Magee Property
Marin County, California

Date: 10/12

Figure 4

water or saturated soil) at some point during the growing season[4]. Hydric soils were assumed where saturation was found at the surface. The dominant plants consisted of a combination of facultative wetland (FACW) or obligate wetland (OBL) species, including; *Juncus effusus, J. phaeocephalus, J. occidentalis, Carex obnupta, C. praegracilis, C. densa, and Mentha arvensis*, and the vegetation formed a distinct boundary from the adjacent upland grasses.

All of the CCC wetlands north of the main stream corridor and the lower wetlands south of the stream were evaluated in the field with CCC Ecologist Dr. John Dixon during a May 24, 2011 site visit and a subsequent field meeting on February 14, 2012.

Due to the proximity to Tomales Bay and the frequent presence of a coastal marine layer (fog), moisture-tolerant non-native grasses such as velvet grass (*Holcus lanatus*), perennial rye (*Lolium perenne*), and foxtail fescue (*Vulpia bromoides*), are common components of the upland grasslands throughout the low-lying hillsides on the Magee property. All of these are listed as facultative (FAC) species on the NWPL, which means they are equally likely to occur in wetlands or uplands, with an estimated probability of between 34% and 66%. Several sample points taken on the hillside in the northwest portion of the property contained a predominance of these species but because of positive evidence of upland conditions, these plants do not meet the NTCWV definition of hydrophyte (Tiner 2012) as discussed in Section 4.1 above, and therefore do not constitute hydrophytic vegetation.

Sample points S-24, S-26, S-27, S-29, S-30, and S-31, are within a group of 13 points taken on a hillside near the northwest property line along the previous driveway alignment for the proposed residence. During storm events, water sheet flows from the adjacent property through this area towards a culvert near the frontage with Highway 1. As confirmed with Dr. John Dixon on May 24, 2011, Dr. Dixon and Tim Dodson with the Department of Fish and Game on February 14, 2012, and Bryan Matsumoto with the Corps on March 7, 2012, there is no defined channel and no rilling or vegetation matting indicating that water flows consistently through the area. No extended ponding or soil saturation has been observed in this area during numerous site visits conducted March 2008 through March 2012.

Data for sample points S-24 and S-26 were taken with Dr. Dixon on May 24, 2011, one week following a rain event of over one inch in the Marshall area. Data for sample points S-27, S-29, S-30 and S-31 were taken nine days later on June 2, 2011. Over one-half inch of rain was measured in the area between May 24 and June 2. The hillside is underlain by Yorkville Clay Loam, a well-drained soil derived from sandstone or shale with moderately slow permeability (USDA 1985). There is no confining layer and the topography of the slope is such that water sheet flows off it during storm events; direct evidence of which was observed 12/29/10 the day after a storm event in which almost 2 inches of rain fell in one 24 hour period. Additionally, all of the soils examined were very dry and uniform in texture; consistent with samples taken in the same vicinity on the same day that had a predominance of upland plants. The topography, soil texture and permeability, and comparison of soil wetness with nearby uplands following documented rainfall at all these sample locations provide positive evidence of upland conditions, supporting the conclusion that the dominant plant species do not meet the NTCWV definition of hydrophyte.

[4] Based on multiple site visits

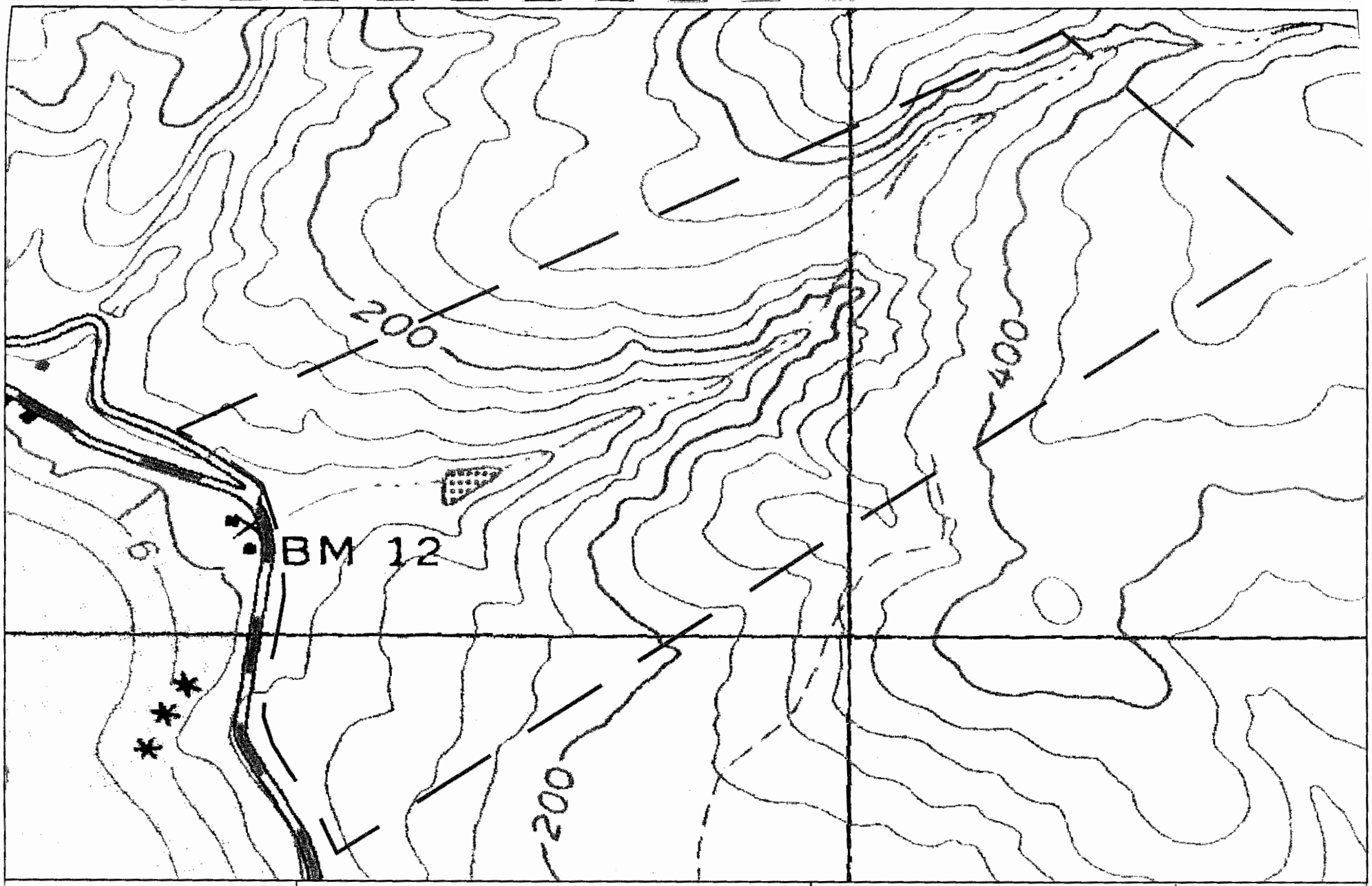
Sample S-20 is located at the upland edge of wetland W1, on the same hillside as the points discussed above. It is about two feet above the slump area associated with the spring and out of the area influenced by the water from the spring. The dominant plants are *Holcus lanatus* (FAC) and *Dipsacus fullonum* (FAC), which was not listed on the previous NWPL. Soil moisture, texture and color were consistent with upland areas sampled concurrently on 1/26/11 and 2/2/11 after recorded rain events. Based on the evidence of upland conditions, *Holcus* and *Dipsacus* are not growing as hydrophytes at this location.

Poison hemlock (*Conium maculatum*) is a non-native noxious weed that is found throughout California. Although it is listed as FACW on the NWPL, it commonly colonizes disturbed upland habitats in the coastal zone. Sample S-23 is located within a patch of poison hemlock that has colonized a disturbed area just north of the main stream corridor and near the abandoned road entrance to the property. The primary water source for this area is direct rainfall and no ponding or soil saturation has been observed here at any time during numerous site visits; including 12/29/10, the day after a storm event in which almost 2 inches of rain fell in one 24 hour period. Soils sampled at this location on 1/26/11 and 5/24/11 were dry, loamy in texture and had evidence of significant earthworm activity. The 5/24/11 site visit was conducted with Dr. John Dixon, one week following a rain event of over one inch in the Marshall area. Soil pits were dug to a depth of 28" within the *Conium* patch and in an adjacent area within the same landscape position that was dominated by *Avena fatua*, an upland grass. No ground water or soil saturation was encountered and we confirmed with Dr. Dixon that the soils in the two pits were identical in soil wetness and that no hydric indicators were present. The data confirm upland conditions and therefore *Conium maculatum* is not growing as a hydrophyte at this location.

An isolated blackberry patch located on the hillside north of the main stream corridor was sampled in January and February 2011 (S-16, S-17, S-18 and S-19). The data indicated upland soils and hydrology at all locations except S-18 where a small depression approximately 2 feet wide and 6 feet long along the edge of the blackberry had surface water on 1/26/11 and was vegetated with *Juncus effusus* (FACW). At the suggestion of Dr. John Dixon, we re-sampled this area using a standard 5-foot-radius plot centered at S-18 and including the depression. In this plot, the dominant plants are *Rubus ursinus* (FACU), *Cirsium vulgare* (FACU), and *Briza maxima* (NL). No wetland indicator species are among the dominants. The re-sampling data are provided on a revised determination form for sample point S-18 in Appendix A. No ponding or soil saturation has been observed in the depression since 1/26/11 and the extent of *J. effusus* has been significantly reduced. Additional samples were taken in the center of the blackberry patch with Dr. Dixon on 2/14/12 (S-40) and in the grasslands around the perimeter of the patch on 9/24/12 (S-47 and S-48). All these samples confirm upland conditions at this location.

5.3 Streams

The main stream on the Magee property is shown as a blue-line creek on the USGS map (Point Reyes NE 7.5 Minute Quadrangle)(Figure 5) and as an intermittent stream in the Marin Countywide Plan (Map 2-3). The main stream and its tributary channels were identified as Section 404 jurisdictional waters by the Corps and are considered CCC streams. Stream widths were measured bank-to-bank at the ordinary high water mark.



Zander Associates
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San Rafael, CA 94903

0 0.05 0.1 Miles

N

Legend

Property Boundary

Point Reyes NE, 7.5 Minute Quadrangle

USGS Topographic Map
Magee Property
Marin County, California

Date: 10/12

Figure
5

5.4 Riparian Habitat

The CCC riparian habitat is found along the main stream corridor and for a distance up the tributaries. These areas are dominated by a riparian shrub, arroyo willow (*Salix lasiolepis*) around the pond and in the lower reaches below the pond. Above the pond, the riparian habitat consist of a mixture of arroyo willow, hazelnut (*Corylus cornuta* var. *californica*), California wax myrtle (*Myrica californica*), and California bay laurel (*Umbellularia californica*). The extent of riparian habitat was mapped based on aerial photographs and field verification and with GPS for the reach below the pond.

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APPENDIX G

Conditions of Project Approval for CP-09-39
Brader-Magee Coastal Permit, Design Review, and Use Permit
County of Marin
May 10, 2010

SECTION II: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby approves the Dillon Vision (Brader-Magee) Coastal Permit, Design Review, and Use Permit pursuant to Marin County Code Chapters 22.57I (Coastal Permit), 22.82I (Design Review) and 22.88I (Use Permit), subject to the following conditions:

Marin County Community Development Agency, Planning Division

1. This Coastal Permit, Design Review, and Use Permit approval authorizes the construction of the following agricultural and residential improvements.

   Approval for the construction of a new single-family residence and garage, equipment barn, brandy production barn, two sheep shelters, green house, and hop barn on the 149.76-acre parcel. The lot will be managed for the following agricultural uses: livestock production, hop production, grape and limited brandy production, and crops for local farmers' markets. A new road will be constructed near the northwestern entrance, off of the private access road, and will traverse the northern property line, and will serve the equipment barn and residence. Also approved is a new well located near the northern property line, five 4,950 gallon water tanks for fire suppression, agricultural use, and domestic use, and three 250-gallon propane tanks near the equipment barn, residence, and brandy barn. The proposed structures will maintain the following setbacks from the nearest property lines: 1) residence, side (north) 223 feet; 2) equipment barn, side (north) 71 feet; 3) brandy barn, front (west) 86 feet; 4) sheep shelter #1,

side (south) 133 feet sheep; 5) hopyard shelter, side (south) 289 feet; and 6) shelter #2, front (west) 166 feet. The below chart summarizes the approved size of all new structures.

Table 1: Summary of Development Characteristics

	Floor Area (Sq.Ft.)	Coverage (Sq.Ft)	Maximum Height (Feet)
Residence			
Single-family Residence Attached Garage	3,165 648		22
Agricultural Structures			
Brandy Barn	1,456	**496**	14.8
Equipment Barn Shed	1,792	 960	15 13.5
Hops Shelter	N/A	896	15
Sheep Shelters # 1 and # 2	N/A	1,500	7
Greenhouse	N/A	600	8.5
Land Use			
Hop Cultivation	N/A	6 +/- acres	
Grazing	N/A	50 +/- acres	
Vineyard	N/A	6 acres	
Greenhouse and Crop Garden	N/A	2.3 acres	
Hopyard	N/A	6 acres	

Residential Development

The residence will be finished in batten-board/shiplap wood siding that will be dark tan in color, and the window trim and roof will be dark green.

Agricultural Operation

The brandy barn and equipment barn will be finished in colors and materials similar to the proposed residence, and all exterior lighting will be downward directed and hooded. The equipment barn will be used to store implements and equipment for the agricultural operation. The hops shelter and sheep shelters will have non-reflective metal roofing colored green.

Brandy Production

Use Permit approval is granted to allow for the grapes grown on site to be distilled and aged to produce an estate brandy that can be sold and distributed during on-site, reservation-only educational tours. The only educational tours permitted by this approval are those associated with the brandy facility. The appointment-only tours are limited to a maximum of three tours per week, between the hours of 11:00 am and 3:00 pm, with a maximum per tour of eight adults (only) ages 21 and over. No on-site consumption is allowed.

Site Improvements

Site improvements include construction of: (1) an approximately 850 foot long driveway off a private driveway that parallels State Route One, leading to the equipment barn and residence; (2) a sewage disposal system; (3) five 4,950-gallon water storage tanks; (4) new well near the northern property line; and (5) underground utilities. Coastal Permit approval is granted for the new domestic well. The existing well will be used for agricultural activities, and the proposed new well will serve the residence, brandy barn, equipment barn, and vineyard. In addition, a

new septic field is approved to be installed near the northern property line, and all sewage produced from the brandy facility, equipment barn, and residence will be pumped uphill to this location. The new driveway will be constructed of a coarse aggregate base and out-sloped to a grass-lined swale that will allow for water infiltration.

The property is located at 17990 State Route One, Marshall, and is further identified as Assessor's Parcel 106-22-20.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as "Exhibit A," entitled, "Brader-Magee Farm" prepared by ILS Associates, dated August 24, 2009 and received on October 16, 2009, consisting of 14 sheets, and with plans prepared by Ronald L. Casassa, entitled "Brader-Magee Farm," dated May 19, 2009, and received on October 16, 2009, consisting of 16 sheets, with revisions received on January 6, 2010, consisting of 5 sheets, and on file with the Marin County Community Development Agency.

3. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT, the applicant shall revise the site plan or other first sheet of the office and job site copies of the Building Permit plans to list these Conditions of Approval as notes.

4. PRIOR TO ISSUANCE OF A GRADING PERMIT, the proposed berm shown on plans prepared by ILS Associates shall be eliminated. All references to the berm on Sheets 2 through 4, and 6 shall be removed from building permit plans. All road grading shall be consistent with the natural contours of the landscape, and fill shall not be placed near the adjacent property at APN 106-210-72 or within the Stream Conservation or Wetland Conservation Areas.

5. PRIOR TO FINAL INSPECTION OF THE RESIDENCE,, the applicant must receive a Final Inspection approval of the equipment barn and a sheep shelter.

6. PRIOR TO FINAL INSPECTION OF THE RESIDENCE, the applicant shall revise the Agricultural Management Plan (Agriculture Production and Stewardship Plan for 17990 Shoreline Highway at Marconi Cove, May 2009) to state that no grazing activity will occur within the Stream Conservation or Wetland Conservation Areason the property, unless the applicant submits evidence that livestock grazing was occurring in the wetlands on approximately April 1, 1981.

7. All agricultural uses on the proposed property shall be in substantial conformance with the uses approved in the Revised Agricultural Management Plan.

8. PRIOR TO FINAL INSPECTION OF THE RESIDENCE, the applicant shall submit an offer for an Agricultural Conservation Easement and Declaration of Restrictions, using the model Agricultural Conservation Easement approved by the Marin County Board of Supervisors, with provisions for a variety of perpetual uses and restrictions. The terms of the Easement include: 1) the imposition of a perpetual obligation for the active conduct of agricultural production within a designated Agricultural Production Zone that will be delineated and recorded in accordance with the Revised Agriculture Management Plan and in conformance with mandatory agricultural provisions; 2) affirmative rights and interests conveyed, whereby an outside agricultural operator may lease the subject property at reasonable rates in the event the owner of the property is unable or unwilling to continue active agricultural production on the property; 3) establishment of permitted and prohibited uses, and practices to which the property owner will be bound to adhere; and 4) extinguishment of all residential potential under zoning on the property. Should the owners fail to utilize the property for

agricultural production or fail to select an agriculture production operator, the County may pursue obtaining an operator and/or enter into a lease on behalf of the Owners. Leased lands will be managed as grazing range for livestock, at a sustainable level based on the Marin County Agriculture Commissioner's guidelines for the available forage present and the residual matter required for prudent stewardship of the land.

9. PRIOR TO FINAL INSPECTION OF THE BRANDY BARN, the applicant shall provide written verification from the State Department of Alcohol and Beverage Control granting approval for the on-site sale of alcohol.

10. All flashing, metal work, and trim shall be painted or coated with an appropriately subdued, non-reflective color.

11. PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE RESIDENCE, the applicant shall submit a Landscape and Irrigation Plan to the Community Development Agency Director for review and approval that integrates the use of coastal native evergreen shrubs and trees along the northern, western, and southwestern elevations of the residence. The plan shall incorporate vegetation that is a minimum container size of 24 inches, and all plantings shall be labeled by their scientific and common names.

12. If archaeological, historic, or prehistoric resources are discovered during construction, construction activities shall cease, and the Community Development Agency staff shall be notified so that the extent and location of discovered materials may be recorded by a qualified archaeologist, and disposition of artifacts may occur in compliance with State and Federal law. A registered archeologist, chosen by the County and paid for by the applicant, shall assess the site and shall submit a written report to the Community Development Agency staff advancing appropriate mitigations to protect the resources discovered. No work at the site may recommence without approval of the Community Development Agency staff. All future development of the site must be consistent with findings and recommendations of the archaeological report as approved by the Community Development Agency staff. If the report identifies significant resources, amendment of the permit may be required to implement mitigations to protect resources. Additionally, the identification and subsequent disturbance of an Indian midden requires the issuance of an excavation permit by the Department of Public Works in compliance with Chapter 5.32 (Excavating Indian Middens) of the County Code.

13. All construction activities shall comply with the following standards:

    a. Construction activity is only permitted between the hours of **7:00 a.m. and 6:00 p.m., Monday through Friday**, and **9:00 a.m. and 5:00 p.m. on Saturday**. No construction shall be permitted on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. Loud noise-generating construction-related equipment (e.g., backhoes, generators, jackhammers) can be maintained, operated, or serviced at the construction site from 8:00 a.m. to 5:00 p.m. Monday through Friday only. Minor jobs (e.g., painting, hand sanding, sweeping) with minimal or no noise impacts on the surrounding properties are exempted from the limitations on construction activity. At the applicant's request, the Community Development Agency staff may administratively authorize minor modifications to these hours of construction.

    b. It shall be the responsibility of the applicant to ensure that all construction materials and equipment are stored on-site (or secured at an approved off-site location) and that all

contractor vehicles are parked in such a manner as to permit safe passage for vehicular, pedestrian, and bicycle traffic at all times.

14. It shall be the responsibility of the applicant to store all construction materials and equipment at the site (or secured at an approved off-site location) in such a manner as to permit safe passage for vehicular traffic at all times. Every effort shall be made by the holder of the building permit to strictly limit the number of vehicles used to transport workers and materials to the site to the minimum number necessary.

15. BEFORE FINAL INSPECTION OF THE RESIDENCE, the applicant shall install all landscaping and an automatic drip irrigation system in accordance with the approved landscape plan. The applicant shall call for a Community Development Agency staff inspection of the landscaping at least five working days before the anticipated completion of the project. Failure to pass inspection will result in withholding of the Final Inspection and imposition of hourly fees for subsequent reinspections.

16. BEFORE FINAL INSPECTION, the applicant shall submit a signed Statement of Completion confirming that the project has been designed and constructed in compliance with all of the measures that were used to meet the "Platinum " rating under the Marin Green Home: New Home Green Building Residential Design Guidelines.

17. BEFORE FINAL INSPECTION OF THE RESIDENCE, the Community Development Agency shall record this Notice of Decision, including all conditions of project approval, with the Marin County Recorder's Office to advise future property owners of the special use/development restrictions.

18. All utility connections and extensions (including but not limited to electric, communication, and cable television lines) serving the development shall be undergrounded from the nearest overhead pole from the property, where feasible as determined by the Community Development Agency staff.

19. The applicant/owner hereby agrees to defend, indemnify, and hold harmless the County of Marin and its agents, officers, attorneys, or employees from any claim, action, or proceeding, against the County or its agents, officers, attorneys, or employees, to attack, set aside, void, or annul an approval of this application, for which action is brought within the applicable statute of limitations.

20. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially comply with the approval, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications are obtained by the applicant.

21. The Dillon Vision (Brader-Magee) Use Permit is subject to revocation procedures contained in Chapter 22.88.040l of the Marin County Code in the event any of the terms of this approval are violated or if the uses are conducted or carried out in a manner so as to adversely affect the public health, safety, morals, comfort, convenience, or welfare of the County.

Marin County Community Development Agency, Environmental Health Services (EHS) Food Service

22. PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall submit complete, easily readable plans drawn to scale and specifications to the Environmental Health Services for review, and shall receive plan approval before starting any new construction or remodeling of a tasting room or any facility for use as a retail food facility.

Marin County Community Development Agency, Environmental Health Services (EHS) Sewage

23. Applicant to submit a complete Report of Waste Water Discharge to the State Regional Water Quality Control Board, (Blair Allen), for the waste water generated by the Brandy production.

24. PRIOR TO ISSUANCE OF A BUILDING PERMIT FOR THE BRANDY BARN, the RWQCB must also approve the Brandy production waste disposal plan.

Marin County Community Development Agency, Environmental Health Services (EHS) Water

25. PRIOR TO ISSUANCE OF ANY BUILDING PERMIT, the applicant must submit an application to EHS to operate one or both wells in a domestic water system, and obtain a valid domestic water system permit. A detailed water system map will be required for the water system permit. Domestic storage tank(s) capacity shall be IN ADDITION TO fire control requirements.

26. Fencing requirements shall be determined during an on site inspection of the wells. The minimum distance between the fence and well source (25 to 100 ft.) can be determined during the new well's sanitary seal inspection.

27. PRIOR TO FINAL INSPECTION, the water system must be completed and inspected.

Department of Public Works – Land Use & Water Resources

28. All improvements shall conform to Title 24 of the Marin County Code or as approved by DPW and the Fire Department. Site plans shall be drawn to scale acceptable to the County (generally 1"=20' or greater).

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall comply with the following:

29. Plot proposed easements, if any, on the site plan.

30. Parking requirements for the brandy barn shall comply with MCC 24.04.340 and MCC 24.04.360. Include a table summarizing proposed uses and the minimum required parking spaces based on the aggregate of individual uses.

31. If brandy bar will be open to the public the following items will apply.
    a. Revise accessible parking stall location to comply with federal and state guidelines.
    b. Add the following note on the site plan, "Accessible path of travel as indicated on plan is a barrier free access route without any abrupt level changes exceeding ½ inch beveled at 1:2 max slope, or vertical level changes not exceeding ¼ inch max and at least 48-inches wide. Surface is slip resistant, stable, firm, and smooth. Cross slope does not exceed 2% and slope in the direction of travel is less than 5% unless otherwise indicated."
    c. Add the following note on the site plan, "Contractor to verify that all barriers in the path of travel have been removed or will be removed under this project, and path of travel complies with CBC 1133B."
    d. Provide accessible parking stall signs

e. Provide "Tow-Away" signs along with the contact information.
f. Plans must clearly show the path of travel.
g. Provide a continuous bank of detectable warning surface where a walk crosses or adjoins a vehicular way, and the walking surface is not separated by curbs, railings, or other elements.
h. The minimum improved width of a driveway serving non-residential uses shall be eighteen feet. MCC 24.04.260 (d).

32. Driveways over eighteen percent shall be surfaced with PCC and given a broomed or otherwise roughened finish MCC 24.04.300. Applicant shall consider utilizing pervious material where slopes are under eighteen percent.

33. Submit a manure management plan and fertilizer control plan in accordance with the best management practices. For additional information you may reference the following links: www.mcstoppp.org less toxic pest control, http://mcstoppp.org/acrobat/Horse%20Manure%20Mangement.PDF

34. Specify the total area of site disturbance on the site plan. If the area exceeds 1 acre, provide a copy of the Notice of Intent filed with the State Water Resources Control Board.

35. A separate building permit is required for site retaining walls with a height of 4 feet or taller or 3 feet when backfill areas is sloped or has a surcharge (measured from the bottom of footing to the top of the wall.

36. A registered engineer shall design the site retaining walls, drainage and grading plans. Plans must have the engineer's signature and stamp.

37. Provide engineering calculations for the retaining walls, calculations shall show a minimum of 1.5 factor of safety for sliding and overturning.

38. Provide a cross-sectional details for the proposed walls.

39. Submit an Erosion and Siltation Control Plan which addresses both interim (during construction) and final (post construction) control measures. MCC 24.04.625 and 24.04.627.

Marin County Fire Department

40. All conditions must be met to comply with California Public Resources Code Section 4290 and 4291, and the 2001 California Fire Code Sections 901.2 - 902.2.4.2, 903, and 16, and 17 of Appendix II-A, including access, addressing, defensible space, and fire protection water supply, propane tank installation (Note that if a gate is contemplated, Fire Department approval for gates on the access road and/or driveway is required. If the gate is locked in any fashion, a MCFD Knox rapid entry system is mandatory).

41. Fire Department holds will be placed on the building permit for this project. The defensible space must be in-place prior to releasing the Fire Department foundation inspection hold. The building department will not inspect the foundation before the fire department has released the hold. The final hold will be lifted when all Fire Department requirements are met, including payment of all required fees.

APPENDIX H

Representative Comment Letters Submitted to the Coastal Commission in Opposition to, in Support of, and No Position on the Brader-Magee Agricultural Development Project, as Approved by Marin County in 2010

(Note: the attached comment letters, except one dated November 12, 2012, were submitted to the Commission between February and October 2011)

November 12, 2012

Mr. Larry Simon
Federal Consistency Coordinator
California Coastal Commission
45 Fremont St., Ste. 2000
San Francisco, CA 94105

Re: Magee Development and Distillery Proposal
A-2-MAR-10-022

Dear Mr. Simon:

We would like to summarize our understanding of the current status of this project. Please advise if we are mistaken as to any item:

1. In 2010 Marin County's Planning Commission and Board of Supervisors deemed this 7-structure and commercial industrial brandy distillery project categorically exempt from CEQA, despite its location on a pristine site on Tomales Bay and immediately adjacent to the blue-line stream which traverses this 149-acre parcel.

2. When we filed our appeal to the CCC, it was initially assigned to Renee Ananda. Just weeks prior to the September 2010 Substantial Issue hearing the file was assigned to you.

3. The Commissioners voted 9-1 that the project raised numerous substantial issues and that a de novo review was warranted.

4. Marin County's failure to conduct any environmental review despite the proposed distillery and despite the extreme ESHA sensitivity of the proposed development area necessitated that you and Dr. Dixon focus time and effort in trying to assess the scope of the project and its potential environmental impacts for which the CCC has responsibility.

5. Studies ordered by Dr. Dixon have identified (1) wetlands that had never been acknowledged; (2) the presence of protected California red-legged frogs; and (3) the presence of protected Western Pond turtles. In addition, Dr. Dixon has requested plant surveys.

Recently you forwarded to us a string of pre-planning commission approval e-mails between Ms. Zander and the Marin County planner, Ms. Corella-Pearson. On March 24, 2010 the planner observed that the submitted site assessment indicated that the blue line stream was also suitable habitat for "California freshwater shrimp, Coho salmon, steelhead, and Tomales roach..." We have never seen any studies for these additional species. As the frogs, turtles and wetlands were discovered under Dr. Dixon's directive, we are confused as to why studies have not been required for these additional species which the applicant's own biological consultant has acknowledged may "inhabit the stream."

6. The de novo hearing was scheduled for this month; at our request it was postponed to December to allow greater opportunity for public participation. According to your November 1 e-mail, the hearing has been postponed again and has not yet been re-scheduled.

7. Your November 1 e-mail also stated that you had been informed "that additional biological field work on the property is needed" which you, Leslie Zander and Dr. Dixon will conduct this month. We don't know what additional work has been requested by Dr. Dixon and would appreciate knowing so our biologist can assess also.

8. Given the extreme environmental sensitivity and the documented presence of ESHA, and in consideration of frog dispersal corridors, we understand (and hope) Dr. Dixon might conclude that the development footprint should require a buffer wider than the "minimum" 100 feet.

9. We have asked that you and Dr. Dixon assess the impact on wetlands and ESHA which arises from the unpermitted water diversion installed by the applicant prior to Dr. Dixon's initial site evaluation in May 2011 and to also account for this in the setback distance decision. No pre-diversion wetland delineations were done.

10. We have requested information as to why the 12 acres of open land on the southern end of the property is not deemed suitable for a development. We have also expressed our view that a distillery in this rural, quiet corner of West Marin should not be allowed, even if this alternative site is viable (which was never analyzed or presented in the Marin County approval process).

11. As Marin County failed to conduct an EIR, it is now left to the CCC to conduct a functional-equivalent to CEQA. This is why we are confused that certain critical reports, which the applicant had been instructed to provide and/or committed to, were not timely produced for the December hearing, such as the hydrology report and some other items you listed on your October 4, 2012 e-mail to Kennings.

12. Although story poles were installed around October 29, there is no orange netting on any structure. This is surprising given the Commissioners' concern about the accuracy of the initial visual analysis presented at the Substantial Issue hearing, and your explicit directives to install orange netting per your October 4, 2012 and your December

12, 2011 e-mail to Kennings ("Install story poles and orange netting for proposed buildings and structures..."). Full building perimeter (including all water tanks) netting is essential to the public view shed analysis.

13. We have been aware since 2004 that the State Park Commission had adopted a general plan for Tomales Bay State Park. As the October 30, 2012 Bree Hardcastle communication to you acknowledges, the State Park at Marconi Cove (directly across from the Magee development and just some 75 feet from the distillery) will consist of low cost visitor facilities such as overnight camping, a boat launch, and day use. As the skeletal traffic study submitted to Marin County failed to even acknowledge or consider this intensive use, we wonder why the applicant has not been required to furnish data regarding the State Park plans in terms of traffic, as well as odor and other potential adverse environmental impacts from a distillery operation. Sight distance and safety on the downhill curve are important considerations.

14. With respect to the distillery, we have expressed our concern that approval of this use is both out of character for the east shore of Tomales Bay and that no scientific or technical evidence showing that there will be no environmental impact has been submitted. Although there are numerous simplistic responses from Mr. Kennings in your file describing a hypothetical distillery, there is no evidence that he has any experience or expertise regarding brandy distilleries, waste discharges, odors emanating from the operations, and storage and fire danger issues. Again, as Marin County failed to conduct any CEQA review, it is left to the CCC to evaluate all the potential impacts of placing a distillery on this site.

We see that the applicant's consultants have obtained tentative agreement from the SWRCB to defer that agency's analysis of a waste discharge application until after the CCC votes to approve the distillery. (September 13, 2012 e-mail to you.) This is disturbing in that the CCC is being asked to approve a potentially precedent-setting industrial operation where there has been no scientific or technical evidence to show it is environmentally neutral. Even Mr. Allen from SWRCB acknowledged in his September 13, 2012 e-mail to you that deferring SWRCB review until after the CCC approves the distillery is not without risk: "Granted this creates a bit of a chicken-or-egg situation between our two agencies and I do not have any elegant solution to offer to resolve that."

We hope that you and Dr. Dixon will insist on the applicant presenting full and accurate technical details on the distillery operations before recommending action by the Commissioners. In fact, the importance of assessing the distillery operations at this location (as opposed to within an urban municipal jurisdiction) deserves the hiring of experts by the CCC to provide an accurate base line of potential environmental impacts. Alternatively, it may be critical to have the SWRCB conduct its analysis (based on a worst case scenario) *prior* to the Coastal Commissioners being asked to approve the distillery. Deferring to the chicken or egg quandary is not appropriate in this circumstance.

15. Your September 19, 2012 e-mail to Kennings ("site plan questions") identifies a

number of outstanding issues for the applicant to respond to. It is disturbing that even at that late date, just weeks prior to the writing of your report for the then-scheduled December 2012 de novo hearing, the applicant had still not identified the scope of his development, such as how many water tanks currently exist, where the proposed water tanks will be installed (including the one some 100 feet from the distillery), which "farm tracks" will remain after initially asserting that all would be discontinued, or even how "farm tracks" may differ from "roads" in terms of their impact on the well-documented ESHA throughout this property, or where excess excavation will be disposed of. Your October 4, 2012 e-mail to Kennings identified yet more unanswered questions.

16. It is still unclear how the onsite leach field impacts ESHA, or how the thousands of feet of septic lines going uphill may affect ESHA given that a biological study of this area is lacking; a wetland assessment should be required within 500 feet of all development areas. A determination is also necessary as to whether a separate septic system/leach field might be needed for the commercial distillery and its high-strength waste stream.

We know you understand that an accurate project description is necessary for an intelligent, legally adequate evaluation of potential environmental impacts of a proposed project. An accurate, stable and finite project description is indispensable to an informative, legally adequate environmental impact assessment.

We do not understand how you can accurately analyze your functional equivalent CEQA review when the applicant's design is constantly shifting in his ongoing attempts to avoid, reduce and mitigate in response to the increasingly complex maze of biological issues in and around the development area envelope. Similarly, all the responsible agencies with which you must consult (e.g. USFWS, CDF&G, SWRCB, etc.) should be given the opportunity to review and comment on whatever the "final" project description/location might be.

This appeal review has been taking considerably more time than it should have. This is not your fault, we know you have been working diligently on this, but during this time environmental damage continues with effects that become increasingly more difficult to undo. We believe it is time for there to be a complete list of biological, hydrological, traffic and other pertinent studies necessary for complete review. In addition the applicant should be required to make available a definitive design that can be properly analyzed by yourself and Dr. Dixon, and allow us and other members of the public the opportunity to review it.

Sincerely,

Scott Kivel and Lia Lund

c: Dr. John Dixon, Charles Lester, Dan Carl, John Bridges

Larry Simon

From: Jeff Staben
Sent: Friday, August 26, 2011 9:05 PM
To: Larry Simon
Subject: FW: proposed industrial brandy distillery -Marshall, Calif.

here's another email

-----Original Message-----
From: Joyce Goldfield [redacted]
Sent: Fri 8/26/2011 5:33 PM
To: Jeff Staben
Cc:
Subject: proposed industrial brandy distillery -Marshall, Calif.
California Coastal Commissioners
c/o Charles Lester, Senior Deputy Director
45 Freemont Street #2000
San Francisco, Çalif. 94105

Dear Sir:

I am writing to vehemently oppose the proposed industrial brandy distillery across from the State Park owned Marconi Cove property on
Tomales Bay, in Marshall, California. This industrial project,
disguised a a tasting room, will be located 100 feet from a blue line stream, which feeds directly into pristine Tomales Bay. Having lived in Inverness, Ca. for the past 35 years, while raising my family here, I am well aware of all the battles fought and won to preserve the quality of the water in Tomales Bay.....for the birds, wildlife, aquaculture, humans and flora depending on the quality of water in this Bay. The adverse environmental effects of toxic wastes (including formaldehyde, and toxic foams used to fight ethanol fires), fertilizer and pesticides used in the growing of grapes and the possibility of sewage spills, are all a direct threat to the 'Bay. The potential fire hazard of storing bottles and casks of aging brandy on this property is frightening. This type of industry belongs in an industrial park, close to fire fighting services. This land is historically ranch land with pristine grasslands, riparian zones, a man-made pond and wetlands, filtering an immense amount of water off the ridge into Tomales Bay. The blue-line stream bisecting the property channels immense amounts of water into the Bay year round, but especially during the rainy season. Once this land is sacrificed to industrial use, it cannot be repaired. Please use all the means at your disposal to discourage the use of this 149 acres of land by any industry. This would set a frightening precedence that would encourage further destruction of our coastline. Tomales Bay, a Ramsar Convention Wetland of International Importance, deserves your help in preserving the sanctity of its waters and environs.

Sincerely,

Joyce H. Goldfield

P.O.

Box 581

RECEIVED
OCT 18 2011
CALIFORNIA
COASTAL COMMISSION

Sierra Club
P.O Box 3058, San Rafael, CA 94912

October 15, 2011

California Coastal Commissioners
c/o Charles Lester, Executive Director
45 Fremont Street #2000
San Francisco, CA 94105-2219
FAX: (415) 904-5400
EMAIL: clester@coastal.ca.gov

RE: Magee & Dillon Vision L.L.C., Marshall, Marin County, CA (Appeal No. A-2-MAR-10-22)

Dear California Coastal Commissioners,

The Sierra Club wishes to correct the public record, as to our "stated" and/or "implied" support of the Magee & Dillon Vision LLC's Distillery proposed operation in Marshall, California. It has recently come to our attention that Mr. Tony Magee has incorrectly implied in his testimony before the Marin County Board of Supervisors (May 2010) and the California Coastal Commission (September 2010) that the Sierra Club Marin Group is in support of his project. At that time, the Sierra Club had not taken a position on this development proposal.

As of September 2011, the Sierra Club formally OPPOSES the Magee & Dillon Vision LLC's project for the Marshall property. We respectfully request that the California Coastal Commissioners deny the development project in its entirety.

PROJECT MERITS

With regard to the merits of the proposed project, the Sierra Club comments that follow are limited by the fact that, in our view, the applicant has failed to provide, and the County of Marin has failed to require, detailed descriptions of proposed development and use, and the County of Marin has failed to place detailed standards or conditions on development and use.

Due to the lack of complete information, and due to lack of adequate process by the County of Marin, the following merits comments are based on the project as best we can interpret it.

In general, Sierra Club finds that the Magee Distillery project, on the whole, has failed on merits in:

- Inappropriateness of the project for the Coastal Zone area
- Non-conformance of project with the Local Coastal Plan requirements
- Not providing adequate environmental assessment of project and downstream areas
- Failing to submit a complete application

More specifically, we find issues with the following aspects of the Magee project.

THE USE IS INDUSTRIAL, NOT AGRICULTURAL

The project of 10,000 plus square feet of development on 149 acres of undeveloped habitat, with the primary focus being a brandy distillery, is not an agricultural use, but an industrial use.

The project's five water storage tanks, three propane tanks, brandy storage buildings, a brandy factory, a "smelling" room facility, six acres of grapes (indicating that grape growth in incidental to the distillery, rather than the other way around), and six acres of hops all clearly indicate that the primary use is industrial.

The ancillary uses are proposed to be limited sheep grazing, a sheep shelter, greenhouse, vegetable garden, a new residence, fences, and new roads and access ways.

The Sierra Club strongly disputes Marin County's claim that these uses are "minor and incidental," and that the bases of that conclusion are sufficient to warrant waiving the Master Plan and associated studies, permits and public review of such documents.

INDUSTRIAL BRANDY PRODUCTION IN COASTAL ZONE

The Sierra Club regards industrial uses as inappropriate for the Coastal Zone in Marin County, which is principally comprised of high-value natural habitat and locally-owned agricultural businesses with very minimal processing facilities.

In addition, we have the following specific concerns.

The proposed industrial distillery is located in a sensitive habitat and extensive drainage area of the ridgeline, with a blue-line stream 100 feet away, 50 feet from a filled-in wetland area, and Tomales Bay is only 200 feet downstream. Any serious mishaps with production, storage or transport by the industrial facility could create serious, adverse impacts to the environment.

The developer claims that the distillery will remain small, producing only a thousand bottles per year. But brandy must be stored for several years to age, so the amount of alcohol on the property would be much more than the yearly production.

The potential of inflammable materials stored on the site would represent a substantial safety concern to neighbors, as would toxic releases into the environment, surface and groundwater. Ethanol ignites at the low temperature of 68°F. Emergency services are of reduced availability along the Coast, with response times of up to 15 to 20 minutes; depending on the source, water availability may limited.[1] Also, fire fighting foams, retardants, and other chemicals may be released into the environment if firefighting were necessary.

The proposal does not appear to carry any required limitations on increased use of the industrial distillery, such as restrictions on importation of additional supplies of grapes or hops. Out of area grapes might be trucked in to increase production volume and time of use of the brandy facility, without additional permitting or review. If the project is allowed, restrictions should be considered and added to assure control over the volume and production of the industrial brandy facility.

INADEQUACY OF ENVIRONMENTAL REVIEW

A valley bisects the property, with a blue-line stream running through the middle of the parcel, placing a significant amount of the land within the ESHA category. Additional ESHA boundaries are created by numerous wetlands, seeps, and swales; perennial grasslands also inhabit the property.

Reports comprising a limited environmental survey, included by the developer with the original application, proved inadequate. Reviews by the public and Coastal Commission staff (below) revealed inadequacies in the environmental documents, enough to render determination of ESHAs unreliable and incomplete.

Excerpt from email correspondence (January 21, 2011) between Mr. Larry Simon (Coastal Commission Federal Consistency Coordinator), Mr. Magee and Larry Kennings (Magee planning consultant); Mr. Simon identified comments and suggestions made by Dr. John Dixon, California Coastal Commission Ecologist, regarding additional information needed for Coastal Staff review of the project pursuant to a de novo hearing:[2]

1) Vegetation on the property should be assessed in more detail within the proposed development areas;
2) There have been no quantitative vegetation surveys of the property nor is there a map showing the location of the various vegetation types;
3) Apparently, a technical wetland delineation has not been conducted on the property which would be necessary in areas proposed for development (e.g. around the generally mapped existing springs);
4) There have been no focused surveys conducted for red-legged frogs, foothill yellow-legged frogs, or western pond turtles, (all Endangered or Threatened status species) which the

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[1] Note: some areas are served by local water districts, who impound water from nearby creeks or wells. Onsite wells are required.

[2] EMC Planning Group, May 6, 2011

biological report states, based on availability of suitable habitat present, have a potential to occur on the property.

Given that environmental protection is a key part of the Coastal Act, we request that this project proposal receive comprehensive investigation and determination of environmental resources. The Sierra Club believes Marin County's approval of this application represents a major failure in the permitting process that needs to be corrected prior to any further action.

PLACEMENT OF DEVELOPMENT IN POTENTIAL ESHAS

It is our understanding that the applicant's proposal through the County of Marin permitting process is incomplete, with regard to ESHA documentation. Issues of concern cannot be accurately identified based on the current information presented by the applicant, nor can it be adequately demonstrated that the project is consistent with the LCP and the Coastal Act.

16 of 19 species of concern are believed to be on the project site, in a blue-line tributary, and more are probably present downstream and in Tomales Bay. A detailed environmental review would reveal where these ESHAs boundaries occur, and what specific species they contain.

As the proposed development is now placed on site, we believe it to be encroaching on ESHAs and, therefore, inconsistent with, and in potential violation of, the Coastal Act.

GROUNDWATER TABLE, DRAINAGES, SEEPS AND WETLANDS

The majority of this parcel appears to be ESHA; yet what has not been adequately determined is the underlying hydrologic profile, which interties closely with ESHAs.

Placement of septic systems, leachfields, stormwater drainage, and, most importantly, water wells, requires knowledge of the hydrology of the entire site to provide key information for placement of development. To our knowledge, no such survey or report has been provided for the site.

Hydrologic issues should be resolved prior to consideration of the project to prevent placing the ESHAs in jeopardy from potential infiltration of unwanted wastewater (septic and industrial) and inappropriate drawing down of the groundwater table that supports ESHAs.

The important environmental and public health concerns of potential commingling of wastewater and drinking water sources, and of contamination of downstream resources such as the Tomales Bay and commercial mariculture operations, remain unresolved.

WELLS & LEACHFIELDS

The specific areas where the leachfield and a water-well are sited may have been studied, but it appears, from information provided by the neighbors, that neither of these systems has been placed where the County of Marin approved them. Reportedly, one area that was approved for a well was drilled and came up completely dry, so the developer chose alternative sites. It is unclear whether the developer provided documentation on the additional wells to the Environmental Health Services of Marin County (EHS).[3]

The residential septic system has received preliminary approval from Marin Environmental Health Services, although the placement may be incompatible with ESHA boundaries (pending environmental studies) and now the current (unapproved) location of a water-well remains unaddressed. The matter of the proximity of the water well to the leachfield site is pending: to be determined by County EHS.

DISPOSAL OF INDUSTRIAL WASTEWATER

To our knowledge, only vague and general descriptions of the proposed method for disposing of industrial wastewater exist[4].

"In addition, a new septic field is approved for installation near the northern property line, and all sewage produced from the brandy facility, equipment barn, and residence will be pumped uphill to this location."[5]

It is highly unlikely that the residential sewage would be allowed to be commingled with industrial strength effluent, nor would they be disposed of in the same leachfield. In researching this topic, the Sierra Club contacted the Regional Water Quality Control Board in Oakland for the permit application and schematics required by law for industrial discharge. The only document they had was an incomplete application form, and no other reports or plans. RWQCB has not issued the necessary discharge permit for the operation of a commercial distillery.

VIEWSHED IMPACTS

The development impacts the viewshed of the area's local, State and National parks and Tomales Bay. It can be seen from the State Park's Marconi Conference Center, Marconi Cove, Shell Beach and Heart's Desire Beach. The East facing hills of the Point Reyes National Seashore would also be in the viewshed. The development is highly visible from Tomales Bay, itself, which is part of the Gulf of the Farallones National Marine Sanctuary.

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[3] As of an August phone conversation with a Sierra Club representative, EHS did not know that additional well sites had been drilled, nor their location.

[4] County of Marin Approval of Permit letter

[5] *County of Marin, Board of Supervisors - Resolution No. 2010-36, Page 17*

It appears that these viewshed impacts have gone unaddressed or effectively ignored in the County's review of this project. Sierra Club recommends consideration of impacts on viewshed of public lands and parks, focusing on preserving the integrity of the nature experience.

COUNTY OF MARIN PROCESS

SIERRA CLUB OBJECTIONS TO COUNTY OF MARIN PROCESS

Evaluation of a project cannot be reasonably made without proper process and permitting procedures. Government agencies and the public can only accurately make determinations as to a project's appropriateness, environmental and health issues, and whether it fully complies with the law when required processes are followed.

In this matter, the Sierra Club opinions regarding many specific details of the proposed Project are limited by inadequate access to information about the Project. At this time, our request for denial of the project is based on our conclusions that the planning process has thus far been legally incorrect and that the proposal lacks accurate and complete information, in addition to the fact that the known particulars of the Project are incompatible with desirable uses in the Marin County Coastal Zone.

A summary of the Sierra Club's concerns about the process for the proposal are as follows:

- The County of Marin violated the Local Coastal Plan by categorically exempting the project from a Master Plan process; the County granted a Master Plan *waiver* in *exchange* for a conservation easement, while the LCP clearly states that a permanent conservation easement is a *required condition* of an approved Master Plan.

- The County of Marin violated the Local Coastal Plan by failing to require an Environmental Impact evaluation process, claiming the development was *"minor and incidental."*

- County of Marin staff made unfounded and widespread use of "categorical exemptions" from further environmental analysis for most elements of the project, willfully bypassing the LCP.

- The County of Marin has failed to protect Environmentally Sensitive Habitat Areas (ESHA) on the property, thereby failing to follow a prime directive of the Coastal Act; the County failed to identify technical wetland delineations and potential ESHA special-status species and habitat.

- The County of Marin's classification of the project's industrial spirits distillery as incidental to an onsite agricultural use has not been justified; 6 acres of potentially unviable grape production to serve the distillery constitute the ostensible agricultural use. No prohibition is in place to prevent trucked in grapes for increased distillery production.

- The County of Marin approved the project's industrial facility without plans for waste discharge from the applicant or the Regional Water Quality Control Board. To our knowledge, none of the required plans have been filed with the RWQCB for an industrial distillery waste discharge, nor has an application for a permit been completed. Neither the public, nor officials, know how or where, the highly concentrated industrial waste from the distillery production will be disposed of in the watershed.

- The County failed to address LCP requirements for viewshed protection in the project.

SIERRA CLUB'S CONCERNS REGARDING VIOLATIONS OF "STAY DURING APPEAL" BY THE PROPERTY OWNER ALLEGED BY PROPERTY NEIGHBORS

Neighbors on adjacent properties have documented construction activity on the Magee property after June 2010, when the Coastal Commission Regulations Regarding "Stay" During Appeal Period was in effect.

Activities reportedly included drilling of multiple wells, grading, new road work, planting of screen trees that impact the coastal viewshed, and impacts to ESHA and designated grassland areas.

Most notably, activities potentially affecting the environment occurred: drilling of water well/s at unpermitted location/s and during appeal "stay of work" period, with no hydrological assessment as to groundwater table, blue line stream and ESHA areas connectivity and well water usage; one recent unpermitted well location is potentially within the area where the septic leachfield for domestic waste water is to be discharged, which would violate Marin County Health regulations.

These activities are not only in violation of the stay of work, but also in violation of various LCP regulations as well. Although the County of Marin was alerted to these activities in a February 2011 letter by neighbors of the proposed project property; as of an August 2011 conversation with a Sierra Club representative, the Marin Environmental Health Department appeared unaware of the conditions, and had not visited the site.

There have also been allegations by neighbors of prior (2006) substantial grading and dirt fill without an Army Corps of Engineers (ACOE) permit, purportedly into a blue line stream and ESHA, which should be further investigated.

Substantial, detailed information regarding these allegations is located in two letters by the Appellants, Kivel/Lund, and are included by reference: the Appeal letter to the Coastal Commission from Ragghianti/Freitas LLP, dated June 1, 2010 and the letter regarding "Supplemental Information Regarding Additional Coastal Act and Marin County Local Coastal Program/Development Standard Violations," dated May 5, 2011.

CONTEXT AND PRECEDENT

In addition to its own, direct impacts, we believe that this project represents a dangerous precedent for coastal protection in the context of the current Marin County LCP update process and in the context of related regulatory trends in Marin in general.

THE MARIN COUNTY LCP UPDATE

The County of Marin has been attempting to update the certified Local Coastal Plan for the last two years. Our belief is that the "fast and loose handling" of this process is due to a desire by the County to ignore the differences between the LCP and Countywide Plan (CWP), and to adopt a Local Coastal Plan that is fundamentally inconsistent with the Coastal Commission requirements.

The Marin County Planning Department has stated that is it working to make the current LCP "match" the recently updated Marin Countywide Plan. The CWP is incompatible with LCP requirements, in format as well as content; the CWP clearly stands in violation of Coastal Commission guidelines when applied to the Coastal Zone.

After many requests from the Sierra Club and other environmental groups, Marin's planning staff reports that it is finally going to begin releasing "strike-through," side-by-side comparisons of changed or removed language in the draft LCP relative to the standing version. Up to this point, due to the extensive changes in format of the draft LCP, the public has had no way to track changes made to the certified LCP, only the County staff knew what exactly had been changed or eliminated, and where it was located. Therefore, prior to the release of "strike-through" versions of the draft LCP, environmental groups, and others interested in participating in this process, have been effectively hampered from fully participating.

During the Sierra Club's participation in the update of the Marin LCP, it has become evident that the County of Marin is making wholesale, substantive changes to the existing LCP in order to match the CWP. Furthermore, the County is failing to make findings to explain why it is removing or changing protective elements, despite vigorous protests by the environmental community. Coastal Commission staff have strongly, and repeatedly, advised the County of Marin against altering a certified LCP without making findings:

> "Where you proposed to alter or delete standards in the certified LCP it is important to provide data and analysis explaining the change so it can be evaluated for conformance with the Coastal Act. While there is no required format for such information, the County must still be able to comply with requirements of the California Code of Regulations sections 13552 and 13511 for adequacy of information to file an LCP amendment." (Staff letter dated April 24, 2009).

We feel that weakening the LCP downward to CWP standards is not justifiable.

We believe that the Magee & Dillon proposed project is being handled by Marin County as a test case to determine whether the Coastal Commission will allow Marin's recently-adopted, laissez faire policies within the Coastal Zone.

RELATED REGULATORY TRENDS IN MARIN

In Marin County, only unincorporated areas are directly under the jurisdiction of the Marin County Board of Supervisors. In addition, it is customary for Marin Supervisors to defer to the Supervisor of a particular district on matters within that district.

The vast majority of Marin's unincorporated areas are in the fourth supervisorial district. Therefore, the fourth district Supervisor typically works very closely with County planning staff on all matters affecting unincorporated areas. Since 1996, Marin's fourth supervisorial district Supervisor has been Steve Kinsey.

In our opinion, the regulatory trends in unincorporated areas of Marin, including those in the Coastal Zone, over the past 14 years have been characterized by a steady onslaught against environmental protections and meaningful public process related to environmental protections in Marin County.

One particular set of entitlements seems to be directly related to the project at hand. In 2003, Marin County, in a very quiet but profound rewriting of County zoning definitions, seriously weakened planning laws for development on "agricultural" parcels, including eliminating Master Plans and Use permits, and adding many uses as categorical exemptions that were once guided by permit and environmental review procedures. Claiming only to "clarify" zoning definitions for agricultural parcels, the County of Marin essentially eliminated many public and environmental review processes for significant developments on large properties. Some environmentalists called these 2003 CWP regulation changes, "factories on farms," and, "a gutting of the environmental protection laws." The project at hand may represent a very troubling precedent that would solidify the 2003 evisceration of environmental protections, the results of which are now firmly embedded in Marin's Countywide Plan.

We believe that the Magee & Dillon Vision LLC project is the County's attempt to extend use of the excessively lax 2003 agricultural regulations from the CWP, in place of the LCP and Coastal Act regulations.

The Sierra Club is astounded at the conscious and consistent manner in which the County of Marin has chosen to ignore and violate the LCP's prevailing regulations on this Project. We are deeply concerned that, if the Coastal Commission does not correct this flagrant misbehavior, disregarding the LCP will become standard operating procedure for all Marin County projects in the Coastal Zone, and in other areas of significant environmental value.

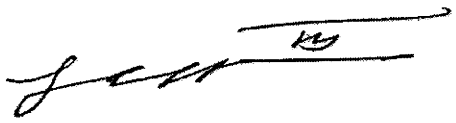
SUMMATION

We hope you will consider the conscious precedent it appears that the County of Marin is attempting to propagate in ignoring the LCP and substituting the less environmentally protective and more "generous" agricultural regulations of the CWP. Sierra Club remains firm in supporting the California Coastal Act as a set of regulatory instruments that must be upheld in their entirety, and not subordinated to a lesser standard by the County of Marin.

Again, we respectfully request that the Coastal Commission deny this project in its entirety.

Thank you.

Sincerely,



Louis Nuyens
Chair, Marin Group, Sierra Club

environmental action committee

August 24, 2011

California Coastal Commission
Mr. Charles Lester, Acting Director
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: Appeal No. A-2-MAR-10-022, Tony Magee and Dillon Vision LLC

Dear Charles,

I am writing to you and the Coastal Commission staff to clarify for the record the Environmental Action Committee of West Marin's (EAC's) position on the above-referenced appeal.

As you may be aware, in the summer of 2010 EAC entered into a settlement agreement with Mr. Magee regarding his proposal to construct an industrial brandy distillery on the east shore of Tomales Bay. Per the settlement agreement, EAC gave up its right to appeal Mr. Magee's proposal to the Coastal Commission in exchange for certain modifications to the proposal made after its approval by the Marin County Board of Supervisors.

It has come to EAC's attention that the Mr. Magee has suggested or implied to the Commission, its staff, and possibly others that EAC supports his project. This letter is to advise you that EAC does not support the proposed project.

In staying true to the letter and spirit of its settlement agreement with Mr. Magee, EAC will take no part in the appeal, and will not be submitting comments in the proceeding, except to ensure that the settlement provisions are honored. That is, in the event that the Coastal Commission proceeds with issuing Mr. Magee a permit, EAC will work to ensure that the settlement provisions are fully retained and enforced as part of any coastal permit.

I hope this letter clarifies for the record EAC's position. Please do not hesitate to contact me with any questions or concerns.

Sincerely yours,

Amy Trainer, Executive Director

Cc: Mr. Tony Magee
Mr. Scott Kivel
Mr. Bridger Mitchell
Mr. Tom Baty
Ms. Catherine Caufield

MARIN COUNTY FARM BUREAU

520 MESA ROAD, POINT REYES, CA 94956 · PHONE (415) 663-1231 · FAX (415) 663-1141

February 1, 2011
California Coastal Commission
45 Fremont St. Suite 2000
San Francisco, Ca. 94105-2219

Re: De Novo hearing on the Brader Magee project

Dear Coastal Commissioners:

I am writing to you, the California Coastal Commission, to express Marin County Farm Bureau's support of the project as submitted by Tony Magee and Carissa Brader and approved unanimously by both the Marin County Planning Commission and Board of Supervisors.

This project, as approved by Marin County, genuinely embodies the intent and the spirit of the Marin County LCP.

The appeal that led to this permit hearing before the Commission was brought by the immediate neighbor. During the County process this proposal experienced no meaningful challenges by any of the numerous environmental groups, community groups, or governmental agencies that work intensively in the Tomales Bay region. The applicants have gone to extraordinary lengths to protect environmentally sensitive areas. They not only met all of the Counties conditions for approval, but went above and beyond by working with the Environmental Action Committee of West Marin to be certain that all environmental impacts were dealt with properly.

It is our belief that residential neighbor disputes regarding agriculturally-based projects, on C-APZ zoned land, consistent with the spirit and the intent of the LCP, in the presence of a strong county 'Right-to-Farm' statute, and in light of the applicants offer of an Affirmative Agricultural Easement, represent one of the most dangerous threats to agricultural production activity in West Marin. The appealers of this project bought agriculturally zoned land amidst agriculturally zoned land and are now complaining that the land next to theirs will be used for agriculture. We should be commending the Brader Magee project for following the LCP, working with environmental organizations, and bringing production agriculture back to agriculture lands.

The preservation of agricultural production in West Marin, as opposed to the residential development that threatened this area, was the foundation of the development and certification of the current LCP. This threat remains unless the County and this Commission fully support the guidance of the LCP.

This is the context within which we see this project's review occurring.

I urge the Commission to affirm the integrity of the certified LCP, by approving the proposed project as it was approved by the County, with its specific recognition of agricultural, biological, and scenic resource policies of the LCP.

In a very direct way, approval of this project represents an affirmation of the LCP's goals.

Thank you for your consideration of our organization's concerns.

Sincerely,

Dominic Grossi

Dominic Grossi,
President,
Marin County Farm Bureau

Ingrid Noyes
PO Box 840
Marshall, CA 94940

September 29, 2011

California Coastal Commissioners
c/o Charles Lester, Senior Deputy Director
45 Fremont Street #2000
San Francisco, CA 94105-2219

Dear Mr. Lester, and other Coastal Commissioners:

RE: the Magee Project in Marshall (No. A-2-MAR-10-22)

I am a lifelong resident of Marshall, and would like to voice my approval of Tony Magee's proposed project of a brandy distillery, vineyard, and sheep farm. Growing up in Marshall, I have watched farm after farm close down, unable to survive with the competition of big agribusiness. Too often, these farms are replaced by residences, occupied by wealthy individuals who do nothing agricultural with the land except on a token basis. Occasionally, someone gets creative about how to keep the land agriculturally productive and still economically viable. Mr. Magee's project is one such example. His neighbors, who fall into the wealthy non-agricultural group, would like to keep his land as open space for their own enjoyment and have launched a heavy campaign to discredit the project, often using false information and distortion of the facts. Please don't let them influence your decision. By all other accounts, this project is a well thought out example of how to keep West Marin agriculture a reality while being responsible about land stewardship. Thank you for your consideration.

Sincerely,

Ingrid Noyes

Ingrid Noyes

cc: Tony Magee

Larry Simon

From: Charles Lester
Sent: Friday, September 02, 2011 9:09 AM
To: Larry Simon
Subject: FW: Tony Magee Proposed distillery at Marshall Ca.

Charles Lester
Acting Executive Director/Senior Deputy Director
California Coastal Commission
725 Front Street, Suite 300
Santa Cruz, CA 95060
415-904-5202/831-427-4863
clester@coastal.ca.gov
www.coastal.ca.gov

From: Kristi Edwards [redacted]
Sent: Friday, September 02, 2011 9:07 AM
To: Charles Lester
Subject: Tony Magee Proposed distillery at Marshall Ca.

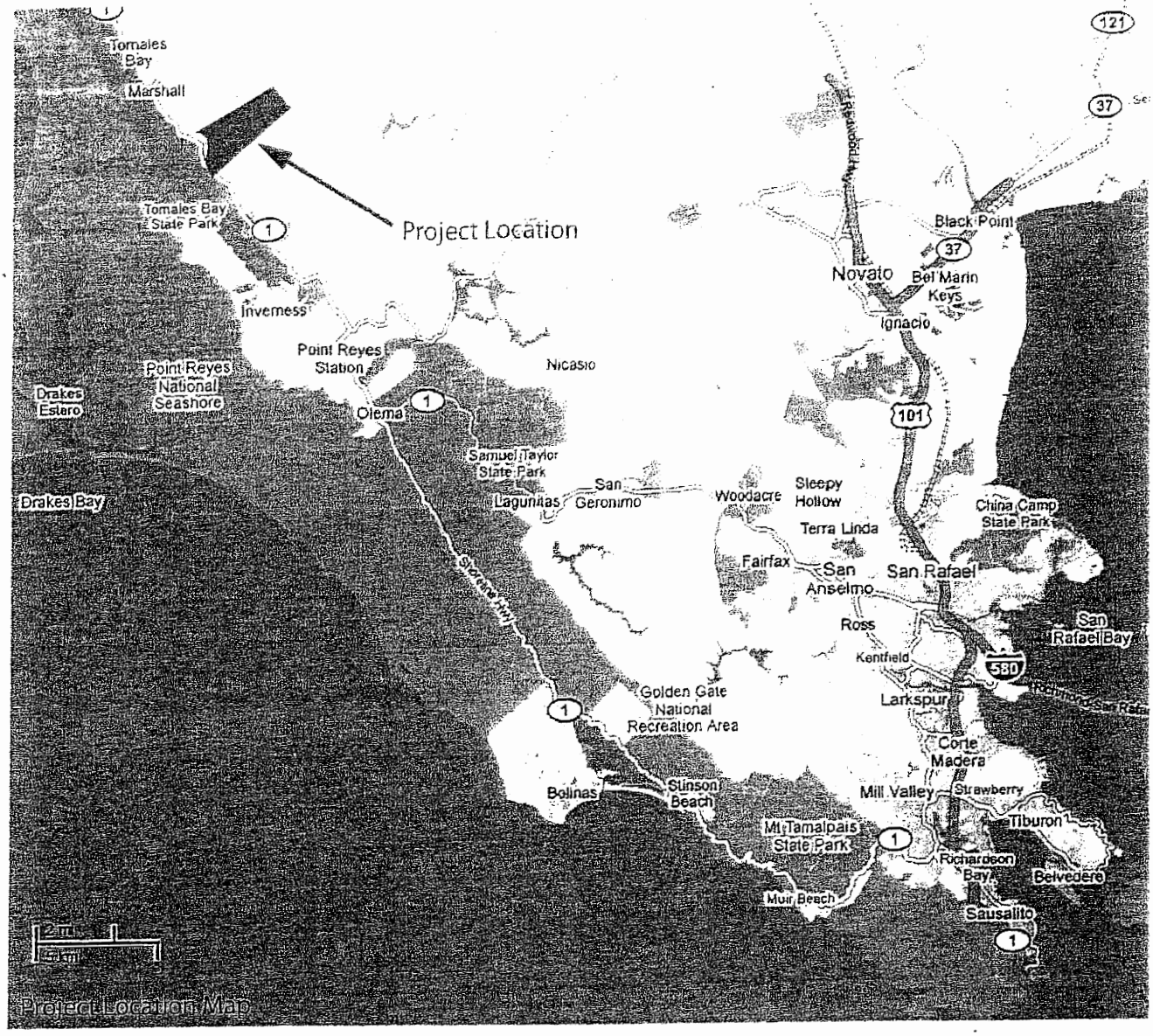
Dear Mr. Lester,

The current e-mail that has been distributed among the the neighbors of Marshall opposing Mr. Magee proposed distillery is disingenuous at best. I too am a resident of Marshall and consider myself a neighbor of the proposed development. It is quite obvious that the two immediate neighbors of Mr. Magee are misrepresenting the facts in an attempt to scare the residents of Marshall. Thus generating a letter writing campaign to you and your commission so that you do not interpret their opposition as a neighbor dispute. It is quite apparent to me that their primary concern is the clustering of home, barn and brandy house near their own personal developments, which they do not want. Though this is exactly what the development codes of the area require to preserve "view shed".

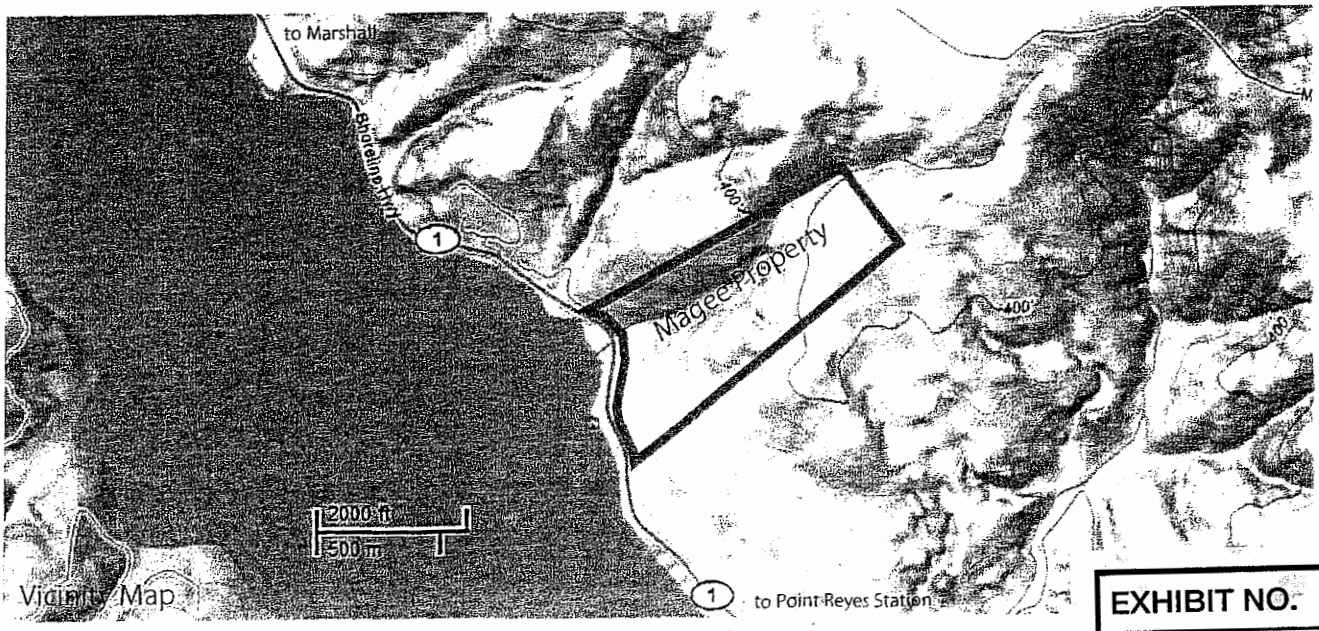
I am not a professional in any of these agricultural development issues, but trust in both my county offices and your commission to oversee and provide guidance to would be developments in areas such as ours. I strongly recommend that you do not allow behavior such as exhibited by Mr. Magee's two neighbors to influence any decision you make concerning his proposed development.

Respectfully Submitted,

Charles T. Edwards



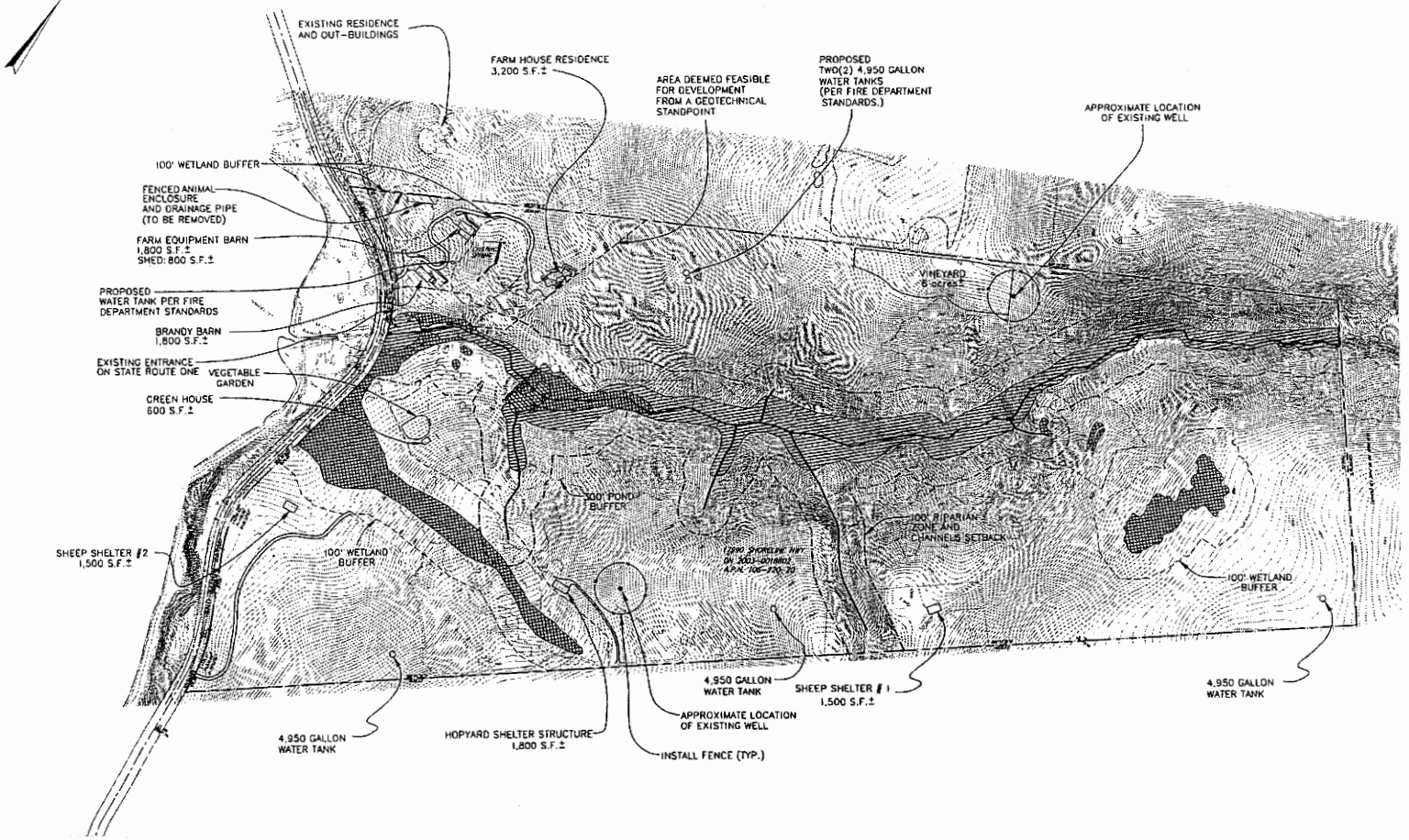
Project Location Map

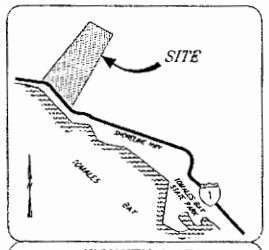


Vicinity Map

Figure 1: Pr

EXHIBIT NO. 1
APPLICATION NO.
A-2-MAR-10-022





VICINITY MAP
NTS

LEGEND

- RANDOM CONTROL FOR SURVEY
- SPRINGS
- CHANNELS
- SEEPS
- POND
- APPROXIMATE EXTENT OF RIPARIAN ZONE
- 100' WETLAND BUFFER
- 300' POND BUFFER
- 100' RIPARIAN ZONE AND CHANNELS SETBACK

WETLAND AND RIPARIAN AREA LIMITS PROVIDED BY: ZANDER ASSOCIATES

SURVEY NOTES

1. VERTICAL DATUM IS NAVD 88.
2. HORIZONTAL DATUM IS NAD 83.
3. CONTOUR INTERVAL IS 2'.

GRAPHIC SCALE

(IN FEET)
1 inch = 200 ft.

CHECK PRINT

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BRADER-MAGEE FARM
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA

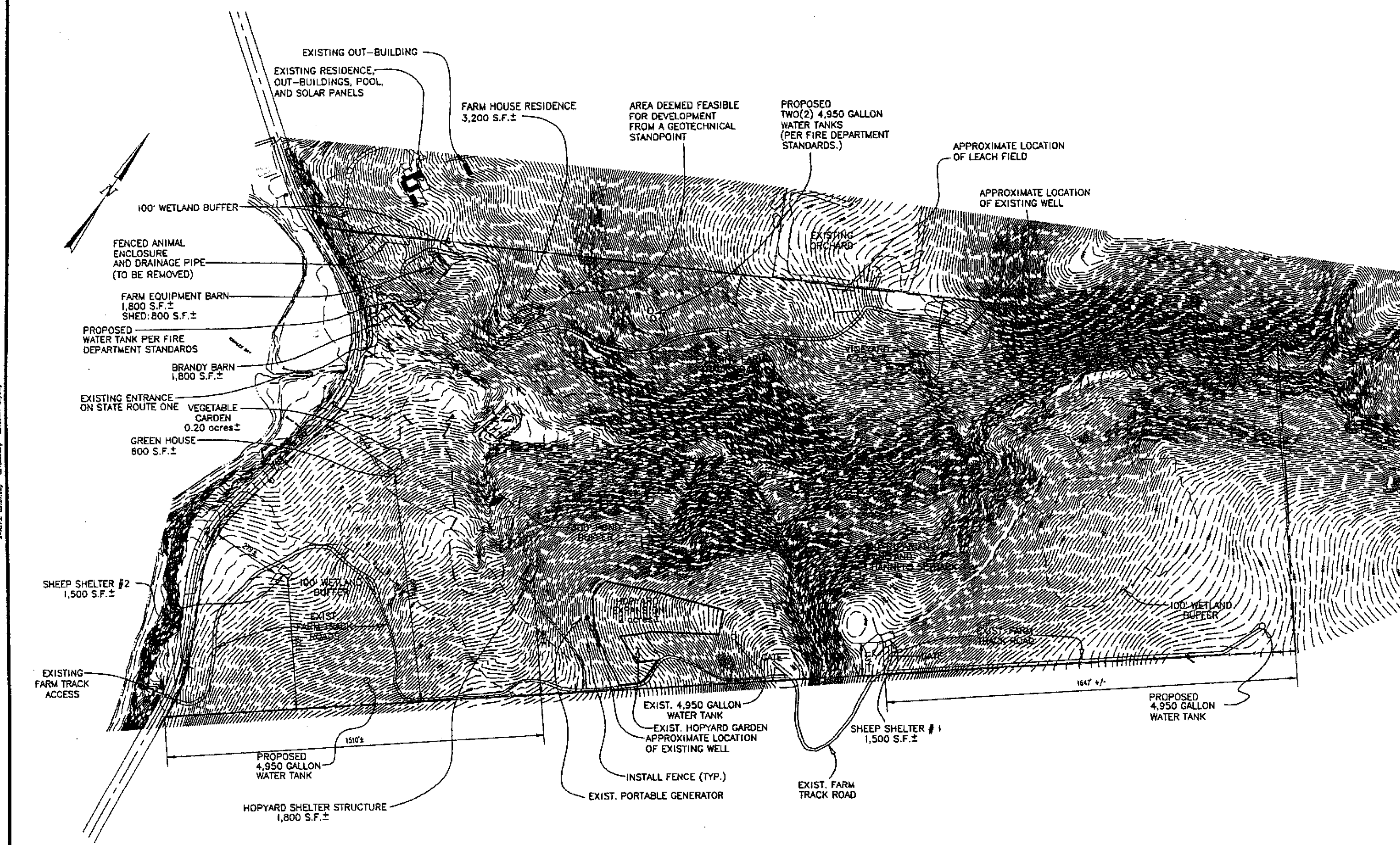
CONSTRAINTS MAP

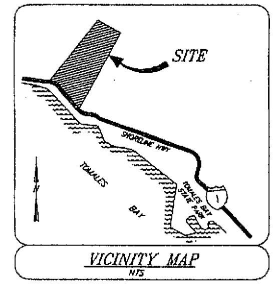
DRAWN: B.M./S.M.
DATE: 4/13/2012
JOB NO.: 8218
SHEET NO.: 1 OF 1

A.P.N.: 106-220-20
FIELD BOOK NO.: 220
8218SCASZANO.dwg

Irving L. Schwartz, C.E.
R.C.E. 18232

EXHIBIT NO. 2
APPLICATION NO.
1 of 15
A-2-MAR-10-022





SCALE: 1" = 200'

LEGEND

- 100' WETLAND BUFFER
- 300' POND BUFFER
- 100' RIPARIAN ZONE AND CHANNELS SETBACK

WETLAND AND RIPARIAN AREA LIMITS PROVIDED BY ZANDER ASSOCIATES.

SHEET INDEX

SHEET	TITLE
1 OF 14	OVERALL SITE PLAN
2 OF 14	UTILITY AND EROSION CONTROL PLAN
3 OF 14	DRIVEWAY PLAN AND PROFILE
4 OF 14	DRIVEWAY PLAN AND PROFILE
5 OF 14	BRANDY BARN SITE PLAN
6 OF 14	BARN AND SHED SITE PLAN
7 OF 14	RESIDENCE SITE PLAN
8 OF 14	AUXILARY ROAD SITE PLAN
9 OF 14	HOPYARD SHELTER SITE PLAN
10 OF 14	SHEEP SHELTER #2 SITE PLAN
11 OF 14	SHEEP SHELTER #1 SITE PLAN
12 OF 14	GREEN HOUSE SITE PLAN
13 OF 14	DETAILS
14 OF 14	OVERALL UTILITY PLAN

SURVEY NOTES

1. HORIZONTAL DATUM IS BASED UPON FIELD SURVEY AND RECORD DATA.
2. CONTOUR INTERVAL IS 2'.
3. TOPOGRAPHY FROM FIELD SURVEY AND AERIAL SURVEY.

A.P.N.: 106–220–20
FIELD BOOK NO.: ###

8218MPDR11.dwg

Irving L. Schimmel, C.E. R.C.E. 18003

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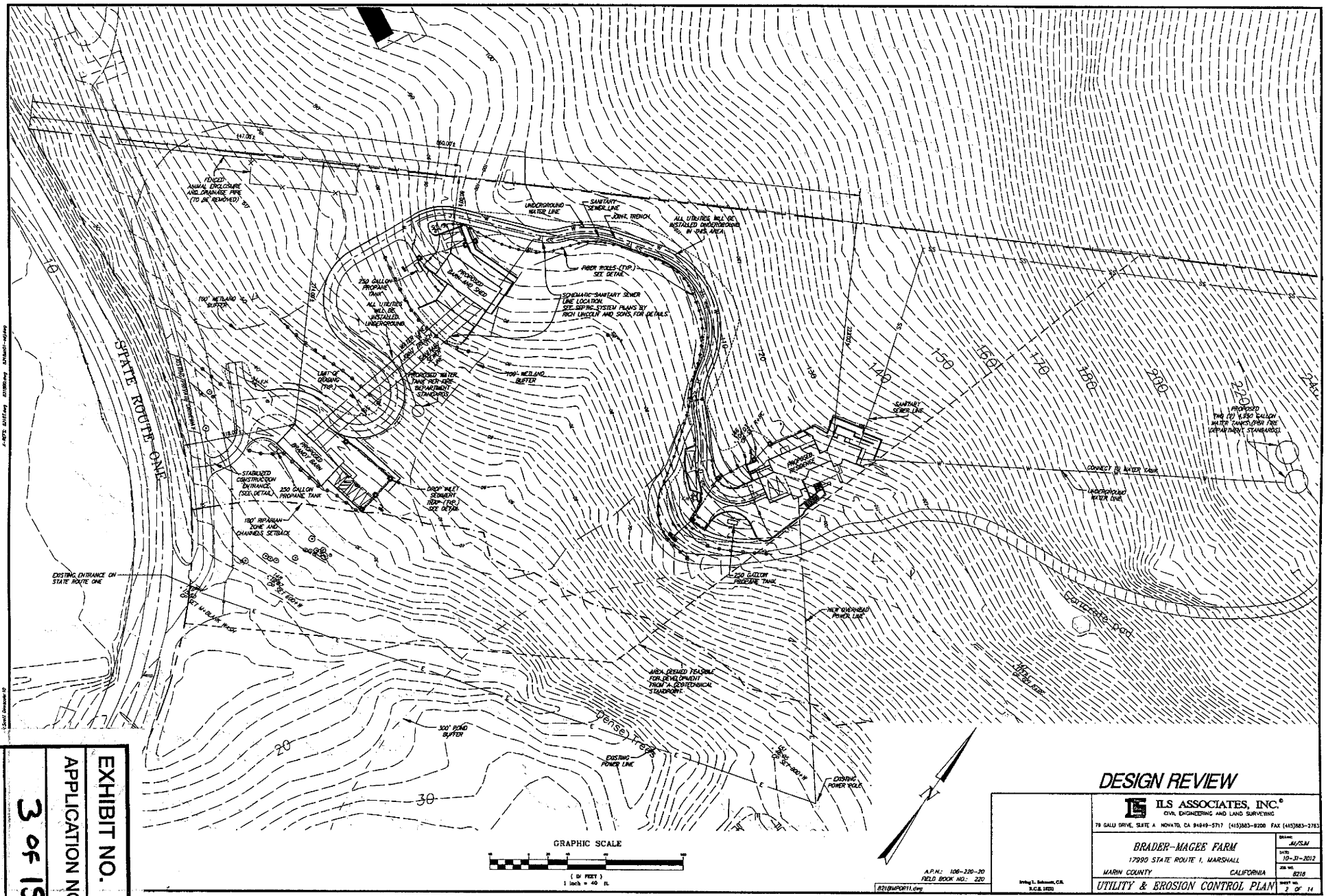
OVERALL SITE PLAN

DRAWN	A.J.S./S.M.
DATE	10–31–2012
JOB NO.	8218
SHEET NO.	1 OF 14

EXHIBIT NO. 2
APPLICATION NO.
2 of 15
A-2-MAR-10-022



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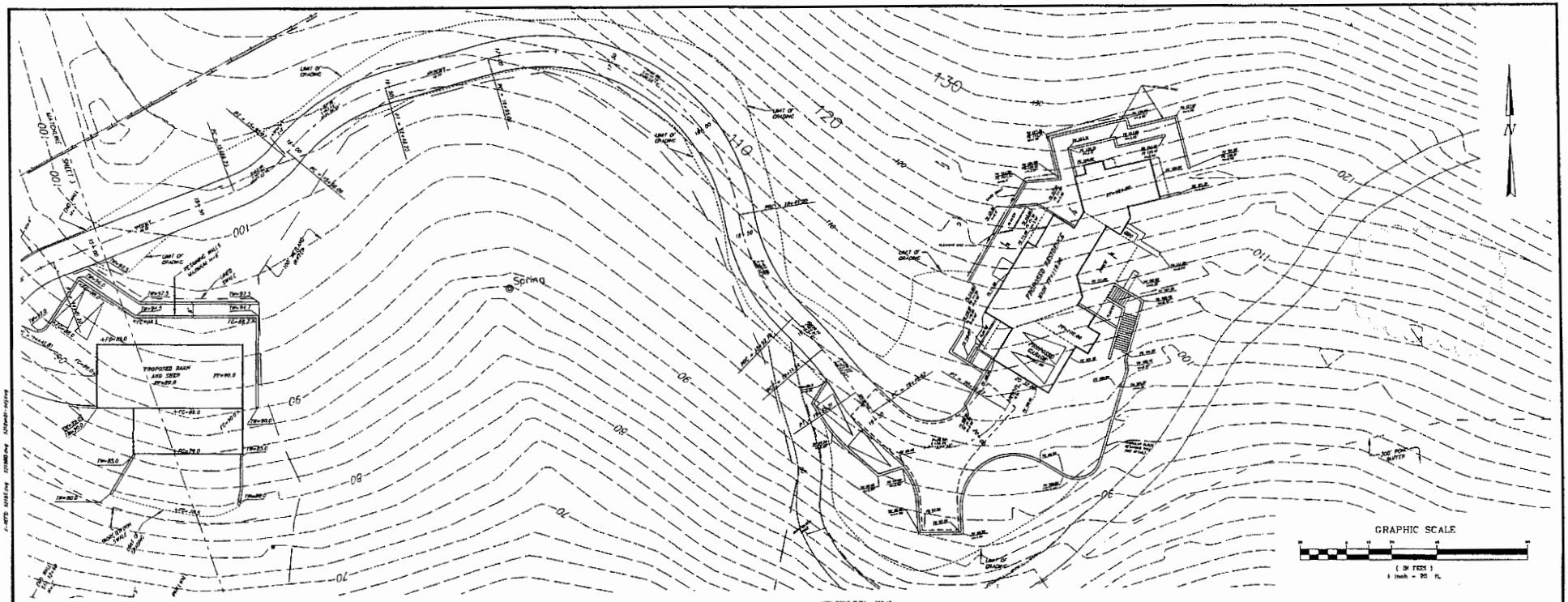
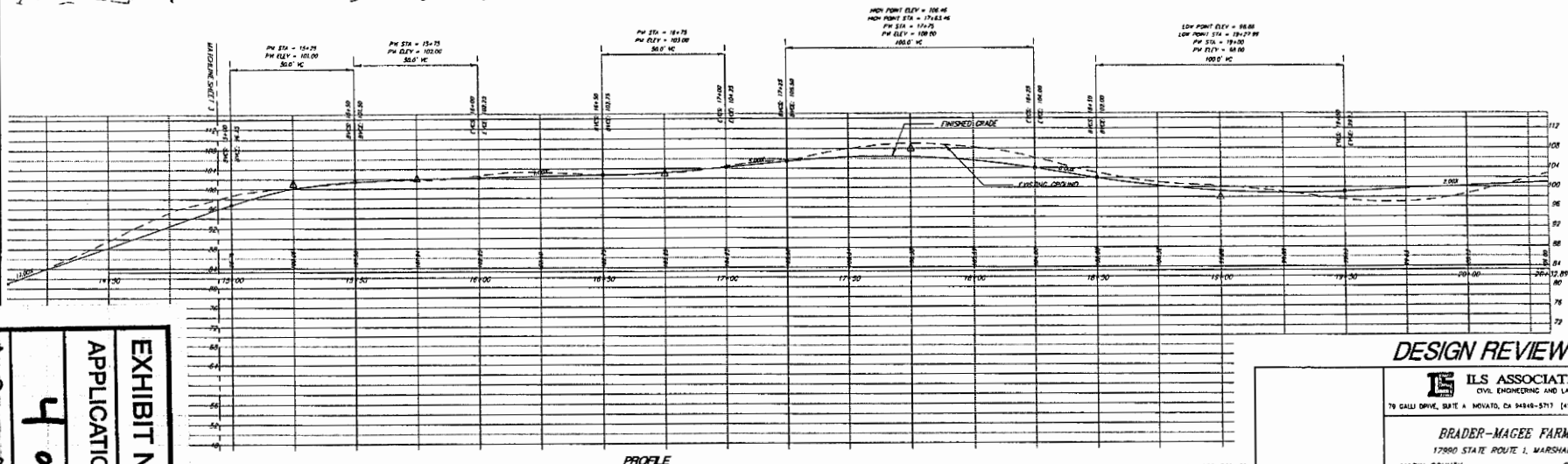
APPLICATION NO.
3 of 15
A-2-MAR-10-022





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MARIN COUNTY CALIFORNIA

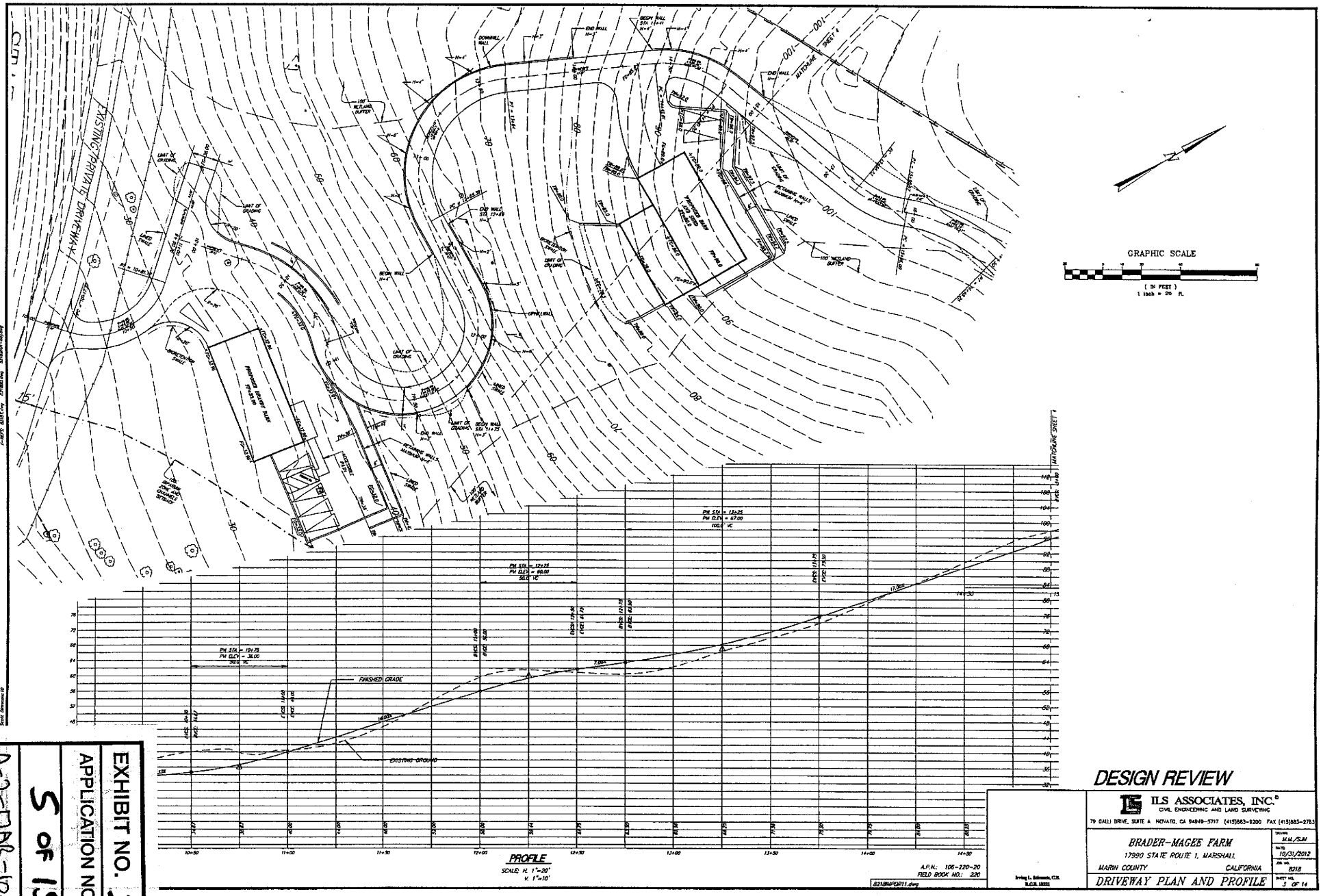
DRIVEWAY PLAN AND PROFILE

Drawn: M.K./S.M.
Date: 10/31/2012
Job No.: 8218
Sheet No.: 4 OF 14

A.P.N.: 106-220-20
FIELD BOOK NO.: 220

8218HPDR11.dwg

EXHIBIT NO. 2
APPLICATION NO. 4 of 15
A-2-MAR-10-022



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APPLICATION NO.
5 of 15
A-2-MAR-10-022

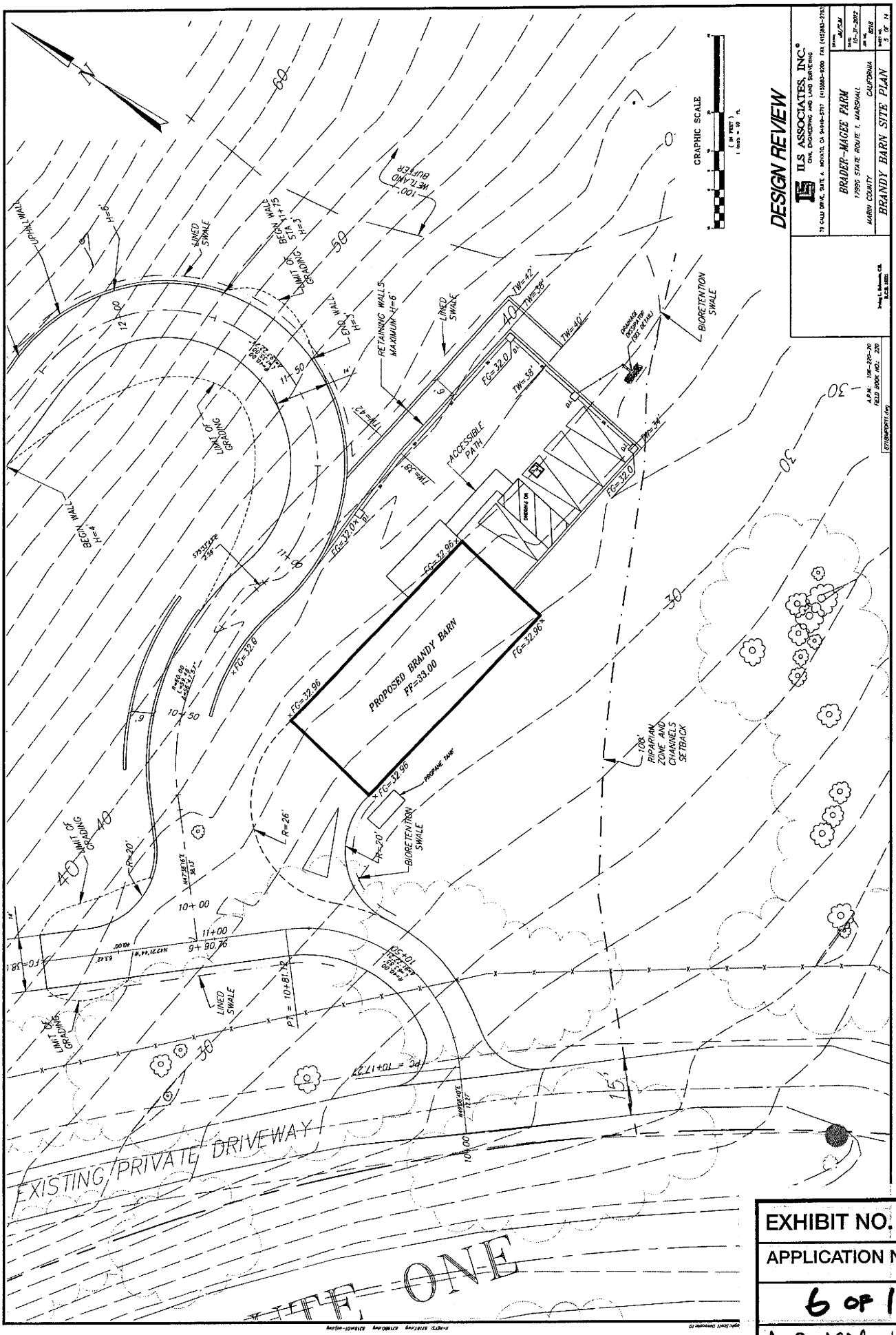
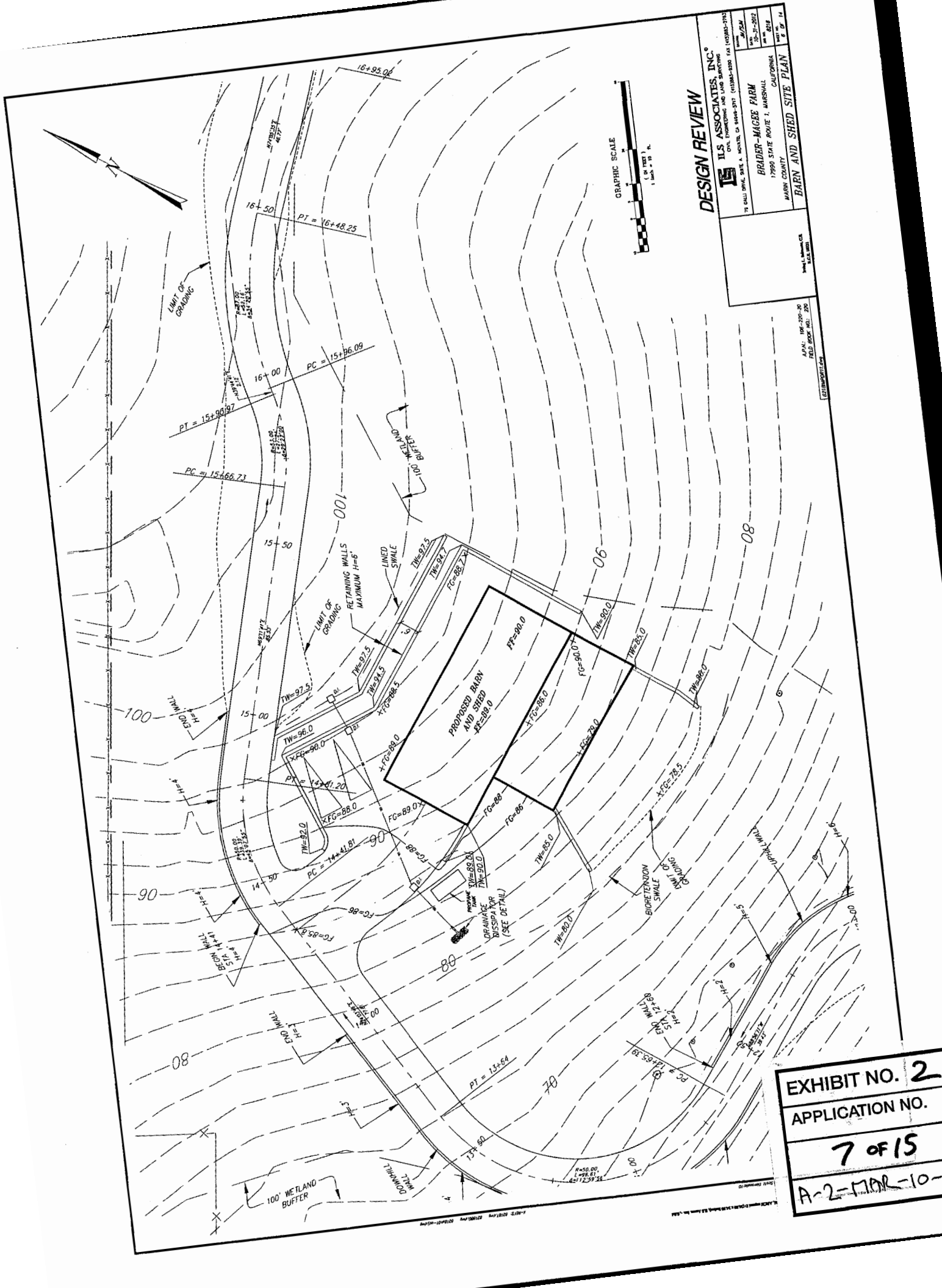


EXHIBIT NO. 2

APPLICATION NO.

6 OF 15

A-2-MAR-10-022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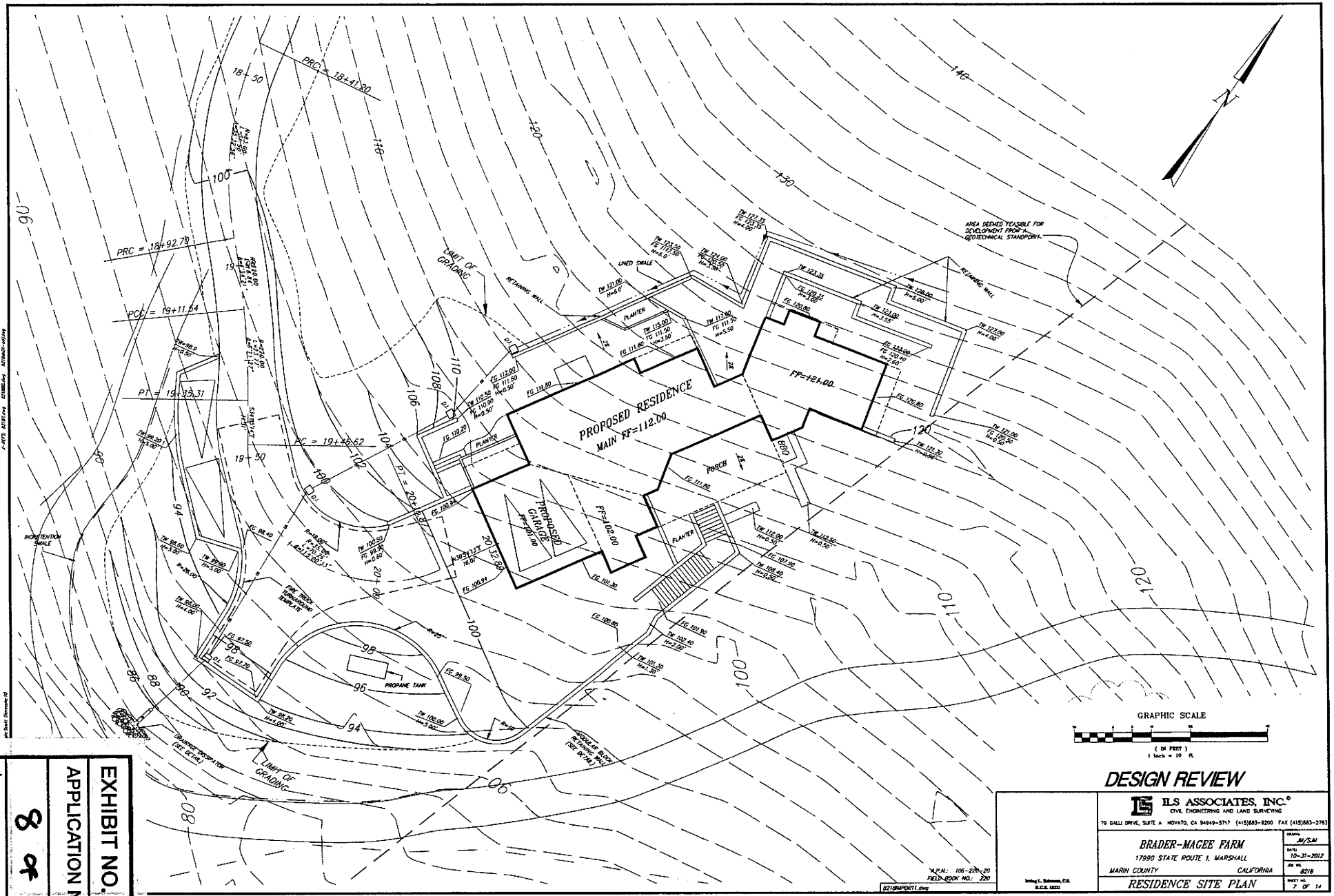
BRADER-MAGEE FARM
17999 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA
BARN AND SHED SITE PLAN
GRAPHIC SCALE
PROPOSED BARN AND SHED
FF=90.0
BF=89.0
LIMIT OF GRADING
RETAINING WALLS MAXIMUM H=6'
LINED SWALE
100' WETLAND BUFFER
BIORETENTION SWALE
DRAINAGE DISSIPATOR (SEE DETAIL)
END WALL
DOWNWALL
16+95.06
PT = 16+48.25
PC = 15+96.09
PT = 15+96.97
PC = 15+66.73
PC = 14+41.81
PT = 13+64
PC = 12+65.39
EXHIBIT NO. 2
APPLICATION NO.
7 OF 15
A-2-MAR-10-02



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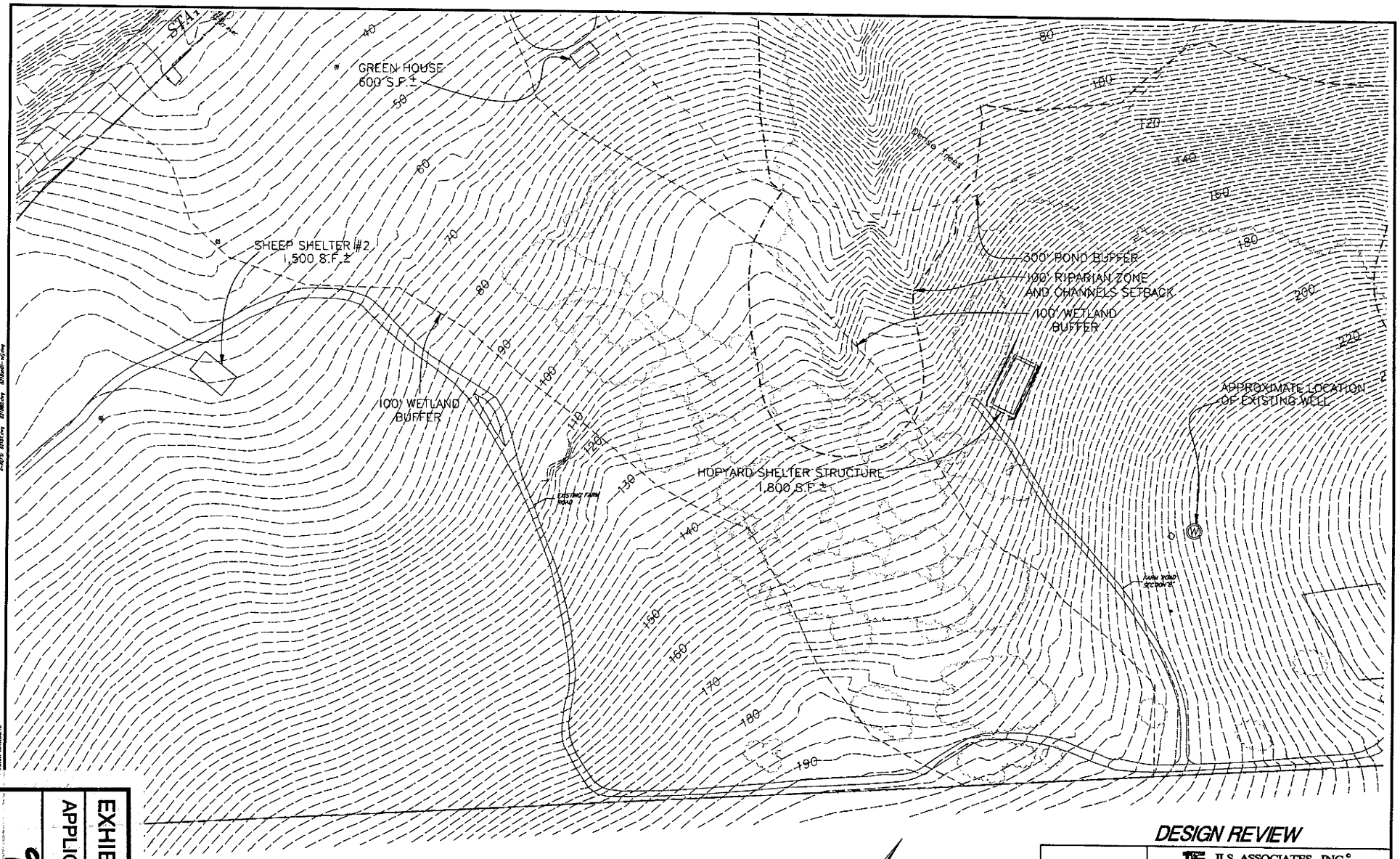
MARIN COUNTY CALIFORNIA
RESIDENCE SITE PLAN

DRAWN: JM/SJM
DATE: 10-31-2012
JOB NO.: 8218
SHEET NO.: 7 OF 14

A.P.N.: 106-230-20
FIELD BOOK NO.: 370

8218SMPDRT1.dwg

EXHIBIT NO. 2
APPLICATION NO.
8 of 15
A-2-MAR-10-022



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MARIN COUNTY CALIFORNIA

AUXILIARY ROAD SITE PLAN

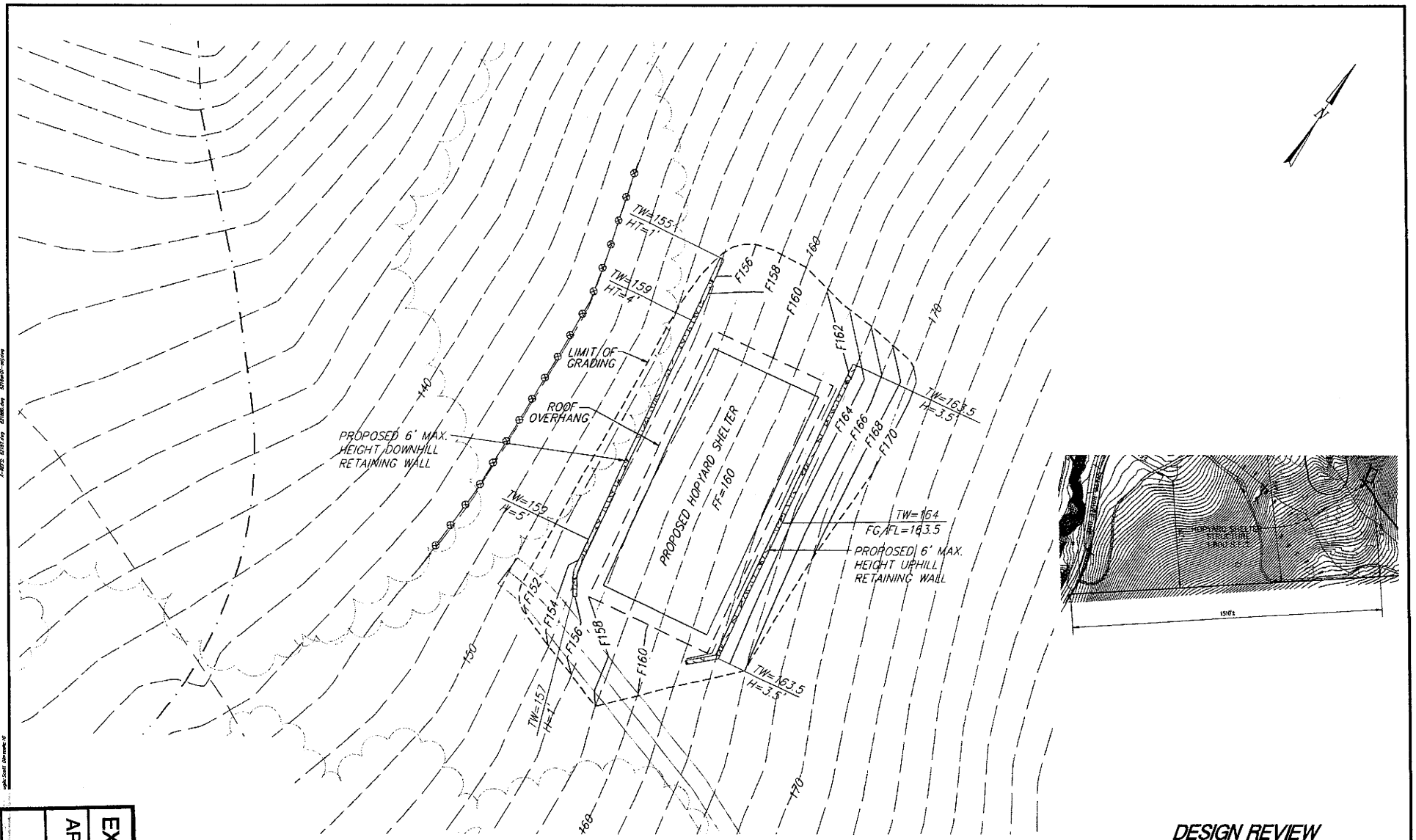
DRAWING: JM/SM
DATE: 10-31-2012
JOB NO.: 8218
SHEET NO.: 8 OF 14

A.P.N.: 106-220-20
FIELD BOOK NO.: 220

8218MPDW11.dwg

Irving L. Schwartz, CE
R.C.E. 18251

EXHIBIT NO. 2
APPLICATION NO.
9 of 15
A-2-MAR-10-002



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BRADER-MAGEE FARM
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MARIN COUNTY CALIFORNIA

HOPYARD SHELTER SITE PLAN

DRAWN: JM/SM
DATE: 10-31-2012
JOB NO.: 8218
SHEET NO.: 9 OF 14

A.P.N.: 106-220-20
FIELD BOOK NO.: 220

8218SHPDR11.dwg

EXHIBIT NO. 2
APPLICATION NO.
10 of 15
A-2-MRN-10-022

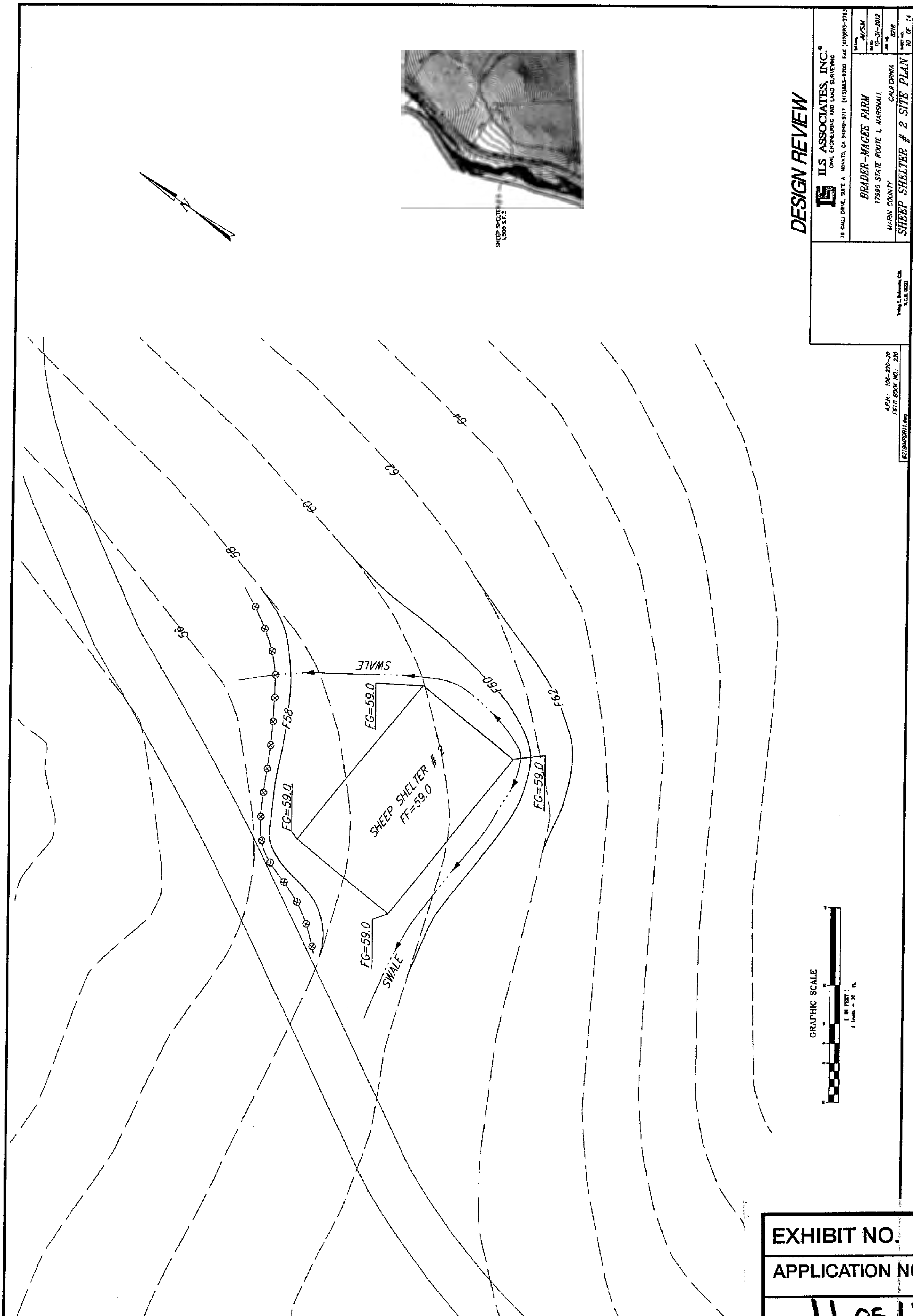
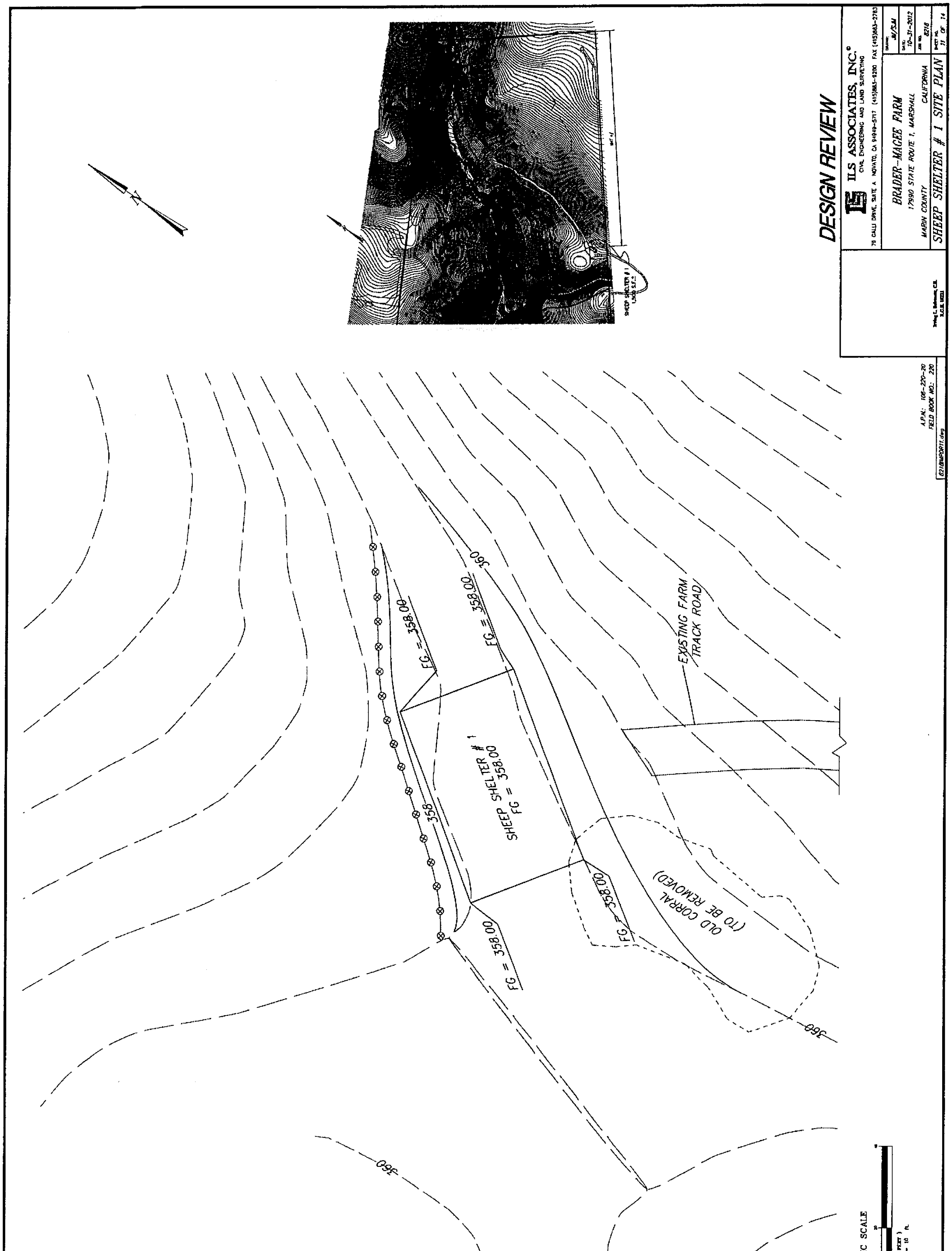


EXHIBIT NO. 2

APPLICATION NO.

11 OF 15

A-2-MAR-10-022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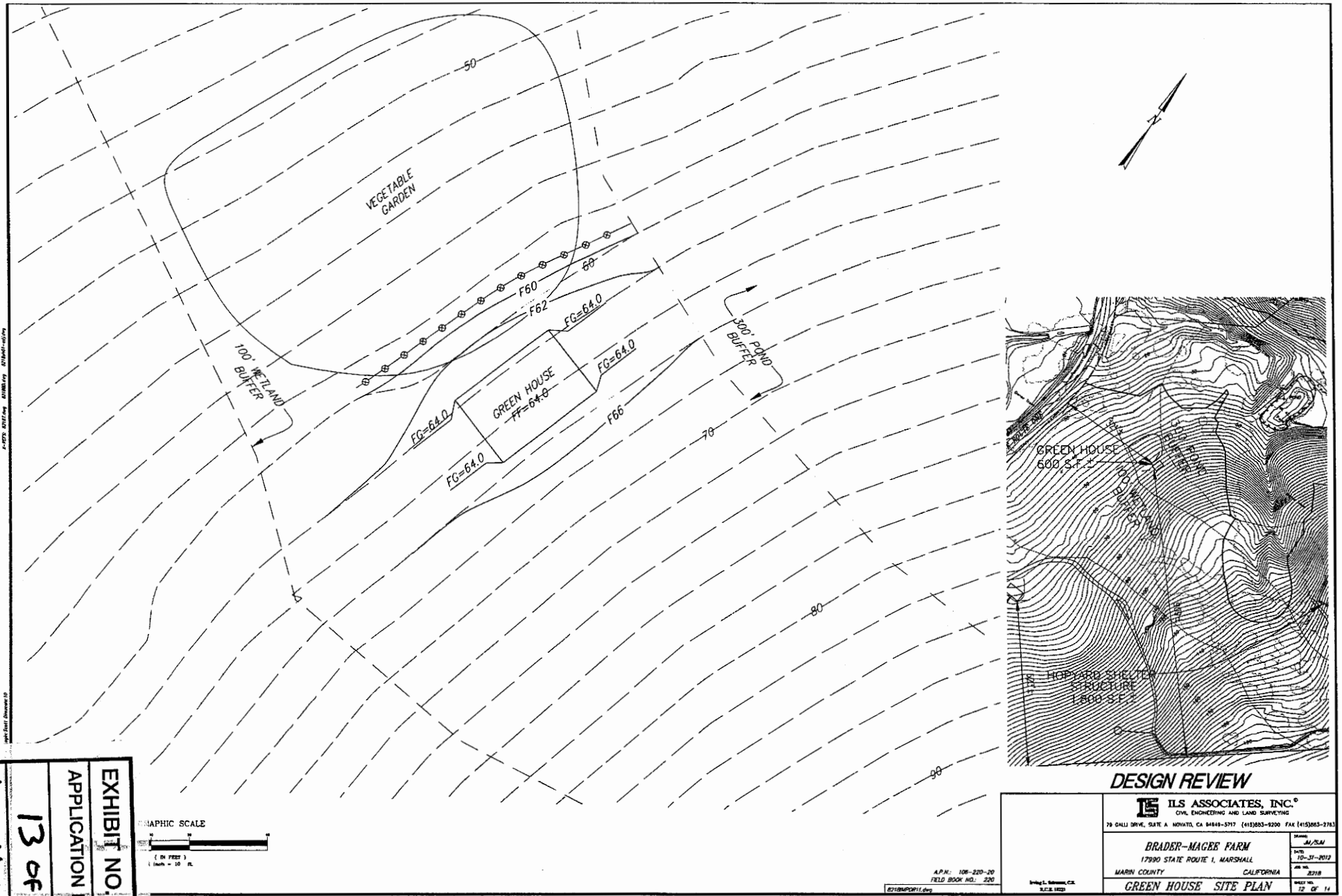
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY
CALIFORNIA
SHEEP SHELTER # 1 SITE PLAN
DRAWN: JM/SJM
DATE: 10-31-2012
JOB NO. 8218
SHEET NO. 11 OF 14
A.P.N.: 106-220-20
FIELD BOOK NO.: 220
8218MPOR11.dwg
SHEEP SHELTER # 1
1,300 S.F.±
SHEEP SHELTER # 1
FG = 358.00
FG = 358.00
FG = 358.00
FG = 358.00
FG = 358.00
358
360
360
360
EXISTING FARM TRACK ROAD
OLD CORRAL (TO BE REMOVED)

EXHIBIT NO. 2

APPLICATION NO.

12 OF 15

A-2-MAR-10-022



GRAPHIC SCALE

(IN FEET)
1 inch = 10 ft.

DESIGN REVIEW

ILS ASSOCIATES, INC.
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BRADER-MAGEE FARM
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA

GREEN HOUSE SITE PLAN

DRAWING: JH/SLM
DATE: 10-31-2012
JOB NO.: 8218
SHEET NO.: 12 OF 14

A.P.N.: 106-220-20
FIELD BOOK NO.: 220

8218MPDP11.dwg

Irving L. Schwarz, C.E.
R.C.E. 18523

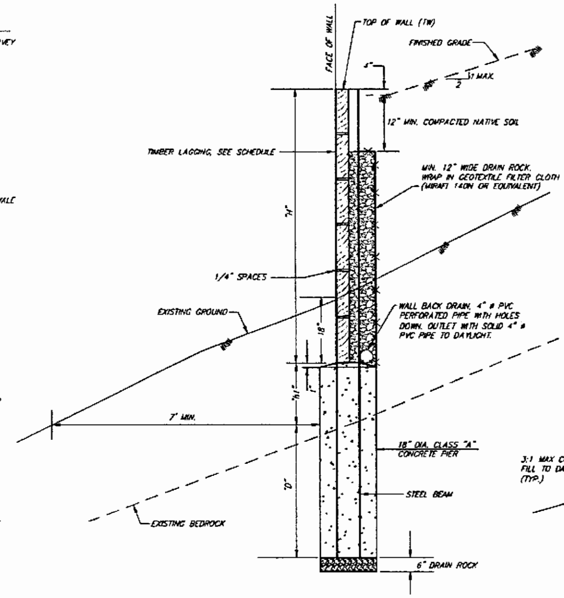
EXHIBIT NO. 2
APPLICATION NO.
13 of 15
A-2-MRN-10-022

LEGEND

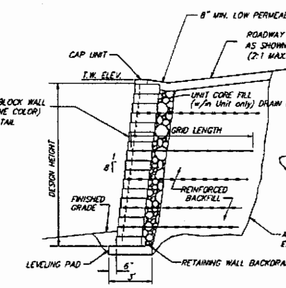
- RANDOM CONTROL FOR SURVEY
- EXISTING GUY ANCHOR
- EXISTING JOINT POLE
- EXISTING TREE
- EXISTING FENCE
- PROPERTY LINE
- PROPOSED GRASS LINED SWALE
- 100 — PROPOSED FINISHED GRADE CONTOUR
- DI — PROPOSED DRAINAGE INLET
- LIMIT OF GRADING
- CENTERLINE
- FIBER ROLL
- JT — PROPOSED JOINT TRENCH
- W — PROPOSED WATER LINE
- SS — PROPOSED SANITARY SEWER
- SD — PROPOSED STORM DRAIN
- PROPOSED FIRE HYDRANT
- EXISTING CONTOURS

ABBREVIATIONS

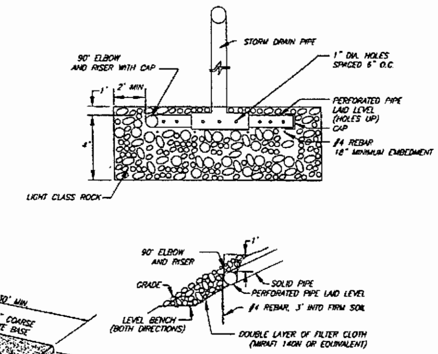
BVC	BEGIN VERTICAL CURVE
A.B.	AGGREGATE BASE
A.C.	ASPHALT CONCRETE
BC	BEGINNING OF HORIZONTAL CURVE
AD	AREA DRAIN
CL	CENTER LINE
DI	DROP INLET
EX.	EXISTING
EG	EXISTING GROUND
FF	FINISHED FLOOR ELEVATION
EVC	END VERTICAL CURVE
FG	FINISHED GRADE
FL	FLOW LINE
INV	INVERT ELEVATION
H.P.	HIGH POINT
RIM	RIM ELEVATION
TW	TOP OF WALL
SD	STORM DRAIN
PT	POINT OF TANGENCY
PC	POINT OF CURVE
PCC	POINT OF COMPOUND CURVE
PRC	POINT OF REVERSE CURVE
C.Y.	CUBIC YARD
G.B.	GRADE BREAK
R	RADIUS
H=	HEIGHT OF RETAINING WALL
SF	SQUARE FEET



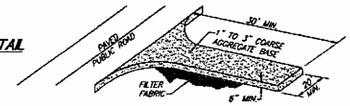
WOOD LAGGED SOLDIER PIER RETAINING WALL DETAIL
NOT TO SCALE



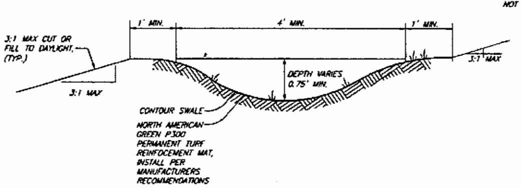
MODULAR BLOCK WALL DETAIL
NOT TO SCALE



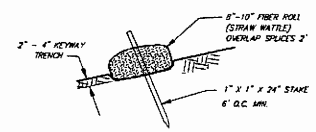
'T' DISSIPATER SECTION
NOT TO SCALE



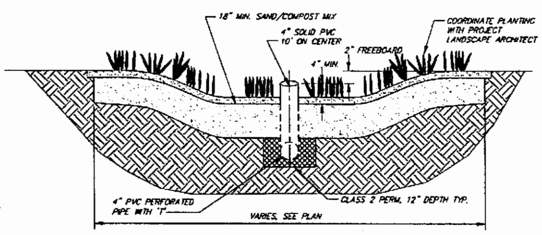
STABILIZED CONSTRUCTION ENTRANCE
NOT TO SCALE



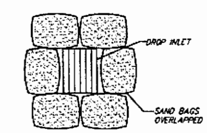
LINED SWALE - TYPICAL SECTION
NOT TO SCALE



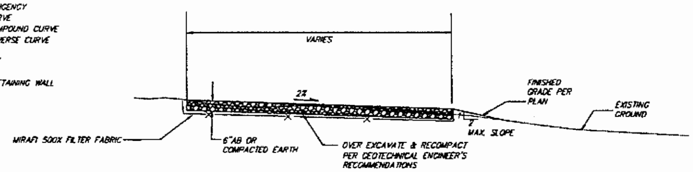
FIBER ROLL INSTALLATION DETAIL
NOT TO SCALE



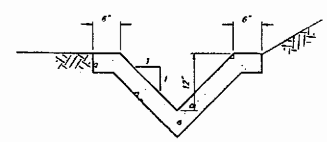
BIORETENTION SWALE DETAIL
NOT TO SCALE



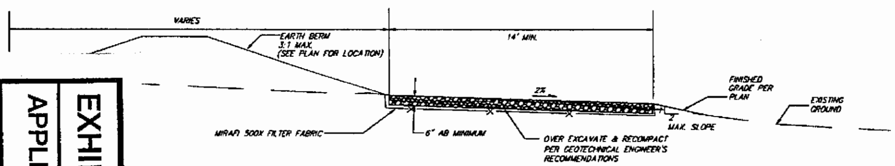
INLET PROTECTION DETAIL
NOT TO SCALE



FARM ROAD SECTION "B"
NOT TO SCALE



DITCH SECTION
NOT TO SCALE



TYPICAL DRIVEWAY SECTION "A"
NOT TO SCALE

PROPOSAL PARKING SPACES

BUILDING	PARKING SPACES	ACCESSABLE SPACES	TOTAL SPACES
BRANDY BARN	4	1	5
BARN & SHED	2	0	2
RESIDENCE	4	0	4
TOTAL	10	1	11

EARTHWORK

EXCAVATION (CUT) = 3000 CUBIC YARDS
EMBANKMENT (FILL) = 3000 CUBIC YARDS

LOT SIZE=149 ACRES
AREA OF DISTURBANCE =2.1 ACRES
IMPERVIOUS AREA OF DEVELOPMENT = 0.3 ACRES
PERVIOUS AREA OF DEVELOPMENT = 1.8 ACRES

A.P.N.: 106-220-20
FIELD BOOK NO.: ###

8218MPDR11.dwg

DESIGN REVIEW

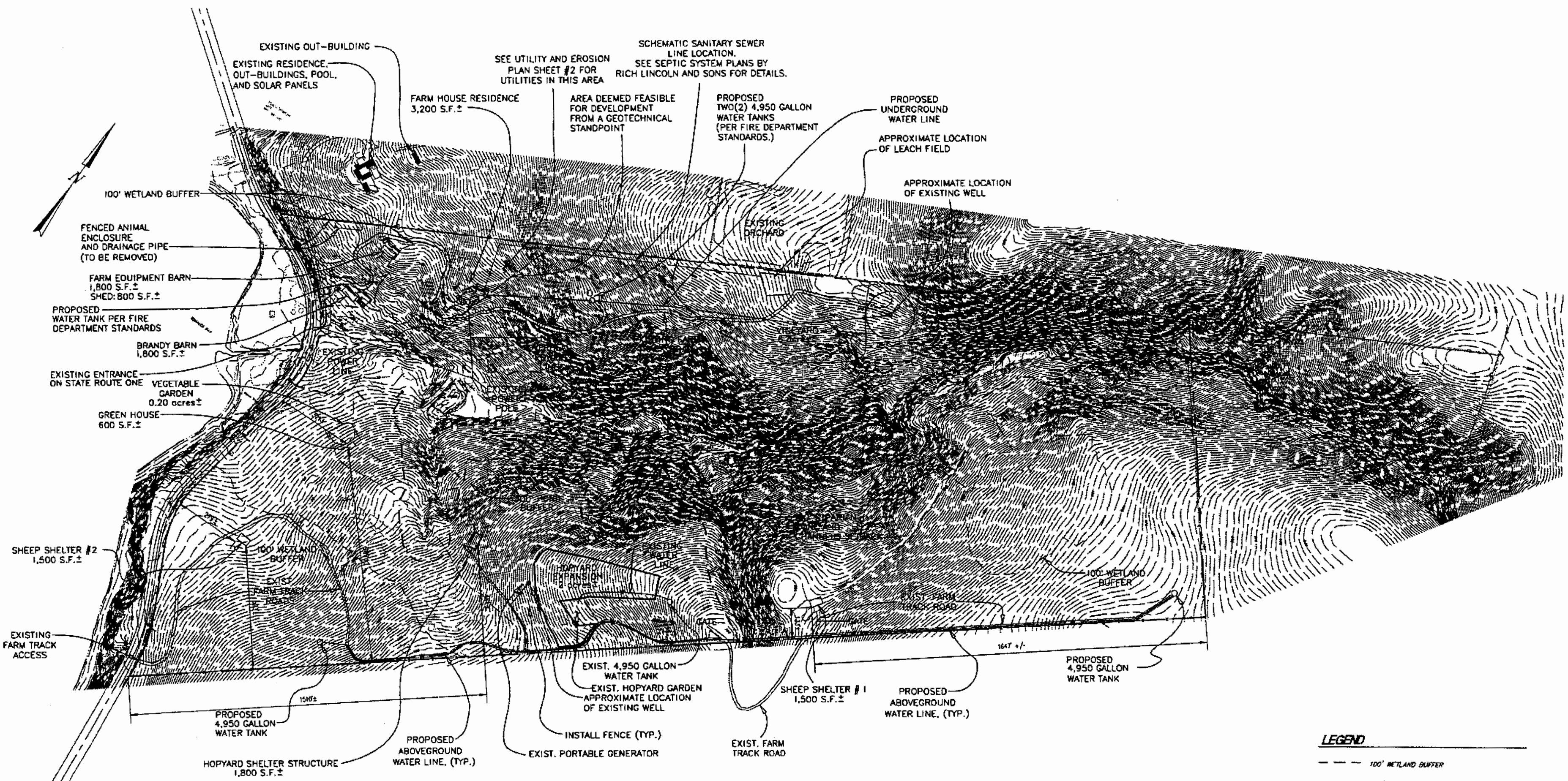
ILS ASSOCIATES, INC.©
CIVIL ENGINEERING AND LAND SURVEYING
79 GALLI DRIVE, SUITE A NOVATO, CA 94949-5717 (415)883-9200 FAX (415)883-2763

BRADER-MAGEE FARM
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA

DETAILS

DRAWN: A.J.S./S.M
DATE: 10-31-2012
JOB NO.: 8218
SHEET NO.: 13 OF 14

EXHIBIT NO. 2
APPLICATION NO.
14 of 15
A-2-MAR-10-022



SCALE: 1" = 200'

LEGEND

- — — — 100' WETLAND BUFFER
- — · — 300' POND BUFFER
- — · — · 100' RIPARIAN ZONE AND CHANNELS SETBACK

WETLAND AND RIPARIAN AREA LIMITS PROVIDED BY ZANDER ASSOCIATES.

SURVEY NOTES

1. HORIZONTAL DATUM IS BASED UPON FIELD SURVEY AND RECORD DATA.
2. CONTOUR INTERVAL IS 2'.
3. TOPOGRAPHY FROM FIELD SURVEY AND AERIAL SURVEY.

DESIGN REVIEW

ILS ASSOCIATES, INC.©
CIVIL ENGINEERING AND LAND SURVEYING
79 GALLI DRIVE, SUITE A NOVATO, CA 94949-5717 (415)883-9200 FAX (415)883-2763

BRADER–MAGEE FARM
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA

OVERALL UTILITY PLAN

DRAWN: A.J.S./S.M.
DATE: 10-31-2012
JOB NO. 8218
SHEET NO. 14 OF 14

A.P.N.: 106-220-20
FIELD BOOK NO.: ###

8218MPDR11.dwg

EXHIBIT NO. 2
APPLICATION NO.
15 of 15
A-2-MAR-10-022

AGRICULTURAL CONSERVATION EASEMENT AREA

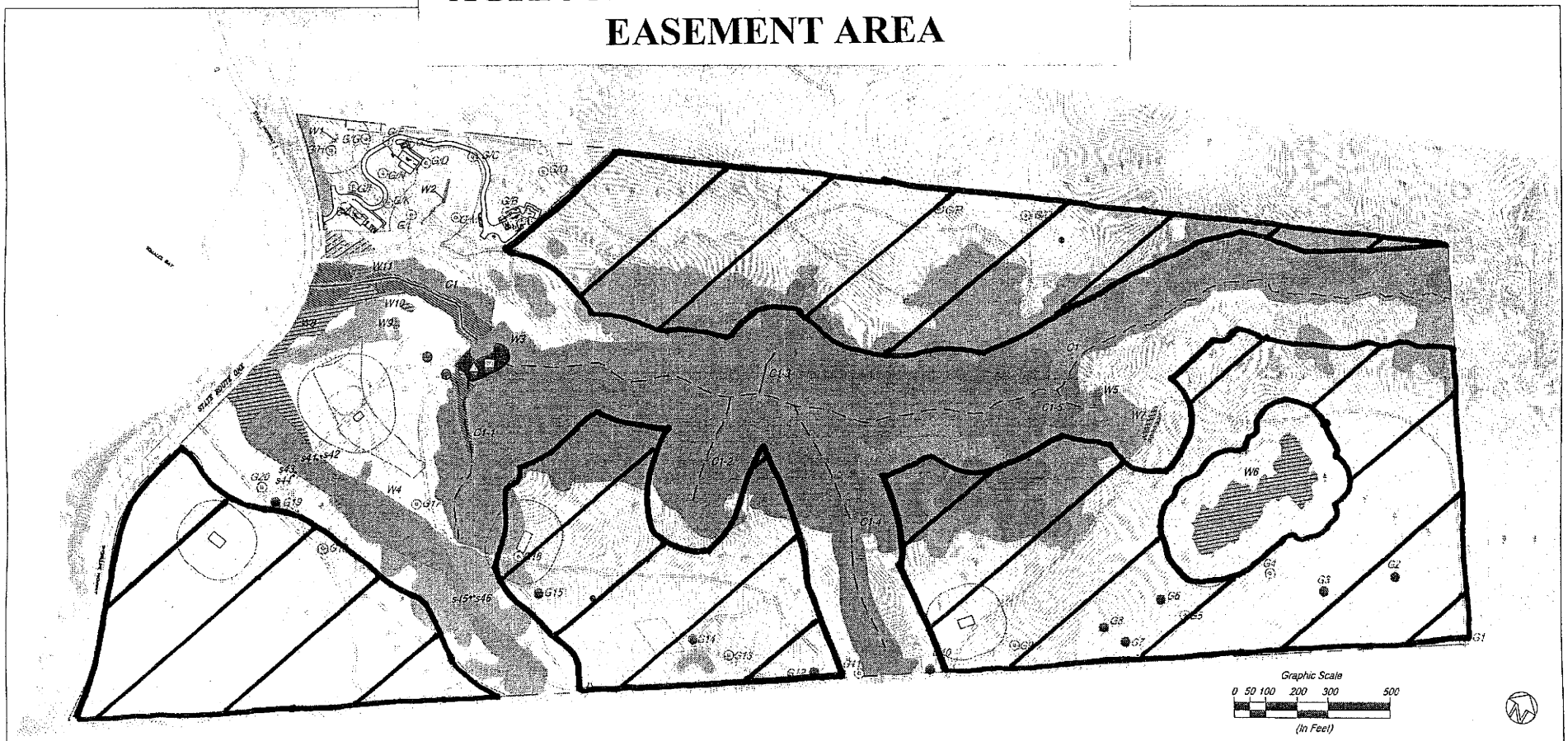


Figure 1. Proposed development on the Magee property in relation to natural resources.

California Coastal Commission
All Locations Approximate.
For Illustrative Purposes Only.
Source: Zander Associates..

A-2-MAR-10-022

EXHIBIT NO. 3
APPLICATION NO.

HABITAT CONSERVATION DEED RESTRICTION AREA

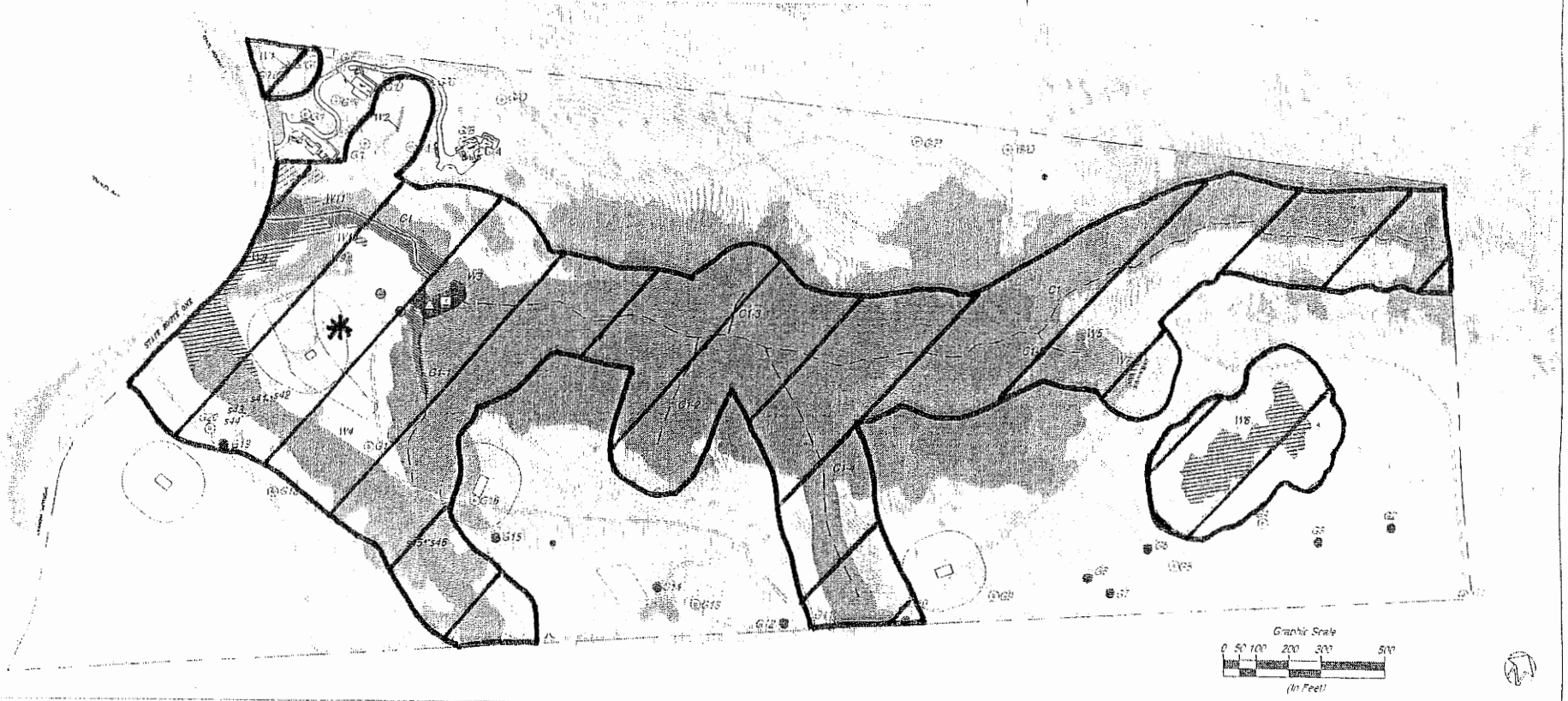


Figure 1. Proposed development on the Magee property in relation to natural resources.

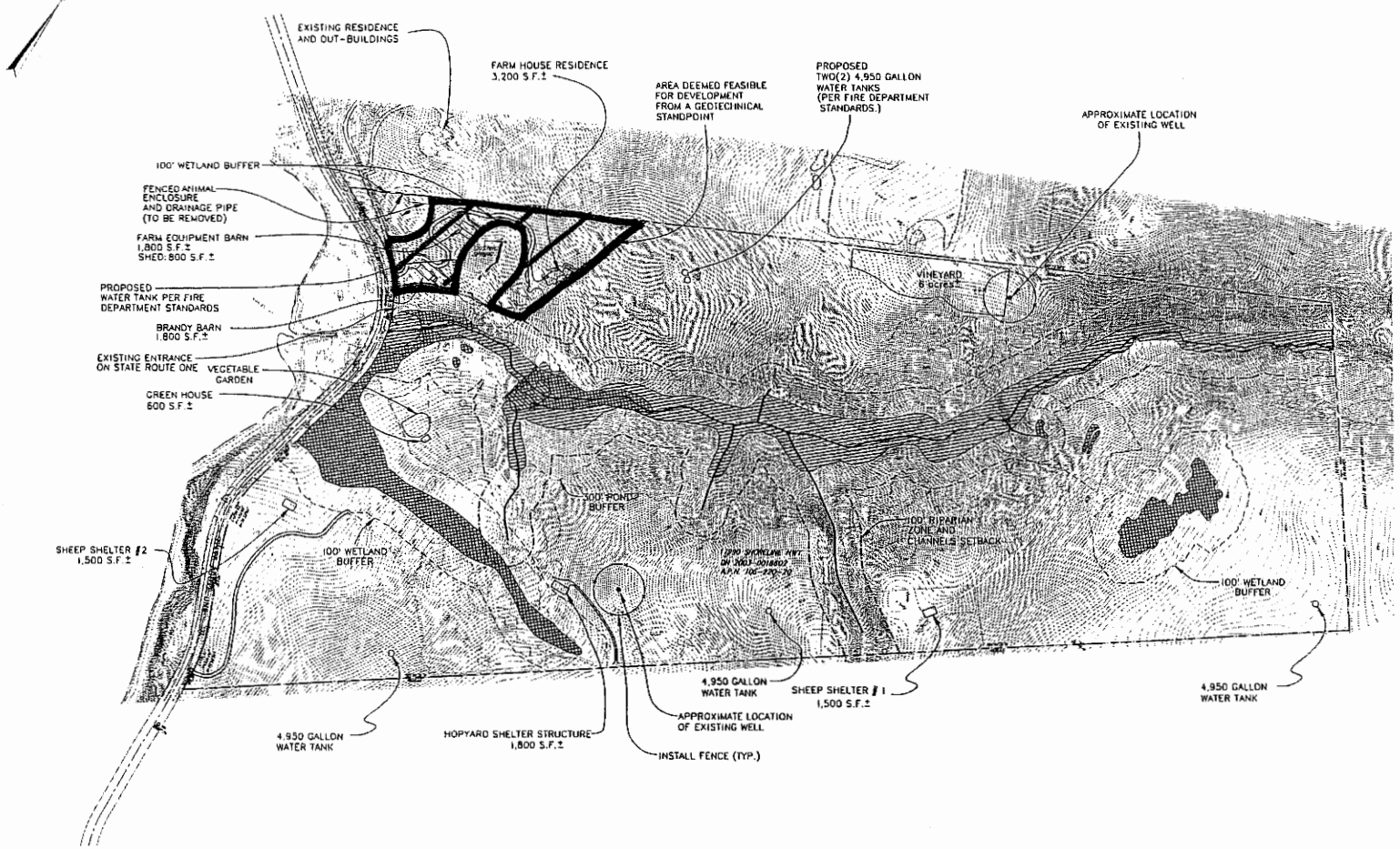
✱ Greenhouse and vegetable garden are permitted uses in Habitat Conservation Deed Restriction Area only in that section of the Area outside mapped sensitive habitat and required setbacks.

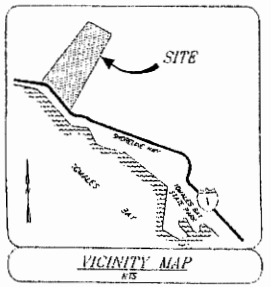
California Coastal Commission
All Locations Approximate.
For Illustrative Purposes Only.
Source: Zander Associates..

A-2-MAR-16-022

EXHIBIT NO. 4
APPLICATION NO.

BUILDING ENVELOPE AREA





LEGEND

- RANDOM CONTROL FOR SURVEY
- SPRINGS
- CHANNELS
- SEEPS
- POND
- APPROXIMATE EXTENT OF RIPARIAN ZONE
- 100' WETLAND BUFFER
- 300' POND BUFFER
- 100' RIPARIAN ZONE AND CHANNELS SETBACK

WETLAND AND RIPARIAN AREA LIMITS PROVIDED BY SANGER ASSOCIATES.

SURVEY NOTES

1. VERTICAL DATUM IS NAVD 88.
2. HORIZONTAL DATUM IS NAD 83.
3. CONTOUR INTERVAL IS 2'.

GRAPHIC SCALE

(IN FEET)
1 inch = 200 ft.

CHECK PRINT

ILS ASSOCIATES, INC.®
CIVIL ENGINEERING AND LAND SURVEYING
30 GALLI DRIVE, SUITE A NOVATO, CA 94949-5217 (415)883-0200 FAX (415)883-2761

BRADER-MAGEE FARM
17990 STATE ROUTE 1, MARSHALL
MARIN COUNTY CALIFORNIA

CONSTRAINTS MAP

A.P.N.: 106-220-20
FIELD BOOK NO.: 220
8213SCASTAND.dwg

Drawn: W.M./S.M.
Date: 4/13/2012
Job No.: 8213
Sheet No.: 1 OF 1

A-2-MAN-10-022

EXHIBIT NO. 5
APPLICATION NO.

HABITAT AND BUFFER AREA

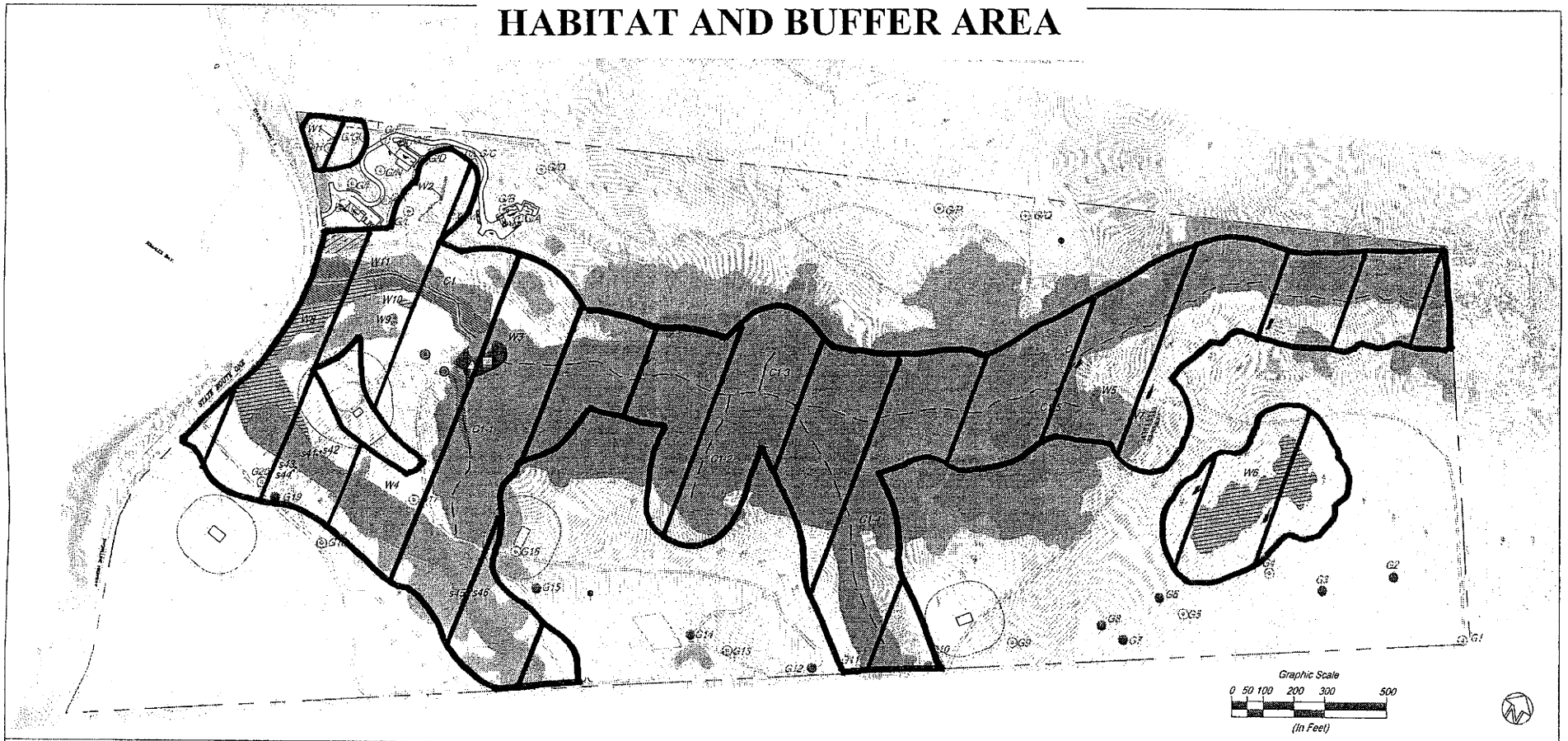


Figure 1. Proposed development on the Magee property in relation to natural resources.

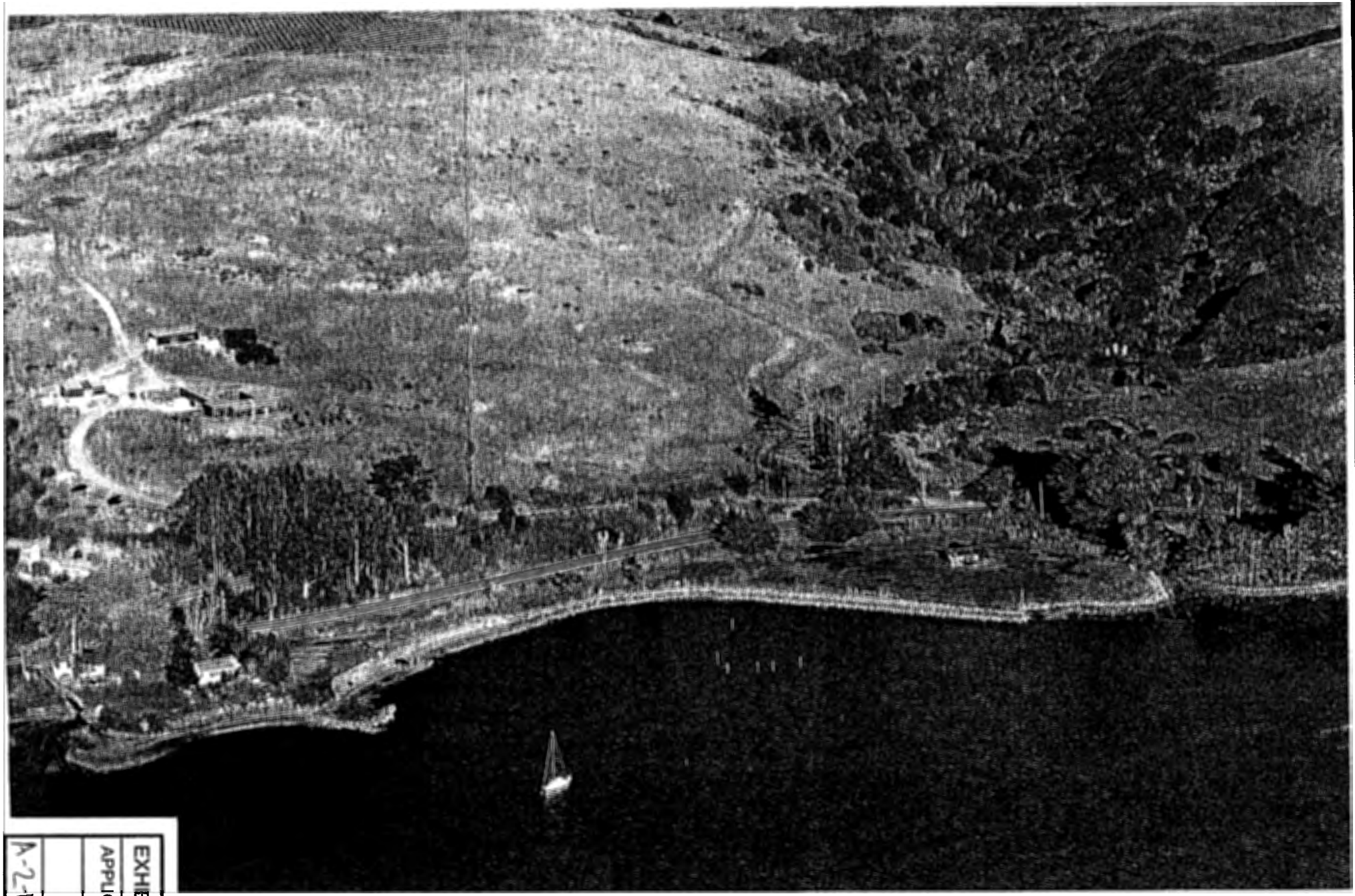
LEGEND

- Native Grassland Sample Point
- Non-native Grassland Sample Point
- W1 Wetland
- s1 Wetland Sample Point
- C1 Main Stream Channel
- C1-1 Tributory Channel
- Streams (Waters)
- Intermittent Streams (Waters)
- Unpermitted Animal Enclosure
- Unpaved Road
- Marin Checker Lily
- California Red-legged Frog
- Western Pond Turtle
- Existing Well
- Pond (Waters)
- Corps & CCC Wetlands
- CCC Wetlands
- Mixed Riparian Woodland
- Riparian Willow Thicket
- Grassland
- Coastal Scrub
- California Bay Forest
- Ornamental Trees
- 100-Ft. Setback Around Agricultural Facilities
- Setback from Pond (300 ft), Stream (150 ft), Wetlands and Riparian Habitats (100 ft)
- Existing Hopyard
- Proposed Vegetable Garden
- Proposed Vineyard
- Proposed Site Plan
- Property Boundary

California Coastal Commission
All Locations Approximate.
For Illustrative Purposes Only.
Source: Zander Associates..

A-2-TRN-10-022

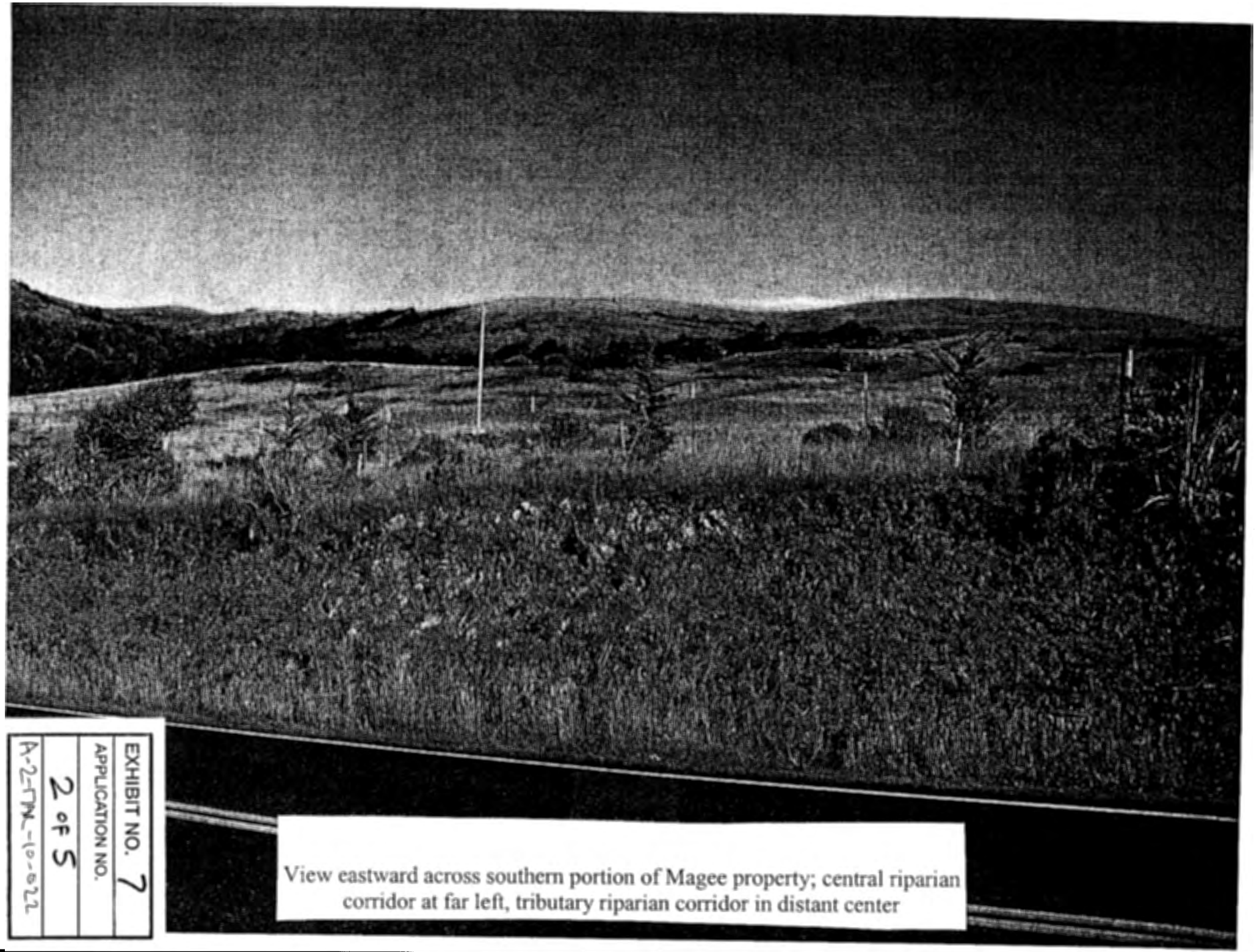
EXHIBIT NO. 6
APPLICATION NO.



Aerial view of northwest corner of Magee property, southwest corner of Kivel-Lund property, mouth of blue-line stream, and Tomales Bay shoreline

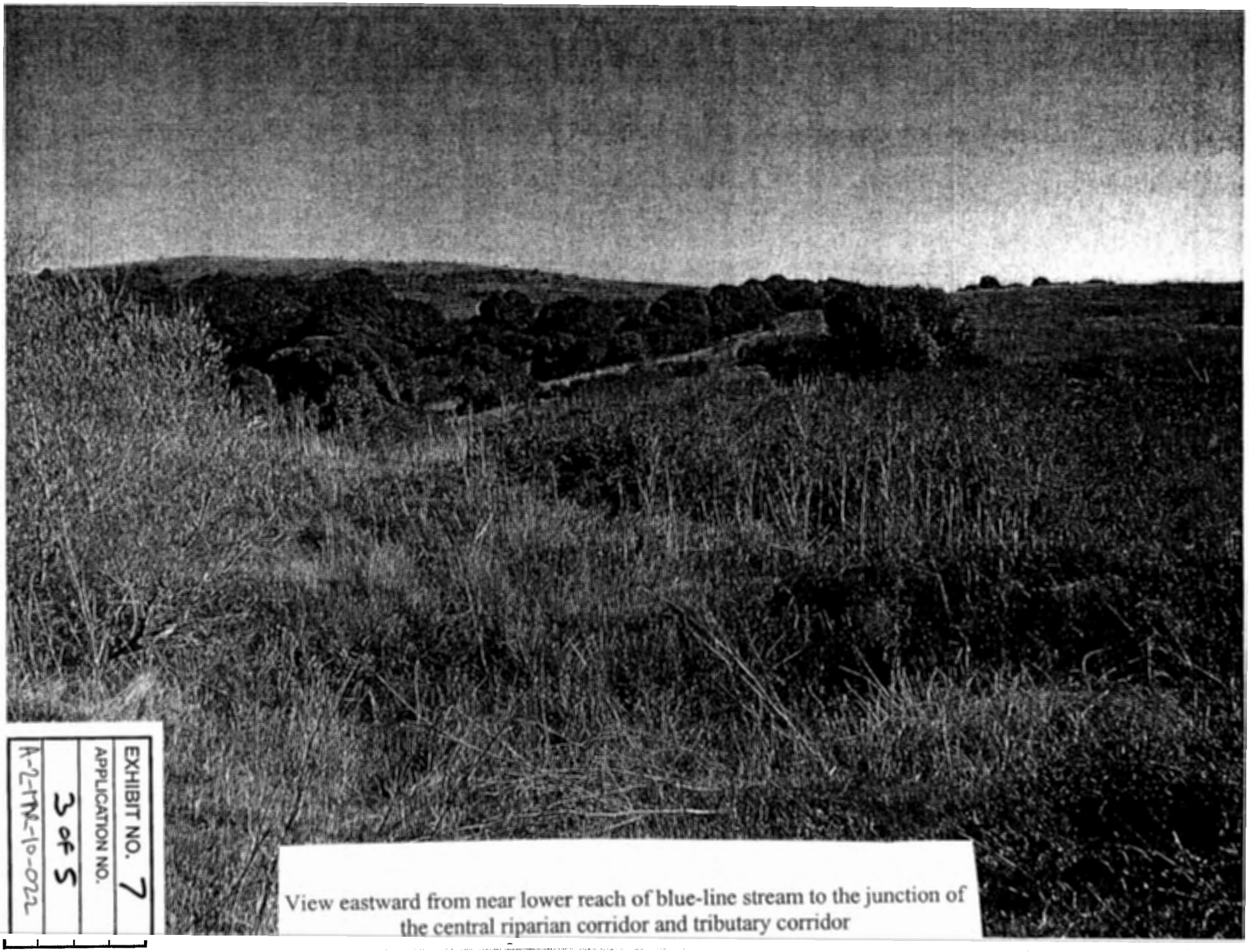
California Coastal Records Project Image 12828

EXHIBIT NO. 7
APPLICATION NO.
1 of 5
A-2-TMR-10-022



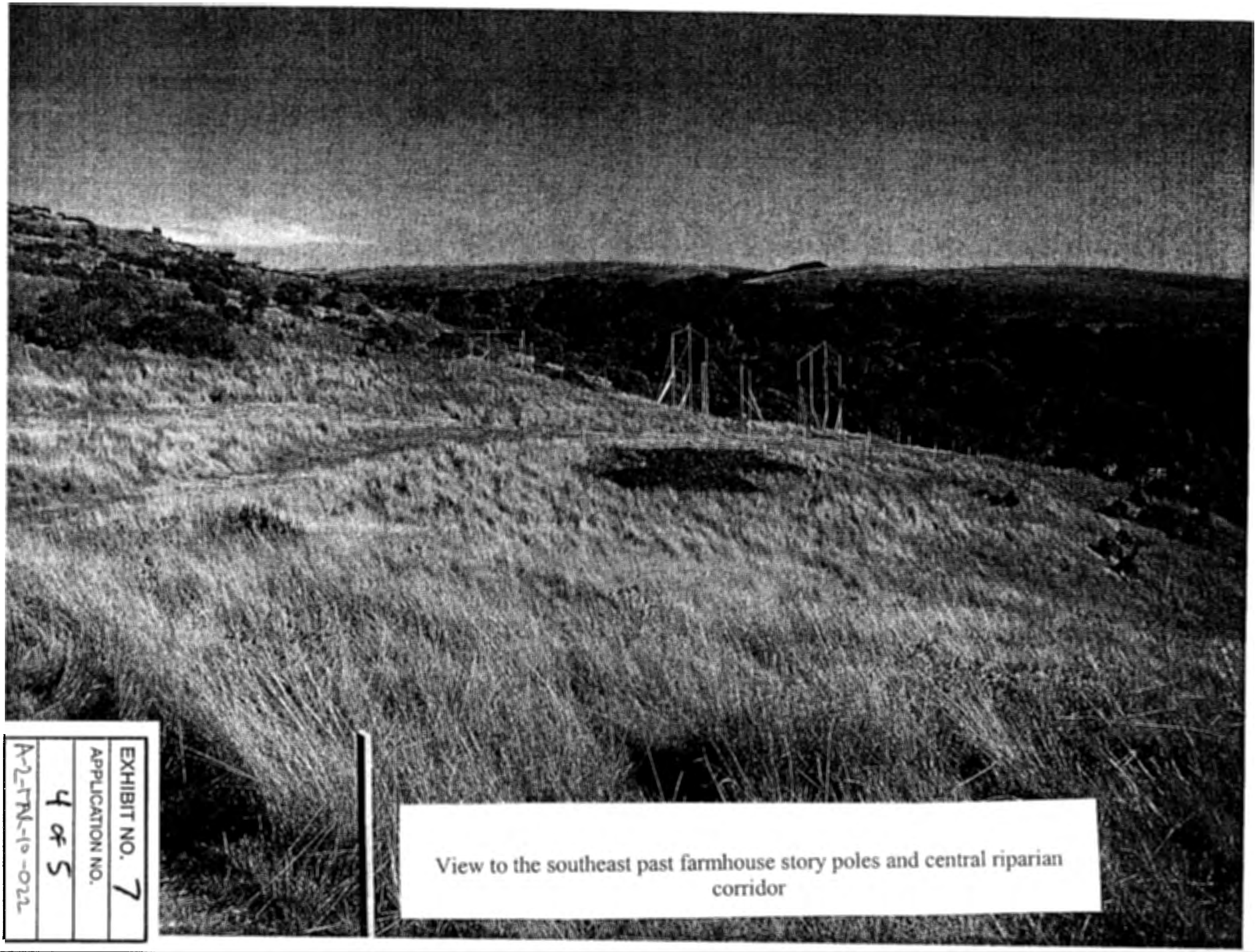
View eastward across southern portion of Magee property; central riparian corridor at far left, tributary riparian corridor in distant center

EXHIBIT NO. 7
APPLICATION NO.
2 OF 5
A-2-TML-10-022



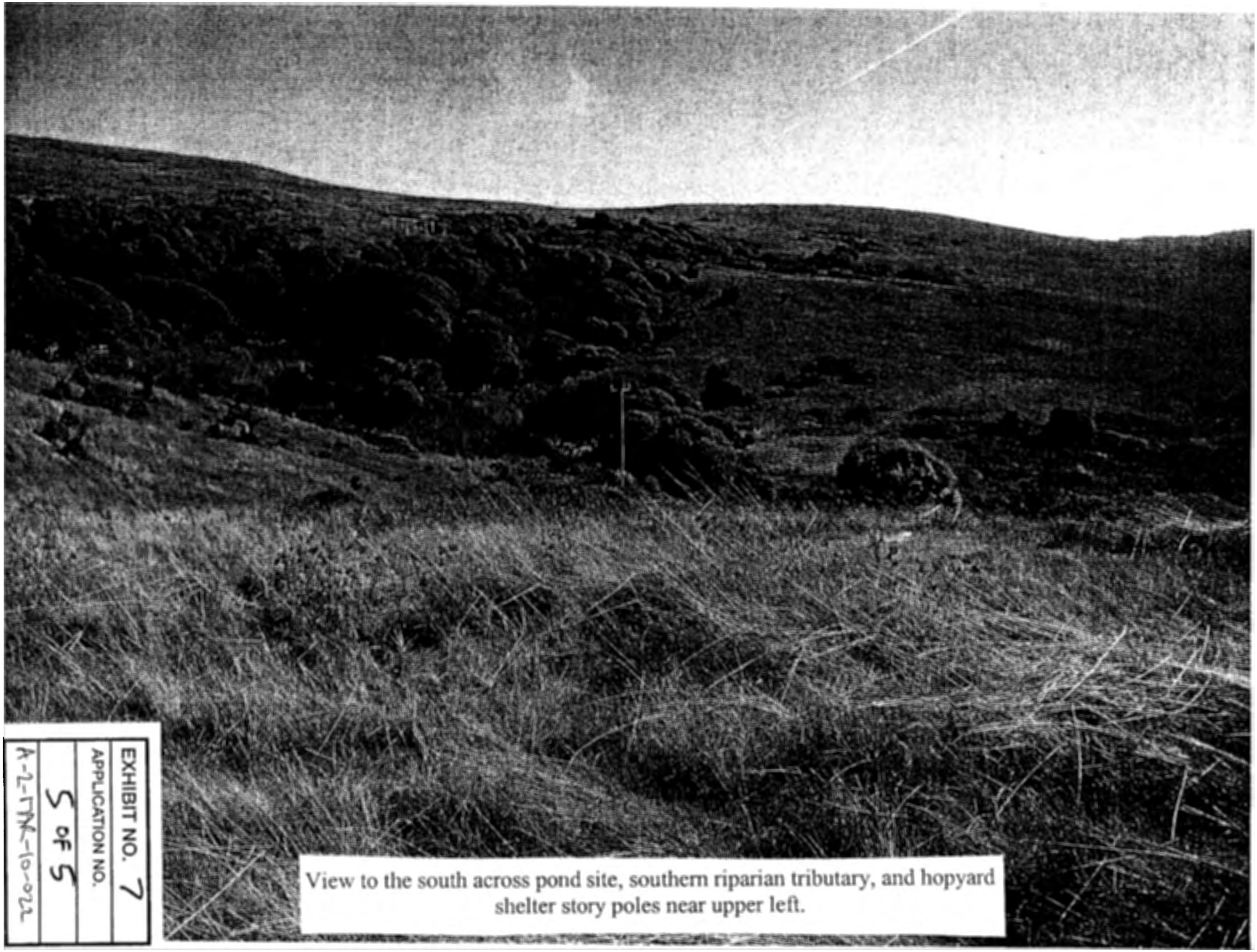
View eastward from near lower reach of blue-line stream to the junction of the central riparian corridor and tributary corridor

EXHIBIT NO. 7
APPLICATION NO.
3 of 5
A-2-MM-10-022



View to the southeast past farmhouse story poles and central riparian corridor

EXHIBIT NO. 7
APPLICATION NO.
4 of 5
A-2-TRN-10-022



View to the south across pond site, southern riparian tributary, and hopyard shelter story poles near upper left.

EXHIBIT NO. 7
APPLICATION NO.
5 of 5
A-2-TMN-10-072

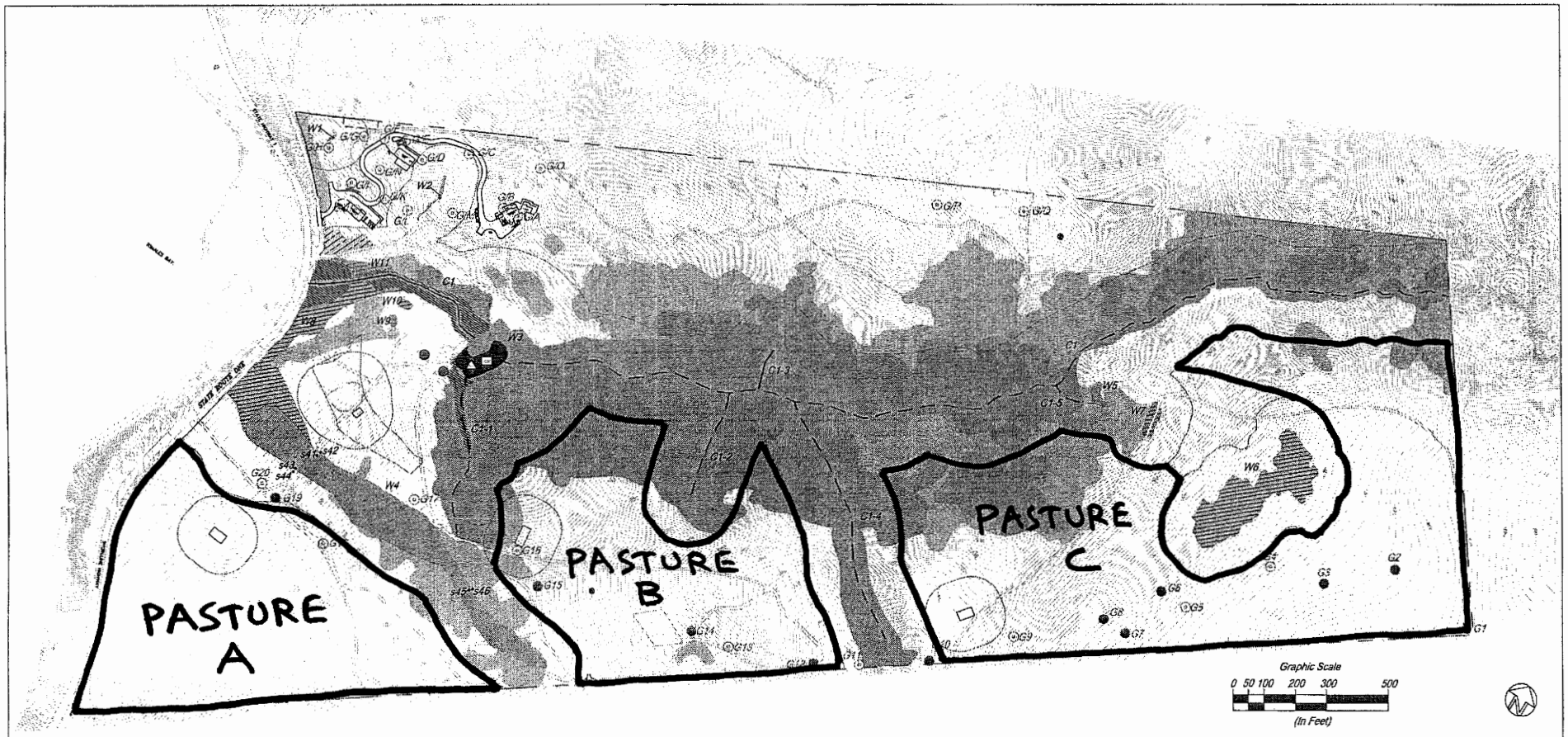


Figure 1. Proposed development on the Magee property in relation to natural resources.

Commission
oximate.
rposes Only.
ssociates..

EXHIBIT NO. 8
APPLICATION NO.
A-2-MAR-10-022

BRADER-MAGEE FARM

DESIGN REVIEW & COASTAL PERMIT CONDITIONS:

INDEX TO DRAWINGS:

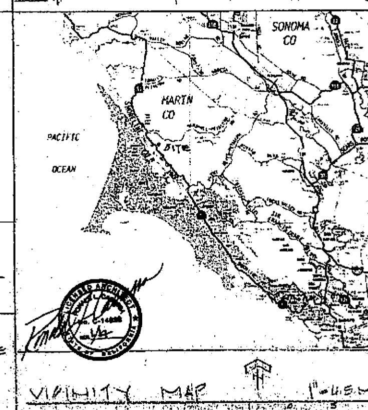
PRE-APPLICATION REVIEW SUBMITTAL 1/19/09

- A TITLE SHEET
- B SCHEMATIC SITE PLAN – PARTIAL
- C EQUIPMENT BARN & SHED STRUCTURE
- D "CANDY HOUSE" BARN
- E HOPYARD SHELTER STRUCTURE
- F FARM HOUSE

INDEX TO DRAWINGS – △ REVISED
DESIGN REVIEW / COASTAL PERMIT

- A1 TITLE SHEET
- A2R CANDY BARN – SITE BLDG SECTION ELEVATIONS, FLOOR PLAN. (REVISED)
- △ A3R EQUIPMENT BARN & SHED – SITE BLDG SECTION, ELEVATIONS, FLOOR PLAN (REV.)
- A4 RESIDENCE – FLOOR PLAN – LOWER LEVEL FLOOR PLAN – MAIN LEVEL (PARTIAL)
- A4R RESIDENCE – FLOOR PLAN – LOWER LEVEL FLOOR PLAN – MAIN LEVEL (PARTIAL) (REVISED)
- A5 RESIDENCE – ROOF PLAN, FLOOR PLAN MAIN BEDROOM LEVEL
- A6 RESIDENCE – EXTERIOR ELEVATIONS
- A6R RESIDENCE – EXTERIOR ELEVATIONS (REVISED)
- A7 RESIDENCE – BUILDING SECTIONS
- A7R RESIDENCE – BUILDING SECTIONS (REVISED)
- △ A8R HOPYARD SHELTER – SITE PLAN SECTION, ELEVATION, PLAN
- △ A9 ACCESSORY STRUCTURES – GREEN HOUSE SHEEP SHELTERS (ROOF PLANS (REV)
- A10-R CANDY BARN – SITE & ROOF PLAN (REVISED)
- A11-R EQUIPMENT BARN & SHED – SITE & ROOF PLAN (REVISED)
- A12 RESIDENCE – SITE & ROOF PLAN
- A12-R RESIDENCE – SITE & ROOF PLAN (REVISED)
- △ A13R HOPYARD SHELTER SITE & ROOF PLAN
- △ A14R SHEEP SHELTER #2 – SITE & ROOF PLAN (REVISED)
- A15 SHEEP SHELTER #1 SITE & ROOF PLAN
- A16 R GREEN HOUSE – SITE & ROOF PLAN (REVISED)

APPLICANTS	CIVIL ENGINEERING/SURVEY	LANDSCAPE DESIGN	ENVIRONMENTAL CONSULTANT	ZONING DATA:
ALRISSA BRADER TONY MAGEE PO BOX 979 POINT REYES STA, CA 94956 TEL. 707-481-4914	ILS ASSOCIATES INC. IRVING L. SCHWARTZ C.E 79 GALLI DR. SUITE A NOVATO, CALIF 94949-5717 TEL. 415-883-9200 EXT 117	TONY MAGEE	ZANDER ASSOCIATES LESLIE ZANDER. 4400 REDWOOD HWY SUITE 10-240 SAN RAFAEL, CA. 94903 TEL 415-897-8781	C-APZ 60 – COASTAL – AGRICULTURAL PRODUCTION ZONE 1 UNIT / 60 ACRES COUNTY WIDE PLAN DESIGNATION C-AGL
GEOTECHNICAL	GEOTECHNICAL	SEPTIC SYSTEM	PLANNING CONSULTANT	PROJECT DATA:
[illegible]	HERZOG GEOTECHNICAL CRAIG W. HERZOG G.E. 70 WOODSIDE LANE MILL VALLEY, CALIF 94941 TEL 415-388-8355	RICH LINCOLN & SONS RICH LINCOLN R.E.H.S. PO BOX 443 OCCIDENTAL, CALIF 95465 TEL 707-874-2286	LAK ASSOCIATES LARRY KENNINGS 3930 BRIDGEWAY SUITE 103 SAUSALITO, CALIF 94965 TEL 415-272-2780	LOT SIZE 149 ACRES ± GENERAL NOTE: ALL WORK TO BE IN COMPLIANCE W/ ALL APPLICABLE BUILDING CODES, STATE & FEDERAL ACTS & REGULATIONS AND COUNTY OF MARIN ORDINANCES (WUI-ZONE) TITLE 24 AND FIRE DEPT. REQUIREMENTS.



VICINITY MAP 1" = 4.5 MI

REVISIONS	BY
10-14-09	RLC
12-2-09	RLC
1/19/09	RLC
△ 8/24/09	RLC
△ 4/13/12	RLC
△ 10/31/12	RLC

SUBMITTAL FOR: DESIGN REVIEW COASTAL PERMIT

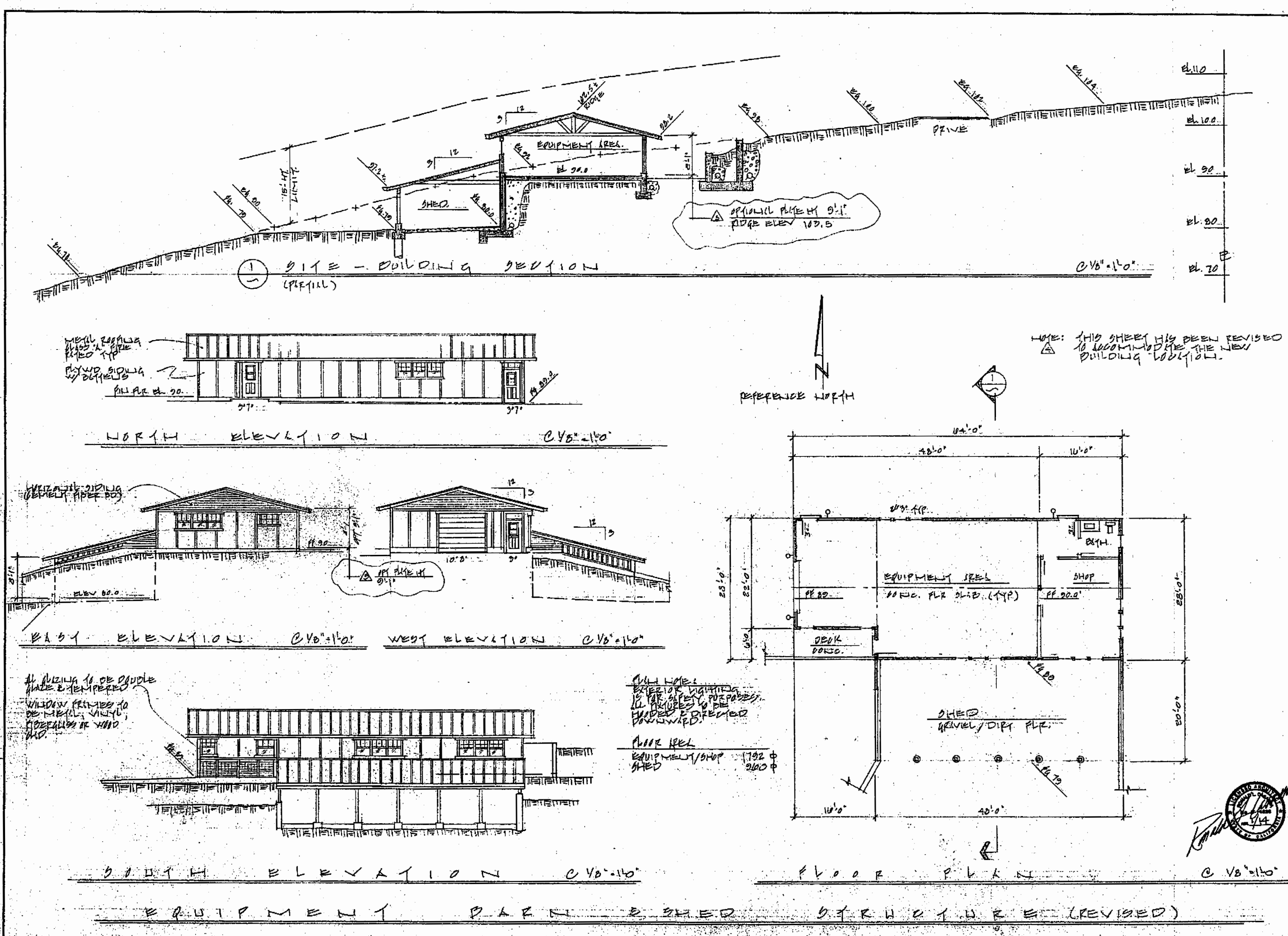
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 100-220-20
RE: BRADER-MAGEE FARM
ALRISSA BRADER – TONY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF 94940

TITLE SHEET

Date 5-13-09
Scale NTS
Drawn RLC
Job 09:01
Sheet A.1
Of 20 Sheets

EXHIBIT NO. 9
APPLICATION NO.
1 of 20
A-2-MAR-10-022

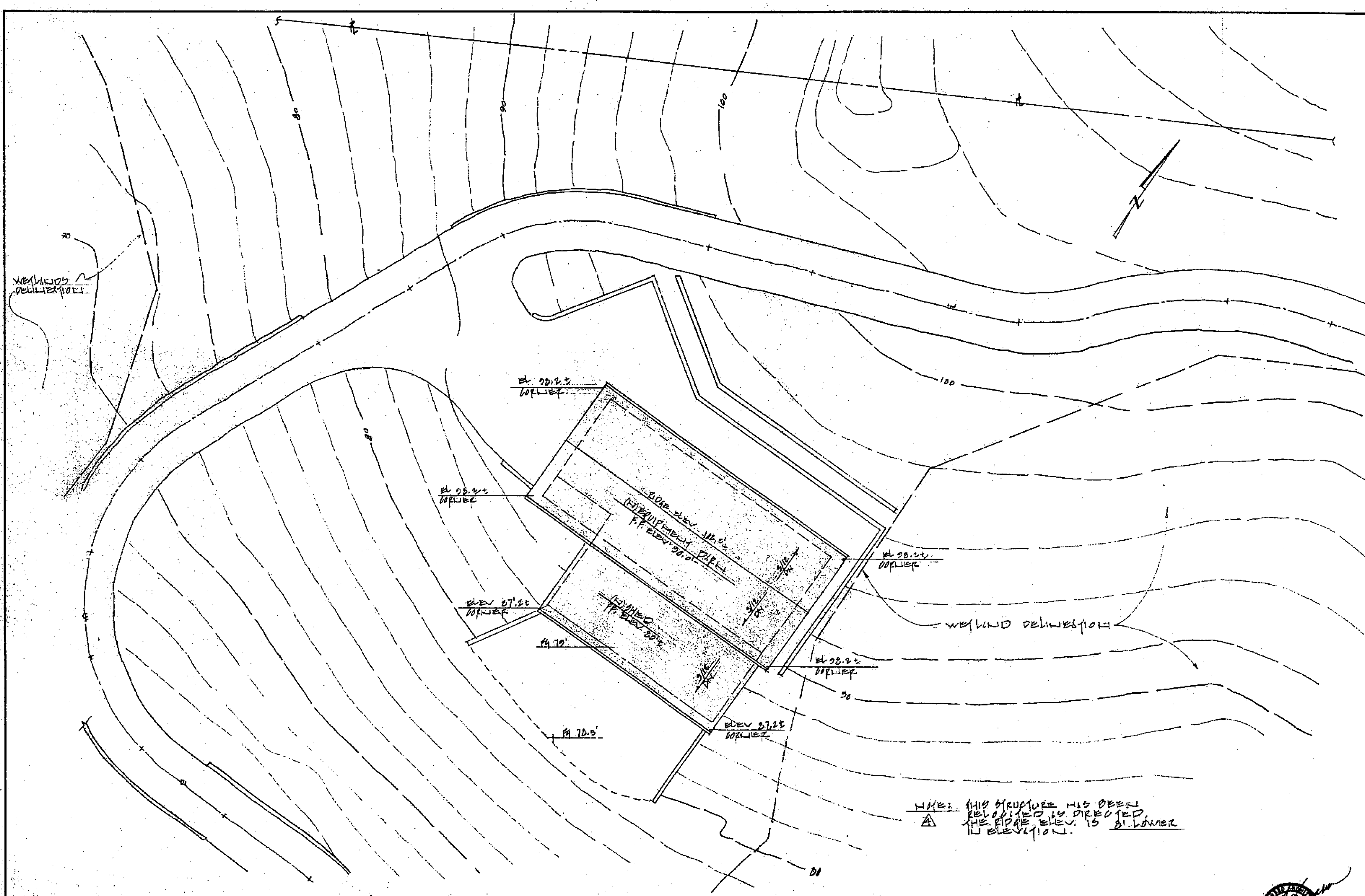

SITE - BUILDING SECTION
(PARTIAL)
@ 1/8" = 1'-0"
EQUIPMENT AREA
SHED
DRIVE
OPTIONAL RIDGE HT 9'-1"
RIDGE ELEV 107.5
EL. 110
EL. 100
EL. 90
EL. 80
EL. 70
15' HT. LIMIT
NORTH ELEVATION
@ 1/8" = 1'-0"
METAL ROOFING
PLYWD SIDING
FIN FLR EL. 90.
REFERENCE NORTH
NOTE: THIS SHEET HAS BEEN REVISED TO ACCOMMODATE THE NEW BUILDING LOCATION.
EAST ELEVATION
@ 1/8" = 1'-0"
WEST ELEVATION
@ 1/8" = 1'-0"
ELEV 80.0
SOUTH ELEVATION
@ 1/8" = 1'-0"
ALL GLAZING TO BE DOUBLE GLAZE & TEMPERED
WINDOW FRAMES TO BE METAL, VINYL, FIBERGLASS OR WOOD
EXTERIOR LIGHTING
FLOOR AREA
EQUIPMENT/SHOP 1792
SHED 960
FLOOR PLAN
@ 1/8" = 1'-0"
EQUIPMENT AREA
CONC. FLR SLAB (TYP)
SHOP
BATH
SHED
GRAVEL/DIRT FLR.
64'-0"
48'-0"
16'-0"
28'-0"
22'-0"
20'-0"
40'-0"
EQUIPMENT BARN & SHED STRUCTURE (REVISED)

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

REVISIONS: △ 10/31/12

EQUIPMENT BARN & SHED

A3b



EQUIPMENT BARN & SHED - SITE & ROOF PLAN (REVISED) @ 1" = 10'

REF. DRAWINGS - BARN & SHED SITE PLAN BY ILS. SHEET 6
EQUIPMENT BARN & SHED STRUCTURE BY RLC. SHEET 13

GRAPHIC SCALE 1" = 10'

REVISIONS	BY
△ 10/31/12	RL

SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

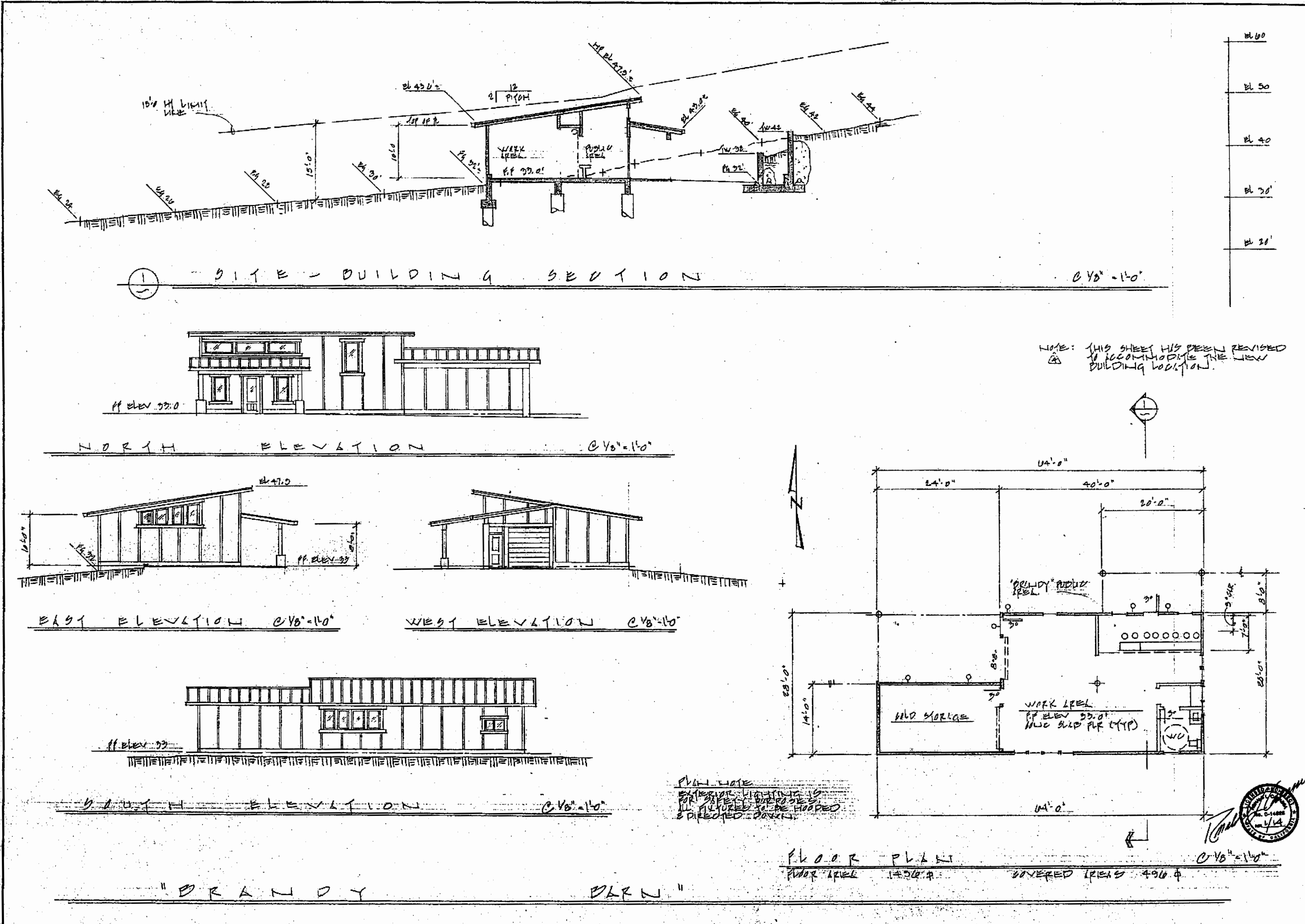
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR: AP 100-220-20
DRIVER-MAGEE FARM
LARISSA DRIVER - TOBY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

EQUIPMENT BARN & SHED
SITE & ROOF PLAN (REVISED)

Date 4/13/12
Scale AS NOTED
Drawn RLC
Job 08-01
Sheet A11-R
Of 20 Sheets

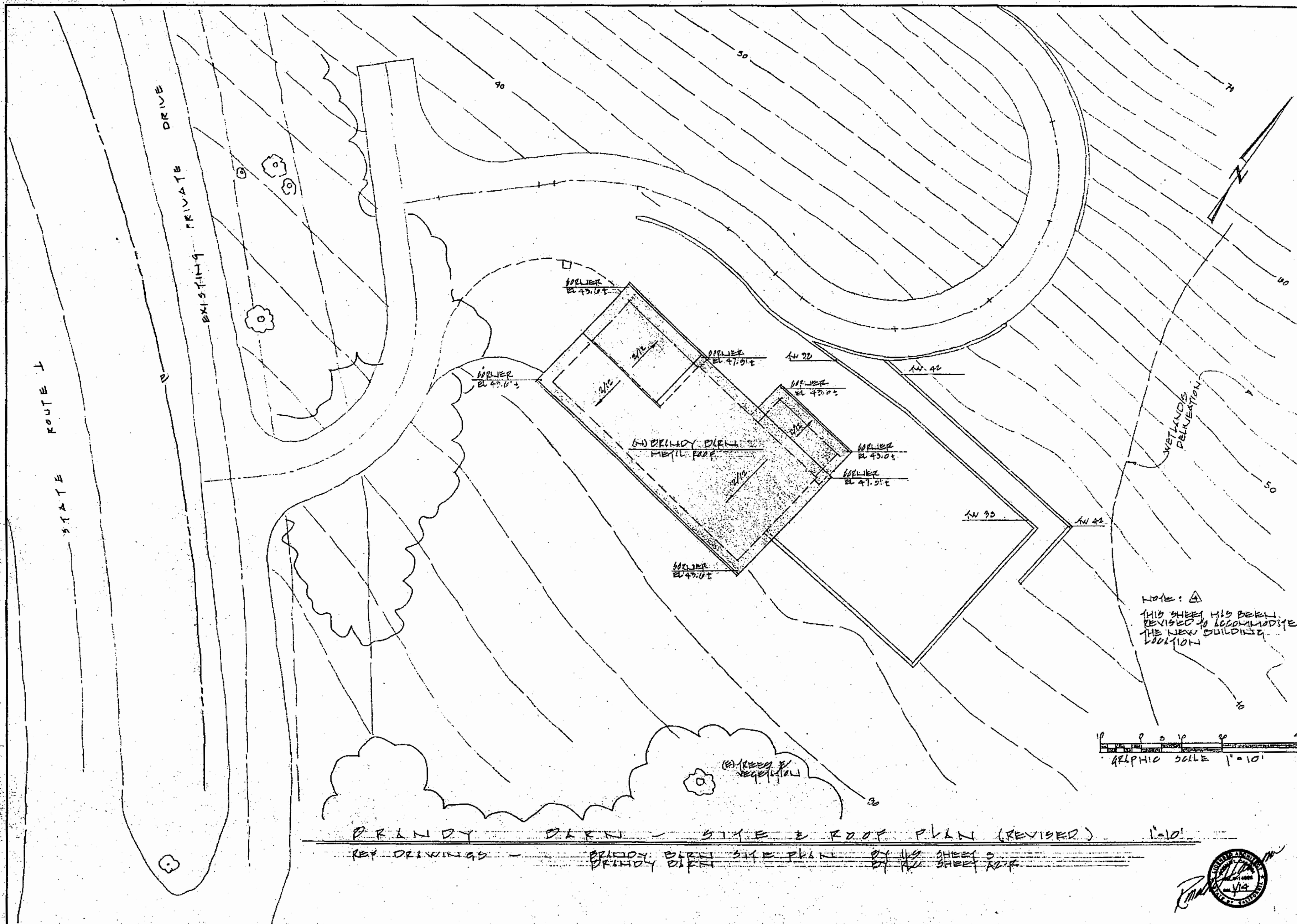
9B


SITE - BUILDING SECTION
@ 1/8" = 1'-0"
NORTH ELEVATION
@ 1/8" = 1'-0"
EAST ELEVATION
@ 1/8" = 1'-0"
WEST ELEVATION
@ 1/8" = 1'-0"
SOUTH ELEVATION
@ 1/8" = 1'-0"
FLOOR PLAN
@ 1/8" = 1'-0"
WORK AREA
F.F. ELEV 33.0'
"BRANDY" PRODUCTION AREA
COLD STORAGE
NOTE: THIS SHEET HAS BEEN REVISED TO ACCOMMODATE THE NEW BUILDING LOCATION.
PLAN NOTE
EXTERIOR LIGHTING IS FOR SAFETY PURPOSES. ALL FIXTURES TO BE HOODED & DIRECTED DOWN.
"BRANDY BARN"

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

REVISIONS | BY
10/31/12

A2-R



REVISIONS	BY
4 10/31/12	

SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

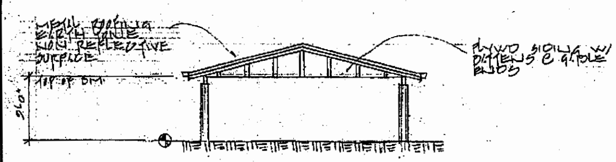
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR: DRIDER-MAGEE FARM
ULRIKE DRIDER - TONY MAGEE
1990 STATE ROUTE 1
MARSHALL, CALIF 94940

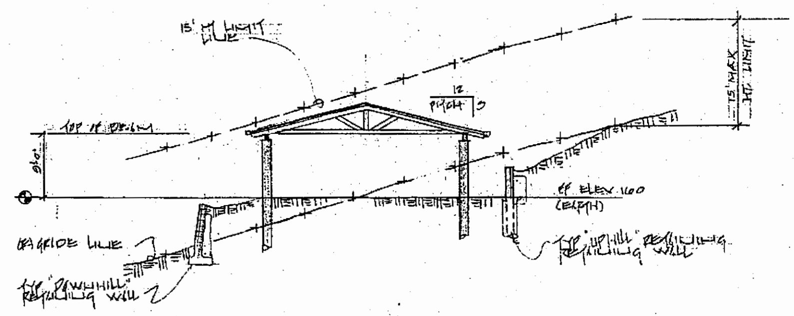
BRINDY BARN
SITE & ROOF PLAN

Date 4/12/12
Scale AS NOTED
Drawn RLC
Job 10-01
Sheet A10R
Of 20 Sheets

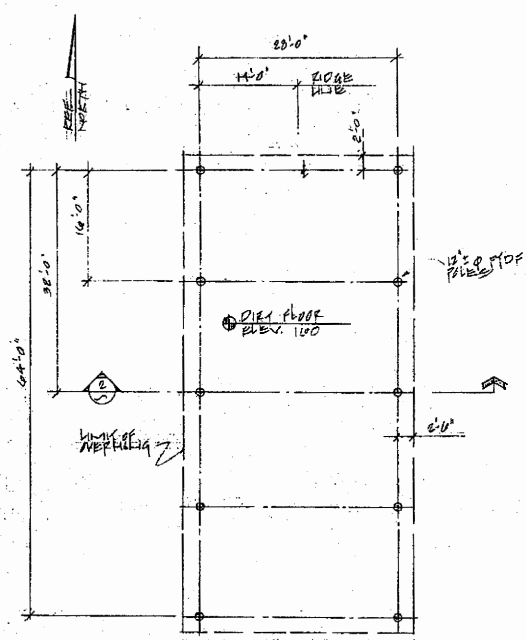
9c



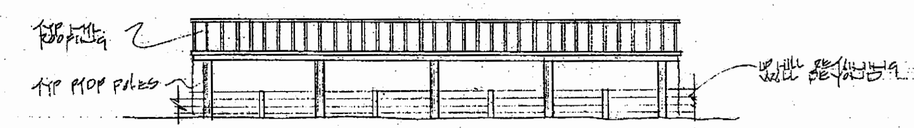
1 TYP END ELEVATION
(NORTH & SOUTH ENDS)
@ 1/8" = 1'-0"



2 HOP BUILDING SHELTER SECTION
@ 1/8" = 1'-0"



PLAN
@ 1/8" = 1'-0"



3 TYP SIDE ELEVATION
WEST (EAST SIMILAR)
@ 1/8" = 1'-0"

HOP YARD SHELTER STRUCTURE

△ HOPYARD SHELTER RELOCATED & ROTATED 90°
THIS SHEET REPLACES SHEET A8 △

REVISIONS	BY
△ 10/31/12	

SUBMITTAL FOR:
DESIGN REVIEW
BUILDING PERMIT

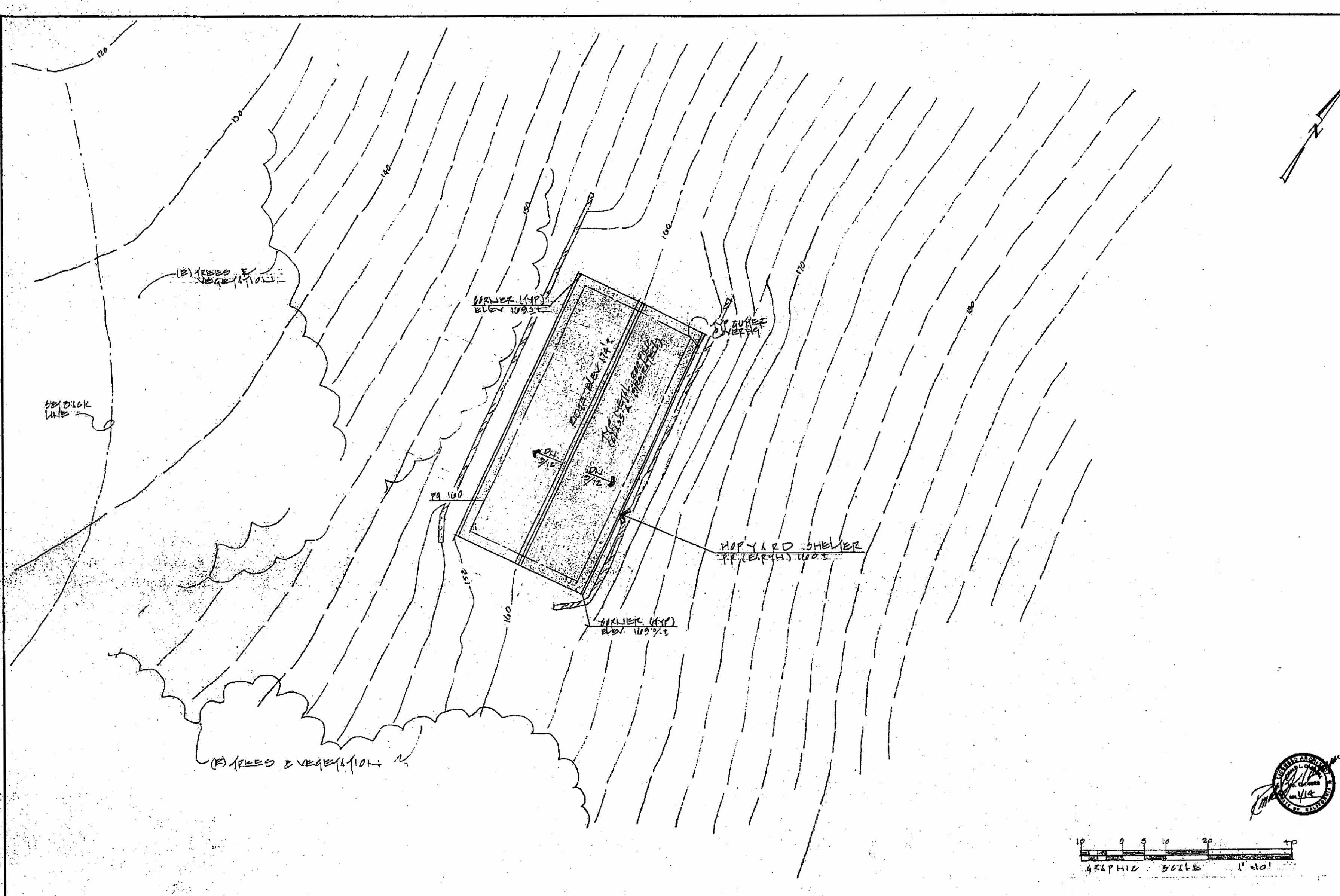
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 100-020-20
FOR:
BRIDGER-MAGEE FARM
GEORGIA BRIDER / TONY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF 94940

HOP YARD SHELTER
PLAN
SECTIONS
ELEV'TNS

Date 10/31/2012
Scale AS NOTED
Drawn RLC
Job 10-01
Sheet A-8R △
Of 20 Sheets

9D



HOPYARD SHELTER SITE & ROOF PLAN @ 1" = 10'

REF DRAWINGS: HOPYARD SHELTER SITE PLAN BY LS SHEET 9.18.14
HOPYARD SHELTER STRUCTURE BY SC SHEET A8.R

△ HOPYARD SHELTER RELOCATED & ROTATED 90°
THIS SHEET REPLACES SHEET A13 REVISION △

REVISIONS	BY
△ 10/31/12	RL

SUBMITTAL FOR: DESIGN REVIEW, COASTAL PERMIT

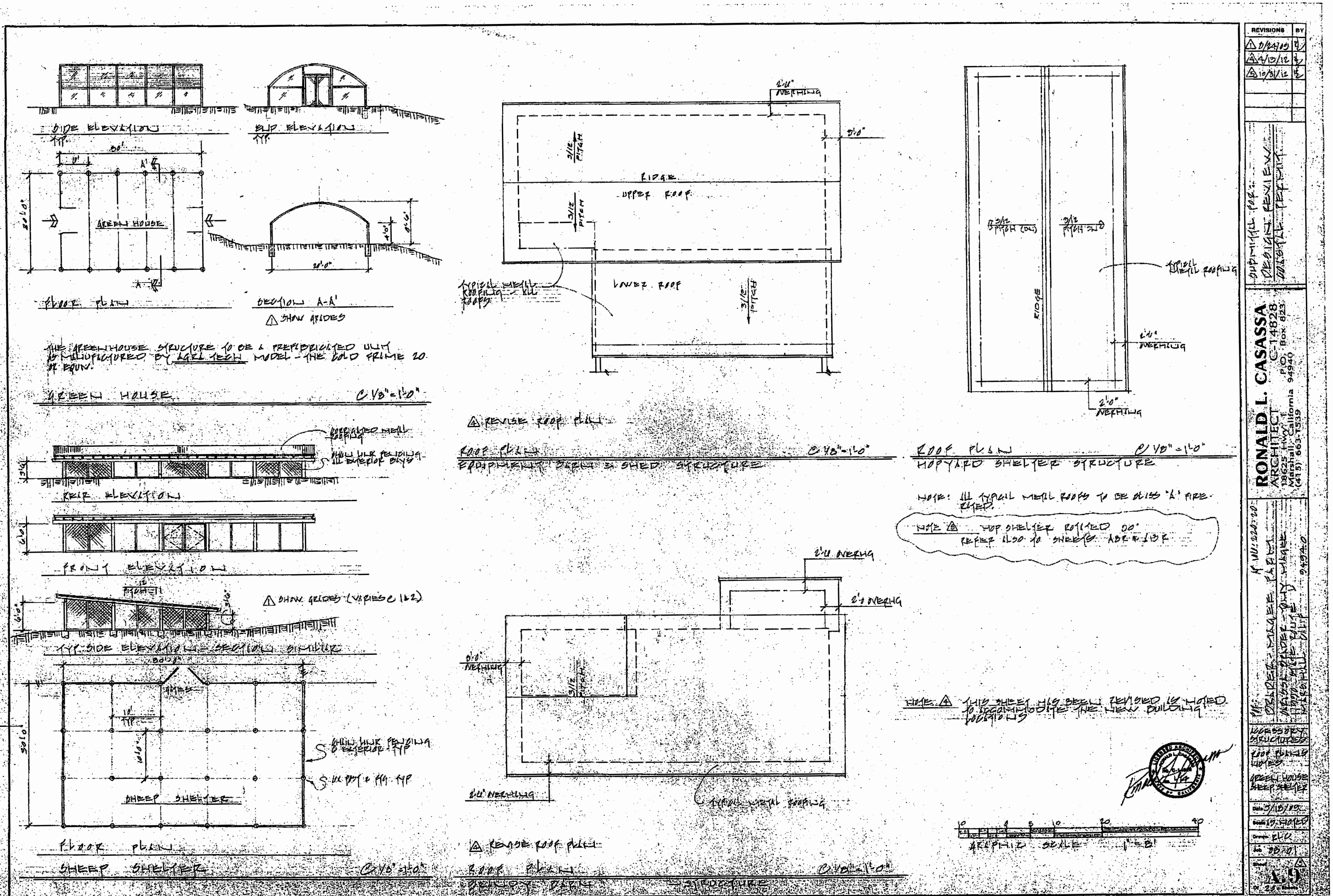
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR: DROPER-MAGEE FARM
MELISSA DROPER & JOLLY MAGEE
11920 STATE RTE 1
MARSHALL, CALIF 94940

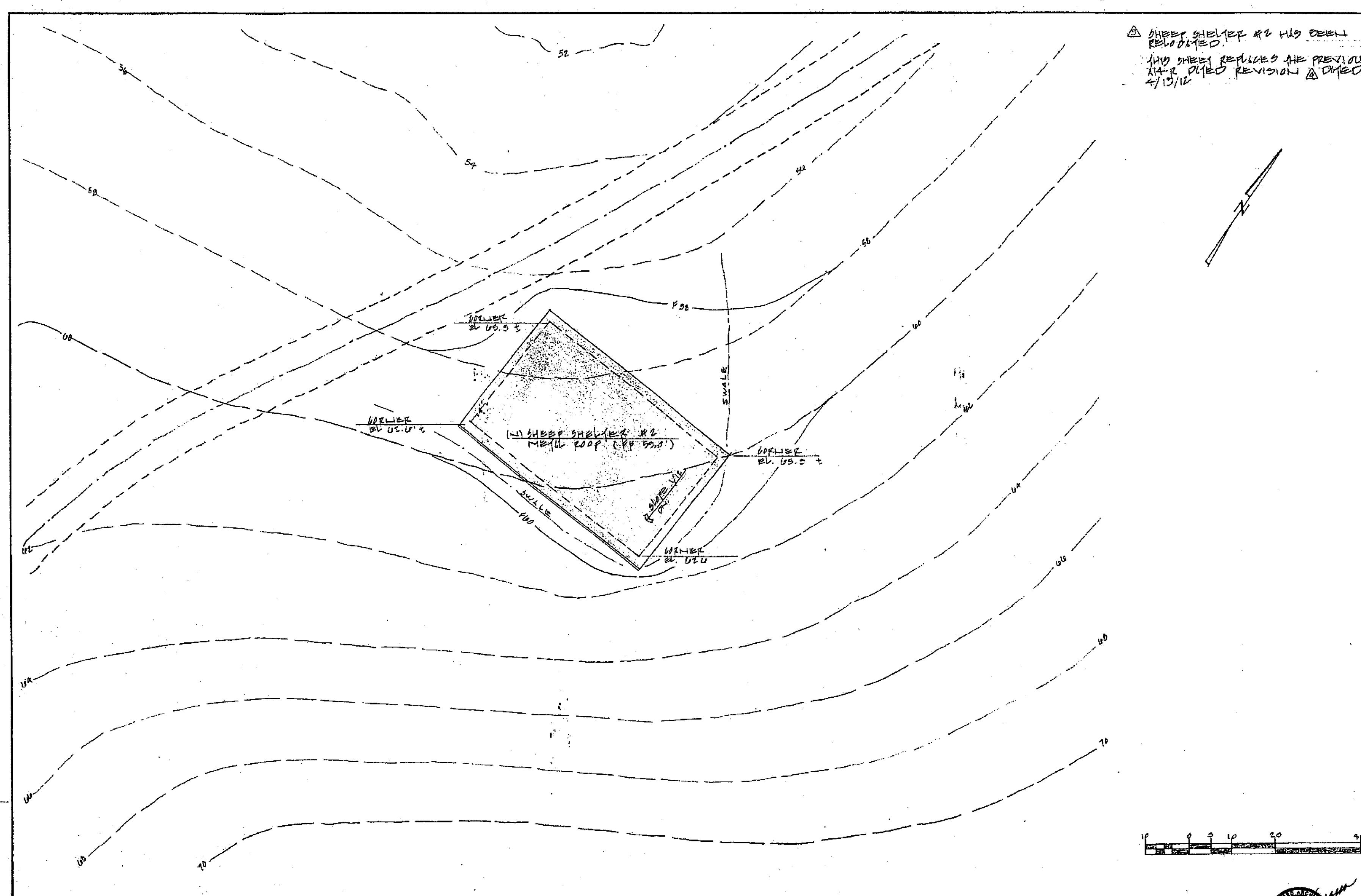
HOPYARD SHELTER
ROOF PLAN
SITE PLAN
PARTIAL

Date 10/31/2012
Scale AS NOTED
Drawn RLC
Job 10-01
Sheet A13-R
Of 20 Sheets

9D


SIDE ELEVATION TYP.
END ELEVATION TYP.
GREEN HOUSE
FLOOR PLAN
SECTION A-A'
SHOW GRIDES
THE GREENHOUSE STRUCTURE TO BE A PREFABRICATED UNIT AS MANUFACTURED BY AGRI TECH MODEL - THE COLD FRAME 20 OR EQUIV.
GREEN HOUSE
REAR ELEVATION
FRONT ELEVATION
SHOW GRIDES (VARIES @ 1&2)
TYP. SIDE ELEVATION - SECTION SIMILAR
SHEEP SHELTER
FLOOR PLAN
SHEEP SHELTER
RIDGE
UPPER ROOF
LOWER ROOF
TYPICAL METAL ROOFING - ALL ROOFS
REVISE ROOF PLAN
ROOF PLAN
EQUIPMENT BARN & SHED STRUCTURE
TYPICAL METAL ROOFING
REVISE ROOF PLAN
ROOF PLAN
DAIRY BARN STRUCTURE
RIDGE
ROOF PLAN
HOPYARD SHELTER STRUCTURE
NOTE: ALL TYPICAL METAL ROOFS TO BE CLASS 'A' FIRE RATED.
NOTE: HOP SHELTER ROTATED 90°. REFER ALSO TO SHEETS A0 & A1.0F
NOTE: THIS SHEET HAS BEEN REVISED AS NOTED TO ACCOMMODATE THE NEW BUILDING LOCATIONS
GRAPHIC SCALE
REVISIONS
BY
SUBMITTAL FOR: DESIGN REVIEW COASTAL PERMIT
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539
ACCESSORY STRUCTURES
ROOF PLANS & NOTES
GREEN HOUSE SHEEP SHELTER
A9

9E



△ SHEEP SHELTER #2 HAS BEEN RELOCATED.
THIS SHEET REPLACES THE PREVIOUS A14-R DATED REVISION △ DATED 4/13/12

SHEEP SHELTER #2 - SITE & ROOF PLAN (REVISED LOCATION) @1"=10'

REF. DRAWINGS - SHEEP SHELTER #2 SITE PLAN BY ILS SHEET 10 OF 13 (3/28/12)
SHEEP SHELTER BY RLC SHEET A8

REVISIONS	BY
△ 10/31/12	RLC

SUBMITTAL FOR:
DESIGN REVIEW
BUILDING PERMIT

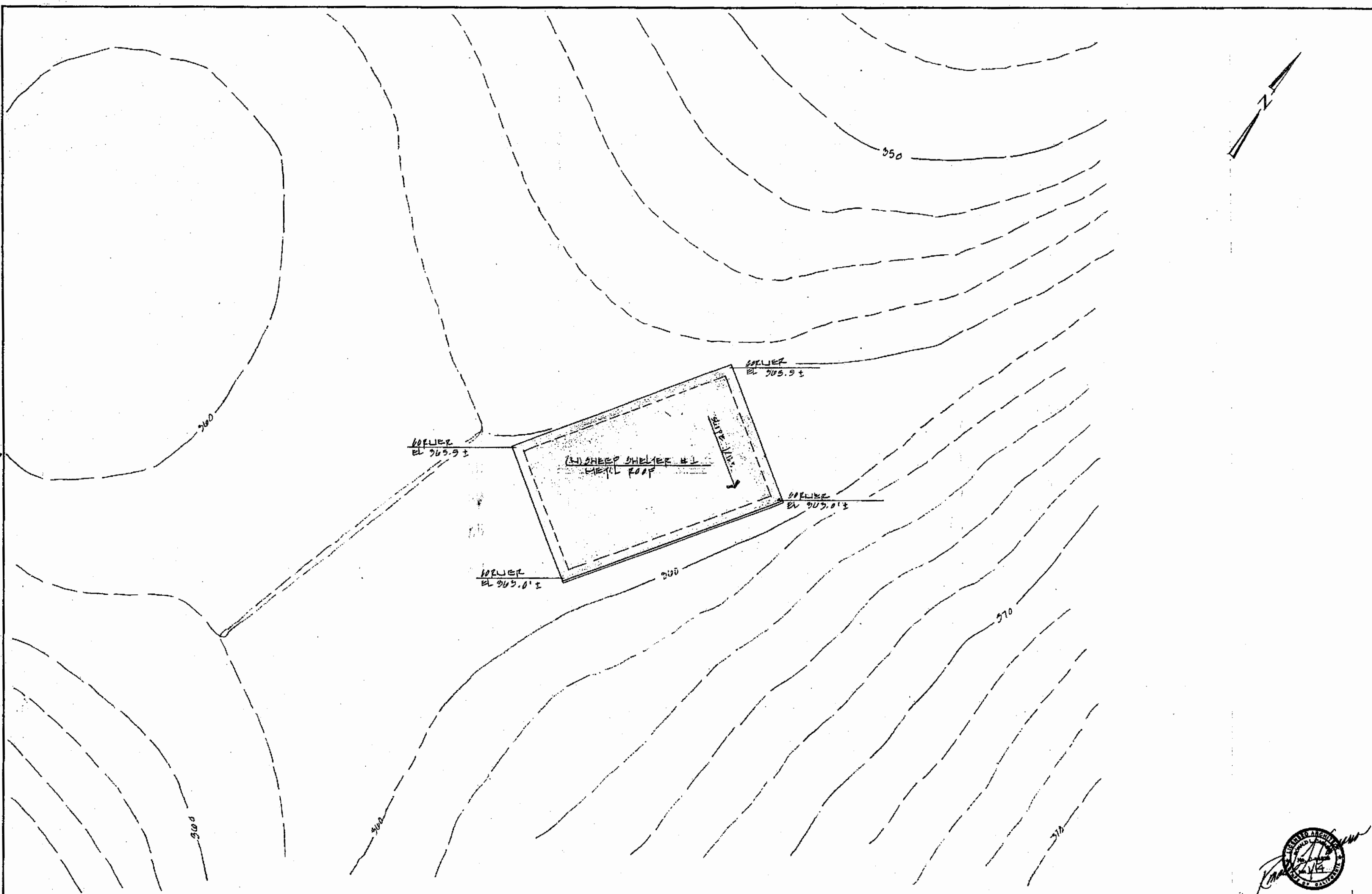
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 106-220-20
FOR:
DRIVER - MAGEE FARM
DRISCOLL DRIVER - AMY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

SHEEP SHELTER #2
SITE & ROOF PLAN

Date 10/31/2012
Scale AS NOTED
Drawn RLC
Job 08-01
Sheet A14-R △
Of 20 Sheets

9E



SHEEP SHELTER #1 — SITE & ROOF PLAN @1"=10'

REF. DRAWINGS — SHEEP SHELTER #1 SITE PLAN BY ILS SHEET 11
SHEEP SHELTER BY RLC SHEET A9

△1 ADD. SHEET

REVISIONS	BY
△1 9/24/10	RLC
△2 4/13/12	RLC
△3 10/31/12	RLC

SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

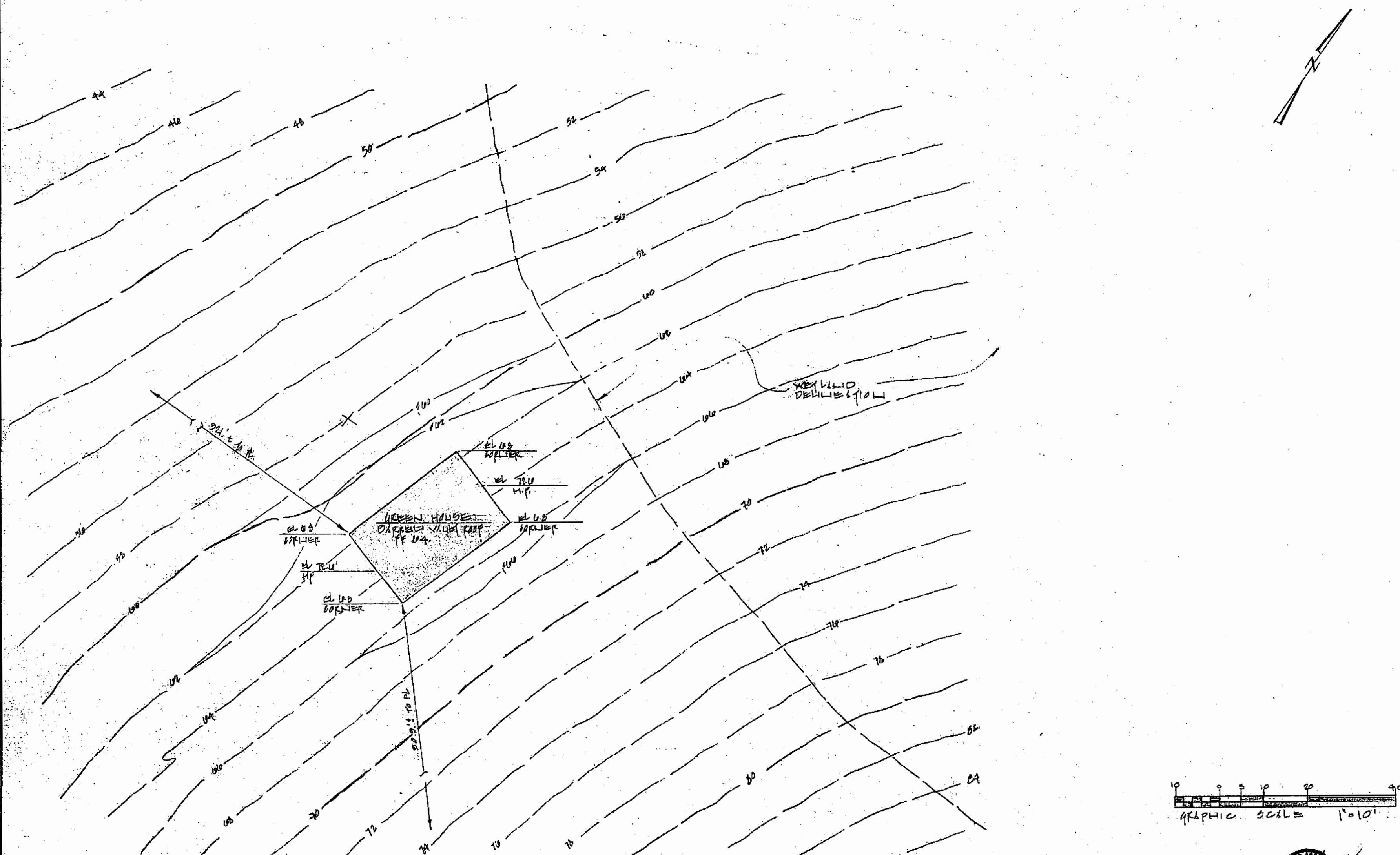
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR:
PEDERER-MAGEE FARM
ARLISHA PEDERER — TONY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

SHEEP SHELTER #1
SITE & ROOF PLAN

Date 9/24/10
Scale AS NOTED
Drawn RLC
Job 18-01
Sheet A15

NOTE △ THIS SHEET HAS BEEN REVISED TO ACCOMMODATE THE NEW BUILDING LOCATION



GREEN HOUSE — SITE & ROOF PLAN (REVISED) @ 1"=10'

REF DRAWINGS — GREEN HOUSE SITE PLAN BY L.S. — SHEET 12
GREEN HOUSE BY RLC — SHEET A9

△ ADD SHEET

GRAPHIC SCALE 1"=10'

REVISIONS	BY
△ [illegible]	[illegible]
△ 4/9/12	[illegible]
△ 10/31/12	[illegible]

SUBMITTAL FOR: DESIGN REVIEW / COASTAL PERMIT

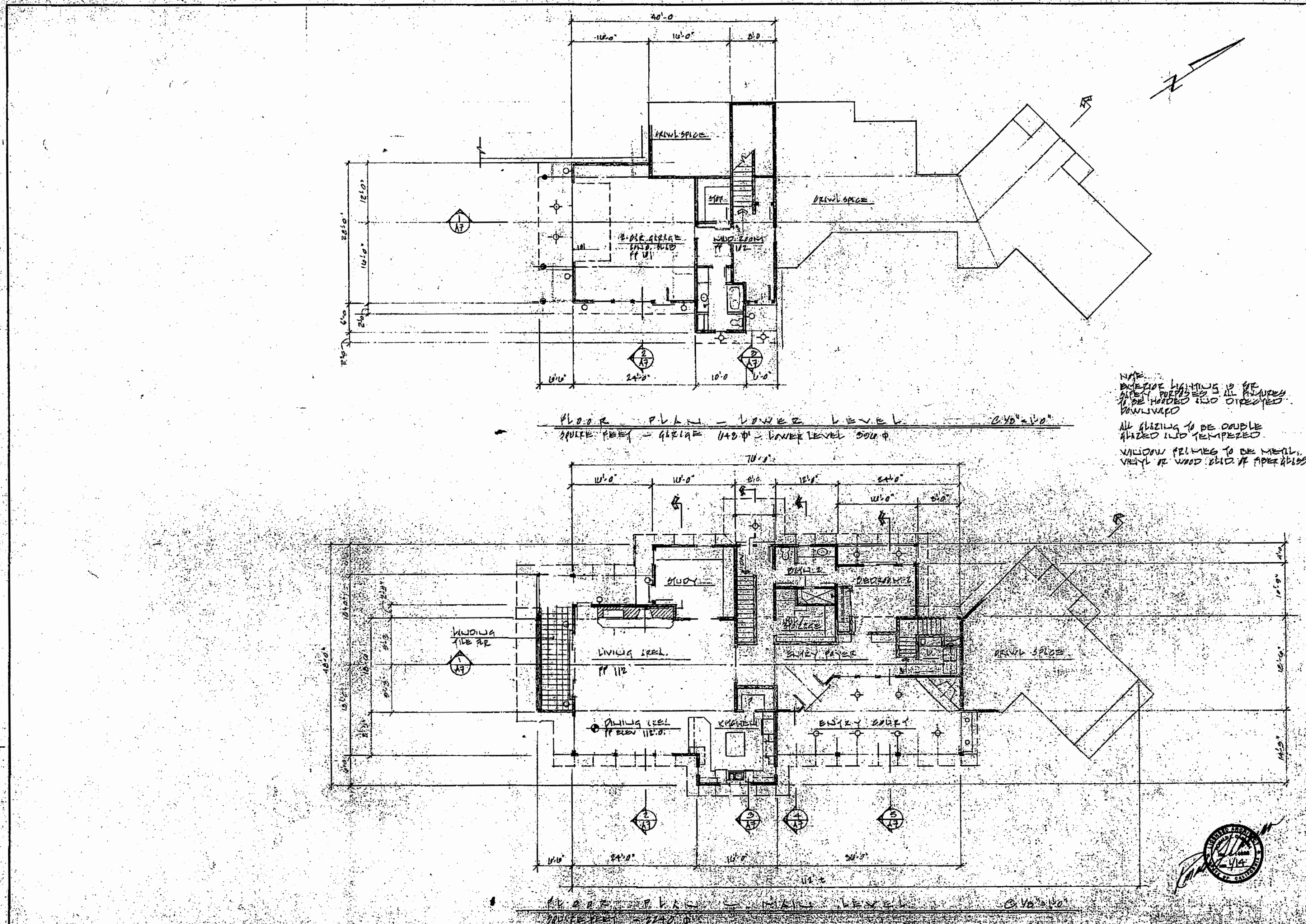
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 100-220-20
FOR: [illegible]

GREEN HOUSE
ROOF & SITE PLAN

Date [illegible]
Scale AS NOTED
Drawn [illegible]
Job [illegible]
Sheet A16R
Of 20 Sheets

9E


FLOOR PLAN - LOWER LEVEL 1/4" = 1'-0"
SQUARE FEET - GARAGE 648 □' - LOWER LEVEL 504 □'
CRAWL SPACE
2-CAR GARAGE
MUD ROOM
STOR.
40'-0
NOTE:
EXTERIOR LIGHTING IS FOR SAFETY PURPOSES & ALL FIXTURES TO BE HOODED AND DIRECTED DOWNWARD
ALL GLAZING TO BE DOUBLE GLAZED AND TEMPERED
WINDOW FRAMES TO BE METAL, VINYL OR WOOD AND/OR FIBERGLASS
FLOOR PLAN - MAIN LEVEL 1/4" = 1'-0"
SQUARE FEET - 2240 □'
LIVING AREA
DINING AREA
KITCHEN
STUDY
BATH 2
BEDROOM 2
ENTRY FOYER
ENTRY COURT
CRAWL SPACE
70'-0"

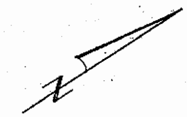
REVISIONS | BY
△ 3/24/09
△ 4/13/12
△ 10/31/12

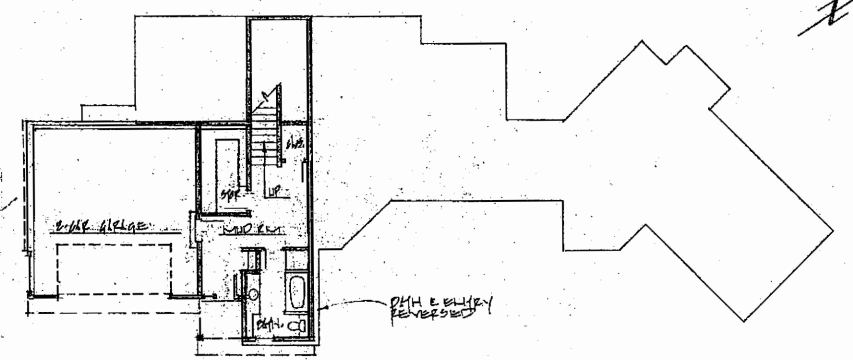
SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

Residence
Floor Plan Lower Level
Floor Plan Main Level

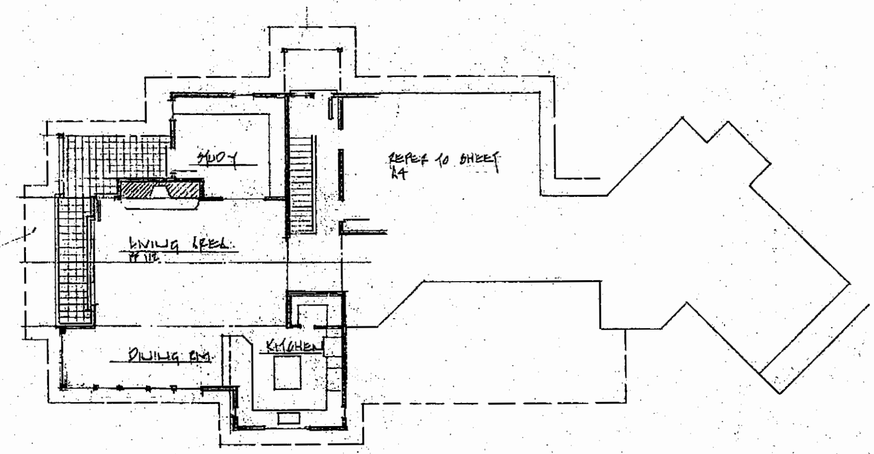
Date 5/10/09
Scale AS NOTED
Sheet A4
of 20 Sheets





FLOOR PLAN - LOWER LEVEL - REVISED @ 1/8"=1'-0"

SQUARE FEET - GARAGE 648.0 - LOWER LEVEL 348 (-48)



NOTE ⚠ THIS SHEET HAS BEEN REVISED TO ACCOMMODATE THE NEW GARAGE ENTRY & MAIN LEVEL LANDING LOCATION, THE ROOF OVERHANG @ THE LANDING HAS BEEN PULLED BACK.

REFER TO SHEET A4 FOR TYPICAL PLAN & NOTES

GRAPHIC SCALE 0 4 8 10 20 40

FLOOR PLAN - MAIN LEVEL - REVISED - PARTIAL @ 1/8"=1'-0"

SQUARE FEET AT FINISH (-85)

REVISIONS	BY
⚠ 4/13/12	
⚠ 10/31/12	

SUBMITTAL FOR: DESIGN REVIEW, BUILDING PERMIT

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR: BRIDGER - MAGEE PARTNERS
AP 106-220-20

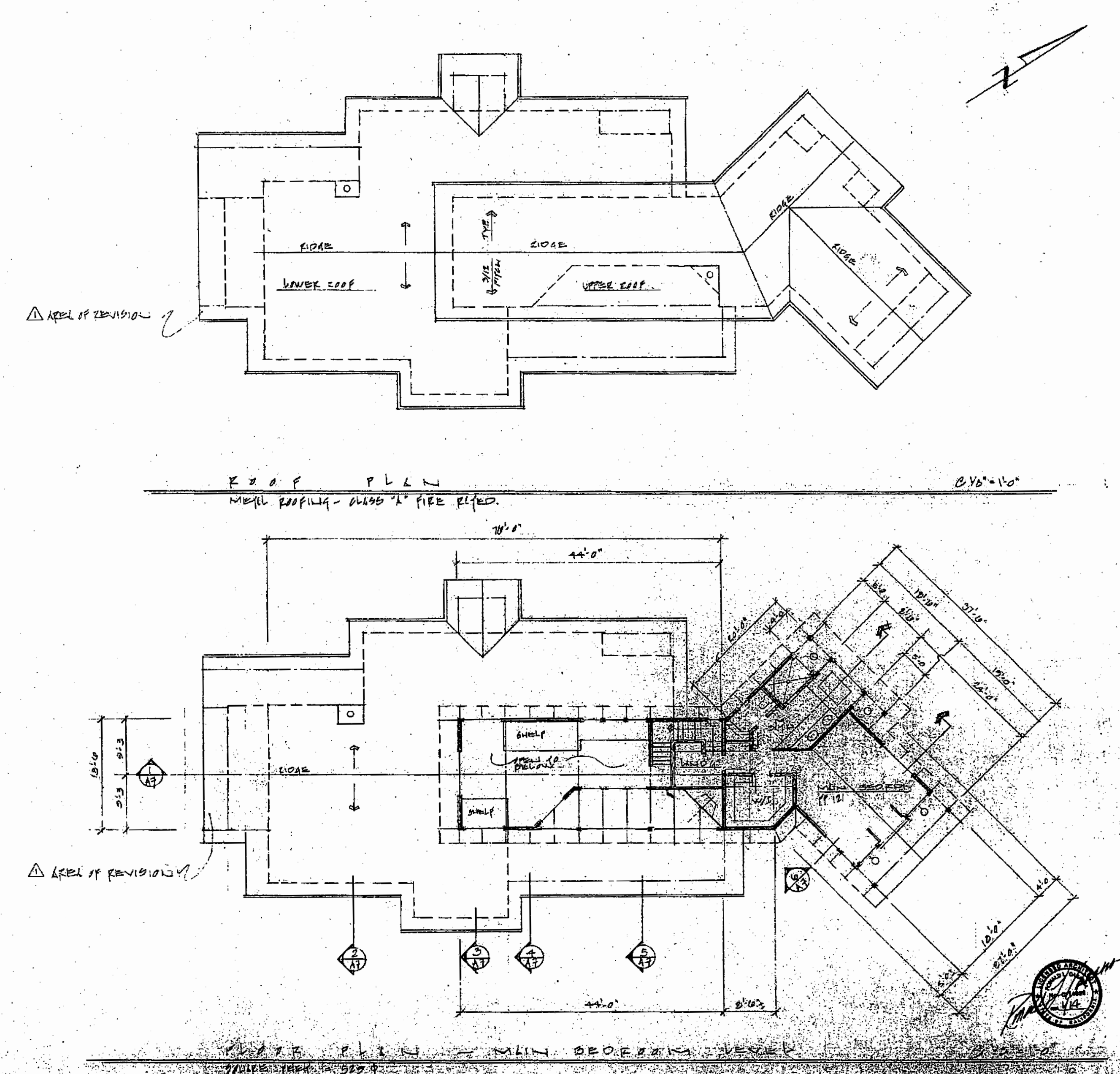
RESIDENCE

FLOOR PLAN LOWER LEVEL, FLOOR PLAN MAIN LEVEL (PARTIAL)

Date 12/09/13
Scale AS NOTED

Sheet A4-B

9F



REVISIONS	BY
△ 8/24/09	RLC
△ 4/13/12	RLC
△ 10/31/12	RLC

SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

RESIDENCE
ROOF PLAN
FLOOR PLAN - MAIN BEDROOM LEVEL

Date 5/13/09
Scale AS NOTED
Drawn RLC
Sheet A-5

9F

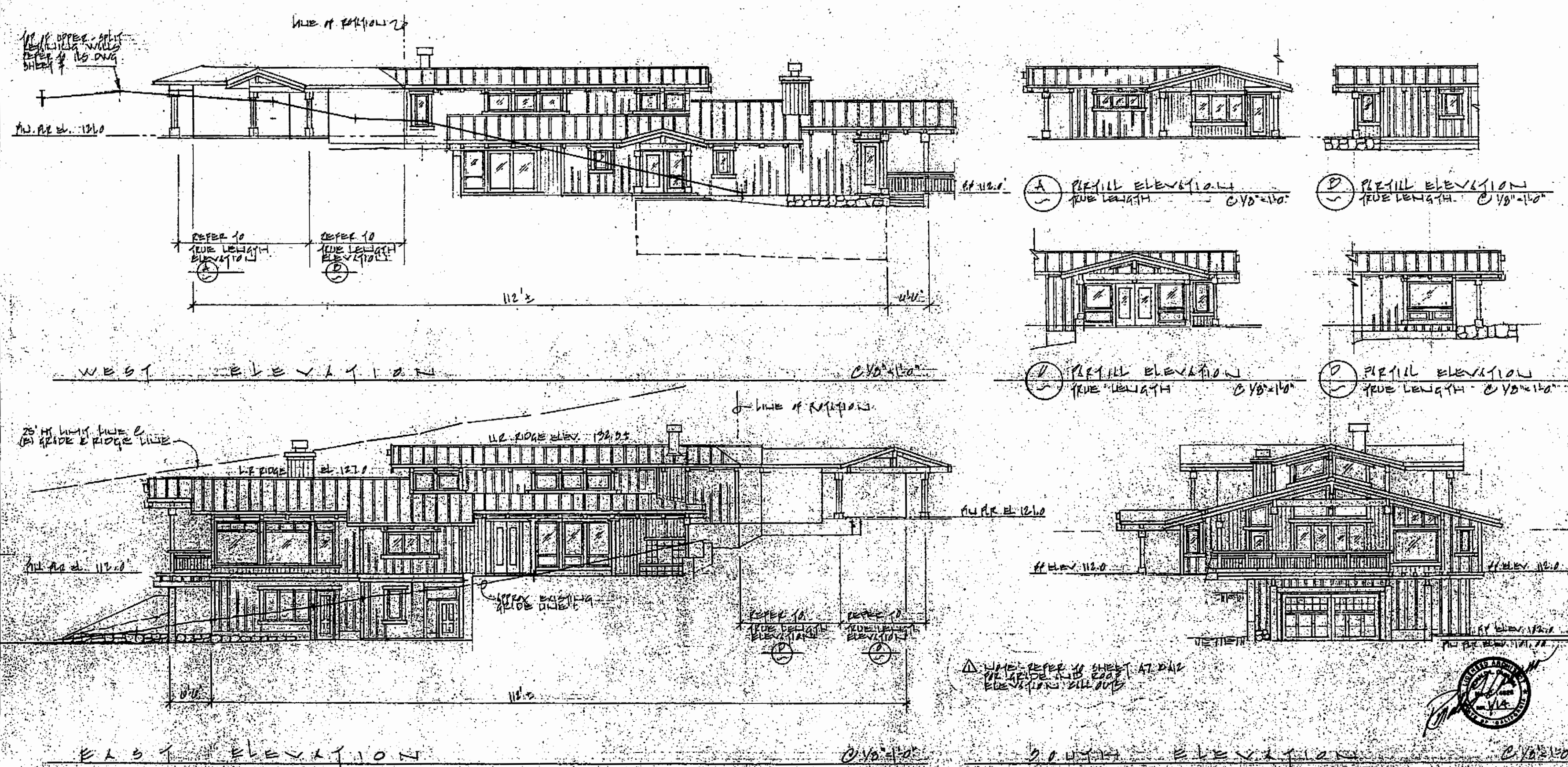
EXTERIOR FINISHES:

ROOFING - METAL ROOFING - CLASS A FIRE RATED

SIDING - PLYWOOD SIDING - CEDAR OR DOUG FIR W/ WOOD BATTENS

WINDOWS - FRAME TO BE METAL, VINYL, WOOD FRAME CLAD OR FIBERGLASS.
ALL GLAZING TO BE DOUBLE-GLAZED AND TEMPERED

REFER TO PROJECT COLOR CHART FOR COLOR SELECTION.



REVISIONS	BY
1 8/24/10	RLC
2 4/13/12	RLC
3 10/30/12	RLC

SUBMITTAL FOR: DESIGN REVIEW / COASTAL PERMIT

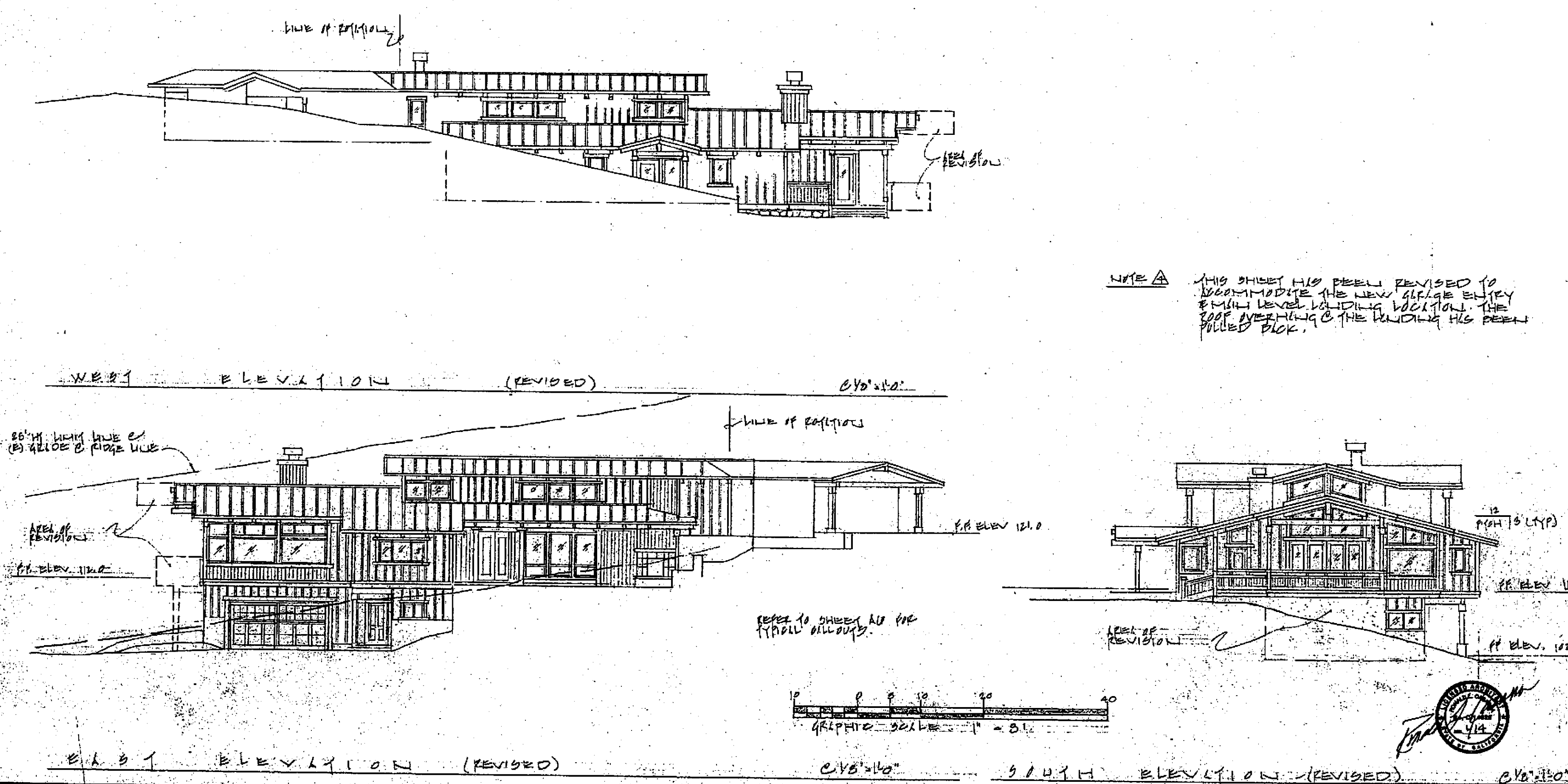
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 104-220-20
DELOZE - MAGEE FARM
FOR: ARLAN DELOZE & TONY MAGEE
1990 HWY ROUTE 1
MARSHALL, CALIF. 94940

RESIDENCE
EXTERIOR ELEVATIONS

Date 5/18/05
Scale AS NOTED
Drawn RLC
Job 10407

A.6



REVISIONS	BY
△4 4/10/12	RLC
△5 10/31/12	RLC

SUBMITTAL FOR:
DESIGN REVIEW
BUILDING PERMIT

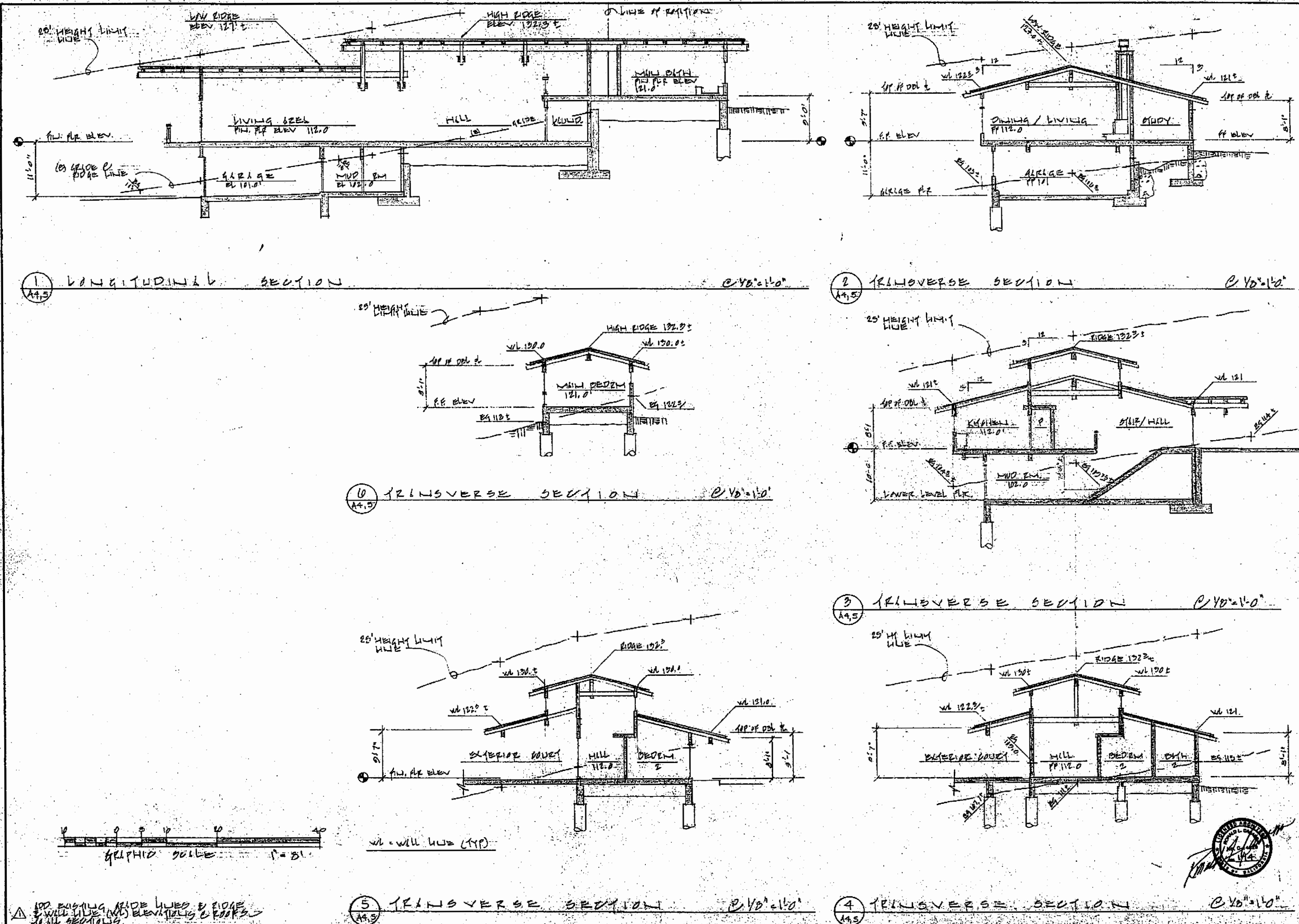
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

AP 106-220-20
DRIDER - MAGEE FARM
DEBORAH DRIDER - TONY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

RESIDENCE
EXTERIOR ELEVATIONS

Date 12/20/10
Scale AS NOTED
Drawn RLC
Job 08.01
Sheet A6R
Of 20

9F



⚠ ADD EXISTING GRADE LINES & RIDGE & WALL LINE (WL) ELEVATIONS & ROOFS TO ALL SECTIONS.

REVISIONS	BY
⚠ 3/24/10	RC
⚠ 4/10/12	RC
⚠ 10/31/12	RC

SUBMITTAL FOR:
DESIGN REVIEW
COASTAL PERMIT

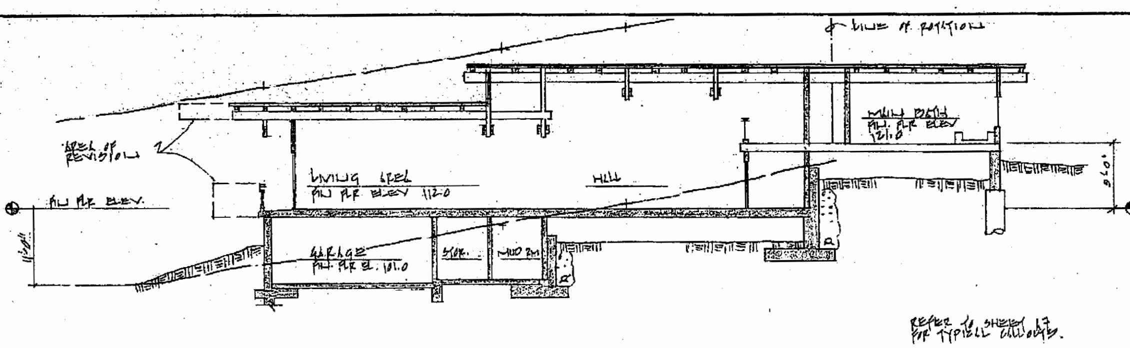
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

RESIDENCE
BUILDING SECTIONS

Date 3/13/09

A4.5

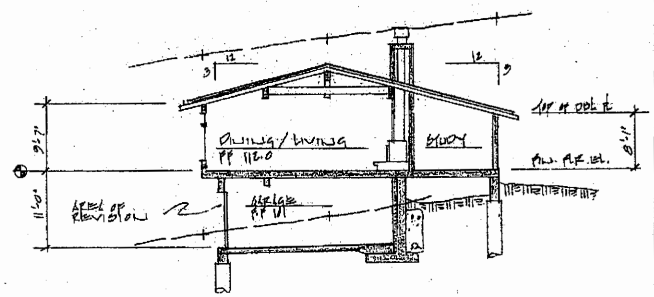
9F



REFER TO SHEET A7 FOR TYPICAL CALLOUTS.

1 A7R LONGITUDINAL SECTION (REVISED) @ 1/8" = 1'-0"

GRAPHIC SCALE 1" = 8'



2 A7R TRANSVERSE SECTION (REVISED) @ 1/8" = 1'-0"

NOTE △ THIS SHEET HAS BEEN REVISED TO ACCOMMODATE THE NEW GARAGE ENTRY & MAIN LEVEL LANDING LOCATION. THE ROOF OVERHANG @ THE LANDING HAS BEEN PULLED BACK.

REVISIONS	BY
△ 4/13/12	
△ 10/31/12	

SUBMITTAL FOR: DESIGN REVIEW, BUILDING PERMIT

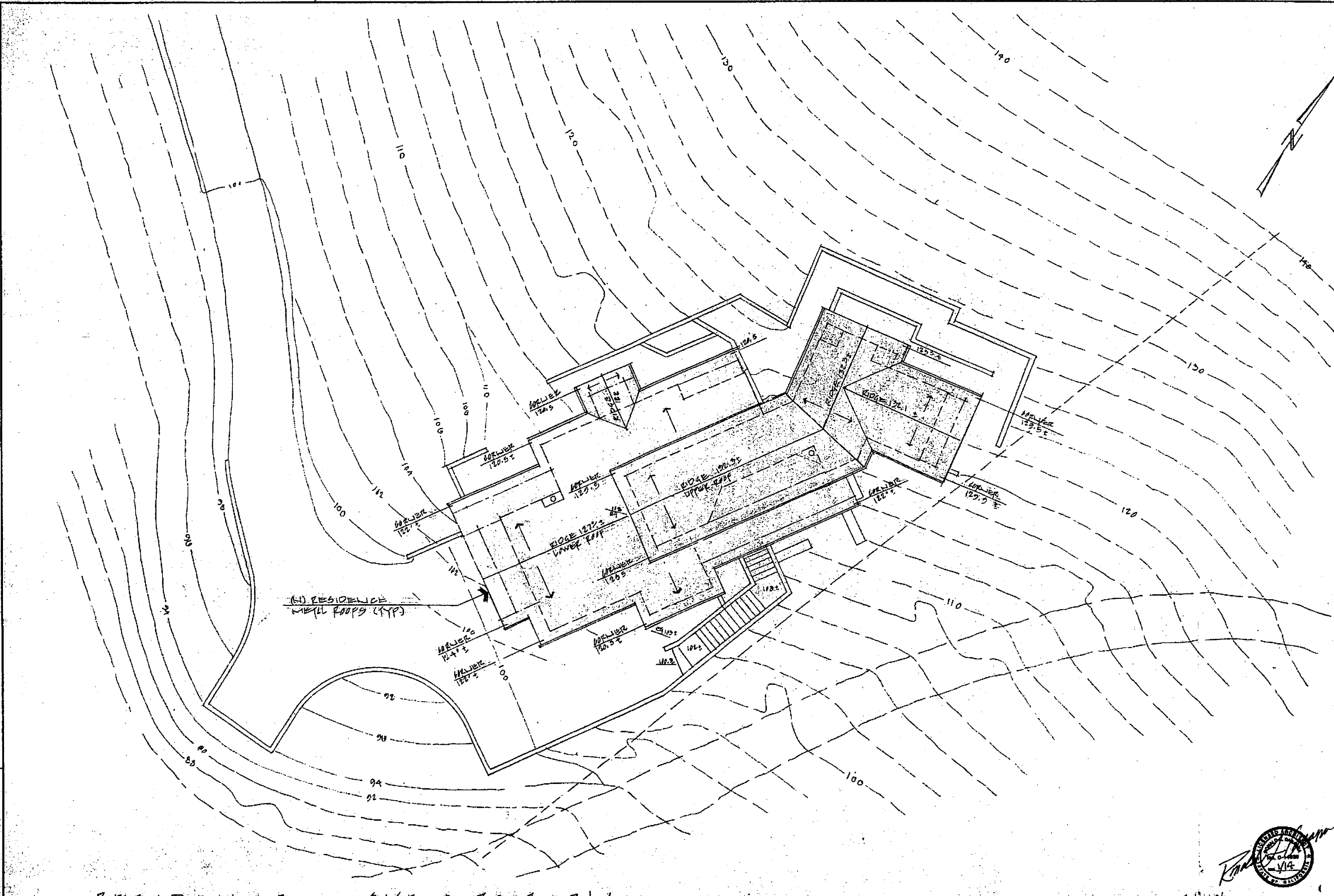
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940
(415) 663-1539

BRIDER-MAGEE FARM
AP 100-220-20
BRIDER TONY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

RESIDENCE
BUILDING SECTIONS (REVISED)

Date 12/29/10
Scale AS NOTED
Drawn ELC
Job 10.01
Sheet A7R
of 20 Sheets

9F



RESIDENCE - SITE & ROOF PLAN 1"=10'

REF. DRAWINGS: RESIDENCE SITE PLAN - BY ... SHEET 1
RESIDENCE ROOF PLAN - BY ... SHEET 1.5

△ LOO SHEET

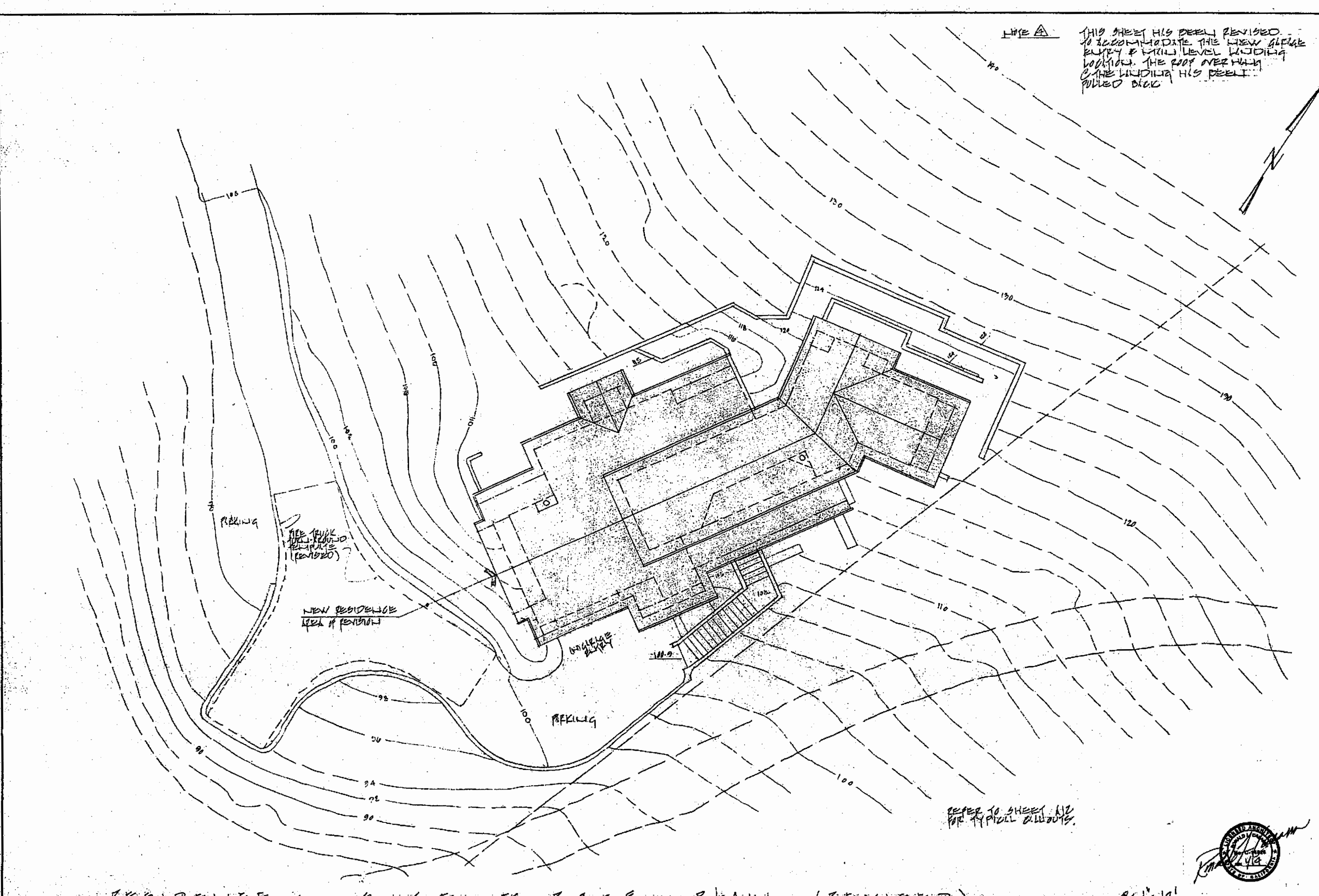
RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1 P.O. Box 823
Marshall, California 94940.
(415) 663-1539

REVISIONS | BY

RESIDENCE SITE & ROOF PLAN

A19

9F



RESIDENCE - SITE & ROOF PLAN (REVISED) @ 1"=10'

REVISIONS	BY
△ 4/13/12	
△ 10/31/12	

SUBMITTAL FOR: DESIGN REVIEW / BUILDING PERMIT

RONALD L. CASASSA
ARCHITECT C-14828
18625 Hwy. 1, P.O. Box 823
Marshall, California 94940
(415) 663-1539

FOR: ... MAGEE FARM
GREGORY GRIDER - KELLY MAGEE
17990 STATE ROUTE 1
MARSHALL, CALIF. 94940

RESIDENCE
SITE & ROOF PLAN (REVISED)

Date 12/29/09
Scale AS NOTED
Drawn RLC
Job 08-01
Sheet A12-R
of 20 Sheets

9F

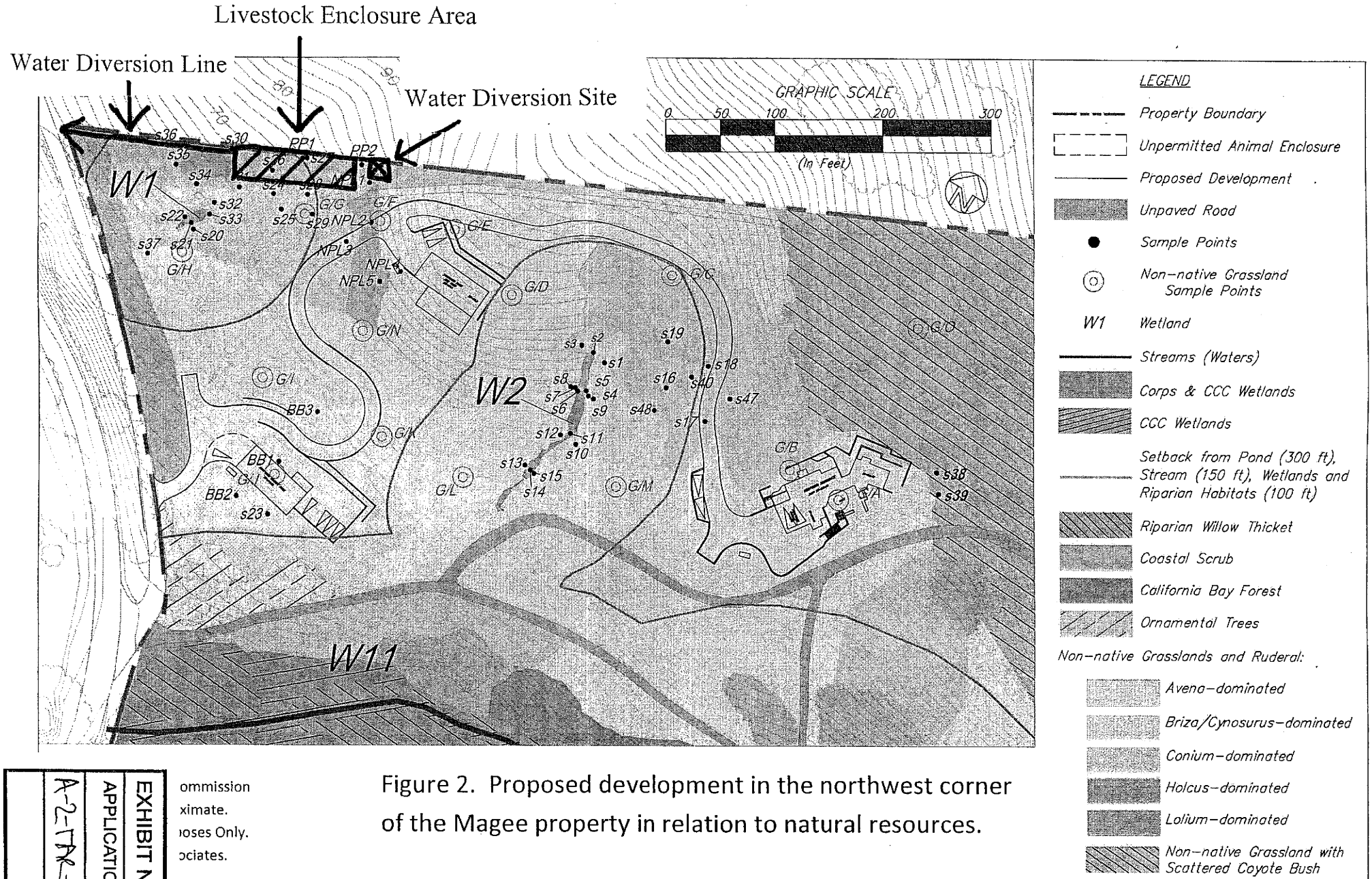


Figure 2. Proposed development in the northwest corner of the Magee property in relation to natural resources.

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EXHIBIT NO. 10
APPLICATION NO.
A-2-TRR-10-022

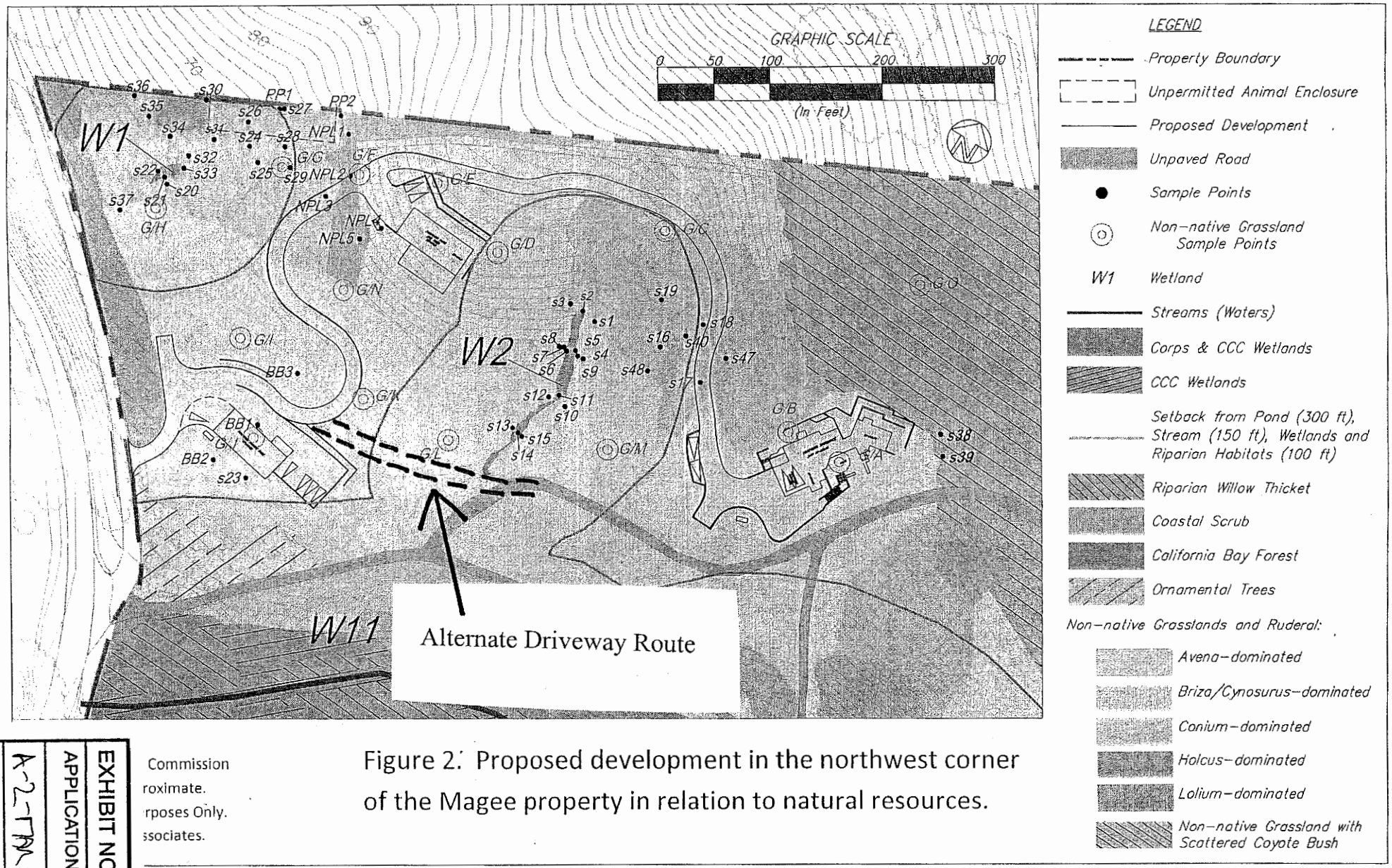

Figure 2. Proposed development in the northwest corner of the Magee property in relation to natural resources.

Commission
roximate.
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ssociates.

EXHIBIT NO. 11
APPLICATION NO.
A-2-CNC-10-022

THE CRAFT BRANDY MAKING PROCESS

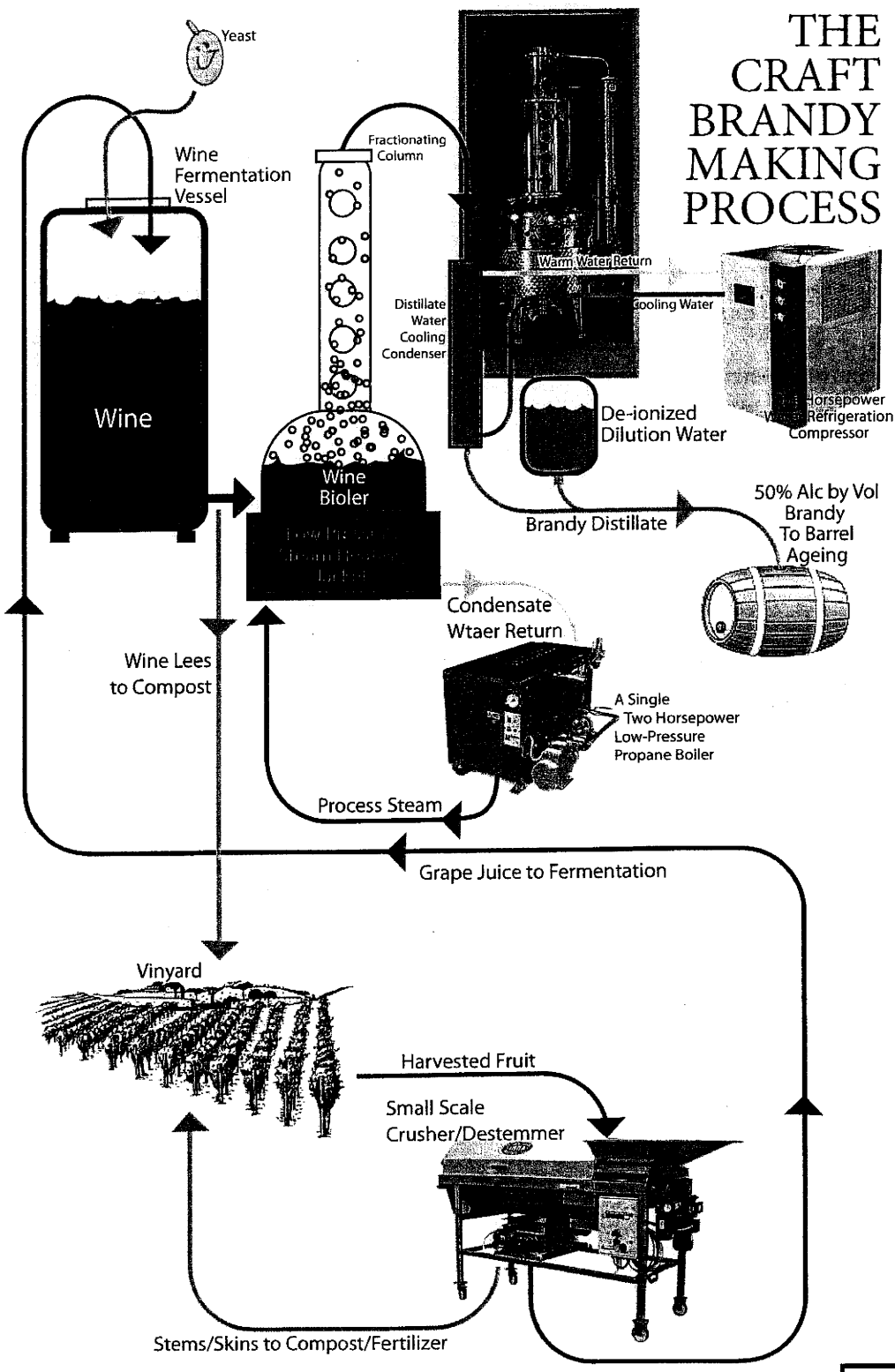
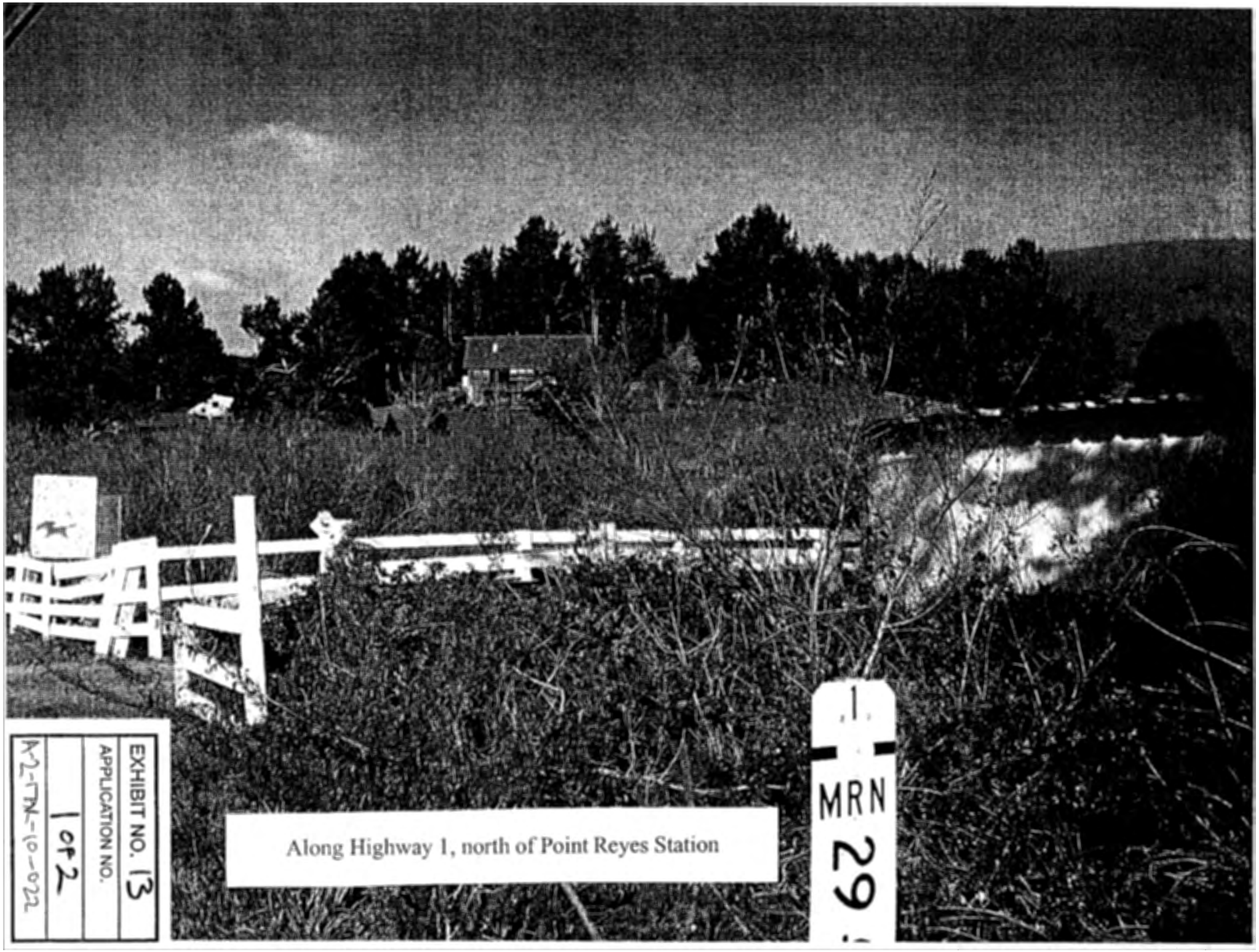
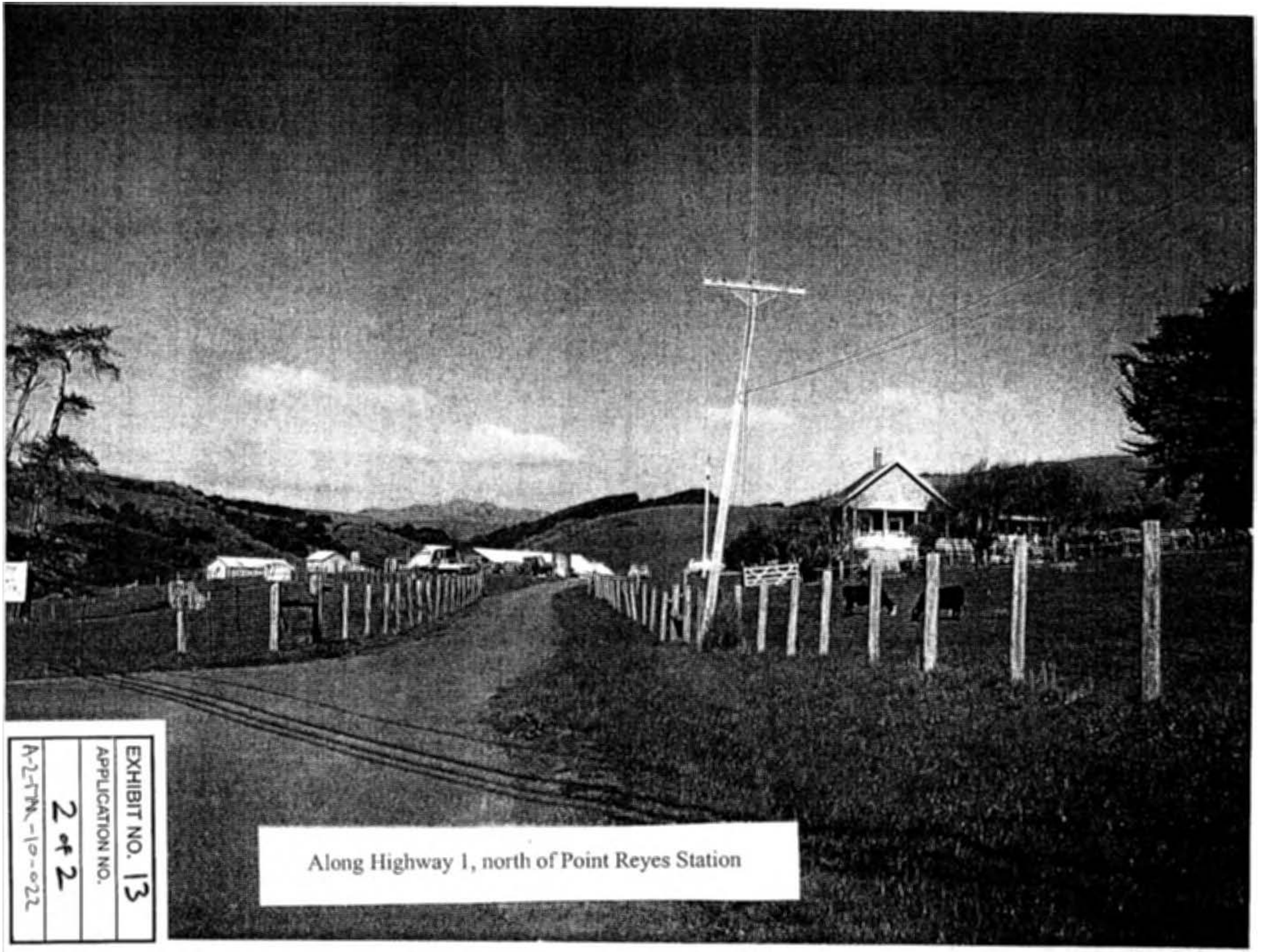


EXHIBIT NO. 12
APPLICATION NO.
A-2-TAR-10-022



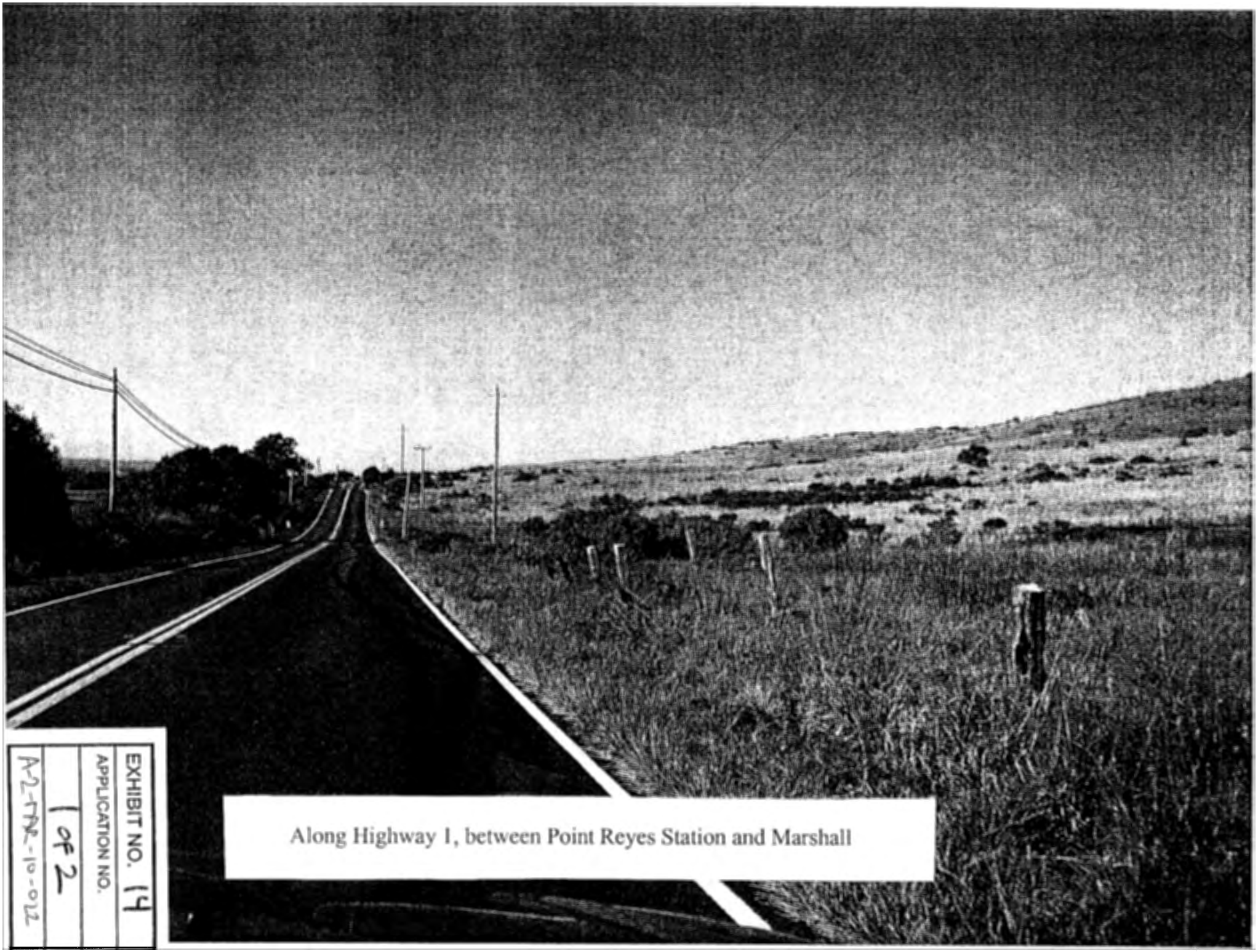
Along Highway 1, north of Point Reyes Station

EXHIBIT NO. 13
APPLICATION NO.
1 of 2
A-2-MRN-10-022



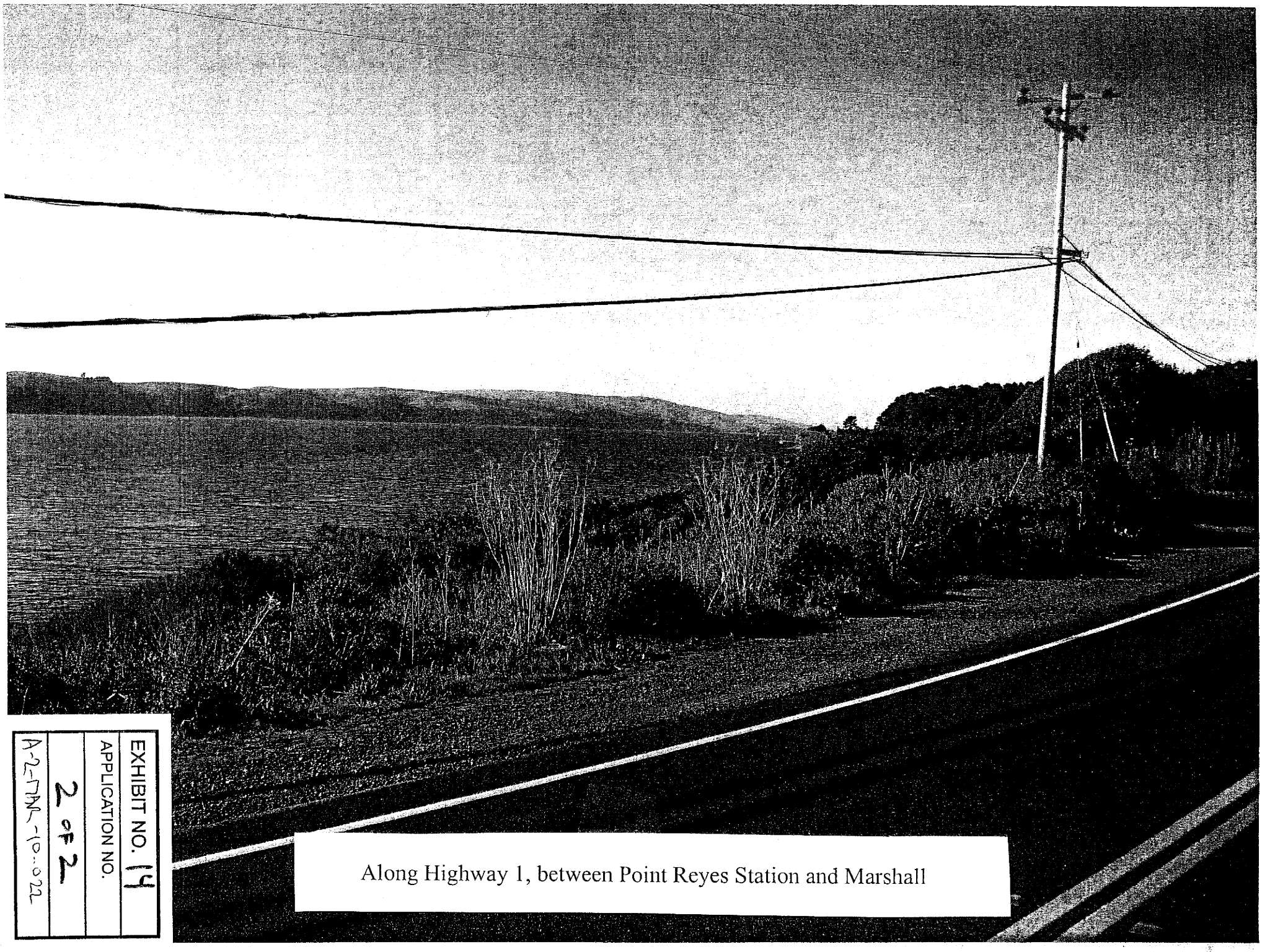
Along Highway 1, north of Point Reyes Station

EXHIBIT NO. 13
APPLICATION NO.
2 of 2
A-2-PTR-10-022



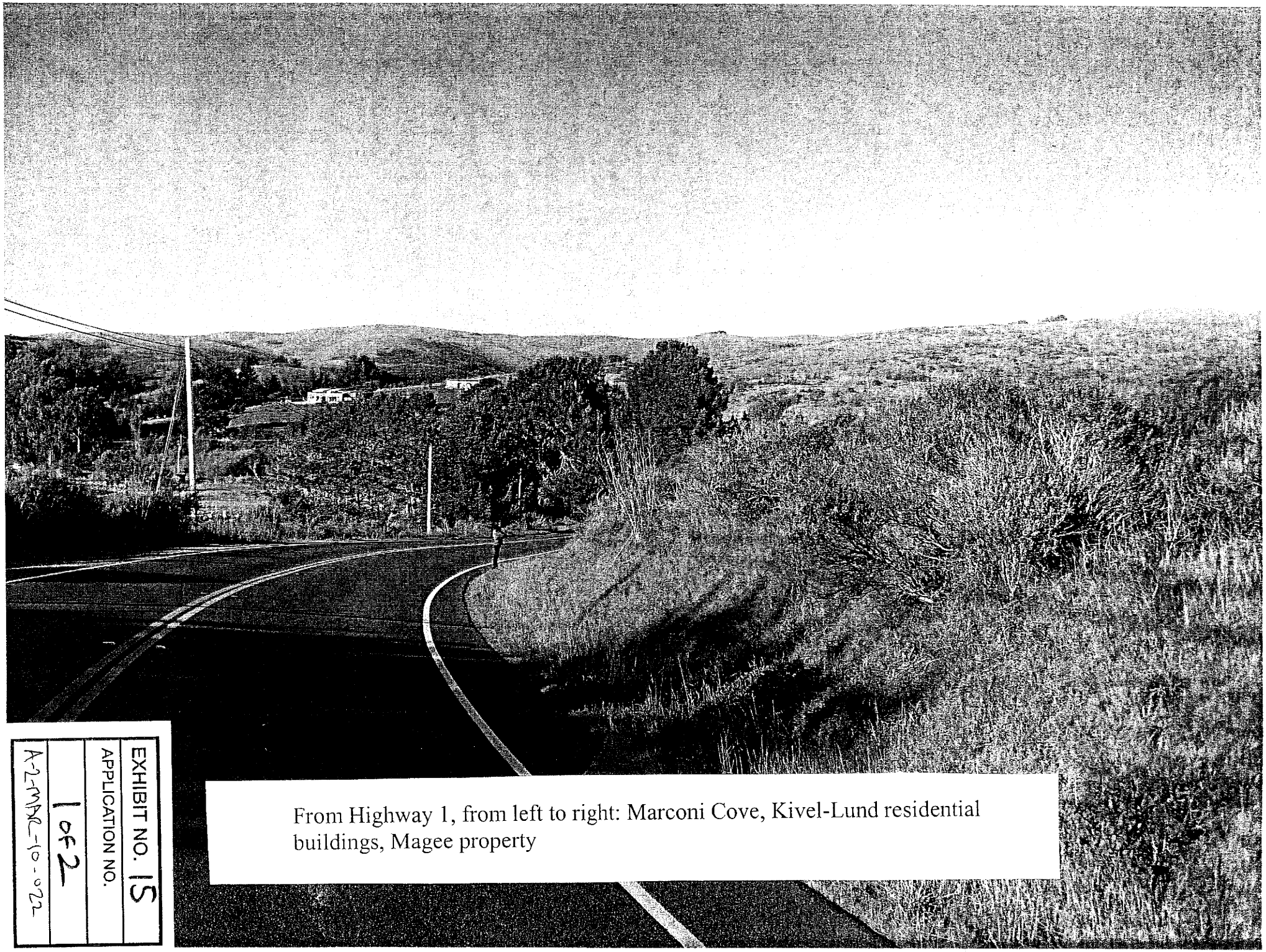
Along Highway 1, between Point Reyes Station and Marshall

EXHIBIT NO. 14
APPLICATION NO.
1 of 2
A-2-TMR-10-012



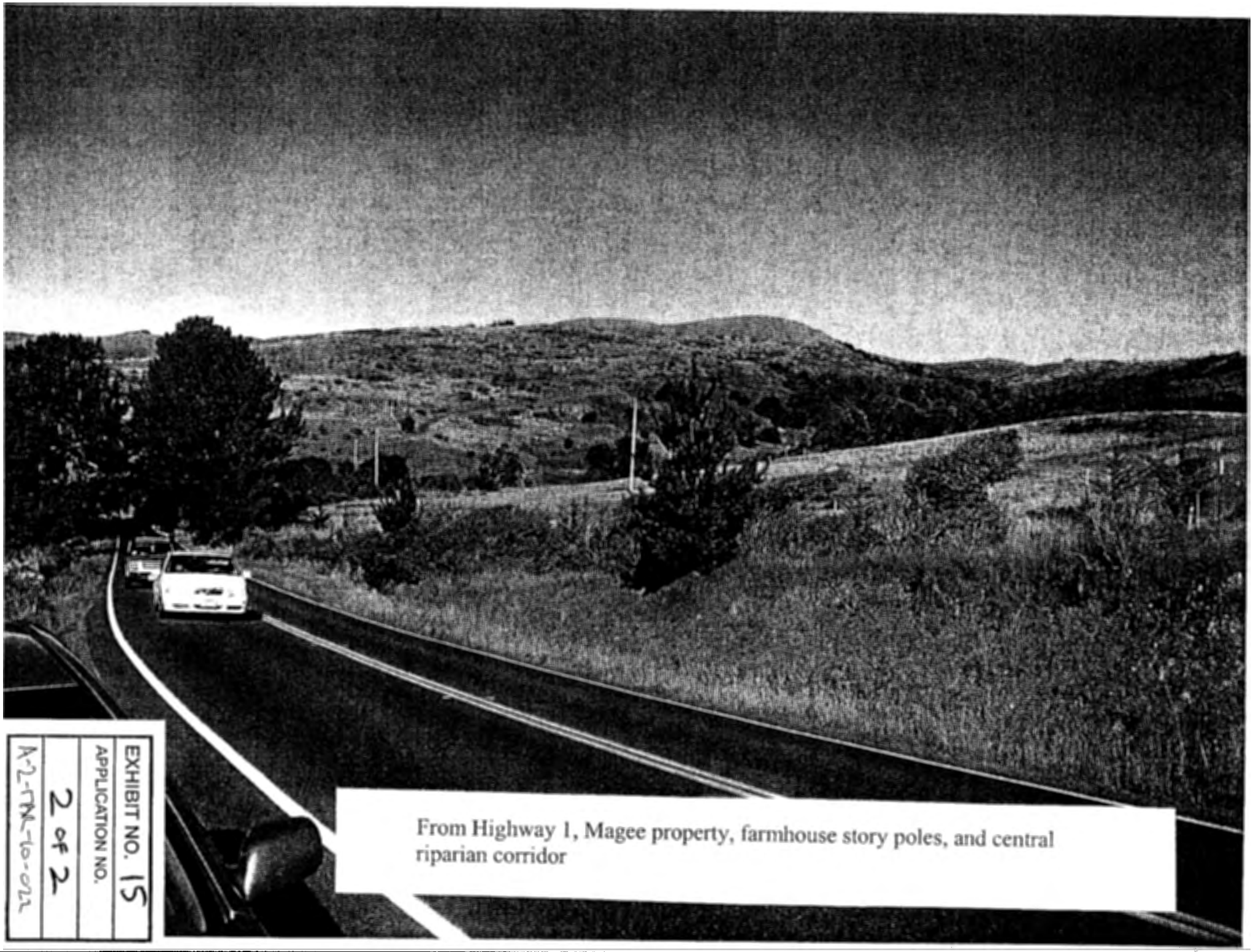
Along Highway 1, between Point Reyes Station and Marshall

EXHIBIT NO. 14
APPLICATION NO.
2 of 2
A-2-MAR-10-022



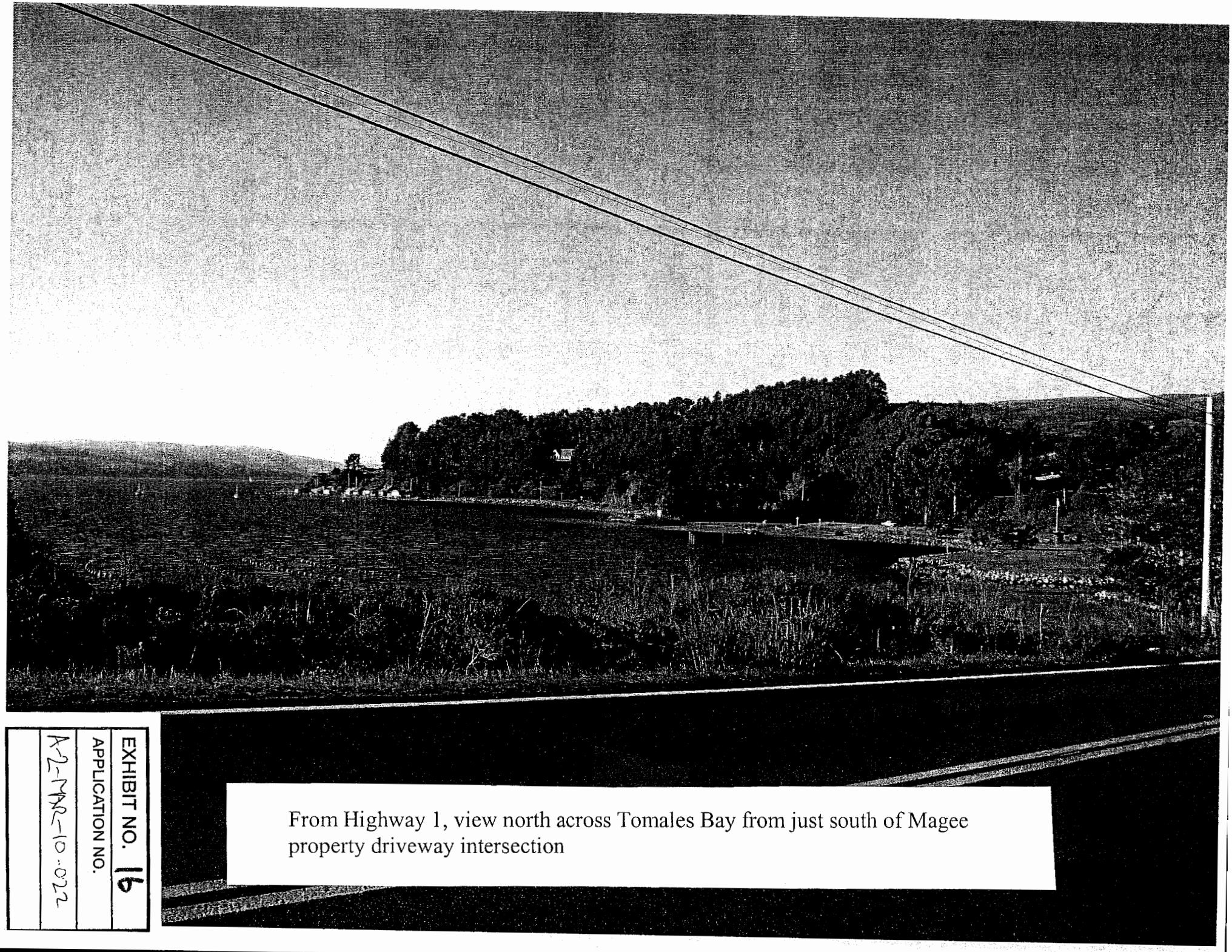
From Highway 1, from left to right: Marconi Cove, Kivel-Lund residential buildings, Magee property

EXHIBIT NO. 15
APPLICATION NO.
1 of 2
A-2-MAR-10-022



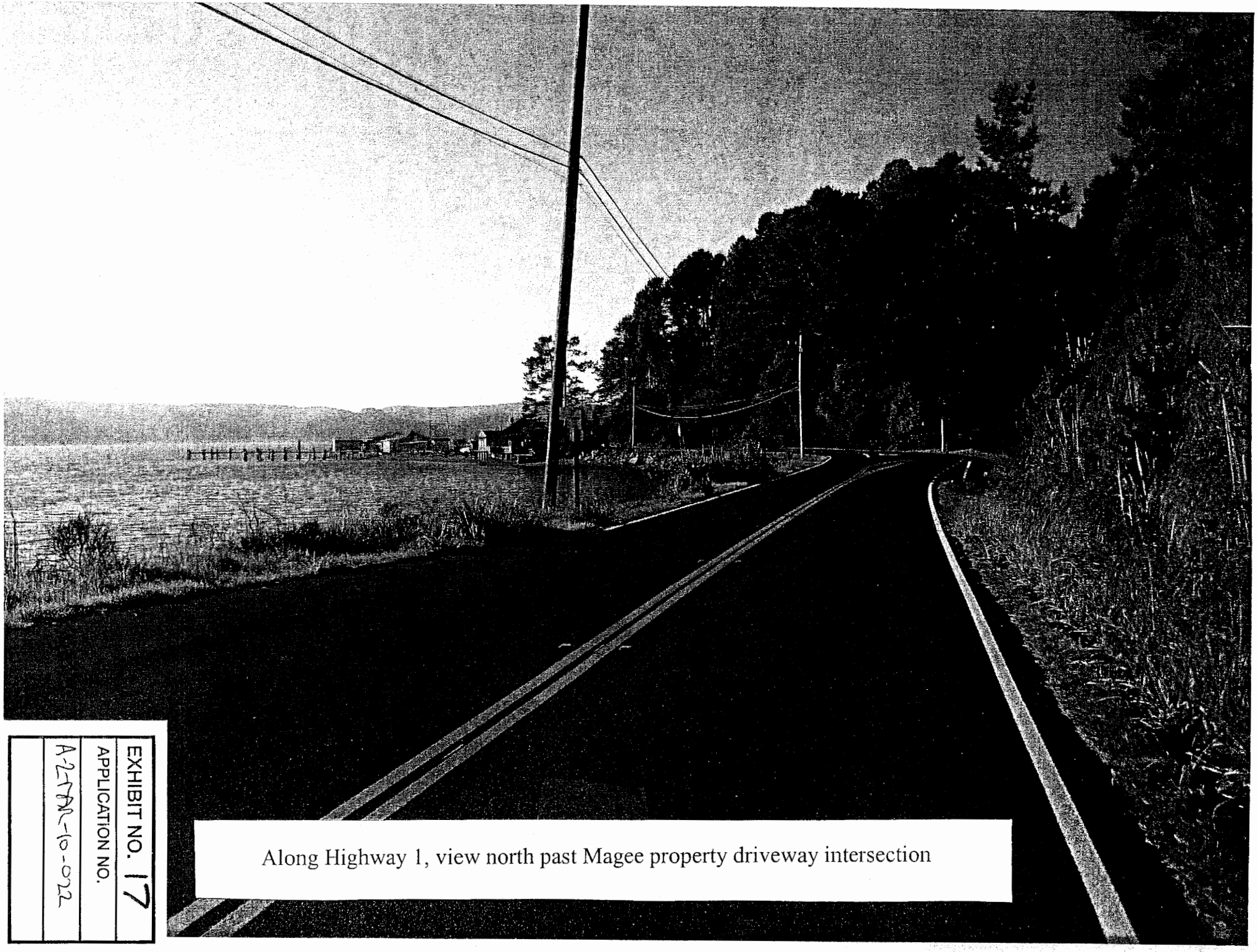
From Highway 1, Magee property, farmhouse story poles, and central riparian corridor

EXHIBIT NO. 15
APPLICATION NO.
2 of 2
A-2-TRN-10-022



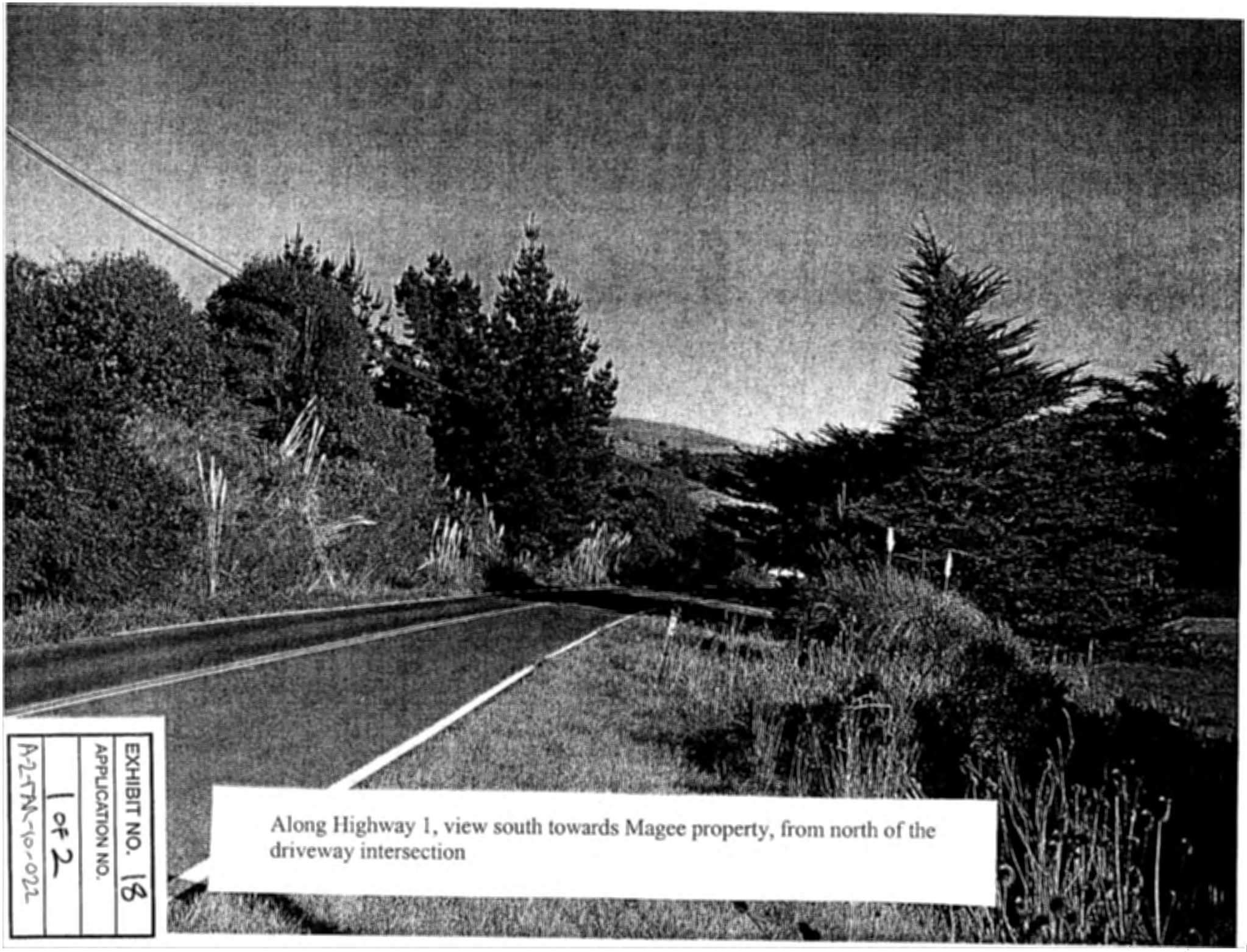
From Highway 1, view north across Tomales Bay from just south of Magee property driveway intersection

EXHIBIT NO. 16
APPLICATION NO.
A-2-MAR-10-022



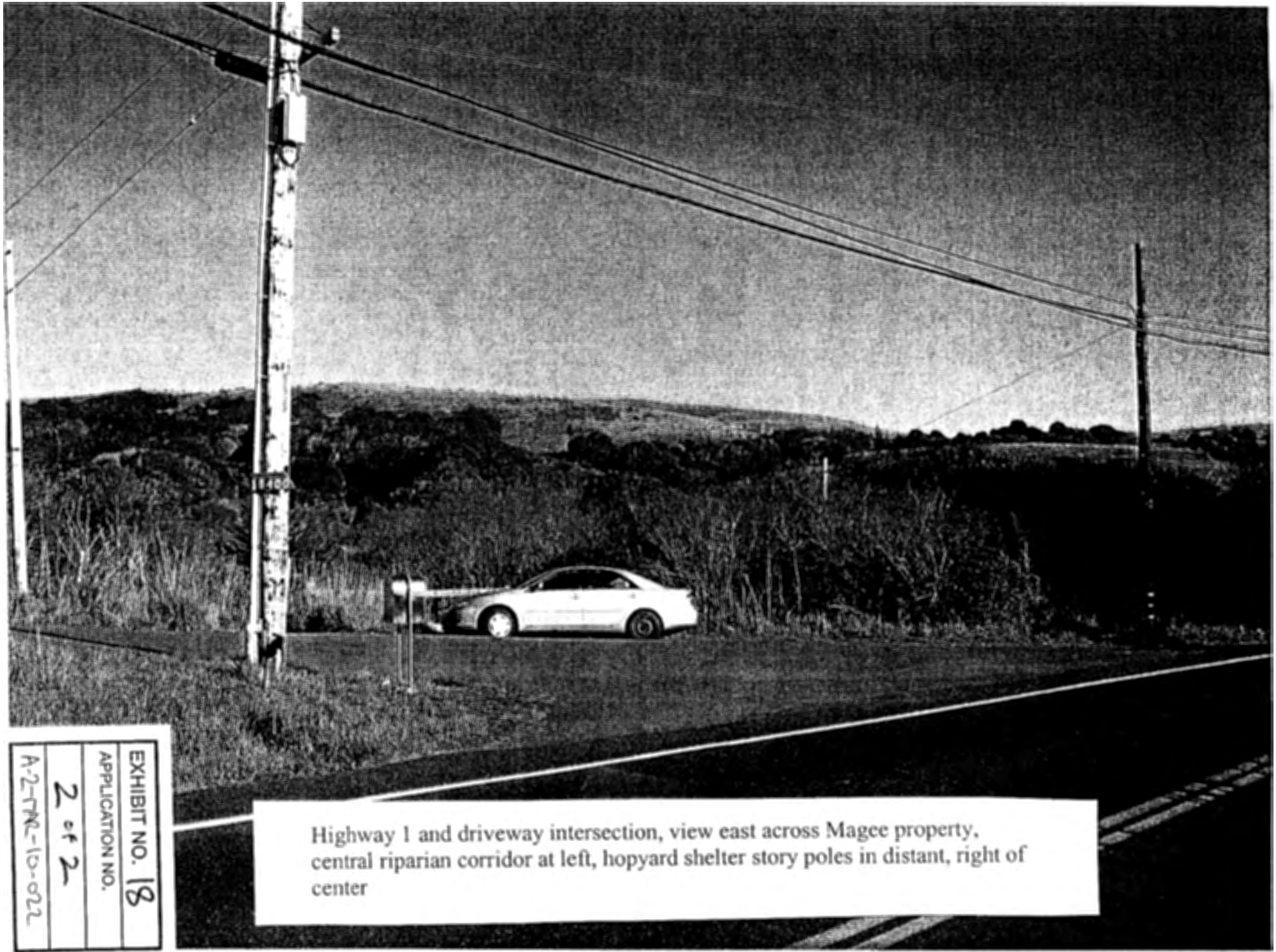
Along Highway 1, view north past Magee property driveway intersection

EXHIBIT NO. 17
APPLICATION NO.
A-2-SMC-10-022



Along Highway 1, view south towards Magee property, from north of the driveway intersection

EXHIBIT NO. 18
APPLICATION NO.
1 of 2
A-2-TMR-10-022

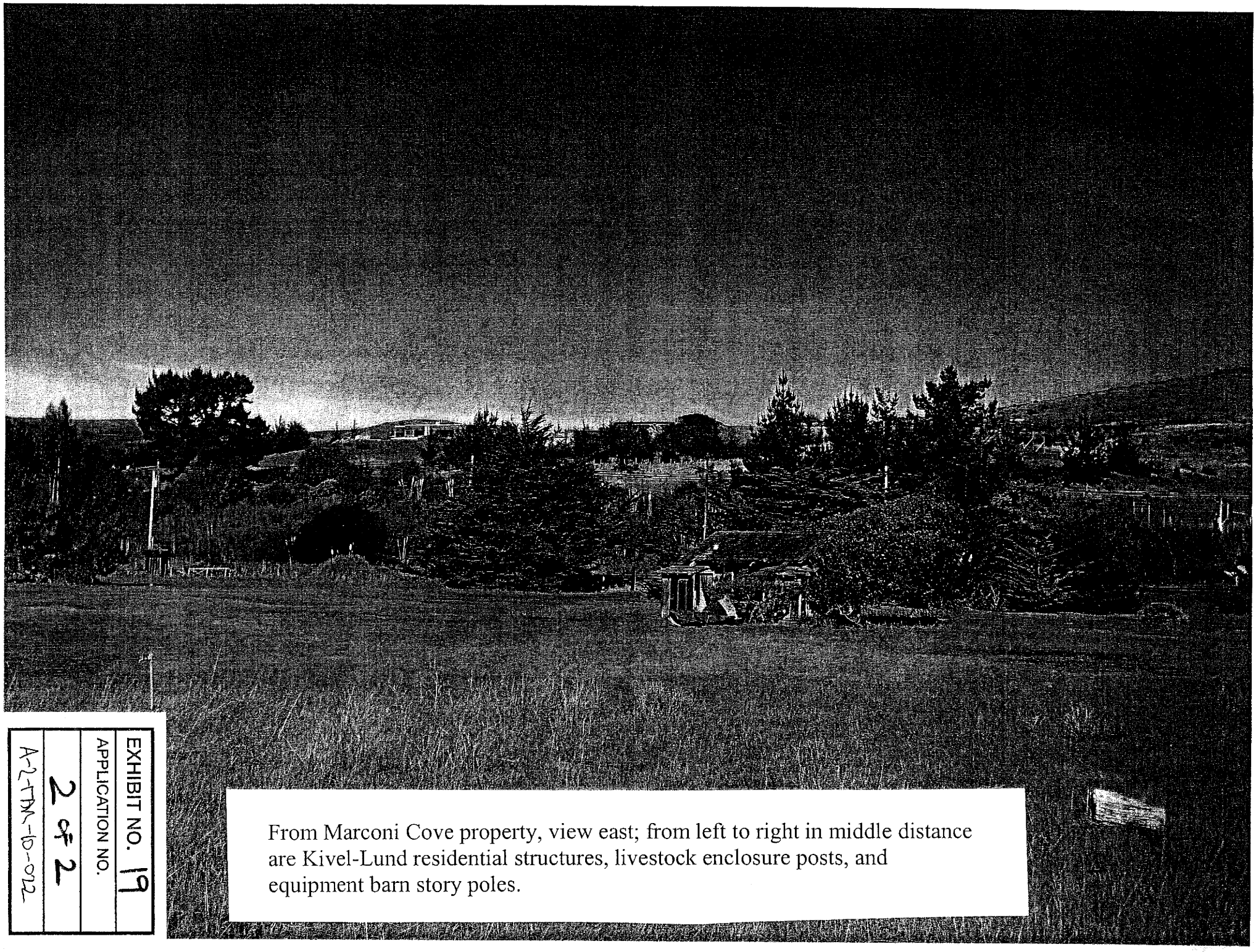


Highway 1 and driveway intersection, view east across Magee property, central riparian corridor at left, hopyard shelter story poles in distant, right of center

EXHIBIT NO. 18
APPLICATION NO.
2 of 2
A-2-TRN-10-022

From Marconi Cove property, view east; from left to right in middle distance are livestock enclosure posts, equipment barn story poles, and farmhouse story poles

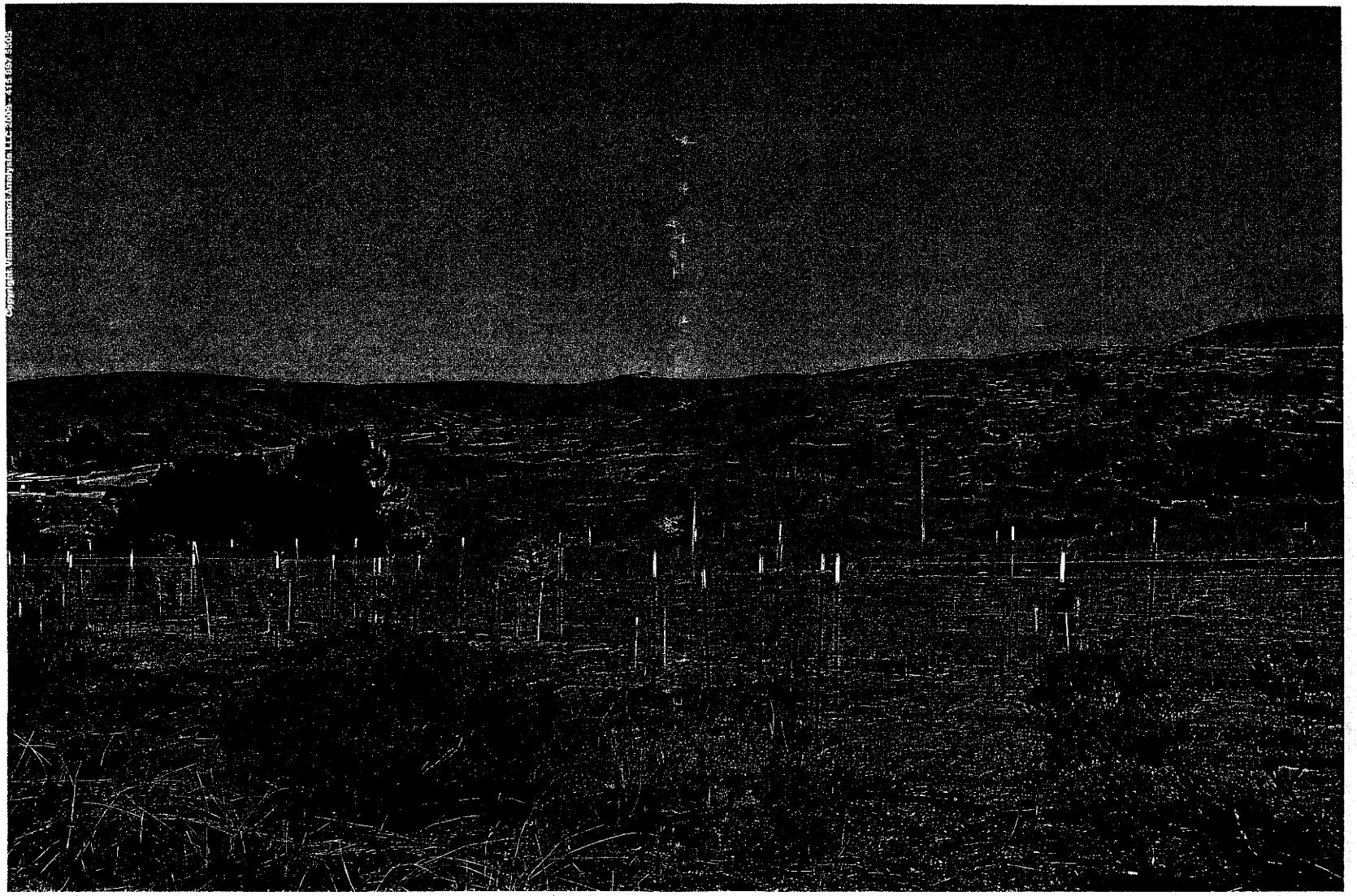
EXHIBIT NO. 19
APPLICATION NO.
1 of 2
A-2-TMR-10-022



From Marconi Cove property, view east; from left to right in middle distance are Kivel-Lund residential structures, livestock enclosure posts, and equipment barn story poles.

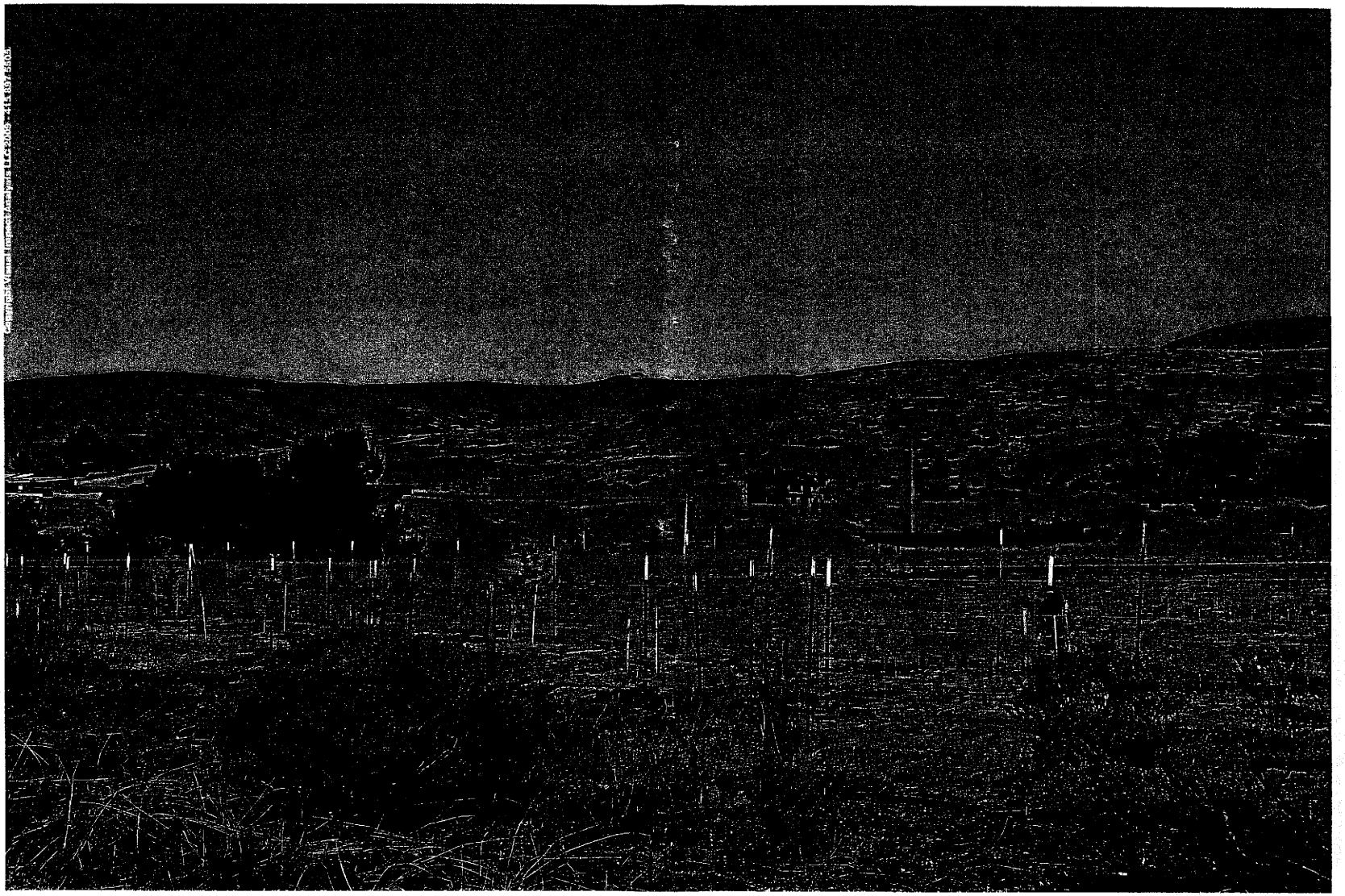
EXHIBIT NO. 19
APPLICATION NO.
2 of 2
A-2-TMN-10-012

EXHIBIT NO. 20
APPLICATION NO.
1 OF 11
A-2-MAR-10-022



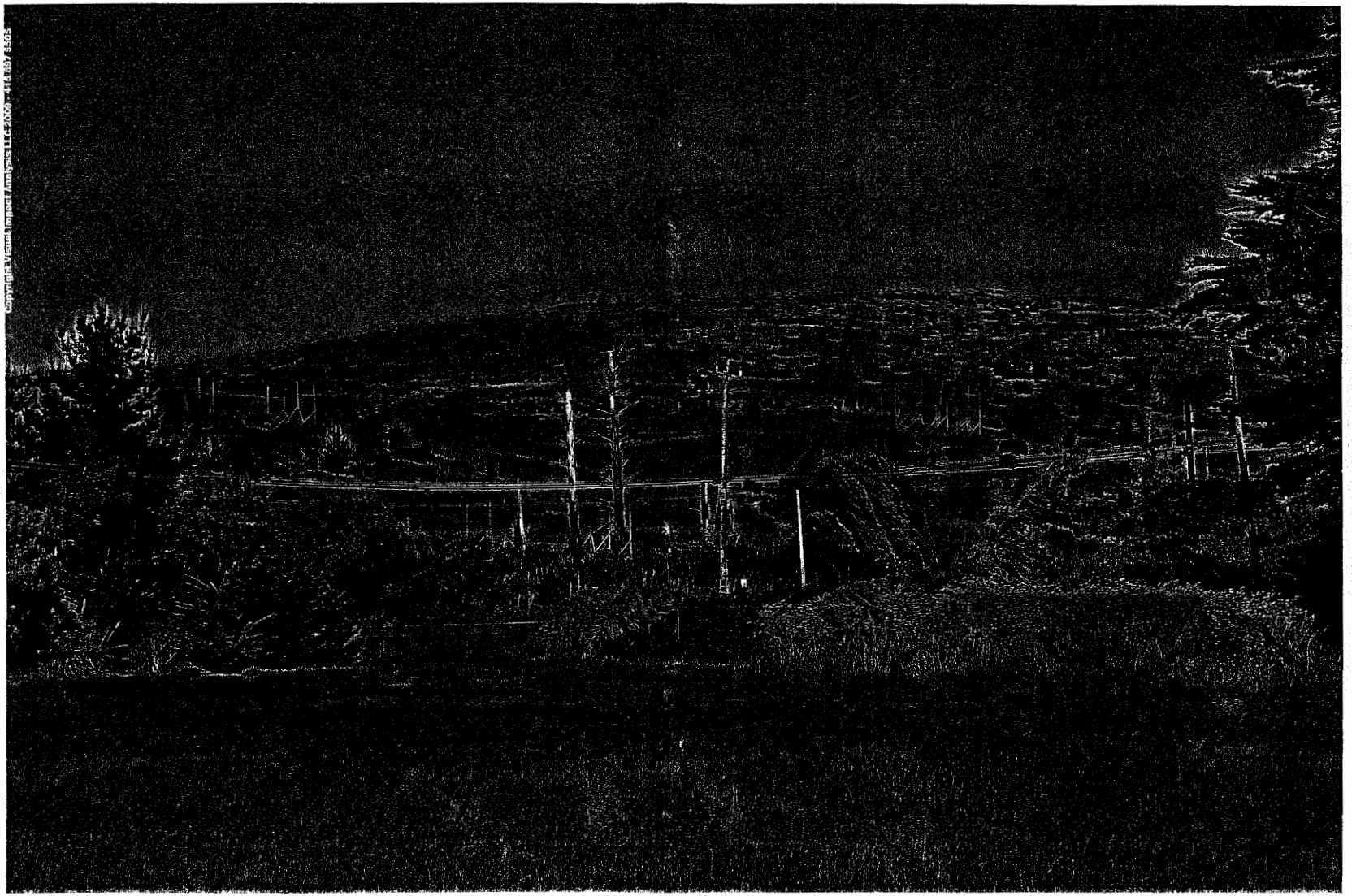
View 1 Looking Northbound From Highway 1 - Existing Condition With Story Poles

Source: ***Visual Impact Analysis LLC***



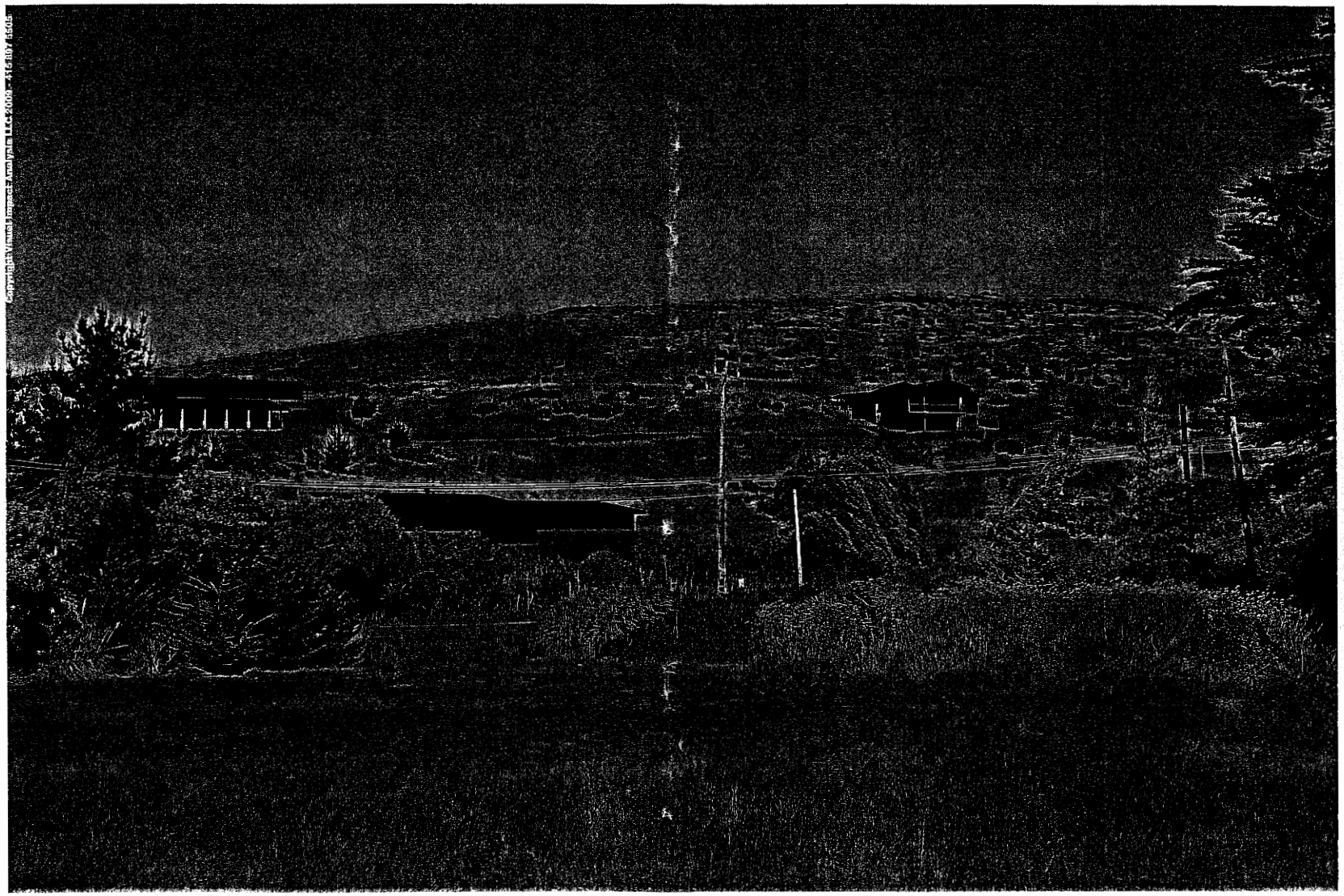
View 1 Looking Northbound From Highway 1 - Proposed Project

Source: *Visual Impact Analysis LLC*



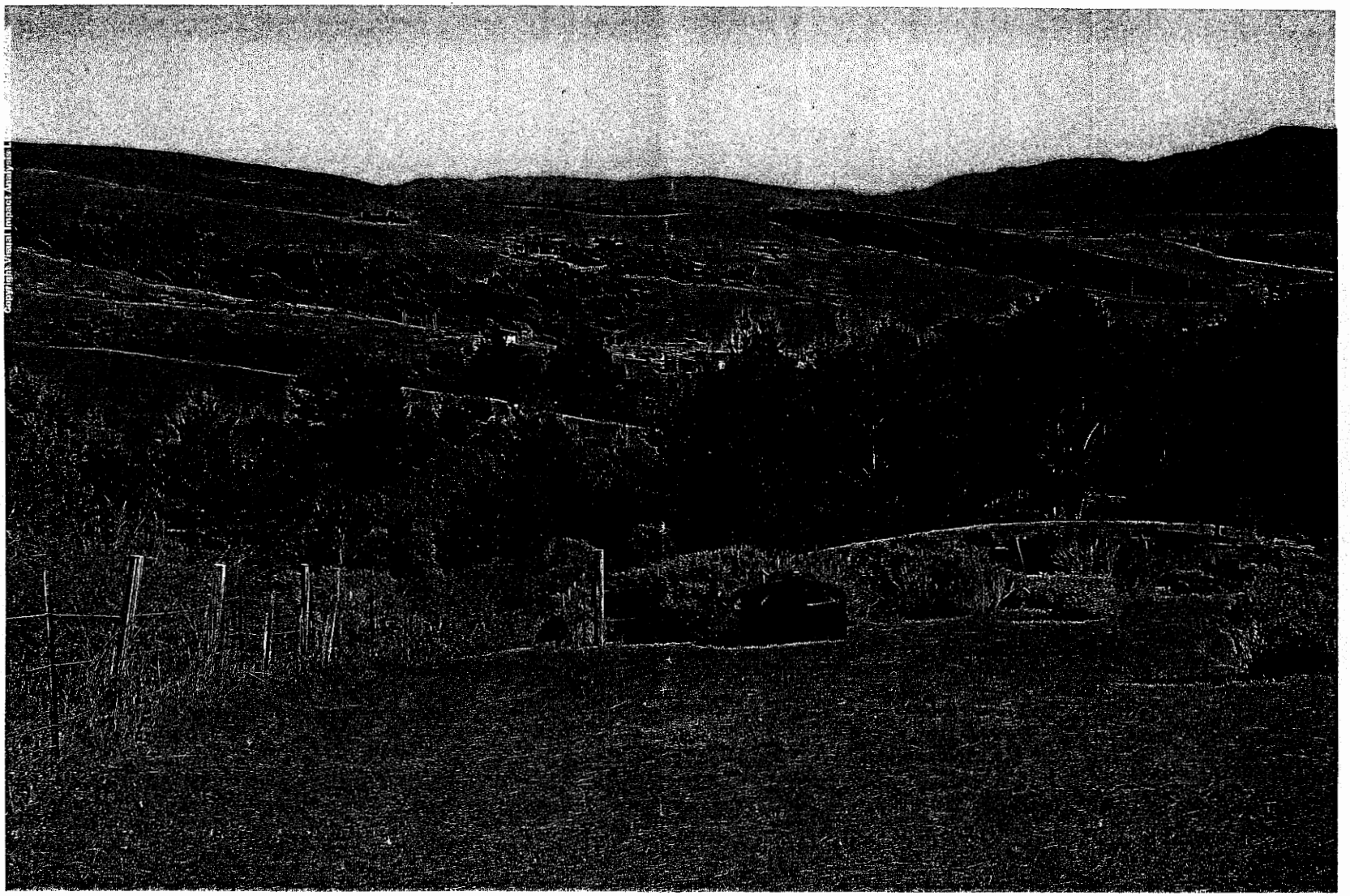
View 2 Looking Across Highway 1 From Boat Launch - Existing Condition With Story Poles

Source: *Visual Impact Analysis LLC*



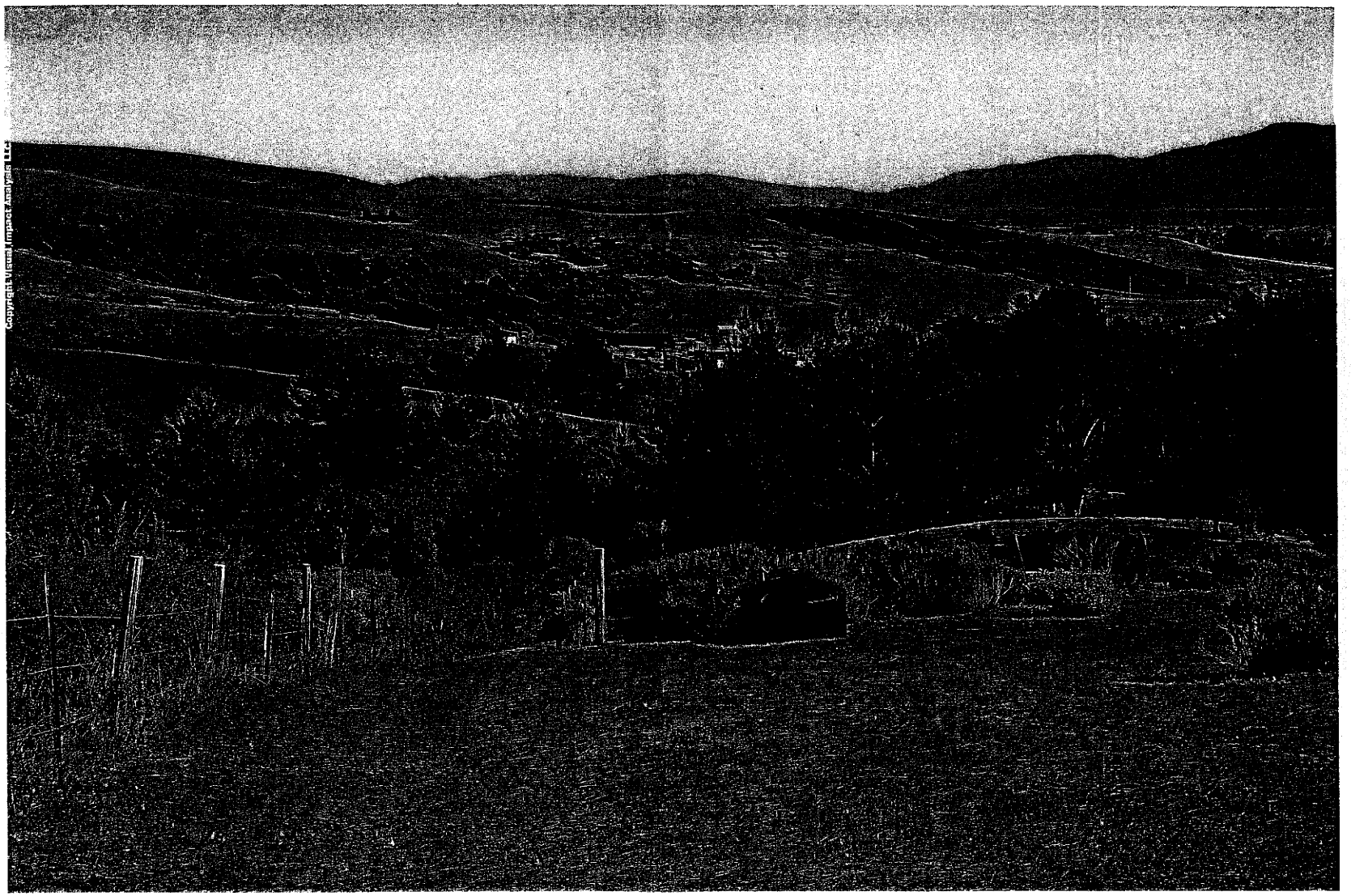
View 2 Looking Across Highway 1 From Boat Launch - Proposed Project

Source: *Visual Impact Analysis LLC*



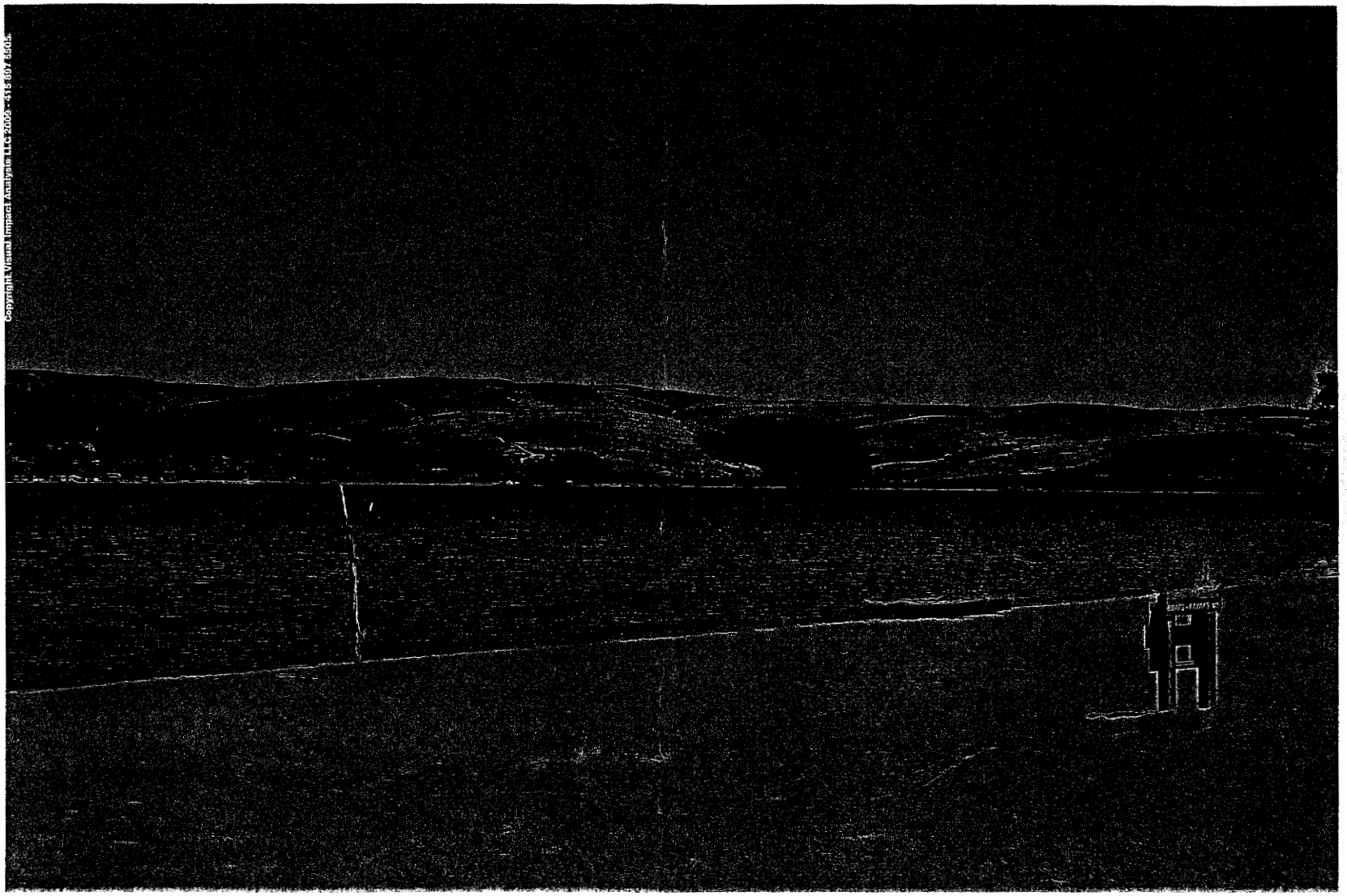
View 3 Looking From Marconi Center Meadow Trail - Existing Condition With Story Poles

Source: *Visual Impact Analysis LLC*



View 3 Looking From Marconi Center Meadow Trail - Proposed Project

Source: *Visual Impact Analysis LLC*



View 4 Looking From Hearts Desire Beach - Existing Condition With Story Poles

Source: *Visual Impact Analysis LLC*

View 4 Looking From Hearts Desire Beach - Proposed Project

Source: *Visual Impact Analysis LLC*

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View 5 Looking From Mt. Vision At Perth Fire Lane - Existing Condition With Story Poles

Source: *Visual Impact Analysis LLC*

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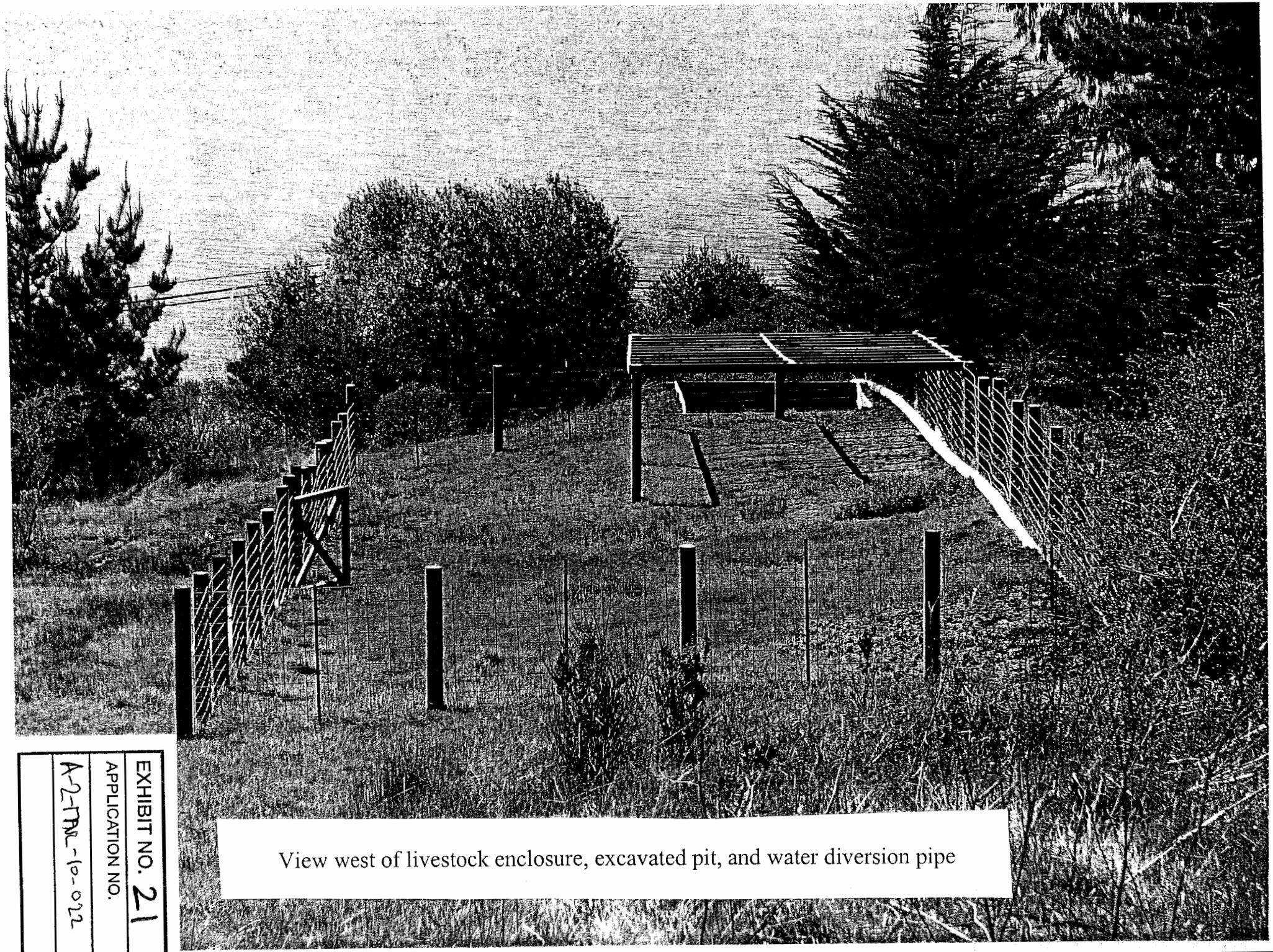
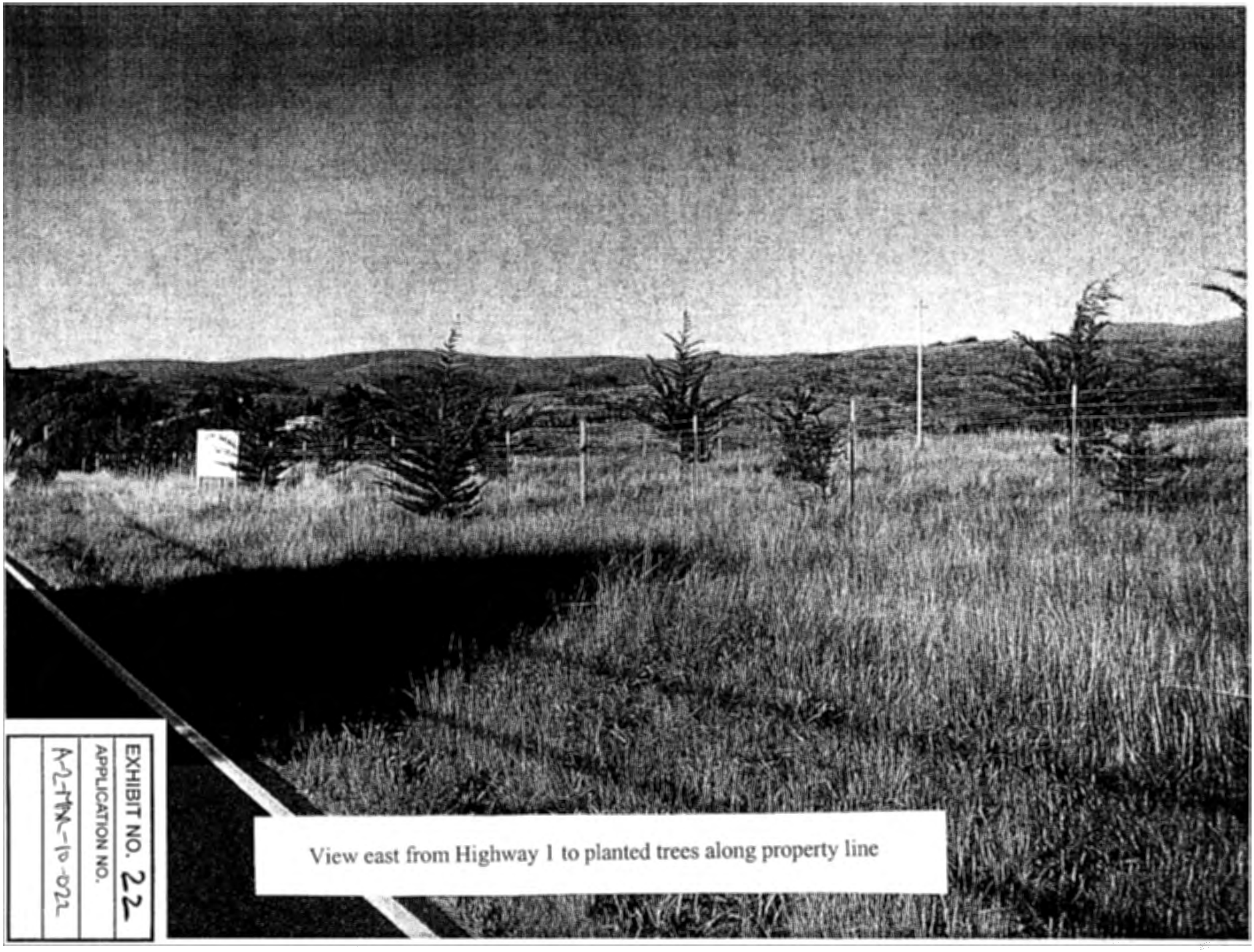
View 5 Looking From Mt. Vision At Perth Fire Lane - Proposed Project

Source: *Visual Impact Analysis LLC*



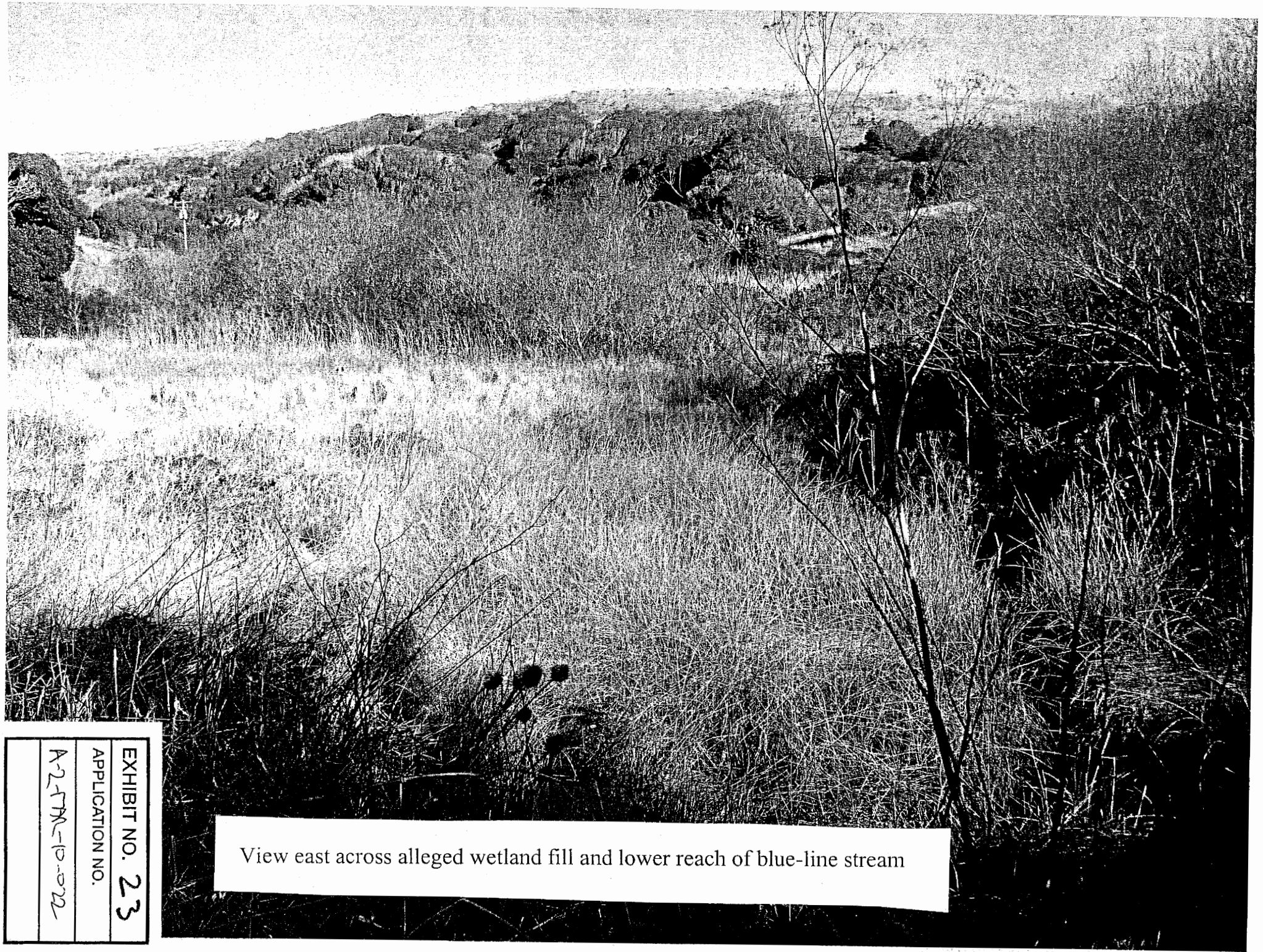
View west of livestock enclosure, excavated pit, and water diversion pipe

EXHIBIT NO. 21
APPLICATION NO.
A-2-TRM-10-022



View east from Highway 1 to planted trees along property line

EXHIBIT NO. 22
APPLICATION NO.
A-2-PMC-10-022



View east across alleged wetland fill and lower reach of blue-line stream

EXHIBIT NO. 23
APPLICATION NO.
A-2-MAL-10-022