

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: APPEAL *DE NOVO*

Appeal No.: **A-1-MEN-10-015**

Applicants: **Barbara Bethel and James Hupp**

Agent: Amy Wynn, Amy Wynn Coastal Development Permits

Location: Approximately 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (County Road #500B), approximately 50 feet southeast of its intersection with Highway One at 9401 Brewery Gulch Road (Road 500B), Mendocino (Mendocino County), APN 119-320-04

Project Description: Modify coastal development permit granted for development of a single-family residence to authorize after-the-fact material modifications to the development including: (1) substituting an attached guest bedroom for previously approved detached guest cottage, (2) altering the approved building footprint, resulting in an increase in the size of the residence to 4,563 sq. ft., (3) modifying appurtenant decks, walkways, driveway, water tank and septic system configurations; (4) adding additional windows on all elevations, (5) temporarily occupying a travel trailer during construction, (6) removing up to 14 additional trees; (7) modifying exterior finishes, and (8)

deleting approximately 450 sq. ft. of light-colored raised foundation and 1,470 sq. ft. of light-colored retaining walls. Project also proposes to: (9) modifying the approved landscaping plan to increase the number and location of screening vegetation to be planted; (10) permanently covering approximately 125 sq. ft. of windows along the western façade; and (11) Limiting the colors of the interior window treatments along the western facade.

Staff Recommendation:

Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION *DE NOVO*

The staff recommends that the Commission **approve with conditions**, the requested after-the-fact proposal to modify the residential development at the site. A partially-built structure is currently developed at the site that substantially deviates from the previously-approved Coastal Development Permit Modification (CDPM) # 98-2001(2005) authorized by the County in January 2006. The primary issue raised by the project as proposed is the protection of visual resources. The project site is located within a designated “highly scenic area.” The Mendocino County certified LCP requires in part that new development in highly scenic areas be subordinate to the character of its setting. The site is prominently visible from the historic Town of Mendocino and the adjoining Mendocino Headlands State Park. These viewing areas are major visitor destinations along the Mendocino coast and are visited by many thousands of visitors every year. The residence is also visible from turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch.

The modifications proposed in the after-the-fact request result in an increase in total development from 4,229 square feet to 4,563 total square feet. More significantly, there is an increase in both the size and number of windows on the western elevation from the previously-approved 18 (plus a gable end window) to 28 (plus a gable end window). The window changes resulted in an approximate 100% increase in window glazing (from 426 ft² to 839 ft²) on the western elevation, which is the side of the house that is particularly prominent from major viewing areas. Windows are a much more reflective surface than siding material and can reflect sunlight in a glaring manner at certain times of the day, greatly increasing the prominence of the development against the landscape. Even at times of the day when glare is not a problem, the flat surface of the glass contrasts with the siding and roofing materials of a structure. The contrast in appearance draws attention to the structure. The applicant also previously painted the trim and window frame color in a color the applicant described as “Mendocino Blond,” which contrasts with the siding and is a prominent feature visible from the Town of Mendocino and Headlands State Park.

The applicant has submitted a revised project description for the Commission’s de novo review that greatly reduces the adverse effects of the increase in glazing by using a suite of methods that includes: (a) substantially screening the development with vegetation; (b) modifying trim colors; (c) permanently covering 125 sq. ft. of window glazing primarily along the western façade; and (d) accepting a limitation on the color of window treatments that may be used. Staff believes

that by increasing the landscaping slightly more than proposed to include at least four additional trees in strategic locations, the modified development would be subordinate to the character of its setting. **Special Condition Nos [4A](#), [7A](#), [7C](#), [7D](#), [8](#), and [9](#)** are recommended to implement the applicant's proposed visual mitigation measures with the additional landscaping recommended by staff.

Additional special conditions recommended by staff would require: (a) that all future improvements to the approved development shall obtain coastal development permit authorization (**Special Condition No. [6](#)**); (b) the use of dark earthtone building colors, non-glare materials, and shielded, downcast lighting (**Special Condition No. [7](#)**); and (c) recordation of a deed restriction to inform property owners of the restrictions of the conditions (**Special Condition No. [1](#)**).

Commission staff believes the proposed project as conditioned is consistent with the policies of the certified Mendocino County LCP.

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APPENDICES

- [Appendix A](#) – List of Substantive File Documents
- [Appendix B](#) – Submittal of Additional Information by the Applicant
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EXHIBITS

- Exhibit 1 – Regional Location
- Exhibit 2 – Vicinity Map
- Exhibit 3 – Proposed Site Plans
- Exhibit 4 – Proposed Elevations and Floor Plans
- Exhibit 5 – Proposed Materials and Lighting
- Exhibit 6 – Coastal Records Project Aerial Image
- Exhibit 7 – Western Elevation of Approved CDPM 98-2001 (2005)
- Exhibit 8 – Appeal
- Exhibit 9 – Notice of Final Local Action & County Staff Report
- Exhibit 10 – Landscaping Proposals and Visual Simulations of Vegetative Screening Submitted by Applicant's Agent
- Exhibit 11 – Applicant's Analysis of Glazing Authorized by CDPM 98-2001 (2005)
- Exhibit 12 – Commission Staff's Analysis of Glazing Authorized by CDPM 98-2001 (2005)
- Exhibit 13 – County Determination of Glazing Authorized by CDPM 98-2001 (2005)
- Exhibit 14 – Correspondence Between Applicant and County
- Exhibit 15 – Correspondence from Applicant following Substantial Issue Hearing
- Exhibit 16 – Photos of Existing Development from Project Site and Vicinity
- Exhibit 17 – Applicant's Request for Postponement of September 13, 2012 Hearing
- Exhibit 18 – Applicant's Submittal with Visual Simulations following August 30, 2012 Commission Staff Report
- Exhibit 19 – Applicant's Revised Project Description
- Exhibit 20 – County Correspondence Demonstrating Adequacy of Septic System
- Exhibit 21 – Grading Plan
- Exhibit 22 – Erosion Control Plan, Notes, and Details
- Exhibit 23 – Underlying Conditions of CDPM 98-01(05) and CDP 98-01

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. A-1-MEN-10-015, subject to conditions, pursuant to 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-1-MEN-10-015 for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the certified Mendocino 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 Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.
4. **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

Note: The original permit (County CDP No. 98-01) contains five (5) special conditions and eight (8) standard conditions, which were superseded and replaced by the conditions attached to a permit amendment approved by the County in 2006 (CDPM 98-01(05) and are no longer in effect. The six (6) special conditions and eight (8) standard conditions of the County CDP permit amendment (Modification No. CDPM 98-01(05)) were not appealed to the Commission and are still valid, except to the extent that they were modified by CDPM 98-01(2009). The standard and special conditions applied to this permit by the County in CDPM 98-01(2009), however, are the subject of this appeal and are superseded and replaced by the standard and special conditions of this Commission CDP amendment. Thus, the conditions applied to CDPM 98-01(05) remain valid and apply to the development approved in that permit amendment, except to the extent that they conflict with any of the conditions approved by this CDP (A-1-MEN-10-015). The new conditions are listed below. For comparison, the text of the original permit conditions is included in **Exhibit No. 23**.

This permit is granted subject to the following special conditions:

1. **Deed Restriction.** WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittees shall submit for the review and approval of the Executive Director, documentation demonstrating that the permittees have executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate

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

2. **Temporary Construction Trailer.**

- A. **Restriction.** The temporary construction trailer must be removed within 60 days of completion of the residence and prior to occupancy of the residence.

3. **Revised Building Plans.**

- A. WITHIN 60 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall submit final revised plans depicting all modifications of the residence approved under this coastal development permit for the review and approval of the Executive Director. The revised plans shall be full size and to scale, and shall include a site plan, floor plan, building elevation views (two sheets), exterior lighting plan, drainage plan, foundation plan, and erosion control plan, and shall conform to the plans titled and dated as follows: “floor plan” dated February 6, 2008 by Liv-In Environments and revised August 16, 2013 with window note by WC Plan; “reflective ceiling plan” dated November 20, 2006 by Liv-In Environments and revised June 8, 2009 by owner Barbara Bethel; “Exhibit 1- May 2013” modified from Liv-In Environments’ plan and annotated August 16, 2013 by WC Plan; and “Cover Sheet (1 of 6),” “Erosion Control Plan (4 of 6),” and “Detail Sheet (6 of 6) with revision date December 5, 2005 and prepared by KPFF Consulting Engineers, except that the plans shall be revised to provide for the following changes:

(i) **Window Covering Details**

The plans shall include a to-scale plan sheet that depicts the permanent covering of approximately 125 square feet of window glazing along the west, north, and south elevations as depicted in the drawing labeled “Exhibit 1- May 2013” and using the materials described in the applicant’s submittal to the Coastal Commission North Coast District Office dated July 17, 2013.

(ii). **Conformance with Engineering Plans.**

All final plans shall be consistent with the recommendations contained in the plans prepared by Eric Jahelka and KPFF Engineering as follows: Building Relocation Cover Sheet, Erosion Control Plan, and Detail Sheet with revision date December 5, 2005; and Grading Plan dated January 12, 2010;

- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

4. **Revised Landscaping Plans.**

A. WITHIN 30 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT, OR WITHIN SUCH ADDITIONAL TIME AS THE EXECUTIVE DIRECTOR MAY GRANT FOR GOOD CAUSE, the permittee shall submit final revised landscaping plans. The revised plans shall be full size and to scale, and conform to the annotated landscape plan with a handwritten date of August 5, 2013, titled "Landscape Plan, proposed modification," and included as page 1 of Exhibit 10, except that the plans shall be revised to provide for the following changes:

- (i) The revised landscaping plan shall demonstrate that:
 - a) Unless required to abate a nuisance consistent with Coastal Act Section 30005(b), no limbing or pruning of any visually screening trees planted pursuant to the approved landscaping plan shall occur unless a permit amendment is obtained prior to the commencement of limbing and pruning;
 - b) Screening vegetation shall be planted in at least the following locations and densities and shall be positioned to provide at minimum 70% screening of the western and northern facades of the residence within five years of planting as seen from public view areas along Highway One, in the Town of Mendocino, and from Mendocino Headlands State Park:
 - i. At least thirteen (13) trees shall be planted in a natural, non-linear configuration extending northwest-west of the residence on the parcel in the locations and with a density of plantings as generally shown in green, blue, and red colors on the annotated landscape plan with a handwritten date of August 5, 2013, titled "Landscape Plan, proposed modification," and submitted to the Commission staff on August 19, 2013 (page 1 of **Exhibit 10**);
 - ii. At least sixteen (16) trees shall be planted in an arrangement that is generally portrayed in blue color coding on the previous landscape plan included as part of the February 9, 2010 submittal by Amy Wynn (see page 4 of **Exhibit 10**) and that includes: (a) three (3) trees southwest of the driveway; (b) two (2) trees at each westerly corner of the "guest room" as described on the submitted floor plans (page 2 of **Exhibit 4**); (c) seven (7) trees planted in a nonlinear configuration southwest-south of the residence; and (d) four (4) trees planted at designated east-southeasterly corners of the guest room and garage, and depicted as described above;
 - iii. At least three (3) trees shall be planted west of the driveway as generally shown and labeled "Additional Trees, 2013" on the annotated landscape plan with a

handwritten date of August 5, 2013, titled “Landscape Plan, proposed modification,” and included as page 1 of **Exhibit 10**;

- iv. Shrubs shall be planted to form a continuous screen along the west and northern facades, with a minimum height at maturity of 3 feet, and as generally shown and labeled “low shrubbery” on the annotated landscape plan with a handwritten date of August 5, 2013, titled “Landscape Plan, proposed modification,” and included as page 1 of **Exhibit 10**; and
 - v. Low-growing native evergreen groundcover (such as, but not limited to *Arctostaphylos uva-ursi*, *Ceanothus gloriosus*, and/or *Fragaria chiloensis*) shall be planted west of the following rooms (as described on page 2 of **Exhibit 4** of the submitted floor plans): family room, library, office, and guest room.
- c) All plantings installed for visual screening on the parcel shall be maintained in good condition such that the vegetation continues to screen a minimum of 70% of the structures (as described in **Special Condition 4A(i)(b)**) developed on the site after the first five years of planting and throughout the life of the project to ensure continued compliance with the approved final landscape plan. If any of the plants to be planted according to the plan die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height and breadth to ensure continued compliance with the landscape plan;
 - d) All proposed screening plantings shall be native vegetation obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used;
 - e) No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be employed or allowed to naturalize or persist at the site of the proposed development. No plant species listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government shall be utilized within the property;
 - f) All screening trees to be planted shall be a minimum of: (a) five feet high for trees; (b) one foot high for shrubs adjacent to the house; and (c) three feet high for all other shrubs when planted and must reach a mature height of at least 3 feet for shrubs adjacent to the house, 10 feet for all other shrubs, and 20 feet for all trees; and

- g) All landscape planting shall be completed prior to occupancy and screening vegetation shall be planted within 60 days of the first fall/early winter period following issuance of this coastal development permit
 - (ii) The plan shall be prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect and shall include, at a minimum, the following components:
 - a) Provisions for the planting of evergreen drought- and salt spray-tolerant screening vegetation in the form of shrubs and trees locally native to Mendocino County;
 - b) A final landscape site plan showing the species, size, and location of all plant materials that will be retained and newly planted on the developed site, any proposed irrigation system, delineation of the approved development, and all other landscape features such as, but not limited to, topography of the developed site, horticultural plantings, decorative rock features, pathways, and berms and/or raised beds;
 - c) The plan shall further include a screening vegetation maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted screening vegetation and a replacement program on a one-to-one or greater ratio for the life of the project;
 - d) The plan shall specify the mature heights of each species of screening vegetation to be planted and shall demonstrate that vegetation will substantially screen (i.e., at minimum screen 70% of, as described in **Special Condition 4A(i)(b)**) the structures developed on the site within 5 years of planting.
 - e) A schedule shall be provided for the installation of the landscaping; and
 - f) Landscaping plan notes that include, but are not limited to, the requirements of subsection **4(A)(i)** above, and declaring that: “Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.”
 - B. The permittees shall undertake development in accordance with the approved revised plans. Any proposed changes to the approved revised plan shall be reported to the Executive Director. No changes to the approved revised plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.
5. **Building Permit.** PRIOR TO OCCUPANCY OF THE APPROVED DEVELOPMENT, the permittees shall submit to the Commission evidence that all necessary building permits have been issued by Mendocino County Building Division to authorize development consistent with the project approved by the Coastal Commission.
6. **Future Development Restrictions.** This permit is only for the development described in Coastal Development Permit No. A-1-MEN-10-015. Any future improvements or changes

to the approved development shall require an amendment to Permit No. A-1-MEN-10-015 from the Commission. Such a permit amendment application shall be accompanied by written evidence and analysis demonstrating that the amended development will remain consistent with all applicable LCP provisions including the requirement that the amended development be consistent with all of the visual protection provisions applicable to highly scenic areas.

7. Design Restrictions.

- A. All exterior siding, trim, and roofing of the proposed structure shall be composed only of the colors proposed in this coastal development permit or darker earth-tone (i.e., dark brown or green) colors. The current owner or any future owner shall not repaint or stain the house or other approved structures with products that will lighten the color of the house or other approved structures without an amendment to this permit. In addition, to minimize glare no reflective glass, exterior finishings, or roofing materials are authorized by this permit.
- B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and egress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.
- C. All interior or exterior window treatments installed on the west and north elevations shall only use dark-colored materials similar in color to the exterior siding colors on the outward-facing (visible from outdoors) side to subordinate windows from public vantage points.
- D. No less than 125 sq. ft. of existing window glazing shall be permanently covered primarily on the western façade of the residence, using drywall on the interior and composite siding on the exterior, in a configuration as generally depicted on page 3 of **Exhibit 19**. Any change in the method of glazing reduction, including but not limited to removal of windows, shall require an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

- 8. Evidence of Vegetative Screening Installation.** Within 30 days of installation of screening vegetation, the applicant shall submit photos to the Executive Director of the Commission demonstrating that all screening vegetation has been planted consistent with the revised landscaping plans and with the terms of this permit.

9. Maintenance of Visual Screening Plantings.

- A. All plantings installed for visual screening on the parcel shall be maintained in good condition and be maintained such that the vegetation continues to screen a minimum of 70% of the structures (as described in **Special Condition 4A(i)(b)**) developed at the site after the first five years following planting and throughout the life of the project. If any of the plants to be planted die, become decadent, rotten, or weakened by decay or disease and must be removed for any reason, they shall be replaced in approximately the same location at a 1:1 ratio, no later than May 1st of the next spring season, and replaced in-kind or with another native

species common to the coastal Mendocino County area that will grow to a similar or greater height. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used.

- B. By December 31 of each year following planting of the vegetation for visual screening, the permittee shall submit to the Executive Director for review and approval a monitoring report on the success of the plantings installed for visual screening. Monitoring reports shall be submitted annually until such time that vegetation screening achieves the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A above and **Special Condition 4A(i)(b)**. The report shall at a minimum:
- (i) Document whether any of the plants that were planted pursuant to the revised landscaping plan approved by the Executive Director pursuant to **Special Condition 4A(i)(b)** and consistent with the evidence of vegetative screening installation submitted pursuant to **Special Condition No. 8** have died or have become decadent, rotten, or weakened by decay or disease and either have been or must be removed and replaced for any reason;
 - (ii) Document with photographs (taken from standardized, repeatable photo station points at standardized zoom levels) and written analysis the progress of vegetation growth towards meeting the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of Part A above and **Special Condition 4A(i)(b)** and provide recommendations on how to improve progress where necessary; and
 - (iii) Include recommendations for additional mitigation if the performance standard and the requirements of the special conditions have not been met. If after the fifth year following planting of the vegetation for visual screening the monitoring report indicates the visual screening plantings have been unsuccessful, in part, or in whole, based on the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of **Part A** above and **Special Condition 4A(i)(b)**, the permittee shall submit a coastal development permit amendment application within 90 days of submittal of the monitoring report for a revised or supplemental vegetative screening program, to compensate for those portions of the original visual screening plantings which did not meet the performance standard. The revised or supplemental vegetative screening program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. **Permit Expiration & Condition Compliance.** Because some of the proposed development has already commenced without the benefit of the necessary coastal development permit, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions

of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

11. **Conditions Imposed By Local Government.** This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.
12. **Area of Archaeological Significance.**
 - A. If an area of cultural deposits is discovered during the course of the project all construction shall cease and shall not recommence except as provided in subsection (B) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.
 - B. A permittee seeking to recommence construction following discovery of the cultural deposits shall submit a supplementary archaeological plan for the review and approval of the Executive Director.
 - (i) If the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de minimis* in nature and scope, construction may recommence after this determination is made by the Executive Director.
 - (ii) If the Executive Director approves the Supplementary Archaeological Plan but determines that the changes therein are not *de minimis*, construction may not recommence until after an amendment to this permit is approved by the Commission.
13. **Conditions Imposed By CDPM 98-01(05).** The conditions imposed in this action (CDP A-1-MEN-10-015) supersede and replace any condition of CDPM 98-01(05) with which they conflict. All other conditions of CDPM 98-01(05) remain valid.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares the following:

A. STANDARD OF REVIEW AND PROCEDURES

Standard of Review

The Coastal Commission effectively certified the County of Mendocino's LCP in 1992. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program and not between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development as amended is consistent with Mendocino County's certified Local Coastal Program (LCP).

Procedures

After the County approved a material modification to a previously granted coastal development permit, one appeal was filed with the Commission's North Coast District Office on April 21, 2010 from Commissioners Mary Shallenberger and Richard Bloom (**Exhibit No. 8**). The appeal contended that the approved amendment to the coastal development permit was inconsistent with the policies and standards of the Mendocino County certified Local Coastal Program (LCP)

relating to protection of visual resources. On June 9, 2010, the Coastal Commission found that the appeal of the County of Mendocino's approval of CDPM No. 98-2001 (2009) for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the proposed development *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the amendment application. Testimony may be taken from all interested persons at the *de novo* portion of the hearing.

Postponement from September 2012 Hearing and Revisions to Staff Report

The *de novo* portion of the hearing on the appeal was originally scheduled for the September 13, 2012 Commission meeting in Mendocino County. The September meeting staff report published August 30, 2012 recommended that the Commission deny the proposed coastal development permit because the project, as proposed by the applicant, was inconsistent with Mendocino County's certified LCP regarding the protection of visual resources including, but not limited to LUP Policy 3.5-1 and CZC Section 20.504.015.

Copies of the original August 30, 2012 staff recommendation report and its exhibits can be downloaded from the Commission's website at the following URL:

<http://documents.coastal.ca.gov/reports/2012/9/Th22b-9-2012.pdf>

Following publication of the August 30, 2012 staff report, the applicants exercised their one right to a postponement pursuant to Section 13073(a) of the Commission's Regulations (Exhibit No. 17). Commission staff met with the applicant and their agents on December 13, 2012, and the applicant subsequently submitted an alternative design proposal from the applicant on July 17, 2013, as discussed in **[Finding E](#)** below. The design proposal as further modified August 19, 2013 for the Commission's *de novo* review incorporates revisions to the project proposal previously submitted to the County and adds measures to further visually subordinate the project design to the character of the surrounding area. The revisions to the project include the following: (1) permanently covering a portion of the already-installed windows primarily along the western façade and along a portion of the north and south facades to achieve 125 sq. ft. reduction in window glazing; (2) painting the north, west, and south facing window and siding trim dark brown; (3) increasing the number and location of screening vegetation to be planted; and (4) limiting the colors of the interior window treatments along the western facade to facilitate the subordination of the development with the character of its setting (see **Special Condition 7** and **Exhibit 19**). The current Commission staff report recommends conditional approval of the proposed project as revised.

B. INCORPORATION OF SUBSTANTIAL ISSUE FINDINGS

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated August 27, 2009.

C. SITE DESCRIPTION

The subject 1.06-acre parcel is located on a coastal terrace knoll situated just 150 feet inland from Mendocino Bay. As the crow flies, the parcel is situated approximately 0.75 mile across Mendocino Bay and southeast of the Town of Mendocino, and approximately 1.5 miles south of the Town of Mendocino by car.

The coastal terrace parcel is situated at an average elevation of about 170 feet (190 feet at its highest point), with moderately to steeply sloping ground extending down to an elevation of about 100 feet. The property is located on the east side of Frontage Road 500B (County Road #500B), approximately 50 feet southeast of its intersection with Highway One at 9401 Brewery Gulch Road (aka Road 500B) (APN 119-320-04).

The project site is located within a designated “highly scenic area” as described in LUP Policy 3.5-3 and as mapped on LUP Map No. 17. The site is visible from the historic Town of Mendocino and the adjoining Mendocino Headlands State Park. These viewing areas are major visitor destinations along the Mendocino coast and are visited by many thousands of visitors every year. The residence is also visible from turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch.

As described further below, in 2002 Mendocino County authorized the development of a 3,900-square-foot single family residence on the subject property under Coastal Development Permit (CDP) No. 98-01. According to a botanical survey report dated July 2, 2001 that was prepared for the original permit, the site at that time consisted predominantly of Northern Bishop Pine Forest and Coastal Scrub plant community types. In addition to Bishop pine (*Pinus muricata*), tree overstory at the site includes Douglas-fir (*Pseudotsuga menziesii*) and shore pine (*Pinus contorta* ssp. *contorta*). Along the slopes on the property boundaries, scrub-shrub species such as coyote brush (*Baccharis pilularis*), poison-oak (*Toxicodendron diversilobum*), and thimbleberry (*Rubus parviflorus*) occur. Several trees were removed after 2006 as part of the development authorized by Coastal Development Permit Modification (CDPM) # 98-2001(2005), however the County staff report indicates approximately 14 additional trees were removed from the site without the benefit of a permit.

D. BACKGROUND

CDP 98-01

In 2002, Mendocino County authorized the development of a two-bedroom, 3,900-square-foot single family residence with 600-square-foot garage (4,500 square feet total) on the subject property under CDP No. 98-01. The maximum average height¹ of the structure authorized by CDP 98-01 was 16’2” as measured from natural grade. The permit authorized removal of two bishop pine trees, and included five special conditions (**Exhibit 23**), including Special Condition No. 1 that required in part: (a) any other screen trees that remain and are damaged during construction shall be replaced at a ratio of 3:1; (b) no less than seven evergreen trees (such as Bishop pine or shore pine) be planted in a location specified in the permit to provide maximum screening of the northern and western façade as viewed from Mendocino Village; and (c) the required final landscape plan shall be implemented and planted prior to the final building inspection or occupancy, whichever comes first. The exterior house materials included dark brown natural redwood shingles, “greenish brown copper” roofing; and non-reflective windows “with greenish brown bronze frames, wooden jambs.” The proposed design included a concrete chimney with a surface “made with aggregate from the former on-site rock quarry (tannish brown). However, the County required as Special Condition No. 2 that the applicant submit a

¹ “Building height,” as defined in Mendocino County CZC Section 20.308.025(L), “means the vertical distance from the average ground level of the building to the highest point of the roof ridge or parapet wall. (Ord. No. 3785 (part), adopted 1991)”

revised color for the chimney for the review and approval of the Coastal Permit Administrator (CPA) “to minimize contrast and to be visually compatible with the surroundings (i.e. dark browns or dark greens).” Special Condition No. 3 required in part that “any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.” Special Condition No. 4 pertained to the fill and grading proposed on the site, and Special Condition No. 5 required a revised grading plan and encroachment permit for the driveway construction. The original permit was issued to the applicant on May 30, 2002.

The Commission notes that specified incidental development normally associated with single family residences such as additions to the residence, construction of outbuildings, decks and patios, or installation of additional landscaped areas is exempt from the need to obtain a coastal development permit under Section 30610(a) of the Coastal Act. The Commission further notes that Section 30610(a) of the Coastal Act and Chapter 20.532 of the County’s Coastal Zoning Code exempt certain additions to existing single family residential structures from coastal development permit requirements. Pursuant to this exemption, once a house has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment.

However, Section 30610(a) requires the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) of the Coastal Act, the Commission adopted Section 13250 of Title 14 of the California Code of regulations. Section 13250 specifically authorizes the Commission to require a permit for additions to existing single-family residences that could involve a risk of adverse environmental effect. Section 13250(b)(1) indicates that improvements to a single-family structure in an area within 50 feet of the edge of a coastal bluff and/or within a designated highly scenic area involve a risk of adverse environmental effect and therefore are not exempt. The subject property is within a designated highly scenic area. Therefore, pursuant to Section 13250(b)(1) of the Commission’s regulations, any improvements to a single family residence on the subject property are not exempt from permit requirements and would require either a coastal development permit amendment or a new CDP.

CDPR 98-01(04)

In 2004 prior to expiration of the original permit, the County authorized the renewal of CDP 98-01 and additionally authorized the assignment of the permit to a new owner, Barbara Bethel, and indicated there were no changed circumstances that would warrant a change to the project or a new hearing. The renewal extended the permit expiration to October 28, 2005.

CDPM 98-01(05)

In 2005, applicant Barbara Bethel submitted an application to the County to modify the original project design. The modification request included the following changes as described on the application form: (1) reduce house size from 3,900 square feet plus 600-square-foot garage to 2,900 square feet with a maximum height of 18 feet plus 689-square-foot garage; (2) add a 640-square-foot guest cottage; (3) change style from contemporary to craftsman; (4) install septic, water, and underground utilities; (5) change roof to composite slate roof with black, green, dark grey colors; (6) use wood shake siding with oil stained “weathered shake” color; (7) use cultured

stone lower siding on house and columns with tan color; (8) use wood for trellis and entry covers with shake stain color; and (9) install “Arroyo craftsman” down cast lights. The proposed modifications including the residence, garage, and guest cottage would result in a total development footprint of 4,229 square feet. In addition, the modification requested removal of 12-14 trees over 12 inches in diameter from the proposed building footprint. The project also proposed grading of 180 cubic yards of material, of which 50 cubic yards would be relocated onsite. The Coastal Permit Administrator approved the proposed modifications as conditioned and consistent with County staff recommendations on January 26, 2006.

The project as approved contained 8 standard conditions and 6 special conditions (**Exhibit 23**). Of particular note is Standard Condition No. 3 which required the following:

The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.

Special Condition No. 1 limited the uses of the guest cottage and disallowed kitchen, food preparation, or cooking facilities within the guest cottage. Special Condition No. 2 required adherence to California Department of Forestry Conditions for Approval (CDF#576-01). The County included Special Condition No. 3 requiring the applicant to comply with all requirements set forth by the project engineer (KPFF Engineering) and specified that the design “shall not deviate from this plan unless a written modification is submitted by the engineer and approved by the Coastal Permit Administrator.” To protect visual resources, Special Condition No. 4 required all landscaping to be installed prior to final clearance of the building permits for the residence, or occupancy of the residence, whichever occurs first. The condition further required that any tree that became diseased or died should be replaced on a 3:1 ratio, and that “any future tree removal on the site shall require prior authorization from the Planning Division or, if it constitutes “major vegetation removal,” shall require a coastal development permit amendment.” In addition, Special Condition No. 5 required the following:

All exterior siding and trim finish colors shall match those specified in the coastal development permit application. All exterior lighting fixtures shall match those submitted with the permit application and be downcast and shielded. Any changes shall be subject to the review and approval by the CPA for the life of the project.

Special Condition No. 6 required the submittal of proof of a current encroachment permit.

Permit Deviations

The local record indicates that during review of the Building Permit application BF 2006-1024, the Mendocino County project coordinator that processed the 2006-approved CDP amendment [(CDPM 98-01(05))] observed deviations between the submitted building permit application and the 2006-approved project. On December 21, 2006, the staff of the County Planning Division of the Department of Planning and Building Services submitted a letter to the applicant (page 5 of **Exhibit 14**) that states in part the following:

It appears that the structure applied for in the building permit fails to meet the approved CDP plans in the following manner:

- *The building footprint does not match (the guest cottage is now an attached guest bedroom, the open breezeway is now an enclosed walkway, the angle of the structure is different than that of the approved plans).*

- *The amount of glass has increased and is considered excessive.*
- *The setbacks are not noted on the site plan.*
- *The landscaping area is not located in the originally-approved area, where it is imperative that it be located.*
- *The “doghouse” structure covering the well house was not in the original approval.*
- *The exterior lighting appears to be excessive.*

Please submit plans that reflect what was approved in your Coastal Development Permit CDP-98-01(05), or apply for a material modification to your CDP.

Staff would reiterate the importance of retaining the visual integrity of the site, as any changes to the proposed development would require adherence to Special Condition #5, which states:

*All exterior siding and trim finish colors shall match those specified in the coastal development permit application. All exterior lighting fixtures shall match those submitted with the permit application and be downcast and shielded. **Any changes shall be subject to the review and approval by the CPA for the life of the project.***

The Building Inspection Division of the Department of Planning and Building Services issued the building permit on June 7, 2007. However, the applicant did not apply for a CDP modification (i.e., amendment) to the permit to address the issues raised by the Planning Division in their December 21, 2006 letter. According to the County’s building inspection record, the applicant commenced construction in March 2008. The County staff report prepared for the current permit modification request states the following:

Subsequent to this [December 21, 2006] letter, Planning signed off on the submitted building plans without a record as to how the deviations from the CDP plans were rectified. As construction progressed it became clear to PBS that what was being built deviated further from what was submitted on the building plans. The changes in construction design prompted the applicant to apply for the subject modification in order to complete construction.

In 2009, at the request of the County, the applicant submitted an application for a coastal permit modification to request authorization for the deviations that had been constructed to date. The applicant met with County Planning staff on October 28, 2009. In a November 5, 2009 letter to Mendocino County Planning and Building Department (**Exhibit 14**), the applicant asserted that: (1) “the construction drawings were approved by the Mendocino Planning and Building departments without needing any CDP modification,” (2) after the house was staked for construction, the applicant decided to lower the elevation of the interior floor and add more windows, (3) from the applicant’s perspective, the changes blend the house into the adjoining hillside, and (4) the amendment for the modifications they made should be processed as a minor modification.

On November 12, 2009, County staff submitted a letter responding to the applicant’s letter of November 5, 2009 acknowledging that the approval of the building plans and issuance of the building permit was a staff mistake, but indicating that the development must still comply with

the Mendocino County Coastal Zoning Code. The letter states (**Exhibit 14**) that “all proposed building elevations have been significantly altered from the approved modification in 2005, namely the addition of windows.” The letter further noted that the square footage of the proposed plans has increased the bulk of the proposed residence and altered the footprint requiring that the permit amendment be processed as a material modification to the permit. In the letter, County staff highlighted Special Condition Nos. 3, 4, and 5 of CDP 98-01 (05) that required the applicant to seek approval by the Coastal Permit Administrator *prior* to changing development plans.

CDPM 98-2001(2009)

A nearly-completed structure is currently developed at the site that substantially deviates from the previously-approved CDPM # 98-2001(2005) authorized by the County in January 2006. As described above, the applicant submitted an application for an after-the-fact permit amendment authorization of the deviations in 2009.

The modifications proposed in the after-the-fact request filed with the County as CDPM 98-2001(2009), added another 334 square feet to the previously approved building, resulting in an increase in total development from 4,229 square feet to 4,563 total square feet. In addition, there was “a significant increase” in both the size and number of windows on the western elevation from the previously-approved 18 (plus a gable end window) to 28 (plus a gable end window). The window changes resulted in an approximately 100% increase in window glazing (from 426 ft² to 839 ft²) on the western elevation, which is the side of the house that is particularly prominent from major viewing areas. The partially-built structure is visible in the 2009 California Coastal Records Project images numbered 200903160 and 200903159, available at <http://www.californiacoastline.org>.

In addition to increases in window number and surface area that affect whether the development is subordinate to the character of the setting, the County staff report submitted March 15, 2010 noted that the trim and window frame color chosen by the applicant and described as “Mendocino Blond” “contrasts with the siding “and is a prominent feature visible from the Town of Mendocino and Headlands State Park.”

The after-the-fact permit amendment also requested after-the-fact authorization to enclose a portion of the previously approved patio and attach what was previously-authorized as a detached guest cottage as an addition to the house with a separate entry from the house. The applicant additionally proposed to retain a wet bar installed in the cottage space.

After receiving the CDP amendment request, the County required the submittal of a revised grading plan from the applicant’s engineer to evaluate changed site conditions. The County staff report indicates that the changes to the house design amount to 290 cubic yards of excavated material, with approximately 90 cubic yards to be re-distributed on site.

The County additionally required the submittal of an updated landscape plan to evaluate the removal of additional trees that occurred without the benefit of a permit. According to the County staff report, an additional 14 trees were removed that were not authorized by CDPM 98-01 (05). County staff determined that eight trees were removed along the southwestern elevation. The remaining six were removed in the vicinity of the septic field; however County staff indicated that some trees originally authorized for removal along the driveway were not removed.

On March 25, 2010 the County of Mendocino approved Coastal Development Permit Modification (CDPM) #98-2001(2009). The project approved by the County included modified special conditions from those recommended by County staff. The County approved modified final conditions required planting of vegetation to screen the structure with a requirement that a minimum of 50% of all required landscaping be planted, staked and fenced for protection prior to a building inspection. Conditions also include requirements to achieve 60% vegetative screening of the structure, but did not impose timeframes for this success criterion. Conditions also included increased tree replacement ratios from the 2005 approved modification to account for trees that have been removed without prior County approval- and that were not replanted- pursuant to the 2005 permit requirements. The County also required submittal of a 200% performance deposit to ensure fulfillment of all vegetation screening conditions.

After the County approved CDPM No. 98-2001(2009), one appeal was filed with the Commission's North Coast District Office on April 21, 2010 from Commissioners Mary Shallenberger and Richard Bloom (**Exhibit No. 8**). The appeal contended that the approved amendment to the coastal development permit was inconsistent with the policies and standards of the Mendocino County certified Local Coastal Program (LCP) relating to protection of visual resources. On June 9, 2010, the Coastal Commission found that the appeal of the County of Mendocino's approval of CDPM No. 98-2001 (2009) for the subject development raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval of CDPM No. 98-2001(2009) is no longer effective.

E. DESCRIPTION OF PROPOSED DEVELOPMENT

For the purposes of the Commission's *de novo* review, the applicant has submitted supplemental information in support of the permit modification application (**Exhibit Nos. 11 and 15, and Appendix B**). At the request of Commission staff, the applicant has also submitted an alternatives analysis to evaluate whether redesigning the development with fewer windows and darker trim colors would reduce visual impacts to a greater degree than the approved project. On July 17, 2013, the applicant submitted a revised project description that was further modified on August 13, 2013 and August 20, 2013. The applicant's project proposal as modified for the purposes of the Commission's *de novo* review seeks after-the-fact authorization for development that is inconsistent with the development approved in CDPM 98-2001(2005), including: (1) substitute the attached guest bedroom for the previously approved detached guest cottage, (2) alter the approved building footprint, resulting in an increase in grading to 270 cubic yards, and an increase in the size of the residence from 4,229 sq. ft. to 4,563 sq. ft. (including 575 sq. ft. garage), (3) modify appurtenant decks, walkways, driveway, water tank and septic system configurations; (4) add additional windows on all elevations, (5) authorize temporary occupancy of travel trailer during construction, (6) remove of up to 14 additional trees; (7) modify exterior finishes, and (8) delete from previous approval approximately 450 sq. ft. of light-colored raised foundations and approximately 1,470 sq. ft. of light-colored landscaping and retaining walls.

The applicant also requests after-the-fact authorization to retain the wet bar installed in the cottage space, as described in **Finding D** above. To subordinate the development to the character of its setting without incurring the cost of window removal and replacement, the applicant proposes to permanently cover 125 sq. ft. of windows using composite siding on the exterior and drywall on the interior primarily along the western façade and along a portion of the north and

south facades, and to modify the landscaping plan approved by CDPM 98-01 (05) to increase the number and location of screening vegetation to be planted, as discussed further in [Finding G](#) below. The applicant proposes to modify exterior finishes to: (1) retain the previously unauthorized “Mendocino Blond” color that is “baked on” the window frames on all elevations; (2) repaint the wood trim and composite siding on the north, west, and south elevations a dark brown (Benjamin Moore “java”) color; and (3) retain the previously unauthorized “Mendocino Blond” color on the wood trim along the eastern façade only. The applicant has also agreed to accept a limitation on the colors of window treatments or shades that may be used along the western façade (see **Special Condition 7C**).

F. PLANNING AND LOCATING NEW DEVELOPMENT

Land Use

The subject 1.06-acre property is designated in the Coastal Land Use Plan and zoned in the Coastal Zoning Ordinance as Rural Residential – 5-acre minimum parcel size (RR-5). The parcels show a similar zoning designation on the Coastal Zoning Map (RR:L-5). The single family residence is a principally permitted use in the Rural Residential zoning district. LUP Policy 3.9-1 states that one housing unit shall be authorized on every legal parcel existing on the date of adoption of the LUP provided adequate services exist and the development is consistent with all applicable policies of the LUP.

According to Section 20.376.065 of the Coastal Zoning Code (CZC), the maximum lot coverage for a lot less than 2 acres in the RR district is 20 percent. As defined by CZC Section 20.308.075(L)(12), “‘lot coverage’ means the percentage of gross lot area covered by all buildings and structures on a lot, including decks, and porches, whether covered or uncovered, and all other projections except eaves.” The total lot coverage for the subject proposed development, including the 4,563-square-foot building envelope for the residence and garage; driveway and parking area; decking; and ancillary developments is 7,400 square feet (16% coverage of the approximately 46,173-square-foot lot). The modified structure also complies with the 18-foot height limit for development in “highly scenic areas” west of Highway One, as demonstrated in a submittal from the applicant’s agent dated April 20, 2010 and presented to Mendocino County Planning staff.

Setbacks

The development meets the base zoning district standards requiring the establishment of a minimum 20-foot yard setback for parcels less than 5 acres within the RR zoning district. In addition, the County staff report for CDPM No. 98-2001 (2009) describes requirements for a corridor preservation setback as follows:

A corridor preservation setback of 25 feet applies along Frontage Road 500B [aka Brewery Gulch Road], resulting in a front yard setback of either 45 feet from the road corridor centerline or 20 feet from the property line, whichever is greater. A corridor preservation setback of 40 feet would apply along State Highway One, resulting in a front yard setback of either 60 feet from the highway corridor centerline or 20 feet from the property line, whichever is greater.

In a submittal dated April 20, 2010 presented to Mendocino County Planning staff, the applicant’s agent demonstrated that the minimum yard setbacks have been met.

The property is also located in a designated “moderate” fire severity hazard rating area as determined by California Department of Forestry and Fire Protection (CalFire). The local record includes recommended conditions of approval submitted by CalFire (CDF #486-06) for address posting standards, driveway standards, and defensible space standards. The County staff report for CDPM No. 98-2001 (2009) included a Special Condition No. 4 to achieve compliance with CalFire standards, including a defensible space requirement that “allows for the 20 foot setback to be mitigated with use of a fire resistive siding such as hardi-plank or construction of a one hour firewall.” Special Condition 2 of CDPM#98-01(05) includes a requirement that CalFire standards be met on this site. This condition is still a requirement of the underlying development on site, so it is not necessary for the Commission to include another condition addressing fire safety in this permit.

Services

LUP Policy 3.8-1 requires that the adequacy of water and sewage disposal services be evaluated when coastal development permit applications are granted or modified. Coastal Zoning Code Section 20.532.095 states that the granting of any coastal development permit by the approving authority shall be supported by findings which establish that the proposed development will be provided with adequate utilities.

The parcel is located in a designated Marginal Water Resources Area (MWR) according to the Mendocino County Coastal Groundwater Study. The County authorized a test well at the site under Categorical Exclusion Notice CE# 42-01, and the conversion of the test well into a production well was authorized by County CDPM 98-01(05).

The residence will rely on the use of an onsite septic system for wastewater treatment. According to the local record, the previously-approved CDPM#98-2001(2005) initially was not cleared by Mendocino County Department of Environmental Health (DEH) because the structure appeared to be a two-bedroom single-family residence with a one-bedroom guest cottage (for a total of three bedrooms), but the septic system (primary and replacement) was sized for only two bedrooms.

According to the Mendocino County DEH “bedroom definition” Policy 4200.04, it states “A bedroom, for purposes of sizing on-site sewage systems, shall be defined as: any room designated by applicant as a “bedroom;” other rooms, such as sewing rooms, dens, offices, studios, lofts, game rooms, etc. may also be considered as bedrooms.” (Emphasis added). The policy states that the intent is “to size the on-site sewage system to the actual carrying capacity of the residence regardless of how any particular resident might be utilizing the structure at any given point in time.”

The policy goes on to state that “notwithstanding the above provisions, the minimum number of bedrooms for any dwelling shall be no less than the following...over 3,001 square feet [gross floor area] = 4 bedrooms.” The current house proposal has a building footprint of 3,988 square feet plus a 575-square-foot garage, for a total of 4,563 total square feet.

In a letter received at the Commission’s North Coast District office on April 27, 2011 (**Exhibit 20**), Mendocino County DEH Registered Environmental Health Specialist Carly Williams indicated that “DEH can give clearance to alternate building plans.” On April 27, 2011, Commission staff contacted Ms. Williams via electronic mail to request clarification of the

apparent discrepancy between Mendocino County DEH policies and the authorization of a septic system sized for 2 bedrooms. DEH responded in part as follows:

In January 2002, DEH approved a two-bedroom septic system design for a proposed 3900 square-foot two-bedroom residence on this parcel. On 28 April 2006, DEH issued a septic system construction permit for a two-bedroom residence...In 2007 DEH effected Policy 4200.4, the Bedroom Definition Policy. This policy sets a maximum limit of 2100 square feet for two-bedroom residences. However, when DEH management imposed the policy, they decided that it should not be applied retroactively to any project, such as this one, that had previously been given clearance. Regarding the current application to install an additional bathroom, DEH has consistently allowed the construction of additional bathrooms without requiring that the septic system is increased. This practice is further supported by the North Coast Regional Water Quality Control Board's Basin Plan, which requires that septic systems be sized according to the number of bedrooms, not the number of bathrooms and not the number of square feet of habitable area.

Therefore, the Commission finds that the septic system satisfies County standards for adequate septic services as demonstrated by correspondence received from DEH on April 27, 2011.

Conclusion

As discussed below, the proposed development has been conditioned to include mitigation measures, which will minimize all significant adverse environmental impacts consistent with the limitations of Section 30010 of the Coastal Act. Therefore, the Commission finds that as conditioned, the proposed development is consistent with LUP Policies 3.9-1 and 3.8-1 and CZC Section 20.532.095 because (1) development of the site as a single-family residence was envisioned under the certified LCP; (2) the development is a principally permitted use in the Rural Residential zoning district; (3) there are adequate services to serve the proposed development, and (4) the development will not significantly contribute to adverse cumulative impacts on highway capacity, or, as discussed in the Findings below, on scenic values, geologic hazards, or water quality.

G. ANALYSIS OF LCP CONSISTENCY WITH VISUAL RESOURCES POLICIES

The protection of visual resources is required under Section 30251 of the Coastal Act, and in certifying LUP Policy 3.5-1, the Commission concurred with the introductory language of that policy that the scenic and visual quality of the Mendocino County coastal area be considered and protected as a resource of public importance. Many appeals from Mendocino County raise issues of visual resource protection, and in acting on these appeals de novo, the Commission has denied proposed development inconsistent with the visual resource protection policies.

LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D) require in part that new development in highly scenic areas be visually compatible with and subordinate to the character of its setting. The proposed development is within a designated highly scenic area and the primary visual issue raised by the proposed project is whether the development would be visually subordinate with its setting. The residence is visible from several major public viewing points along the Mendocino coast including the Town of Mendocino, Mendocino Headlands State Park, turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch, on the east

side of Highway One. As noted above, the Coastal Development Permit Modification was submitted after the fact and a partially built structure is currently developed at the site. The development site is particularly prominent from major viewing areas, especially looking south across Mendocino Bay from the historic Town of Mendocino and the adjoining Mendocino Headlands State Park, which are major visitor destinations along the Mendocino coast. These viewing areas are visited by many thousands of visitors every year. The views from Mendocino Headlands capture the backdrop of tree-lined hills against the coastal bluffs that drop into the brilliant blue waters of Mendocino Bay. California State Parks website² describes the “scenic wonder” of the Mendocino Headlands that “with its unique blend of gentle trails, rugged coastline, secluded beaches and timeless history surrounds the picturesque Village of Mendocino on three sides. Miles of trails wind along the cliffs, giving the casual explorer spectacular views of sea arches and hidden grottos...”

Window Glazing

A principal factor that affects whether the proposed development conforms with the requirements of the LCP that it be visually compatible with the surrounding area and subordinate to the character of its setting is the amount and orientation of windows. Windows are a much more reflective surface than siding material and can reflect sunlight in a glaring manner at certain times of the day, greatly increasing the prominence of the development against the landscape. Even at times of the day when glare is not a problem, the flat surface of the glass contrasts with the siding and roofing materials of a structure. The contrast in appearance draws attention to the structure, making it insubordinate to the character of its setting.

The proposed amended development increases both the size and number of windows on the western elevation from the previously-approved 18 (plus a gable end window) to 28 (plus a gable end window). The County staff report for CDPM 98-2001(2009) presents a table that summarizes the approximate³ changes in window glazing between the approved 2005 design and the as-built design of the constructed home, as follows:

Elevation	2005	2009
West	18 (+ gable end window)	28 (+ gable end window)
South	4	10
East	12	21
North	6	17

Because the windows have already been installed, Commission staff was able to evaluate the project site several times from various vantage points, and in particular from Mendocino Headlands State Park. The window changes made to the County approved CDP, without the benefit of the necessary coastal development permit, have resulted in an approximate 100% increase in window glazing (from 426 ft² to 839 ft²) on the western elevation alone (refer to [Appendix G](#) for background details), which is the side of the house that is particularly prominent from major viewing areas. The windows greatly affect the visual prominence of the

² http://www.parks.ca.gov/?page_id=442

³ According to the County staff report, the summary table of window glazing differences between the 2005-approved permit and the as-built design proposed for after-the-fact authorization in 2009 consists of “close approximations as the changes in footprint slightly altered the elevations.”

development. The partially-built structure is visible in the 2009 California Coastal Records Project images numbered 200903160 and 200903159, available at <http://www.californiacoastline.org>.

The Commission finds that the contrast and glare of the mass assemblage of windows can particularly detract from the picturesque views of the area, especially at those times of the day when the weather is clear and the sun is bright. While the applicant has used “low-glare” windows (described by the applicant’s agent as “low-emissivity” with a bronze coating), the windows do not eliminate all glare, as evidenced in photos included in **Exhibit 16**, and the mass of windows provides a large surface area for potential reflectivity (approximately 839 sq. ft. on the western elevation alone). Even when there is no glare, the windows contrast with the rest of the building and the surrounding landscape in a way that makes the development more prominent. The visual prominence of a mass of light-colored window dressings is visually insubordinate to the surrounding area, and owner-specific decisions on interior window dressings can vary over time.

In their submittals dated July 17 (**Exhibit 18**) and August 19, 2013 (**Exhibit 19**), the applicant proposes to subordinate the development to the character of its setting in part by permanently covering 125 sq. ft. of windows primarily along the western façade and along a portion of the north and south facades. The covering would utilize a treated composite trim siding material to be attached to the exterior façade. The proposed exterior material is referred to as “MiraTEC Trim” and is depicted in the applicant’s July 17, 2013 submittal (page 14 of **Exhibit 18**). The applicant proposes to cover the interior 125 sq. ft. of windows with drywall as depicted on **page 3 of Exhibit 19**.

The applicant’s proposal to permanently cover approximately 125 sq. ft. of windows with exterior siding and interior drywall will reduce the existing glazing, although the project as modified still will result in an approximate increase of 85% glazing (714 sq. ft.) primarily along the western façade from the 2005 approval (426 sq. ft.). As described below, the applicant’s proposal will further subordinate the increase in glazing by: (a) substantially screening the development with vegetation; (b) modifying trim colors; and (c) limiting the color of window treatments that may be used

Trim Colors

In addition to increases in window number and surface area that affect whether the development is subordinate to the character of the setting, the County staff report notes that the existing trim and window frame color described as “Mendocino Blond” “contrasts with the siding and is a prominent feature visible from the Town of Mendocino and Headlands State Park.”

As described above, the windows with their baked-on trim have already been installed in addition to the surrounding trim materials. Therefore, the project site can be viewed from various vantage points, and in particular from Mendocino Headlands State Park. The tall, vertical projection of yellowish-tan color interrupts the surrounding dark-green treeline. Combined with the mass of windows- all of which contain the same trim color, the bright yellowish-tan colored trim notably draws the eye to the development site. The prominence of the trim colors is further exacerbated by the greater-than-17-foot-tall portion of the western façade that projects westward beyond the rest of the structure, and that is dominated entirely by windows and yellowish-tan trim. While the applicant asserts that the color matches the color of the surrounding bluffs and

parent soil material, the vertical projection of the yellowish-tan-trimmed structure creates an unnatural image against a backdrop of dark-green, tree-covered hills.

In a submittal presented to Commission staff dated July 17, 2013, the applicant has proposed to change the color of the exterior wood trim surrounding the windows on the north, west, and south facades. The proposal to darken trim color would only apply to the wood trim surrounding the window on the outside, and not the interior or exterior trim of the window itself, because the agent states “The paint on the window frames is baked on in a factory setting and cannot be repainted successfully in the field. Any paint applied to the window frames will crack and peel, which would result in revealing the underlying light color in a short period of time.”

The applicant proposes to change the trim color from “Mendocino Blond” to a dark brown color manufactured by Benjamin Moore and described as “Java” (Benjamin Moore color #2106-10). The applicant proposes to retain the composite trim color on the eastern façade as “Mendocino Blond” color to match the stone veneer installed on much of the eastern façade (Stone Veneer by McIntyre; “Mendocino Blond” custom blend to match rock on site). The applicant has submitted visual simulations (pages 9 and 11 of **Exhibit 18**) that demonstrate the expected resulting appearance.

Vegetative Screening

In its approval of CDPM 98-01 (2009), the County adopted final conditions requiring planting of vegetation to screen the structure with a requirement that a minimum of 50% of all required landscaping be planted, staked and fenced for protection prior to a building inspection. While vegetative screening would aid in buffering the view of the approved amended development, no screening vegetation has been planted to date to visually buffer the development, and many more trees have been removed from the site since the original approval of CDP 98-01. CDP 98-01 authorized in part the removal of two (2) bishop pine trees from the development area, and included Special Condition No. 1 that required in part that: (a) any other screen trees that remain and are damaged during construction shall be replaced at a ratio of 3:1; (b) no less than seven evergreen trees (such as Bishop pine or shore pine) be planted in a location specified in the permit to provide maximum screening of the northern and western façade as viewed from Mendocino Village; and (c) the required final landscape plan shall be implemented and planted prior to the final building inspection or occupancy, whichever comes first. In its findings for CDP 98-01, the County indicated that “The retention of all other trees on the parcel, which provide screening of the residence from public view areas, is critical...”

In its subsequent approval of permit modification CDPM 98-01(2005) the County authorized removal of 12-14 trees over 12 inches in diameter from the proposed building footprint. To protect visual resources, Special Condition No. 4 required all landscaping to be installed prior to final clearance of the building permits for the residence, or occupancy of the residence, whichever occurs first. The condition further required that any tree that became diseased or died should be replaced on a 3:1 ratio, and that “any future tree removal on the site shall require prior authorization from the Planning Division or, if it constitutes “major vegetation removal,” shall require a coastal development permit amendment.”

The County staff report for the subject development indicates an additional 14 trees were removed that were not authorized by CDPM 98-01 (05). Thus, tree removal at the site has increased from two trees originally approved by CDP 98-01 up to as many as 28 trees. These

trees not only afforded screening of the subject site from public views, but additionally cast shadows on the site that could darken and further subordinate development at the site.

The applicant had previously proposed the planting of 27 trees as part of the application submitted to the County for CDPM 98-01(2009). The February 9, 2010 submittal to the County (page 4 of **Exhibit 10**) includes as part of the plantings the placement of a tree at each corner of the western façade of the office (refer to floor plans on page 2 of **Exhibit 4**), and another tree at the southwestern corner of the family room. The applicant's February 9, 2010 submittal also included the placement of seven trees along the southwest property line. In its approval of CDPM No. 98-2001(2009), the County required as part of Special Condition No. 7 (page x of **Exhibit 9**) that of the 14 trees that were removed without prior removal:

*the eight that were removed on the west and **southwestern** elevation of the residence shall be replaced at a minimum ratio of 5:1, and replaced with shore and/or bishop pine (*Pinus contorta* or *Pinus muricata*), **unless an alternative landscape plan, which may include phasing and alternative vegetation, can demonstrate to Planning and Building Services to achieve 60% screening of the residence as viewed from public viewing areas.** In addition to planting the replacement trees as close to the original tree location as feasible, replacement trees may be planted to supplement the required screening trees along the northwest portion of the landscape plan. The remaining trees to be replaced shall be replaced at a **minimum of 3:1** ratio. All replaced trees shall be of 15 gallon size (five gallon size may be used if 15 gallons are unavailable), fertilized, irrigated, staked, and fenced for wind protection and maintained in a healthy condition. Replacement planting shall be monitored annually by a professional botanist to assess the success rate. This review shall continue for that period it takes to achieve success (defined [in Special Condition 7a] above. A copy of the monitoring report shall be sent [sic] Planning by April 1 of each year...*

The conditions included modifications (in bold and underline font above) that were proposed by the applicant's agent, including the performance standard that planted vegetation would achieve 60% screening of the residence as viewed from public areas. The County's Special Condition No. 7 additionally included requirements that the landscape plan with 27 trees proposed by agent Amy Wynn in her February 9, 2010 submittal be updated to include the County-required number of replacement trees prior to issuance of the coastal development permit. The applicant did not appeal the County's action to the County Board of Supervisors, effectively accepting the terms of the County's approval.

The applicants have revised their project for the purposes of the Commission's de novo review. In a submittal dated August 19, 2013 (**Exhibit 19**), the applicant has included a landscaping plan dated August 5, 2013 that proposes to increase the number and location of screening vegetation to be planted from the minimum of 7 trees that was required by the approved CDPM 98-01 (05) to 28 trees, to add low-growing shrubs along the base of the western elevation to cover the foundation and stone façade, and to add low-growing evergreen groundcover west of the proposed low-growing shrubs, in order to "green" an exposed tan grassy knoll.

The Commission finds that, if all trees survive and reach the anticipated 30-foot-height at maturity, vegetation planted in a configuration similar to that proposed along the northwestern elevation in the August 5, 2013 proposal may, over time, effectively screen the northwestern portion of the house façade as viewed from the Town of Mendocino. However, the Commission

finds that the unauthorized removal of trees along the southwestern elevation and the 85% increase in glazing would not be visually subordinate to the character of the surrounding area without additional mitigation measures. The reduced number of trees proposed in the August 5, 2013 submittal along the west and southwesterly elevations⁴ is not equivalent to the 3:1 replacement planting required by CDPM 98-01 (05), and does not replace the unauthorized removal of trees in the same vicinity as they were removed. Furthermore, the Commission finds that the 60% screening standard previously proposed by the agent and included in the County's approval does not provide any screening of the family room, office, library, or guest room. Therefore, the Commission finds that in order to visually subordinate the residence as viewed from Mendocino Headlands State Park, additional screening vegetation must be planted along the southwesterly property line to at least screen a portion of the office, library, and guest room. Such additional screening would amount to screening approximately 70% of the residence as viewed from public areas.

CDPM 98-01 (05) required a 3:1 planting ratio for replacing trees removed, resulting in a requirement to plant a total of 42 trees at the site. The Commission finds, however, that the intent of CDPM 98-01 (05) to maximize screening from public vantage points can be achieved by planting a lesser amount of trees if planted in additional locations, described above, that maximize the screening of the residence from all public vantage points.

Visual simulations of the amended project proposal in comparison to the existing development of the site are shown in **Exhibits 10, 18, and 19**. The Commission finds that although the baked on trim of the windows will not be modified, the proposal to further subordinate the structure using a suite of methods that includes: (a) darkening the surrounding trim color using a dark brown "java" color on the north, west, and south facades; (b) a reduction of 125 sq. ft. of window glazing, to be permanently covered with siding on the exterior that shall also be painted dark brown ("java"); and (c) a substantial screening of the structure using native vegetation as described above, greatly reduces the visual prominence of the development and results in a development that is subordinate to the character of its setting.

The Commission's finding that the development will be visually compatible with and subordinate to the character of its setting is based in part on the inclusion of certain special conditions. **Special Condition No. 7A** requires that the applicants finish the exterior of the buildings with the colors and materials proposed. The house exterior siding (which has been partially constructed) will consist of fiber cement siding which will be stained with a "Maple" simulated natural stain. House trim will be a composite material painted using the "Java" color on the north, west, and south facades, and on the eastern façade "Mendocino Blond" will be used to match stone veneer, as described above. The applicants additionally request after-the-fact authorization for installation on all elevations of Fleetwood windows, sliding glass, and glass entry doors with "Mendocino Blond" baked aluminum frames, including 1,297 square feet of windows along the western façade. Approximately 168 square feet of stone veneer siding is included along a portion of the west elevation with additional veneer on the other elevations.

Proposed exterior lighting consists of 30-watt halogen downcast lights that are recessed into the roof eaves and overhangs over doorways as depicted on pages 8 and 9 of **Exhibit 19**. In addition,

⁴ as compared to: (a) the February 9, 2010 landscape plan submittal to the County and (b) the increased planting requirement required by the County's approval of CDPM 98-2001 (2009) that the applicant did not appeal

exterior solar lights with shields to direct light downward are proposed to be installed on decks. Along the western façade, four solar lights are proposed (two each at the master bedroom and family room decks), and five overhead lights are proposed (one in the master bedroom eave, and two in the western elevation family room eave, and two in the southern elevation family room eave). Refer to pages 8 and 9 of **Exhibit 19** for details. Roofing materials consist of composite shingles in a “cedar” color.

The Commission finds that as proposed for the Commission’s *de novo* review, the dark colors of the roof, siding and trim, combined with the backdrop of trees will help blend the residence into its surroundings as seen from public vantage points rather than cause the residence to stand out. However, the Commission finds that if the applicant or future owner(s) of the property choose to change the materials or colors of the residence to brighter, non-earth-tone colors or materials, the development may no longer be visually compatible with or subordinate to the character of the surrounding area and may become increasingly visible from public vantage points. To ensure that the exterior building materials and colors used in the construction of the development are compatible with natural-appearing earth-tone (i.e., dark brown and green) colors that blend with their surroundings as proposed, the Commission attaches **Special Condition No. 7A**, which requires that all exterior siding and roofing be composed of the colors proposed in the application submitted to the Commission dated August 19, 2013 or darker earth-tone colors only. The condition prohibits the current owner or any future owner from modifying the colors or materials of the house or other approved structures with products that will lighten the color of the house or other approved structures without a permit amendment. In addition, all exterior materials, including roofs and windows, are required to be non-reflective to minimize glare. Additionally, **Special Condition No. 7B** requires that exterior lights be shielded and positioned in a manner that will not allow glare beyond the limits of the parcel. These requirements will help ensure that the proposed residence in this location will be visually subordinate to the character of the surrounding area.

Therefore, the Commission finds that the development as it is proposed to be amended and as conditioned will be subordinate to the character of its setting, consistent with the visual resource protection policies of the LCP.

Special Condition No. 7D requires the permanent covering of no less than 125 square feet of window glazing using the method detailed in **Exhibit 19**, and requires that any changes to the method of window reduction, including but not limited to the removal of windows, shall require an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

Special Condition No. 4 requires a revised landscaping plan that includes additional trees to be planted as specified to ensure that landscape screening is established, maintained, and effective at providing the optimal amount of screening as timely as possible. Following the establishment of screening vegetation, and if it can be demonstrated at a future date that the minimum 70% screening can be achieved with fewer trees, the applicant may submit an application for an amendment to the permit to propose removal of some plantings in a manner that retains the required minimum 70% screening of the western façade as viewed from public vantage points.

The applicant also proposes the use of primarily fast-growing, non-native species that include Leyland cypress (*Cupressus leylandi*), Deodar cedar (*Cedrus deodara*), Henkel’s yellowwood (*Podocarpus henkelii*), and *Agonis sp.*, in addition to the use of the native shore pine (*Pinus contorta* ssp. *contorta*). However, non-native plantings present a growth form and habit not

consistent with the character of the surrounding area, which is dominated by native plantings such as the 14 shore pine and Bishop pine trees that were previously removed without authorization. To ensure the visual subordination of the built residence, the Commission includes **Special Condition No. 4A(i)** requiring in part that the applicant submit a revised landscaping plan depicting an increase in the amount and placement of landscaping to provide maximum screening of the western and northern facades of the residence as seen from public view areas along Highway One, in the Town of Mendocino, and from Mendocino Headlands State Park. **Special Condition No. 4A(i)** requires screening vegetation to substantially screen (i.e., at minimum screen 70% of) the structures developed on the site as seen from public view areas along Highway One, in the Town of Mendocino, and from Mendocino Headlands State Park, within 5 years of planting. In addition, **Special Condition No. 4A(i)** limits the use of screening plantings to native species obtained from local genetic stocks within Mendocino County. To ensure that screening vegetation is planted expeditiously, **Special Condition No. 4A(i)(g)** requires submittal of a landscaping schedule that demonstrates that: (1) all landscape planting shall be completed prior to occupancy; and (2) that all screening vegetation shall be planted within 60 days of the first fall/early winter period following approval of this coastal development permit amendment. In addition, **Special Condition No. 8** requires the applicant to submit photographic evidence to the Commission within 30 days of planting screening vegetation.

The potential success of vegetation growth at the site is compromised by rocky soils, topography, and the intensive coastal winds and salt spray from Mendocino Bay, and successful revegetation could take several years to a decade or more to fully achieve a height that functions as screening. Planted vegetation is most likely to fail during the first several years after planting. To ensure that screening vegetation survives and grows sufficiently to achieve the required screening of a minimum of 70% of the structures developed on the site within 5 years of planting, **Special Condition No. 9B** requires the applicant to submit annual monitoring reports to the Commission documenting the establishment and growth progress of the screening vegetation each successive year until such time that vegetation screening achieves the performance standard of screening a minimum of 70% of the structures developed on the site consistent with the requirements of **Special Condition 9A** and **Special Condition 4A(i)(b)**. If after the fifth year following planting of the vegetation for visual screening the monitoring report indicates the visual screening plantings have been unsuccessful in screening a minimum of 70% of the structures developed on the site, the permittee must submit a coastal development permit amendment application within 90 days of submittal of the monitoring report that presents a revised or supplemental vegetative screening program to compensate for those portions of the original visual screening plantings which did not meet the performance standard. The revised or supplemental vegetative screening program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, gophers, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to pose significant primary and secondary risks to non-target wildlife present in urban and urban/wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize potential significant adverse impact of rodenticide use to other environmentally sensitive wildlife species,

the Commission has included as **Special Condition 4A(ii)(f)** a prohibition against the use of any rodenticides on the property.

Future Development

The Commission has determined that the proposed development, as conditioned, will be subordinate to the character of its setting. Future additions or changes to the development could have significant adverse visual impacts and could result in a modified development that is not subordinate to the character of its setting as required by the LCP policies. Therefore, **Special Condition No. 6** expressly requires all future improvements and changes to the approved development obtain a coastal development permit amendment to ensure that future improvements are sited and designed in a manner that protects coastal views from public vantage points and remains subordinate to the character of its setting. As discussed above, **Special Condition No. 1** also requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. **Special Condition No. 1** will also help assure that future owners are aware of these CDP requirements applicable to all future development.

The revised project description the applicant has proposed for the Commission's *de novo* review collectively subordinates the increase in glazing by: (a) substantially screening the development with vegetation (**Special Condition Nos. 4A(i), 8, and 9**); (b) modifying trim colors (**Special Condition 7A**); (c) permanently covering 125 sq. ft. of window glazing primarily along the western façade (**Special Condition 7D**); and (c) accepting a limitation on the color of window treatments that may be used (**Special Condition 7C**). The Commission finds that the proposed development, as modified to contain a suite of subordination measures for the Commission's *de novo* review, and as conditioned herein, is consistent with certified LCP provisions intended to protect views to and along the coast, including but not limited to LUP Policies 3.5-1, 3.5-3, and 3.5-5, and CZC Sections 20.504.015(C) and 20.504.020(D).

Landform Alteration

LUP Policy 3.5-1 and CZC Section 20.504.020 in part require that new development in highly scenic areas minimize the alteration of natural landforms. The permit issued for CDPM 98-01 (05) authorized grading of 180 cubic yards of material, of which 50 cubic yards would be relocated onsite. Registered Professional Engineer Eric Jahelka prepared a letter dated January 14, 2010 (**Exhibit 21**) in response to the County's request for an engineer to evaluate deviations from the approved CDPM 98-01 (05). Mr. Jahelka indicates that the changes to the house design amount to "a significant amount of excavation to step the interior levels. Although there is minimal information available as to how much soil was exported, it is assumed to be approximately 270 yards based on rough calculations." A portion of the increase in excavated material resulted from the lowering below grade of the "family room" projection along the western façade. Mr. Jahelka additionally indicates that of the 270 cubic yards of excavated material, approximately 90 cubic yards would be re-distributed on site (along the west elevation and underneath the added parking area south of the guest suite). Mr. Jahelka included an updated grading plan dated January 12, 2010 (**Exhibit 21**) that reflects the changes to the site. The excavation of material did not create apparent changes in the observable landform as the excavated hill slope was covered by portions of the residence. The landform on either side of the house was not significantly altered. Thus, the Commission finds that the development as built has minimized the alteration of natural landforms consistent with LUP Policy 3.5-1.

As redesigned and conditioned, as discussed above, to require the additional landscaping and other visual mitigations, the Commission finds that the development will be visually compatible with and subordinate to the character of its setting consistent with LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.020(D), and that the visual impacts of development at the site have been minimized consistent with LUP Policy 3.5-4 and CZC Section 20.504.015.

Conclusion

In conclusion, the Commission finds that as conditioned, the siting and design of the proposed development as modified for the Commission's *de novo* review is consistent with the visual resource protection policies of the Mendocino County certified LCP, including but not limited to LUP Policies 3.5-1, 3.5-3, 3.5-4, 3.5-5, 3.5-8, and 3.5-15, and Coastal Zoning Code Sections 20.504.010 and 20.504.015 as the development will (1) be visually compatible and subordinate to the character of its setting, (2) minimize the visual impacts of development at the site, (3) not adversely affect coastal views from public vantage points, (4) minimize alteration of natural landforms, and (5) ensure that exterior lighting is minimized and installed so as not to shine or glare beyond the limits of the parcel.

H. GEOLOGIC HAZARDS

As described above, the subject site is located on a coastal terrace knoll situated approximately 150 feet inland from Mendocino Bay. County frontage Road #500B (aka Brewery Gulch Rd.) occurs between the bluff of Mendocino Bay and the subject parcel. The Mendocino County LCP requires that a bluff setback for new structures be determined by multiplying the structure life (~75 years) by the retreat rate of the bluff, which shall be determined from historical observation and/or a complete geotechnical investigation (Policy 3.4-7 of the LUP). The County staff report states the following:

The project site is not a bluff top parcel, however it is the policy of Planning and Building to require a geotechnical investigation when development is proposed within 125' from the bluff edge. The project site's western property boundary is quite steep leading to Frontage Road 500B, the western edge of the road leads again to another steep slope. As the building footprint was altered and development is proposed slightly closer to the western property edge, Staff felt it was prudent to evaluate slope and geologic conditions of the project site. The applicant submitted a Geologic Constraints Evaluation authored by Jim Glomb, a geotechnical and environmental consultant, dated January 11, 2010. Mr. Glomb concluded that the geotechnical setback is 37.5' for the 75 year economic lifespan. In addition, Mr. Glomb states that the proposed development is 165' from the bluff edge and therefore would not be affected by the bluff retreat rate for the determined economic lifespan.

The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure. There are no known faults within close proximity to the proposed project.

Commission staff concurs with the County's evaluation of potential geologic hazards at the subject site. The Commission thus finds that the proposed development is consistent with the policies of the LCP regarding geologic hazards, including LUP Policy 3.4-7, and CZC Sections 20.500.010(A), 20.500.015, and 20.500.020 because the development (1) will not contribute

significantly to the creation of any geologic hazards, and (2) will not have adverse impacts on the stability of the coastal bluff or on erosion.

I. Grading, Erosion, and Stormwater Runoff

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. LUP Policy 3.1-25 requires the protection of the biological productivity of coastal waters. Mendocino County Coastal Zoning Code (CZC) Sections 20.492.015 and 20.492.020 set forth erosion control and sedimentation standards to minimize erosion and sedimentation of environmentally sensitive areas and off-site areas (refer to [Appendix F](#) for grading, erosion, and stormwater runoff LCP policies). Specifically, Sections 20.492.015 and 20.492.020(B) require that the maximum amount of vegetation existing on the development site shall be maintained to prevent sedimentation of off-site areas, and where vegetation is necessarily removed during construction, native vegetation shall be replanted afterwards to help control sedimentation. Furthermore, CZC Section 20.492.025 requires that provisions shall be made to infiltrate and/or safely conduct surface water to prevent runoff from damaging cut and fill slopes.

A grading plan was submitted and approved by the County as part of CDPM 98-01(05) that authorized grading of 180 cubic yards of material, of which 50 cubic yards would be relocated onsite. The Coastal Permit Administrator approved the proposed modifications consistent with County staff recommendations on January 26, 2006. As part of CDPM 98-01(05), the County included Special Condition No. 3 requiring the applicant to comply with all requirements set forth by the project engineer (KPFF Engineering) and specified that the design “shall not deviate from this plan unless a written modification is submitted by the engineer and approved by the Coastal Permit Administrator.”

As described above, in a letter from the local record dated January 14, 2010 Professional Engineer Eric Jahelka indicates that changes to the house design amount to 270 cubic yards of excavated material, of which approximately 90 cubic yards would be re-distributed on site. Mr. Jahelka submitted an updated grading plan dated January 12, 2010 (**Exhibit 21**) that includes placement of two French drains west of the residence, and a trench drain across the driveway entrance, to manage stormwater runoff. The January 10, 2010 letter from Mr. Jahelka states that other modifications should include additional drainage lines to feed rain water from the roof to the infiltration locations, and that the previous erosion control plan (revision date December 5, 2005; **Exhibit 22**) is still valid as long as the systems are installed and maintained.

As described above, the site is located atop a coastal terrace knoll situated just 150 feet inland from Mendocino Bay. Runoff originating from the development site that is allowed to drain off the site would contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including downstream marine waters. Consistent with CZC Section 20.492.020(B), the Commission includes within attached **Special Condition No. 3A** a requirement that the applicants minimize erosion and sedimentation impacts from the development and adhere to the grading and erosion control plans submitted by the Engineer, Eric Jahelka for the life of the project. In addition, by requiring that landscaping shall be planted pursuant to **Special Condition 4A(i)(b)**, planted native vegetation will provide the dual purpose of minimizing surface erosion and visually screening the residence.

The Commission finds that as conditioned, the proposed development is consistent with CZC Sections 20.492.015 and 20.492.020 because erosion and sedimentation will be controlled and minimized by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting

any disturbed areas with native vegetation following project completion; (3) adhering to the grading and erosion control plans, and (4) directing runoff from the completed development in a manner that would provide for infiltration into the ground. Furthermore, the Commission finds that the proposed development as conditioned to require these measures to control sedimentation from storm water runoff from the site is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained. Moreover, the Commission finds that the proposed development is consistent with CZC Section 20.492.025(E) because, as conditioned, stormwater runoff will be infiltrated through vegetated areas then directed into French and trench drainage systems that minimize erosion and sedimentation from stormwater runoff.

J. Archaeological Resources

Coastal Act Section 30244 provides for protection of archaeological and paleontological resources and requires reasonable mitigation where development would adversely impact such resources.

An archaeological survey was prepared by Thad Van Bueren, dated August 25, 2001 and submitted with the original County CDP 98-01. No archaeological resources were found. The survey was accepted by the Mendocino County Archaeological Commission at the December 12, 2001 meeting. To ensure protection of any cultural resources that may be discovered at the site during construction of the proposed project, the Commission attaches **Special Condition No. 12**. This condition requires that if an area of cultural deposits is discovered during the course of the project, all construction must cease, and a qualified cultural resource specialist must analyze the significance of the find. To recommence construction following discovery of cultural deposits, the permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director to determine whether the changes are de minimis in nature and scope, or whether an amendment to this permit is required.

Therefore, the Commission finds that the proposed project, as conditioned, is consistent with Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

K. ALLEGED VIOLATION

Prior to applying for this coastal development permit, the development on the site occurred without the required coastal development permit or CDP amendment. The 2006-approved CDPM (CDP # 98-2001 (2005)) allowed construction of a 2,900 square-foot single-family residence with an attached 689-square-foot garage and a maximum average height of 18 feet above natural grade, plus a 640-square-foot detached guest cottage with a maximum height of 18 feet above natural grade, for a total of 4,229 square feet. The subject permit request was submitted in part for after-the-fact unpermitted development was submitted to Mendocino County as CDPM #98-2001(2009) to alter the 2006-approved building footprint by attaching the guest cottage to the residence (creating a guest bedroom and hallway), enclosing a portion of the previously-approved patio into living space, enclosing the previously-approved open breezeway; installing 36 additional windows to all elevations of the residence, modifying house and roof materials, and adding trim colors not previously reviewed under the 2006 modification. The 2009 amendment request also requests after-the-fact authorization for temporary occupancy of a travel trailer during construction.

Although certain development has allegedly taken place at the project site inconsistent with the

special condition requirements of the approved coastal development permit (County CDP # 98-2001 (2005)), and without the benefit of a coastal development permit amendment, consideration of the application by the Commission has been based solely upon the amended development's conformance with the Mendocino County certified Local Coastal Program. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit or permit amendment.

L. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Mendocino County is the lead agency for the purposes of CEQA review. On March 25, 2010, the County coastal permit administrator determined that the proposed project was categorically exempt from CEQA pursuant to Class 3 consistent with the findings of the County staff report.

Section 13096 of the Commission's administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirement of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed herein, in the findings addressing the consistency of the proposed project with the certified Mendocino County LCP, the proposed project has been conditioned to be found consistent with the certified Mendocino County LCP and Section 30010 of the Coastal Act. All feasible mitigation measures, which will minimize all significant adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A

List of Substantive File Documents

Glomb, Jim. January 11, 2010. Geologic Constraints and Evaluation, APN 119-320-04, Brewery Gulch, Mendocino California.

Jahelka, Eric. Physical Engineer. January 14, 2010. Letter to Barbara Bethel addressing changes to 2005 permit.

McBride, Gordon. July 2, 2001. Botanical Survey as Required for Proposed Single Family Dwelling on a +/- One Acre Parcel at 9490 North Highway One, Mendocino (AP#119-320-04, Powers).

Mendocino County CDP No. 98-2001.

Mendocino County CDPR No. 98-01 (04).

Mendocino County CDPM No. 98-2001 (2005).

Mendocino County CDPM No. 98-2001 (2009).

Mendocino County Coastal Permit Administrator Hearing. March 25, 2010. Audio recording of hearing held in Fort Bragg, CA.

Mendocino County Local Coastal Program

Van Bueren, Thad. August 25, 2001. Archaeological Survey of the Powers Property at 9490 North Highway 1 near Mendocino, Mendocino County, California. APN 119-032 [sic]-04.

Appendix B

Submittal of Additional Information by the Applicant

For the purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information consisting of the following:

- (a) Transmittal prepared by Amy Wynn, agent, and dated May 12, 2010;
- (b) Transmittal prepared by Ms. Wynn dated August 4, 2010 regarding “response to Substantial Issue Staff Report;”
- (c) Transmittal prepared by Ms. Wynn dated March 28, 2011 regarding “response to February 1, 2011 letter;”
- (d) Transmittal prepared by Barbara Bethel dated January 23, 2012 regarding “response to August 9, 2011 letter;”
- (e) Transmittal prepared by Ms. Wynn dated January 24, 2012 regarding “Matrix to accompany Bethel 1/23/12 response to 8.9.2011 letter;”
- (f) Transmittal prepared by Ms. Wynn dated July 24, 2012 regarding “Entry Courtyard Glazing approved in CDPM #98-01(05)”

The supplemental information addresses issues that were raised by the appeal and provides additional information that was not a part of the record when the County originally acted to approve the coastal development permit. A comprehensive list of substantive file documents is included in [Appendix A](#).

Appendix C

Mendocino County LCP Policies Regarding Planning and Locating New Development

Mendocino County Land Use Plan (LUP) Policy 3.9-1 states (emphasis added):

An intent of the Land Use Plan is to apply the requirement of Section 30250(a) of the Act that new development be in or in close proximity to existing areas able to accommodate it, taking into consideration a variety of incomes, lifestyles, and location preferences. Consideration in allocating residential sites has been given to:

- *each community's desired amount and rate of growth.*
- *providing maximum variety of housing opportunity by including large and small sites, rural and village settings, and shoreline and inland locations.*

In addition to the considerations pertaining to the allocation of residential sites listed above, all development proposals shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources.

One housing unit shall be authorized on every legal parcel existing on the date of adoption of this plan, provided that adequate access, water, and sewage disposal capacity exists and proposed development is consistent with all applicable policies of this Coastal Element and is in compliance with existing codes and health standards. Determination of service capacity shall be made prior to the issuance of a coastal development permit.

Sec. 20.376.020 Minimum Lot Area for RR Districts.

(A) RR: Forty thousand (40,000) square feet.

(B) RR:L-2: Two (2) acres.

(C) RR:L-5: Five (5) acres.

(D) RR:L-10: Ten (10) acres.

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.025 Maximum Dwelling Density for RR Districts.

(A) RR: One (1) unit per forty thousand (40,000) square feet except as provided pursuant to Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit).

(B) RR:L-2: One (1) unit per two (2) acres except as provided pursuant to Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit).

(C) RR:L-5: One (1) unit per five (5) acres except as provided pursuant to Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit).

(D) RR:L-10: One (1) unit per ten (10) acres except as provided pursuant to Section 20.456.015 (Accessory Uses), Section 20.460.035 (Use of a Trailer Coach) and Section 20.460.040 (Family Care Unit).

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.030 Minimum Front and Rear Yards for RR Districts.

(A) RR; RR:L-2: Twenty (20) feet each.

(B) RR:L-5: Thirty (30) feet each.

(C) RR:L-10: Fifty (50) feet each.

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.035 Minimum Side Yards for RR Districts.

(A) RR; RR:L-2: Six (6) feet each.

(B) RR:L-5: Thirty (30) feet each.

(C) RR:L-10: Fifty (50) feet each.

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.040 Setback Exception.

Any nonconforming parcel which is less than five (5) acres and which is zoned RR:L-5 or RR:L-10 shall observe a minimum front, side and rear yard of twenty (20) feet.

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.045 Building Height Limit for RR Districts.

Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen (18) feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Thirty-five (35) feet above natural grade for uninhabited accessory structures not in an area designated as a Highly Scenic Area (See Section 20.504.015(C)(2)).

(Ord. No. 3785 (part), adopted 1991)

Sec. 20.376.065 Maximum Lot Coverage for RR Districts.

Twenty (20) percent for parcels less than two (2) acres in size. Fifteen (15) percent for parcels from two (2) acres to five (5) acres in size. Ten (10) percent for parcels over five (5) acres in size.

Land Use Plan (LUP) Policy 3.8-1 states, in applicable part, as follows (Emphasis added):

Highway 1 capacity, availability of water and sewage disposal system and other known planning factors shall be considered when considering applications for development permits.

On the rural side of the Urban/Rural boundary, consideration shall be given to Land Use Classifications, 50% buildout, average parcel size, availability of water and solid and septage disposal adequacy and other Coastal Act requirements and Coastal Element policies.

Coastal Zoning Code (CZC) Section 20.532.095 “Required Findings for All Coastal Development Permits” states:

- (A) *The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
- (1) *The proposed development is in conformity with the certified local coastal program; and*
 - (2) *The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and*
 - (3) *The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and*
 - (4) *The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.*
 - (5) *The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.*
 - (6) *Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.*

Appendix D

Mendocino County LCP Policies Regarding Visual Resources

Section 30251 of the Coastal Act has been specifically incorporated into **LUP Policy 3.5-1** of the Mendocino LCP and states in part (emphasis added):

...

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

Policy 3.5-3 of the certified LUP states as follows, in applicable part (emphasis added):

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

...

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

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

CZC Section 20.504.020 states, in applicable part, as follows (emphasis added):

...

(D) The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the

character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting. (Ord. No. 3785 (part), adopted 1991)

LUP Policy 3.5-4 states the following (emphasis added):

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

...

Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area...

LUP Policy 3.5-5 states as follows, in applicable part (emphasis added):

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

...

LUP Policy 3.5-8 states as follows (emphasis added):

Power transmission lines shall be located along established corridors. Elsewhere transmission lines shall be located to minimize visual prominence. Where overhead transmission lines cannot be located along established corridors, and are visually intrusive within a "highly scenic area", the lines shall be placed underground west of Highway One and below ridgelines east of Highway One if technically feasible. Certain lines shall, over time, be relocated or placed underground in accord with PUC regulations (see Big River Planning Area Policy 4.7-3 and Policy 3.11-9). Distribution lines shall be underground in new subdivisions.

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

(A) The visual resource areas listed below are those which have been designated highly scenic and in which development shall be subordinate to the character of its setting:

...

(2) Portions of the Coastal Zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.

(C) Development Criteria.

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

...

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

...

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

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

...

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

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

...

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

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

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

LUP Policy 3.5-15 states in applicable part (emphasis added):

Installation of satellite receiving dishes shall require a coastal permit. In highly scenic areas, dishes shall be located so as to minimize visual impacts. Security lighting and floodlighting for occasional and/or emergency use shall be permitted in all areas. Minor additions to existing nightlighting for safety purposes shall be exempt from a coastal permit. In any event no lights shall be installed so that they distract motorists and they

shall be shielded so that they do not shine or glare beyond the limits of the parcel wherever possible.

CZC Section 20.504.035 (“Exterior Lighting Restrictions”) states as follows, in applicable part (emphasis added):

(A) Essential criteria for the development of night lighting for any purpose shall take into consideration the impact of light intrusion upon the sparsely developed region of the highly scenic coastal zone.

(1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser.

(2) Where possible, all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.

(3) Security lighting and flood lighting for occasional and/or emergency use shall be permitted in all areas.

(4) Minor additions to existing night lighting for safety purposes shall be exempt from a coastal development permit.

(5) No lights shall be installed so that they distract motorists.

Appendix E

Mendocino County LCP Policies Regarding Geologic Hazards

LUP Policy 3.4-1 states:

The County shall review all applications for Coastal Development permits to determine threats from and impacts on geologic hazards arising from seismic events, tsunami runup, landslides, beach erosion, expansive soils and subsidence and shall require appropriate mitigation measures to minimize such threats. In areas of known or potential geologic hazards, such as shoreline and bluff top lots and areas delineated on the hazards maps the County shall require a geologic investigation and report, prior to development, to be prepared by a licensed engineering geologist or registered civil engineer with expertise in soils analysis to determine if mitigation measures could stabilize the site. Where mitigation measures are determined to be necessary, by the geologist, or registered civil engineer the County shall require that the foundation construction and earthwork be supervised and certified by a licensed engineering geologist, or a registered civil engineer with soil analysis expertise to ensure that the mitigation measures are properly incorporated into the development.

LUP Policy 3.4-7 states:

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

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

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

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

LUP Policy 3.4-8 states:

Property owners should maintain drought-tolerant vegetation within the required blufftop setback. The County shall permit grading necessary to establish proper drainage or to install landscaping and minor improvements in the blufftop setback.

LUP Policy 3.4-9 states:

Any development landward of the blufftop setback shall be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or to the instability of the bluff itself.

LUP Policy 3.4-10 states the following (emphasis added):

No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.

LUP Policy 3.4-12 states the following (emphasis added):

Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development or public beaches or coastal dependent uses. Allowed developments shall be processed as conditional uses, following full environmental geologic and engineering review. This review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other adverse environmental effects. The design and construction of allowed protective structures shall respect natural landforms, shall provide for lateral beach access, and shall minimize visual impacts through all available means.

Mendocino County Coastal Zoning Code (CZC) Section 20.500.010 states the following (emphasis added):

(A) The purpose of this section is to insure that development in Mendocino County's Coastal Zone shall:

(1) Minimize risk to life and property in areas of high geologic, flood and fire hazard;

(2) Assure structural integrity and stability; and

(3) Neither create nor contribute significantly to erosion, geologic instability or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. (Ord. No. 3785 (part), adopted 1991)

Section 20.500.015 of the Coastal Zoning Code states:

(A) Determination of Hazard Areas.

(1) Preliminary Investigation. The Coastal Permit Administrator shall review all applications for Coastal Development Permits to determine threats from and impacts on geologic hazards.

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

(B) Mitigation Required. *Where mitigation measures are determined to be necessary, the foundation, construction and earthwork shall be supervised and certified by a licensed engineering geologist or a registered civil engineer with soil analysis expertise who shall certify that the required mitigation measures are incorporated into the development. (Ord. No. 3785 (part), adopted 1991)*

Sec. 20.500.020, “Geologic Hazards - Siting and Land Use Restrictions,” states in applicable part (emphasis added):

(A) Faults.

(1) Residential, commercial and industrial structures shall be sited a minimum of fifty (50) feet from a potentially, currently or historically active fault. Greater setbacks shall be required if warranted by geologic conditions.

(2) Water, sewer, electrical and other transmission and distribution lines which cross fault lines shall be subject to additional standards for safety including emergency shutoff valves, liners, trenches and the like. Specific safety measures shall be prescribed by a licensed engineering geologist or a registered civil engineer.

(B) Bluffs.

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

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

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

(2) Drought tolerant vegetation shall be required within the blufftop setback.

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

(D) Landslides.

(1) New development shall avoid, where feasible, existing and prehistoric landslides. Development in areas where landslides cannot be avoided shall also provide for stabilization measures such as retaining walls, drainage improvements and the like. These measures shall only be allowed following a full environmental, geologic and engineering review pursuant to Chapter 20.532 and upon a finding that no feasible, less environmentally damaging alternative is available.

(E) Erosion.

(1) Seawalls, breakwaters, revetments, groins, harbor channels and other structures altering natural shoreline processes or retaining walls shall not be permitted unless judged necessary for the protection of existing development, public beaches or coastal dependent uses. Environmental geologic and engineering review shall include site-specific information pertaining to seasonal storms, tidal surges, tsunami runups, littoral drift, sand accretion and beach and bluff face erosion. In each case, a determination shall be made that no feasible less environmentally damaging alternative is available and that the structure has been designed to eliminate or mitigate adverse impacts upon local shoreline sand supply and to minimize other significant adverse environmental effects.

Appendix F

Mendocino County LCP Policies Regarding Grading, Erosion, and Stormwater Runoff

LUP Policy 3.1-25 states:

The Mendocino Coast is an area containing many types of marine resources of statewide significance. Marine resources shall be maintained, enhanced and, where feasible, restored; areas and species of special biologic or economic significance shall be given special protection; and the biologic productivity of coastal waters shall be sustained.

Sec. 20.492.010 sets grading standards and states in part:

(A) *Grading shall not significantly disrupt natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff.*

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

(C) *Essential grading shall complement the natural land forms. At the intersection of a manufactured cut or fill slope and a natural slope, a gradual transition or rounding of contours shall be provided.*

(D) *The cut face of earth excavations and fills shall not be steeper than the safe angle of repose for materials encountered. Where consistent with the recommendations of a soils engineer or engineering geologist, a variety of slope ratios shall be applied to any cut or fill slope in excess of two hundred, (200) feet in length or ten (10) feet in height...*

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

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

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

CZC Section 20.492.015 sets erosion control standards and states in part:

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

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

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

environmentally sensitive habitat areas, the revegetation shall be achieved with native vegetation...

(D) Mechanical or vegetative techniques to control erosion may be used where possible or necessary providing that they are fully discussed in the approved development plan.

(E) To control erosion, development shall not be allowed on slopes over thirty (30) percent unless adequate evidence from a registered civil engineer or recognized authority is given that no increase in erosion will occur... [Emphases added]

CZC Section 20.492.020 sets sedimentation standards and states in part:

- A. Sediment basins (e.g., debris basins, desilting basins, or silt traps) shall be installed in conjunction with initial grading operations and maintained through the development/construction process to remove sediment from runoff wastes that may drain from land undergoing development to environmentally sensitive areas.*
- B. To prevent sedimentation of off-site areas, vegetation shall be maintained to the maximum extent possible on the development site. Where necessarily removed during construction, native vegetation shall be replanted to help control sedimentation.*
- C. Temporary mechanical means of controlling sedimentation, such as hay baling or temporary berms around the site, may be used as part of an overall grading plan, subject to the approval of the Coastal Permit Administrator.*
- D. Design of sedimentation control devices shall be coordinated with runoff control structure to provide the most protection. [Emphasis added.]*

CZC Section 20.492.025 sets runoff standards and states in applicable part:

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

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

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

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

Appendix G

Window Glazing Background

In October 2011, the applicant's agent contacted Commission staff to highlight what she believed to be additional glazing that she believed was approved under the previous 2005-permit modification. The agent presented a floor plan (**Exhibit 11**) that shows the word "glass" between support posts along the previously-approved courtyard entry and asserts this alleged glass between each courtyard post demonstrates that additional glass was authorized by the 2005 CDPM. In their letter dated January 23, 2012 (**Exhibit 15**) and in subsequent visual renderings, the applicant asserts their perspective that the design as proposed is more visually subordinate than the design approved by CDPM 98-01 (05). Their position is based in part on the opinion that more glazing was approved by CDPM 98-01 (05).

It appears from the local record that County planning staff both in 2006 and again in 2009 considered the deviations from the 2005 CDPM significantly different from what the County had previously approved. This is notable both in the December 21, 2006 County letter prepared during review of building permit application BF 2006-1024, and in the November 12, 2009 County letter that responded to applicant's project concerns. Nonetheless, to address the agent's assertions, the Commission staff reviewed both the plans from the local record and the County staff report and observed that there is a discrepancy in the exhibits included in the CDPM 98-2001(2005) County staff report that was prepared for the January 26, 2006 hearing. Exhibit B of the County staff report shows the most current grading plan, where the posts that would support the extra glass are *not* shown, but Exhibit C shows the "superseded" plan (without the word "superseded" on it), which *does* show the glass labeled between posts.

In addition, Commission staff obtained and reviewed a copy of the audio tape from the March 25, 2010 Coastal Permit Administrator (CPA) hearing for the subject project as reviewed by the County. During the hearing, CPA Frank Lynch made the following comments:

I don't know if I was the one who approved this- I think I might have been, and Ed Powers was I think the owner at the time of the original permit. And I do remember site viewing this project. I remember walking it, I remember feeling very ill at ease about it because I think- and that was back in 2001 ...I had a great deal of trepidation in dealing with the project at that time and then looking at it as it has evolved over time it doesn't make me feel very good because I do think to a degree- and maybe I'm personalizing this- I got burned. In that what I hoped wouldn't happen, happened. And the trees were taken out, and the screening was taken out and the windows were made bigger, and it becomes much more of a dominant thing than I ever envisioned. And so in that sense, I'm not trying to be nasty about it, but I don't feel very good about what happened with this project.

On April 19, 2012, Commission staff contacted Mendocino County staff to request their current position regarding what the County considers it approved under the 2005 coastal development permit and whether the proposed design would result in a 100% increase in window glazing as described in the 2010 County staff report. In a letter received by the County dated June 6, 2012 (**Exhibit 13**), the County maintains that "based on the record,

the revised plans with a revision date of 12/5/0[5]⁵, not the superseded plans, would be the plans of reference.” The County further indicates the following: “In the 2009 modification staff analyzed the increase of windows from that which was approved with the 2005 modification, the analysis did not include the windows that were originally proposed in 2005, but rather the windows that were included in the revised and approved plans.”

On July 27, 2012, the North Coast District office received a transmittal from the applicant’s agent that included a letter from the architect who worked on the 2005 modification design indicating that there was no intent to remove the glazing from the western elevation of the plans (**Exhibit 11**). However, the Commission finds that the evidence in the local record, the comments made by the Coastal Permit Administrator at the March 25, 2010 CPA hearing, and the June 6, 2012 letter from Mendocino County planning staff demonstrate that the extra glazing referenced by the applicant was not authorized.

⁵ The County letter here refers to “a revision date of 12/5/02” however this is a typographical error as evidenced not only by the fact that this set of plans was submitted in 2005, not 2002, but also earlier in the letter wherein County staff refers to the revision date of 12/5/05, which is the actual date of the revision.

STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)

March 25, 2010

CPA-15

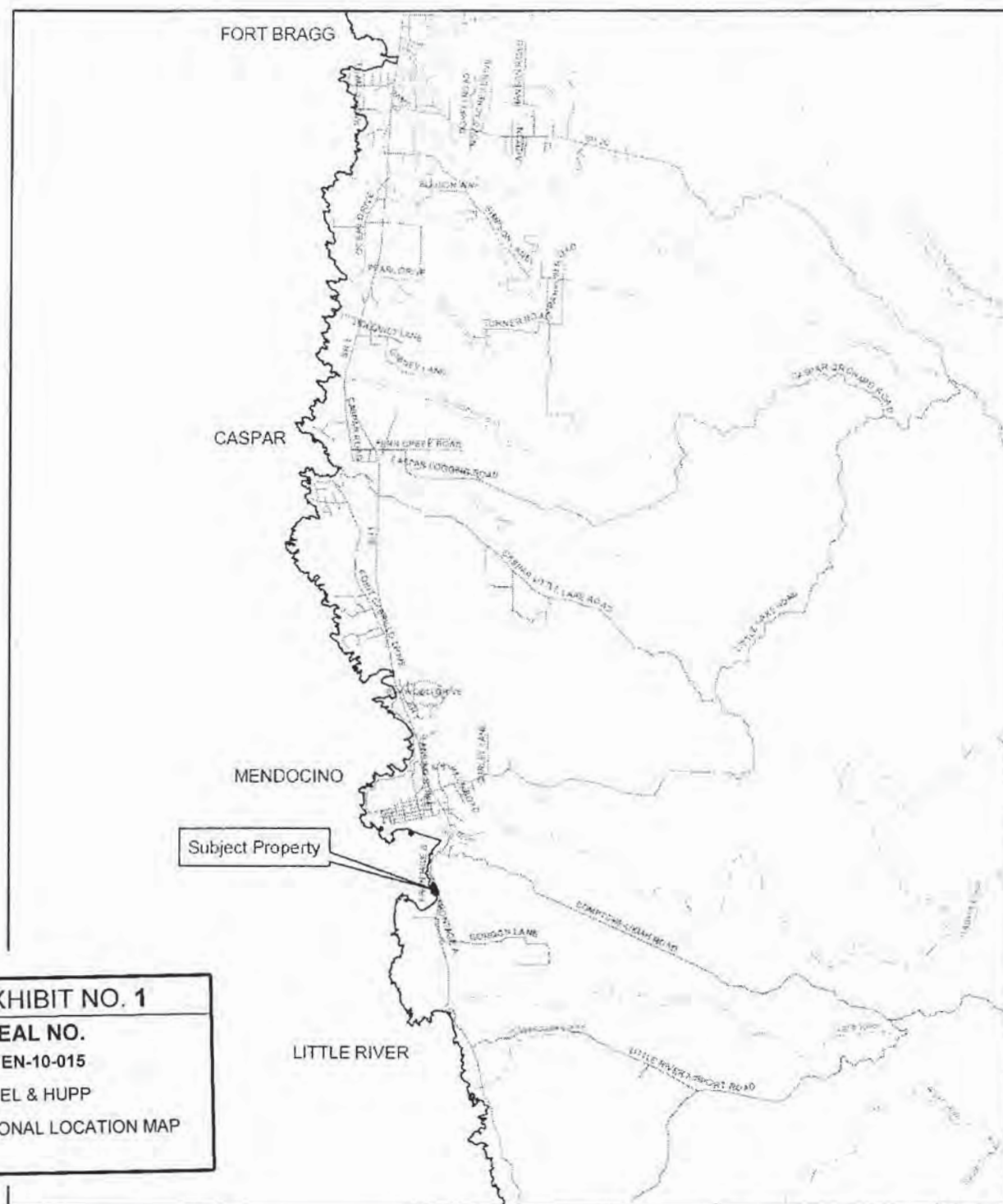


EXHIBIT NO. 1

APPEAL NO.

A-1-MEN-10-015

BETHEL & HUPP

REGIONAL LOCATION MAP

OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2008)

LOCATION MAP

4,000 2,000 0 4,000
Feet



Exhibit A

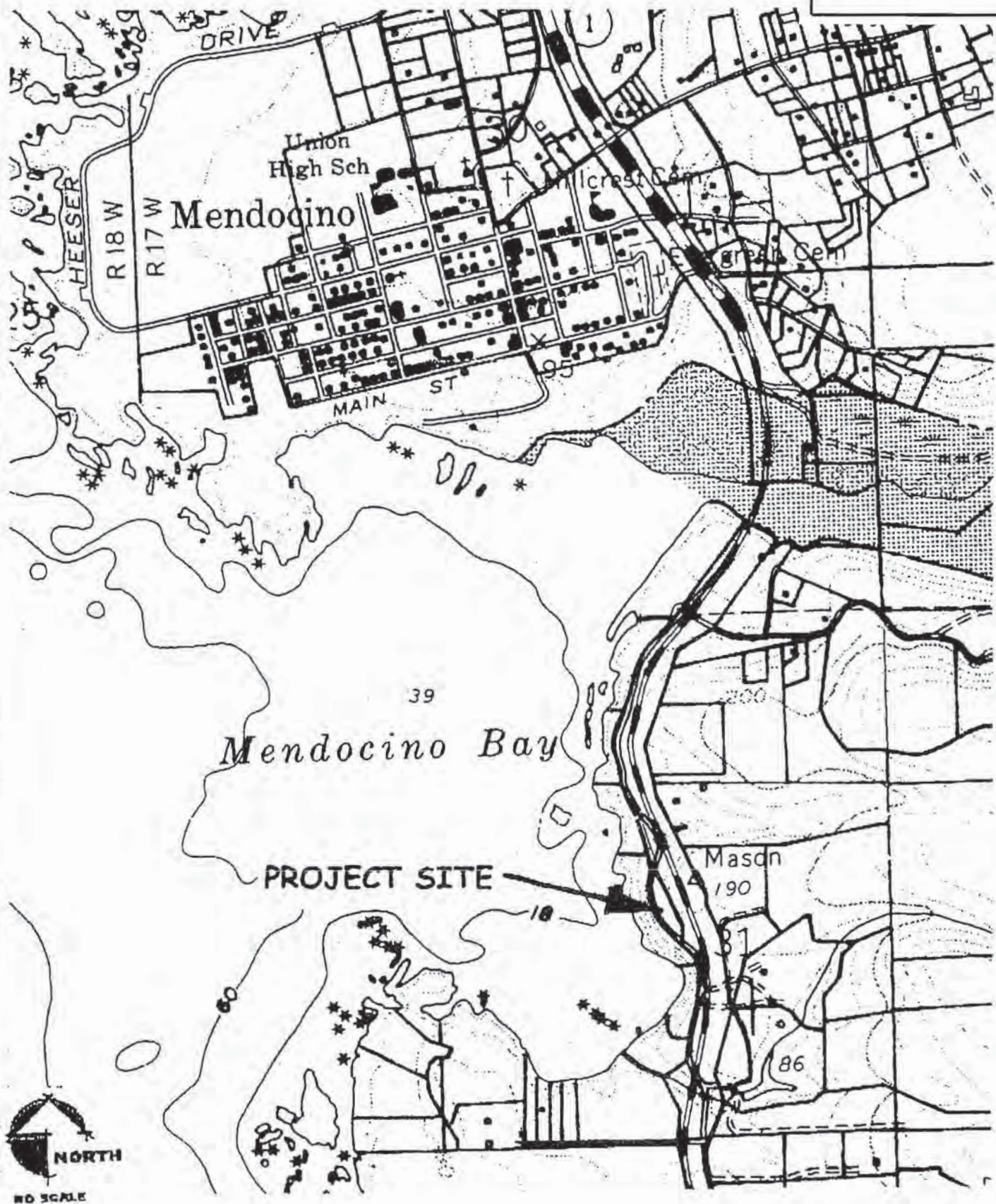
EXHIBIT NO. 2

APPEAL NO.

A-1-MEN-10-015

BETHEL & HUPP

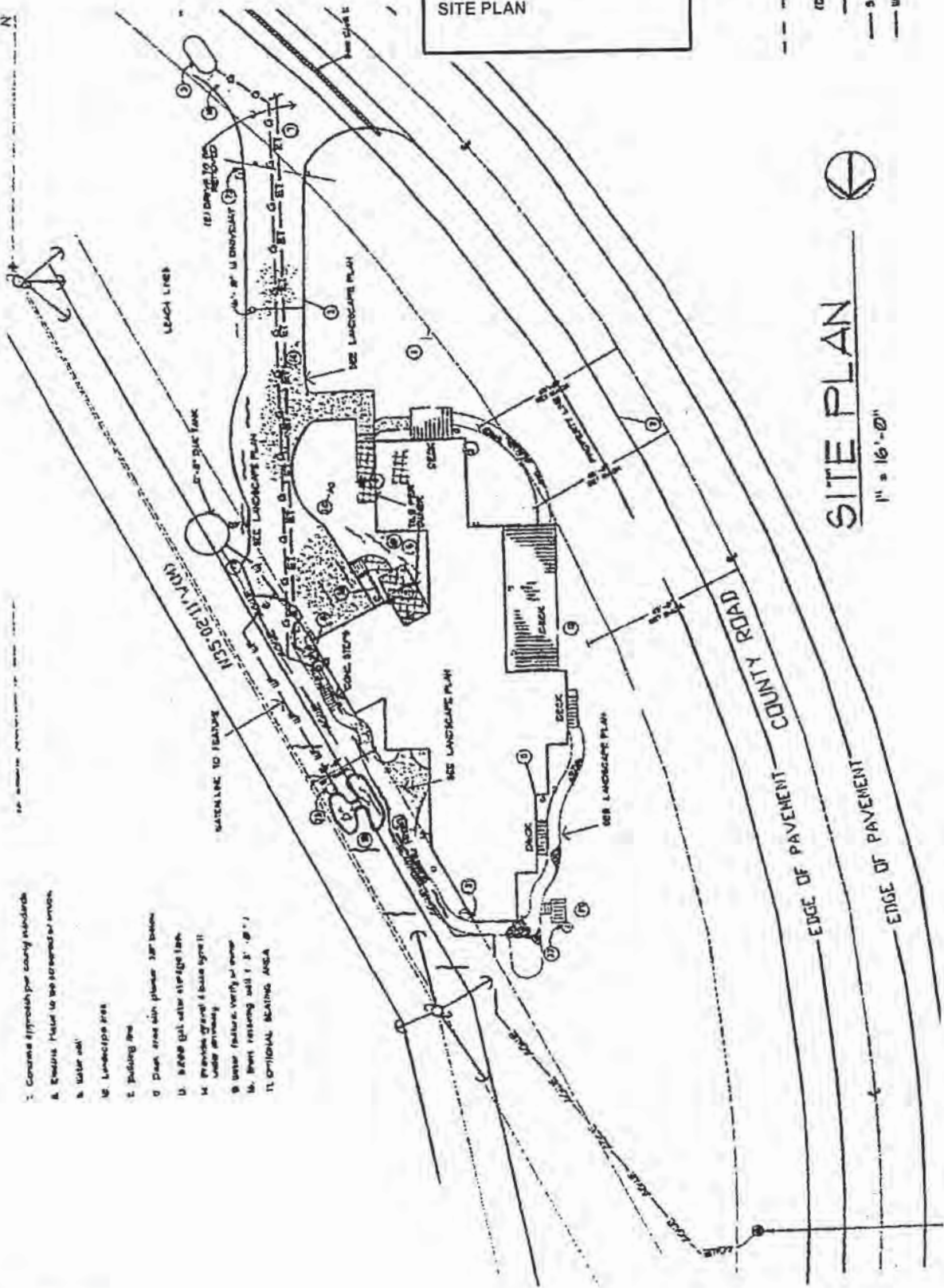
VICINITY MAP



STAFF REPORT FOR COASTAL DEVELOPMENT STANDARD PERMIT

CDPM# 98-2001(2009)
March 25, 2010
CPA-21

1. Concrete approach per county standards
2. Existing. Refer to the schematic of project
3. Water wall
4. Landscape plan
5. Building line
6. Deck area with planter 30" below
7. 30" deep gut water storage tank
8. Provide gravel / base layer 11" under driveway
9. Water feature. Verify w/ owner
10. Short retaining wall 1' 3" - 8" x 1'
11. OPTIONAL SEATING AREA



SITE PLAN
1" = 16'-0"

EXHIBIT NO. 3
APPLICATION NO.
A-1-MEN-10-015
BETHEL & HUPP
SITE PLAN

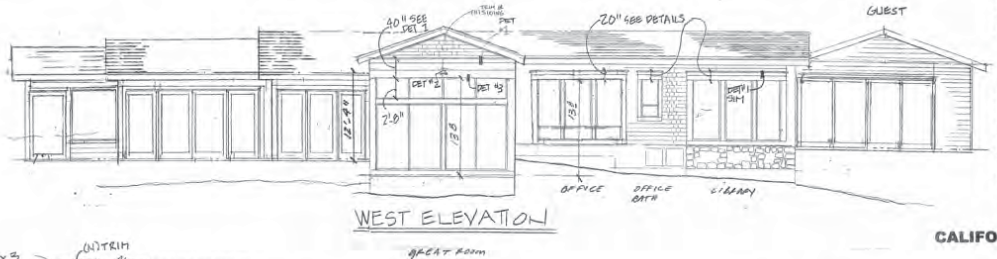
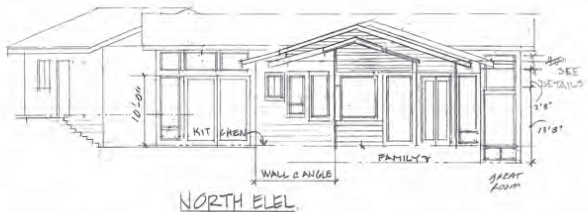
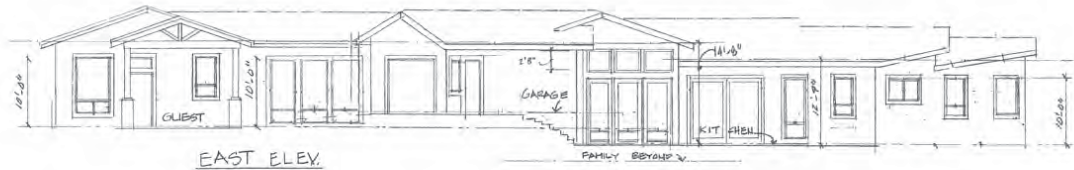
Exhibit G

EXHIBIT NO. 4

APPEAL NO.
A-1-MEN-10-015
(Bethel & Hupp)

Proposed Elevations and
Floor Plans (1 of 2)

Bethel/Response to Questions, Gedik emails (8.16&19.2013)
August 19, 2013
Page 3 of 18



Note 8/16/2013:
Window glazing to be reduced by covering portions of the existing windows on the Elevations specified below, utilizing "Window Boxes" as detailed on that sheet by the Architect.

Elevation:
• North: Great Room
• West: Great Room, Office, Office Bathroom, Library
• South: Great Room

For aesthetic continuity amongst these covered windows, the tops of these windows will maintain the same string-line elevation as the top of the Upper Row of Windows on the Western Elevation of the Great Room. See Elevations illustrated on that sheet by the Architect.

The uncovered portion of the Upper Row of Windows on the Western Elevation of the Great Room is to be 2'-0" high (13'-0" above Finish Floor of Great Room).

String line to be pulled in field by contractor to ensure aesthetic continuity during installation of "Window Boxes."

A-1-MEN-10-015

CALIFORNIA COASTAL COMMISSION

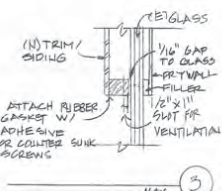
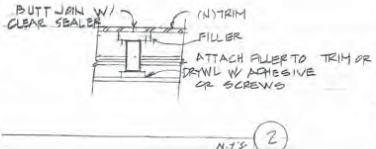
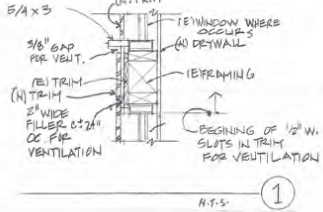
EXHIBIT 1 - MAY 2013

LIV-IN ENVIRONMENTS
ARCHITECTURE & SOLAR SPACE HEATING
GREGORY D. SOTO ARCHITECT
P.O. BOX 1382 ARROYO GRANDE, CA 93421
LIC # C14660 (805) 481-1068



A RESIDENCE AND GUEST ROOM FOR:
BARBARA BETHEL




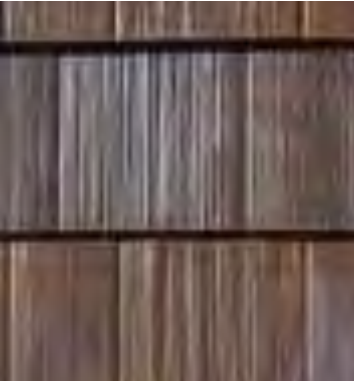

PROJECT LOCATION: 4401
9490 N. HIGHWAY 1 (FRONTAGE ROAD B), Mendocino, CA



Wynn Coastal Planning

Proposed Residence & Garage,
Elevations & Floor Plans



 <p>Roofing: Composition shingle, GAF (Elk) Grand Sequoia; "Cedar"</p>	
 <p>Stone: Stone Veneer by McIntyre; Mendocino Blonde, custom blend to match native rock on site.</p>	<p>Trim (north, west, south): Composite; Benjamin Moore, Java, 2106-10</p>
 <p>Siding: Fiber cement, Certainteed Perfection Shingles; Mason Select Maple, custom simulated natural wood stain</p>	 <p>Trim (east): Composite; Benjamin Moore, tan to match rock on site</p>

<p>EXHIBIT NO. 5</p>
<p>APPEAL NO. A-1-MEN-10-015 (Bethel & Hupp) Proposed Materials & Lighting</p>

<p>(Page 1 of 3): Proposed Colors & Materials, Lighting</p>
--

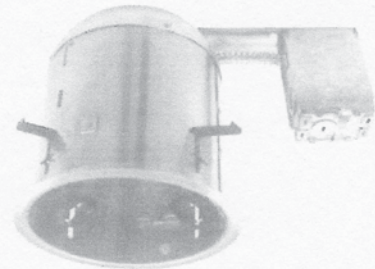
6 In. IC Remodel Housing (H2)

Model # CAT71CRM-6PK Internet/Catalog
202057577

Description

This 6 inch aperture remodel housing is designed to be installed in an existing ceiling. Remodel clips secure the housing to the ceiling surface. The housing is designed to allow for direct contact with insulation.

Bulk pack
For remodel construction
Approved for direct contact with insulation
For decorative, accent or functional use in residential or light commercial environments
Thermally protected
UL listed for damp locations
Pre-wired for easy installation
MFG Model # : CAT71CRM-6PK
MFG Part # : CAT71CRM-6PK



Specifications

Assembled Depth (in.) : 7.48 in
Assembled Height (in.) : 11.22 in
Assembled Weight (lb.) : 1.61 lb
Assembled Width (in.) : 6.77 in
Depth Adjustable Socket : Yes
I/C Compatible : Yes
Safety Listing : UL

6 In. R30 White Baffle Trim (T5)

Model # CAT634-6PK Internet/Catalog # 202057588

Description

This 6 inch white baffle trim is designed to help reduce glare while blending well into most typical ceilings. It can be used in both IC and non-IC housings. It minimizes glare in general, accent and task lighting.

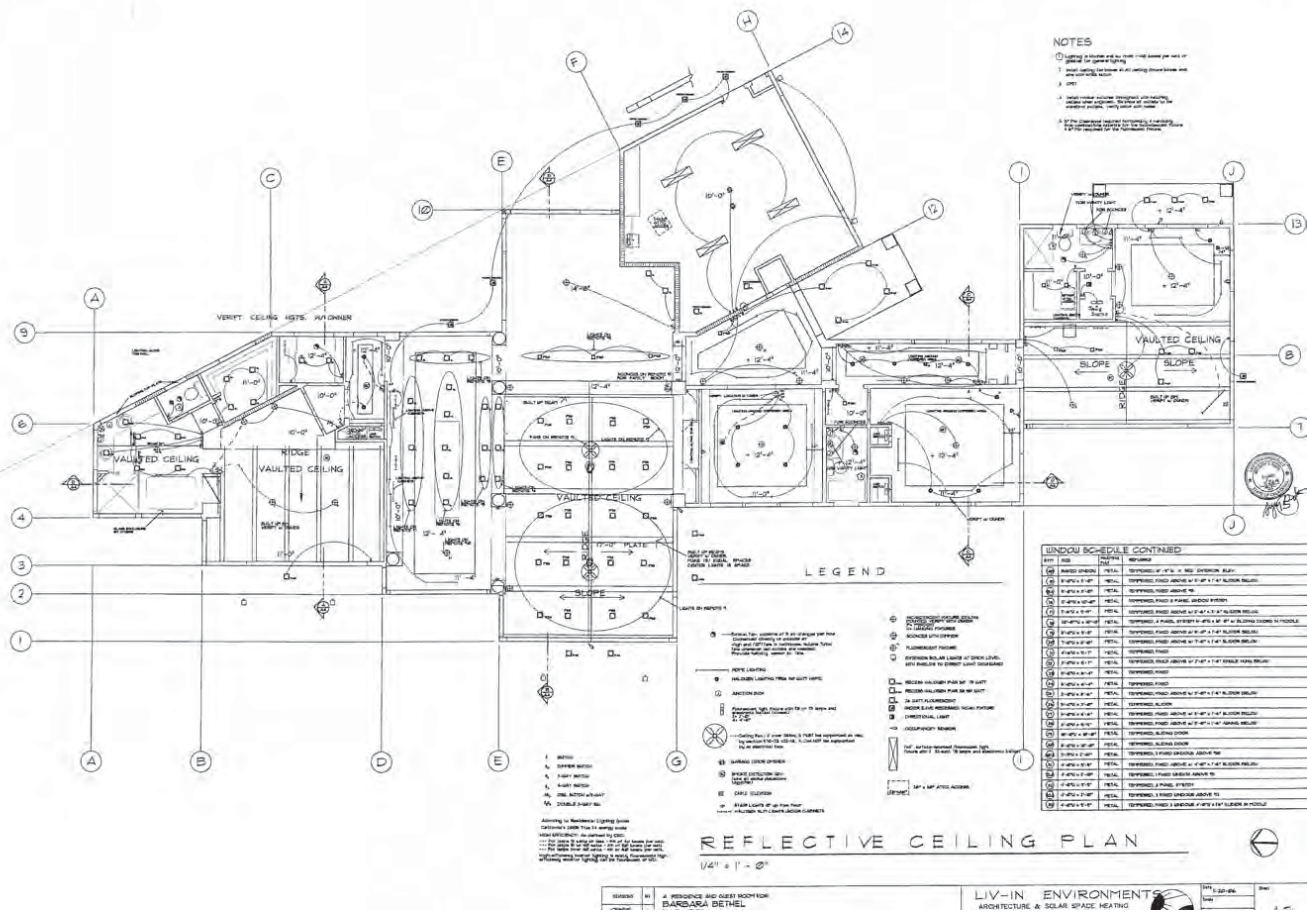
Bulk pack
For 6" IC & Non-IC housing
White open trim with white baffle
Minimizes glare in general, accent and task lighting
MFG Model # : CAT634-6PK
MFG Part # : CAT634-6PK

Specifications

Assembled Depth (in.) : 3.03 in
Assembled Height (in.) : 7.36 in
Assembled Weight (lb.) : .27 lb
Assembled Width (in.) : 0 in
Color/Finish : White
Safety Listing : UL

18 to Be Installed =
Bethel Exterior Recessed Lighting . Installed in
Overhang and entry ceilings . Installed at doors.

(Page 2 of 3):
Proposed Colors & Materials,
Lighting



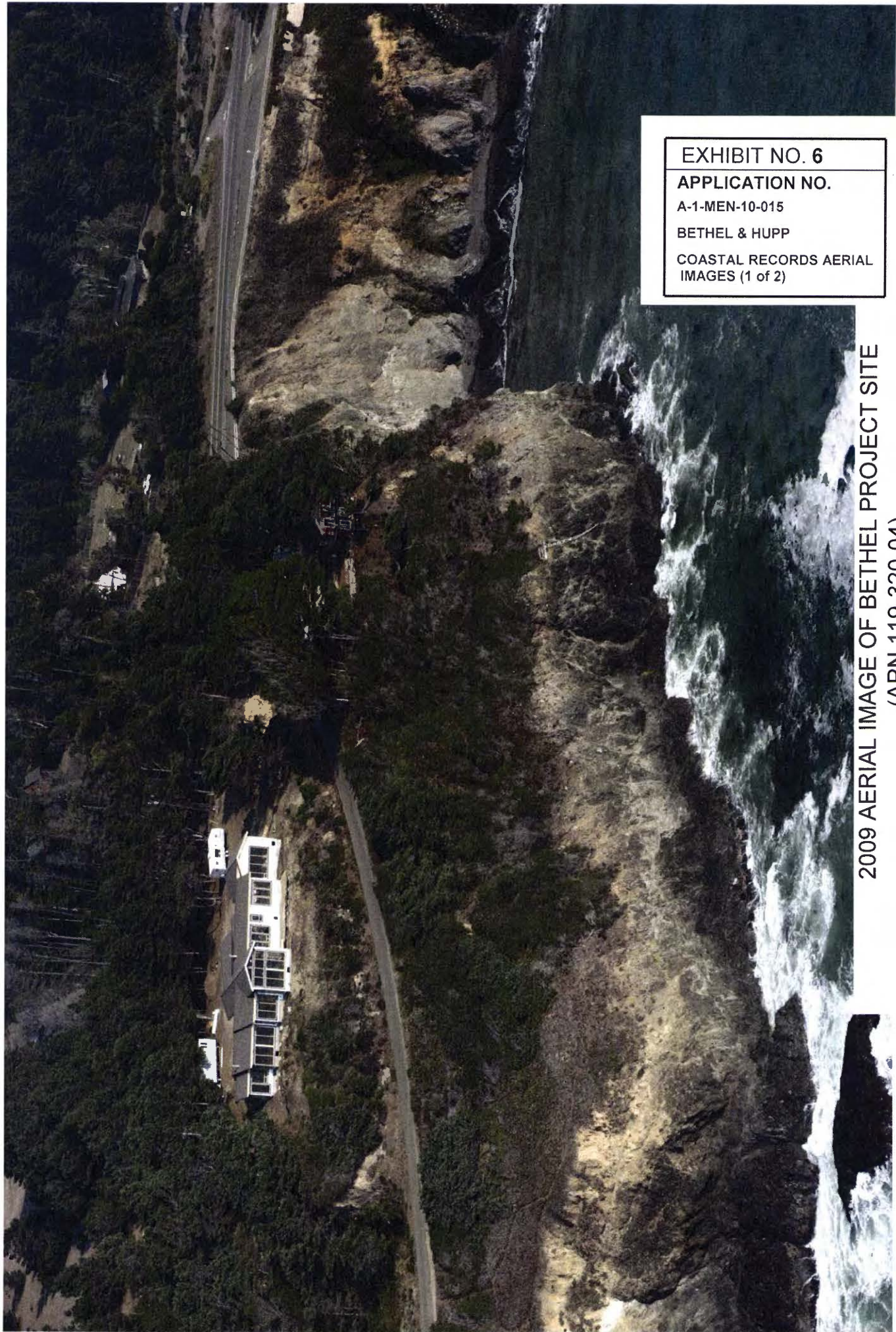


EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-10-015

BETHEL & HUPP

COASTAL RECORDS AERIAL
IMAGES (1 of 2)

2009 AERIAL IMAGE OF BETHEL PROJECT SITE
(APN 119-320-04)

Image source: California Coastal Records Project, Image 200903160



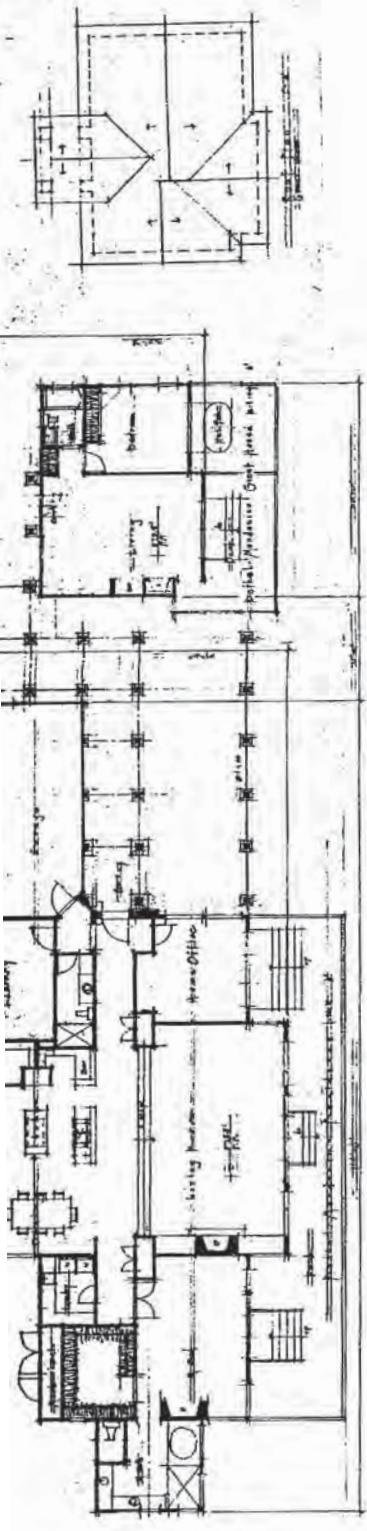
2005 AERIAL IMAGE OF BETHEL PROJECT SITE
(APN 119-320-04)

Image source: California Coastal Records Project, Image 200503468

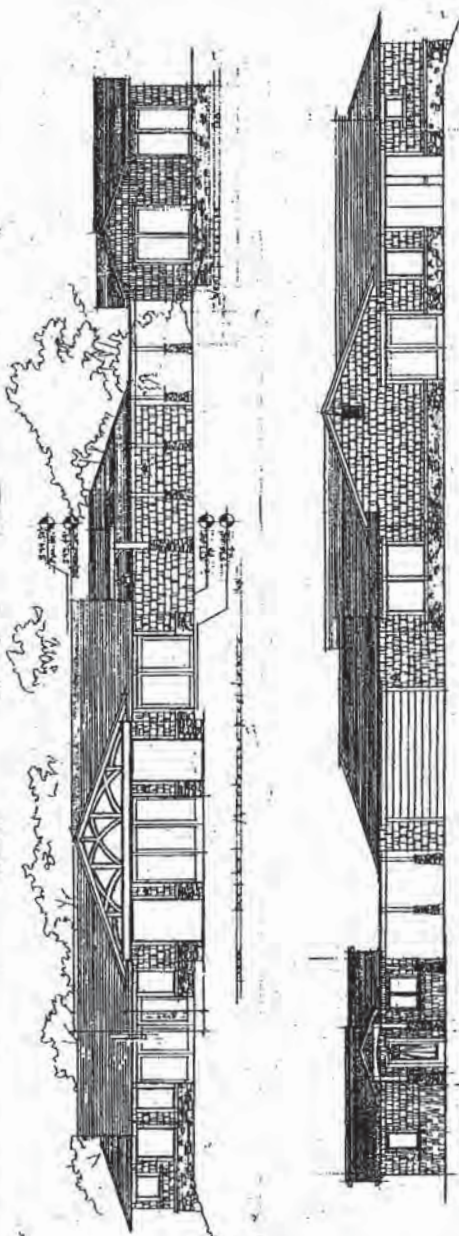
2012

AREA CALC

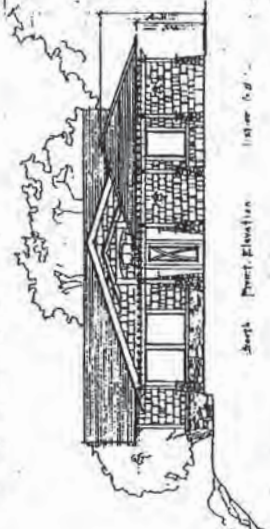
MAX HEIGHT CALC
 ELEVATION & VERTICAL DISTANCE
 - 10' TYPICAL
 MAXIMUM ALLOWABLE HEIGHT = 177.00'
 FLOOR ELEVATION
 177.00'
 TRUSS ELEVATION
 177.00'
 TRUSS HEIGHT
 177.00' - 177.00' = 0.00'
 TRUSS HEIGHT
 177.00' - 177.00' = 0.00'
 TRUSS HEIGHT
 177.00' - 177.00' = 0.00'



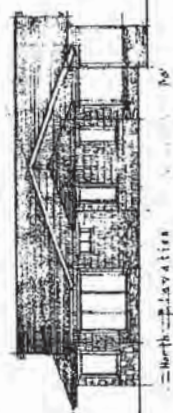
Floor Plans and Elevations



Front Elevation



Side Elevation



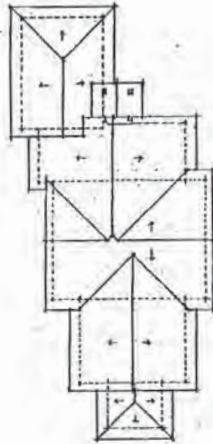
Rear Elevation



Front Elevation



Side Elevation



Floor Plans and Elevations

EXHIBIT NO. 7
APPEAL NO.
 A-1-MEN-10-015
BETHEL & HUPP
 WESTERN ELEVATION CDPM
 #98-2001(2005)

DATE	10/10/05
BY	W. E. HUPP
FOR	THE BETHEL RESIDENCE
PROJECT NO.	9490 N. Highway 1
LOCATION	Manitowish, WI
SCALE	1/4" = 1'-0"



The Bethel Residence
 9490 N. Highway 1
 Manitowish, WI
 APR 18-03-04



CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: SEE ATTACHMENT A

Mailing Address:

City:

Zip Code:

Phone:

EXHIBIT NO. 8

APPEAL NO.

A-1-MEN-10-015

BETHEL & HUPP

APPEAL (1 of 12)

SECTION II. Decision Being Appealed

1. Name of local/port government:

County of Mendocino

2. Brief description of development being appealed:

Material modification to CDPM #98-2001(2005) to remove the guest cottage creating guest bedroom, alter the approved building footprint, and add additional windows to all elevations of the residence.

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

Approximately 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (county road #500B), approximately 50 feet southeast of its intersection with Highway One at 9401 Road 500B Road (APN 119-320-04)

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

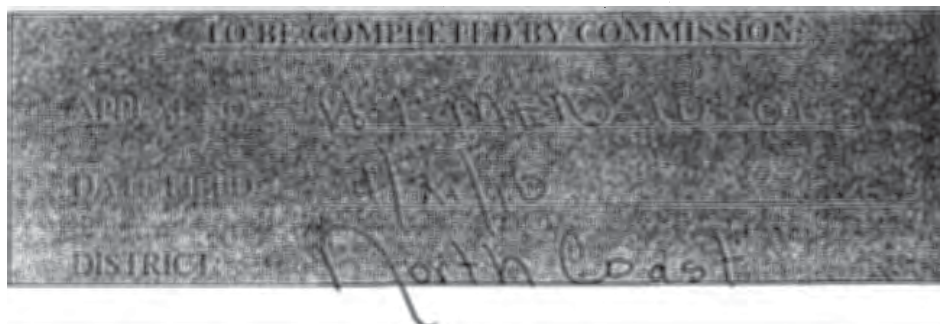
- ☐ Approval; no special conditions
- ☒ Approval with special conditions:
- ☐ Denial

RECEIVED

APR 21 2010

CALIFORNIA
COASTAL COMMISSION

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



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

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

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

6. Date of local government's decision: March 25, 2010

7. Local government's file number (if any): CDP-98-2001(2009)

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

Barbara Bethel
P.O. Box 1688
Mendocino, CA 95460

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

(1) Amy Wynn, Agent
Amy Wynn Coastal Development Permits
703 North Main Street
Fort Bragg, CA 95437

(2) John Hupp, Owner
P.O. Box 932
Pismo Beach, CA 93448

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

See Attachment B.



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Page 4

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

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

SECTION V. Certification

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

Signature _____
Appel Signature on File ? Signature on File

Date: April 21, 2010

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

Signed: _____

Date: _____

ATTACHMENT A

SECTION I. Appellant(s)

1. Mary K. Shallenberger
45 Fremont Street, Suite 2000
San Francisco, CA 94105

(415) 904-5200
2. Richard Bloom
City of Santa Monica
P. O. Box 2200
Santa Monica, CA 90407-2200

(415) 904-5200

ATTACHMENT B

APPEALABLE PROJECT:

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

The subject development is appealable to the Commission pursuant to Section 30603 of the Coastal Act because the approved development is located (1) within a designated "highly scenic area," which is a type of sensitive coastal resource area; and (2) within 300 feet of the top of the seaward face of a coastal bluff.

BACKGROUND:

The County of Mendocino approved Coastal Development Permit Modification (CDPM) #98-2001(2009) for a material modification to the previously-approved CDPM # 98-2001(2005). The previously-approved CDPM from 2005 allowed construction of a 2,900 square-foot single-family residence with an attached 689-square-foot garage and a maximum average height of 18 feet above natural grade, plus the addition of a 640-square-foot detached guest cottage with a maximum height of 18 feet above natural grade, for a total of 4,229 square feet. The 2005 modification also allowed grading associated with lot development, installation of a well and septic system and connection to utilities at the edge of the parcel, and installation of a driveway and retaining wall. The 2005 modification followed the 2002 approval of Coastal Development Permit #98-01 and upon a change in ownership of the parcel, a 2004 renewal of the original permit was approved, which expired on October 28, 2005.

The new owner and applicant began building using the previously-approved CDPM#98-2001(2005), but significantly modified the design during the construction process and without prior approval. A partially-built structure is currently developed at the site that deviates from the 2005 CDPM. An after-the-fact application was submitted as CDPM #98-2001(2009) to alter the 2005-approved building footprint by attaching the guest cottage to the residence (creating a guest bedroom and hallway), enclosing a portion of the previously-approved patio into living space, installing additional windows to all elevations of the residence, modifying house and roof

materials, and adding trim colors not previously reviewed under the 2005 modification. The proposed modifications result in an enlarged house footprint from 2,900 square feet to 3,988 square feet with a reduced garage space from 689 square feet to 575 square feet, resulting in an increase in total development from 4,229 square feet to 4,563 total square feet. In addition, there is an increase in windows on the western elevation from the previously-approved 18 (plus a gable end window) to 28 (plus a gable end window). The window changes result in an approximate 100% increase in window glazing on the western elevation, which is the side of the house visible from Headlands State Park and the Town of Mendocino.

The approved development is located approximately 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (county road #500B), approximately 50 feet southeast of its intersection with Highway One at 9401 Road 500B Road (APN 119-320-04), in a designated Highly Scenic Area (HSA).

REASONS FOR APPEAL:

The approved development is inconsistent with the certified LCP, including but not limited to the policies contained in the Visual Resources sub-section of Section 3: Resources and Development Issues and Policies of the Land Use Plan, and the development regulations and standards of Section 20.504 and Section 20.496.020 of the Mendocino County Coastal Zoning Code (herein "Coastal Zoning Code" or "CZC"), for the following reasons:

- A. Inconsistencies with LUP Visual Resources Policies and Coastal Zoning Code Regulations Regarding Visual Resources and Highly Scenic Areas

LCP Policies on the Protection of Visual Resources:

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

...

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

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

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

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the Ten Mile River estuary south to the Navarro River as mapped with noted exceptions and inclusions of certain areas east of Highway 1.*

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

LUP Policy 3.5-4 states in applicable part (emphasis added):

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

...

Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel.

LUP Policy 3.5-5 states as follows:

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

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

...

(C) Development Criteria.

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

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

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

...

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

(a) Near the toe of a slope;

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

...

- (8) Minimize visual impact of development on ridges by the following criteria:
 - (a) Prohibiting development that projects above the ridgeline;
 - (b) If no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation;
 - (c) Prohibiting removal of tree masses which destroy the ridgeline silhouette.
- ...
- (10) *Tree planting to screen buildings shall be encouraged, however, new development shall not allow trees to interfere with coastal/ocean views from public areas.*
 - (11) *Power transmission lines shall be located along established corridors where possible and where the corridors are not visually intrusive.*
 - (12) *Power distribution lines shall be placed underground in designated "highly scenic areas" west of Highway 1 and in new subdivisions. East of Highway 1, power lines shall be placed below ridgelines if technically feasible.*
 - (13) *Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991) [emphasis added].*

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

...

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

Discussion:

LUP Visual Resources Policy No. 3.5-1 and CZC Section 20.504.015 state that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas; furthermore, new development in Highly Scenic Areas (HSAs) shall be subordinate to the character of the setting. LUP Policy No. 3.5-3 reiterates that new development in highly scenic areas shall be subordinate to the character of its setting.

The development conditionally approved by the County is inconsistent with the above cited LUP Visual Resources policies and Coastal Zoning Code Regulation standards, because the development is within a designated highly scenic area and the development is not subordinate to the character of the setting. The county noted the proposed residence is visible from the Town of

Mendocino, Mendocino Headlands State Park, turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch. As noted above, the Coastal Development Permit Modification was submitted after the fact and a partially built structure is currently developed at the site. The development site is particularly prominent from major viewing areas, especially looking south across Mendocino Bay from the historic Town of Mendocino and the adjoining Mendocino Headlands State Park, which are major visitor destinations along the Mendocino coast. These viewing areas are visited by many thousands of visitors every year.

The county notes "The proposed modification includes a significant increase in glazing from the 2005 modification, as well as enclosure of a portion of the previously approved patio and attachment of the previously approved guest cottage. These proposed modifications significantly alter the western elevation as visible from the public viewing points mentioned above." The modifications to windows on the western elevation increased the number from 18 (plus a gable end window) to 28 (plus a gable end window). The change from the 2005-approved 426 square feet of windows to the current 839 square feet of windows results in an approximate 100% increase in window glazing on the western elevation. The windows are a much more reflective surface than siding material and greatly affect the visual prominence of the development. The partially-built structure is visible in the 2009 California Coastal Records Project images numbered 20093160 and 20093159, available at <http://www.californiacoastline.org>.

County staff approved modified final conditions requiring planting of vegetation to screen the structure with a requirement that a minimum of 50% of all required landscaping be planted, staked and fenced for protection prior to a building inspection. Conditions also included requirements to achieve 60% vegetative screening of the structure, but did not impose timeframes for this success criterion. Conditions also included increased tree replacement ratios from the 2005 approved modification to account for trees that have been removed without prior County approval- and that were not replanted- pursuant to the 2005 permit requirements. The County also required submittal of a 200% performance deposit to encourage fulfillment of all vegetation screening conditions. Documents submitted by the agent show proposed landscaping includes nonnative *Podocarpus henkelii* ("Long-leafed Yellowwood") and *Cupressus leylandii* ("Leyland Cypress") in addition to the native *Pinus contortus* [sic] ("shore pine").

While vegetative screening may aid in buffering the view of the proposed development, planting vegetation should not be solely relied upon to mitigate visual impacts, particularly at this coastal property where no screening vegetation currently exists to visually buffer the development. Furthermore, due to the location within 300 feet of the top of the seaward face of the coastal bluff, strong winds and salt spray may inhibit growth of vegetation such that it does not succeed at growing, or may take a few years to a decade or more to fully achieve a height that functions as screening. Therefore, even if vegetation is planted immediately, it will not fully mitigate the visual impacts that continue to occur, and if the vegetation is unsuccessful, there will be no other recourse to ensure consistency with LUP Policy 3.5-1 and CZC Section 20504.015.

In addition to increases in window number and surface area that are not subordinate to the character of the setting, the County staff report notes that the proposed trim and window frame color chosen by the applicant and described as "Mendocino Blond" "contrasts with the siding and is a prominent feature visible from the Town of Mendocino and Headlands State Park."

County staff had recommended a condition requiring that the applicant "submit an alternative window frame and trim color that is dark and minimizes contrast, such as a color that matches the hue and brightness of the siding. A revised west elevation shall be submitted which illustrates the elimination of the stone veneer siding. Prior to the final building inspection, the revised trim and window frame color shall be painted." However, the condition was deleted from the approved project, without any findings justifying this action.


As the project as approved will not visually blend with its surroundings, it is not subordinate to the character of its setting and is therefore inconsistent with LCP policies regarding the protection of visual resources including, but not limited to LUP Policy 3.5-1 and CZC Section 20.504.015.

CALIFORNIA COASTAL COMMISSION

RTH COAST DISTRICT OFFICE
E STREET, SUITE 200
REKA, CA 95501
7) 445-7833 FAX (707) 445-7877
w.coastal.ca.gov



NOTIFICATION OF APPEAL PERIOD

DATE: April 12, 2010
TO: Abbey Stockwell, Project Coordinator
County of Mendocino, Department of Planning and Building Services
790 South Franklin Street
Fort Bragg, CA 95437
FROM: Tamara Gedik, Coastal Program Analyst 
RE: Application No. 1-MEN-09-157

Please be advised that on April 7, 2010 our office received notice of local action on the coastal development permit described below:

Local Permit #: CDPM #98-2001(2009)

Applicant(s): Barbara Bethel; John Hupp

Description: Material modification to CDPM ~~98~~⁹⁸-2001(2005) to alter the approved building footprint: attaching the guest cottage to the residence (creating a guest bedroom), and additional windows to all elevations of the residence. Request for temporary occupancy of a travel trailer during construction.

Location: 9490 North Highway One, Mendocino (Mendocino County) (APN(s) 119-320-04)

Unless an appeal is filed with the Coastal Commission, the action will become final at the end of the Commission appeal period. The appeal period will end at 5:00 PM on April 21, 2010.

Our office will notify you if an appeal is filed.


If you have any questions, please contact me at the address and telephone number shown above.

cc: Barbara Bethel
John Hupp

EXHIBIT NO. 9

APPEAL NO.
A-1-MEN-10-015
BETHEL & HUPP
NOTICE OF FINAL LOCAL
ACTION & FINDINGS FOR
APPROVAL (1 of 32)

INTEROFFICE MEMORANDUM

TO: CALIFORNIA COASTAL COMMISSION
FROM:  ANN, MENDOCINO COUNTY PBS, FORT BRAGG
SUBJECT: NOTICE OF FINAL ACTION, 3/25/2010 CPA AGENDA
DATE: 4/5/2010

Enclosed please find the Notice of Final Action, action sheet, and modified conditions for the following item heard at the March 25, 2010, Coastal Permit Administrator hearing:

CDPM #98-2001(2009) (Hupp/Bethel)

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COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET • FORT BRAGG • CALIFORNIA • 95437

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

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COASTAL COMMISSION

April 5, 2010

NOTICE OF FINAL ACTION

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

CASE#: CDPM #98-2001(2009)

OWNER: John Hupp

APPLICANT: Barbara Bethel

AGENT: Amy Wynn

REQUEST: Material modification to CDPM 98-2001(2005) to alter the approved building footprint: attaching the guest cottage to the residence (creating a guest bedroom), and additional windows to all elevations of the residence. Request for temporary occupancy of a travel trailer during construction.

LOCATION: In the Coastal Zone, approx. 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (CR# 500B) approx. 50 feet southeast of its intersection with Highway 1, at 9401 Road 500B (APN: 119-320-04).

PROJECT COORDINATOR: Abbey Stockwell

HEARING DATE: March 25, 2010

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION: Approved with Conditions.

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

The project was not appealed at the local level.

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

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

CASE#: CDPM 98-2001(2009)_____ HEARING DATE: March 25, 2010_____

OWNER: Hupp AGENT: Bethel_____

ENVIRONMENTAL CONSIDERATIONS:

☒ Categorically Exempt

_____ Negative Declaration

_____ EIR

FINDINGS:

☒ Per staff report

_____ Modifications and/or additions

ACTION:

☒ Approved

_____ Denied

_____ Continued _____

CONDITIONS:

_____ Per staff report

☒ Modifications and/or additions

Special Condition 3: DELETED

Special Condition 7: To state:

7. Prior to a building inspection, a minimum of 50% of all required landscaping shall be planted, staked, and fenced for protection; the majority of these plantings shall be placed west of the residence. The mature and sapling trees on the parcel which **do and may** provide visual buffering between the proposed development and public view areas along Highway One, in the Town of Mendocino, and from Mendocino Headlands State Park shall be maintained in perpetuity, for the life of the development. Saplings or trees adjacent to the construction site shall be fenced for protection. No limbing or removal of buffering trees shall occur. Replacement trees shall be native, drought resistant and site appropriate (adaptable to the salt wind

conditions of the bluff). Replacement trees shall be protected with fencing and irrigated for at least the **first** year, until well-established. Any replacement trees that die shall be replaced.

a) Prior to the issuance of the coastal development permit, a detailed landscape inventory shall be submitted documenting through both a site plan and photographic record all vegetation which provides visual screening of the building site from the public areas described above. This inventory shall include height, diameter at breast height, and dimension of visual canopy. Any loss of this vegetation shall be replaced at a minimum ratio of 5:1, with a minimum of 15 gallon pot size specimens in the same location. Any replacement planting shall be monitored annually by a professional botanist to assess the success rate. This review shall continue for that period it takes to achieve success. "Success" shall be judged by the both the plants health and the effect of visual screening to achieve a **total of 60% screening coverage of the western and northwestern building elevations.**

b) The fourteen trees that were removed without prior approval shall be replaced as close to the original tree location as feasible and positioned to maximize screening of the proposed residence from the Town of Mendocino, Headlands State Park and Highway 1 turnout. Of the fourteen, the eight that were removed on the west and **southwestern** elevation of the residence shall be replaced at a minimum ratio of 5:1, and replaced with shore and/or bishop pine (*Pinus contorta* or *Pinus muricata*), **unless an alternative landscape plan, which may include phasing and alternative vegetation, can demonstrate to Planning and Building Services to achieve 60% screening of the residence as viewed from public viewing areas.** In addition to planting the replacement trees as close to the original tree location as feasible, replacement trees may be planted to supplement the required screening trees along the northwest portion of the landscape plan. The remaining trees to be replaced shall be replaced at a **minimum of 3:1** ratio. All replaced trees shall be of 15 gallon size (five gallon size may be used if 15 gallons are unavailable), fertilized, irrigated, staked, and fenced for wind protection and maintained in a healthy condition. Replacement planting shall be monitored annually by a professional botanist to assess the success rate. This review shall continue for that period it takes to achieve success (defined above). A copy of the monitoring report shall be sent Planning by April 1 of each year.

c) As an exception to the above, once vegetation is established, discrete, minimal limbing to open up a private view from the development site that does not impact any public view to development, may be accepted however the **owner must acknowledge this limitation in writing prior to any limbing or trimming activities.** A before and proposed "after" exhibit of the limbing to be done must be submitted to the Coastal Permit Administrator for review and approval prior to any limbing.

d) Prior to issuance of the Coastal Development Permit, the landscape plan submitted by Agent Amy Wynn in submittal package dated February 9, 2010, shall be updated to include the above required number of replacement trees. Prior to final building inspection or occupancy, whichever comes first, the landscape plan, including all replacement trees shall be planted and verified in the field by Planning.

e) **Prior to the issuance of the coastal development permit** all costs for monitoring condition compliance and/or enforcement actions that may result from any violation of this condition or its intent shall be at the owner's expense

The property owner shall submit to the County of Mendocino a security in the form of cash, performance bond, irrevocable letter of credit, or other instrument of credit as approved by the County, in an amount equal to 200% of the total value of remediation, including but not limited to plant materials, irrigation, installation, and maintenance **as well as annual monitoring costs**

incurred by the County (based on a minimum of 8 hours per year for a Planner II. This security shall be with the County for a minimum of five year period. The security shall not be released until such time as a professional botanist, landscape architect or other qualified individual approved by the County has submitted a report acceptable to the County that the vegetative screen has been successfully established to 90% of the desired vegetative structure i.e. the 60% screening goal.

Special Condition 8: DELETED

Special Condition 9 to state:

9. Prior to issuance of the new building permit, the applicant shall submit an exterior lighting plan, **including number of lights** and design details or manufacturer's specifications for all the exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded in compliance with Section 20.504.035 of the MCCZC.

(see attached for signature)

Signed: Coastal Permit Administrator

**MENDOCINO COUNTY COASTAL PERMIT ADMINISTRATOR
COASTAL DEVELOPMENT PERMITS
AGENDA**

DATE: March 25, 2010
TIME: 10:00 a.m.
PLACE: Mendocino County Department of Planning and Building Services
Conference Room, 790 South Franklin Street, Fort Bragg, California

A. Determination of Noticing.

B. Public Hearing Items.

1. **CASE#:** CDPM #98-2001(2009)
DATE FILED: 10/6/2009
OWNER: John Hupp
APPLICANT: Barbara Bethel
AGENT: Amy Wynn
REQUEST: Material modification to CDPM 98-2001(2005) to alter the approved building footprint: attaching the guest cottage to the residence (creating a guest bedroom), and additional windows to all elevations of the residence. Request for temporary occupancy of a travel trailer during construction.
LOCATION: In the Coastal Zone, approx. 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (CR# 500B) approx. 50 feet southeast of its intersection with Highway 1, at 9401 Road 500B (APN: 119-320-04).

PROJECT COORDINATOR: Abbey Stockwell

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- C. Matters from the Public.** The Coastal Permit Administrator welcomes participation in meetings. This item is limited to matters under the jurisdiction of the Coastal Permit Administrator which are not on the posted agenda and items which have not already been considered by the Coastal Permit Administrator. No action will be taken.

D. Adjournment.

Appeal Process. Applicants or other persons who are dissatisfied with a decision of the Coastal Permit Administrator may appeal the action to the Board of Supervisors. An appeal must be made in writing along with the applicable fee to the Clerk of the Board within 10 calendar days of the Administrator's decision. The appeal of the decision will be placed on the next available Board of Supervisors agenda for consideration and the appellant will be notified of the time, date and place. Appeals to the Board of Supervisors do not necessarily guarantee that the Coastal Permit Administrator's decision will be overturned. In some cases, the Board of Supervisors may not have the legal authority to overturn the decision of the Coastal Permit Administrator.



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET • FORT BRAGG • CALIFORNIA • 95437

notice hupp bethel cdpm 98 2001 2009

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COASTAL COMMISSION

March 12, 2010

PUBLIC NOTICE OF PENDING ACTION
STANDARD COASTAL DEVELOPMENT PERMIT

The Mendocino County Coastal Permit Administrator, at a regular meeting to be held Thursday, March 25, 2010 in the Planning and Building Services Conference Room, 790 South Franklin Street, Fort Bragg, at 10:00 a.m. or as soon thereafter as the item may be heard, will hear the below described project that is located in the Coastal Zone.

CASE #: CDPM #98-2001(2009)
DATE FILED: 10/6/2009
OWNER: John Hupp
APPLICANT: Barbara Bethel
AGENT: Amy Wynn
REQUEST: Material modification to CDPM 98-2001(2005) to alter the approved building footprint: attaching the guest cottage to the residence (creating a guest bedroom), and additional windows to all elevations of the residence. Request for temporary occupancy of a travel trailer during construction.
LOCATION: In the Coastal Zone, approx. 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (CR# 500B) approx. 50 feet southeast of its intersection with Highway 1, at 9401 Road 500B (APN: 119-320-04).
PROJECT COORDINATOR: Abbey Stockwell

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

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

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

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

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

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

Frank Lynch, Coastal Permit Administrator

STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)
March 25, 2010
CPA-1

OWNER: John Hupp
Po Box 932
Pismo Beach, CA 93448

AGENT: Amy Wynn
703 N. Main St
Fort Bragg, CA 95437

APPLICANT: Barbara Bethel
Po Box 1688
Mendocino, CA 95460

REQUEST: Material modification to CDPM 98-2001(2005) to alter the approved building footprint: attaching the guest cottage to the residence (creating a guest bedroom), and additional windows to all elevations of the residence. Request for temporary occupancy of a travel trailer during construction.

LOCATION: In the Coastal Zone, approx. 1.5 miles south of the Town of Mendocino, on the east side of Frontage Road 500B (CR# 500B) approx. 50 feet southeast of its intersection with Highway 1, at 9401 Road 500B (APN: 119-320-04).

APPEALABLE AREA: Yes - Highly Scenic Area

PERMIT TYPE: Standard

TOTAL ACREAGE: ~1.06 acre

GENERAL PLAN: RR-5

ZONING: RR:L-5

EXISTING USES: Residential

ADJACENT ZONING: North, East, South: RR:L-5
West: RR:L-5 [*5C]

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

SUPERVISORIAL DISTRICT: 5

CA COASTAL RECORDS PROJECT: Image 200903160 & Image 200903159

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

OTHER RELATED APPLICATIONS: CDP 98-2001 SFR; CDPM 98-2001(2005) material modification to SFR; BF 2006-1024 SFR; CE 42-01 test well.

PROJECT BACKGROUND: CDP 98-01 was issued 5/30/03 for the construction of a 3,900 square foot residence with an average maximum height of ~16', and an attached 600 square foot garage for a total of 4,500 square feet of development, installation of a well and a septic system, grading and vegetation removal and installation of a driveway. CDPM 98-01(05) approved a material modification for the construction of a 2,900 square foot single-family residence with an attached 689 square foot garage with a maximum height of 18' from average natural grade. The 2005 application also included the construction of a 640 square foot guest cottage with a maximum height of 18' from average natural grade. The total amount of development approved was 4,229 square feet. Also approved was grading associated with lot development and the installation of a well and septic system, driveway, retaining wall, and connection to utilities.

The subject material modifications to the approved CDPM 98-01(05) have already taken place, subsequent to the approved Building Permit (BF 2006-1024). The Building Permit that was signed off by Planning Staff substantially deviates from approved CDPM 98-01(05). There is a letter, dated December 21, 2006, in the file from Planning staff which describes how the submitted building plan fails to meet the approved CDP plans. Subsequent to this letter, Planning signed off on the submitted building plans without a record as to how the deviations from the CDP plans were rectified. As construction progressed it became clear to PBS that what was being built deviated further from what was submitted on the building plans. The changes in construction design prompted the applicant to apply for the subject modification in order to complete construction.

PROJECT DESCRIPTION: The applicant requests a material modification to CDPM 98-2001(2005) to alter the approved building footprint. The footprint alteration includes attaching the previously approved guest cottage to the residence creating a guest bedroom and hallway and enclosing a portion of the previously approved patio into living space, enlarging the footprint from ~2900 ft² to ~3,988 ft². Also proposed are additional windows to all elevations of the residence. The following lists the numbers of windows, including doors, between the CDPM 98-01(2005) and the subject modification. The following are close approximations as the changes in footprint slightly altered the elevations.

Elevation	2005	2009
West	18(+ gable end window)	28(+ gable end window)
South	4	10
East	12	21
North	6	17

The applicant also requests temporary occupancy of a travel trailer during construction.

The subject parcel is located in a Highly Scenic Area west of Highway 1, and is visible from the Town of Mendocino, Mendocino Headlands State Park, turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch.

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

Land Use

The parcel is classified on the Coastal Plan Map as Rural Residential Five Acres Minimum. The parcel is similarly zoned; RR:L-5. The proposed single family residence and associated development are permitted uses within the Rural Residential Zoning District, and are consistent with the Rural Residential land use classification. Brewery Gulch Road (Frontage Road 500 B) is shown on the Land Use Map as existing shoreline access. The Land Use Map also indicates the subject parcel is within a Special Treatment Area.

The required yard setbacks for a one acre parcel in an RR-5 zone are 20 feet from front, side, and rear property lines. A corridor preservation setback of 25 feet applies along Frontage Road 500 B, resulting in a front yard setback of either 45 feet from the road corridor centerline or 20 feet from the property line, whichever is greater. A corridor preservation setback of 40 feet would apply along State Highway One, resulting in a front yard setback of either 60 feet from the highway corridor centerline or 20 feet from the property line, whichever is greater. As shown on the Site Plan, a corner of the proposed deck is within setback on the western elevation. Additionally, there is a water feature and water storage tank within the setback on the eastern property line. **Special Condition 1** is recommended to require a revised site plan which shows that the portion of the deck within the setback be removed, or the deck should be shown to be less than 30" from the ground and therefore would not be required to meet setbacks. The water feature and water storage tank shall be removed or relocated to conform with the setback requirement. In addition, the revised site is required to illustrate the setback from Highway 1 is met.

The site is within a designated highly scenic area, therefore the height limit is 18 feet above average natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. The proposed ~18.5 foot height above natural grade of the residence does not comply with the height limit. **Special Condition 2** is recommended to require that the residence conforms to the height limit.

Maximum lot coverage for a lot less than 2 acres in size in an RR zone is 20%. Lot coverage is the percentage of the gross lot area covered by structures, including roads. The lot is approximately 1.06 acres, or 46,173 square feet. The Site Plan shows approximately 7,400 square feet of coverage, or 16%. The project complies with lot coverage limits.

The approved guest house of the 2005 modification has been attached to the residence for the 2009 proposed modification. The guest room shows a wet bar on the proposed floor plan. **Special Condition 3** is recommended to remove the sink to ensure that the guest room would not be used as a separate residential unit as the guest room would have its own entrance.

Senior Building Inspector, Michael Oliphant, responded to Staff's request for comments that a structural engineer shall submit calculations and plans for all changes to the proposed building. **Special Condition 4** complies with this request.

Temporary use of a trailer coach for occupancy while constructing a dwelling is an allowable temporary use, permitted upon issuance of an administrative permit, per Section 20.460.035(D) of the Mendocino County Coastal Zoning Code. Currently, two travel trailers are present onsite, although only one is illustrated on the submitted site plan in the project file. The trailer that is illustrated would be placed within the 20 foot setback and on top of a portion of the existing leach fields. The Division of Environmental Health (DEH) reviewed the location of the proposed travel coach and cannot give clearance to temporary occupancy at this time. DEH did offer an alternative that would allow for temporary occupancy of the travel coach. In addition, the proposed location must also meet County setback requirements. **Special Condition 5** is added to ensure compliance with applicable temporary occupancy policies should the applicant revise the location and comply with DEH requirements. Otherwise, the travel trailer shall be removed from the project site, or placed in dead storage prior to issuance of the building permit. In addition, the second trailer shall be removed from the project site.

Public Access

The project site is located west of Highway 1, but is not designated as a potential public access trail location on the LUP maps. Brewery Gulch Road is depicted on the Land Use Map as existing shoreline

access. There is no evidence of prescriptive access on the developed site. The project would have no effect on public access to the coast.

Hazards

The property is in an area that has a "moderate" fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention. The Department of Forestry has submitted recommended conditions of approval (CDF# 486-06) for address standards, driveway standards, and defensible space standards. The defensible space setback allows for the 20 foot setback to be mitigated with use of a fire resistive siding such as hardi-plank or construction of a one hour firewall. Standard Condition #4 is recommended to achieve compliance with CDF fire safe standards.

Regarding geologic hazards Sec. 20.500.020 of the MCCZC provides Siting and Land Use Restrictions (pertinent part):

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

Setback (meters) = structure life (75 years) x retreat rate (meters/year)

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

The project site is not a bluff top parcel, however it is the policy of Planning and Building to require a geotechnical investigation when development is proposed within 125' from the bluff edge. The project site's western property boundary is quite steep leading to Frontage Road 500 B, the western edge of the road leads again to another steep slope. As the building footprint was altered and development is proposed slightly closer to the western property edge, Staff felt it was prudent to evaluate slope and geologic conditions of the project site. The applicant submitted a *Geologic Constraints Evaluation* authored by Jim Glomb, a geotechnical and environmental consultant, dated January 11, 2010. Mr. Glomb concluded that the geotechnical setback is 37.5' for the 75 year economic lifespan. In addition, Mr. Glomb states that the proposed development is 165' from the bluff edge and therefore would not be affected by the bluff retreat rate for the determined economic lifespan.

The proposed development would be located on slopes which are less than 20% and the development does not present any issues relative to erosion and/or slope failure. There are no known faults within close proximity to the proposed project.

Grading, Erosion and Runoff

Regarding grading, Section 20.492.010 of the MCCZC states:

(A) Grading shall not significantly disrupt natural drainage patterns and shall not significantly increase volumes of surface runoff unless adequate measures are taken to provide for the increase in surface runoff.

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

(C) Essential grading shall complement the natural land forms. At the intersection of a manufactured cut or fill slope and a natural slope, a gradual transition or rounding of contours shall be provided.

(D) The cut face of earth excavations and fills shall not be steeper than the safe angle of repose for materials encountered. Where consistent with the recommendations of a soils engineer or engineering geologist, a variety of slope ratios shall be applied to any cut or fill slope in excess of two hundred (200) feet in length or ten (10) feet in height. For individually developed lots, a variety of slope ratios shall be applied to all cut or fill slopes when a building pad area exceeds four thousand five hundred (4,500) square feet, or when the total graded area of the lot exceeds nine thousand (9,000) square feet. The steepest permissible slope ratio shall be two to one (2:1), corresponding to a fifty (50) percent slope.

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

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

A grading plan was submitted and approved with the 2005 modification for the proposed building site and driveway. Staff requested the project engineer to review current site conditions to ensure compliance with the approved grading plan. Professional Engineer, Eric Jahelka, responded in a letter dated January 14, 2010 and with an updated grading plan. Mr. Jahelka approximates that ~270 yards of excavation was added to step the interior levels. He also approximates that 90 yards would be replaced and used along the western elevation of the proposed residence as well as under the added parking to the southern elevation.

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

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

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

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

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

The updated grading plan submitted by Mr. Jahelka illustrates two french drains to manage stormwater runoff from the proposed development in front of the western elevation of the proposed residence. Mr. Jahelka also states that the previous erosion control plan is still valid as long as the systems are installed and maintained. **Special Condition 6** is recommended to require compliance with the submitted grading and erosion control plan.

Visual Resources

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

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

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

Policy 3.5-3 of the Coastal Element states:

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

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

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

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

Section 20.504.015(C)(3) also requires:

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

The proposed residence has an average maximum height of ~18.5' and is visible from the Town of Mendocino, Mendocino Headlands State Park, turnouts on Highway 1, and a portion of Van Damme State Park at Brewery Gulch. The approved residence from the 2005 modification had an average height of ~18'. Special Condition 2 is offered to rectify the deviation in the height of the structure to comply with County Code. The proposed modification includes a significant increase in glazing from the 2005 modification, as well as enclosure of a portion of the previously approved patio and attachment of the previously approved guest cottage. These proposed modifications significantly alter the western elevation as visible from the public viewing points mentioned above. Specifically, the 2005 modification approved approximately 426 ft² of glazing on the western elevation; the subject modification proposes approximately 839 ft² of glazing, an approximate 100% increase. Both estimates do not include the gable end windows of either modification. Staff has spent a substantial amount of time viewing the project site from the Town of Mendocino and Headlands State Park and has observed the proposed windows (which

are existing) to be dark and not very reflective, however, this observation occurred during the winter months and prior to occupancy.

The comments garnered during the comment period and notification period for the **original** permit CDP 98-01 resulted in comments from the following entities and individuals:

State Parks: A response to the original referral expressed concern that the development may be visible from State Park property, specifically the Mendocino Headlands State Park from Portuguese Beach to Heeser Drive, and from Van Damme State Park at Brewery Gulch, on the east side of Highway One. Their recommendation was that a landscape plan be prepared by a landscape architect to assure sufficient vegetative screening, as well as the concern that all visual resource conditions be recorded in perpetuity to assure that any future owners of the property follow these requirements.

Staff followed up with Morgan Zeitler of State Parks and he confirmed the previous comments as applicable for the subject project.

Sierra Club: A response to the original referral expressed concern regarding the amount of trees that have been or are to be cut. Their recommendation was for staff to pay special attention to landscaping and color choice concerns; also to exterior lighting details. Further definition of the "existing rock quarry" was requested for clarification purposes. They also stated that it is unclear as to how the slope is determined for the purpose of determining the height of the proposed development.

These concerns were addressed in the initial CDP 98-01. Several Special Conditions were required that covered landscaping, building materials and colors and the approved grading plan. The approved 2005 modification continued the requirements imposed by the original approval however, these conditions were slightly altered to accommodate the modified proposal.

A landscape plan has been updated to account for additional trees removed subsequent to the 2005 modification and the proposed additional glazing. The landscaping requirement of the 2005 permit orders a 3:1 replacement and prior approval to remove additional trees from the project site. Prior approval was not requested, and trees were removed without additional review. The grading plan supplied in the 2005 proposal, site views, and aerial photos were used to assess the amount of trees approved for removal and the additional trees removed. The project Agent also supplied an assessment of the trees removed. Fourteen trees were removed in addition to those approved for the 2005 modification. Staff's assessment of the number and location of trees removed largely agrees with the assessment provided by the project Agent. However, Staff determined that eight trees were removed along the west and southwestern elevation. In addition, the leach field location likely removed all the existing trees, but to compensate several trees that were proposed to be removed to install the driveway remain. The 2005 grading plan and approved landscape plan show discrepancies between the number of trees removed, thus staff relied mainly on the grading plan.

To address the additional trees removed without approval and the existing that remain, **Special Condition 7** is recommended to require replacement and retention of trees, as well as an approved landscaping plan. Staff recommends that the 8 trees removed on the west and southwest elevation be replaced at a 5:1 replacement rate with shore and/or bishop pines and planted as close to the original tree location as feasible and positioned to maximize screening of the proposed residence from the Town of Mendocino, Headlands State Park and Highway 1 turnout. The replacement rate is increased from the 2005 requirement due to the pattern of disregard for County requirements and to ensure that landscape screening is established and maintained. The remaining six of the 14 trees should be replaced at a 3:1 replacement rate. All existing trees are to be photo-documented and adequately inventoried, including the

4-5 saplings Staff observed (and visible in the 2009 California Coastal Records photo Image #200903160) at the southwestern elevation.

The proposed exterior colors and materials are listed in Table 1.

Table 1. Proposed exterior materials and colors.

	Material	Color
Siding	Fiber cement, stone veneer	Maple simulated natural stain, Mendocino Blond
Trim	Composite	Custom color to match native rock
Roofing	Composite Shingle	Cedar
Window Frames	Aluminum	Custom color to match native rock
Doors	Glass	

The trim and window frame color contrasts with the siding, and is a prominent feature visible from the Town of Mendocino and Headlands State Park. **Special Condition 8** is recommended to require a darker trim and window frame color, such as a color that matches the hue and brightness of the siding. This condition is appropriate as the number, and size of the windows has increased since the 2005 modification. In addition, the stone veneer would not be compatible on the western elevation, as the color is light and contrasts with the siding. This condition would also require that colors or materials would not be changed without further review.

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

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

Exterior lighting is proposed as recessed cans in soffits/eaves. Although the application indicated the use recessed lights, staff recommends adding **Special Condition 9** because no specific details have been presented. The condition would allow the Planning Division to review the specific exterior light fixtures and locations prior to issuing the building permit.

Natural Resources

With the original Coastal Development Permit #98-01, the applicant submitted a botanical survey of the parcel prepared by the late Dr. Gordon McBride, Ph.D. and the results were discussed in a report dated July 2, 2001. According to the report, no rare plants were discovered on the subject site, and there are no environmentally sensitive habitat areas located within 100 feet of the proposed development.

The project site has been significantly disturbed in order to prepare the building site and to install the associated developments. As a significant amount of development had been completed at the time of the recent submittal, staff did not request an updated botanical report based on the previous findings.

Archaeological/Cultural Resources

With the original application, CDP 98-01, an archaeological survey was submitted (prepared by Thad Van Bueren, dated August 25, 2001). No archaeological resources were found. The survey was accepted by the Mendocino County Archaeological Commission at the December 12, 2001 meeting.

However, the applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

Groundwater Resources

The parcel is located in a Marginal Water Resources Area (MWR) as designated on the Coastal Groundwater Study.

The proposed development would be served by an existing on-site water source (test well authorized by Categorical Exclusion CE# 42-01). This permit would serve to authorize the conversion of the existing test well into a production well and would not adversely affect groundwater resources.

Carly Williams of the Division of Environmental Health (DEH) gave clearance to the proposed building modifications, however clearance was not granted for temporary occupancy of the travel trailer (see discussion under Land Use).

Transportation/Circulation

The driveway encroachment improvements were approved by the Mendocino County Department of Transportation in the original CDP, the applicant maintains a valid encroachment permit with DOT. Standard Condition 4 is applicable to ensure that all the requirements of the encroachment permit are complied with.

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

Zoning Requirements

The project complies with the zoning requirements for the Rural Residential District set forth in 20.376, et.seq., and with all other zoning requirements of Division II of Title 20 of the Mendocino County Code.

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

FINDINGS:

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

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

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.

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

SPECIAL CONDITIONS:

- 1. Prior to issuance of the Coastal Development Permit, the applicant shall submit a revised site plan which shows the deck on the western elevation meets the required setback, currently the site plan depicts a corner of this deck within the setback. Alternatively, the applicant shall submit verification if the deck is to be less than 30" from the existing grade and therefore would not be required to meet setbacks. The water feature and water storage tank shall be removed or relocated to conform with the setback requirement. In addition, the revised site shall illustrate the 60' setback from Highway 1 is met.
- 2. Prior to issuance of the Coastal Development Permit, the applicant shall submit revised elevations which indicate that the height of the residence is reduced to meet the required 18 foot height limit above natural grade. The applicant shall also submit an explanation as to how this height reduction will be accomplished on the ground. Prior to the final building inspection, the building inspector shall verify the height of the structure.
- 3. Prior to issuance of the Coastal Development Permit, the applicant shall submit a revised floor plan that does not include a sink in the bar of the guest room. The intent of this condition is to ensure that the guest room would not be used as a separate residential unit as the guest room would have its own entrance.
- 4. All modifications from the 2005 approved residence shall be submitted in a new building permit application. A structural engineer shall submit calculations and plans to the building inspector of all changes to the residence.
- 5. Prior to issuance of an administrative permit for temporary occupancy, the applicant shall meet DEH requirements and submit a revised site plan which places the travel trailer outside of the 20 foot setback. Once these requirements have been met, an administrative permit may

be granted for temporary occupancy of the travel trailer while constructing the single-family residence, subject to the following conditions of approval:

- a. The term of this administrative permit is valid for the period required to complete construction of the primary dwelling, but shall not exceed two years unless renewed. The administrative permit shall be effective on the effective date of CDPM #98-2001(05)(2009) and shall expire two years henceforth.
- b. A valid building permit for a permanent dwelling on the premises must be in effect.
- c. All utility connections to the travel trailer shall be disconnected and the trailer shall be removed from the property or placed in dead storage per Section 20.456.015(J) of the MCC prior to the final building inspection or occupancy of the permanent dwelling, whichever comes first.
- d. The second trailer shall be removed from the project site.

If the applicant does not proceed with temporary occupancy of the travel trailer, prior to issuance of the building permit, both travel trailers located onsite shall be removed, or one may be placed in dead storage onsite.

6. The applicant, and all contractors working on the project site shall comply with the requirements and guidelines set forth in the grading and erosion control plan submitted by Mr. Eric Jahelka. The installation of the proposed french drains shall not disturb existing trees or saplings. A copy of this staff report shall be supplied to the contractor(s) and remain onsite.
7. Prior to a building inspection, a minimum of 50% of all required landscaping shall be planted, staked, and fenced for protection; the majority of these plantings shall be placed west of the residence. The mature and sapling trees on the parcel which provide visual buffering between the proposed development and public view areas along Highway One, in the Town of Mendocino, and from Mendocino Headlands State Park shall be maintained in perpetuity, for the life of the development. Saplings or trees adjacent to the construction site shall be fenced for protection. No limbing or removal of buffering trees shall occur. Replacement trees shall be native, drought resistant and site appropriate (adaptable to the salt wind conditions of the bluff). Replacement trees shall be protected with fencing and irrigated for at least the first year, until well-established. Any replacement trees that die shall be replaced.
 - a) Prior to the issuance of the coastal development permit, a detailed landscape inventory shall be submitted documenting through both a site plan and photographic record all vegetation which provides visual screening of the building site from the public areas described above. This inventory shall include height, diameter at breast height, and dimension of visual canopy. Any loss of this vegetation shall be replaced at a minimum ratio of 5:1, with a minimum of 15 gallon pot size specimens in the same location. Any replacement planting shall be monitored annually by a professional botanist to assess the success rate. This review shall continue for that period it takes to achieve success. "Success" shall be judged by the both the plants health and the effect of visual screening in comparison to that which exists at the time of granting this entitlement. Overall, full success may be accepted with a ratio of 1:1 when the vegetative screen matures and fully replaces the visual screen to the standard which exists at the time of granting of this entitlement.

- b) The fourteen trees that were removed without prior approval shall be replaced as close to the original tree location as feasible and positioned to maximize screening of the proposed residence from the Town of Mendocino, Headlands State Park and Highway 1 turnout. Of the fourteen, the eight that were removed on the west and southwestern elevation of the residence shall be replaced at a minimum ratio of 5:1, and replaced with shore and/or bishop pine (*Pinus contorta* or *Pinus muricata*). In addition to planting the replacement trees as close to the original tree location as feasible, replacement trees may be planted to supplement the required screening trees along the northwest portion of the landscape plan. The remaining trees to be replaced shall be replaced at a 3:1 ratio. All replaced trees shall be of 15 gallon size (five gallon size may be used if 15 gallons are unavailable), fertilized, irrigated, staked, and fenced for wind protection and maintained in a healthy condition. Replacement planting shall be monitored annually by a professional botanist to assess the success rate. This review shall continue for that period it takes to achieve success (defined above). A copy of the monitoring report shall be sent Planning by April 1 of each year.
 - c) As an exception to the above, once vegetation is established, discrete, minimal limbing to open up a private view from the development site that does not impact any public view to development, may be accepted however the **owner must acknowledge this limitation in writing prior to any limbing or trimming activities**. A before and proposed "after" exhibit of the limbing to be done must be submitted to the Coastal Permit Administrator for review and approval prior to any limbing.
 - d) Prior to issuance of the Coastal Development Permit, the landscape plan submitted by Agent Amy Wynn in submittal package dated February 9, 2010, shall be updated to include the above required number of replacement trees. Prior to final building inspection or occupancy, whichever comes first, the landscape plan, including all replacement trees shall be planted and verified in the field by Planning.
 - d) All costs for monitoring condition compliance and/or enforcement actions that may result from any violation of this condition or its intent shall be at the owner's expense. In the event that such violation occurs, the property owner shall submit to the County of Mendocino a security in the form of cash, performance bond, irrevocable letter of credit, or other instrument of credit as approved by the County, in an amount equal to 200% of the total value of remediation, including but not limited to plant materials, irrigation, installation, and maintenance to be posted with the County for a minimum of five year period. The security shall not be released until such time as a professional botanist, landscape architect or other qualified individual approved by the County has submitted a report acceptable to the County that the vegetative screen has been successfully re-established to 75% of the existing baseline plant structure.
8. Prior to issuance of the Coastal Development Permit, applicant shall submit an alternative window frame and trim color that is dark and minimizes contrast, such as a color that matches the hue and brightness of the siding. A revised west elevation shall be submitted which illustrates the elimination of the stone veneer siding. Prior to the final building inspection, the revised trim and window frame color shall be painted.
9. Prior to issuance of the new building permit, the applicant shall submit an exterior lighting plan and design details or manufacturer's specifications for all the exterior lighting fixtures. Exterior lighting shall be kept to the minimum necessary for safety and security purposes and shall be downcast and shielded in compliance with Section 20.504.035 of the MCCZC.

STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)
March 25, 2010
CPA-14

Staff Report Prepared By:

3.12.10

Date

Abbey Stockwell

Abbey Stockwell
Planner I

Attachments:	Exhibit A	Location Map
	Exhibit B	Coastal Records Photo 2009
	Exhibit C	Zoning Map
	Exhibit D	Orthophoto
	Exhibit E	Groundwater Resources Map
	Exhibit F	Rarefind Map
	Exhibit G	Site Plan
	Exhibit H	Floor Plan
	Exhibit I	Elevations
	Exhibit J	Elevations

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

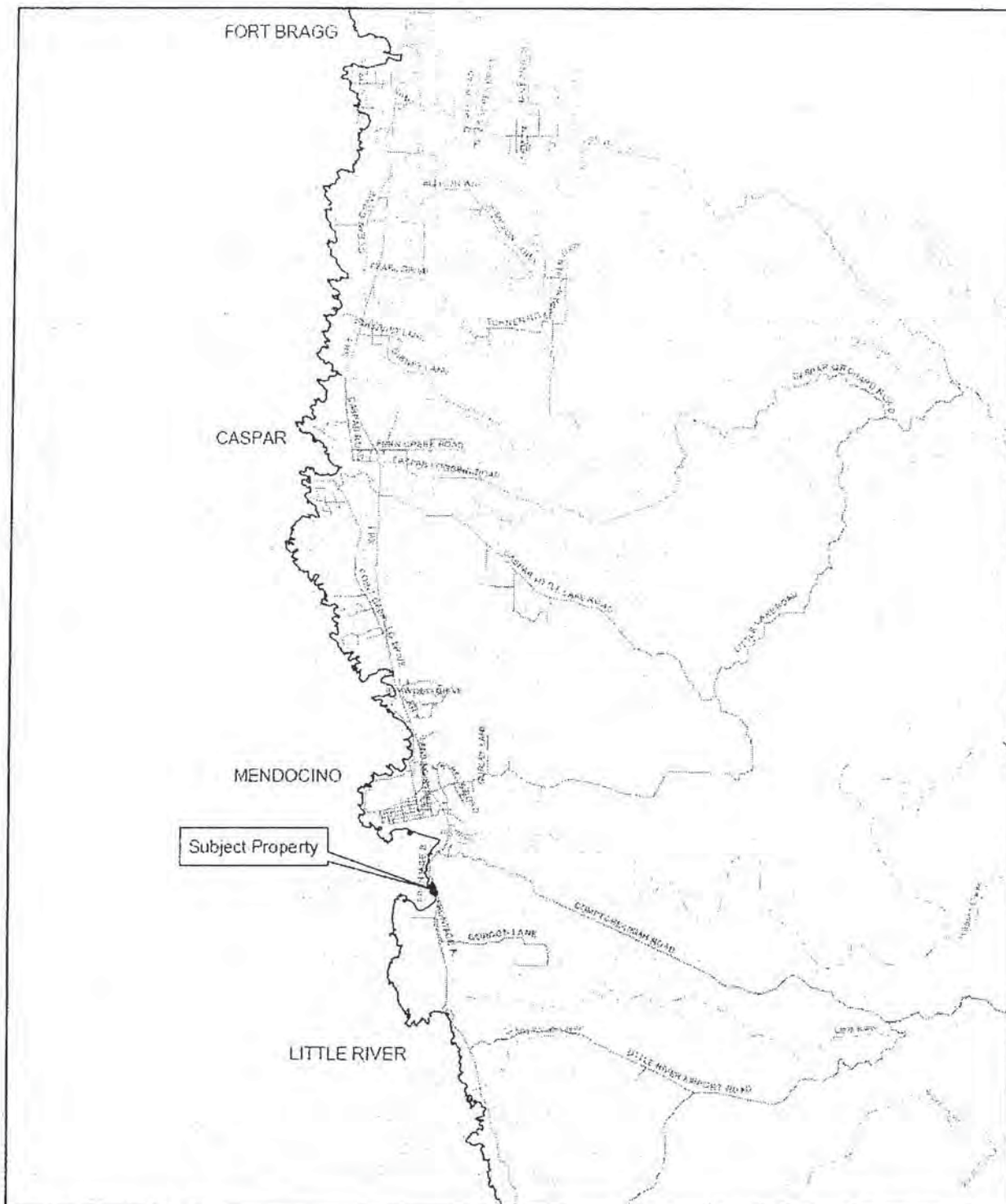
Appeal Fee: \$945 (For an appeal to the Mendocino County Board of Supervisors.)

SUMMARY OF REFERRAL AGENCY COMMENTS:

Planning – Ukiah	No response
Department of Transportation	Encroachment permit is valid.
Environmental Health – Fort Bragg	Clearance can be granted for alternative building plans, temporary occupancy is not approved at this time.
Building Inspection – Fort Bragg	Structural engineer must submit calculations and plans for all changes.
Assessor	No response.
Coastal Commission	No response.
Mendocino Fire Dept	No response.

STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)
March 25, 2010
CPA-15



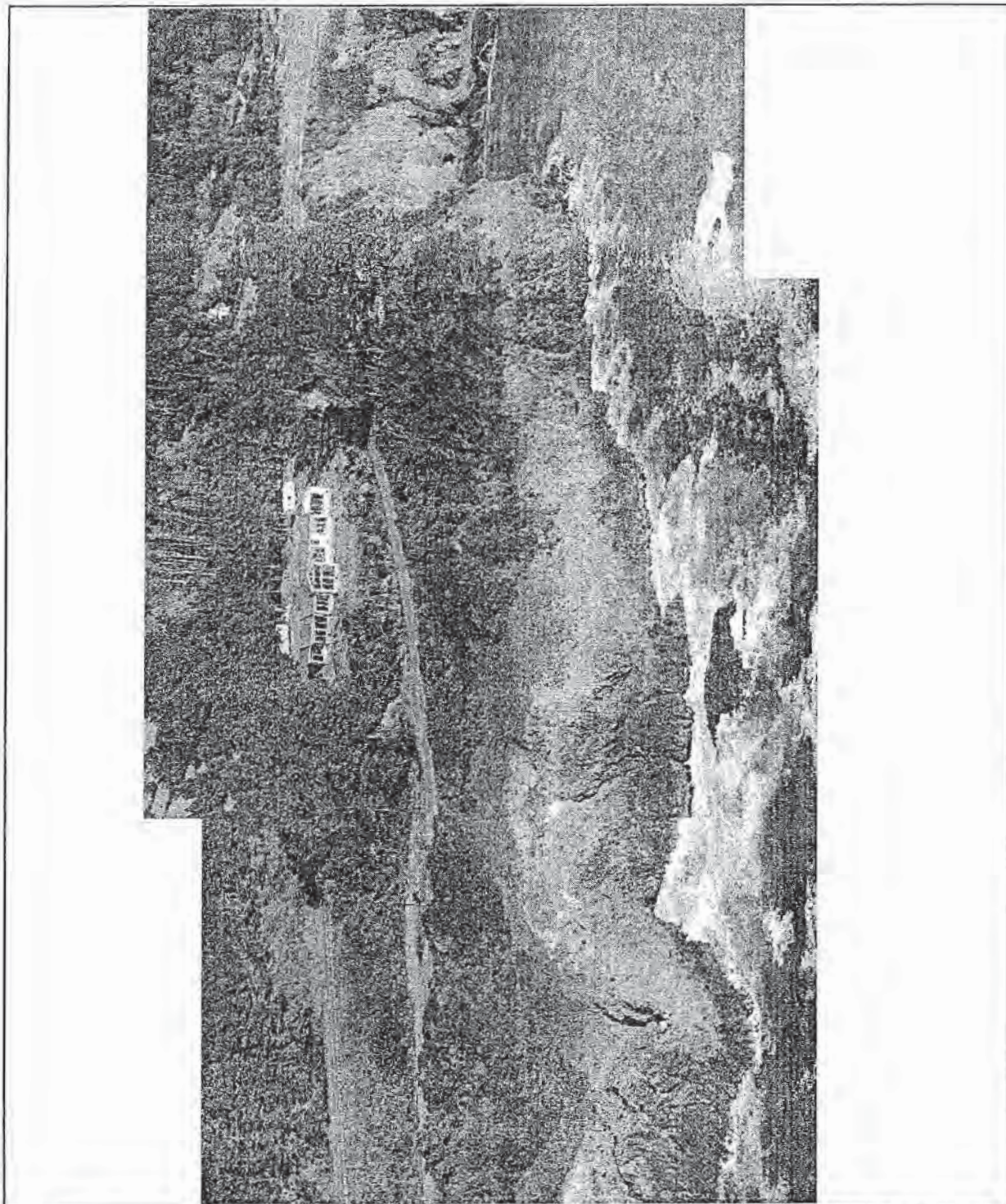
OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

LOCATION MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES. They are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2008)



Exhibit A

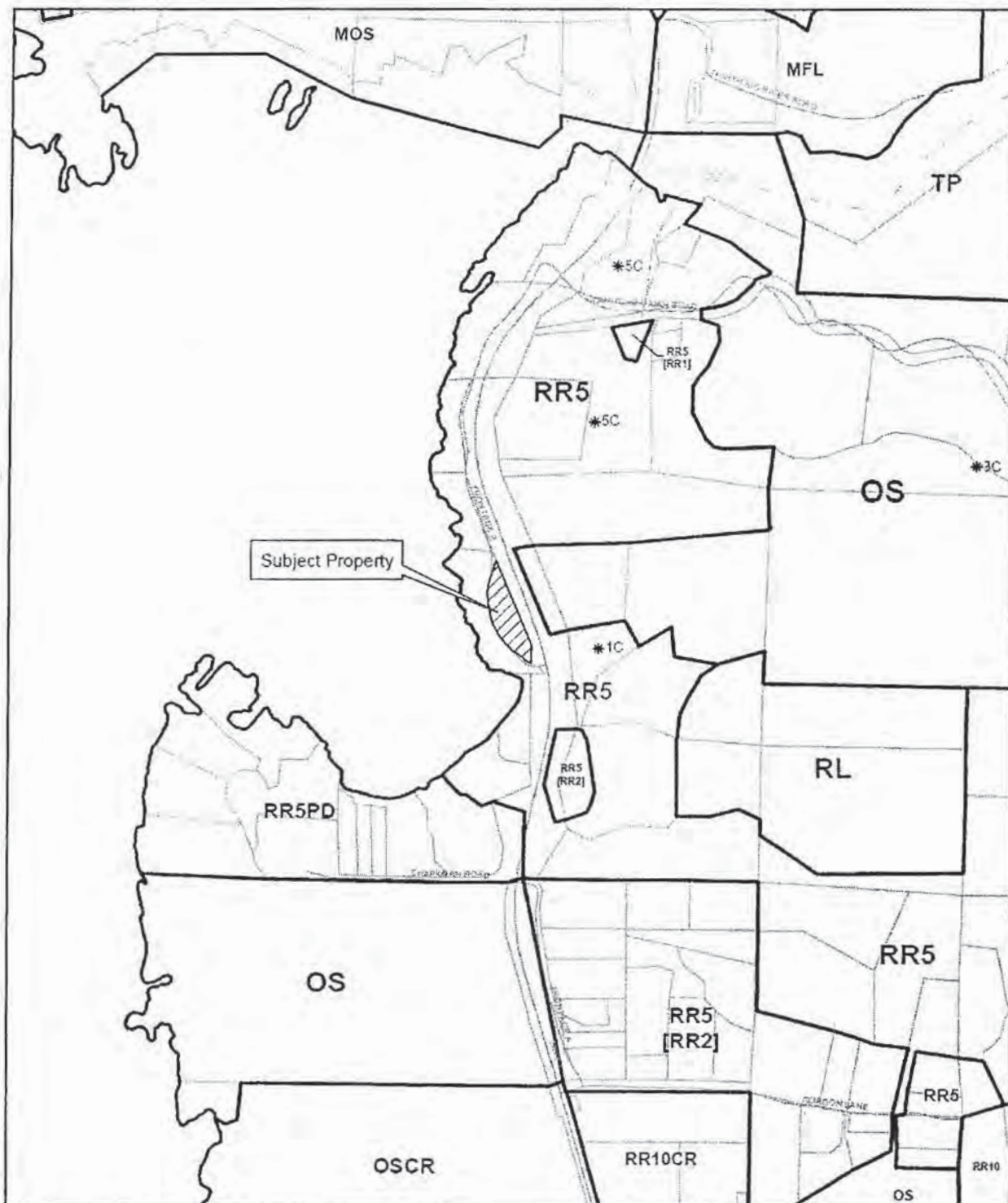


OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

PHOTO SEPTEMBER 27, 2009
CALIFORNIA COASTAL RECORDS PROJECT
COPYRIGHT resourcestrategies@usa.net

Not To Scale





OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

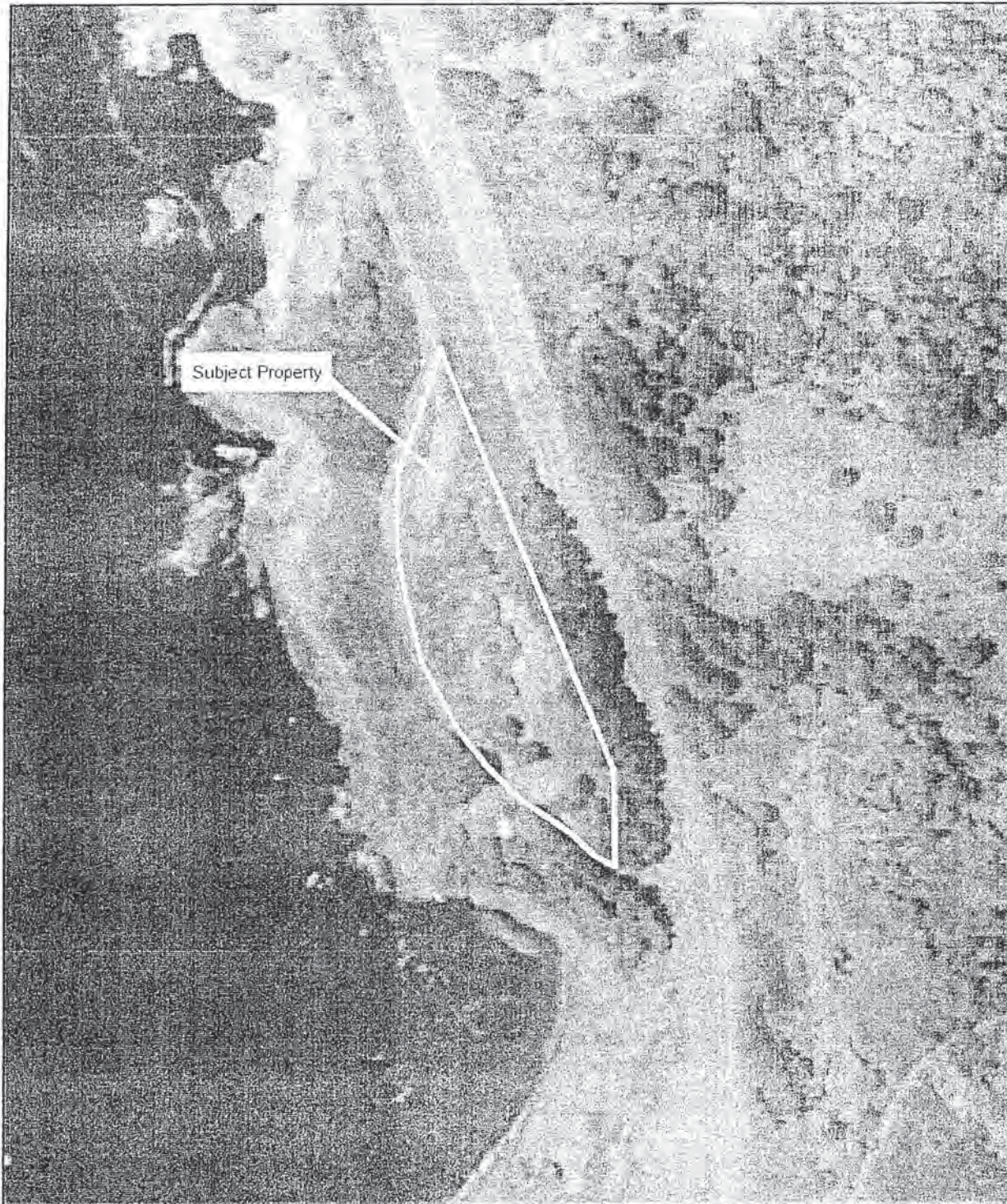
ZONING DISPLAY MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2008)



STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)
March 25, 2010
CPA-18



OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

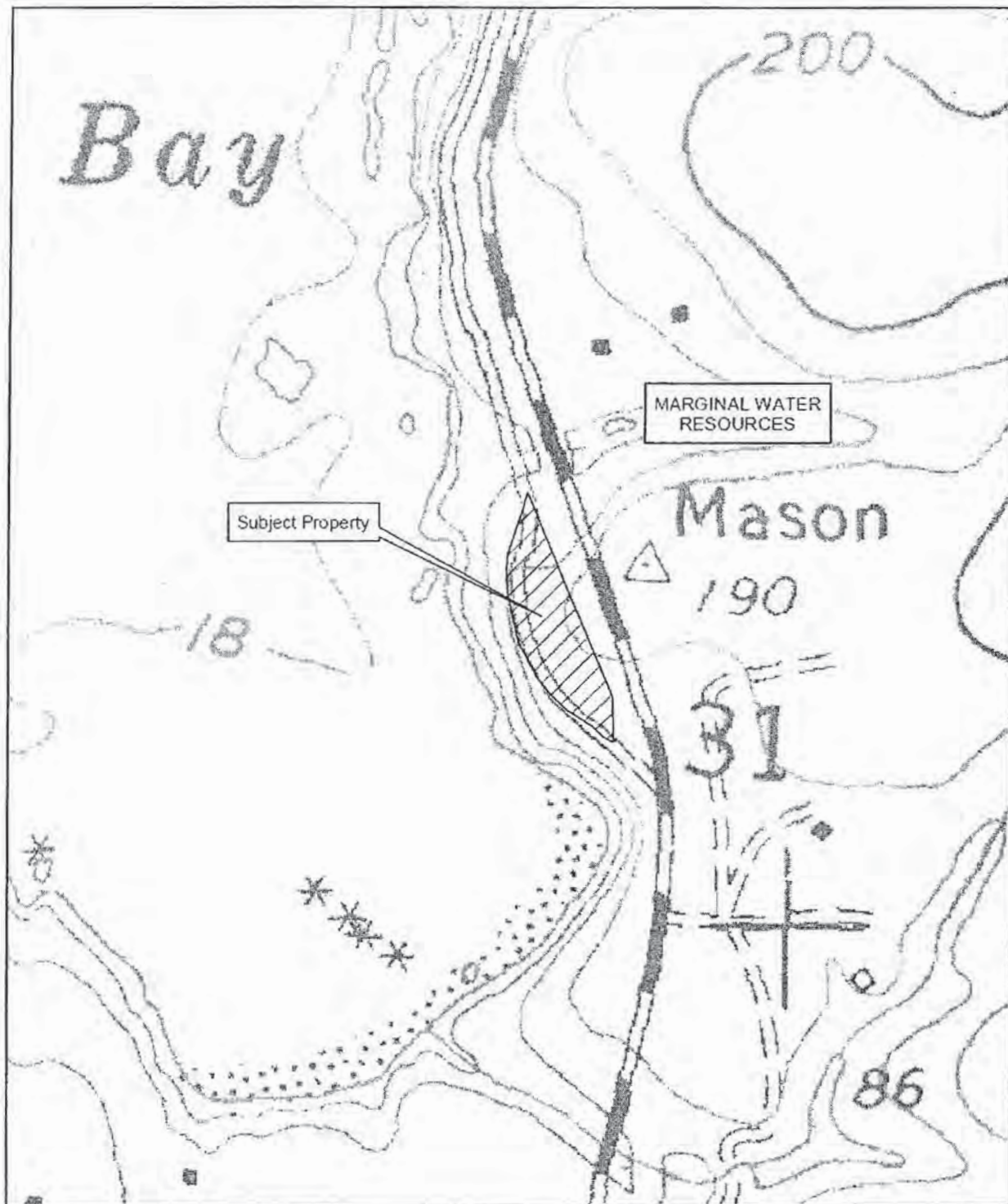
ORTHOPHOTO - June 2009

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2002)

100 50 0 100
Feet



Exhibit D



OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

COASTAL GROUND WATER RESOURCES

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2008)



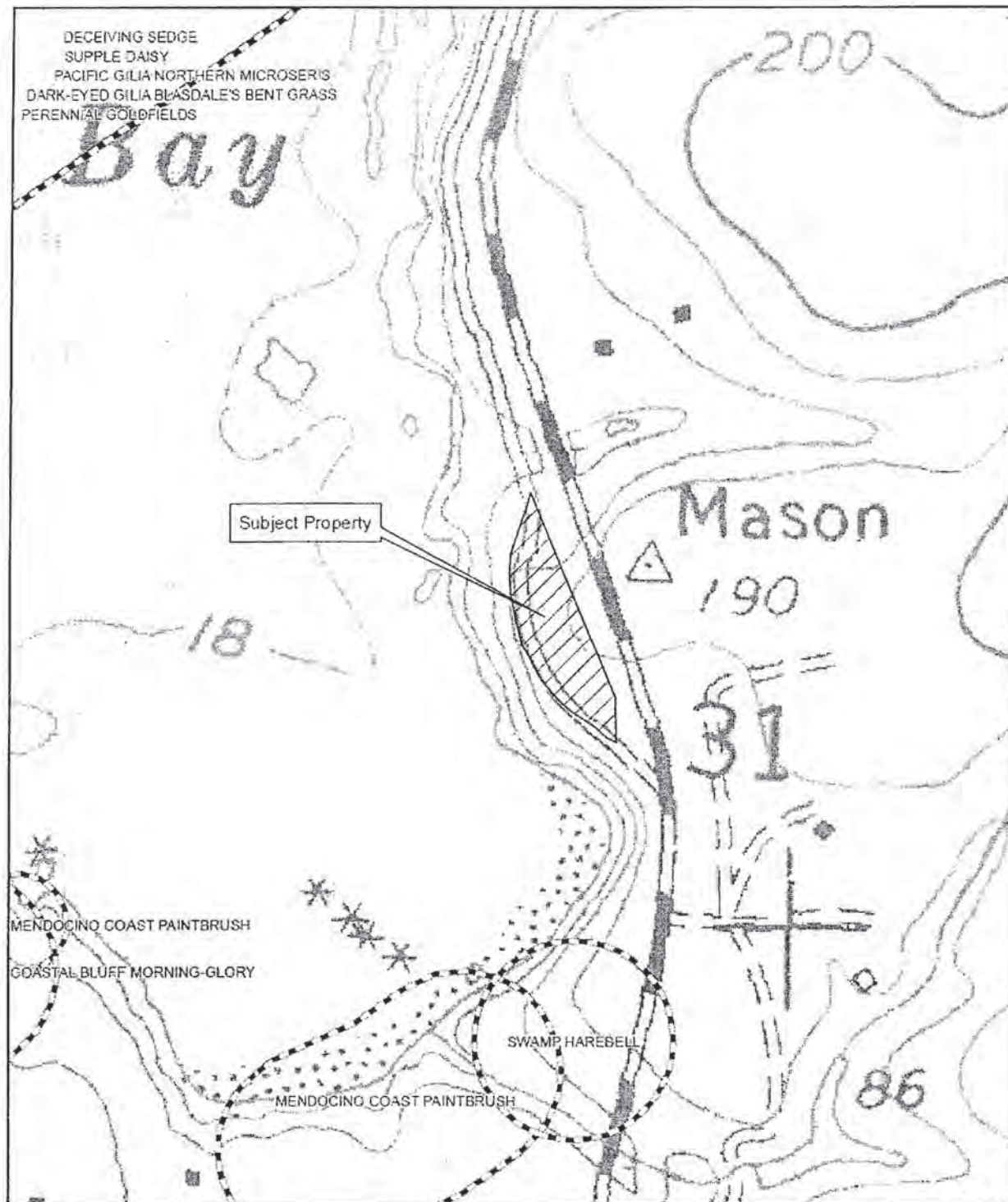
Exhibit E

STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)

March 25, 2010

CPA-20



OWNER: HUPP, John
APPLICANT: BETHEL, Barbara
AGENT: WHYNN, Amy
CASE: CDPM 98-2001 / 2009
APNs: 119-320-04

CALIFORNIA NATURAL DIVERSITY
DATABASE RAREFIND (Jan 2010)

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off. (Parcel lines are as of December 2003.)



Exhibit F

CPA-21

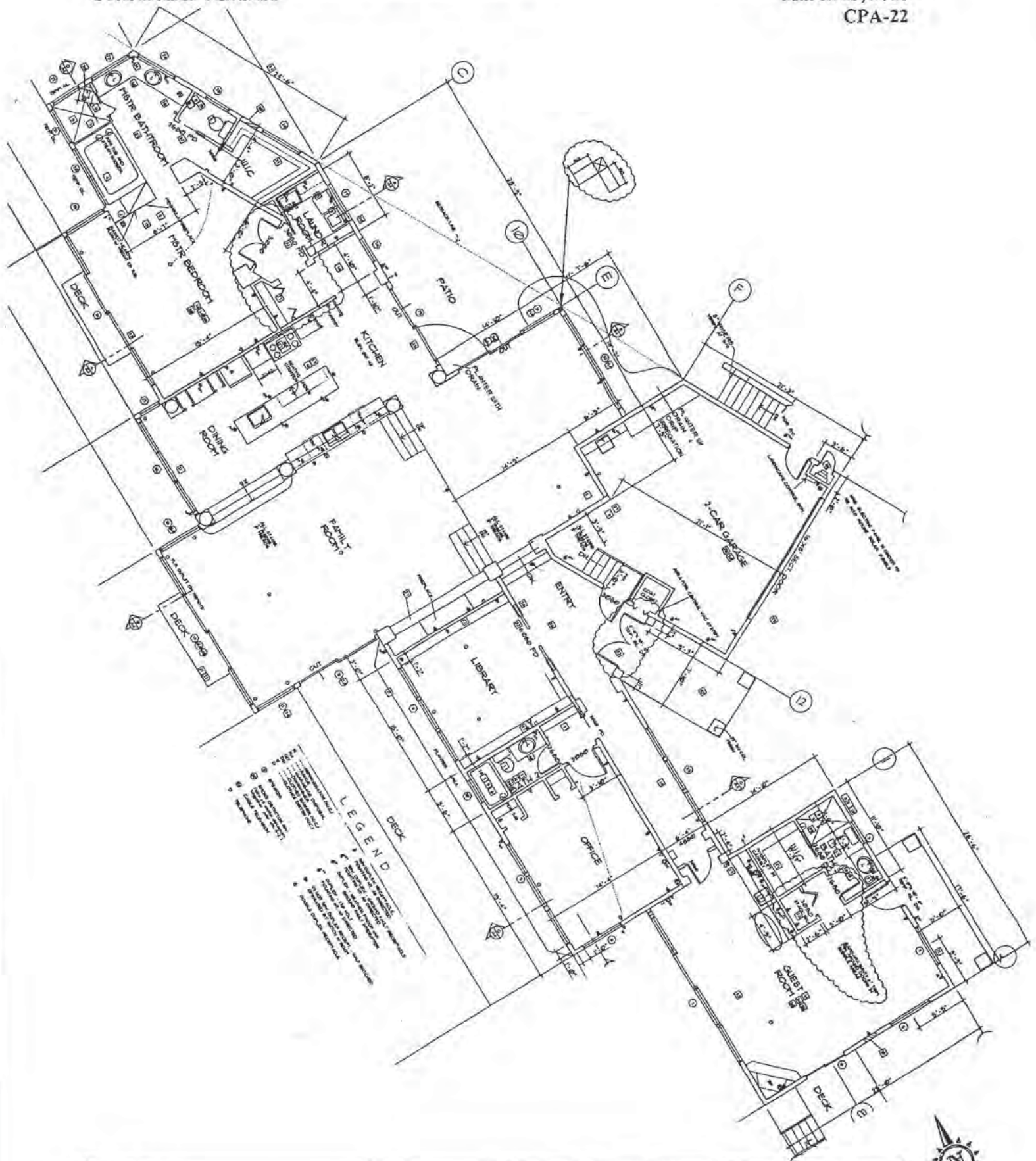


STAFF REPORT FOR COASTAL DEVELOPMENT
STANDARD PERMIT

CDPM# 98-2001(2009)

March 25, 2010

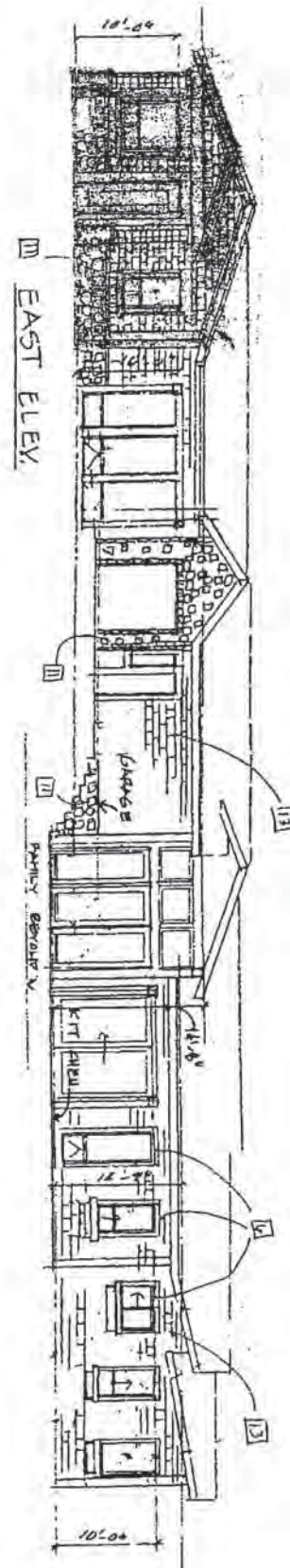
CPA-22

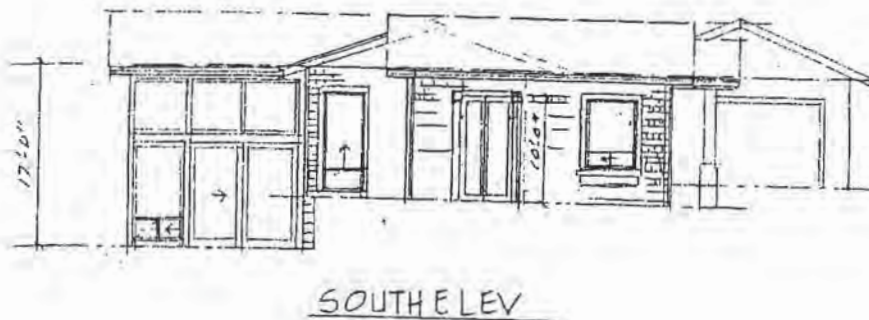
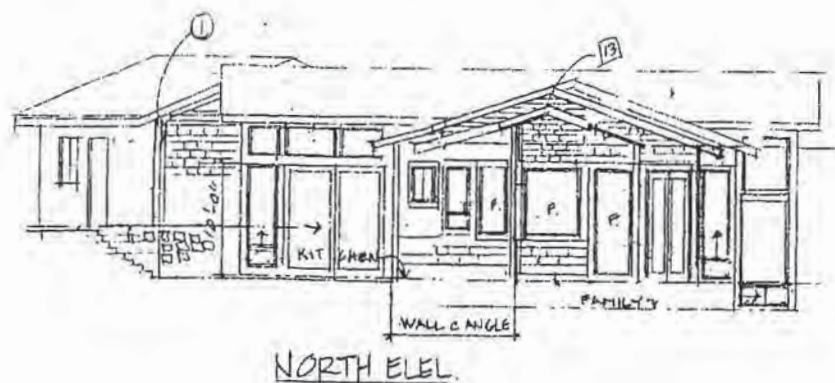


CDPM# 98-2001(2009)
March 25, 2010
CPA-23

March 25, 2010

CPA-23





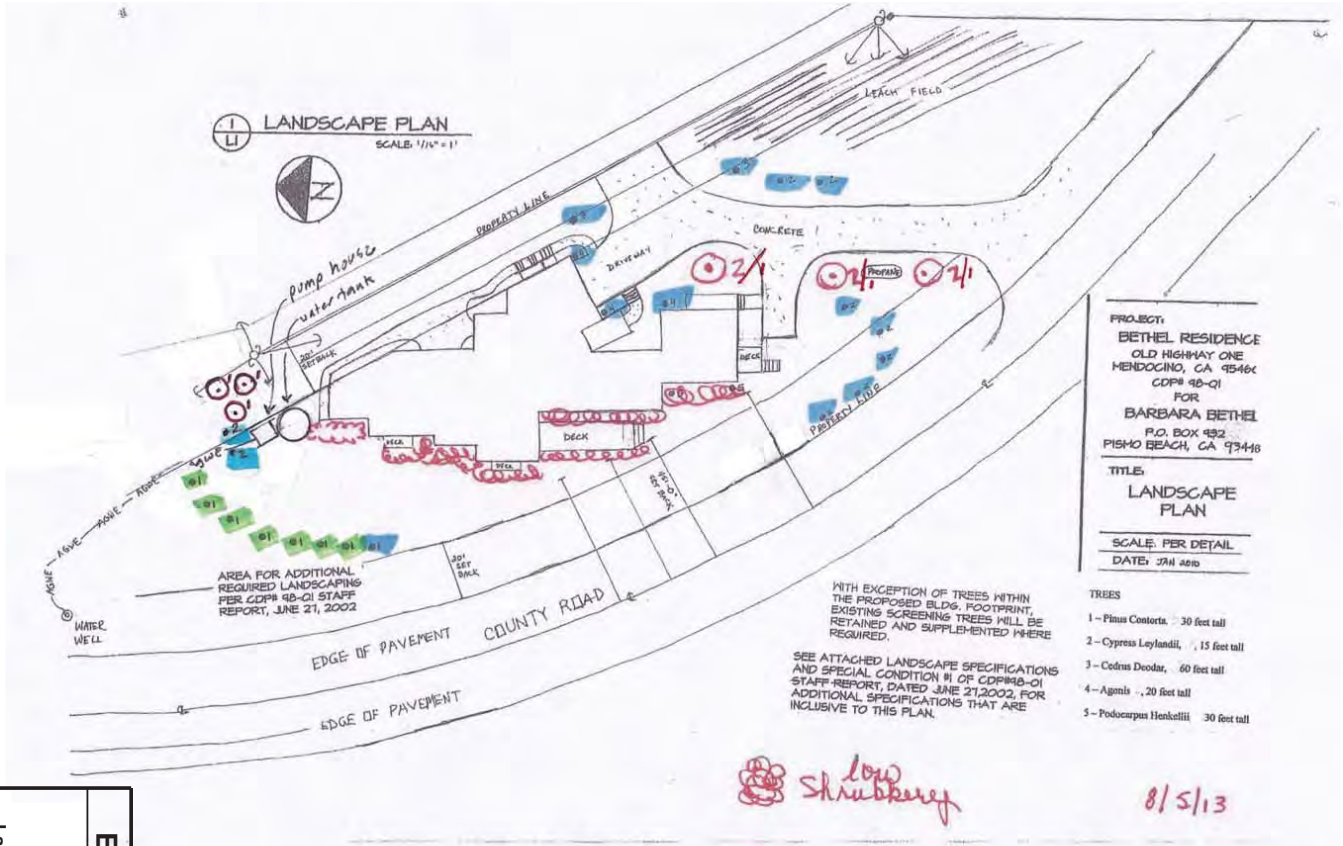


EXHIBIT NO 10
 APPEAL NO.
 A-1-MEN-10-015
 (Bethel & Hupp)
 Landscaping Proposals &
 Visual Simulations of
 Vegetation Screening From
 Agent (1 of 4)

**Current Landscape
 Design Proposal
 Submitted by Applicant
 August 19, 2013**

Wynn Coastal Planning

Landscape Plan,
 Proposed modification



Existing Bethel Residence - Town View - With proposed window reduction and darkened trim color

Wynn Coastal Planning

Exhibit 4: (Pg 2 of 3)
Proposed Modification with Landscaping
A-1-MEN-10-015 – From Town



Existing Bethel Residence - Headlands View - With proposed window reduction and darkened trim color

(3 of 4)

Wynn Coastal Planning

Exhibit 4: (Pg 3 of 3)
Proposed Modification with Landscaping
A-1-MEN-10-015 – From Headlands

**Previous Landscape Design
Proposed in February 9, 2010
Submittal to Mendocino County**

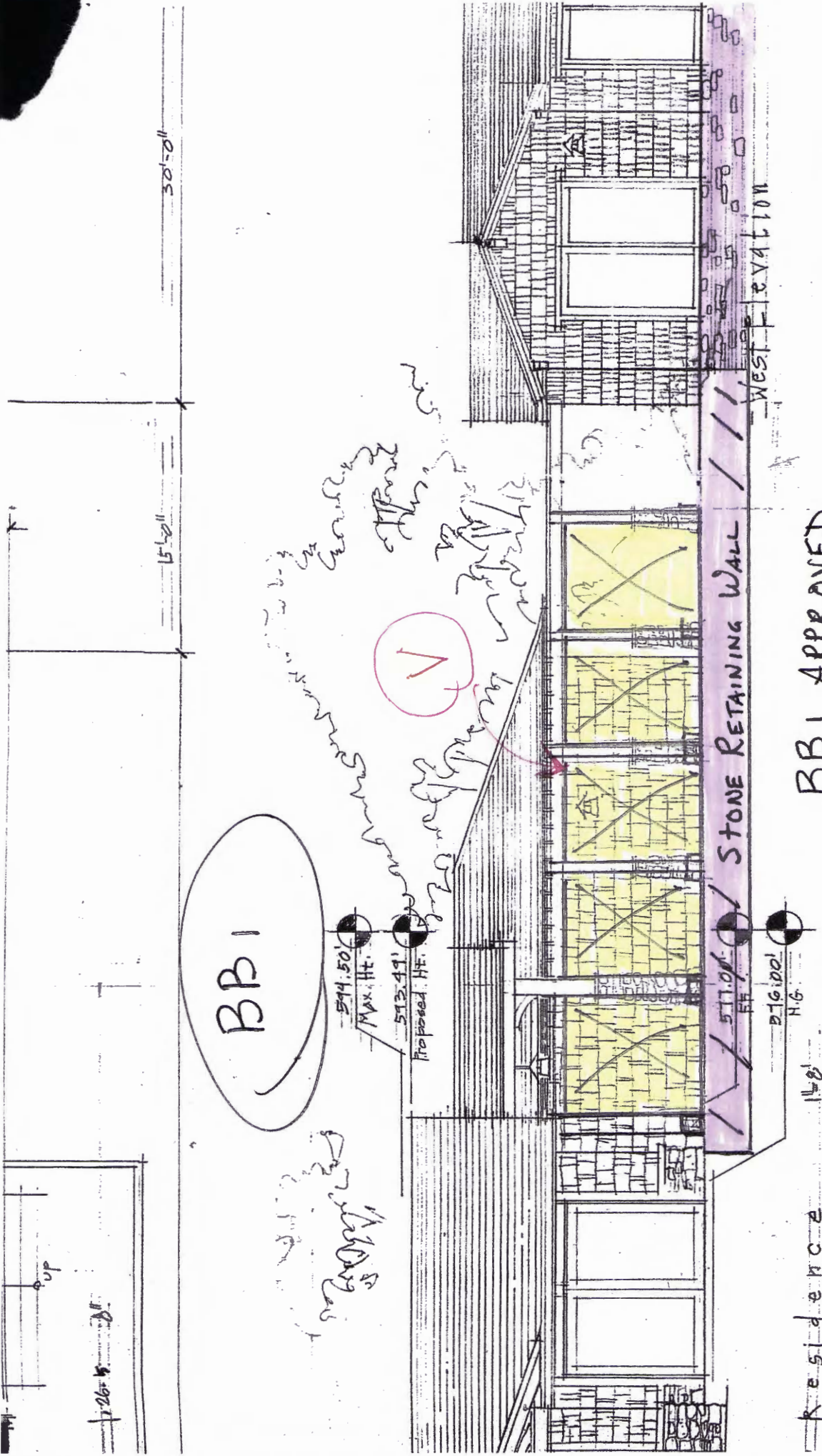
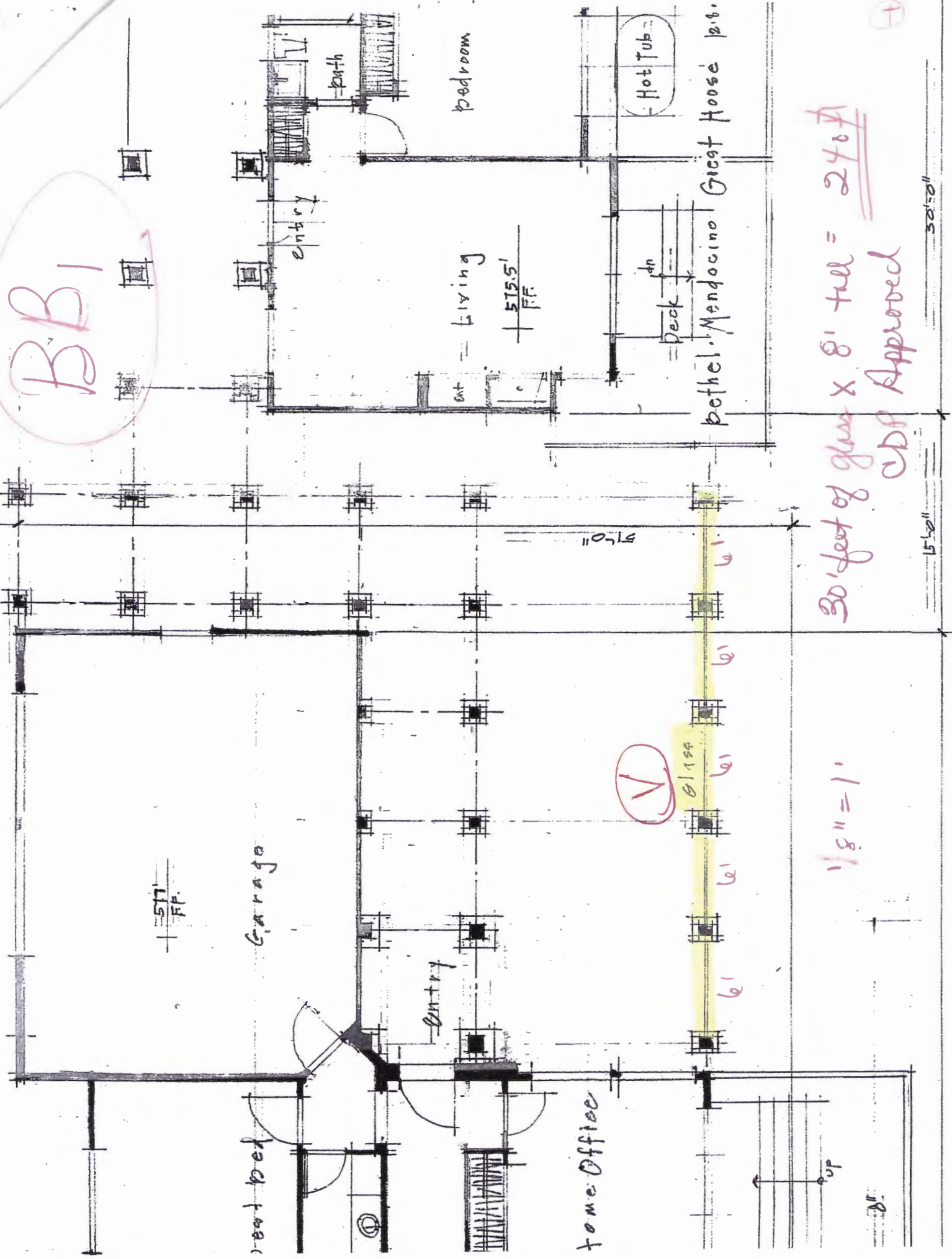


EXHIBIT NO. 11
APPLICATION NO.
A-1-MEN-10-015
BETHEL & HUPP
APPLICANT'S ANALYSIS OF GLAZING AUTHORIZED BY CDPM 98-01(05) (1 of 14)

BB1 APPROVED
"COURTYARD ENTRY" WINDOWS

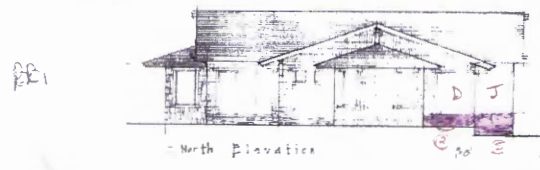
BB1



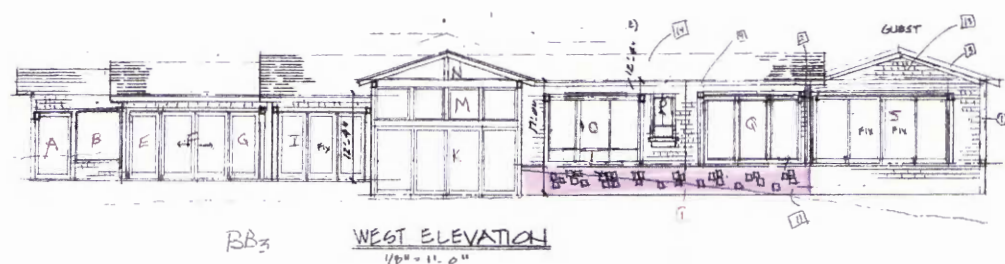
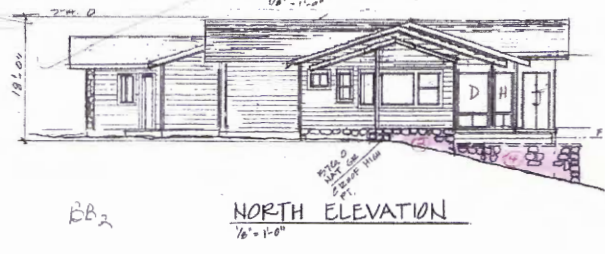
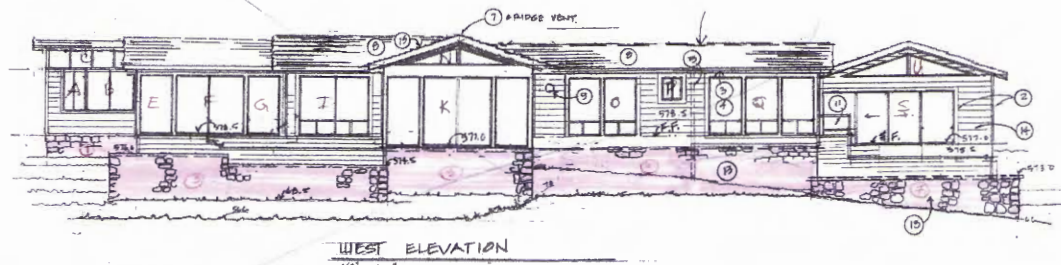
30' feet of glass x 8' tall = 240 ft
CDS Approved

1'8" = 1'

15'0" 30'0"



- DD
- EE
- FF



Amy Wynn Coastal Development Permits

Land Use Consulting
703 North Main Street
Fort Bragg, CA 95437
phone: 707 964 2537
fax: 707-964-2622
www.AmyWynnCDP.com

RECEIVED

JUL 27 2012

CALIFORNIA
COASTAL COMMISSION

July 24, 2012

Tamara Gedik, Planner
California Coastal Commission, North Coast Office
710 E Street, Suite 200
Eureka, CA 95501

RE: A-1-MEN-10-015 (Bethel/Hupp) –Entry Courtyard Glazing approved in CDPM #98-01(05)
9490 North Highway One
Mendocino, CA 95460
APN 119-320-04-00

Dear Tamara,

Thank you for your thorough review of this project.

I received a call from Mendocino County Coastal Planner, Abbey Stockwell, regarding this project on June 1, 2012 regarding the glazing for the Entry Courtyard of the 2005 CDPM design.

Abbey had recently reviewed the Exhibits from the Staff Report for CDPM #98-01(05), written January 13, 2006 for the January 26, 2006 Coastal Permit Administrator Hearing. She called me to let me know that she had discovered an inconsistency in the Staff Report's Exhibits.

In particular, Abbey discovered that Staff Report Exhibit C – Floor Plan – (see this letter's **Exhibit 1**) does not match Staff Report Exhibit B – Site Plan – (see this letter's **Exhibit 2**) relative to the Entry Courtyard into the residence. This is because Planning Staff mistakenly neglected to replace Staff Report Exhibit C with the Project Team's revised Floor Plan for the residence.

As Planning Staff was preparing to write their Staff Report in December 2005, Planning Staff realized the Project Team's original design submittal did not conform to the Corridor Preservation Setback from the County Road (Brewery Gulch Road). Therefore, the Team quickly revised their drawings, shifting the Guest Cottage back and reducing the size of the Entry Courtyard in order to conform to the setback requirement. The Project Team submitted these revised drawings in December 2005, and the County stamped the original submittal set as "Superseded" (see **Exhibits 3 & 4**).

In revising the Floor Plan to reduce the size of the Entry Courtyard between the Guest Cottage and the Residence, thereby conforming to the setback, the Project Team neglected to relabel the "glass" annotation for the courtyard glazing.

According to the Project Architect of the time, Leonard Grant, there was never any intent to remove the courtyard glazing (noted as "Glass" on the Staff Report's Exhibit C; **Exhibit 1**). Per Mr. Grant's July 9, 2012 letter (original enclosed; **Exhibit 5**),

"The courtyard and its associated glazing/glass was an essential part of the entry design to allow visitors and guests entry into the dwelling and transit to and from the guest cottage into the dwelling to do so out of the prevailing winds. The architectural plan showed the glazing/glass note on the floor plan between columns so that the elevation could show the materials to be used on the west garage face.

Encl: Grant letter, 7.9.2012
CC: Barbara Bethel, applicant

"The intention of the revised drawings submitted to the County Planning Staff in December 2005 was to address the setback requirement from the County Road. There was never any intent to remove the courtyard or the glazing on any modifications to the house architectural plans nor was there any discussion with the Mendocino Planning Department to do so. If any modification to the original design plans failed to note the word "glazing" or 'glass', it was unintentional, likely the result of a quick submittal to comply with the set-back requirement while Planning Staff was writing the Staff Report.

"It is my belief that the original house design with the courtyard glazing/glass was intended to be approved because I did not change that design element."

The CDPM #98-01(05) Staff Report discusses the Corridor Preservation Setback; it does not discuss the project glazing at all. As there was never any discussion about glazing during the review and approval of CDPM #98-01(05), it is clear that it was not an issue. Therefore, though the resubmittal mistakenly neglected to label the Entry Courtyard glazing, it is reasonable to accept that it was approved as a part of the overall project design.

We trust that you agree with this documentation of the intent to maintain and approve the Entry Courtyard glazing as a part of CDPM #98-01(05).

Please let us know if you have any questions or comments. We look forward to your continuing review of this project.

All the best,



SIGNATURE ON FILE



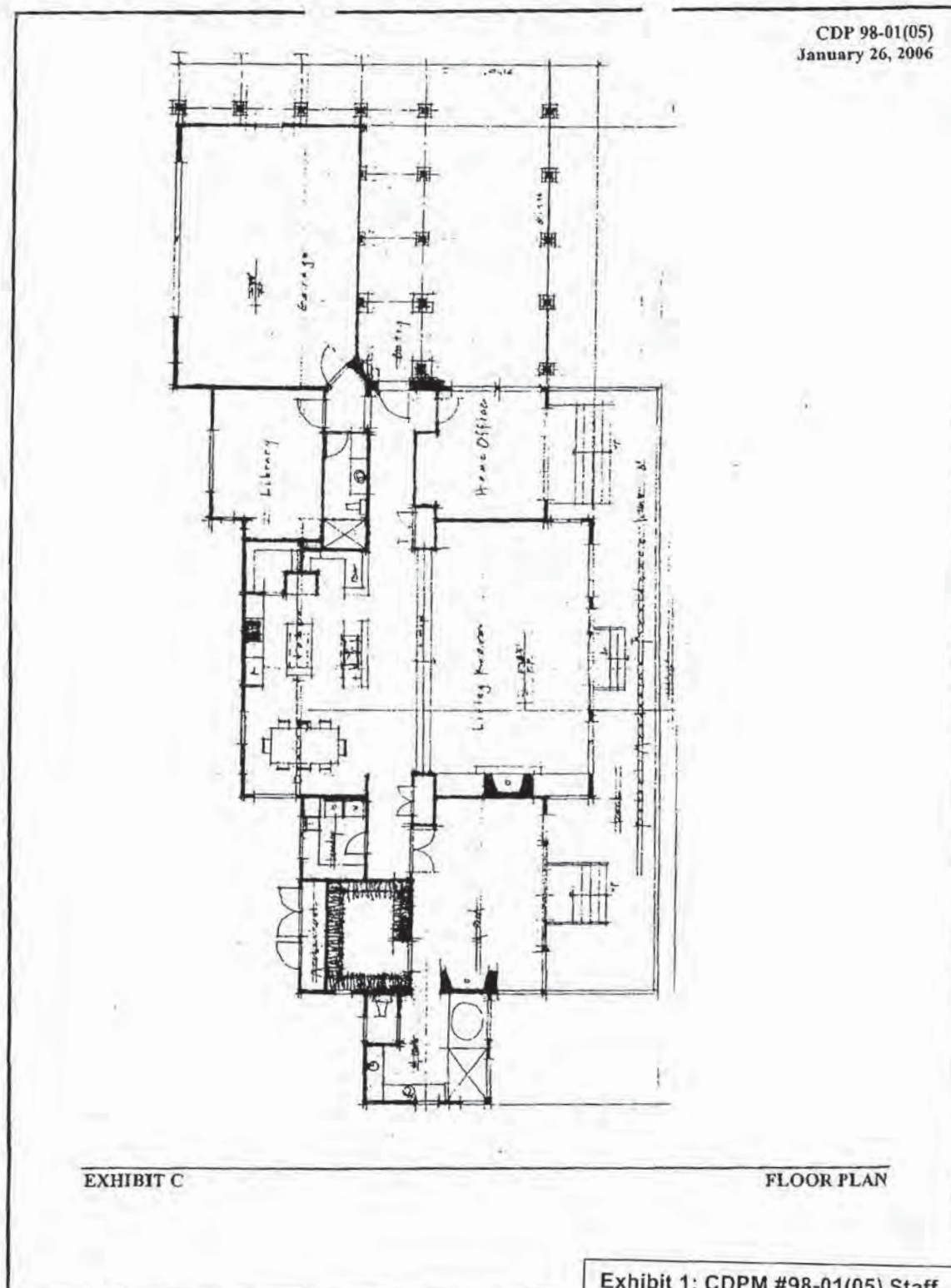
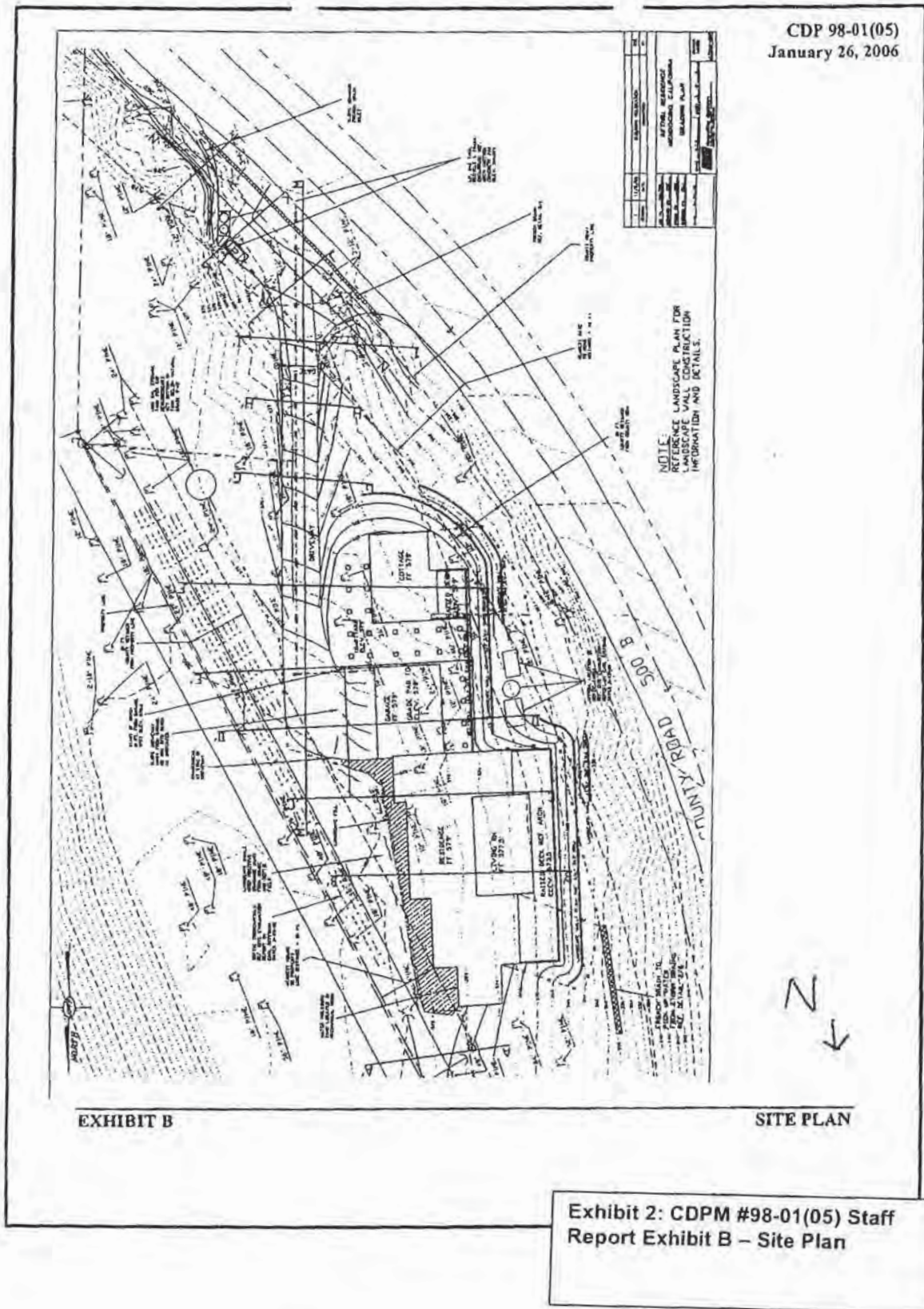


Exhibit 1: CDPM #98-01(05) Staff
Report Exhibit C - Floor Plan



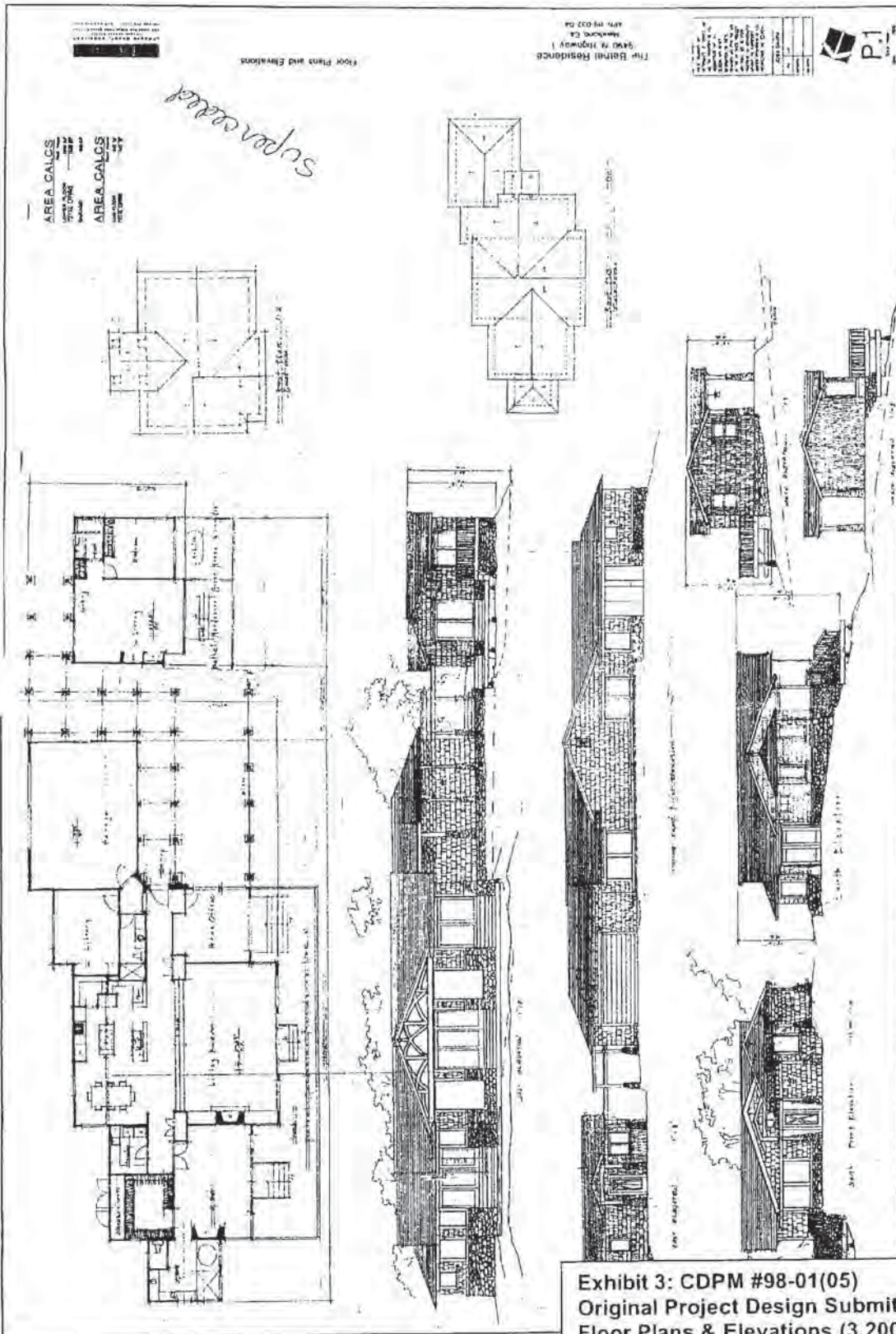


Exhibit 3: CDPM #98-01(05)
 Original Project Design Submittal –
 Floor Plans & Elevations (3.2005)
 Page 1 of 2

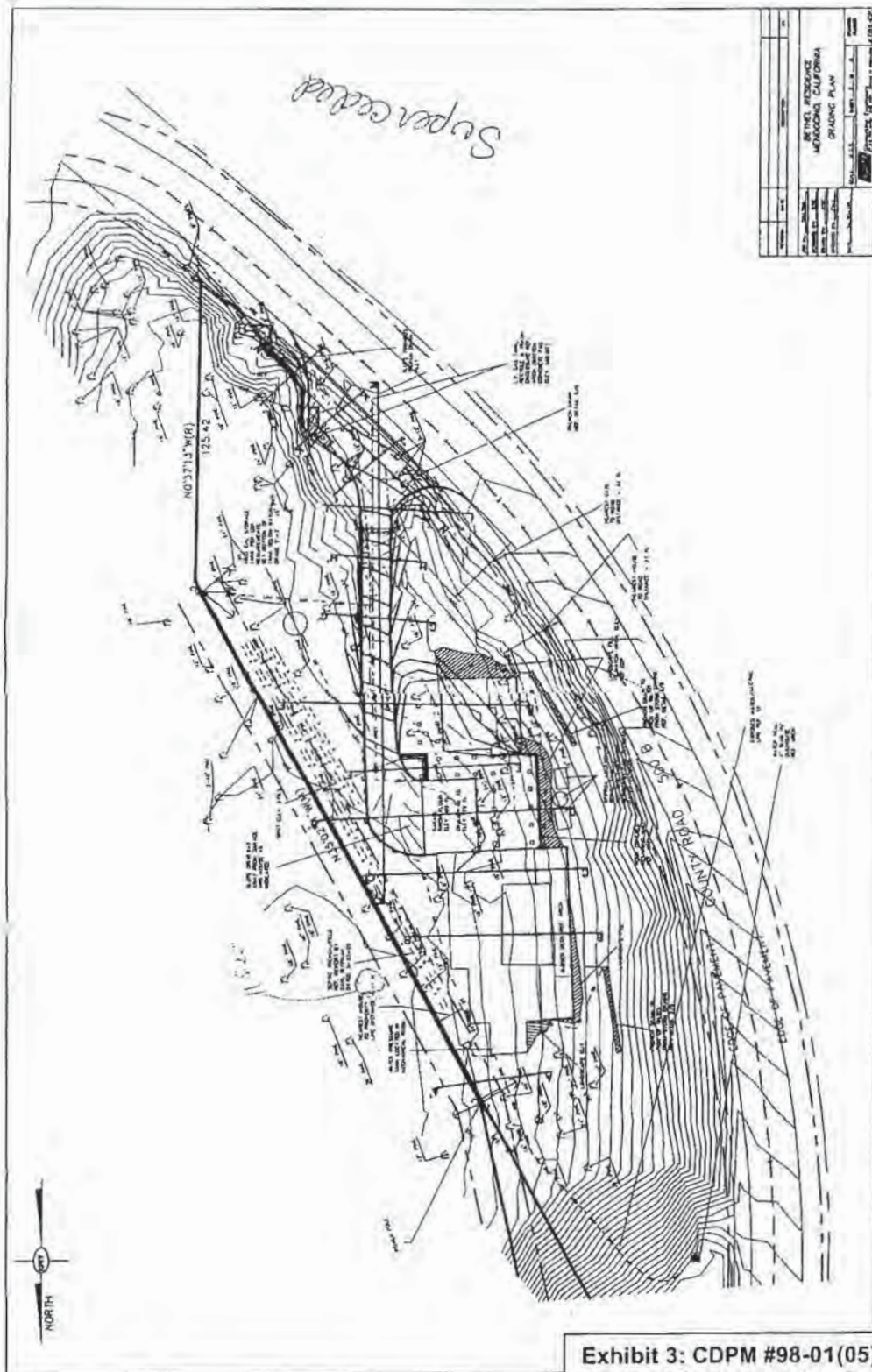
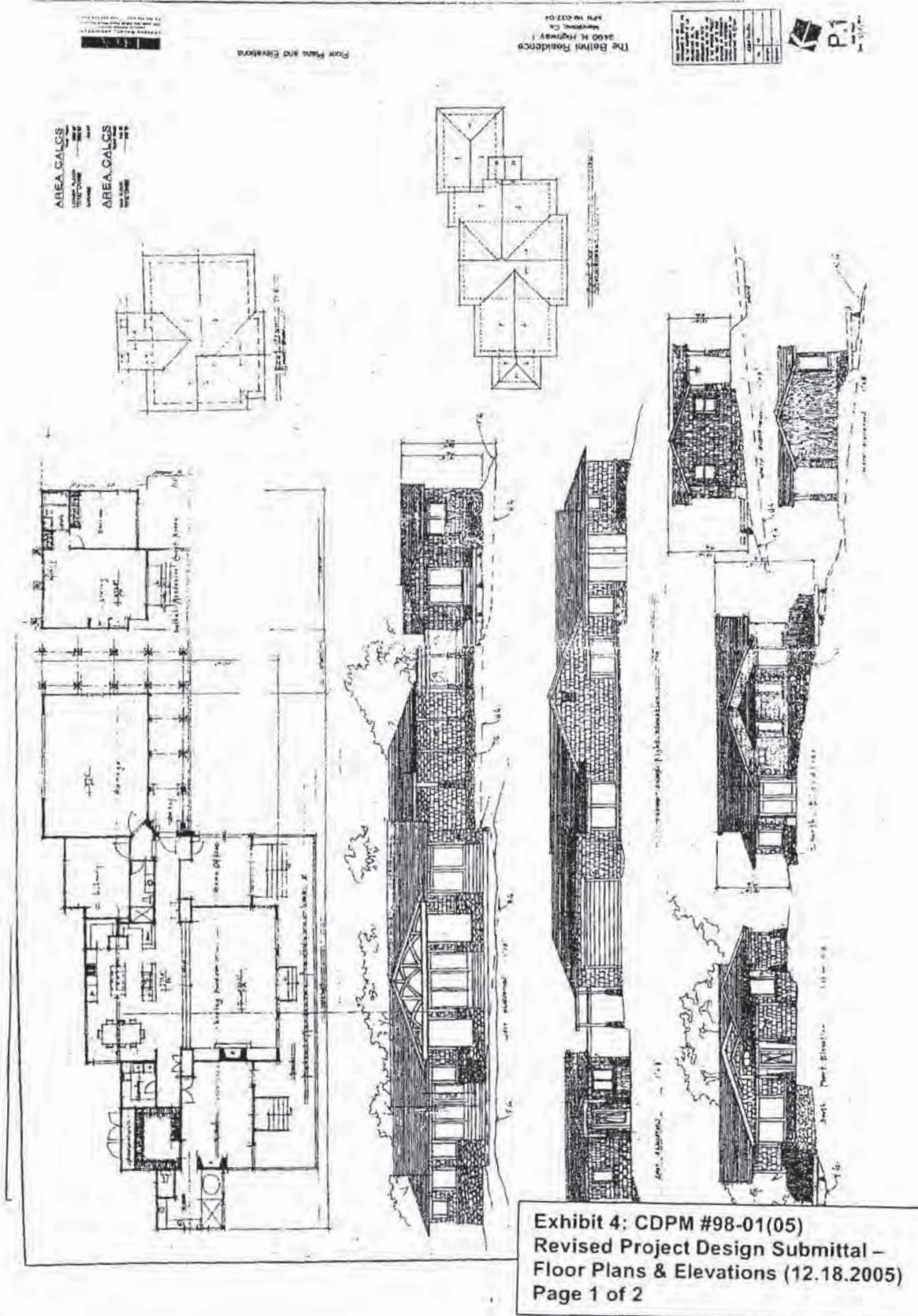
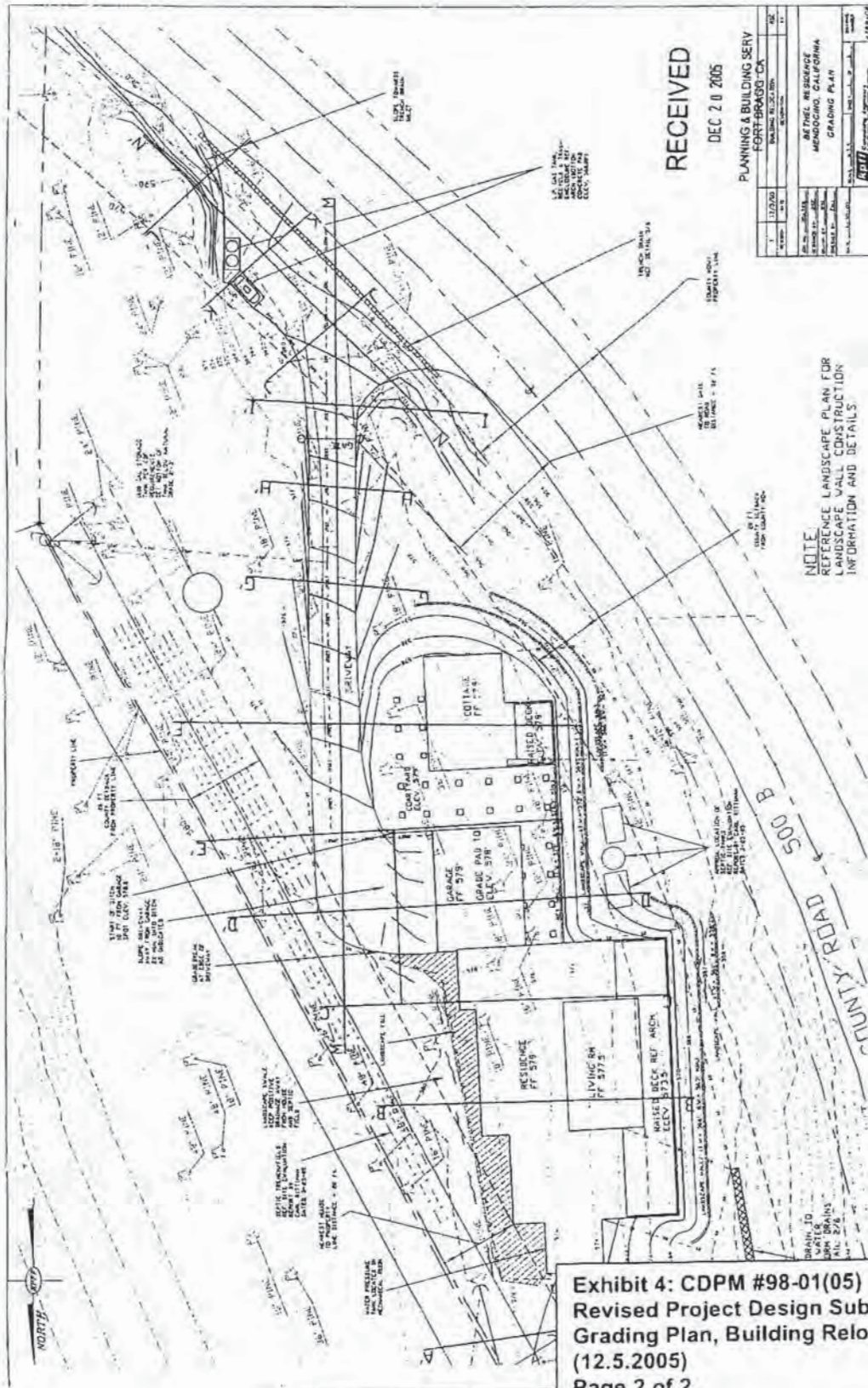


Exhibit 3: CDPM #98-01(05)
Original Project Design Submittal –
Grading Plan (3.30.2005)
Page 2 of 2







RRM Design Group
3765 S. Higuera St., Ste. 102
San Luis Obispo, CA 93401
P: (805) 543-1794
F: (805) 543-4609
www.rrmdesign.com

9 July 2012
Barbara Bethel
PO Box 932
Pismo Beach, CA 93448

REGARDING: 9401 Brewery Gulch, Mendocino, CA
CDPM #98-2001(2005)

Dear Barbara:

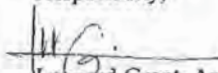
As I was the original design architect for the residence at 9401 Brewery Gulch, you asked me to write a letter addressing the courtyard glazing/glass design and any modification to that design.

The courtyard and its associated glazing/glass was an essential part of the entry design to allow visitors and guests entry into the dwelling and transit to and from the guest cottage into the dwelling to do so out of the prevailing wind. It also offered an outdoor ocean side sitting area free of prevailing winds. The architectural plan showed the glazing/glass note on the floor plan between columns so that the elevation could show the materials to be used on the west garage face.

The intention of the revised drawings submitted to County Planning Staff in December 2005 was to address the setback requirement from the County Road. There was never any intent to remove the courtyard or the glazing on any modifications to the house architectural plans nor was there any discussion with the Mendocino Planning Department to do so. If any modification to the original design plans failed to note the word "glazing" or "glass", it was unintentional, likely the result of a quick submittal to comply with the set-back requirement while Planning Staff was writing the Staff Report.

It is my belief that the original house design with the courtyard glazing/glass was intended to be approved because I did not change that design element.

Respectfully,


Leonard Grant, Architect

COMMUNITY | CIVIC & PUBLIC SAFETY | RECREATION
ARCHITECTS | ENGINEERS | LANDSCAPE ARCHITECTS | PLANNING
A California Corporation | Victor Montgomery, Architect #C11850 | Jerry Michael, PE #36895, L

Exhibit 5: CDPM #98-01(05)
Leonard Grant letter re: Entry
Courtyard Glazing (7.9.2012)

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3765 S. Higuera St., Ste. 102
San Luis Obispo, CA 93401
P: (805) 543-1794
F: (805) 543-4609
www.rrmdesign.com

9 July 2012
Barbara Bethel
PO Box 932
Pismo Beach, CA 93448

REGARDING: 9401 Brewery Gulch, Mendocino, CA
CDPM #98-2001(2005)

Dear Barbara:

As I was the original design architect for the residence at 9401 Brewery Gulch, you asked me to write a letter addressing the courtyard glazing/glass design and any modification to that design.

The courtyard and its associated glazing/glass was an essential part of the entry design to allow visitors and guests entry into the dwelling and transit to and from the guest cottage into the dwelling to do so out of the prevailing wind. It also offered an outdoor ocean side sitting area free of prevailing winds. The architectural plan showed the glazing/glass note on the floor plan between columns so that the elevation could show the materials to be used on the west garage face.

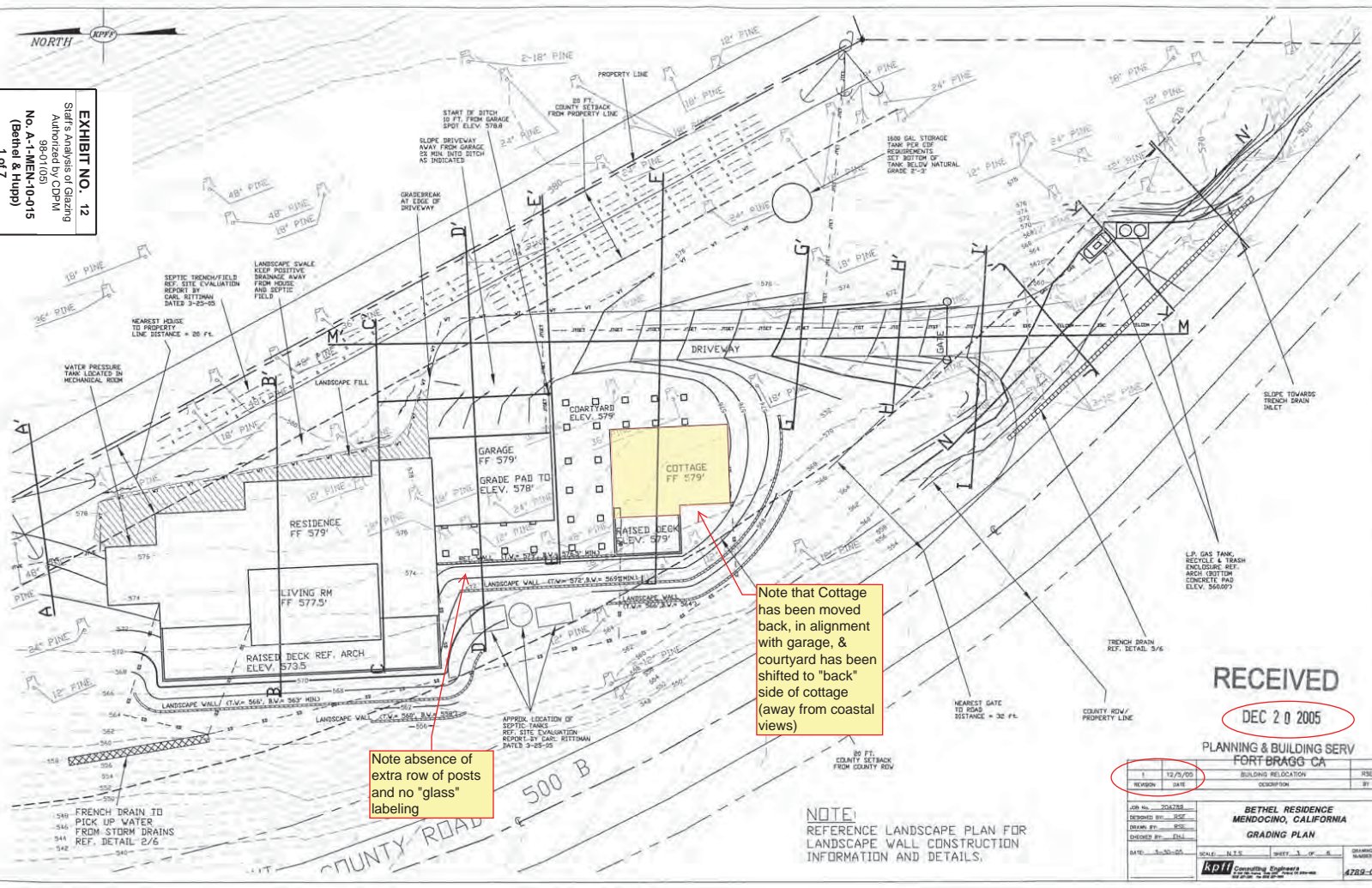
The intention of the revised drawings submitted to County Planning Staff in December 2005 was to address the setback requirement from the County Road. There was never any intent to remove the courtyard or the glazing on any modifications to the house architectural plans nor was there any discussion with the Mendocino Planning Department to do so. If any modification to the original design plans failed to note the word "glazing" or "glass", it was unintentional, likely the result of a quick submittal to comply with the set-back requirement while Planning Staff was writing the Staff Report.

It is my belief that the original house design with the courtyard glazing/glass was intended to be approved because I did not change that design element.

Respectfully,

SIGNATURE ON FILE

EXHIBIT NO. 12
 SHIRLEY ANN GRADING
 9801005
 No. A-1-MEN-10-015
 (Bethel & Hupp)
 1 of 7



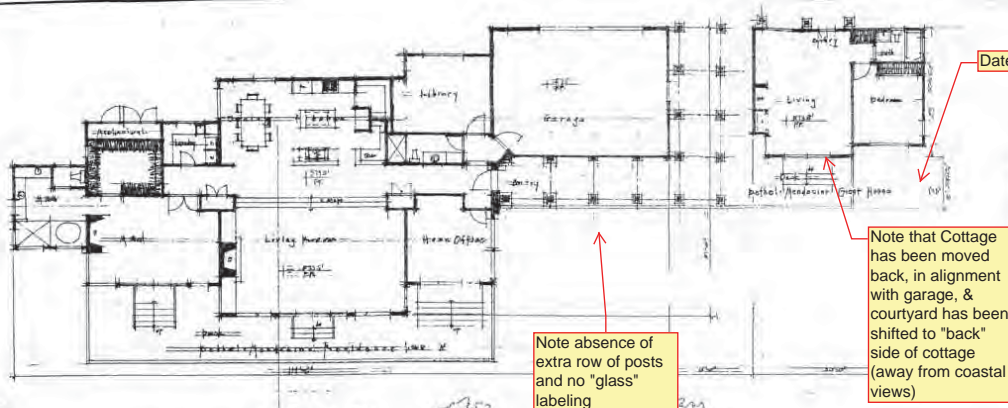
Note that Cottage has been moved back, in alignment with garage, & courtyard has been shifted to "back" side of cottage (away from coastal views)

Note absence of extra row of posts and no "glass" labeling

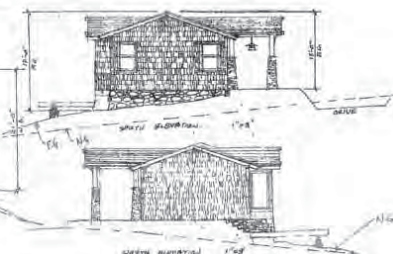
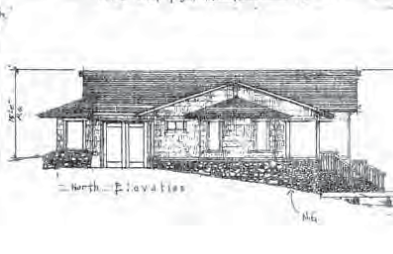
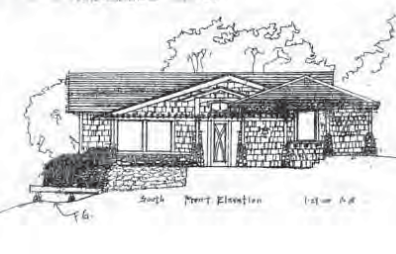
NOTE:
 REFERENCE LANDSCAPE PLAN FOR LANDSCAPE WALL CONSTRUCTION INFORMATION AND DETAILS.

RECEIVED
 DEC 20 2005

PLANNING & BUILDING SERV FORT BRAGG CA		REV
1	12/20/05	BT
BETHEL RESIDENCE MENDOCINO, CALIFORNIA GRADING PLAN		
JOB No. 2014788	DATE 12/20/05	SCALE 1" = 10'
DESIGNED BY: RCE	CHECKED BY: ERI	DRAWN BY: RCE
DATE 3-30-05		PROJECT 1729-GR



AREA CALCS	
LOWER FLOOR	288 SF
TOTAL LOWER	288 SF
AREA CALCS	
UPPER FLOOR	442 SF
TOTAL UPPER	442 SF



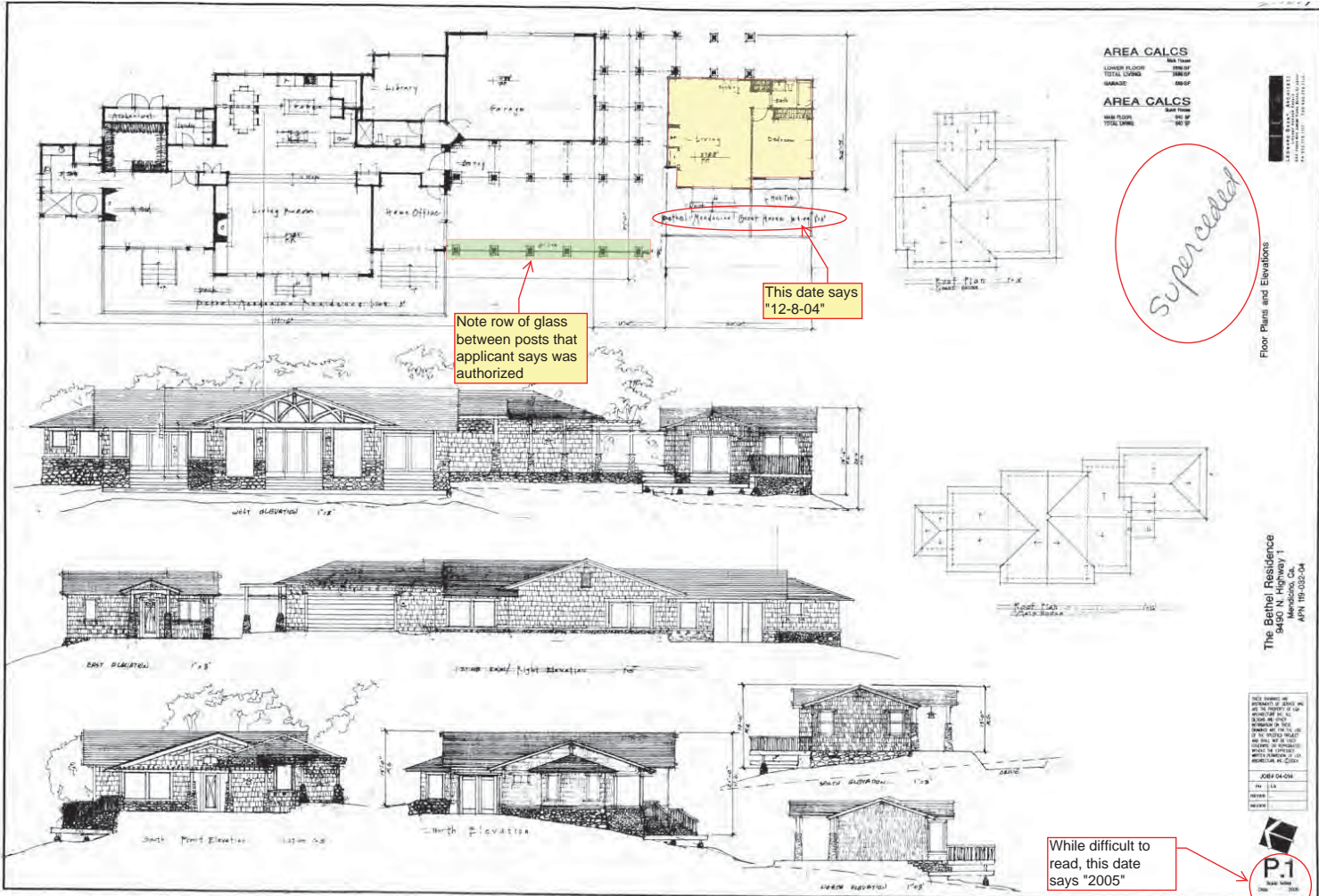
Floor Plans and Elevations

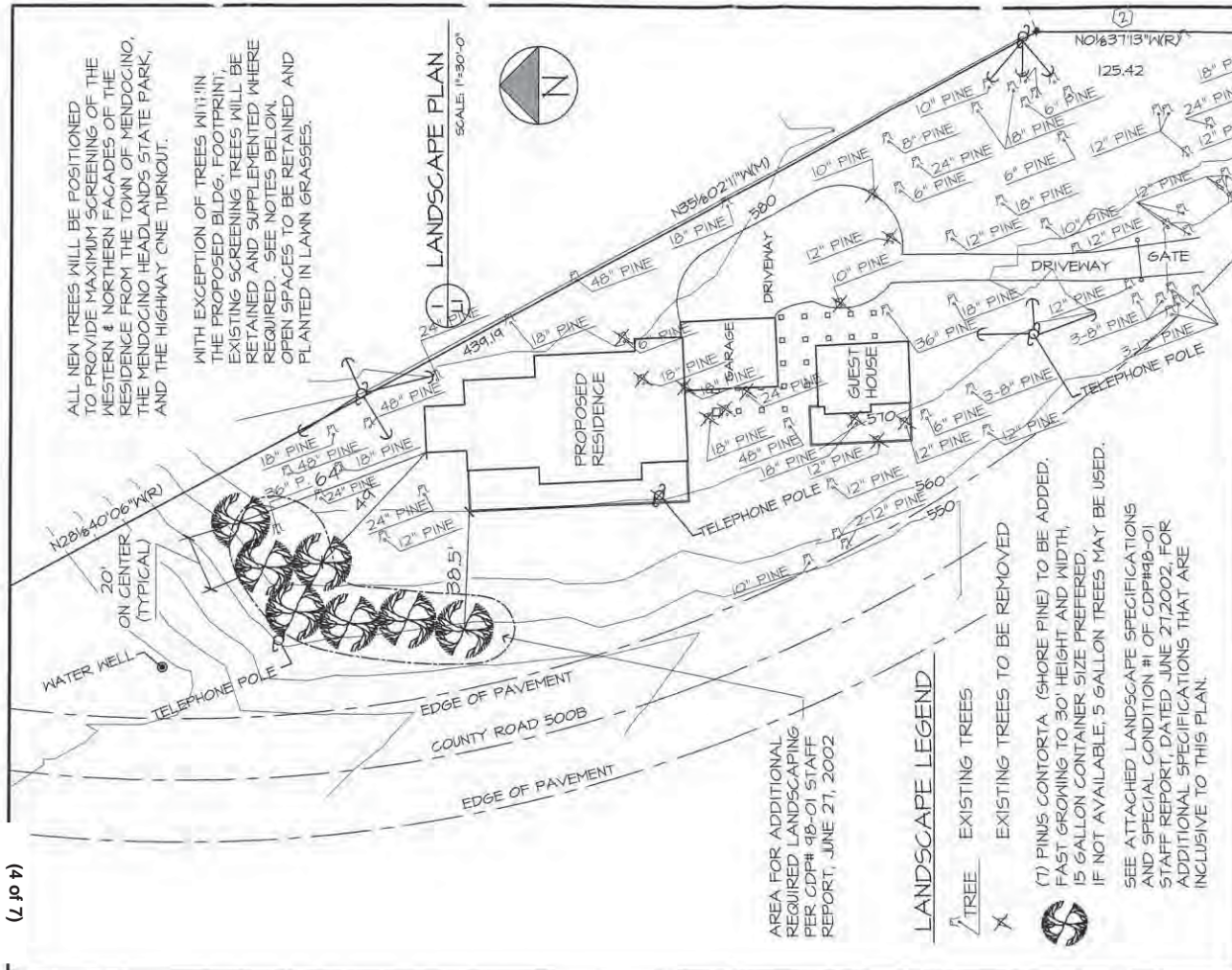
The Bethel Residence
9450 N. Highway 1
Mendocino, CA
APN 110-032-04

NOTES	
1.	ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODES, AND ALL APPLICABLE ORDINANCES.
2.	THESE PLANS WERE PREPARED FOR THE PROJECT DESCRIBED HEREIN AND ARE NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.
3.	THESE PLANS WERE PREPARED FOR THE PROJECT DESCRIBED HEREIN AND ARE NOT TO BE USED FOR ANY OTHER PROJECT WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

Date says "12/18/05"







TODD NEWBERGER ENVIRONMENTAL DESIGN

PO BOX 616
ALBION, CA 95410
PH: 707-937-5334
FAX: 707-937-2891

GARDEN & LANDSCAPE DESIGN
INSTALLATION & MAINTENANCE
CA LANDSCAPE CONTR. LIC.# B073028

PROFESSIONAL BUILDING DESIGN
CERTIFIED ENERGY ANALYST

PROJECT:

BETHEL RESIDENCE
OLD HIGHWAY ONE
MENDOCINO, CA 95460
CDP# 48-01
FOR
BARBARA BETHEL
P.O. BOX 932
PISMO BEACH, CA 93448

TITLE:

LANDSCAPE
PLAN

SCALE: PER DETAIL

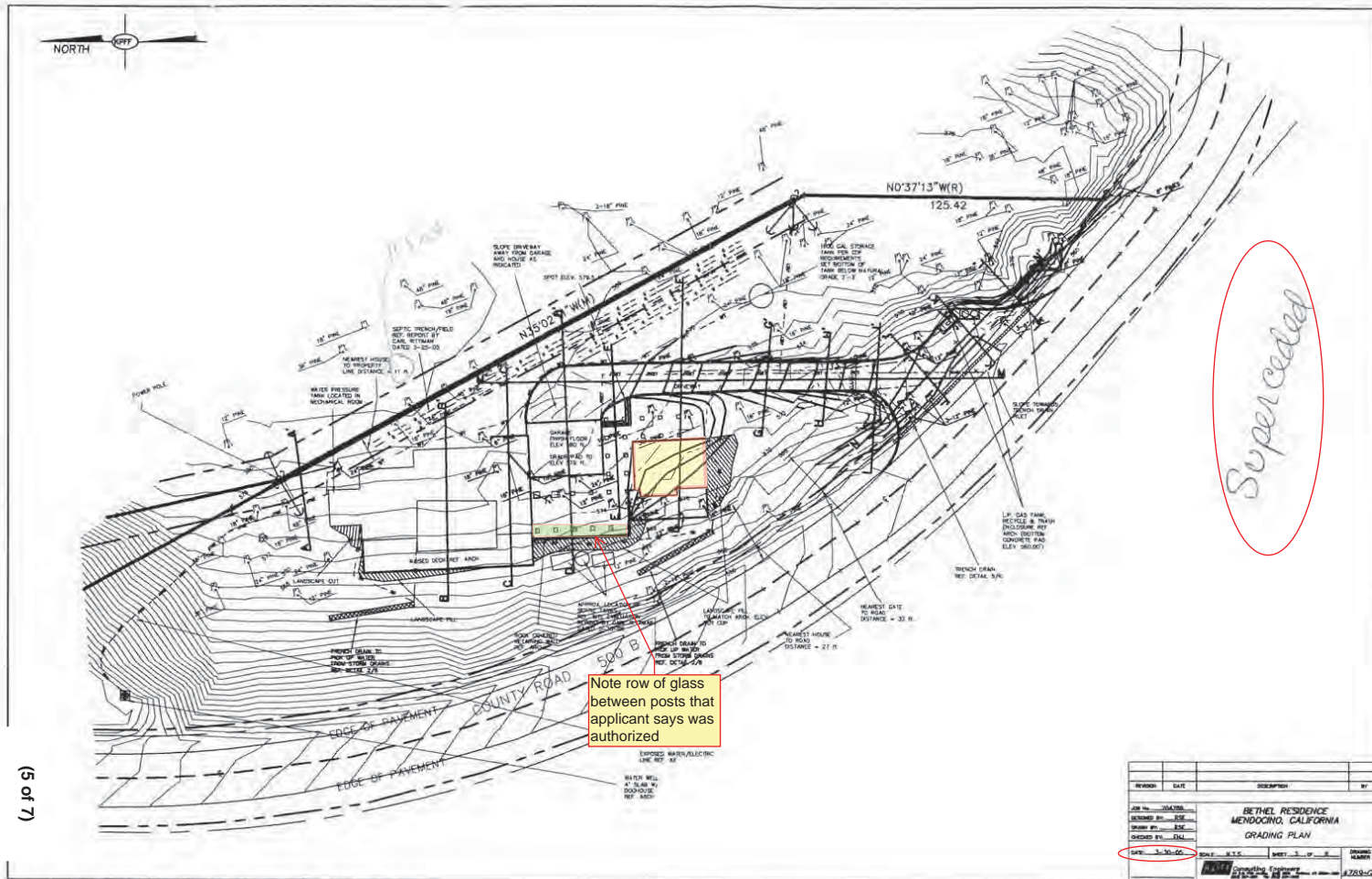
DATE: MAR. 12, 2005

DRAWN BY: TMN

DWG FILE: B-L1

SHEET

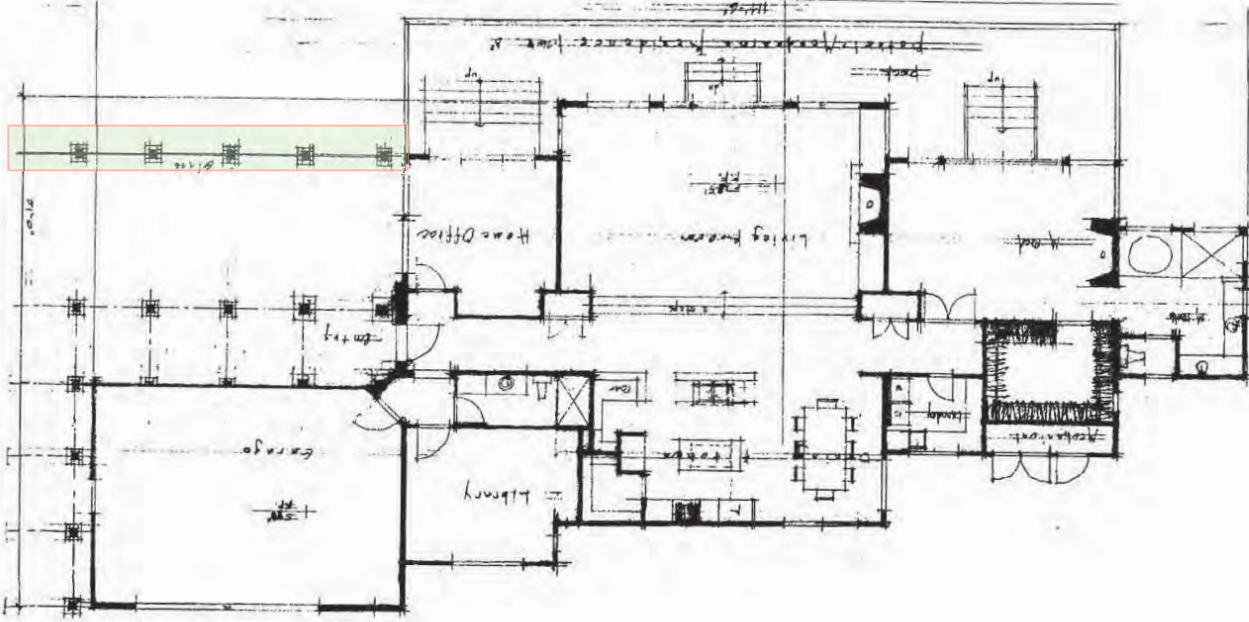
1
OF 2



(5 of 7)

REVISION	DATE	DESCRIPTION	BY
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2	05/10/06	ISSUED FOR PERMIT	ASE
3	06/10/06	ISSUED FOR PERMIT	ASE
4	07/10/06	ISSUED FOR PERMIT	ASE
5	08/10/06	ISSUED FOR PERMIT	ASE
6	09/10/06	ISSUED FOR PERMIT	ASE
7	10/10/06	ISSUED FOR PERMIT	ASE
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98	05/06/12	ISSUED FOR PERMIT	ASE
99	06/06/12	ISSUED FOR PERMIT	ASE
100	07/06/12	ISSUED FOR PERMIT	ASE

Exhibit C from Staff
Report CDP
98-01(05)



(6 of 7)

FLOOR PLAN

EXHIBIT C

(7 of 7)



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES
120 WEST FIR STREET • FORT BRAGG • CALIFORNIA • 95437

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

June 6, 2012

Tamara Gedik
710 E Street, Suite 200
Eureka, CA 95501

RECEIVED
JUN 11 2012
CALIFORNIA
COASTAL COMMISSION

Dear Ms. Gedik:

I am writing in response to your request for clarification of County records regarding CDPM 98-2001(2005) and 2009 modifications for the project located at 9401 Road 500B (APN: 119-320-04). The request pertains to a discrepancy between the number of permitted windows authorized in CDPM 98-2001(2005) and the exhibits provided in the subject staff report.

Unfortunately, for clarification sake, a superseded floor plan was included as Exhibit C of the CDPM 98-2001(2005) staff report.

Exhibit C is the 2005 originally proposed floor plan, which illustrates three rows of posts that extend from the corner of the residence south to the end of what may be considered a breezeway or entryway located west of the garage. The furthest row of posts from the house (third row) is noted to be connected by glass. A grading plan was associated with the originally proposed 2005 modification and also illustrates the three rows of posts. The local file contains both the 2005 original floor plan and grading plan, both are noted as "superseded."

On December 20, 2005 Mendocino County Planning and Building received a revised set of plans for the subject 2005 modification. This revised set of plans (with a revision date of 12/5/05 noted on the plan set) deleted the third row of posts. A hot tub on the western side of the guest house was also deleted from the plan. The grading plan was revised as well to reflect the deleted third row of posts. The revised breezeway/patio was illustrated to have two rows of posts as an entry into the residence, no glass was proposed in this version.

As stated above, the staff report included the superseded floor plan as Exhibit C which illustrates the third row of posts with glass noted. However, the (correct) revised grading plan was included as Exhibit B – which shows the row of posts that would support the glass as deleted. The (correct) revised floor plan for the guest cottage was also included as Exhibit D which illustrates the hot tub as deleted.

In the 2009 modification staff analyzed the increase of windows from that which was approved with the 2005 modification, the analysis did not include the windows that were originally proposed in 2005, but rather the windows that were included in the revised and approved plans. It is unfortunate that the wrong exhibit was included with the 2005 staff report and that this mistake was not caught sooner. However, based on the record, the revised plans with a revision date of 12/5/02, not the superseded plans, would be the plans of reference.

Sincerely,

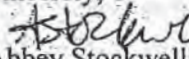

Abbey Stockwell
Planner II

EXHIBIT NO. 13

APPLICATION NO.

A-1-MEN-10-015

BETHEL & HUPP

CITY DETERMINATION OF
GLAZING AUTHORIZED BY
CDPM 98-01(05)



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

790 SOUTH FRANKLIN STREET • FORT BRAGG • CALIFORNIA • 95437

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-964-5379

FAX 707-961-2427

www.co.mendocino.ca.us/planning

11.12.09

Barabara Bethel
PO Box 1688
Mendocino, CA 95460

EXHIBIT NO. 14

APPLICATION NO.

A-1-MEN-10-015

BETHEL & HUPP

CORRESPONDENCE
BETWEEN APPLICANT AND
COUNTY (1 of 8)

Subject: Coastal Development Permit Application No.: CDP 98-01(09)
Site Address: 9590 N Hwy 1
Assessor's Parcel No.: 119-320-04

Dear Ms. Bethel:

This letter is provided to offer clarification and response to your letter received November 5, 2009. I wish to make it clear to you that the approved building plans associated with your building permit are largely in disagreement with your approved plans of the Coastal Development Permit Modification (CDPM) 98-2001 (2005). The approval of the building plans was a mistake conducted by planning staff, while Planning and Building acknowledges this mistake, staff is not obliged to accommodate the building plans in your new proposal CDPM 98-2001(05)(2009). To further clarify, staff must assure that development plans comply with the Mendocino County Coastal Zoning Code, and therefore the Coastal Act.

The proposed floor plan has been initially reviewed as relatively similar, however, the square footage has increased the bulk of the proposed residence and altered the footprint. Specifically, the previous modification proposed a patio, which is now enclosed as living space in the proposed modification, and the guesthouse is now proposed as built in to the residence as a guest room. The 2005 modification approved a ~ 2900-ft² residence, while the 2009 modification proposes ~ 3988-ft² residence (not including the garage). In addition, all proposed building elevations have been significantly altered from the approved modification in 2005, namely the addition of windows. Although the application for the 2009 modification claims a reduction in height, the plans provided to staff illustrate the building height as an average of ~18.1 ft above natural grade. A 2-foot reduction as the application would claim would result in an average height of ~16 ft. These alterations to the 2005 CDPM have rightly resulted in a Material Modification for your 2009 proposal. An additional fee of \$1,635 is required to continue processing your modification; this additional fee is a result of the violations to the 2005 permit.

From the meeting it was determined that a geotechnical report that establishes the bluff edge and any mitigation measures is necessary to ensure the structure complies with Mendocino County Coastal Zoning Code regarding Hazards.

Additionally, an initial review has also surfaced several deviations to conditions set forth in CDPM 98-2001 (2005).

- Special Condition 3 requires "the applicant to comply with all requirements set forth by KPFF Engineering and shall not deviate from this plan unless written modification is submitted by the engineer and approved by the Coastal Permit Administrator". No written modification has been received from KPFF Engineering or approved by the Permit Administrator. Please provide a written statement from KPFF Engineering outlining any changes that may have occurred from the

modifications from the approved CDMP 98-2001(2005) plans for review and approval by the Coastal Permit Administrator.

- Special Condition 4 relates to the approved landscaping plan, which includes not only planting of seven additional trees but also the maintenance of existing trees in perpetuity. This condition also requires that any tree removal on site shall require prior authorization from the Planning Division. Please provide an updated landscaping plan, which details all trees and their locations that have been removed since construction activities commenced. All trees that have been removed must be replaced at a 3:1 ratio, therefore please also include in the plan revegetation details. The provided plan will be compared with aerial photos and previous landscaping plans provided throughout the permitting process, please be as accurate as possible.
- Special Condition 5 requires that all exterior siding and trim finish colors shall match those specified in CDPM 98-2001(2005). Any changes shall be subject to review and approval to the Coastal Permit Administrator for the life of the project. Please provide sample colors of the proposed changes outlined in CDPM 98-2001(05)(2009) application for the roof, siding, trim, and window frames.

Staff is encouraged by your cooperation to bring this residence into compliance, as the project site is highly visible from several public viewing points. Except for the fee of \$1,635, which is required, the above requested items are recommended. Please let me know if you will be submitting the recommended items, or if it is your intention to have the project heard as is.

Sincerely,

Abbey Stockwell
Planner I

Barbara Bethel
PO Box 1688
Mendocino, CA 95460

5 November 2009

Mendocino County
Department of Building and Planning
790 South Franklin Street
Fort Bragg, CA 95437

RE: Building Permit # BF 2006-1024/BF 2009-0518
CDPM # 98-01(05)
9401 500 B Road, Mendocino

Ms Abbey Stockwell:

Thank you for the meeting of Wednesday, 28 October 2009. Since Mel Caldwell recently assumed the responsibility of contractor of record, he wanted to review approvals and meet Mendocino County officials. I understand that all parties at that meeting are new to their respective positions and new to the details of this project. The meeting was designed to initially review the approvals to date and to acquaint all parties with the project. Thank you for the time.

What was discerned from that meeting was that Paula Deeter, former assigned planner to this project under the direction of Rick Sweet, former planning director, approved the building plans/construction drawings. They recognized and accepted that the rearranged floor plan was in conformance to the approved Coastal Development Permit. The construction drawings were approved by the Mendocino Planning and Building departments without needing any CDP modification.

As I explained at the meeting, when the house was staked for construction, it was apparent that the floor levels needed to be lowered into the raised stem wall foundation for several reasons: First, to capture the ocean view. The house had been positioned as a single level with a very tall stem wall on the west side. That positioning did not capture the ocean view of the down slopping lot. Second, the structure was better sited into its down slopping lot if it stepped down the hill in harmony with the terrain. To better accomplish the aforementioned reasons, the builder, Swithenbank Construction, upon my suggestion, lowered the finished interior floor into itself, trading raised stem walls for interior walls. The exterior wall sizes did not change. In fact some of the mass of the walls became smaller. The roof plan remained the same. The footprint of the structure remained the same. The height of the structure remained within the 18 foot above grade approval. It was the responsibility of the local builder to obtain any subsequent approvals that might have been necessary for that change.

The most obvious change to the structure was in the windows. The windows stayed in the same relationship to the roof line. Exterior stone had to be eliminated when the floors were dropped. That footage was added to window square footage. However, some windows were eliminated: the guest room rake windows, the master bath skylight windows. As a point of information regarding the windows, the windows selected for the project have non-reflective glazing which has been amber tinted so that when seen from the village of Mendocino, they appear black and blend into the black of the surrounding tree barks and hillside. The approved stone color would have been tan/golden and would have been more visually apparent from Mendocino. At all times, color selections have been made so as to blend the house into the surrounding hillside. Even the window frames are the color of the approved stone color.

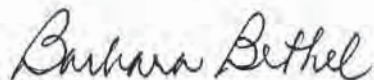
Mel Caldwell was hired to review this project February 2009. In his review, he required from Swithenbank Construction, the former project manager and builder, documentation that memorialized their understanding with Mendocino County Planning Department that the additional glazing was no more than a minor modification. In phone conversation with Rick Sweet, Mel Caldwell was told that the abovementioned changes to the windows would constitute a minor modification and would be accomplished within the planning department in approximately 6 weeks. Because Swithenbank did not memorialize the agreement with documentation, I prepared the plans I was told to submit by Mel Caldwell and submitted them October 2009. I am now surprised to learn that the planning department is requiring a major modification with an estimated review time of six months. This is not what we have been told before.

In addition, the approved CDP landscape plan required only the addition of 7 coastal pines on the northwest section of the lot. I submitted a landscape plan which had extensive additional landscaping to act as a visual buffer to the site development.

I have reread the approved CDPM 98-01(05) and do not find that the changes noted above violate any conditions and, therefore, do not require any modification. I propose that the project be reviewed as no more than a minor modification and that the submitted landscape plan be accepted as the mitigation that was referred to in the meeting.

I can be reached at 707-937-3455.

Respectfully submitted,



Barbara Bethel

Cc: Michael Oliphant, Teresa Spade, Melvin Caldwell



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

RAYMOND HALL, DIRECTOR
Telephone 707-964-5379
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pbs@co.mendocino.ca.us
www.co.mendocino.ca.us/planning

December 21, 2006

Barbara Bethel & John Hupp
PO Box 932
Pismo Beach, CA 93448

RE: Building Permit application BF 2006-1024
Address: 9490 North Highway One, Mendocino CA 95460

Dear Ms. Bethel,

Upon review of the above-referenced building permit application, it has come to staff's attention that the approved plans for the development on the site do not match the proposed building plans.

The original intent of the modification of the Coastal Development Permit 98-01 was to change the previously approved plans to a project that you wished to build. Due to the potential for negative visual impact in this highly scenic area, staff determined that a material modification (with several specific stipulated conditions) would be required for the review and ultimate approval of your proposed residence and associated structure.

It appears that the structure applied for in the building permit fails to meet the approved CDP plans in the following manner:

- The building footprint does not match (the guest cottage is now an attached guest bedroom, the open breezeway is now an enclosed walkway, the angle of the structure is different than that of the approved plans).
- The amount of glass has increased and is considered excessive.
- The setbacks are not noted on the site plan.
- The landscaping area is not located in the originally-approved area, where it is imperative that it be located.

- The "doghouse" structure covering the well house was not in the original approval.
- The exterior lighting appears to be excessive.

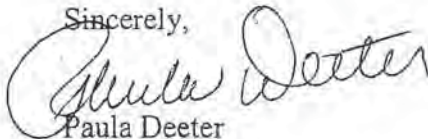
Please submit plans that reflect what was approved in your Coastal Development Permit CDP 98-01(05), or apply for a material modification to your CDP.

Staff would reiterate the importance of retaining the visual integrity of the site, as any changes to the proposed development would require adherence to Special Condition #5, which states:

All exterior siding and trim finish colors shall match those specified in the coastal development permit application. All exterior lighting fixtures shall match those submitted with the permit application and be downcast and shielded. Any changes shall be subject to the review and approval by the CPA for the life of the project.

Please feel free to contact staff if you have any questions.

Sincerely,



Paula Deeter
Planner I

CC: Travis Swithenbank, PO Box 566, Fort Bragg, CA 95437
CDPM 98-01(05) file

24 January 2006

Barbara Bethel
PO Box 932
Pismo Beach, CA 93448

Planner, Paula Deeter
County of Mendocino
Department of Planning and Building Services
790 South Franklin
Fort Bragg, CA 95437

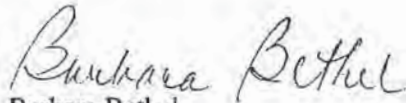
RE: CDPM#98-01(05), APN 119-320-44

Dear Paula:

Thank you for all the assistance you have given to my team of professionals during the processing of the above mentioned CDP application. I am excited about the possibility of beginning the development of the site.

Since I will be unable to attend the meeting, I authorize Todd Newberger to act as my agent at the Thursday, 26 January 2006, CDP meeting.

Thank you for the diligent work.


Barbara Bethel

1/24/06

PO Box 932
Pismo Beach, Ca 93448

17 March 2005

Paula Deeter
County of Mendocino
Planning Dept.
790 S. Franklin
Fort Bragg, CA 95437


RE: CDP Mod 98-01/9490 N Highway One, Mendocino

Dear Paula:

Included with this letter are my CDP Modification and the information required for your consideration and processing of the modification. A check for \$1,284 is included as well.

If you have questions or need anything related to the application, structures or materials, please contact me at 805-331-9216. Eric Jahelka of KPFF is assisting me with this submission. If anything related to grading, drainage, or septic is needed, please contact Eric at 962-9307.

Thank you for the assistance you have provided me to make this submission possible. I am excited about this creation.


Barbara Bethel