

CALIFORNIA COASTAL COMMISSION

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STAFF REPORT: CONSENT CALENDAR

Application No: 1-13-0990

Applicant: John R. Lee

Location: West side of Stagecoach Road, north of Rainbow Lane, approximately one mile north of Trinidad, Humboldt County [APN515-231010].

Project Description: Construct a 3,483-square-foot single-family residence with a 1,000-square-foot auxiliary living unit, a 1,100-square-foot garage, and 5,769 square feet of porches and decks, septic system, water storage tanks, and driveway.

Staff Recommendation: Approval with conditions

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends approval with conditions of coastal development permit application 1-13-0990 for the construction of a single-family residence off of Stagecoach Road north of Trinidad in Humboldt County.

The project would entail the construction of a 3,483-square-foot single family residence, a 1,000-square-foot-auxiliary living unit, a 1,100-square-foot garage, 1,367 square feet of covered decks, and a 4,000-square-foot gravel driveway. The project will also include parking for up to six cars.

The project comes several years following Commission approval of CDP#1-05-021 for the subdivision of an approximately 40-acre parcel, into three resulting parcels. The subject parcel is Parcel 2 from that subdivision. The subdivision approval included numerous special conditions restricting future residential development to particular locations on the resulting parcels to avoid impacts to coastal resources and to minimize geologic hazards. The proposed residential structure conforms to the 100-foot bluff setback restriction and the 100-foot Martin Creek ESHA buffer setback restriction. The building site avoids a vertical public access easement granted as part of the subdivision on the subject parcel. The adjoining parcel (Parcel 3) contains part of the Trinidad Fault, which may subject the site to potential fault rupture and significant ground shaking during an earthquake. The building site on Parcel 2 is outside of the Alquist Priolo hazard zone surrounding the fault.

Staff is recommending approval with eight special conditions to ensure that the development will assure stability and structural integrity and not require the future construction of protective devices that would substantially alter the natural bluff and ensure that coastal resources in the project area are adequately protected. The conditions require: submittal of final foundation and framing plans that incorporate standard design measures to enable the proposed structures to withstand ground shaking during earthquakes; submittal of a stormwater runoff and erosion control plan; submittal of a monitoring plan designed to ensure removal of invasive Scotch Broom and the replanting of native plants is successful for no less than a period of 5 years; prohibitions on bluff or shoreline protective devices being constructed to protect the residential structure and other development approved by this permit; acknowledgement and agreement that the site may be subject to geologic hazards; assumption of risks; monitoring for the presence of archaeological or other cultural resources; and limitations on exterior lighting.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit 1 – Regional location map
- Exhibit 2 – Parcel map
- Exhibit 3 – Subdivision parcel map
- Exhibit 4 – Site plan
- Exhibit 5 – Development plans
- Exhibit 6 – Geotechnical Report Excerpts
- Exhibit 7 – CDP# 1-05-021 (Martin) Adopted Findings
- Exhibit 8 – Site Photos

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the coastal development permit applications included in the consent calendar in accordance with the staff recommendation.*

Staff recommends a **YES** vote. Passage of this motion will result in approval of all the permits included on the consent calendar. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

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

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Final Erosion and Runoff Control Plan.**
 - A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-13-0990, the applicant shall submit a plan for erosion and run-off control to the Executive Director for review and approval.
 - 1) **EROSION CONTROL PLAN COMPONENT**
 - a. The erosion control plan shall demonstrate that:
 - (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
 - (2) The following temporary erosion control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-1), *Preservation of Existing Vegetation* (EC-2), *Stabilized Construction Roadway* (TC-2), and *Silt Fences* (SE1); and
 - (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources.
 - b. The plan shall include, at a minimum, the following components:
 - (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;
 - (2) A site plan showing the location of all temporary erosion control measures;
 - (3) A schedule for installation and removal of the temporary erosion control measures;
 - (4) A site plan showing the location of all permanent erosion control measures; and
 - (5) A schedule for installation and maintenance of the permanent erosion control measures.
 - 2) **RUN-OFF CONTROL PLAN COMPONENT**
 - a. The runoff control plan shall demonstrate that:
 - (1) Runoff from the project shall not increase sedimentation into coastal waters;
 - (2) Runoff from building roofs and decking, driveways, and other impervious surfaces on the site shall be collected and conveyed into vegetated areas to avoid sedimentation either on or off the site, and provide for bio-filtration treatment of pollutants entrained in runoff; and

- (3) The following temporary runoff control measures, as described in detail within in the January 2003 “California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, et al. for the Storm Water Quality Task Force, shall be used during construction: *Material Delivery and Storage* (WM-01), *Solid Waste Management* (WM-05), and *Vehicle and Equipment Fueling* (NS-9).
 - b. The plan shall include, at a minimum, the following components:
 - (1) A narrative report describing all temporary runoff control measures to be used during construction and all permanent runoff control measures to be installed for permanent runoff control;
 - (2) A site plan showing the location of all temporary runoff control measures;
 - (3) A schedule for installation and removal of the temporary runoff control measures;
 - (4) A site plan showing the location of all permanent runoff control measures; and
 - (5) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.
 - B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.
- 2. **Scotch Broom and Landscaping Restrictions.** The permittee shall comply with the following landscaping-related requirements:
 - A. The permittee shall (1) remove all Scotch Broom from areas of the subject parcel within a minimum 100-foot radius of the approved development, (2) replant or re-seed according to the requirements of part 2(b) below, and (3) monitor the site for five (5) years according to the requirements of part 2(c) below.
 - B. For the purposes of re-seeding or planting (1) areas disturbed during the removal of Scotch Broom or other invasive species or (2) any other planting on the property, only native and/or non-invasive plant species shall be planted. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the bounds of the property; and
 - C. PRIOR TO THE ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-13-0990, the permittee shall submit a five (5) year monitoring program to ensure the replanted areas remain free of invasive plants for no less than five (5) years, for review and approval of the Executive Director, which incorporates detailed methods for (1) identifying Scotch Broom and other potential invasive plant species from areas of the subject parcel within a minimum 100-foot radius of the approved development following initial removal of Scotch Broom, and (2) removing the Scotch Broom and other invasive plant species in the affected area. The permittee shall undertake development in accordance with the approved final plan. Any

proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

- D. The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

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

- A. By acceptance of this permit, the applicant/landowners agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 1-13-0990 including, but not limited to, the house, garage, auxiliary living unit, porches and decks, septic system, water storage tanks, and driveways in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- B. By acceptance of this permit, the applicant/landowners further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this permit, including the house, garage, auxiliary living unit, porches and decks, septic system, water storage tanks, and driveways, if any government agency has ordered that the improvements are not to be used due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- C. In the event the edge of the bluff recedes to within twenty-five (25) feet of the development, but no government agency has ordered that the improvements not be used, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the permittee, that addresses whether any portions of the house, garage, auxiliary living unit, porches and decks, septic system, water storage tanks, and driveways are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the house, garage, auxiliary living unit, porches and decks, septic system, water storage tanks, and driveways access and driveway improvements without shore or bluff protection, including but not limited to removal or relocation of portions of the access and driveway improvements. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the access and driveway improvements is unsafe for use, the permittee shall, within 90 days of submitting the report, apply for a coastal development permit amendment to remedy the hazard which shall include removal of the threatened portion of the development.

4. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this permit, the applicant/landowners acknowledge and agree: (i) that the site may be subject to hazards from coastal erosion hazards, such as waves, storm waves, landslides, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
5. **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 (c) hereof; and a qualified cultural resource specialist shall analyze the significance of the find.
 1. 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.
 - a) 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.
 - b) 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.
6. **Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval documentation demonstrating that the landowner has executed and recorded 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 (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and 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 applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

7. **Lighting Limitations.** All exterior lighting attached to the authorized structures shall be low-wattage and downcast shielded such that no glare will be directed beyond the bounds of the property or into adjoining coastal waters.
8. **Final Foundation and Framing Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for the review and written approval of the Executive Director, full-size scaled final foundation and framing plans for the single-family residence, auxiliary living unit, and garage.
 - A. The submitted plans shall be in substantial compliance with the plans submitted with the permit application and which incorporate the following proposed hazard mitigation measures consistent with the Uniform Building Code:
 - 1) Use of post and beam foundation and framing construction;
 - 2) Use of bolts or other fasteners attaching the house framing to the foundation; and
 - 3) Use of framing shear walls.
 - B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission approved amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. ENVIRONMENTAL SETTING, BACKGROUND AND PAST COMMISSION ACTION

The subject 10.2-acre parcel (parcel #2) was created by a prior land division (1-05-021 and 1-05-021-A1) and is located along the coastal bluffs, within north coast coniferous forest habitat, between the City of Trinidad and Patrick's Point State Park, about one and a half miles north of the City (**Exhibit 1**). The property is on the west side of Stagecoach Road, approximately 250 feet north of the intersection of Rainbow Lane and Stagecoach Road. Stagecoach Road is the first public road nearest the sea, and is narrow and windy (**Exhibit 2**). As a result of the subdivision, the subject parcel contains a deed restriction requiring future development to be located 125-ft from the edge of the coastal bluff (**Exhibit 3**).

The subject property is designated locally in the Humboldt County General Plan Volume II – Trinidad Area Plan as Rural Residential, 5-acre minimum lot size, with an overlay combining zone regarding the evaluation of geologic hazards, design review, and the protection of offshore rocks, intertidal areas, streams and riparian corridors. The property is surrounded by Stagecoach Road to the east, residential parcels to the north and south, and the Pacific Ocean to the west. The surrounding residential development ranges from smaller older homes of modest stature to large newer homes. The subject property includes ocean beaches, coastal bluffs, forested area, and open fields.

The coastline along the site is characterized by offshore rocks and narrow sand beaches backed by high rocky bluffs. The area on the property at the top of the bluffs is part of an uplifted

marine terrace. The topography in the area varies considerably from the relatively flat ground of the marine terrace to the steep slopes within the Martin Creek ravine and on the coastal bluffs. According to the geotechnical report prepared for the subdivision project (CDP 1-05-021/Martin), elevations on the property range from sea level at the beach at the foot of the bluff to a maximum of 212 feet above mean sea level at the very southeastern corner of the property near Stagecoach Road. The bluff top consists of a gently sloping (5% to 15%) uplifted marine terrace. The slope gradients of the bluff face vary and range from 25% to 110%. The length of the slope of the bluff face is approximately 750 feet. The property is in an area designated by the County as an area of high slope instability. A portion of the adjacent parcel is within an Alquist-Priolo Special Studies hazard zone, as the Trinidad fault is present just south of the adjoining parcel.

The property lies within an area designated as “Coastal Scenic” under the County’s uncertified General Plan, but is not designated as a Highly Scenic Area under the Coastal Act and Regulations. Views to the ocean through the property from most of Stagecoach Road are obscured by trees.

Native Americans are known to have settled along the Humboldt County coast within the general vicinity of the subject property. However, there are no reports of historical resources having been found on the project site.

B. STANDARD OF REVIEW

In October of 1982, the Commission certified in part the Trinidad Area Land Use Plan of Humboldt County’s Local Coastal Program. However, the Commission denied certification of the plan for privately owned lands, other than lands owned by the Humboldt North Coast Land Trust, located west of Scenic Drive, Stagecoach Road, and Patrick’s Point Drive (where they are the first public roads paralleling the sea), and along the route of the 6th Avenue Trail in the Westhaven area. In denying certification for this area, the Commission suggested that the plan’s policies regarding the protection of the public’s right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resources, hazard, and public access policies of the Coastal Act. The County did not accept the suggested modification and the geographic area became an “area of deferred certification” or ADC. Consequently, the authority for granting coastal development permits within the ADC is still retained by the Commission. Therefore the standard of review that the Commission must apply to the permit application is the Chapter 3 policies of the Coastal Act.

C. PROPOSED PROJECT DESCRIPTION

The applicant proposes to construct an approximately 3,483-square-foot single family residence, a 1,100-square-foot auxiliary living unit, a 1,100-square-foot garage, 1,367 square feet of covered decks, and a 4,000-square-foot gravel driveway on Parcel 2 (a bluff-top lot). The residence will be approximately 35 feet in height. The project includes less than 50 cubic yards of grading. The applicant proposes a septic system with two onsite leachfields. The property is served by an existing water well (1.2 gallons per minute (gpm)). The applicant proposes construction of two 5,000 gallon water tanks (10,000 gallons total). The driveway will comprised of gravel and will allow for six (6) parking spaces.

In order to clear a footprint for the proposed residence, the applicant proposes to remove fourteen (14) cypress and spruce trees, ranging between 24” and 36” in diameter. The applicant also proposes to remove approximately 3,000-square-feet of low brush, and an unknown quantity of 4” to 10” in diameter spruce and cypress trees.

Project plans are attached as **Exhibit 4 and 5**.

D. NEW DEVELOPMENT

Coastal Act Section 30250 (a) states in part:

(a) New, residential, commercial, or industrial development, except as otherwise provided in this division, shall be located contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

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

The proposed residential development is located within a rural area that has been planned and zoned to accommodate it. The Humboldt County General Plan, Volume II – Trinidad Area Plan requires a development ratio of 1 unit per 5 acres in this particular location. The subject parcel is 10.2 acres and there will be two units. The proposed residences are consistent with the uncertified rural residential use and zoning designations locally applied to the site.

The applicant is proposing to serve the residence with on-site sewage disposal (2 leach fields) and an existing well. During the subdivision review process, test wells and soil evaluations were conducted to evaluate the suitability of the site for sewage septic systems and to evaluate the suitability of groundwater found at the site for residential use. These studies indicate that the soils are adequate to accommodate on-site septic systems and sufficient groundwater is available to serve the proposed residential uses of the site. In a memorandum dated August 10, 2004, the Humboldt County Department of Public Health, Division of Environmental Health states that (1) the applicant has completed soils testing which demonstrates that conventional in-ground gravity sewage disposal systems can serve each of the proposed parcels of the land division, and (2) the applicant has completed water supply testing which meets the current requirements for the proposed subdivision. With regards to the road services, the County concluded in its review of the subdivision that the added traffic generated by future residents of the subdivision would not create a significant impact on traffic and that necessary emergency access to and from the site would not be adversely affected.

As noted above, (1) the proposed subdivision will be located in an area planned and zoned for rural residential development at the density proposed by the applicant; (2) the applicant has submitted evidence that on-site sewage disposal systems and water wells will be adequate to serve the development; and (3) the County has determined there will be no significant traffic

impact resulting from the project. The current proposal is consistent with these findings and will not create a significant impact on traffic and emergency services. Therefore, the Commission finds that the proposed development is consistent with Section 30250(a) of the Coastal Act to the extent that the development will be located within an area able to accommodate it.

E. PROTECTION OF ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Section 30240 of the Coastal Act states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

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

Coastal Act Section 30107.7 defines “environmentally sensitive area” as meaning:

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

Section 30240 of the Coastal Act states that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat areas.

As part of the subdivision approved under CDP No. 1-05-021, a biological assessment was performed for the approximately 40-acre pre-subdivided property by SHN, in April of 2004. The report identified the riparian area associated with Martin Creek, which traverses east to west through the middle of the subject parcel, as an environmentally sensitive habitat area (ESHA) as defined under the Coastal Act. Approximately 700 linear feet of Martin Creek exists within the subject parcel. This portion of the drainage is characterized by a well-developed streambed with moderately steep vegetated slopes, and is characterized by a moderately open overstory of big-leaf maple (*Acer macrophyllum*), Sitka spruce and red alder, with scattered cascara and willows. Numerous moss and lichen species are present on the trees. The dense mesic understory is dominated by lady fern (*Athyrium filix-femina*), sedges, salal, false lily-of-the-valley (*Maianthemum dilatatum*), Pacific water-parsley, sweet cicely, redwood sorrel, sword fern, salmonberry, Pacific bramble, elderberry (*Sambucus racemosa*), *Stachys* sp., piggy-back plant (*Tolmiea menziesii*), and evergreen huckleberry with scattered native and non-native grass species. Plant species cover the banks of the creek and there is relatively little evidence of stream bank erosion. The stream may provide habitat to two species included on federal or state rare or endangered species lists, including coho salmon and western lily. Habitat quality for the western lily is poor. The areas that have been identified as containing marginal western lily habitat are along the boundaries of the subject Parcel and Parcel 3, which are outside of the developable portions of the parcels. The biological assessment recommends that a 100-foot buffer be established on either side of the Martin Creek ESHA. The subject Parcel 2 includes area within the required 100-foot buffer.

Although the biological assessment did not specifically identify such habitat, the assessment indicates that suitable habitat for another rare or endangered species, the bank swallow, may be found along the bluffs at the western edge of the project site. The report notes that any habitat along the bluffs would be protected by the 125-ft-geologic setback and would not be impacted by the proposed development.

The assessment examined the Parcel 2 building site for future development and determined that development would not have an adverse impact on sensitive species within the building envelope. However, the assessment indicated that suitable habitat for sensitive species may exist in areas outside of the identified building sites, even though no such habitat has yet been positively identified.

F. GEOLOGIC HAZARDS

The Coastal Act contains policies to assure that new development provides structural integrity, minimizes risk to life and property in areas of high geologic and flood hazard, and does not create or contribute to erosion.

Section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fish kills should be phased out or upgraded where feasible.

Section 30253 states in applicable part:

New development shall:

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

The subject property encompasses an uplifted marine terrace situated approximately 200 feet above the ocean. The coastal bluffs are subject to bluff retreat, which poses a hazard to development of the subject parcel. In previous actions on coastal development permits, the Commission has interpreted Section 30253 of the Coastal Act to require that coastal development be sited a sufficient distance landward of coastal bluffs that it will neither be endangered by erosion nor lead to the construction of protective coastal armoring during the assumed economic life of the development. The Commission has generally assumed the economic life of a new house to be 75 to 100 years. A setback adequate to protect development over the economic life of a development must account both for the expected bluff retreat during

that time period and the existing slope stability. Long-term bluff retreat is measured by examining historic data including vertical aerial photographs and any surveys conducted that identified the bluff edge. Slope stability is a measure of the resistance of a slope to land sliding, and is assessed by a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the “factor of safety”. The process involves determining a setback from the bluff edge where a factor of safety of 1.5 is achieved. The quantitative slope stability analysis needs to be prepared by a licensed geotechnical professional familiar with the process.

Prior to approval of the previous subdivision, the applicant commissioned SHN Consulting Engineers & Geologists Inc. to perform a geotechnical investigation of the site. The geotechnical investigation of the site is documented in the geotechnical report entitled “Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad, California. Excerpts of the report are included in Exhibit 6 of the written staff recommendation.

The report indicates that the bluffs are composed of terrace deposits underlain by the Franciscan Complex regional bedrock unit. The report indicates the bluffs are subject to retreat and that recent and historic ground movement is evident along the bluff edge and on the surface of the slopes leading down to the shoreline.

In assessing the long-term bluff retreat rate at the site, the SHN investigation utilized 8 sets of aerial photographs spanning 54 years. The long-term average erosion rate for the 54-year period is variable along the bluff. The investigation calculated a long-term average rate of bluff retreat for the bluffs in the vicinity of Parcel 2 at a rate of 1.1 feet per year. Using a design life of 75 years, SHN determined that a bluff retreat setback of at least 82.5 feet for Parcel 2.

The SHN investigation includes a quantitative slope stability analysis using data obtained from five other geotechnical investigations in the project area. The factor of safety increases with distance from the bluff edge, and the report considered the point on the ground corresponding to a factor of safety of 1.5, the industry standard for new development.

Based on the results of the analysis of long term bluff retreat and slope stability, SHN indicates a minimum setback line from the present bluff edge of 125.5-foot setback is needed for proposed Parcel 2 to protect the proposed development. SHN has generalized these results to recommend a 125-foot setback for Parcel 2. The 125-foot setback was imposed as a deed restriction pursuant to CDP# 1-05-021 and Parcel 2 is presently restricted by the 125-foot setback.

Coastal Commission staff geologist Dr. Mark Johnsson reviewed the SHN report and concurs that the applicant’s geologist’s recommended setbacks are appropriate.

The applicant expressly proposed the project to exist landward of the 125-foot setback. The proposed building site is landward of the bluff setback and outside of the Martin Creek ESHA open space area. The Commission find that the proposed development as conditioned will set back a sufficient distance from the bluff edge to provide for the economic design life of each

element of the development and eliminate the need for shoreline protection devices to protect the development consistent with Section 30253 of the Coastal Act.

In addition to the bluff setback, other restrictions also apply to Parcel 2, as a result of CDP#1-05-021. CDP#1-05-021's Special Condition No. 10 prohibited the construction of shoreline protective devices on the parcel to protect driveway and water supply improvements, and required the landowners accept sole responsibility for the removal of any structural debris resulting from landslide, slope failures, or erosion of the site. These requirements were necessary for compliance with the Coastal Act Section 30253, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission, in approving 1-05-021, found that the proposed development could not be approved as being consistent with Coastal Act Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

The project site is located within the Mad River fault zone. This zone consists of several major northwest-trending thrust faults and numerous minor, secondary synthetic and antithetic faults and intervening folds. One such major fault is the Trinidad Fault, which abuts the southern edge of the parcel adjacent to the south. The Fault Rupture Hazard Evaluation concluded that no faults exist which pose a surface fault rupture hazard, but that there could be some coseismic tilting or folding during surface-rupturing earthquake due to the fault's relatively shallow depth. Moreover, due to the site's proximity to the fault, the site is subject to extreme ground shaking (**see Exhibit 2**). The Report concludes that "it may be prudent to engineer structures at the site in such a manner as to withstand the strong ground shaking potential associated with the near-source conditions." To ensure that the three proposed buildings including the main residence, auxiliary living unit, and garage are engineered in such a manner to withstand the strong ground shaking potential, Special Condition No. 8 requires that the applicant submit final foundation and framing plans for these structures for the review and approval of the Executive Director prior to issuance of the permit. The special condition requires that the foundation and framing plans incorporate a post and beam foundation design that includes tie-downs and shear walls. Lesley Ewing, the Commission's Coastal Engineer indicates that this design is sufficient to withstand the Trinidad Fault ground shaking for the life of the structure.

Notwithstanding the relative degree of insulation of the proposed project improvements in their proposed locations from geologic hazards, the applicant is proposing to construct development that will be located on a high uplifted marine terrace bluff top that is actively eroding. Consequently, the development will be located in an area of high geologic hazard. However, new development can only be found consistent with Sections 30235 and 30253 of the Coastal Act if the risks to life and property from the geologic hazards are minimized and if a protective device will not be needed in the future. Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given bluff top site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional

geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates.

Geologic hazards are episodic, and bluffs that seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding, and that the proposed new development will be subject to geologic hazard and could someday require a bluff or shoreline protective device, inconsistent with Section 30235 of the Coastal Act. The Commission finds that the proposed development could not be approved as being consistent with Section 30235 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Based upon the geologic report previously prepared for the site during the land division stage and the evaluation of the project by the Commission's staff geologist, the Commission finds that the risks of geologic hazard are sufficiently minimized by all development being set back at least 125 feet from the bluff edge. However, given that the risk cannot be eliminated and the geologic report cannot assure that shoreline protection will never be needed to protect the residence, the Commission finds that the proposed development is consistent with the Coastal Act only if it's conditioned to provide shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with any certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protection devices, it is necessary to attach **Special Condition 3** to ensure that no future shoreline protective device will be constructed.

Special Condition 3 prohibits the construction of shoreline protective devices on the parcel, requires that the landowner provide a geotechnical investigation and remove the approved development if bluff retreat reaches the point where this development is threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are necessary for compliance with the Coastal Act Section 30253, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with Coastal Act Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

As noted above, some risks of an unforeseen natural disaster, such as unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean-up of structural debris that winds up on the

beach or an adjacent property. As a precaution, in cases such as an unexpected event occurs on the subject property, **Special Condition 4** requires the landowner to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the residence and water storage improvements should the bluff retreat reach the point where a government agency has ordered that these facilities not be used.

Special Condition 4 requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite the identified risks, the applicant was required to assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, **Special Condition 6** also requires recordation against the property of the terms and conditions of the permit, which will effectively put future owners on notice regarding the risks, the Commission's immunity from liability, and the indemnity, afforded the Commission. To ensure that all future owners of the property are aware of the hazards present at the site, the Commission's immunity from liability, and the indemnity afforded the Commission.

The Commission thus finds that the proposed development is consistent with the policies of the Coastal Act regarding geologic hazards, including the Coastal Act Sections 30235 and 30253, since the development as conditioned will not contribute significantly to the creation of any geologic hazards, will not have adverse impacts on the stability of the coastal bluff or on erosion, will not require the construction of shoreline protective works, and as the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. Design features anticipate and minimize the potential for impacts to the structure and bluff due to the identified geologic hazards.

The Commission finds the proposed project is consistent with Section 30253 of the Coastal Act.

G. PUBLIC ACCESS

Projects located between the first public road and the sea within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of the Coastal Act. Coastal Act Sections 30210, 30211, 30212, and 30214 require the provision of maximum public access opportunities, with limited exceptions.

Section 30210 states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 states, in applicable part:

- (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
 - (1) *It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
 - (2) *Adequate access exists nearby, or,*
 - (3) *Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30214 states:

- (a) *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
 - (1) *Topographic and geologic site characteristics.*
 - (2) *The capacity of the site to sustain use and at what level of intensity.*
 - (3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
 - (4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) *It is the intent of the Legislature that the public access policies of this article are carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.*

- (c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

A foot trail crosses the subject parcel a short distance to the south of Martin Creek at a bend in Stagecoach Road. The trail extends from Stagecoach Road to the sea by descending a steep slope along the general course of the creek to the sandy and rocky beaches at the shoreline. As discussed further in the Commission's approval of CDP# 1-05-021, when the land was divided the land division applicants granted a ten-foot wide vertical easement for public access and passive recreational use over the trail from Stagecoach Road to a pocket beach ("Secret Beach") to the Humboldt North Coast Land Trust. The area granted is partially within the subject parcel.

Accordingly, the previously approved and implemented public trail provides adequate public access to Secret Beach. Additionally, the proposed development will not otherwise have a significant impact on public access, as the development will be located well away from the public trail easement.

Therefore, the Commission finds the proposed development, which does not include any additional public access is consistent with the public access policies of Chapter 3 of the Coastal Act.

H. PROTECTION OF COASTAL WATERS

Section 30231 of the Coastal Act addresses the protection of coastal water quality and marine resources in conjunction with development and other land use activities. Section 30231 states:

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

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. Recognizing this potential impact, Section 30231 requires the protection of coastal waters to ensure biological productivity, protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible.

The subject parcel includes intertidal areas, coastal bluffs and gently sloping portions of an uplifted coastal terrace planned and zoned for low-density rural residential development. Runoff from the terrace generally flows westerly across the property to the coastal bluffs. Runoff

originating from the development site that is allowed to drain off the site to the coastal bluff could contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters. Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction of the residential development activities, tree clearance and non-native vegetation clearance.

At the time of the Commission's and County's approval of the subdivision, the applicant's engineer submitted a conceptual storm water management plan that identifies several water quality management practices to be used in conjunction with development of the property. Those practices and recommendations have been incorporated into this project as well. However, to ensure the storm water management plan is appropriately detailed and sufficient to protect the coastal waters, the Commission attaches **Special Condition 1**, requiring that the applicants minimize erosion and sedimentation impacts from the proposed construction of the access road improvements. **Special Condition 1** requires that, prior to issuance of the CDP, the applicants submit for the review and approval of the Executive Director a final erosion and runoff control plan that would require that: (1) debris fencing be installed to contain runoff from road construction areas; (2) on-site vegetation be maintained to the maximum extent possible during construction; (3) the construction roadway be stabilized; and (4) runoff from all buildings, driveways, and the appears are emergency vehicle turn-around areas be conveyed into vegetated swales.

In addition to the storm water measures identified at the time of subdivision, the applicant has provided conceptual information regarding a drainage plan for the development. All of the rain gutters on both units will empty into an underground French drain system. All the downspouts will empty into 4" drain tubes that will be located in a narrow 6" wide x 12-18" deep trench. A trench will be excavated on the south and north side of each house. The drain tubes will carry the rain water downhill away from the house and terminate into a small gravel pit near the edge of the setback (but **not** into the bluff set back area), where the water will seep out and discharge to a grassy area for biofiltration. These gravel pits will be at least 30' away from any septic leach field. This system will allow rainwater and runoff from the development to infiltrate the soil and not increase erosion rates in areas around the development.

The Commission thus finds that as conditioned, the proposed development is consistent with Section 30231 of the Coastal Act because existing water quality and biological productivity will be protected and maintained.

I. VISUAL RESOURCES

Coastal Act Section 30251 states:

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development 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 restore and enhance where feasible the quality of visually degraded areas, and to be visually compatible with the character of surrounding areas.

Coastal Act Section 30251 requires permitted development to be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, and to be visually compatible with the character of surrounding areas.

The subject property is located on a bluff top site overlooking the Pacific Ocean. The site is not located within a designated “Highly Scenic Area,” but the uncertified County Plan does list it as Coastal Scenic. The proposed residential buildings will be sited several hundred from Stagecoach road and the bluff edge. The principal public vantage points are from Stagecoach Road. Some limited blue water views are afforded through the property from Stagecoach Road, but the views of the ocean are partially obstructed by the forest vegetation on the property and the rolling topography of the site. Other public vantage points will include views from the vertical public access way and views from Secret Beach at the base of the bluffs. Finally, the subject property is visible from the open ocean from boats at sea.

The proposed residence would be located where views from Stagecoach Road to the ocean are already obstructed by existing vegetation and topography. Additionally, the proposed building site is located on relatively level ground and will require less than 50 cu. yds. of grading, thereby eliminating the need for any significant landform alteration. As viewed from Stagecoach Road, the future public access way, and the beach, the proposed residence would largely be invisible and thus would not raise an issue of visual compatibility with the visual character of the surrounding area.

While fourteen (14) Spruce and cypress trees are proposed for removal, additional trees of adequate height will remain to provide screening of the house from the public access trail and Stagecoach Road. Therefore, removal of the trees will not significantly impact the screening of the residence from the public areas and will not significantly affect the aesthetic quality of the property. Additionally, the proposed development is at a higher elevation than the trailhead and Stagecoach Road, and the rise in slope to the development site will further screen the development from view from either location.

The residence will be adequately screened from public viewpoints, including nearby roads and trails.

Although the development pattern is largely hidden from public view due to dense tree growth surrounding the site, there is potential for the nighttime character of the area to be impacted by outside illumination, given that this is an area with very little exterior lighting. Accordingly, to prevent the cumulative impacts of light pollution on the visual resources of the area, the Commission attaches **Special Condition 7**, which requires that all exterior lighting associated with the proposed development be low-wattage and downcast shielded such that no glare is directed beyond the bounds of the property or into adjoining coastal waters or environmentally sensitive areas.

The Commission thus finds that the proposed project will: (a) include adequate measures to insure that the scenic and visual qualities of coastal areas are considered and protected; (b) insure that permitted development is sited and designed to protect views to and along the ocean and scenic coastal areas; and (c) minimize the alteration of natural land forms.

J. ARCHAEOLOGICAL RESOURCES

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

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

The Yuroks, a Native American tribe, are known to have settled along the Humboldt County coast within the general vicinity of the subject property. The Yurok tribe had settlements extending north from Little River State Beach several miles to the south of the project site, to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks, including 17 villages on the coast. The North Coast Information Center, a unit of the State Historical Resources Information System, was asked to perform a cultural records search in the area affected by the CDP#1-05-021 subdivision and the surrounding area. The Center reported there are no reports of historical resources from the project site and did not recommend further studies for historical resources. In addition, excavations performed on Parcel 3 to evaluate fault rupture hazards uncovered no evidence of paleontological or archaeological resources.

Given the fact that no known archaeological resources have been discovered at the site and that the ground disturbing activities of the proposed development will be limited to shallow grading work (no more than 50 cu. yds) in limited areas for driveway residential development, the potential for the development to adversely affect archaeological or paleontological resources is very low. However, as Yurok settlements are known to exist in the general area, the potential exists for impacts are not non-existent.

Therefore, to ensure protection of any archaeological resources that may be discovered at the site during construction of the proposed project, the Commission attaches **Special Condition 5**, which 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 applicant 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 Section Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

K. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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 requirements of

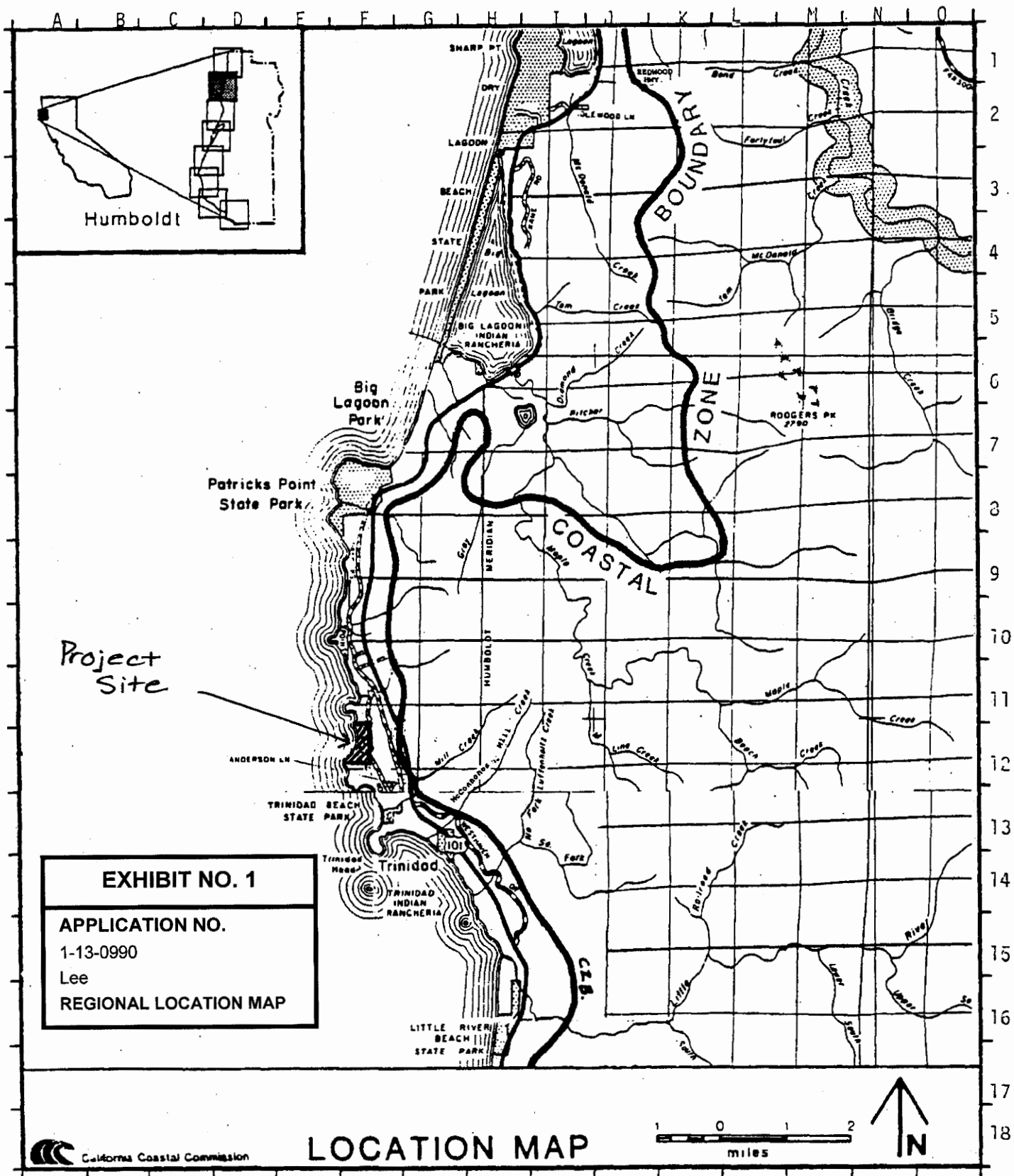
the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have 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 Coastal Act, the proposed project has been conditioned to be found consistent with the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. 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.

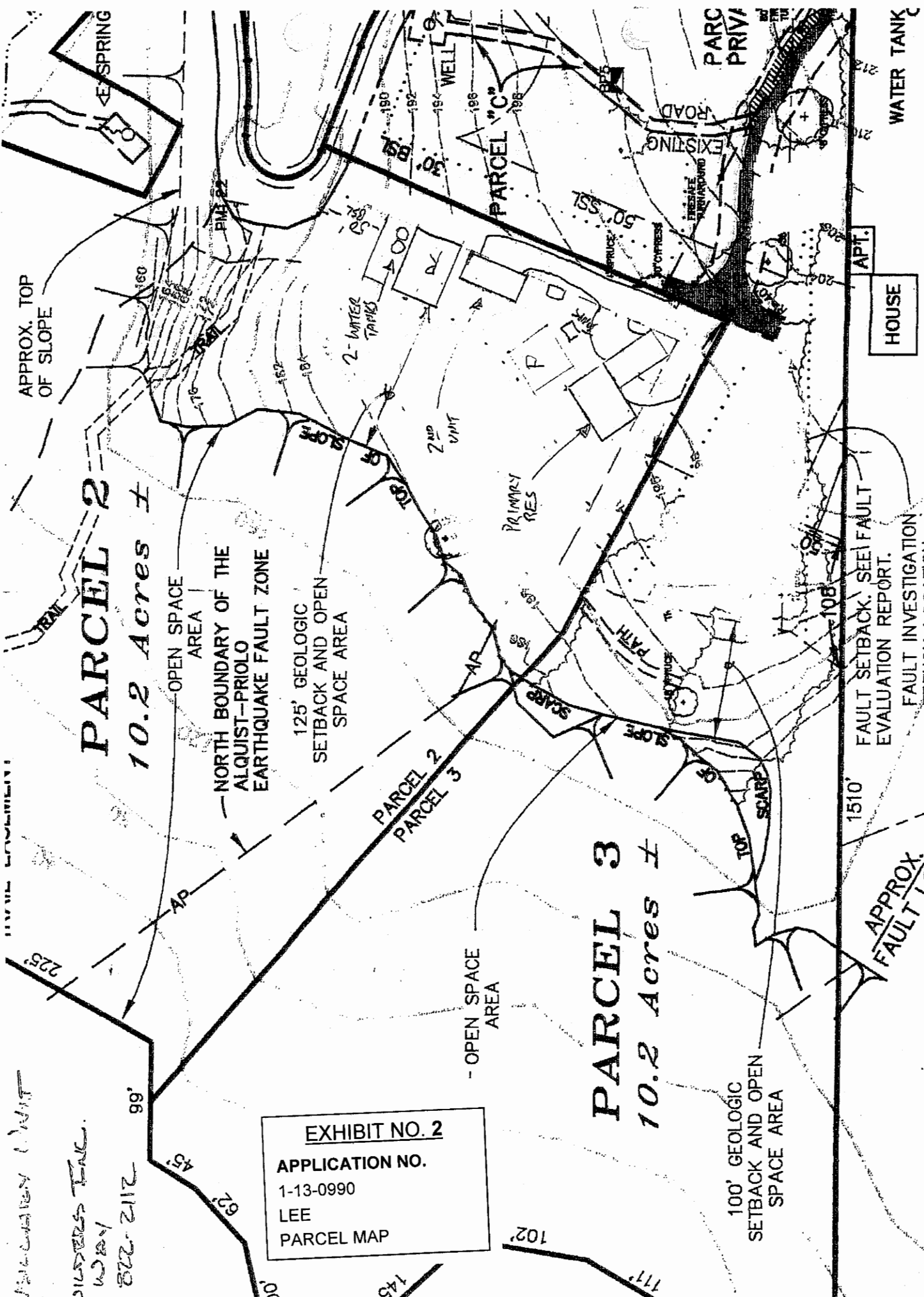
APPENDIX A

SUBSTANTIVE FILE DOCUMENTS

Application File for Coastal Development Permit No. 1-13-0990



County of Humboldt



PARCEL 2
10.2 Acres ±

PARCEL 3
10.2 Acres ±

EXHIBIT NO. 2
APPLICATION NO.
1-13-0990
LEE
PARCEL MAP

FAULT SETBACK. SEE FAULT
EVALUATION REPORT.
FAULT INVESTIGATION
TRENCH LOCATION

Parcel 2 and 3 1" = 100' SEE DEVELOPMENT PLAN

First Plan 1"=30'
 AP# 515-231-010
 J. LEE, RESIDENCE
 TREES TO BE REMOVED



EXHIBIT NO. 4

APPLICATION NO.
 1-13-0990
 LEE
 SITE PLAN

BLUF

BLUF SETBACK

4 RUNS @ 50' = 200'
2' APRON ON CENTER

5 RUNS @ 40' = 200'
2' APRON ON CENTER
PARKING X 2

33'-8"

WATER TANKS

90 X 50

2ND UNIT
22.5 X 45

DRAINAGE
PROPANE

PARKING X 2

12'

GRAVEL DRIVE

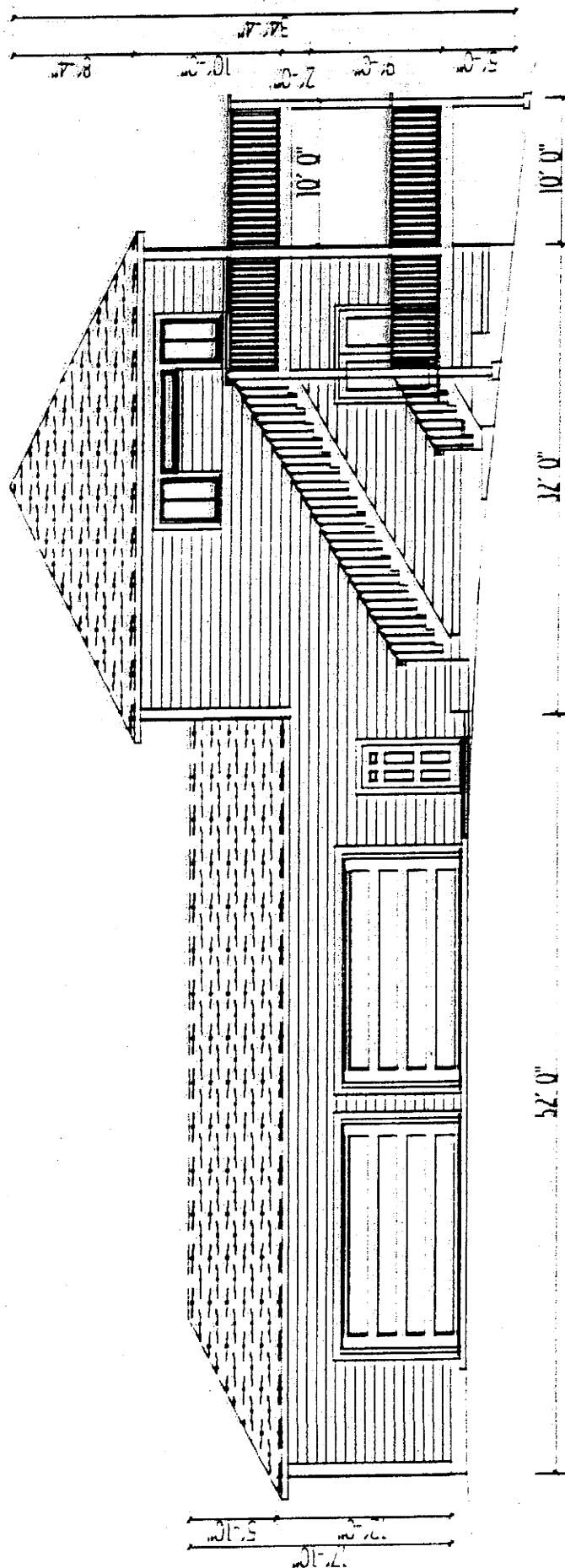
GRAVEL
PARKING
FOR 3
30 X 23

DECK
RESIDENCE
23 X 55 1/2

GARAGE
51 1/2 X 22 1/2

GARAGE

TURD
AROUND



NORTH ELEVATION

<p>WEB</p>	<p>WEST END BUILDERS INC.</p>	<p>OWNER: JOHN LEE</p>
<p>114 689135</p>	<p>5075 EDMONDSON WAY ARCAIA CA 907 822 2112</p>	<p>PROJECT: 515 231 010</p>
<p>5075 EDMONDSON WAY ARCAIA CA 907 822 2112</p>	<p>DRAWN BY DLD</p>	<p>DATE:</p>

EXHIBIT NO. 5

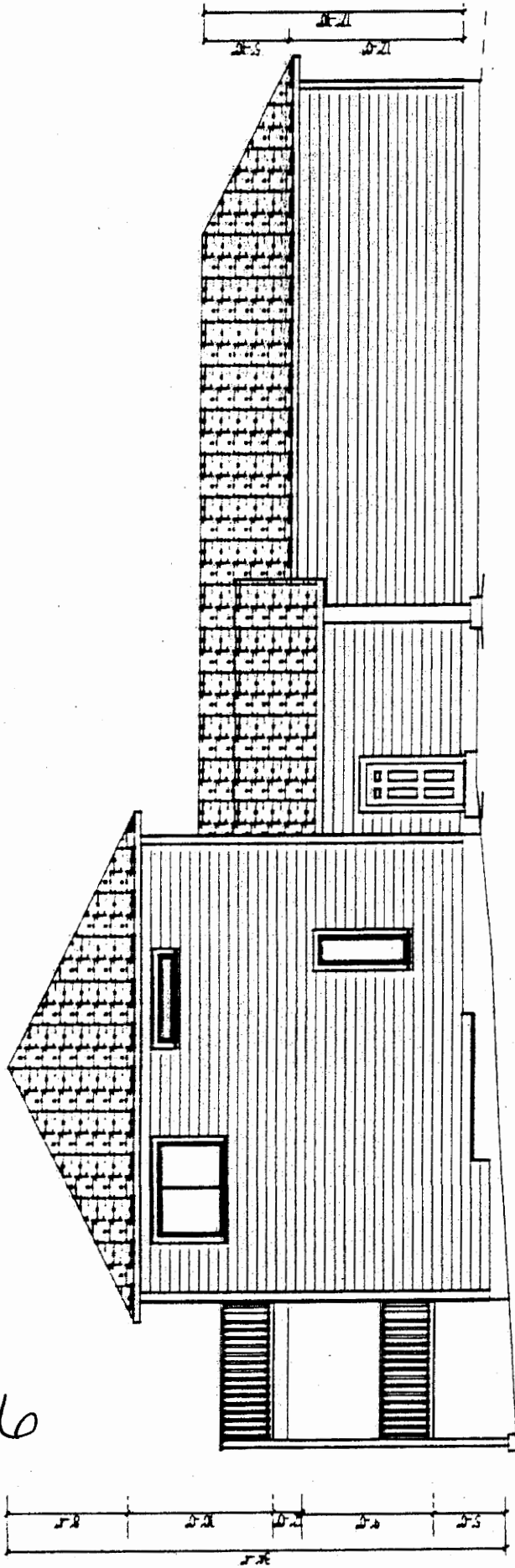
APPLICATION NO.

1-13-0990

LEE

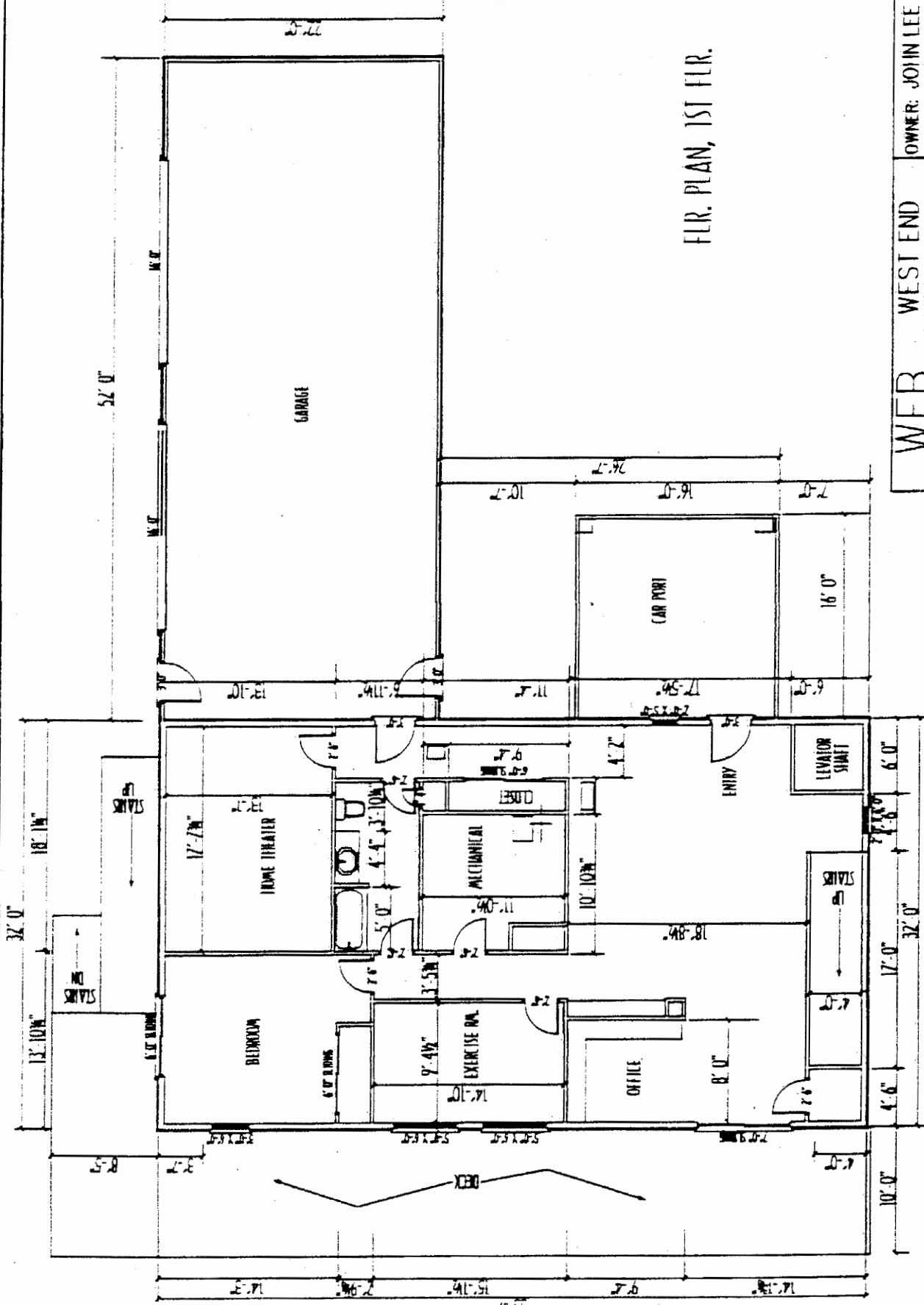
PROJECT PLANS (1 of 6)

2 of 6



SOUTH ELEVATION

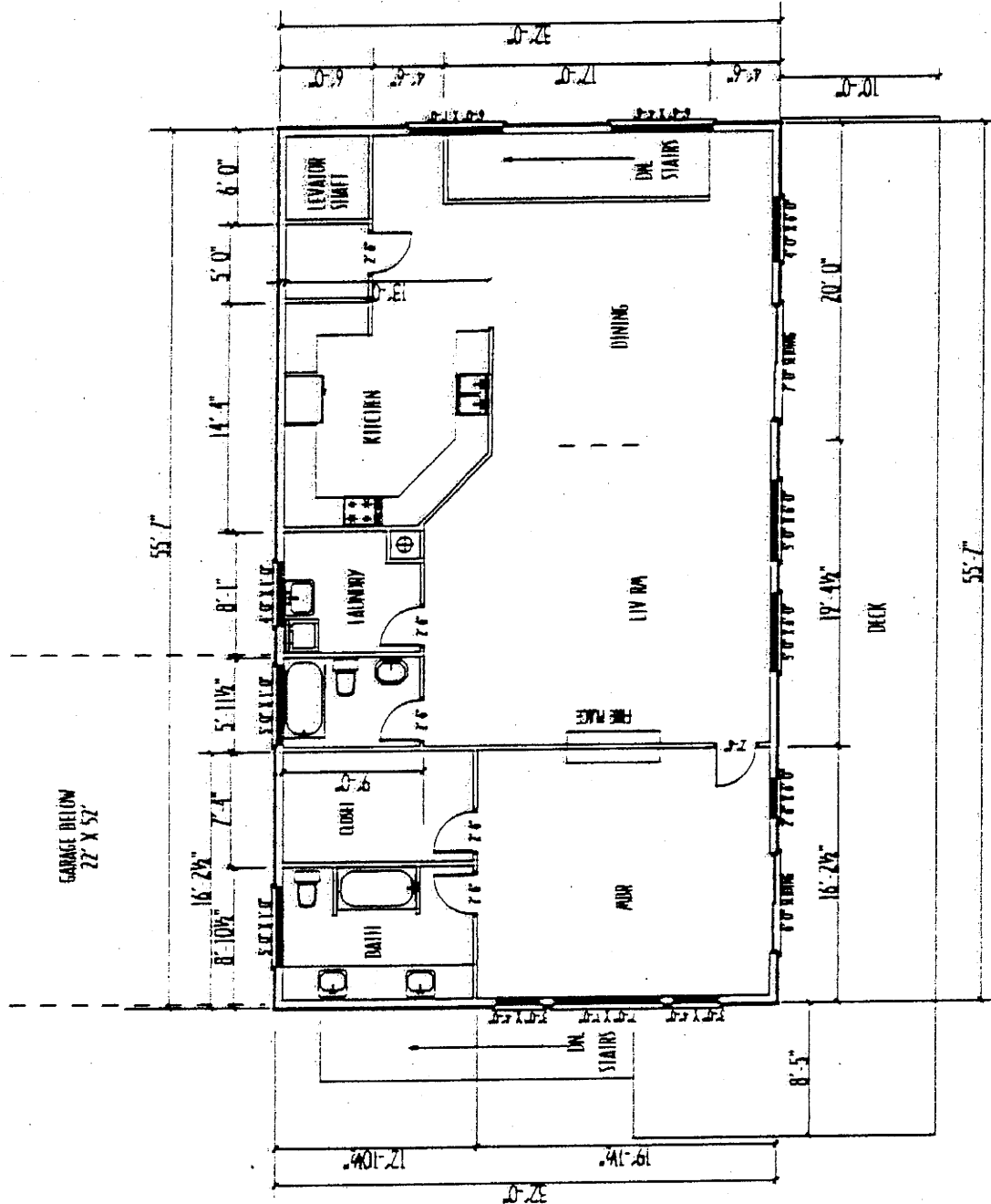
WEB	WEST END	OWNER: JOHN LEE
INC. 680035	BUII D I R S INC.	PROJECT: 515-231-010
5075 ERICSON WAY ARCATA CA 95521	822 2112	DRAWN BY DAD



F.L.R. PLAN, 1ST FLR.

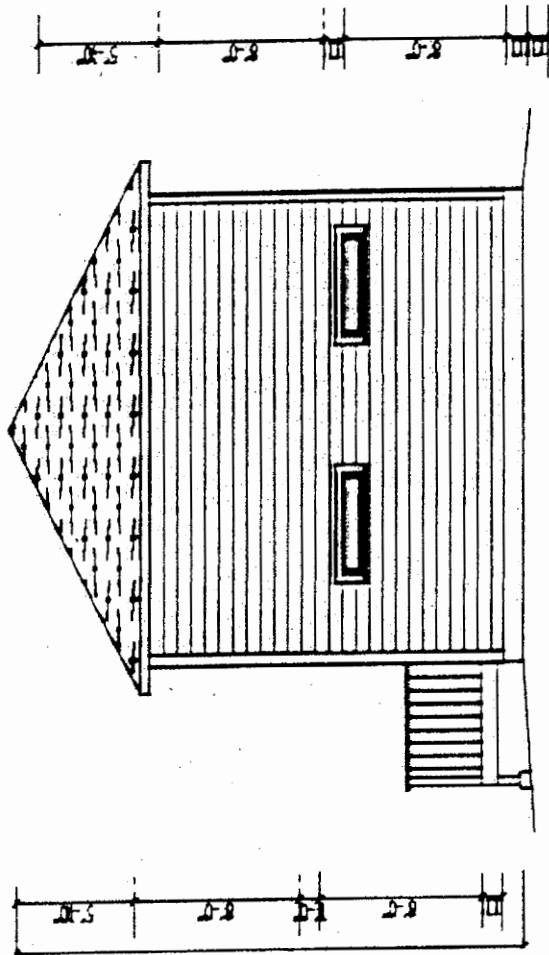
WEB	WEST END	OWNER: JOHN LEE
	BUILDERS INC.	PROJECT: 515-231-010
	5075 ERICSON WAY ARCATA CA 95521-2112	DRAWN BY DLD

4 of 6

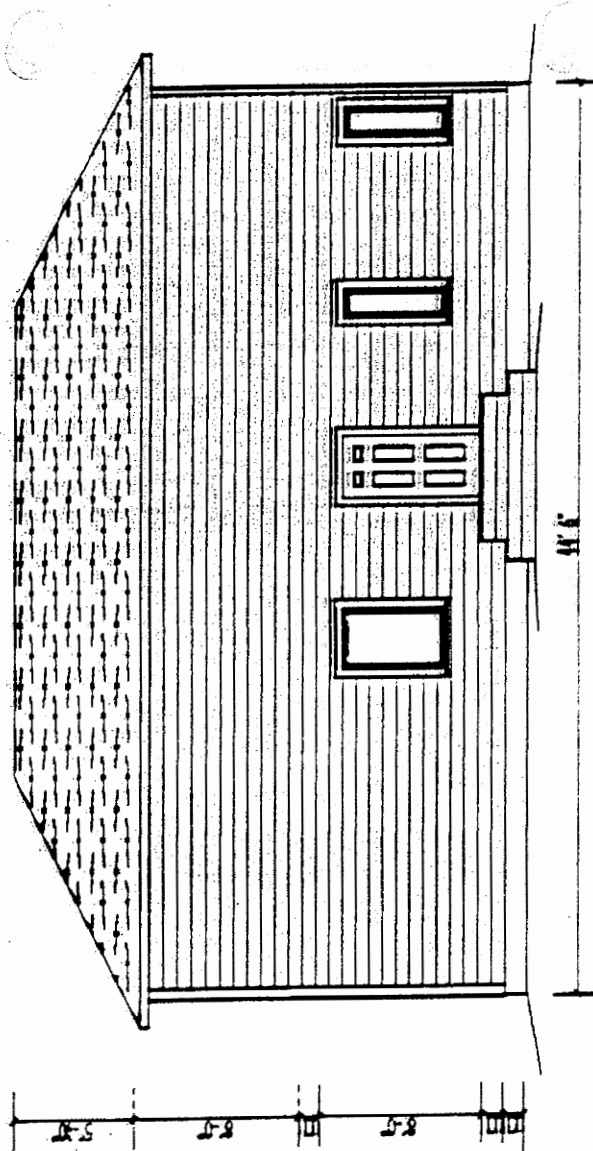


F.L.R. PLAN, 2ND F.L.R.

WEB INC. 699035 5075 ERICSON WAY ARCAATA CA 94027-2112	WEST END BUILDERS INC.	OWNER: JOHN LEE PROJECT: 515-231-010 DRAWN BY: DLD



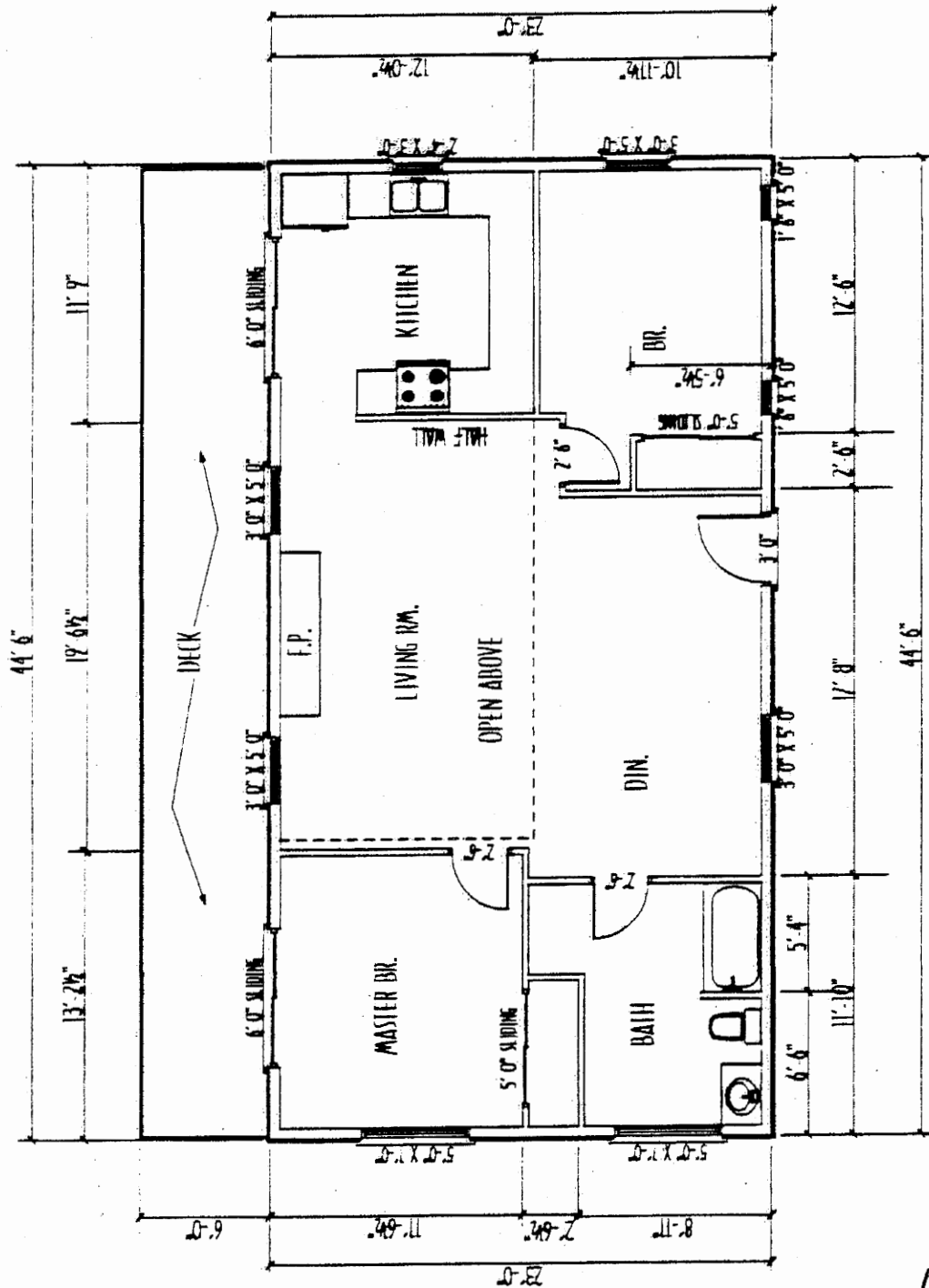
2ND UNIT , SOUTH ELEVATION



2ND UNIT , EAST ELEVATION

5 of 6

WEB LIC# 699035 5075 ERICSON WAY ARCATA, CA 95521-2112	WEST END BUILDERS INC.	OWNER: JOHN LEE PROJECT: 515-231-011 DRAWN BY: DLD
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2ND. UNIT , FOOR PLAN

6 of 6

WEB WEST END BUILDERS, INC. 1078 BOWLING GREEN WAY, ARCADIA, CA 91709-2112	OWNER: JOHN LEE	SHEET:
	PROJECT: 515-231-010	IF:
	DRAWN BLIND	PROJECT:

Reference: 003166

Fault Rupture Hazard Evaluation

For a Portion of APN 515-231-004

• Trinidad, California

Prepared for:

Jeanine Martin



Consulting Engineers & Geologists, Inc.
812 W. Wabash Ave.
Eureka, CA 95501-2138
(707) 441-8855

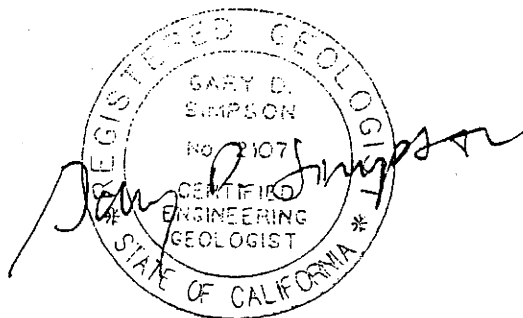
March 2004

EXHIBIT NO. 6

APPLICATION NO.

1-13-0990 - LEE

**GEOTECHNICAL REPORT
EXCERPTS (1 of 9)**



QA/QC:___

Introduction

Project Location and Description of Development Plans

This report presents the results of a fault rupture hazard evaluation for property in Trinidad, California (Figure 1). The site is located on the Trinidad 7.5-minute topographic quadrangle, in the southwestern corner of Section 14, T8N, R1W. Our fault study applies to a single lot (Parcel 3) within a proposed 4-lot subdivision of APN 515-231-004 (Figure 2). The land borders the coastline just north of Trinidad State Beach, and is currently undeveloped. It is our understanding that the individual parcels will be developed with single-family residences. To our knowledge, leachfield feasibility studies have been completed for individual parcels, but conceptual development or grading plans were not available at the time of our investigation.

Purpose and Scope of Work

SHN was retained to conduct a focused investigation to determine whether the subject property is crossed by active faults that may impact future developments. A portion of Parcel 3 is encompassed within an "Earthquake Fault Zone" as delineated by the State of California under the Alquist-Priolo Earthquake Fault Zone Act (A-P Act) of 1972 (California Public Resources Code, Chapter 7.5, Division 2). The intent of the A-P Act is to mitigate the hazard of surface fault rupture, and mandates specific, detailed geologic studies to demonstrate the presence or absence of active faults for certain projects within Earthquake Fault Zones. Subdivision of land within an Earthquake Fault Zone is subject to the conditions of the A-P Act; therefore, the purpose of this investigation is to assess the potential for surface fault rupture at the site.

Our scope of work for this investigation included a review of pertinent geologic maps and literature, field reconnaissance of the site and vicinity, and subsurface investigations. Subsurface investigations for this project consisted of excavation and interpretation of a single 220-foot long trench. Trench-based investigations are the industry standard in surface rupture hazard assessments, as they provide direct physical evidence as to the presence or absence of near-surface active fault traces. Technical review of this investigation is provided by Mr. Mike Malone of Giblin Associates of Santa Rosa. Mr. Malone was retained as the County of Humboldt's peer reviewer, and was present in the field to observe the trenching phase of our field investigations.

Geologic Setting

Regional Geology

Basement rock in the region is composed of late Jurassic to late Cretaceous *mélange* of the Franciscan Complex (McLaughlin et al., 2000; Clarke, 1992). The *mélange* is part of the central belt subunit of the Franciscan, and typically consists of blocks of conglomerate, graywacke sandstone, radiolarian chert, blueschist facies metamorphic rock, greenstone, and ophiolitic plutonic rock in an intensely sheared argillite matrix.

In central coastal Humboldt County, Franciscan basement rock is overlain by a series of late Pleistocene marine terraces. A sequence of well-preserved terraces is present along the coast in the

Trinidad area (Figure 3). These terraces typically consist of an abrasion platform cut across bedrock, and terrace cover sediments typically consisting of near-shore marine deposits and terrestrial alluvial, colluvial, and eolian deposits. No datable material has been recovered from the marine terraces, so age assignments have been based on elevation distributions and comparisons with global sea level chronologies, as well as comparisons of relative amounts of pedogenic soil development. Based on these analyses, the terrace sequence is estimated to represent sea level high stands ranging between about 64,000 and 125,000 years old. The terrace at the subject property is correlated to the 64 ka Stage 4a sea level high stand by Woodward Clyde Consultants (1980) and Carver and Burke (1992). The surface is referred to as the "Patrick's Point terrace."

Tectonic Setting

Northwestern California is located in a complex tectonic region dominated by northeast-southwest oriented compression associated with collision of the Gorda and North American tectonic plates (Figure 4). The Gorda plate is being actively subducted beneath North America north of Cape Mendocino, along the southern part of what is commonly referred to as the Cascadia Subduction Zone. This plate convergence has resulted in a broad fold and thrust belt along the western edge of the accretionary margin of the North American plate. In the Humboldt Bay region, this fold and thrust belt is manifested as a series of northwest-trending, southeast-vergent thrust faults, including the Little Salmon fault and faults that comprise the Mad River fault zone. These faults are active and are capable of generating large-magnitude earthquakes.

The project site is located within the Mad River fault zone (MRfz; see Figure 4). This zone consists of several major northwest-trending thrust faults and numerous minor, secondary synthetic and antithetic faults and intervening folds. Major faults within the MRfz include from north to south, the Trinidad, McKinleyville, Mad River, and Fickle Hill faults. The project site is located within the Earthquake Fault Zone associated with the Trinidad fault. Individual faults within the MRfz commonly exhibit variable strikes, which is common along thrust faults, and shallow to moderate dips ranging from as little as 10° to 55°. At least 5 kilometers (3 miles) of middle and late Pleistocene displacement has occurred across the MRfz since deposition of the Falor formation (Carver, 1987). Only one moderate historic earthquake may have been generated within the MRfz, but all the faults within the zone are considered active based on deformation of Holocene age soils overlying the faults. The principal faults within the MRfz are considered active by the State, and are included within A-P Earthquake Fault Zones. This investigation focuses on the Trinidad fault, which is just south of the project site. The Trinidad fault has been investigated in the adjacent coastal bluff face (Woodward-Clyde Consultants, 1980).

Trinidad Fault

Directly south of the project area, the Trinidad fault crosses, and displaces, the 64 ka Patrick's Point terrace described above (Figure 3). The fault is well expressed across the terrace as a southwest-facing scarp separating the displaced, relatively flat terrace surface. The project site extends to within about 20 feet of the crest of the scarp; therefore, the site occupies the tip of the hanging wall block and the fault dips northeastward beneath the site. Terrace offset is estimated at 21 meters (Woodward-Clyde Consultants, 1980). The fault is well exposed in the coastal bluff, where thick terrace sand beds are thrust over colluvial deposits along two main fault strands. The zone of deformation along the Trinidad fault at the sea cliff exposure is upwards of 23 meters wide,

although the exposure is oblique to fault strike so the actual width may be considerably less. At a nearby trench site, Woodward-Clyde Consultants (1980) documented a zone of deformation about 5 meters wide. The sea cliff exposure is characterized by an abundance of conjugate fractures above the principal fault strands.

Based on the amount of displacement of Falor formation sediments across the fault, the estimated Quaternary slip rate for the Trinidad fault is 1.9 mm/yr (Carver and Burke, 1992). Recurrence intervals or event timing is not known for the Trinidad fault. Paleoseismic studies of other faults in the Mad River fault zone (i.e., Mad River and McKinleyville faults) have resulted in recurrence estimates on the order of 3,000 to 4,000 years.

Regional Seismicity

Northwestern California is the most seismically active region in the continental United States. Over sixty earthquakes have produced discernable damage in the region since the mid-1800s (Dengler et al., 1992). Historic seismicity and paleoseismic studies in the area suggest there are six distinct sources of damaging earthquakes in the Trinidad region (Figure 4): (1) the Gorda Plate; (2) the Mendocino fault; (3) the Mendocino Triple Junction; (4) the northern end of the San Andreas fault; (5) faults within the North American Plate (including the MRfz); and (6) the Cascadia Subduction Zone (Dengler et al., 1992).

Gorda Plate earthquakes account for the majority of historic seismicity. These earthquakes occur primarily offshore along left-lateral faults, and are generated by the internal deformation within the plate as it moves toward the subduction zone. Significant historic Gorda Plate earthquakes have ranged in magnitude from M5 to M7.5. The November 8, 1980 earthquake (M7.2) was generated on a left-lateral fault within the Gorda Plate.

The Mendocino fault is the second most frequent source of earthquakes in the region. The fault represents the plate boundary between the Gorda and Pacific plates, and typically generates right lateral strike-slip displacement. Historic Mendocino fault events have ranged in magnitude from M5 to M7.5. The September 1, 1994 M7.2 event west of Petrolia was generated along the Mendocino fault. The Mendocino triple junction was identified as a separate seismic source only after the August 17, 1991 (M 6.0) earthquake. Events associated with the triple junction are shallow onshore earthquakes that appear to range in magnitude from about M5 to M6. Raised Holocene terraces near Cape Mendocino suggest larger events are possible in this region.

Northern San Andreas fault events are rare, but can be very large. The northern San Andreas fault is a right lateral strike-slip fault that represents the plate boundary between the Pacific and North American plates. The fault extends through the Point Delgada region and terminating at the Mendocino triple junction. The 1906 San Francisco earthquake (M8.3) caused the most significant damage in the north coast region, with the possible exception of the 1992 Petrolia earthquake.

Earthquakes within the North American plate can be anticipated from a number of intraplate sources, including the Mad River fault zone. There have been no large magnitude earthquakes associated with faults within the North American plate, although the December 21, 1954 M6.5 event may have occurred in the MRfz. Expected magnitudes for North American plate earthquakes are in the M6.5 to M8 range.

The Cascadia Subduction Zone represents the most significant potential seismic source in the north coast region. A great subduction event may rupture along 200 km or more of the coast from Cape Mendocino to British Columbia, may be up to M9.5, and could be associated with extensive tsunami inundation in low-lying coastal areas. The April 25, 1992 Petrolia earthquake (M7.1) appears to be the only documented historic earthquake involving slip along the subduction zone, but this event was confined to the southernmost portion of the fault. Paleoseismic studies along the subduction zone suggest that great earthquakes are generated along the zone every 300 to 500 years. The last large subduction earthquake occurred in 1700. A great subduction earthquake would generate long duration, very strong ground shaking throughout the Pacific Northwest.

Site Description

As described above, the site is located on a marine terrace surface, and is therefore associated with negligible topographic relief (Figure 2). The study site slopes gently to the northwest about 6%, ranging in elevation from about 186 feet above sea level at the bluff crest, to about 212 feet in the very southeastern corner of the property near Stagecoach Road. It is undeveloped land that is bordered on the west by a steep coastal bluff that is marked by several recent bluff failures. The bluff itself is densely vegetated with brush and shrubs. There are several moderate-to-large spruce and cypress trees scattered through the site, so trench location was somewhat constrained by the need to avoid trees. The site is accessed from Stagecoach Road via an unimproved dirt road.

Site Investigations

Subsurface trenching investigations were conducted to characterize the fault rupture hazard in the southwestern part of proposed Parcel 3 (Figure 2). The northeastern margin of the State's Alquist-Priolo Earthquake Fault Zone crosses the southwestern portion of the parcel. As such, a single 220-foot long trench was excavated from the A-P boundary toward the southwest, to the property line. The trench was oriented roughly perpendicular to the strike of the Trinidad fault in the site vicinity, that is the trench was oriented approximately N25E, relative to the N65W mapped trend of the fault.

Trenches were excavated in January 2004, and shored per OSHA standards with hydraulic shoring to support the trench walls. The entire southeastern trench wall was scraped clean to provide a fresh exposure, and stratigraphic contacts were identified. A horizontal control line was established along the trench wall, and the southeastern wall was logged at a scale of 1 inch = 2 feet. Unit descriptions were made onsite and are included on the trench logs (see Appendix A). Technical peer review of the trenches was provided by Mr. Mike Malone of Giblin Associates, who was present in the field to observe the open trench. The trenches were backfilled with native materials. Trench backfill was pushed in and wheel rolled by a rubber-tire backhoe; it was not placed as structural fill or rigorously compacted.

Results

Subsurface trenching exposed consistent stratigraphy through the area studied, composed of three principal units: a surficial topsoil unit, a thick zone of reworked marine terrace deposits, and in situ, unaltered marine terrace deposits. Stratigraphic relations in the trench are unfaulted and

undeformed, and provide positive evidence for the absence of active faults in the area studied. Logs of the trench exposure are included in Appendix A. The southwestern end of the trench exposure is shown in a photograph as Figure 5.

The upper 2 to 3 feet of the trench exposure consisted of soft, black, organic silt topsoil (A₀ horizon; shown on the logs and Figure 5 as "Unit 1"). This material is texturally distinct from underlying deposits, and is thought to be an eolian deposit (i.e., it is not derived from the underlying sandy, gravelly marine terrace deposits). The material is extensively bioturbated, and the basal contact is very irregular. Numerous krotovina in the upper part of the underlying deposit are infilled with this distinct, black silty material.

Beneath the surficial silt horizon is a 3- to 6-foot thick layer of massive, yellow brown pebbly sand ("Unit 2" on logs and Figure 5). Pebbles in this material are rounded to subrounded, and are randomly distributed. The material is interpreted as reworked marine terrace cover sediment, based on the textural similarities with the underlying unaltered sediments. We infer that the massive, non-stratified nature of this material represents the accumulation of bioturbation and root disturbance over time since the terrace was uplifted out of the coastal zone. The material has been pedogenically modified (i.e., there has been soil formation), based on the color, increased clay content and oxidation in the upper part of the unit. There is a weak subangular blocky structure in the upper part of the unit. From a soil description standpoint, we classify this material as a 2Btb horizon. The basal contact of Unit 2 is diffuse and very irregular. Due to its massive nature, the material does not provide adequate stratigraphic control with which to evaluate tectonic deformation. As such, it is imperative to penetrate to deeper, unaltered marine terrace sediments, which are typically well-bedded and offer excellent stratigraphic control.

Below a one to two foot thick transition zone at the base of Unit 2, unaltered marine terrace deposits were encountered through the length of the trench exposure ("Unit 3" on logs and Figure 5). These materials consist of gray, loose, clean fine sands interbedded with sandy pebble conglomerates. The deposits are generally moderately well sorted. Pebbles are rounded to subrounded. Individual beds are tabular and laterally continuous over relatively long stretches of the trench exposure. These terrace deposits are interpreted as littoral (near-shore) marine deposits. The well-bedded terrace deposits represent ideal marker horizons with which to evaluate the presence or absence of faulting or secondary deformation. One or more clear, easily definable contact was present along the entire length of the trench exposure, representing the primary evidence for the absence of faulting.

Conclusions

1. No faults are present within the area studied that pose a surface fault rupture hazard. The trenching investigation exposed distinct, laterally continuous strata that provide excellent control with which to evaluate the presence or absence of faulting throughout the site. Based on the nature of the deposits at this site, we have a high level of confidence that this study has adequately addressed the fault rupture potential. As such, no other fault studies are recommended at this site.
2. Although there are no faults that reach the ground surface at the site, the Trinidad fault is present just south of the site. The fault forms a 21-meter high fault scarp directly south of the subject parcel, and the fault dips to the northeast, beneath the site (Figure 6). As such, the site

occupies the tip of the hanging wall block above the fault. The fault is at relatively shallow depth directly beneath the site. Should a surface-rupturing earthquake occur at the site, there may be some coseismic tilting or folding, although evidence from the trench for past deformation is limited.

3. Based on the proximity to the fault, the site is subject to extreme ground shaking in the event of a surface-rupturing earthquake on the Trinidad fault. It may be prudent to engineer structures at the site in such a manner as to withstand the strong ground shaking potential associated with the near-source conditions.
4. Trench backfill was not placed as structural fill or adequately compacted for structure support. Therefore, foundation and/or appurtenant structures traversing the trench alignments may be subject to differential settlement if not mitigated.

Closure and Limitations

The conclusions and recommendations presented herein are the results of a study of inherently limited scope. Specifically, the scope of our services consisted solely of an evaluation of surface fault rupture potential at the site. Our conclusions and recommendations are professional opinions derived in accordance with current standards of professional practice. No warranty is expressed or implied.

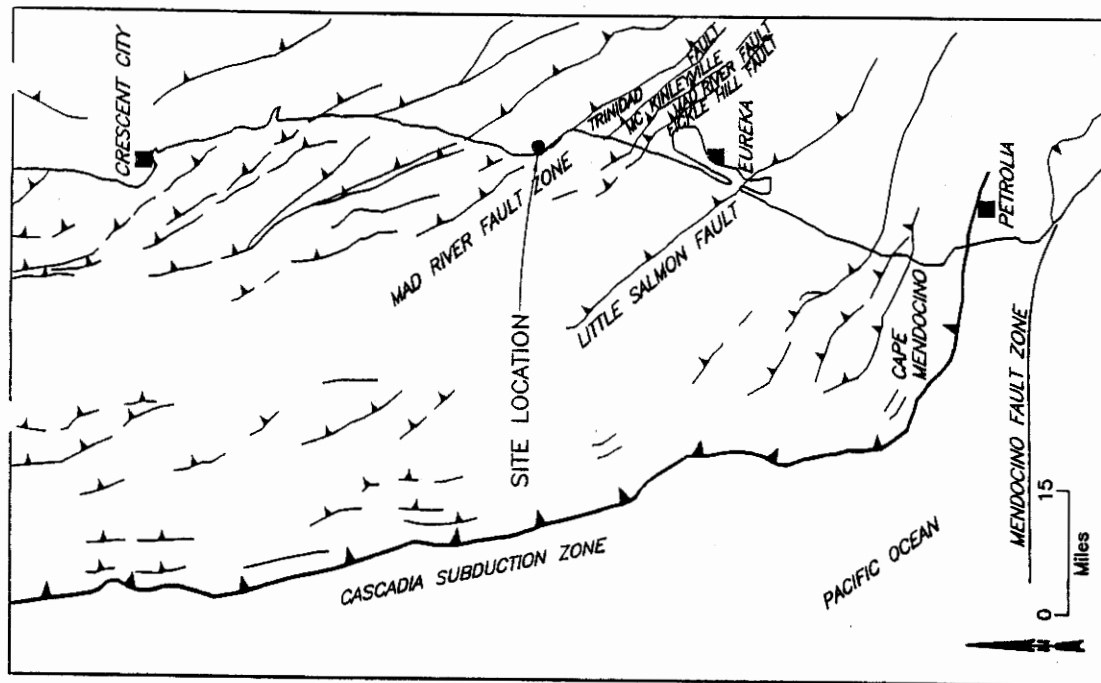
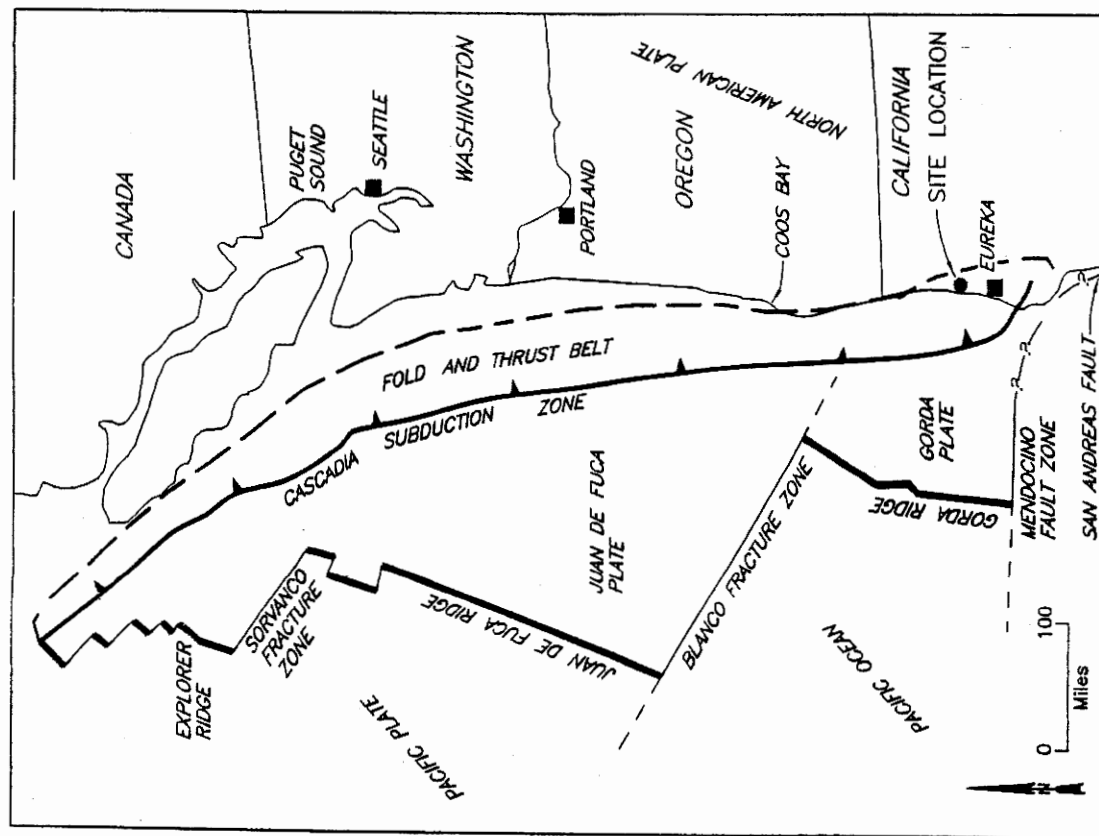
The data and conclusions we have presented are based on interpretations of available geologic data. Existing site conditions have evolved according to the geologic processes of the past. It is conceivable that tectonic processes may change or accelerate in an unpredictable manner in the future. Because this portion of Humboldt County is an area of dynamic tectonism, we cannot preclude the possibility of propagation of new faults or the lengthening of existing faults. Therefore, all future risks from surface fault rupture cannot be precisely determined nor avoided when developing in a zone of active and potentially active faults.

This report has been prepared for the exclusive use of JLF Construction, and applies only to the proposed development plans. In the event that significant changes in the development plans should occur, the conclusions and recommendations contained in this report shall not be considered valid unless the changes are reviewed by SHN Consulting Engineers and Geologists, and the conclusions and recommendations of this report are verified in writing.

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- Carver, G.A. (1987). "Late Cenozoic Tectonics of the Eel River Basin Region, Coastal Northern California," *Tectonics, Sedimentation and Evolution of the Eel River And Associated Coastal Basins of Northern California*, p. 61-72. Bakersfield: San Joaquin Geological Society.
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- Clarke, S.H., Jr. (1992). *Geology of the Eel River Basin and Adjacent Region: Implications for Late Cenozoic Tectonics of the Southern Cascadia Subduction Zone and Mendocino Triple Junction*. AAPG Bulletin, v. 76, no. 2, p. 199-224. NR:AAPG.

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- McLaughlin, R.J., et al. (2000). "Geology of the Cape Mendocino, Eureka, Garberville, and Southwestern part of the Hayfork 30 x 60 Minute Quadrangles and Adjacent Offshore Area, Northern California." U.S. Geological Survey Miscellaneous Field Studies MF-2336. NR:USGS.
- Woodward-Clyde Consultants. (1980). *Evaluation of the Potential for Resolving the Geologic and Seismic Issues at the Humboldt Bay Power Plant Unit No. 3*. Unpublished consultants report for Pacific Gas and Electric. NR: Woodward-Clyde Consultants.



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NORTH COAST DISTRICT OFFICE

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Hearing Date:

December 14, 2005

Commission Action:

**Approved with
Conditions, December 14, 2005****ADOPTED FINDINGS****EXHIBIT NO. 7****APPLICATION NO.**

1-13-0990 - LEE

1-05-021 MARTIN ADOPTED
FINDINGS (1 OF 41)**APPLICATION NO.:****1-05-021****APPLICANT:****JEANINE MARTIN****PROJECT LOCATION:**At 1090 Stagecoach Road, approximately
1.5 miles north of Trinidad, Humboldt
County (APN 515-231-004)**PROJECT DESCRIPTION:**Divide a 39.7-acre parcel into 4 lots of
approximately 5.2 acres (Parcel 1), 10.3-
acres (Parcel 2), 10.2 acres (Parcel 3), and
14 acres (remainder parcel) and establish a
vertical public access way over an existing
foot trail to a beach through a grant of
easement.**GENERAL PLAN DESIGNATION
(UNCERTIFIED):**Rural Residential (RRB), One dwelling per
two acres.**ZONING DESIGNATION
(UNCERTIFIED):**Rural Residential Agriculture, 5-acre
minimum lot size, with Alquist Priolo fault
hazard, design review, and the protection of
offshore rocks, intertidal areas, streams, and
riparian corridors combining zones (RA-
5/G,D,O, R)**LOCAL APPROVALS RECEIVED:**Humboldt County Parcel Map Subdivision
and Special Permit

OTHER APPROVALS REQUIRED: None

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program;
Coastal Development Permit No. 1-92-170
(Witherill)

STAFF NOTES:

1. Adopted Findings

The Commission held a public hearing and approved the permit at the meeting of December 15, 2005. The adopted findings for approval differ from those contained in the written staff recommendation dated December 2, 2005. At the hearing, the applicant submitted a letter amending the project description to detail the proposed grant of a vertical public access easement to the Humboldt North Coast Land Trust for a vertical accessway from Stagecoach Road to Secret Beach through proposed Parcel 2 of the land division. The letter replaced Exhibit 8 of the written staff recommendation. At the hearing, the staff also presented an addendum that made certain changes and additions to the written staff recommendation. The addendum made clarifying changes to recommended Special Condition Nos. 1 and 2, and added a new Special Condition No. 13, requiring changes to the proposed vertical public access easement signage to ensure the access way will be sufficiently marked. Furthermore, the addendum presented certain new findings for approval of the project that were not included in the published staff recommendation, including the findings related to public access, protection of environmentally sensitive habitat, geologic hazards, visual resource protection, and new development. Finally, the addendum included an exhibit showing the location of the proposed vertical access way. That exhibit is included as new Exhibit 9 of the adopted findings. The Commission adopted the changes to the staff recommendation in their entirety.

The following resolution, conditions, and findings were adopted by the Commission on December 15, 2005 upon conclusion of the public hearing.

2. Standard of Review

The proposed project is located in the Trinidad area of Humboldt County. Humboldt County has a certified LCP, but the subject property is located within an area of deferred certification. Therefore, the standard of review that the Commission must apply to the project is the Coastal Act.

I. **RESOLUTION TO APPROVE THE PERMIT:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit complies with the California Environmental Quality Act because feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment.

II. **STANDARD CONDITIONS:** See Attachment A.

III. **SPECIAL CONDITIONS:**

1. **Open Space Restrictions**

- A. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of the subject parcels created by the land division situated in or within one-hundred feet (100') of the exterior boundary of delineated wetlands and riparian vegetation environmentally sensitive habitat areas along Martin Creek, except those areas within the County road easement, as documented in the "Biological Assessment for the Martin Subdivision" prepared by SHN Consulting Engineers and Geologists, Inc. dated April 26, 2004, attached as Exhibit No. 7, except for:
1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation to improve the habitat value of the buffer, and (b) removal of debris and unauthorized structures.
- B. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of parcels 1 and 3 created by the land division situated within 100 feet of the existing bluff edge as documented in the "Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad, California," prepared by SHN Consulting Engineers and Geologists, Inc. dated November, 2005, excerpts of which are attached as Exhibit No. 6, except for:

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JEANINE MARTIN

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1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation, and (b) removal of debris and unauthorized structures.
- C. No development, as defined in Section 30106 of the Coastal Act, shall occur in all areas of parcel 2 created by the land division situated within 125 feet of the existing bluff edge as documented in the "Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad, California," prepared by SHN Consulting Engineers and Geologists, Inc. dated November, 2005, excerpts of which are attached as Exhibit No. 6, except for:
 1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: (a) planting of native vegetation, and (b) removal of debris and unauthorized structures.
- D. **PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. 1-05-021**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by each subsection of this condition.

2. Vertical Access Over Trail to Beach.

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in order to implement the applicant's proposal, the applicant shall submit for the review and approval of the Executive Director, evidence that the applicant has executed and recorded a dedication to the Humboldt North Coast Land Trust of an easement for public vertical access in accordance with the terms of the Project Description as proposed by the applicant in her letter to the Commission dated December 12, 2005 and included in the addendum to the staff recommendation dated December 13, 2005, except as otherwise modified by these Special Conditions.

Any future development that is proposed to be located either in whole or in part within the area described in the recorded offer of dedication shall require a Commission amendment, approved pursuant to the provisions of 14 CCR § 13166, to this Permit. This requirement shall be reflected in the provisions of the recorded offer.

3. Deed Restriction

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

4. Final Erosion and Runoff Control Plan

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-05-021, the applicant shall submit a plan for erosion and run-off control to the Executive Director for review and approval.

1) EROSION CONTROL PLAN COMPONENT

a. The erosion control plan shall demonstrate that:

- (1) During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources;
- (2) The following temporary erosion control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Scheduling* (EC-1), *Preservation of Existing Vegetation* (EC-2), *Stabilized Construction Roadway* (TC-2), and *Silt Fences* (SE1); and
- (3) Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and coastal resources.

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control;

- (2) A site plan showing the location of all temporary erosion control measures;
- (3) A schedule for installation and removal of the temporary erosion control measures;
- (4) A site plan showing the location of all permanent erosion control measures; and
- (5) A schedule for installation and maintenance of the permanent erosion control measures.

2) RUN-OFF CONTROL PLAN COMPONENT

a. The runoff control plan shall demonstrate that:

- (1) Runoff from the project shall not increase sedimentation into coastal waters;
- (2) Runoff from access roads and driveways, emergency vehicle turn-around areas, and other impervious surfaces on the site shall be collected and conveyed into vegetated areas to avoid sedimentation either on or off the site, and provide for bio-filtration treatment of pollutants entrained in runoff; and
- (3) The following temporary runoff control measures, as described in detail within in the January 2003 "California Stormwater BMP Handbook - Construction, developed by Camp, Dresser & McKee, *et al.* for the Storm Water Quality Task Force, shall be used during construction: *Material Delivery and Storage* (WM-01), *Solid Waste Management* (WM-05), and *Vehicle and Equipment Fueling* (NS-9).

b. The plan shall include, at a minimum, the following components:

- (1) A narrative report describing all temporary runoff control measures to be used during construction and all permanent runoff control measures to be installed for permanent runoff control;
- (2) A site plan showing the location of all temporary runoff control measures;
- (3) A schedule for installation and removal of the temporary runoff control measures;
- (4) A site plan showing the location of all permanent runoff control measures; and
- (5) A site plan showing finished grades (at 1-foot contour intervals) and drainage improvements.

B. The permittee shall undertake development in accordance with the approved final plan. Any proposed changes to the approved final plan shall be reported to the

1-05-021 – ADOPTED FINDINGS

JEANINE MARTIN

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Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

5. Encroachment Permit

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-05-021

the applicant shall submit to the Executive Director for review and written approval, evidence of an encroachment permit or exemption from Humboldt County. The encroachment permit or exemption shall evidence the ability of the applicant to improve the driveway and access roads to parcels 1, 2, and 3 of the subdivision at their intersections with Stagecoach Road, as conditioned herein.

6. Final Parcel Map Review and Approval

A. **PRIOR TO RECORDATION OF THE FINAL PARCEL MAP**, the applicant shall submit for the review and approval of the Executive Director a copy of the final parcel map approved by the County of Humboldt. The final map shall be consistent with the terms and conditions of Coastal Development Permit No. 1-05-021, and shall contain the following graphically-depicted information and textual notations:

1) Illustrations to be included on the Final Parcel Map

- a. Demarcation of the open space deed restriction area over the environmentally sensitive habitat area and the 100-foot buffer area required by Special Condition No. 1(A);
- b. Demarcation of the open space deed restriction areas over the bluff edge setbacks required by Special Condition No. 1(B) and 1(C);
and
- c. Depiction of all existing and proposed deed restriction and easement areas consistent with the requirements of Coastal Development Permit No. 1-05-021.

2) Notes to be placed on the Final Parcel Map

- a. "The open space areas depicted on this map are areas in which no 'development' as defined by Section 30106 of the Coastal Act may occur as required by Special Condition No. 1 of Coastal Development Permit No. 1-05-021."

- B. The applicant shall record the final parcel map consistent with the final parcel map as approved by the Executive Director.

7. Recorded Documents Affecting Adjustment of Parcel Boundaries.

Once the deeds, parcel or survey maps, and/or other instruments affecting the division of land authorized by this permit have been recorded, the applicant shall provide conformed copies of these documents to the Executive Director.

8. 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 (c) 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.

9. Landscaping Restrictions

The permittee shall comply with the following landscaping-related requirements:

- (a) Only native and/or non-invasive plant species shall be planted. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on

the site. No plant species listed as a "noxious weed" by the governments of the State of California or the United States shall be utilized within the bounds of the property; and

- (b) The use of rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used.

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

- A(1) By acceptance of this Permit, the applicant/landowners agree, on behalf of themselves and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the development approved pursuant to Coastal Development Permit No. 1-05-021 including, but not limited to, the driveway and access road improvements, in the event that the development is threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, or other natural hazards in the future. By acceptance of this Permit, the applicants hereby waive, on behalf of themselves and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.
- A(2) By acceptance of this Permit, the applicant/landowners further agree, on behalf of themselves and all successors and assigns, that the landowner shall remove the development authorized by this Permit, including the driveway and access road improvements, if any government agency has ordered that the improvements are not to be used due to any of the hazards identified above. In the event that portions of the development fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.
- A(3) In the event the edge of the bluff recedes to within twenty-five (25) feet of the driveway improvements but no government agency has ordered that the improvements not be used, a geotechnical investigation shall be prepared by a licensed coastal engineer and geologist retained by the permittee, that addresses whether any portions of the driveway and access road improvements are threatened by wave, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the access and driveway improvements without shore or bluff protection, including but not limited to removal or relocation of portions of the access and driveway improvements. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the access and driveway improvements is unsafe for use, the permittee shall, within 90 days of submitting the report, apply for a coastal

development permit amendment to remedy the hazard which shall include removal of the threatened portion of the development.

11. Assumption of Risk, Waiver of Liability and Indemnity

By acceptance of this permit, the applicant/landowners acknowledge and agree: (i) that the site may be subject to hazards from coastal erosion hazards, such as waves, storm waves, and flooding; or landslide, bluff retreat, erosion, and earth movement; (ii) to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

12. Public Rights.

The Coastal Commission's approval of this permit shall not constitute a waiver of any public rights that may exist on the property. The permittee shall not use this permit as evidence of a waiver of any public rights that may exist on the property. In addition, by acceptance of this permit, the applicant acknowledges that the voluntary offers to dedicate public access do not abrogate the County's or the Commission's abilities under the Coastal Act to consider the effects of future development of the property on public access and the possible need to require additional public access on the property in the future.

13. Public Access Easement Signage

The signage that will be erected and maintained by the Humboldt North Coast Land Trust pursuant to the terms of the proposed amended project description shall be located in close proximity to and be visible from Stagecoach Road and shall prominently display that the trail is available for public access use.

III. FINDINGS AND DECLARATIONS.

The Commission hereby finds and declares:

A. Site Description.

The subject 39.6-acre property is located along the coastal bluffs between the City of Trinidad and Patrick's Point State Park, about one and a half miles north of the City. The property is on the west side of Stagecoach Road, approximately 1,400 feet southwest from the intersection of Hobson Road with Stagecoach Road, on the property known as 1090 Stagecoach Road. Stagecoach Road is the first public road nearest the sea, and is narrow and windy.

The property is currently developed with one single-family residence, a barn, water wells, a septic system and dirt access roads.

The subject property is designated locally in the Humboldt County General Plan as Rural Residential, 5-acre minimum lot size, with an overlay combining zone regarding the evaluation of geologic hazards, design review, and the protection of offshore rocks, intertidal areas, streams, and riparian corridors. The property is surrounded by Stagecoach Road to the east, residential parcels to the north and south, and the Pacific Ocean to the west. The surrounding residential development ranges from smaller older homes of modest stature to large newer homes. The subject property includes ocean beaches, coastal bluffs, forested area, and open fields.

The coastline along the site is characterized by offshore rocks and narrow sand beaches backed by high rocky bluffs. The area on the property at the top of the bluffs is part of an uplifted marine terrace. Site topography varies considerably from the relatively flat ground of the marine terrace to the steep slopes within the Martin Creek ravine and on the coastal bluffs. According to the geotechnical report prepared for the project, elevations on the property range from sea level at the beach at the foot of the bluff to a maximum of 212 feet above mean sea level the very southeastern corner of the property near Stagecoach Road. The bluff top consists of a gently sloping (5% to 15%) uplifted marine terrace. The slope gradients of the bluff face vary and range from 25% to 110%, and the length of the slope of the bluff face varies between 330 feet at the north end of the property where the bluff face is steepest to 750 feet near the southern end of the property where the slope is shallower. Martin Creek, a perennial stream, runs through the property.

The property is in an area designated by the County as an area of high slope instability. In addition, a portion of the area to become Parcel 3 is within an Alquist-Priolo Special Studies hazard zone, as the Trinidad fault is present just south of the site.

The majority of the bluff top area of the subject property is covered with North coast coniferous forest habitat. The habitat assessment prepared for the project describes the habitat as follows:

The overstory of the forest habitat is dominated by Sitka spruce (*Picea sitchensis*) and red alder (*Alnus rubra*), with scattered grand fir (*Abies grandis*) and

naturalized and/or planted Monterey cypress (*Cupressus macrocarpa*) and blue gum eucalyptus (*Eucalyptus globules*). A subcanopy of cascara (*Rhamnus purshiana*) is present throughout this area. The dense shrub layer is dominated by coyote bush (*Baccharis pilularis*), salal (*Gaultheria shallon*), wax myrtle (*Myrica californica*), sword fern (*Polystichum munitum*), salmonberry (*Rubus spectabilis*), Pacific bramble (*R. ursinus*), and evergreen huckleberry (*Vaccinium ovatum*). The herbaceous layer varies from patchy to dense and is dominated by the following species: milk maids (*Cardamine californica*), sedge species (*Carex* sp.) Siberian candyflower (*Claytonia sibirica*), toothed coast fireweed (*Erechtites minima*), cow parsnip (*Heracleum lantum*), Pacific water parsley (*Oenanthe sarmentosa*), sweet-cicely (*Osmorhiza chilensis*), redwood sorrel (*Oxalis oregano*) hedge-nettle (*Stachys* sp.) and starflower (*Trientalis latifolia*). Heavy woody debris is scattered throughout the forest floor.

The portion of Martin Creek that is within the project area, defined as the SMA study area, is approximately 700 linear feet (Photo 1 in Attachment 2). This portion of the drainage is characterized by a well-developed streambed with moderately steep vegetated slopes. The riparian corridor includes a moderately open overstory of big-leaf maple (*Acer macrophyllum*), Sitka spruce and red alder, with scattered cascara and willows. Numerous moss and lichen species are present on the trees. The dense mesic understory is dominated by lady fern (*Athyrium filix-femina*), sedges, salal, false lily-of-the-valley (*Maianthemum dilatatum*), Pacific water-parsley, sweet-cicely, redwood sorrel, sword fern, salmonberry, Pacific bramble, elderberry (*Sambucus racemosa*), *Stachys* sp., piggy-back plant (*Tolmiea menziesii*), and evergreen huckleberry with scattered native and non-native grass species. Plant species cover the banks of the creek and there is relatively little evidence of stream bank erosion.

West of the Martin Creek study area, the terrain transitions to a steep coastal bluff that coincides with the shift from mesic North coast coniferous forest to coastal scrub brush habitat. This habitat is dominated by wind battered Sitka spruce and red alder, coyote bush, pampass grass (*Cortaderia jubata*), wax myrtle, and sword fern.

South of the Martin Creek drainage corridor, the vegetation composition consists of North coast coniferous forest habitat, although an open field is located within the building envelope of parcels 2 and 3 (Photo 2 in Attachment 2). The field was probably created from previous mowing and/or grazing activities. Most of the dominant species in this area are ruderal species such as common velvet grass (*Holcus lanatus*), hairy cat's-ear (*Hypochaeris radicata*), ox-eye daisy (*Leucanthemum vulgare*), dandelion (*Taraxacum officinale*), and clovers (*Trifolium* spp.). Additional species include: yarrow (*Achillea millefolium*), coast strawberry (*Fragaria chiloensis*), Douglas's iris (*Iris douglasiana*), self heal (*Prunella vulgaris*), western buttercup (*Ranunculus repens*), and California

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figwort (*Scrophularia californica*). Douglas fir (*Pseudotsuga menziesii*), Sitka spruce, red alder, Monterey cypress and eucalyptus trees are scattered throughout the field and along its edges. The understory along the meadow edge includes coyote bush, Scots broom (*Cytisus scoparius*), salal, false lily-of-the-valley, and Pacific bramble. This habitat abruptly changes into coastal scrub brush beyond the edge of the bluff.

The subject property provides suitable potential habitat for three species included on federal or state rare or endangered lists including coho salmon, bank swallow, and western lily. The potential coho salmon habitat is within Martin Creek, and the potential bank swallow habitat is along the coastal bluff. Marginal western lily habitat has been identified along Martin Creek and the boundaries of proposed parcels 2 and 3, within County required setback areas.

An existing foot trail crosses the subject property a short distance to the south of Martin Creek at a bend in Stagecoach Road. The trailhead along Stagecoach Road is obscured by existing roadside vegetation and may not be noticeable to the casual observer unfamiliar with the area. The trail extends from Stagecoach Road to the sea by descending a steep slope along the general course of the creek to the sandy and rocky beaches at the shoreline.

The property lies within an area designated as "Coastal Scenic" under the County's uncertified General Plan. Views to the ocean through the property from most of Stagecoach Road are obscured by trees, although some views are afforded near Martin Creek.

Native Americans are known to have settled along the Humboldt County coast within the general vicinity of the subject property. However, there are no reports of historical resources having been found on the project site

B. Local Coastal Program Background.

In October of 1982, the Commission certified in part the Trinidad Area Land Use Plan of Humboldt County's Local Coastal Program. However, the Commission denied certification of the plan for privately owned lands, other than lands owned by the Humboldt North Coast Land Trust, located west of Scenic Drive, Stagecoach Road, and Patrick's Point Drive (where they are the first public roads paralleling the sea), and along the route of the 6th Avenue Trail in the Westhaven area. In denying certification for this area, the Commission suggested that the plan's policies regarding the protection of the public's right of access where acquired through use (i.e. potential prescriptive rights) be modified to conform to the natural resource, hazard, and public access policies of the Coastal Act. The County did not accept the suggested modification and the geographic area became an "area of deferred certification" or ADC. Consequently, the authority for

granting coastal development permits within the ADC is still retained by the Commission.

C. Project Description.

The proposed project consists of the subdivision of the 39.7-acre parcel into 4 lots of approximately 5.2 acres (Parcel 1), 10.3-acres (Parcel 2), 10.2 acres (Parcel 3), and 14 acres (remainder parcel). The remainder parcel is the parcel currently developed with a single-family residence, barn, water well system, and septic system. Proposed Parcels, 1, 2, and 3 are undeveloped except for existing wells and dirt access roads.

Water service would be accommodated by on-site wells. Wastewater treatment would be accommodated by individual on-site sewage disposal systems to be developed on each lot.

As part of its action on the tentative parcel map, the County required certain site access improvements. The County required that the proposed access drive intended to serve Parcels 2 and 3 that enters the southeast corner of the property from Stagecoach Road be widened to a width of 18 feet and paved with asphalt concrete for the first 50 feet, widened to 12 feet and constructed with an aggregate base for the remainder of the access road, and include a turnaround at the end of the access road. The access road and turnaround must be built consistent with the County's Fire Safe Ordinance Regulations. In addition, the existing access roads serving the remainder parcel and Parcel 1 must be paved with asphalt concrete for the width of the driveway and a distance of 25 feet from the edge of the County road.

Furthermore, the County required that each parcel, including the remainder parcel to developed with a 2,500-gallon emergency water supply. Water supply lines are also required to be installed to each parcel.

As part of the proposed project, the applicant is proposing to dedicate an easement to the North Coast Land Trust for a ten (10) foot wide vertical easement located on proposed Parcel 2 which would provide access to "Secret" Beach. The proposed easements and the conditions under which the grant easement would be recorded and public access use allowed are further discussed in Finding G, Public Access.

D. Land Divisions Outside Existing Developed Areas.

Section 30250(a) provides as follows:

New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such

areas are not able to accommodate it, in other areas with adequate public services and where it will not have a significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The subject property is located outside of the urban boundary of Trinidad, and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the subject property must be located within an area where 50% or more of the usable parcels have been developed, and the newly created parcels must be no smaller than the average size of the surrounding parcels.

Taking the second test first, the Commission has normally taken "surrounding parcels" to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal (Billings v. CCC (1980) 103 Cal.App.3rd 729), this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, a major distinguishing factor is the local zoning and land use of the surrounding area. A total of 39 parcels in the surrounding area (excluding the subject parcel) are designated locally as Rural Residential which can be developed for low density residential use with five acre minimum parcel sizes. This rural residential area extends along the coastal bluff area approximately 1,000 feet south of the property, 2,500 feet north of the property, and a maximum of 1,000 feet east of the property, generally to Patrick's Point Drive in areas north of Martin Creek and Stagecoach Road south of Martin Creek (See page 4 of 4 of Exhibit 5). The surrounding area beyond this rural residentially zoned area is of a very different character. The area east of Patrick's Point Road includes parcels of relatively large size zoned for timber production and parcels of variable size zoned for commercial recreation partially because of their adjacency to Highway 101. The area north of the rural residentially zoned area is similarly zoned as commercial recreation, and to the south of the rural residentially zoned area is the large area encompassed by a portion of the Trinidad State Beach state park unit. Therefore, the Commission finds that it is appropriate to exclude the parcels beyond the surrounding rural residential area from the study area of conformance with the rural land division criteria.

The applicant submitted an analysis of the conformance of the parcels within the surrounding study area described above with the rural land division criteria of the Coastal Act (see Exhibit 5).

Of the 39 residential parcels in the lot size study area, over half (20) are less than five acres in gross size, with the largest being 25 acres. The arithmetic mean of these parcels is 6.3-acres, the median parcel size (the value falling in the middle of the range) is 5.0-acres, and the mode (the value which occurs most frequently) is five acres ($n = 6$). Three

of the four parcels that would be created by the proposed subdivision, the 10.2-acre Parcel 3, the 10.3-acre Parcel 2 and the 14-acre remainder parcel, would be larger than the 6.3-acre arithmetic mean, and the 5.2-acre Parcel 1 would be smaller than the mean. All four parcels would be larger than the 5.0-acre median parcel size and mode of the surrounding parcels.

The court in Billings concluded that the Commission should identify the "typical" or "representative" parcel size. Where the presence of several large parcels would skew the average, the median parcel size and mode provide a better picture of the typical parcel size in the area. In this instance, due to the presence of several large parcels, the arithmetic mean of surrounding parcels is larger than the smallest of the parcels proposed to be created by the subdivision (5.2 acres). However, both the median parcel size and the mode of surrounding parcels is smaller than 5.2 acres, and therefore the Commission finds that the proposed parcel sizes of the lots to be created by the land division are consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The other test of the rural land division criteria of Section 30250(a) is whether 50% or more of the surrounding parcels are developed. In this case, 27 of the 39 surrounding parcels in the study area, or 69% are developed. Therefore, the proposed land division meets the developed parcel criteria as over 50 percent of the surrounding parcels are developed.

On the basis of the above analysis, the Commission finds that the proposed subdivision is consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

E. New Development.

Coastal Act Section 30250 (a) states in part:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.

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

The proposed land division is located within a rural area that has been planned and zoned to accommodate it. The proposed residential subdivision is consistent with the uncertified rural residential use and zoning designations locally applied to the site and the parcel sizes proposed of all of the parcels to be created by the subdivision exceed the 5-acre minimum parcel size required by the zoning ordinance.

The applicant is proposing that the residential parcels to be created be served by on-site sewage disposal and water systems. Test wells and soils evaluations have been conducted to evaluate the suitability of the site for sewage septic systems and to evaluate the suitability of groundwater found at the site for residential use. These studies indicate that the soils are adequate to accommodate on-site septic systems and sufficient groundwater is available to serve the proposed residential uses of the site. In a memorandum dated August 10, 2004, the Humboldt County Department of Public Health, Division of Environmental Health states that (1) the applicant has completed soils testing which demonstrates that conventional in-ground gravity sewage disposal systems can serve each of the proposed parcels of the land division, and (2) the applicant has completed water supply testing which meets the current requirements for the proposed subdivision (see Exhibit 4 of the staff recommendation).

With regard to road services, County concluded in its review of the subdivision that the added traffic generated by future residents of the subdivision would not create a significant impact on traffic and that necessary emergency access to and from the site would not be adversely affected.

As (1) the proposed subdivision will be located in an area planned and zoned for rural residential development at the density proposed by the applicant; (2) the applicant has submitted evidence that on-site sewage disposal systems and water wells will be adequate to serve the development; and (3) the County has determined there will be no significant traffic impact resulting from the project, the Commission finds that the proposed development is consistent with Section 30250(a) of the Coastal Act to the extent that the development will be located in an area able to accommodate it.

F. Environmentally Sensitive Habitat Area.

Coastal Act Section 30240 states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

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

A biological assessment was performed for the proposed project by SHN, in April of 2004 (see Exhibit No. 7 of the staff recommendation). The report identifies the riparian area associated with Martin Creek, which traverses east to west through the middle portion of the property, as an environmentally sensitive habitat area (ESHA) as defined under the Coastal Act. The portion of Martin Creek that is within the project area is approximately 700 linear feet. This portion of the drainage is characterized by a well-developed streambed with moderately steep vegetated slopes. The riparian corridor includes a moderately open overstory of big-leaf maple (*Acer macrophyllum*), Sitka spruce and red alder, with scattered cascara and willows. Numerous moss and lichen species are present on the trees. The dense mesic understory is dominated by lady fern (*Athyrium filix-femina*), sedges, salal, false lily-of-the-valley (*Maianthemum dilatatum*), Pacific water-parsley, sweet-cicely, redwood sorrel, sword fern, salmonberry, Pacific bramble, elderberry (*Sambucus racemosa*), *Stachys* sp., piggy-back plant (*Tolmiea menziesii*), and evergreen huckleberry with scattered native and non-native grass species. Plant species cover the banks of the creek and there is relatively little evidence of stream bank erosion. The stream may provide habitat to two species included on federal or state rare or endangered species lists, including coho salmon and western lily. The biological assessment recommends that a 100-foot buffer be established on either side of the Martin Creek ESHA.

Although the biological assessment did not specifically identify such habitat, the assessment indicates that suitable habitat for another rare or endangered species, the bank swallow, may be found along the bluffs at the western edge of the project site. The report notes that any habitat along the bluffs would be protected by the proposed and required geologic setbacks.

The assessment examined the identified building sites for the future homes on each of the proposed new parcels and determined that development in these sites would not have an adverse impact on sensitive species within the building envelopes. However, the assessment indicates that suitable habitat for sensitive species may exist in areas outside of the identified building sites, even though no such habitat has yet been positively identified. The assessment recommends that additional habitat assessments be performed during the review of future coastal development permit applications seeking authorization to construct the homes to determine whether the need to provide ESHA buffers would affect home location within the identified building areas.

In its approval of the tentative map for the subdivision, the County required that a 100-foot streamside management area be established around both sides of Martin Creek. The County required that the 100-foot wetland protection area (including the 100-foot buffer and wetlands themselves) be shown on a Development Plan and be designated as "non-buildable." A Notice of Development Plan referencing the limitations imposed on the Development Plan must be recorded against the property.

Building sites have been identified for all of the parcels to be created by the proposed land division. All of the identified building sites are located well away from the identified ESHA on the site. However, to ensure that future home development does not encroach into the Martin Creek ESHA or the recommended 100-foot buffer around each side of the stream, the Commission attaches Special Condition No. 1. Among other things, this condition requires the recordation of an open space deed restriction over all areas within 100 feet of the exterior boundary of delineated wetlands and the riparian vegetation along Martin Creek except those areas within the County road easement. The deed restriction must be submitted for the review and approval of the Executive Director prior to recordation. The deed restriction would prohibit all development in the affected area except for the planting of native vegetation and the removal of debris and unauthorized structures if approved by a permit amendment. The Commission notes that the requirement of Special Condition No. 1 to record a deed restriction will ensure that both the applicant and future purchasers of the property are notified of the prohibitions on development within the Martin Creek ESHA and buffer area.

With respect to the protection of bank swallows that may inhabit the bluff face, the Commission notes that open space deed restriction requirements imposed to ensure that future homes are set back sufficiently from the bluff edge to protect against geologic hazards will also serve to protect potential bank swallow habitat. Special Condition No. 1 requires that a 100-foot wide open space deed restriction extending landward from the bluff edge be established over proposed parcels 1 and 3, and that a 125-foot-wide open space deed restriction be established landward of the bluff edge of proposed parcel 2.

The Commission notes that each future home would require additional coastal development permit authorization from the Commission, or the County if this area of deferred certification should become certified in the meantime. Therefore, the Commission or the County will have the opportunity to review the location and design of each of the houses for its effects on ESHA. Additional habitat assessments will be required as part of the applications for these future homes to determine whether the specific building locations selected encroach into any sensitive plant habitat or needed buffer area. Special conditions could be imposed in the permits to ensure that such encroachment into ESHA or ESHA buffer does not occur.

Coastal Development Permit Application No. 1-05-021 includes a request for authorization for certain driveway and water facility improvements. The driveway improvements would be limited to the widening and extension of existing dirt roadways that exist on the site. The water facility improvements would largely be underground, although water storage tanks to provide water for fire suppression would need to be installed on each proposed parcel. The habitat assessment did not identify any ESHA or

needed ESHA buffer area in the immediate vicinity of the proposed driveway and water facility improvements.

Therefore, the proposed development would not adversely affect ESHA and would not result in the development of future homes on the parcels in or closely adjacent to environmentally sensitive habitat areas that would adversely affect the environmentally sensitive habitat contrary to Section 30240.

As conditioned, the Commission finds that the proposed development is consistent with Section 30240 of the Coastal Act as (1) no development would occur within any environmentally sensitive habitat area, (2) development on the property will be sited and designed to prevent impacts which would significantly degrade those areas and will be compatible with the continuance of the habitat, and (3) future development that might occur on the property within the Commission's jurisdiction will be reviewed by the Commission to ensure that such development also does not adversely affect the environmentally sensitive habitat areas on the property.

G. Public Access and Recreation.

1. Summary of Coastal Act Policies

Projects located between the first public road and the sea within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of the Coastal Act. Coastal Act Sections 30210, 30211, 30212, and 30214 require the provision of maximum public access opportunities, with limited exceptions.

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211 states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 states, in applicable part:

- (a) *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:*
- (1) *It is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,*
 - (2) *Adequate access exists nearby, or,*
 - (3) *Agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

Section 30214 states:

- (a) *The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*
- (1) *Topographic and geologic site characteristics.*
 - (2) *The capacity of the site to sustain use and at what level of intensity.*
 - (3) *The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.*
 - (4) *The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.*
- (b) *It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a*

limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

- (c) *In carrying out the public access policies of this article, the commission and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.*

Discussion

Dedicated Public Access Facilities

As proposed under the amended project description included as Attachment 1 to the staff addendum, dated December 13, 2005, the applicant is proposing to grant to the Humboldt North Coast Land Trust a ten-foot-wide vertical easement for public access and passive recreational use from Stagecoach Road to a pocket beach at the base of the bluffs on the property known as "Secret Beach." The easement alignment is centered along an existing footpath in the vicinity of Martin Creek within proposed Parcel 2, as shown in Attachment 2 of the addendum to the staff recommendation and Exhibit 9 of the Adopted Findings. The easement would be ten feet wide, but in some locations may be wider to accommodate cuts, fills, switchbacks, and landslides. The Board of Directors of the Humboldt North Coast Land Trust has preliminarily agreed to accept and manage the easement.

The accessway would be dedicated in a manner consistent with the standards typically applied by the Commission and including the following dedication and recordation procedures:

- (1) The applicant would submit the proposed grant easement for the discretionary review and approval of the Executive Director prior to recordation;
- (2) The grant easement approved by the Executive Director would be recorded prior to issuance of the coastal development permit;
- (3) The grant easement approved by the Executive Director would include legal descriptions of both the entire project site and the area of dedication;
- (4) The grant easement approved by the Executive Director would be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed;

- (5) The grant easement approved by the Executive Director would require that any future development that is proposed to be located either in whole or in part within the areas described in the recorded easement shall require a Commission amendment of the coastal development permit;

The offers, as proposed, would be subject to the following seven limitations on use by the public:

- (1) The trail would be open from sunrise to sunset;
- (2) No camping would be allowed;
- (3) No dogs would be allowed;
- (4) No guns would be allowed;
- (5) No campfires would be allowed;
- (6) Users would be prohibited from removing rocks, soil or plants from the trail;
- (7) Users would be required to remain on the trail.

These limitations on use would be listed on a permanent sign to be installed and maintained by the Land Trust. The grant of the vertical public access easement would be conditioned upon the Land Trust not widening or improving the entrance to the trail. The trail would be classified as a Class IV trail. To assist the Land Trust in maintaining the trail, the applicant proposes to pay the Land Trust a one-time donation of \$5,000.00.

To approve the proposed project, the Commission must find the project to be consistent with the public access policies outlined in Section 30210, 30211, 30212, and 30214 of the Coastal Act listed above. The project's consistency with each of these policies is described below.

a. Consistency with Sections 30211 and 30214 of the Coastal Act

Section 30211 of the Coastal Act states, in part, that "*development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization.*" Applicants for coastal development permits which involve development between the first public road and the sea must demonstrate that their proposed developments are consistent with the Coastal Act, including the requirements of Sections 30211 and 30214 of the Coastal Act. Section 30214 indicates that public access shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case. In implementing these policies, the Commission must consider whether a proposed development will interfere with or adversely affect an area over which the public has obtained rights of access to the sea. The Commission must determine whether there is substantial evidence to support the conclusion that the area has been impliedly dedicated to public use only if the Commission finds the proposed development will interfere with an impliedly dedicated public use.

Because the authority to make a final determination on whether such a dedication has taken place resides with the courts, both the Commission's Legal Division and the Attorney General's Office have recommended that agencies dealing with implied dedication issues use the same analysis as the courts. Essentially, this requires the Commission to consider whether there is substantial evidence indicating that the requisite elements of an implied dedication are present. The Commission also must consider whether the applicant has demonstrated that the law prevents the area from being impliedly dedicated, even if the requisite elements of implied dedication have otherwise been met.

A right of access through use is, essentially, an easement over real property which comes into being without the explicit consent of the owner. The acquisition of such an easement by the public is referred to as an "implied dedication." The doctrine of implied dedication was confirmed and explained by the California Supreme Court in Gion v. City of Santa Cruz (1970) 2 Cal.3d 29. The right acquired is also referred to as a public prescriptive easement, or easement by prescription. This term recognizes the fact that the use must continue for the length of the "prescriptive period," before an easement comes into being.

The rule that an owner may lose rights in real property if it is used without consent for the prescriptive period derives from common law. It discourages "absentee landlords" and prevents a landowner from a long-delayed assertion of rights. The rule establishes a statute of limitations, after which the owner cannot assert formal full ownership rights to terminate an adverse use. In California, the prescriptive period is five years.

For the public to obtain an easement by way of implied dedication, it must be shown that:

- 1) The public has used the land for a period of five years or more as if it were public land;
- 2) Without asking for or receiving permission from the owners;
- 3) With the actual or presumed knowledge of the owner;
- 4) Without significant objection or bona fide attempts by the owner to prevent or halt the use; and
- 5) The use has been substantial, rather than minimal.

In general, when evaluating the conformance of a project with 30211, the Commission cannot determine whether public prescriptive rights actually do exist; rather, that determination can only be made by a court of law. However, the Commission is required under Section 30211 to prevent development from interfering with the public's right of access to the sea where acquired through use or legislative authorization. As a result, where there is substantial evidence that such rights may exist, the Commission must ensure that proposed development would not interfere with any prescriptive rights which may exist.

In the present case, the applicant has proposed public access as part of the project. The applicant elected to grant such access to eliminate the potential that proposed development would interfere with any public access rights which may exist. Consequently, the Commission will evaluate whether the project as proposed would interfere with potential prescriptive rights of public access that might exist on the property. If the proposed project would not interfere with any potential prescriptive rights of public access that might exist, the project would be consistent with Section 30211 of the Coastal Act because any public rights of access to the sea acquired through use would be protected. Therefore, if the Commission determines that the proposed development would not interfere with potential prescriptive rights of public access that might exist on the property, the Commission need not do an exhaustive evaluation to determine if substantial evidence of an implied dedication exists because regardless of the outcome of the investigation, the Commission could find the project consistent with Section 30211.

b. Potential for Development to Interfere with Public's Right of Access

The project site occupies a portion of an uplifted marine terrace. The property is crossed by a well-worn footpath extending from Stagecoach Road and descending to Secret Beach near Martin Creek on proposed Parcel 2 of the land division. While this feature indicates that some access use has occurred across the bluff top and down to the beach, the period in which the access use has occurred, the casual or continuous pattern of access use, and the degree to which such use has been substantial is not fully known.

In the past, the Commission has received telephone inquiries from a number of individuals inquiring about the status of the trail and indicating that they had used the trail on many occasions for their own use and had observed others using the trail as well.

In addition, the uncertified portion of the Humboldt County Land Use Plan that covers the area west of Stagecoach Road, where the subject property is located, identifies the foot path to Secret Beach as an existing beach access trail and recommends that an accessway along the trail be provided with new development.

Although this information suggests a period of use in the past, the evidence does not by itself establish potential prescriptive rights of public access. For example, the information does not show the extent of public use or whether the public use was adverse or without the permission of the property owner.

In addition to this information, the Commission staff also examined aerial photographs from 1948 through 2001. All of the photographs examined from this period show evidence of a trail to the beach. Thus, the evidence derived from the aerial photography analysis suggests potential prescriptive use of the pathway to the beach.

There are some limitations that prevent property from being impliedly dedicated, even if the requisite elements of implied dedication have otherwise been met. The court in Gion explained that for a fee owner to negate a finding of intent to dedicate based on uninterrupted use for more than five years, he must either affirmatively prove he has granted the public a license to use his property or demonstrate that he made a bona fide attempt to prevent public use. Thus, persons using the property with the owner's "license" (e.g., permission) are not considered to be a "general public" for purposes of establishing public access rights. Furthermore, various groups of persons must have used the property without permission for prescriptive rights to accrue. If only a limited and definable number of persons have used the land, those persons may be able to claim a personal easement but not dedication to the public. Moreover, even if the public has made some use of the property, an owner may still negate evidence of public prescriptive rights by showing bona fide affirmative steps to prevent such use. A court will judge the adequacy of an owner's efforts in light of the character of the property and the extent of public use.

Section 813 of the Civil Code, adopted in 1963, allows owners of property to grant access over their property without concern that an implied dedication would occur even if they did not take steps to prevent public use of the land. Section 813 provides that recorded notice is conclusive evidence that subsequent use of the land, during the time that such notice is in effect, by the public for any use or for any purpose is permissive.

Section 1008 of the Civil Code provides that no use by any person or persons, no matter how long continued, of any land, shall ever ripen into an easement by prescription, if the owner of such property posts at each entrance to the property or at intervals of not more than 200 feet along the boundary a sign reading substantially as follows: "Right to pass by permission, and subject to control, of owner: Section 1008, Civil Code."

It is not clear whether a Notice of Permissive Use has ever been recorded against the subject property consistent with Section 813 of the Civil Code or posted on the subject property in a manner consistent with Section 1008 of the Civil Code.

The courts have recognized the strong public policy favoring access to the shoreline, and have been more willing to find implied dedication for that purpose on shoreline properties than when dealing with inland properties. A further distinction between inland and coastal properties was drawn by the Legislature subsequent to the Gion decision when it enacted Civil Code Section 1009. Civil Code Section 1009 provides that if lands are located more than 1,000 yards from the Pacific Ocean its bays, and inlets, unless there has been a written, irrevocable offer of dedication or unless a government entity has improved, cleaned, maintained the lands, the five years of continual public use must have occurred prior to March 4, 1972. In this case, the subject site is within 1,000 yards of the sea; therefore the required five-year period of use need not have occurred prior to March of 1972 in order to establish public rights in the property.

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The available preliminary evidence suggests that the only portions of the project site where prescriptive rights of access may have accrued are over the trail to and along Secret Beach at the base of the bluffs in proposed Parcel 2. Even so, it is not clear that the use has been prescriptive. In the early 1990s, former owners of the property filed a quiet title action with the Humboldt County Superior Court that resulted in the court determining at that time that no prescriptive easement for public access exists. It is not clear whether other evidence exists to establish potential prescriptive rights during other periods of time not addressed by the 1990s quiet title action. In addition, it is not clear whether a Notice of Permissive Use has ever been recorded against the property.

However, the project as proposed would not affect any potential prescriptive rights of access. Firstly, the project includes a proposal to grant an easement of vertical public access over the footpath from Stagecoach Road to Secret Beach. This proposed grant easement covers the most probable location where prescriptive rights may have accrued and that could most easily be adversely affected by future development facilitated by the subject land division (i.e., trail to Secret Beach). The area offered under the proposed grant easement is the most critical portion of the area where potential implied dedication may have occurred as it provides the most easily accessible point from the public road. In addition, this area is located where a future proposed gate, fence, or other accessory structure could very easily obstruct public access. By recording the grant easement of vertical public access, this area of potential prescriptive rights will be protected for public access use.

Furthermore, in this case, the proposed parcel that would include the grant easement is large enough that, even if substantial evidence of prescriptive rights of public access along the trails on the bluff edge and down to Secret Beach could be established, future development on the parcel could be sited where it would not adversely affect such access. The Commission notes that the applicant has identified a building site located approximately 250 feet to the south of the existing footpath. Although the building site must be moved 25 feet further east from the bluff edge to ensure the future building would not be affected by bluff retreat, as discussed in Finding H below, future development on the parcel could easily be sited where it would not adversely affect potential prescriptive rights of public access. The development proposed under current Coastal Development Permit Application No. 1-05-021 itself includes the construction of certain driveways and utility improvements to serve proposed Parcel 2. However, none of this development is proposed in the vicinity of the proposed easement for vertical access. Therefore, the proposed development would not conflict "with the public's right of access to the sea where acquired through use or legislative authorization." Therefore, the Commission finds that the proposed project is consistent with Coastal Act Section 30211.

The applicant has included several provisions under which the easement dedications are being offered, including limiting use of the trail to the period between sunrise and sunset, and prohibiting users from camping, bringing dogs or guns, having campfires, going off

the trail, or removing rocks, soil, or plants from the trail. These limitations on use would not significantly interfere with any potential rights of public access that may exist. The limitations on use of the trail to daylight hours is consistent with the safe use of the trail, as the trail descends over 140 feet to the beach and is very steep, rocky, and unimproved. The trail is challenging to negotiate in daylight and would be hazardous to use at night in the dark. In addition, there is no evidence that use of the trail or Secret Beach at night has been significant or substantial. Thus, prohibition of camping and use of the trail at night would not interfere with any potential rights of public access that may exist. The prohibition on guns is also consistent with public safety and the enjoyment of the trail by members of the public. The prohibition of removing rocks, soil, or plants from the trail would help maintain bluff stability and would protect the environment for the enjoyment of future users of the trail. Therefore, the project is consistent with Section 30211 as the limitations on use of the vertical easement and future development that would be accommodated by the proposed land division would not interfere with any potential right of public access to the sea where acquired through use or legislative authorization.

Allowing the limitations on use of the public access area proposed by the applicant is consistent with the requirements of Section 30214 of the Coastal Act that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the need to regulate the time, place and manner of public access depending on the facts and circumstances of each case. In this case, allowing the limitations on use of the proposed public access easement proposed by the applicant is appropriate given the safety concerns that would be associated with nighttime use of the trail, fires on the beach, and the presence of guns. In addition, the prohibition against removing rocks, soil, or plants from the trail is appropriate to help retain the native landscape and minimize bluff stability problems. Therefore, the Commission finds that the project as proposed with its specific limitations on public access use of the proposed easement is consistent with Section 30214 of the Coastal Act.

Thus, with the proposed grant of an easement for vertical public access, the proposed development as conditioned would not adversely affect any potential prescriptive rights of public access that may exist. Therefore, the Commission need not perform an exhaustive evaluation to determine if substantial evidence of an implied dedication exists because, regardless of the outcome of the investigation, the Commission could find the project as conditioned consistent with Section 30211 of the Coastal Act, as any public rights of access to the sea acquired through use would be protected consistent with these provisions. To ensure that the proposed grant of an easement of vertical public access is recorded as proposed, the Commission attaches Special Condition No. 2. This condition requires the applicant to submit, prior to issuance of the permit and for the review and approval of the Executive Director, evidence that the applicant has executed and recorded the proposed dedication to the Humboldt North Coast Land Trust of the easement for public vertical access in accordance with the terms of the Project Description as proposed by the applicant. In addition, the special condition requires that any future development that is proposed to be located either in whole or in part within the area described in the

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recorded offer of dedication shall require a Commission amendment, to ensure the Commission will be able to review the effects of the proposed development on public access and the project's continued consistency with the public access policies of the Coastal Act. As conditioned, the Commission finds that the proposed development is consistent with Section 30211.

c. Consistency with Section 30212

Section 30212 of the Coastal Act states that public access from the nearest public roadway to the shoreline and along the coast need not be provided in new development projects where: (1) it would be inconsistent with the protection of fragile coastal resources; or (2) adequate access exists nearby. However, the Commission notes that Section 30212 of the Coastal Act is a separate section of the Act from Section 30211, the policy that states that development shall not interfere with the public's right of access to the sea when acquired through use. The limitations on the provision of new access imposed by Section 30212 do not pertain to Section 30211. Even if public prescriptive rights of access have accrued over trails that pass through environmentally sensitive habitat areas or in areas near other public access, Section 30211 requires the development not be allowed to interfere with those rights.

Moreover, in the absence of the proposed grant of an easement for vertical public access from Stagecoach Road to Secret Beach, adequate access does not exist nearby. Thus, without the grant of access easement proposed by the applicant, pedestrian public access to this section of the coast from the area would be blocked.

Therefore, the Commission finds that the offers to dedicate public access easements proposed by the applicant are consistent with Section 30212 of the Coastal Act, as the access will be provided consistent with the protection of coastal resources and adequate access does not exist nearby.

d. Consistency with Section 30210

Section 30210 of the Coastal Act states that the maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with the public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. As proposed by the applicant, a sign will be erected and maintained by the Humboldt North Coast Land Trust listing the limitations on use of the trail. However, no specific trail marker that would be visible to passers by on Stagecoach Road is proposed. To ensure that the vertical public access easement is conspicuously posted so the public will be better aware of its availability for use as required by Section 30210, the Commission attaches Special Condition No. 13. This special condition requires changes to the proposed vertical public access easement signage to ensure the access way will be sufficiently marked, by

requiring the proposed signage to be located in close proximity to and visible from Statecoach Road and prominently display that the trail is available for public use.

As proposed by the applicant, and as further conditioned below by Special Condition Nos. 2, 12, and 13 which collectively protect the public's right of access where acquired through use, both now and into the future, the Commission finds that the project is consistent with Section 30210 of the Coastal Act.

e. Conclusion

Wherever possible, it is advantageous to secure either an offer to dedicate an easement for public access or an actual dedication and recordation of public access rights. Unless this is done, the controversy over implied dedication is merely postponed, and passage of time may complicate problems of proof. Even where the evidence of implied dedication is clear, the public is best served by recordation of an actual dedication which clarifies the rights of everyone.

To ensure that the proposed project will not interfere with any implied dedication of access which may have occurred, both now and into the future, the Commission attaches Special Condition Nos. 2, 12, and 13.

Special Condition No. 2 requires the applicant to provide evidence for the review and approval of the executive Director that her proposal to grant an easement for vertical public access over the property has been properly recorded prior to issuance of the coastal development permit.

Special Condition No. 12 protects the public's rights of access over the property since public prescriptive rights have not been adjudicated by a court of law at this time. Special Condition No. 12 states that by acceptance of the permit, the applicant agrees that the issuance of the permit and the completion of the development does not prejudice any subsequent assertion of any public rights of access to the shoreline (prescriptive rights), and that approval by the Commission of this permit shall not be used or construed, prior to the settlement of any claims of public rights, to interfere with the rights of public access to the shoreline acquired through use which may exist on the property.

Special Condition No. 13 ensures the public access way will be conspicuously marked as required by Section 30210 of the Coastal Act by requiring the signage to be in close proximity to and prominently visible from Stagecoach Road where passers by would see it.

In conclusion, although there is an unresolved question as to the existence of public prescriptive rights, the applicants offers to dedicate easements for public access protects any potential rights of public access where acquired through use. The proposed project as conditioned is consistent with Section 30211 of the Coastal Act because, whether or not a court of law were to adjudicate that existing use of the site for coastal access

constitutes a public prescriptive right, for the reasons stated above, the Commission finds that the proposed development would not interfere with such access rights in a manner inconsistent with Section 30211 of the Coastal Act.

H Geologic Stability

Coastal Act Policies:

Section 30235 states:

Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. Existing marine structures causing water stagnation contributing to pollution problems and fishkills should be phased out or upgraded where feasible.

Section 30253 states in applicable part:

New development shall:

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

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs...

The subject property encompasses an uplifted marine terrace situated approximately 200 feet above the ocean. The coastal bluffs are subject to bluff retreat, which poses a hazard to development of the subject parcel.

In previous actions on coastal development permits, the Commission has interpreted Section 30253 of the Coastal Act to require that coastal development be sited a sufficient distance landward of coastal bluffs that it will neither be endangered by erosion nor lead to the construction of protective coastal armoring during the assumed economic life of the development. The Commission has generally assumed the economic life of a new

house to be 75 to 100 years. A setback adequate to protect development over the economic life of a development must account both for the expected bluff retreat during that time period and the existing slope stability. Long-term bluff retreat is measured by examining historic data including vertical aerial photographs and any surveys conducted that identified the bluff edge. Slope stability is a measure of the resistance of a slope to land sliding, and is assessed by a quantitative slope stability analysis. In such an analysis, the forces resisting a potential landslide are first determined. These are essentially the strength of the rocks or soils making up the bluff. Next, the forces driving a potential landslide are determined. These forces are the weight of the rocks as projected along a potential slide surface. The resisting forces are divided by the driving forces to determine the "factor of safety." The process involves determining a setback from the bluff edge where a factor of safety of 1.5 is achieved. The quantitative slope stability analysis needs to be prepared by licensed geotechnical professional familiar with the process.

The applicant commissioned SHN Consulting Engineers & Geologists, Inc. to perform a geotechnical investigation of the site. The geotechnical investigation of the site is documented in the geotechnical report entitled, "Bluff Edge Setback Evaluation, Parcels 1, 2, and 3 of the Proposed Subdivision of APN 515-231-004, Trinidad, California. Excerpts of the report are included in Exhibit 6 of the written staff recommendation. The report indicates that the bluffs are composed of terrace deposits underlain by the Franciscan Complex regional bedrock unit. The report indicates the bluffs are subject to retreat and that recent and historic ground movement is evident along the bluff edge and on the surface of the slopes leading down to the shoreline.

In assessing the long-term bluff retreat rate at the site, the SHN investigation utilized 8 sets of aerial photographs spanning 54 years. The report the long-term average erosion rate for the 54-year period is variable along the bluff. The investigation calculated a long-term average rate of bluff retreat for the bluffs in the vicinity of proposed parcel 1 of 0.7 feet per year, and a rate of 1.1 feet per year for the bluffs in the vicinity of proposed parcels 2 and 3. Using a design life of 75 years, SHN determined that a bluff retreat setback of at least 52.5 feet would be needed for parcel 1 and 82.5 feet for parcels 2 and 3. .74 feet per year

The SHN investigation includes a quantitative slope stability analysis using data obtained from five other geotechnical investigations in the project area. The factor of safety increases with distance from the bluff edge, and the report considered the point on the ground corresponding to a factor of safety of 1.5, the industry standard for new development.

Based on the results of the analysis of long term bluff retreat and slope stability, SHN indicates a minimum setback line from the present bluff edge of 79.5 feet is needed for proposed Parcel 1, a 125-foot setback is needed for proposed parcel 2, and a 96-foot setback is needed for proposed Parcel 3 feet to protect the future homes that would be accommodated by the subdivision. SHN has generalized these results to recommend a

100-foot setback for proposed parcels 1 and 3 and a 125-foot setback for proposed parcel 2.

Coastal Commission staff geologist Dr. Mark Johnsson has reviewed the SHN report and conferred with the applicants' geologists. Dr. Johnsson has indicated that he believes that the recommended setbacks are reasonable based on the analysis that was prepared and concurs that the applicant's geologist's recommended setbacks are appropriate.

All of the proposed driveway and water facility improvements would be set back from the bluff edge at greater distances than the recommended setbacks. In addition, each of the proposed parcels has ample room to accommodate building sites for future homes that would both be landward of the recommended bluff setbacks and outside of the required Martin Creek ESHA open space area.

To ensure that (1) the currently proposed and future development is actually setback sufficient distances as recommended to ensure their safety from bluff erosion and cliff retreat during their typical economic lifespans, and (2) the setback would be of sufficient distance to eliminate the need for shoreline protection devices to protect the structure in the future consistent with Section 30253 of the Coastal Act, the Commission attaches Special Condition No. 1. This special condition requires the recordation of a 100-foot-wide open space deed restriction extending landward from the bluff edge be established over proposed parcels 1 and 3, and that a 125-foot-wide open space deed restriction be established landward of the bluff edge of proposed parcel 2. The deed restriction must be submitted for the review and approval of the Executive Director prior to recordation. The deed restriction would prohibit all development in the affected area except for the planting of native vegetation and the removal of debris and unauthorized structures if approved by a permit amendment. The Commission notes that the requirement of Special Condition No. 1 to record a deed restriction will ensure that both the applicant and future purchasers of the property are notified of the bluff edge setback requirements.

The Commission finds that the proposed development as conditioned will be set back a sufficient distance from the bluff edge to provide for the economic design life of each element of the development and eliminate the need for shoreline protection devices to protect the development consistent with Section 30253 of the Coastal Act.

Notwithstanding the relative degree of insulation of the proposed project improvements in their proposed locations from geologic hazards, the applicant is proposing to construct development that would be located on a high uplifted marine terrace bluff top that is actively eroding. Consequently, the development would be located in an area of high geologic hazard. However, new development can only be found consistent with Sections 30235 and 30253 of the Coastal Act if the risks to life and property from the geologic hazards are minimized and if a protective device will not be needed in the future. The applicant has submitted information from a registered engineering geologist which states that if new

development is set back at least 100-feet from the bluff edge on proposed parcels 1 and 3 and 125 feet from the bluff edge on proposed parcel 2, the development will be safe from erosion and will not require any devices to protect the development during its useful economic life.

Although a comprehensive geotechnical evaluation is a necessary and useful tool that the Commission relies on to determine if proposed development is permissible at all on any given bluff top site, the Commission finds that a geotechnical evaluation alone is not a guarantee that a development will be safe from bluff retreat. It has been the experience of the Commission that in some instances, even when a thorough professional geotechnical analysis of a site has concluded that a proposed development will be safe from bluff retreat hazards, unexpected bluff retreat episodes that threaten development during the life of the structure sometimes still do occur. Examples of this situation include:

- The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County). In 1989, the Commission approved the construction of a new house on a vacant bluff top parcel (Permit 1-87-230). Based on the geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the bluff top parcel to a landward parcel because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Nino storm event. The Executive Director issued a waiver of coastal development permit (1-99-066-W) to authorize moving the house in September of 1999.
- The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County). In 1984, the Commission approved construction of a new house on a vacant bluff top lot (Permit 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (Permit Application 6-93-135). The Commission denied the request. In 1996 (Permit Application 6-96-138), and again in 1997 (Permit Application 6-97-90) the owners again applied for a seawall to protect the home. The Commission denied the requests. In 1998, the owners again requested a seawall (Permit Application 6-98-39) and submitted a geotechnical report that documented the extent of the threat to the home. The Commission approved the request on November 5, 1998.
- The Arnold project at 3820 Vista Blanca in San Clemente (Orange County). Coastal development permit (Permit # 5-88-177) for a bluff top project required protection from bluff top erosion, despite geotechnical information submitted with the permit application that suggested no such protection would be required if the project conformed to 25-foot bluff top setback. An emergency coastal development permit (Permit #5-93-254-G) was later issued to authorize bluff top protective works.

The Commission emphasizes that the examples above are not intended to be absolute indicators of bluff erosion on the subject parcel, as coastal geology can vary significantly from location to location. However, these examples do illustrate that site-specific geotechnical evaluations cannot always accurately account for the spatial and temporal variability associated with coastal processes and therefore cannot always absolutely predict bluff erosion rates. Collectively, these examples have helped the Commission form its opinion on the vagaries of geotechnical evaluations with regard to predicting bluff erosion rates.

Geologic hazards are episodic, and bluffs that may seem stable now may not be so in the future. Therefore, the Commission finds that the subject lot is an inherently hazardous piece of property, that the bluffs are clearly eroding, and that the proposed new development will be subject to geologic hazard and could potentially someday require a bluff or shoreline protective device, inconsistent with Section 30235 of the Coastal Act. The Commission finds that the proposed development could not be approved as being consistent with Section 30235 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Based upon the geologic report prepared by the applicant's geologist and the evaluation of the project by the Commission's staff geologist, the Commission finds that the risks of geologic hazard are minimized if development is set back at least 100 feet from the bluff edge on proposed parcels 1 and 3 and 125 feet from the bluff edge on proposed parcel 2. However, given that the risk cannot be eliminated and the geologic report cannot assure that shoreline protection will never be needed to protect the residence, the Commission finds that the proposed development is consistent with the certified LCP only if it is conditioned to provide that shoreline protection will not be constructed. Thus, the Commission further finds that due to the inherently hazardous nature of this lot, the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, the fact that the approved development and its maintenance may cause future problems that were not anticipated, and because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 10 to ensure that no future shoreline protective device will be constructed.

Special Condition No. 10 prohibits the construction of shoreline protective devices on the parcel, requires that the landowner provide a geotechnical investigation and remove the proposed driveway and water facility improvements associated with the land division if bluff retreat reaches the point where this development is threatened, and requires that the landowners accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion of the site. These requirements are necessary for compliance with Coastal Act Section 30253, which states that new development shall minimize risk to life and property in areas of high geologic, flood, and fire hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not

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be approved as being consistent with Coastal Act Section 30253 of the Coastal Act if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Special Condition No. 11 requires the landowner to assume the risks of extraordinary erosion and geologic hazards of the property and waive any claim of liability on the part of the Commission. Given that the applicant has chosen to implement the project despite these risks, the applicant must assume the risks. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand hazards. In addition, as discussed previously, the requirement of Special Condition No. 1 that a deed restriction be recorded, will ensure that future owners of the property will be informed of the risks, the Commission's immunity from liability, and the indemnity afforded the Commission.

As noted above, some risks of an unforeseen natural disaster, such as an unexpected landslide, massive slope failure, erosion, etc. could result in destruction or partial destruction of the house or other development approved by the Commission. In addition, the development itself and its maintenance may cause future problems that were not anticipated. When such an event takes place, public funds are often sought for the clean-up of structural debris that winds up on the beach or on an adjacent property. As a precaution, in case such an unexpected event occurs on the subject property, Special Condition No. 10 requires the landowner to accept sole responsibility for the removal of any structural debris resulting from landslides, slope failures, or erosion on the site, and agree to remove the driveway and water facility improvements should the bluff retreat reach the point where a government agency has ordered that these facilities not be used.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the Coastal Act regarding geologic hazards, including Coastal Act Sections 30235 and 30253, since the development as conditioned will not contribute significantly to the creation of any geologic hazards, will not have adverse impacts on the stability of the coastal bluff or on erosion, will not require the construction of shoreline protective works, and as the Commission will be able to review any future additions to ensure that development will not be located where it might result in the creation of a geologic hazard. Only as conditioned is the proposed development consistent with the Coastal Act.

I. Protection of Water Quality

Coastal Act Policy

Section 30231 of the Coastal Act states as follows:

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

Discussion

Storm water runoff from new residential development can adversely affect the biological productivity of coastal waters by degrading water quality. Recognizing this potential impact, Section 30231 requires the protection of coastal waters to ensure biological productivity, protect public health and water quality. New development must not adversely affect these values and should help to restore them when possible.

The subject parcel includes intertidal areas, coastal bluffs and gently sloping portions of an uplifted coastal terrace planned and zoned for low-density rural residential development. Runoff from the terrace generally flows westerly across the property to the coastal bluffs and also north and south into the Martin Creek drainage which cuts across the property from east to west before discharging to the ocean.

As discussed in the Project Description finding above, the project entails only the platting of a total of four lots, consisting of three parcels and a remainder parcel in the parlance of the Subdivision Map Act, with no residential improvements being proposed at this time. The County's approval of the tentative subdivision map was, however, conditioned upon certain access roadway and water system improvements being performed on the property. Runoff originating from the development site that is allowed to drain off the site to Martin Creek or the coastal bluffs could contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including both Martin Creek and adjoining coastal waters. The applicant's engineer has submitted a conceptual storm water management plan that identifies several water quality management practices to be used in conjunction with development of the property.

Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction of the access road improvements. Consistent with Section 30231 of the Coastal Act, the Commission attaches Special Condition No. 4, requiring that the applicants minimize erosion and sedimentation impacts from the proposed construction of the access road improvements. Special Condition No. 4 requires that the applicants submit for the review and approval of the Executive Director a final erosion and runoff control plan that would require that: (1) road work be performed in the dry season, (2) debris fencing be installed to contain runoff from road construction areas; (3)

on-site vegetation be maintained to the maximum extent possible during construction; (4) the construction roadway be stabilized; and (5) runoff from all roads, driveways, and emergency vehicle turn-around areas be conveyed into vegetated swales.

The Commission notes that as subsequent residential construction is undertaken on the lots created by the subdivision, the Commission will have an opportunity to assess the effects this construction would have on water quality resources of the area during the review of the related coastal development permits for any future residences.

The Commission thus finds that as conditioned, the proposed development is consistent with Section 30231 of the Coastal Act because existing water quality and biological productivity will be protected and maintained from impairing waste discharges.

J. Visual Resource Protection

Section 30251 of the Coastal Act states that the scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance, and requires in applicable part that permitted development 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 restore and enhance where feasible the quality of visually degraded areas, and to be visually compatible with the character of surrounding areas.

The subject property is located on a bluff top site overlooking the Pacific Ocean. The site is not located within a designated "Highly Scenic Area." The principal public vantage points are from Stagecoach Road. Some limited blue water views are afforded through the property from Stagecoach Road, but for the most part, views of the ocean are obstructed by the forest vegetation on the property and the rolling topography of the site. Other public vantage points will include views from the proposed vertical public access way through Parcel 2 and views from Secret Beach at the base of the bluffs. Finally, the subject property is visible from the open ocean from boats at sea.

The proposed land division would accommodate the future development of one home each on proposed Parcels 1-3. Each of the proposed parcels is large enough that the building site can be located where future home construction can be located where it would not be visible from Stagecoach Road. The applicant has identified specific building sites on each parcel where homes could be located in this manner. The homes would also be largely invisible from the proposed public access way due to intervening vegetation and topography. The closest new home would be the future home to be developed on proposed Parcel 2. The building site identified by the applicant is approximately 250 feet away from the easement behind existing vegetation. As the building sites would each be set back between 100 and 125 feet from the bluff edge and as the bluffs are relatively high, very minimal views of the future houses, if any, would be afforded from Secret Beach. The houses would likely be visible from boats at sea.

As the future homes would be located where views from Stagecoach Road to the ocean are already obstructed by existing vegetation and topography, the proposed land division would not result in future development that would adversely affect views to and along the ocean. All of the identified building sites are located on relatively level ground, thereby eliminating the need for any significant landform alteration. As viewed from Stagecoach Road, the future public access way, and the beach, the future homes would largely be invisible and thus would not raise an issue of visual compatibility with the visual character of the surrounding area. As noted, the future houses would be visible from sea. However, as each home would require additional coastal development permit authorization from the Commission or the County if this area of deferred certification should become certified in the meantime, the Commission or the County would have the opportunity to review the location and design of each of the houses for its compatibility with the surrounding area. Conditions could be imposed to require such visual mitigations as relocating the homes, screening vegetation, and limitations on lighting that would reduce any impact on visual resources to a level of less than significance.

Coastal Development Permit Application No. 1-05-021 includes a request for authorization for certain driveway and water facility improvements. The driveway improvements would be limited to the widening and extension of existing dirt roadways that exist on the site. As the driveway improvements would be made to existing roadways, the proposed driveway improvements would be compatible with the character of the surrounding area and would not adversely affect visual resources. The water facility improvements would largely be underground, although water storage tanks to provide water for fire suppression would need to be installed on each proposed parcel. However, the water tank locations proposed by the applicant would be located well away from Stagecoach Road and would not be visible from the roadway or other public vantage points.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with Section 30251 of the Coastal Act, as the project has been sited and designed to minimize visual impacts of proposed and future development that would be accommodated by the land division, will not result in significant landform alteration, and will be visually compatible with the character of surrounding areas.

K. Archaeological and Cultural Resources

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

The Yuroks, a Native American tribe, are known to have settled along the Humboldt County coast within the general vicinity of the subject property. The Yurok tribe had settlements extending north from Little River State Beach several miles to the south of

the project site, to areas within Del Norte County, including over 50 named villages clustered along the Klamath River and coastal lagoons and creeks, including 17 villages on the coast. The North Coast Information Center, a unit of the State Historical Resources Information System, was asked to perform a cultural records search in the area affected by the proposed subdivision and the surrounding area. The Center reported there are no reports of historical resources from the project site and did not recommend further studies for historical resources. In addition, excavations performed on the portion of the site that would become Parcel 3 to evaluate fault rupture hazards uncovered no evidence of paleontological or archaeological resources.

Given the fact that no known archaeological resources have been discovered at the site and that the ground disturbing activities of the proposed development will be limited to shallow grading work in limited areas for driveway and access road development, the potential for the development to adversely affect archaeological or paleontological resources is very low. However, as Yurok settlements are known to exist in the general area, the potential impacts are not non-existent.

Therefore, 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. 8, which 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 applicant 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 Section Coastal Act Section 30244, as the development will not adversely impact archaeological resources.

L. California Environmental Quality Act (CEQA).

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 requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

1-05-021 – ADOPTED FINDINGS

JEANINE MARTIN

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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 Coastal Act, the proposed project has been conditioned to be found consistent with the Coastal Act. Mitigation measures which will minimize all adverse environmental impacts have been made requirements of project approval. 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.

EXHIBITS:

1. Regional Location Map
2. Vicinity Map
3. Proposed Land Division
4. Health Department Letter
5. Rural Land Division Criteria Analysis
6. Excerpts of Geotechnical Report
7. Biological Assessment
8. Revised Public Access Proposal
9. Location of Proposed Vertical Access Way



Photo 1 – Existing driveway from Stagecoach Lane.



Photo 2 – Existing Road on property.

EXHIBIT NO. 8

APPLICATION NO.

1-13-0990

LEE

SITE PHOTOS (1 of 3)



Photo 3 – Tree removal/home site for Unit 1.



Photo 4 – Existing water tanks on property.

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Photo 5 - Ocean view.



Photo 6 - Open space buffer area.