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STAFF REPORT: MATERIAL AMENDMENT

Amendment Application No.:	**A-1-MEN-07-028-A2**
Applicant:	**Jackson-Grube Family, Inc.**
Agent:	Scott Baker, Sellers & Co. Architects
Location:	31502 North Highway One (four miles south of Westport), Mendocino County (APN 015-380-05).
Proposed Amendment:	Modifications to the approved ranch and inn design, including (1) converting portions of the garage into an innkeeper's unit and associated guest unit, both to be used occasionally as visitor accommodations; (2) making numerous exterior revisions to the garage, equipment barn, cottage, and main building; (2) adding three water tanks and two retaining walls; (3) making minor adjustments to the parking and exterior lighting; (4) eliminating a previously approved driveway realignment; and (5) after-the-fact approval for expanding the septic system.
Staff Recommendation:	Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends **approval** of CDP amendment request A-1-MEN-07-028-A2, as conditioned.

Jackson-Grube Family, Inc proposes to amend Coastal Development Permit A-1-MEN-07-028, granted by the Commission in 2010, for the redevelopment of an existing complex of ranch buildings and development of a six-unit inn at 31502 North Highway One, four miles south of Westport in Mendocino County. The development, as originally approved, involved (in part) (1) demolishing five existing ranch buildings; (2) renovating and expanding an existing ranch house into a main inn building with three rental units and accessory common and service areas; and (3) constructing a three-unit guest cottage, a ranch manager's unit, an equipment barn, a generator/pump shed, and a garage. As approved under the original CDP, the ranch and inn buildings are clustered within a 1.22 acre compound midway between the bluff edge and the highway on the approximately 400-acre subject parcel. Development under the existing CDP is incomplete (See **Exhibit 9** for the Adopted Findings of the original permit).

The amendment proposes a number of modifications to the previously approved inn design, including: (1) converting portions of the garage into a one bedroom innkeeper's unit (662 sq. ft.) and an associated guest unit (318 sq. ft.), both to be used occasionally as visitor accommodations; (2) extending the south eave of the equipment barn and installing a photovoltaic array on its roof; (3) installing a trellis on the cottage; (4) enclosing the north porch of the main building and enlarging its east patio; (5) making numerous glazing revisions to the main building, cottage, and garage; (6) installing three 3,000 gallon water tanks; (7) adding two retaining walls; (8) rearranging guest parking and exterior lighting with a net gain of two spaces and six solar luminaires; and (9) maintaining and upgrading the existing driveway instead of using a new alignment. The applicant is also seeking after-the-fact approval for an expansion of the approved septic system.

The proposed conversion of portions of the garage into an innkeeper's unit and an associated guest unit, both to be used as occasional visitor accommodations, raised concerns about the consistency of the amended development with the property's land use and zoning designations under the Mendocino County LCP. Staff recommends **Special Condition No. 25** to ensure that the proposed guest unit, when not being used as an inn unit, is only used as an accessory guest unit for the innkeeper's residence, rather than as a separate residence. Staff further recommends modifying and reimposing **Special Condition No. 22** and **Special Condition No. 7** to require that the innkeeper and guest units, when not occupied by the innkeeper and his/her guests, be open and available to the general public as the inn's seventh and eighth visitor accommodation units for commercial transient occupancy purposes only. Any changes in use will require a new permit amendment or CDP. Staff believes that as conditioned, the addition of the two units is consistent with the property's land use and zoning designations.

In addition, the proposed amendment includes a number of modifications to the approved development that are visible from public vantage points within this designated Highly Scenic Area. Staff believes that the visual impact of the proposed modifications will be lessened by existing **Special Condition No. 12**, which requires new windows and solar panels to be non-

reflective to minimize glare, exterior lights to be low-wattage, non-reflective, shielded, and directionally downcast, and exterior siding and roofing to be dark, earth-tone colors. Given that the proposed modifications do not change the height or basic form or appearance of the approved buildings or the size of the 1.22-acre ranch and inn compound, staff believes that the development will remain subordinate to the character of its setting, as required by the LCP.

Finally, staff recommends modifying **Special Conditions Nos. 1, 2, 9, 15,** and **16** to make technical changes according to the proposed amendment, and adding **Special Condition No. 24** and deleting existing **Special Condition No. 4** to make technical changes to the deed restriction.

The motion to conditionally approve the modified development is found on page 5.

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit No. A-1-MEN-07-028 subject to the conditions set forth in the staff recommendation.*

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

Resolution:

The Commission hereby approves the coastal development permit amendment on the grounds that the development as amended and subject to conditions, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the permit amendment 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 amended development on the environment.

II. STANDARD AND SPECIAL CONDITIONS

The original permit (CDP No. A-1-MEN-07-028) contains 23 special conditions. Standard Condition Nos. 1, 3, 4, and 5 and Special Conditions Nos. 3, 5, 6, 8, 10-14, 17-21, and 23 of the original permit remain in full force and effect. As the development has vested, Standard Condition No. 2, "Expiration," is deleted. **Special Condition Nos. 1, 2, 7, 9, 15, 16, and 22 of the original permit are modified as shown below and reimposed as conditions of CDP Amendment No. A-1-MEN-07-028-A2. Special Condition Nos. 24 and 25 are additional new special conditions attached to CDP Amendment No. A-1-MEN-07-028-A2. Special Condition No. 24 (Deed Restriction) replaces Special Condition No. 4 of the original permit.** The new and modified conditions are listed below. Deleted wording is shown in ~~strikethrough~~ text, and new language appears as **bold double-underlined** text. For comparison, the text of all the original permit conditions is included in Exhibit 9.

1. Conformance of the Design and Construction Plans to the Geotechnical Investigation Report

A. All final design and construction plans, including bluff setback, foundations, grading, and drainage plans, shall be consistent with the recommendations contained in the Geotechnical Investigation report dated January 10, 2008 prepared by BACE Geotechnical. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed professional (Certified Engineering Geologist or

Geotechnical Engineer) has reviewed and approved all final design, construction, foundation, grading and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical report approved by the California Coastal Commission for the project site.

B. The permittee shall undertake development in accordance with the approved final plans **as revised by the amended final plans titled, "Inn at Newport Ranch," prepared by Sellers & Company Architects, and dated March 28, 2014**. Any proposed changes to the approved final plans **as revised by the amended final plans** shall be reported to the Executive Director. No changes to the approved final plans **as revised by the amended final plans** shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. No Future Bluff or Shoreline Protective Device

A. By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the new main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines authorized pursuant to Coastal Development Permit No. A-1-MEN-07-028, in the event that the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines are threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices to protect the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines that may exist under Public Resources Code Section 30235 or under Mendocino County Land Use Plan Policy No. 3.4-12, and Mendocino County Coastal Zoning Code Section 20.500.020(E)(1).

B. By acceptance of this Permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines authorized by this permit if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines fall to the beach before they are removed, the landowner shall remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

C. In the event the edge of the bluff recedes to within 10 feet of the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump

shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~ , septic system, ~~rerouted~~ driveway, and utility lines but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the structures are threatened by waves, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines without shore or bluff protection, including but not limited to, removal or relocation of portions of the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines 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 main inn building, rental cottage ~~and massage room~~, ranch manager's unit, ranch equipment barn, generator/pump shed, **innkeeper's unit and associated guest unit and** garage ~~for inn guests~~, septic system, ~~rerouted~~ driveway, and utility lines.

7. Future Development Restrictions

A. This permit is only for the development described in Coastal Development Permit **Amendment** No. A-1-MEN-07-028**-A2**. Any future improvements to the authorized structures and other approved development and any changes in use of the structures will require a **further** permit amendment or a new coastal development permit.

B. The **six** approved inn units **in the main building and cottage** are intended to be used for commercial transient occupancy purposes only. When and if any of the inn units cease to be used for commercial transient occupancy purposes, a coastal development permit amendment or new coastal development permit application shall be obtained to either remove the unit or convert the unit to a use consistent with the certified Mendocino County LCP.

C. When not being occupied by the innkeeper or his/her guests, the innkeeper's unit and associated guest unit are to be used for commercial transient occupancy purposes only. When and if these units cease to be used for either the innkeeper's residence or commercial transient occupancy purposes, a coastal development permit amendment or new coastal development permit application shall be obtained to either remove the units or convert the units to a use consistent with the certified Mendocino County LCP.

9. Landscaping Plan

A. ~~PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028, the applicant shall submit to the Executive Director, for review and written approval, a final landscaping plan that provides for~~ **The permittee shall undertake landscape development in accordance with** the following:

   i. Native trees that will grow to a height of at least 15-20 feet shall be planted along the eastern perimeter fence of the inn complex at a spacing of approximately 10-foot centers to partially screen the development from Highway One;

   ii. A landscaped berm at least three feet high and planted with native trees and shrubs shall be planted along the perimeter of the overflow parking area. The density and mature heights of plantings shall be sufficient to screen vehicles using the parking area from view from Highway One;

   iii. Unless required to abate a nuisance consistent with Coastal Act Section 30005(b), no limbing or pruning of the visually screening trees and shrubs planted pursuant to the approved landscaping plan shall occur unless a permit amendment is obtained and issued prior to the commencement of limbing and pruning;

   iv. All plantings shall be maintained in good condition throughout the life of the project to ensure continued compliance with the approved final landscape plan. If any of the plants to be planted according to the plan die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height;

   v. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist on the parcel. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;

   vi. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used;

   vii. A final landscape site plan showing the species, size, and location of all plant materials that will be planted on the developed site, the size and location of the required landscaped berm, any irrigation system, delineation of the approved development, and all other landscape features such as, but not limited to, site topography, horticultural plantings, decorative rock features, pathways, and berms and/or raised beds.

B. The permittee shall undertake development in accordance with the approved ~~final plan.~~ **amended final landscaping plan titled, "Landscaping & Lighting Plan," prepared by Sellers & Company Architects, and dated March 28, 2014.** Any proposed changes to the approved ~~final plan~~ **amended final landscaping plan** shall be reported to the Executive Director. No changes to the approved ~~final plan~~ **amended final landscaping**

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

15. Special Events. Special events are gatherings of multiple persons using the approved inn and ranch complex and other parts of the subject property for purposes other than, or in addition to, overnight accommodations in the approved guest units for which the managers of the inn or their employees or agents either (a) charge a fee for the use or services to accommodate the use, or (b) exclude the general public. Examples of special events include weddings, organizational retreats, lectures, classes, business meetings or meetings of other organizations for which the managers of the inn or their employees or agents either (a) charge a fee for the use or services to accommodate the use, or (b) exclude the general public. Special events shall be subject to the following restrictions:

A. Special events at the facility shall be limited to a maximum of 99 persons and to a maximum of 12 events per year. Gatherings of 100 or more persons or requests for more than 12 special events per year shall require an amendment to this coastal development permit.

B. During temporary events and at all other times, the number of vehicles parked at the site shall be limited so that all of the vehicles of visitors, guests, workers, and others staying at or working at the inn and ranch can be accommodated in the ~~10~~ **14** space primary parking lot, within the ~~5-space~~ **2-space** guest garage structure, and the 24 space overflow parking area. No parking is allowed elsewhere on the project site as shown in Exhibit No. 28, including, but not limited to areas along the driveway or in the fields adjoining the inn complex.

C. Any tents installed to accommodate temporary events shall be located within the confines of the perimeter fence to be installed around the inn and ranch complex.

D. Special events shall have a duration of no more than three days.

E. Special events shall be non-consecutive and any tents or other temporary structures and facilities installed to accommodate a temporary event shall be taken down within 48 hours of each special event.

F. A coastal development permit amendment for a temporary event of 100 or more persons or for a special event that is the 13th or greater event held at the site in the last year shall be obtained prior to holding the event.

16. Final Plans for Remodeling Existing Ranch House

~~A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028**, the applicant shall submit, for review and approval of the Executive Director, amended final construction plans for remodeling and expanding of the existing ranch house building and converting the structure into the main inn building.~~

~~1) The final construction plans shall demonstrate the following:~~

~~a. Fifty percent of the existing walls of the existing structure will be retained.~~

~~b. The structure will be built consistent with the revised project description and plans submitted for purposes of the Commission's de novo review.~~

~~2) The plan shall include, at a minimum, the following components:~~

~~a. Final construction plans for the structure including final framing, roofing, and floor plans, building elevations. The plans shall clearly distinguish the portions~~

~~of the walls and other elements of the existing building that have been retained from the portion of the proposed remodeled structure that will be new.~~

A. **At least fifty percent of the existing walls of the existing ranch house building shall be retained.**

B. The permittee shall undertake development in accordance with the ~~approved final plans~~ **amended final plans dated March 28, 2014**. Any proposed changes to the ~~approved final plans~~ **amended final plans** shall be reported to the Executive Director. No changes to the ~~approved final plans~~ **amended final plans** shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

22. **Length of Stay Provisions.** All six inn units **in the main building and cottage** shall be open and available to the general public. Rooms may not be rented to any individual, family, or group for: (1) more than 30 consecutive calendar days counting portions of calendar days as full days; or (2) no more than 60 days per year. **When not being occupied by the innkeeper or his/her guests, the innkeeper's unit and associated guest unit shall be open and available to the general public as the inn's seventh and eighth visitor accommodation units, and shall not be rented to any individual, family, or group for: (1) more than 30 consecutive calendar days counting portions of calendar days as full days; or (2) no more than 60 days per year.**

24. Deed Restriction. WITHIN 90 DAYS OF COMMISSION APPROVAL OF THIS COASTAL DEVELOPMENT PERMIT AMENDMENT (A-1-MEN-07-028-A2), 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 amendment a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, as amended, 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 amended, 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 amendment. 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, as amended, 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. This deed restriction shall supersede and replace the deed restriction recorded pursuant to Special Condition No. 4 of Coastal Development Permit No. A-1-MEN-07-028, approved on August 11, 2010, which deed restriction is recorded as Instrument No. 2011-07449 in the official records of Mendocino County.

25. Restrictions on Innkeeper's Guest Unit. The following restrictions shall apply with respect to the Innkeeper's Guest Unit:

1) **The Innkeeper's Guest Unit shall only be used by (1) the innkeeper (who occupies the Innkeeper's Unit and acts as the caretaker, manager, or superintendent of the inn) or his/her guests; or (2) paying guests who use the unit for commercial transient occupancy purposes and who comply with the length of stay provisions outlined in Special Condition No. 22;**
2) **When not being used as an inn unit for commercial transient occupancy use, the Innkeeper's Guest Unit shall only be used by the occupants of the Innkeeper's Unit or their guests, and shall not be converted into an additional residence that is rented or leased separately from the innkeeper's residence; and**
3) **The Innkeeper's Guest Unit shall not contain cooking or kitchen facilities.**

III. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

A. AMENDMENT DESCRIPTION

Project History
The Commission considered Appeal No. A-1-MEN-07-028 on four separate occasions. On September 7, 2007, the Commission determined that the appeal of the County of Mendocino's approval of a local coastal development permit for a 10-unit inn raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. On November 4, 2009, the Commission first considered the application de novo and denied the proposed development by a final vote of 4-6. The applicant later submitted a reconsideration request (Reconsideration Request No. A-1-MEN-07-028-R) which the Commission denied at its meeting on January 15, 2010.

The applicant then filed suit against the Commission, challenging the Commission's denial of the permit and denial of the reconsideration request (*Jackson-Grube Family, Inc. v. California Coastal Commission*, Mendocino County Superior Court Case No. SCDKCVG-0955369). The applicant and the Commission subsequently entered into an agreement to settle the litigation. The settlement agreement provided that if the Commission acted to approve a modified project description that included certain changes to the project that the Commission considered at the initial de novo hearing in November 2009, the lawsuit would be dismissed.

The principal changes to the project included: (1) reducing the maximum number of units of the proposed inn from 7 to 6; (2) reducing the size of the proposed main inn building and reducing the overall square footage of the proposed ranch and inn compound by approximately 28%; (3) providing various public access improvements; and (4) agreeing to record a deed restriction prohibiting further development on Jackson-Grube Family, Inc. property west of Highway One.

Under the settlement agreement, the Commission retained full discretion as allowed by law to grant, condition, or deny the revised project after full public hearing. The Superior Court remanded the permit application to the Commission for a public hearing on the revised project

during the July 2010 Commission meeting. The Commission opened the hearing on the remanded permit application on July 7 and continued the hearing at the August 11-13, 2010 Commission meeting, where it was ultimately approved. See pages 24-28 of the Adopted Findings for Appeal No. A-1-MEN-07-028 attached as **Exhibit 9** for more information on the project history.

Description and Status of Approved Project

On August 11, 2010, the Commission approved with conditions Coastal Development Permit (CDP) A-1-MEN-07-028 for the demolition of five existing ranch buildings and the development of a six unit ranch and inn compound at 31502 North Highway One, Mendocino County (See **Exhibit 1**). The subject property is located on the west side of Highway One in rural northern Mendocino County approximately four miles south of Westport and 12 miles north of Fort Bragg. The site is located on a gently-sloping marine terrace that extends approximately one-quarter mile from the ocean bluff edge to the coastal hills east of Highway One. There is very little development on either side of the highway in the immediate vicinity of the site as the surrounding grassy terrace and hillsides are largely used for agricultural grazing (See **Exhibit 3** for photographs of the property and surrounding area). To protect the rural, agricultural character of the setting and scenic views to and along the ocean, the area is designated as "highly scenic" in the certified Mendocino County LCP.

The permit was issued on August 29, 2011. Two immaterial amendments involving additional septic system improvements and changes in roofing materials were issued in March 2013 and August 2013, respectively (**Exhibits 10** and **11**).

Development under the existing CDP is incomplete. As approved, the new ranch and inn compound will be constructed in the general location of the buildings to be demolished, an approximately 1.22-acre area midway between the bluff edge and the highway. An existing 2,049-square-foot ranch house (the former Orca Inn) will be renovated and expanded into the main inn building and will contain three rental units of 412 square feet, 249 square feet and 240 square feet, and accessory common and service areas of 3,236 square feet. Several new structures within the compound are authorized under the existing CDP, including (1) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet; (2) a ranch manager's unit of 1,737 square feet; (3) an equipment barn of 1,121 square feet; (4) a generator/pump shed of 240 square feet; and (5) a garage of 1,508 square feet. The development as originally approved was to rely on an existing septic system, improve the existing driveway, and bury existing overhead utilities. In total the approved development includes 39 parking spaces, five within the proposed garage, 10 within the ranch and inn compound, and 24 in an unpaved overflow parking area just southeast of the compound. See pages 31-33 of the Adopted Findings for Appeal No. A-1-MEN-07-028 attached as **Exhibit 9** for a more detailed description.

The original permit imposes 23 special conditions. A number of these special conditions address the protection of visual resources to ensure that the development remains subordinate to the character of its setting. The approved permit also includes special conditions that restrict the use of the six inn units.

Proposed Amendment

The proposed amendment involves a number of project revisions, including changes within the 1.22-acre ranch and inn compound as well as changes to the approved driveway and leach field east of the compound (See **Exhibit 4** for a list of all proposed project revisions and **Exhibit 5** for architectural plans illustrating the changes).

Within the ranch and inn compound, there are proposed changes to four of the buildings: the garage, equipment barn, cottage, and main building. Changes to the garage include converting portions of the approved 1,508-square-foot structure into an innkeeper's unit (662 square feet) and an associated guest unit (318 square feet), both to be used as occasional rentals. The innkeeper's unit would include a bedroom, bathroom, and kitchen, while the associated guest unit would consist of an additional bedroom and bathroom. One 10.8-square-foot window would be added to both the north and south sides of the building, and a number of windows (totaling 40.7 square feet of glazing) would be added to the west side of the building facing the courtyard.

Changes to the equipment barn include extending the south eave of the roof to create a 145-square-foot wood storage area, recessing the west entry of the building 24 square feet for weather protection, and installing a photovoltaic array over approximately 540 square feet of the south-facing roof.

The exterior revisions to the approved cottage would include (1) installing a bay window in lieu of sliding glass doors on the first floor of the south elevation; (2) changing the shape of the west porch bump-out from square to triangular (with negligible change in area); (3) moving the hot tub from the center of the west porch to its northwest corner; (4) installing a steel-framed trellis (192 square feet) as a privacy screen over the south patio, and (5) revising numerous windows resulting in a reduction of 18.4 square feet (2.5%) of glazing. Interior revisions to the approved cottage would include adding a convenience bathroom in the basement, expanding a shower 7 square feet in a first floor bathroom, and enclosing and expanding a second-floor storage area 69 square feet.

As for the main building, the applicant is proposing to enclose a 162-square-foot portion of the north porch, extend the east patio approximately 7 feet southward with an addition of 90 square feet of patio stones, replace the horizontal exhaust on the caterer's kitchen hood/flue/chimney with a vertical exhaust, and replace wood columns at the east entrance with two groups of triple columns with a concrete base. The applicant is also proposing numerous revisions to the main building's windows, with a net reduction in glazing on the north and south sides of the building (13.3 square feet and 3.3 square feet reductions) and a net increase in glazing on the east and west sides of the building (83.9 square feet and 112.1 square feet additions), largely due to the addition of sliding glass doors to enclose the north porch. Changes to the interior of the main building would include adding a staff dressing room, staff bathroom, and a wine cellar to the basement, providing a walk-in cooler in the first floor kitchen, adding a gas fireplace to the north bedroom on the second floor, and reconfiguring the three bathrooms on the second floor to facilitate plumbing.

Pursuant to **Special Condition No. 16** of the original permit, the applicant submitted final plans for remodeling the existing ranch house into the main inn building. These plans, approved on August 29, 2011, show 72% of the existing exterior walls being retained and reused in the new

inn building. Since then, the contractor has found that approximately a quarter of the wall and roof areas intended to be retained are rotted and unusable. As part of this permit amendment, the applicant has submitted new plans (dated March 28, 2014) that propose to retain 54% of the existing exterior structure, which is still above the 50% retention requirement (See **Exhibit 5**, Plan A-2.7). As the main inn building exceeds the 18-foot height limit for development in a highly scenic area west of Highway One, the structure may only be allowed at its approved height to retain its status as a legal non-conforming structure. The 50% retention requirement was imposed by the Commission to ensure that the improvements to the main inn building constitute repairs and improvements to the existing structure, rather than new development to enable the structure to continue to be considered a legal non-conforming structure.

In addition to the building revisions, there are a number of other proposed site changes within the 1.22-acre ranch and inn compound. First, the applicant proposes to add two low retaining walls on the northeast side of the compound. One of the proposed retaining walls would be 68-feet long and would wrap around the northeast corner of the compound. The top of this proposed wall would be 3’8” above the garage slab. The other proposed retaining wall would be located south of the garage and would be 62-feet long. The top of this proposed wall would be 2’8” above the garage slab. Second, the applicant proposes to replace an approved 12,000 gallon fire cistern with two new 5,000 gallon tanks and a repurposed 3,000 gallon tank north of the equipment barn, as well as add three new 3,000 gallon fire cisterns north of the garage. These tanks bring the total on-site storage capacity to 40,000 gallons, which would be available for all local fire emergencies. Third, the applicant proposes to move an existing pump shed from the northwest corner of the compound to the northeast corner. Fourth, the applicant proposes to modify the landscaping plan by removing a row of shrubs located in the wetland buffer at the northwest corner of the site and reducing the area of landscape irrigation from 4,875 square feet to 2,475 square feet. Finally, the applicant proposes to reconfigure parking and lighting within the ranch and inn compound. Under the proposed amendment, the number of parking spaces in the garage would be reduced from five to two, and two other approved parking spaces (one van-accessible) south of the garage would be removed to accommodate a small garden. To compensate for the loss of these five spaces as well as the need for two additional spaces for the new innkeeper’s unit, six parking spaces would be provided along the northern edge of the compound on permeable pavers, and an additional van-accessible space would be added to the central parking island, extending the island 18 feet northward. A number of solar luminaires would be reconfigured to suit the amended parking layout; two solar luminaires would be added to the central parking island to serve the new accessible parking space (for a total of seven instead of five), seven luminaires would be added to light the six new spaces on the northern edge of the compound, and three luminaires would be removed from south of the garage (for a net increase of six luminaires).

In total, the proposed amendment includes an addition of approximately 182 square feet of building footprint resulting from the extension of the outdoor patio on the main building (90 square feet) and the extension of the south roof eave on the equipment barn (145 square feet). Despite these minor increases to building footprints, all development would continue to be contained within the ranch and inn compound and the overall footprint of the compound would remain unchanged.

The amendment also includes two proposed changes that occur east of the ranch and inn compound on the surrounding coastal terrace: a return to the historic alignment of the driveway and an expansion of the septic system. **Special Condition No. 13** of the original permit requires the applicant to submit to the Executive Director a Caltrans' Encroachment Permit for the driveway. Caltrans initially issued an Encroachment Permit for a new driveway layout that, when exiting the site, would have jogged northward before turning east again to enter Highway One at the mid-point of the road curve. Subsequently, Caltrans recognized that this configuration would be hazardous for northbound traffic stopped and waiting to enter the property, and required instead that the project maintain and upgrade the existing driveway and encroachment. The applicant has therefore submitted the revised Encroachment Permit, issued on February 5, 2014, as part of this application (See **Exhibit 6** for an illustration of the driveway realignment and **Exhibit 7** for a copy of the new Encroachment Permit). Using the existing driveway instead of a new alignment will reduce the amount of ground disturbance and the overall project impact.

As mentioned above and included in **Exhibit 10**, Permit Amendment No. A-1-MEN-07-028-A1 authorized the installation of a new septic system including a new leach field east of the inn compound near Highway One to serve the ranch manager's unit and a convenience bathroom in the garage. The system was approved for a total capacity of 300 gallons per day (GPD) of effluent. However, the applicant built a system with a capacity of 600 GPD to handle the proposed innkeeper's unit and associated guest unit. The system was expanded by adding 160 feet of leach field drain pipe and extending the leach field approximately 20 feet eastward toward Highway One (into the area where the previous Caltrans' Encroachment Permit located the driveway). The leach field was not expanded any closer to the wetlands to the north, remaining outside the 100 foot wetland buffer. The applicant is seeking after-the-fact authorization for the additional septic system capacity as part of this permit amendment.

B. STANDARD OF REVIEW

Since the proposed project is within an area for which the Commission has certified a Local Coastal Program (LCP) and is located between the first public road and the sea, the applicable standard of review for the Commission is the Mendocino County certified LCP and the public access policies of the Coastal Act.

C. OTHER REQUIRED APPROVALS

The County of Mendocino approved a use permit modification (UM No. 6-2006/2012) on July 18, 2013 for the proposed project revisions, including the conversion of portions of the garage into an innkeeper's unit and an associated guest unit, both to be used occasionally as visitor accommodations.

D. CONSISTENCY WITH LUP AND ZONING DESIGNATION

The portion of the property on which the development is proposed is both designated in the County's certified LUP and zoned in the County's certified Implementation Plan as Remote Residential RMR-20:PD *1C. Section 20.380.005 of Mendocino County's Coastal Zoning Code (CZC) indicates that the Remote Residential District is intended to be applied to lands within the coastal zone which have constraints for commercial agriculture, timber production, or grazing, but which are well suited for small scale farming, light agriculture and low density residential

uses, or where the land has already been divided and substantial development has occurred. The "20" attached to the designation and zoning indicates that the minimum parcel size for land division purposes is one parcel for every 20 acres. The Planned Unit Development (PD) designation requires that new development be subject to site plan review to ensure maximum preservation of open space, protection of views from public roads, and resource protection, while allowing development provided for by the Coastal Plan. The *1C designation is a land use and zoning overlay over the base remote residential land use classification and zoning district that allows for the construction of up to a 10-unit inn or 4-unit bed and breakfast facility with a coastal development use permit. The overlay is one of several visitor accommodation and services (VAS) combining districts defined in the LUP that cover a variety of visitor use types ranging from campgrounds to resorts.

In its 2010 de novo review of the original permit, the Commission found the proposed combination of ranching and visitor serving uses consistent with the Remote Residential RMR-20:PD *1C LUP designation and zoning for the site. The *1C designation allows a maximum density of ten guest rooms or suites and the inn as approved has six units [*CZC §20.436.030*(A)(1)(a)]. The approved ranch facilities are a form of "Light Agriculture" which is a principally permitted use within the RMR zoning district [*CZC §20.380.005*(B)]. The approved ranch manager's unit is a residential use that is principally permitted within the RMR district [*CZC §20.380.005*(A)].

Most of the changes under the proposed amendment are design alterations to the approved buildings and adjustments to the site layout within the approved development footprint; they do not involve a change of use, the addition of new structures, or a modification to the building envelope, and therefore do not raise issues of zoning and land use compliance. There are a few new accessory structures proposed under this amendment, including three 3,000 gallon water tanks, two retaining walls, and a rooftop photovoltaic array. CZC Section 20.456 allows uses accessory to the allowed use types which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principally permitted use. The proposed new structures are all forms of such allowable accessory uses.

One significant change under the proposed amendment is the conversion of portions of the 1,508-square-foot garage into an innkeeper's unit and associated guest unit, both to be used as occasional rentals. Because of the remote location of the property, the applicant wants to provide for an innkeeper to live at the inn and prepare meals for guests upon request. An innkeeper's unit constitutes an Employee Caretaker Unit which is a conditional use under the *1C VAS combining district [*CZC §20.436.015*(A)]. An Employee Caretaker Unit is defined in CZC Section 20.316.030 in relevant part as one single-family dwelling or a single trailer coach occupied by a caretaker or manager or superintendent of the site's Visitor Accommodations and Services and his/her family. The innkeeper's unit as proposed includes a one-bedroom unit (Innkeeper's Unit) placed within the south end of the garage and associated guest unit (Guest Unit) placed within the north end. If the Innkeeper's Unit and Guest Unit are occupied by an innkeeper and his/her guests and used as one single unit, the garage structure falls within the definition of an Employee Caretaker Unit and is thus allowable as a conditionally permitted use under the *1C designation. A new special condition, **Special Condition No. 25**, has been added under this permit amendment to ensure that the Guest Unit, when not being used as an inn unit, is

treated as an accessory living unit for the innkeeper's residence, and as such, is only used by the occupants of the Innkeeper's Unit and their guests, and is not rented or leased as permanent housing separate from the Innkeeper's Unit. It also specifies that the Guest Unit shall not contain cooking or kitchen facilities. By prohibiting the use of the Guest Unit as a separate residence with cooking and kitchen facilities, Special Condition No. 25 ensures that the inn will only contain one single-family dwelling as allowed under the *1C designation.

As mentioned above, the applicant proposes to occasionally use the Innkeeper's Unit and Guest Unit as the inn's seventh and eighth visitor accommodation units. Allowing the units to be used as occasional visitor accommodation units would increase the number of visitor accommodation units on site from six to eight. However, an eight-unit inn is still within the five- to ten-unit range allowed by the *1C designation. To ensure that the Innkeeper Unit and Guest Unit are used as either visitor accommodation units or an Employee Caretaker Unit consistent with the *1C land use and zoning overlay, **Special Condition No. 22** of the original permit has been modified and reimposed to require that the Innkeeper's Unit and Guest Unit, when not being occupied by the innkeeper or his/her guests, be open and available to the general public as the inn's seventh and eighth visitor accommodation units. It also requires that these seventh and eighth inn units not be rented to any individual, family, or group for: (1) more than 30 consecutive calendar days counting portions of calendar days as full days; or (2) no more than 60 days per year. These requirements ensure that the visitor accommodation units are used by "transient guests" as defined in CZC Section 20.308.115(F). In addition, **Special Condition No. 7,** as modified, states that any changes in use of these units shall require a new permit amendment or CDP. As the Commission would have the opportunity to review any changes in use, the Commission can ensure that the development will continue to be consistent with the certified LUP and zoning designation applicable to the site. Therefore as conditioned, the addition of an Innkeeper's Unit and Guest Unit both to be used as occasional visitor accommodation units is consistent with the *1C land use and zoning overlay.

E. ADEQUACY OF AVAILABLE SERVICES

Adequacy of Available Water

Mendocino County LUP Policy 3.8-9 requires that commercial developments and other potential major water users show proof of an adequate water supply and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies. The approved development will rely on groundwater pumped from an existing well on the property drilled in 1994. The project site lies within an area containing "Critical Water Resources" as designated by the 1982 Mendocino County Coastal Ground Water Study. Given that groundwater is relatively scarce in the area and that the inn will rely on groundwater, a potential issue is raised as to whether the development as amended is consistent with LUP Policy 3.8-9.

In 2008, Questa Engineering Corporation conducted a hydrological study to evaluate the adequacy of on-site water source(s) to serve the development, and the potential for impacts to surface and groundwater supplies at and surrounding the project site. The study estimated the average daily water demand based on the project approved by the County in 2007. The project at that time entailed development of a 10-unit inn and caretaker's unit totaling 16 bedrooms. The study estimated that the development would use approximately 3,000 gallons per day on average,

while the pump test results indicated the well would yield a volume of 9,014 gallons per day. Therefore, the study concluded that the well had more than ample capacity to serve the development as approved by the County. The study also included a drawdown analysis that indicated that drawdown at points 190 and 400 feet away from the supply well ranged from 2.5 to 6.7 percent of the available drawdown. These drawdown rates fall within the 10% drawdown criterion contained in the Mendocino County Coastal Groundwater Development Guidelines. The study therefore concluded that drawdown of the water table at the nearest neighboring wells, which are more than a quarter mile from the proposed supply well, would be negligible.

With the proposed addition of the Innkeeper's Unit and Guest Unit, the current amendment request would increase the number of units by two from the project approved by the Commission, resulting in 8 inn units and a ranch manager's unit totaling 10 bedrooms. While the additional two units increase demand on the water supply, the project as amended is still a smaller project than the original County-approved project that was used to estimate water demand in the hydrological study. Therefore, the well will have more than amply capacity to serve the development as amended, and the use of the well to serve the amended development will not drawdown groundwater to an extent that would adversely affect contiguous or surrounding water sources and supplies, consistent with the requirements of LUP Policy 3.8-9.

Septic System Capacity

CZC Section 20.532.095 requires that the granting or modification of any CDP be supported by findings that solid waste capacity has been considered and is adequate to serve the proposed development. Originally, the entire project was going to be served by the pre-existing on-site septic system located west of the cottage. However, it was found that the existing system did not have the capacity to accommodate 100% occupancy of the inn 365 days per year, which is required by the Mendocino County Department of Environmental Health. To create additional capacity, a new septic system was approved under Amendment No. A-1-MEN-07-028-A1 in February 2013 to serve the ranch manager's unit and a single bathroom in the garage (leaving the pre-existing system to handle the main building and cottage). This new system was approved for 120 linear feet of leach field pipe and a capacity of 300 gallons per day (GPD) of effluent.

Without CDP authorization, the applicant instead installed a larger system with 270 linear feet of leach field pipe and a leach field that extends an additional 20 feet eastward. This unpermitted system is able to handle an additional 300 GPD. Under the current amendment, the applicant is seeking after-the-fact approval for the larger septic system.

The proposed addition of two bedrooms in the garage (one in the Innkeeper's Unit and one in the Guest Unit) results in the need for a total septic system capacity of 600 GPD (an additional 150 GPD for each of the two proposed bedrooms). As the system that has been installed has a capacity of 600 GPD, the system is large enough to accommodate the two additional proposed units. The Mendocino County Department of Environmental Health has evaluated and approved the development's septic system design for the two additional bedrooms. As a result, the Commission finds that the amended development as conditioned has sufficient septic system capacity, consistent with the requirements of CZC Section 20.532.095.

Highway One Capacity

CZC Section 20.532.095 also requires that the granting or modification of any CDP be supported by findings that public roadway capacity has been considered and is adequate to serve the proposed development. The project under consideration is accessed directly from Highway One. A traffic analysis, prepared by Whitlock & Weinberger Transportation, Inc. and dated January 14, 2008, studied the potential impacts of the project on Highway One. At the time of the analysis, the proposed project consisted of a 10-unit inn. According to the analysis, the Caltrans Highway Capacity Manual (2000) estimates that the "ideal capacity" of a two lane highway is 3,200 passenger cars per hour, and Highway One in the vicinity of the project is not estimated to be carrying that volume of traffic in a day. Based on Caltrans' District 1 growth factors for State Highways in the district (2002), the volume along Highway One in the vicinity of the proposed inn is only projected to rise to approximately 2,600 trips per day and 470 weekday p.m. peak hour trips by the year 2027. This means that by the year 2027, the capacity available at peak hours will be approximately six times the volume of traffic projected to occur (3,200/470). An anticipated trip generation for the proposed development of 70 daily trips and 4 peak hour trips was estimated using standard rates for a 10 unit "Resort Hotel" published by the Institute of Transportation Engineers (ITE) in *Trip Generation, 7th Edition*. Adding the four projected peak hour trips generated by the inn to the projected traffic volumes for 2027 still leaves the available capacity at many times the peak hour volume of traffic that is projected to occur. Based on these conclusions, the conversion of parts of the garage into an innkeeper's unit and associated guest unit to be used as occasional visitor accommodations is not expected to significantly increase highway impacts. Therefore, the Commission finds that the public road capacity of Highway One is adequate to serve the amended development consistent with CZC Section 20.532.095.

F. VISUAL RESOURCES

The project site is located on the west side of Highway One in rural northern Mendocino County within a designated "highly scenic" area. The surrounding land consists largely of a gently-sloping coastal terrace that extends approximately one-quarter mile from the ocean bluff edge to the coastal hills east of Highway One. There is very little development on either side of the highway in the immediate vicinity of the project site, with the exception of a few scattered residences on the east side of the highway, three houses and a winery scattered along the west side of the highway beginning approximately one mile north of the applicant's ranch, and several homes west of the highway on parcels within a half mile south of the proposed development site. The surrounding terrace and hillsides are predominantely covered with low-growing grasses and largely used for cattle grazing. The lack of trees and the limited and widely scattered development in the immediate vicinity of the project site gives the landscape a very open appearance. As a result, the views to and along the coast from narrow two-lane Highway One are sweeping and vast in this area (See **Exhibit 3** for photographs of the property and surrounding area).

Due to the flat terrain of the terrace and lack of tall vegetation, the development site is highly visible from Highway One in both directions. Northbound travelers on the highway first see the development several hundred feet to the south of the site. Southbound travelers first see the development across the gently-sloping coastal terrace from a location along the highway nearly a mile north of the site. The development is also highly visible from the new lateral access trail (the Kibesillah Public Trail) that runs along the property parallel to the Highway One right-of-

way, and from the vertical access easement that connects the Kibesillah Trail to the bluff edge north of the development.

The Mendocino County LCP sets forth numerous policies regarding the protection of visual resources, including several policies specific to development in designated highly scenic areas, and several policies specific to development on coastal terraces (see Appendix C). LUP Policies 3.5-1 and 3.5-3, and CZC Sections 20.504.015(C)(3) and 20.504.020 all require that new development in highly scenic areas be subordinate to the character of its setting. LUP Policy 3.5-3 and CZC Section 20.504.015 also require that any development permitted in highly scenic areas provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. In addition, LUP Policy 3.5-3 and CZC Section 20.504.015(C)(3) require that new development in highly scenic areas minimize reflective surfaces and utilize building materials that blend in hue and brightness with their surroundings. LUP Policy 3.5-4 and CZC Section 20.504.015(C)(7) require that the visual impacts of development on terraces be minimized by such measures as minimizing the number of structures and clustering them near existing vegetation, natural landforms or artificial berms, and designing development to be in scale with the rural character of the area.

On appeal, the original project as approved by Mendocino County in 2007 raised a substantial issue as to whether the development would be subordinate to the character of its setting. To address this issue, the applicant proposed various project changes for the Commission's de novo review, including clustering and confining the inn development within a 1.22-acre compound on the site. The Commission found that the revised development would continue to be bulkier and taller than the existing ranch compound and would block some additional blue water views, but would nevertheless retain the existing visual character of the site because it would be located in the same general location as the existing ranch buildings and would be set against a backdrop of vast open space.

This determination that the visual impacts of the development would not be significant was dependent upon retaining the agricultural land and open space around the site. In this case, the applicant owns approximately 1,650 acres of ranch and timberland surrounding the site. The Commission was therefore able to impose two special conditions restricting future development on surrounding land, ensuring continued conformance with the LUP's visual resource policies. **Special Condition No. 5** of the original CDP prohibits most types of development on six of the applicant's parcels west of Highway One, restricting the land to agriculture and open space use without significant structures that block views. **Special Condition No. 6** of the original CDP ensures that the APN containing the subject ranch and inn compound and the two APNs surrounding the development are neither divided nor conveyed separately. These two conditions, reimposed under this amendment, ensure that the large expanse of uninterrupted viewshed surrounding the development will remain to counter-balance the blockage of additional blue water views and the greater massing of development that results from the approved project.

The Commission also attached special conditions to the original CDP to limit the visual impact of special events. **Special Condition No. 9** requires a landscaped berm to be planted along the perimeter of the overflow parking area for special events to partially screen vehicles parked in

the lot. **Special Condition No. 15** includes a number of restrictions on special events, including limiting event attendance to a maximum of 99 persons, event duration to no more than three days, and the number of events to a maximum of 12 per year. It also requires that tents only be located within the confines of the ranch and inn compound and be taken down within 48 hours of each event, and that the number of vehicles parked at the site be limited to those that can be accommodated in the 10 space primary parking lot, 5-space garage, and 24 space overflow parking area. Under this amendment, **Special Condition No. 15** has been modified to reflect the changed parking configuration; now all vehicles parked on site shall be accommodated in the 14 space primary parking lot, 2-space garage, and 24 space overflow parking area.

The proposed amendment includes: (1) exterior modifications to four of the approved buildings (the garage, equipment barn, cottage, and main building); (2) the installation of additional water tanks and alteration to approved tanks; (3) the relocation of an existing pump shed; (4) the installation of two retaining walls; (5) the reconfiguration and addition of parking spaces and lighting; (6) the removal of a row of shrubs; and (7) the use of the existing driveway rather than construction of a new alignment. As discussed below, even though all of these changes are potentially visible from public vantage points including Highway One and the Kibesillah Public Trail, the development as amended remains consistent with the visual resource policies of the certified LUP.

Exterior Modifications to Four Buildings

The approved ranch and inn buildings are clustered within an approximately 1.22-acre compound that slopes down to the west away from the highway. Because there is no current or proposed public access between the compound and the bluff edge, the western elevations of the buildings are not visible from public vantage points.

Under the proposed amendment, portions of the approved garage would be converted into an Innkeeper's Unit and Guest Unit, both to be used as occasional visitor accommodations. Because these new units occupy portions of the existing garage structure, they require no increase in lot coverage, building footprint, or gross floor area. The only visual impact that results from this change in use is the addition of 62.3 square feet of exterior glazing on the garage. Of this glazing, only 21.6 square feet would be visible from public vantage points, the result of one 10.8-square-foot window being added to both the north and south ends of the building. The rest of the new windows (totaling 40.7 square feet of glazing) would be added to the west side of the building facing the courtyard, and therefore would not be visible from public vantage points. The visual impact of the proposed new windows on the north and south ends of the building would be lessened by **Special Condition No. 12** of the original permit (reimposed under this amendment) which requires exterior windows to be non-reflective to minimize glare. In addition, the windows would be partially blocked from public view because the garage is depressed into the natural grade and there are additional ranch and inn structures to the north and south of the building.

Changes to the equipment barn include installing a 540-square-foot photovoltaic (PV) array on the south-facing roof, and extending the south eave of the roof to create a 145-square-foot wood storage area. The PV array would cover a large portion of the south roof and would be visible from public vantage points. The equipment barn's roof is constructed of black asphalt shingles. The PV array would also be a dark color and would be designed to absorb light rather than

reflect it. Special Condition No. 12 of the original permit ensures that the visual impact of the PV array would be minimized by specifying that all exterior materials, including solar panels, must be non-reflective to minimize glare. The proposed covered wood storage area would be constructed by adding a concrete slab on grade and two columns to support a roof extension. This space would not be enclosed by windows, and would be seen from Highway One and the Coastal Trail as additional roof eave and two columns set against the backdrop of the barn's south wall.

The exterior revisions to the approved cottage would include (1) installing a bay window in lieu of sliding glass doors on the first floor of the south elevation; (2) changing the shape of the west porch bump-out from square to triangular (with negligible change in area); (3) moving the hot tub from the center of the west porch to its northwest corner; (4) installing a steel-framed trellis (192 square feet) as a privacy screen over the south patio, and (5) revising numerous windows resulting in a reduction of 18.4 square feet (2.5%) of glazing. The cottage is located on the southwest corner of the ranch and inn compound and thus its south elevation is the most exposed to views from the highway and parallel Coastal Trail. While the addition of a first-floor bay window would add 18 square feet of glazing to the south elevation, this would be partially mitigated by the reduction in size of a number of other windows on this side of the building (resulting in a net gain of only 8.8 square feet of glazing). In addition, this bay window would replace a sliding glass door; the additional glazing is the result of the protruding construction of the window and would not be seen as additional window square-footage along the south elevation of the building. The new trellis is also on the south side of the building and consists of angled cedar slats atop a steel frame. Given the trellis's location against the corner of the cottage, it would be seen from Highway One and the Coastal Trail almost exclusively against the backdrop of the cottage itself and would have little or no visual impact.

As for the main building, the applicant is proposing to enclose a 162-square-foot portion of the north porch, extend the east patio approximately 7 feet southward with an additional 90 square feet of stone pavers, replace the horizontal exhaust on the caterer's kitchen hood/flue/chimney with a vertical exhaust, and replace wood columns at the east entrance with two groups of triple columns with a concrete base. The applicant is also proposing numerous window revisions to the main building, with a net reduction in glazing on the north and south sides of the building (13.3-square-foot and 3.3-square-foot reductions) and a net increase in glazing on the east and west sides of the building (83.9-square-foot and 112.1-square-foot additions), largely due to the addition of sliding glass doors to enclose the north porch. Because of the main building's location at the northwest corner of the ranch and inn complex, its north elevation is the most visible from public vantage points. The proposed revisions actually result in a 13.3-square-foot net reduction in glazing on this side of the building, lessening the visual impact. The east side of the building is also visible from public vantage points, although obstructed by the garage and a number of other features between the building and the highway. The net addition of 83.9 square feet of glazing to the east side of the building is largely the result of enclosing the north porch in glass. However, this increased glazing would not change the basic form or appearance of the structure, and pursuant to Special Condition No. 12 of the original permit, the windows would be non-reflective and only visible to some degree.

In summation, the revisions to the four buildings discussed above would result in an additional 235 square feet of building footprint for outdoor spaces, including 90 square feet for an expansion of the patio on the east side of the main building and 145 square feet for a wood storage area under the southern eave of the equipment barn. Neither of these features would have visual impact from Highway One or the Coastal Trail. In addition, the revisions would increase glazing on the main building by 179 square feet, 112 square feet of which is on the west side, not visible from public vantage points. Glazing on the converted garage would increase by 53 square feet, with only 21.6 square feet visible from public vantage points. Glazing on the equipment barn would remain unchanged, but there would be a new 540-square-foot solar panel on the south roof. Finally, glazing on the cottage would actually decrease by 18 square feet. Pursuant to Special Condition No. 12 of the original permit, the new windows and solar panel would be non-reflective to minimize glare. There is no proposed change in the approved colors of the buildings' siding or roofing and no proposed change to the height of the buildings. For all these reasons, there would be no significant increase in the visual impact of the buildings, and the amended development will thus remain subordinate to the character of its setting consistent with the visual resource protection policies of the LCP.

Additional Site Changes

In addition to the building revisions, there are a number of other proposed site changes within the 1.22-acre ranch and inn compound. First, the applicant proposes to add low (2'8" – 3'8" high) retaining walls to the northeast and southeast of the garage. There are four approved structures (the ranch manager's residence, shed, garage and propane tank) along the eastern edge of the compound that are all depressed into the natural grade in order to reduce their apparent height as seen from Highway One. As presently designed and approved, there is an abrupt change in elevation along this eastern edge where the natural grade steps down to the level of the courtyard and buildings. The approved grading plan accounts for this elevation change simply by sloping the grade from high to low, allowing the surface water runoff along this transitional slope to join the surface waters at the courtyard level. By introducing retaining walls, the proposed design would eliminate the transitional 10% slopes along the eastern edge of the compound, reducing the area of ground disturbance and allowing excess runoff to be retained at natural grade instead of allowing it to drain toward the buildings and potentially cause erosion of the courtyard. The retaining walls are designed to be flush with the natural grade along virtually their entire length, the one exception being where one wall wraps around the southeast corner of the shed as the natural grade dips back down to the driveway level. Therefore most of the proposed wall area would be concealed from view by the natural grade, resulting in minimal visual impact.

The applicant also proposes to replace an approved 12,000-gallon fire cistern with two new 5,000-gallon tanks and a repurposed 3,000-gallon tank north of the equipment barn, as well as add three new 3,000-gallon fire cisterns north of the garage. The two proposed 5,000-gallon tanks would replace a larger scale 12,000-gallon tank. Because of their location near the center of the courtyard, they would be largely hidden by surrounding structures and have minimal visual impact. The three new fire cisterns would be located near the northeast corner of the compound and would be visible from public vantage points to the north; however, they help shield the north end of the garage from view, and like the garage, they are set three to four feet below natural grade, decreasing the potential for visual impact.

In addition, the applicant proposes to remove a row of shrubs at the northwest corner of the compound, and move an existing pump shed from the northwest corner of the compound to the northeast corner. Both of these changes reduce infringement into a 100-foot wetlands buffer northwest of the compound, and result in a negligible visual change to the development.

The applicant also proposes to reconfigure parking within the ranch and inn compound. The number of parking spaces in the garage would be reduced from five to two, and the two approved parking spaces (one van-accessible) south of the garage would be removed to accommodate a small garden. To compensate for the loss of these five spaces as well as the need for two additional spaces for the new innkeeper's unit, six parking spaces would be provided along the northern edge of the compound on permeable pavers, and an additional van-accessible space would be added to the central parking island, extending the island 18 feet northward. The overflow parking area for special events would remain unchanged. Because the additional guest parking would be located within the compound, the visual impact would be negligible.

A number of solar luminaires would be reconfigured to suit the amended parking layout; two solar luminaires would be added to the central parking island to serve the new accessible parking space (for a total of seven instead of five), seven luminaires would be added to light the six new spaces on the northern edge of the compound, and three luminaires would be removed from south of the garage. The visual impact of the net increase of six solar luminaires within the courtyard of the ranch and inn compound would be lessened by Special Condition No. 12 which requires all exterior lighting to be low-wattage, non-reflective, shielded, and directionally downcast.

Finally, the amendment includes changes to the Caltrans Encroachment Permit for the driveway alignment approved under the original permit. Caltrans initially issued an Encroachment Permit requiring a new driveway alignment that, when exiting the site, would have jogged northward before turning east again to enter Highway One at the mid-point of the road curve. Subsequently, Caltrans recognized that this configuration would be hazardous for northbound traffic stopped and waiting to enter the property. Therefore, Caltrans has required instead that the project maintain and upgrade the existing driveway and encroachment. This change will require less ground disturbance and less square-footage of driveway, allowing more natural vegetation and thus reducing the visual impact of the development.

In summation, visible site changes include two new retaining walls, three new water tanks, two new parking spaces, six new solar luminaires, and a return to the original driveway alignment. The revised driveway layout is the only change outside the ranch and inn compound and it has a positive visual effect. The rest of the changes are clustered within the approved footprint of the compound where they are depressed into the natural grade and partially shielded from the road by berms and plantings, minimizing their visual impact. The ranch and inn compound will continue to occupy an approximately 1.22-acre portion of the property while the vast majority of the parcel, as well as the surrounding 1,650 acres, will remain open and designated as agricultural and timber preserves. The amended development as conditioned thus remains subordinate to the character of its setting, and the Commission finds it consistent with the visual resource protection policies of the certified LCP.

G. PUBLIC ACCESS

Projects located between the first public road and the sea within the CDP jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. To approve the proposed project amendment, 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 and the shoreline access policies contained in Mendocino County's LUP Section 3.6.

Section 30210 of the Coastal Act requires that maximum public access shall be provided consistent with public safety needs and the need to protect natural resource areas from overuse. Section 30212 of the Coastal Act requires that access from the nearest public roadway to the shoreline be provided in new development projects, except where it is inconsistent with public safety, military security, or protection of fragile coastal resources, or where adequate access exists nearby. Section 30211 of the Coastal Act requires that development not interfere with the public's right to access gained by use or legislative authorization. Section 30214 of the Coastal Act provides that the public access policies of the Coastal Act shall be implemented in a manner that takes into account the capacity of the site and the fragility of natural resources in the area. In applying Sections 30210, 30211, 30212, and 30214, the Commission is also limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access. Mendocino County's LUP Section 3.6 reiterates these Coastal Act policies.

The Commission's decision to approve CDP A-1-MEN-07-028 was based in part on the applicant's proposal to provide various public access improvements. These include providing public access improvements previously granted to the County of Mendocino as part of the approval of an earlier inn project for the site including (a) conveyance of fee title to the County of a one acre portion of the property between Highway One and the ocean; (b) $25,000 paid to the County toward development of coastal access in the area; and (c) dedication of a 15-foot-wide lateral easement along approximately 6,000 feet of the applicant's property on the seaward side of the Highway One right-of-way. The public access improvements also include an approximately 1,000-foot-long extension of the lateral public access easement and an offer-to-dedicate a 10-foot wide vertical pedestrian access from Highway One to the coastal bluff at the northern end of the property. The vertical public access easement includes a 25-foot-long by 25-foot-wide public viewing area at the end of the trail and a parking area for at least five vehicles off of Highway One.

Prior to issuance of CDP A-1-MEN-07-028, pursuant to **Special Condition No. 20**, the applicant provided evidence that they had executed and recorded a document demonstrating conveyance of fee title to the County for an approximately one-acre portion of the property, as well as evidence that they had executed and recorded a dedication to the Mendocino Land Trust for the lateral easement. Since CDP A-1-MEN-07-028 was issued, the Mendocino Land Trust has opened the 1.5 mile Kibesillah Trail within the lateral public access easement. This lateral trail is now a significant segment of the California Coastal Trail, offering sweeping coastal views across the applicant's lands. In addition, prior to issuance of CDP A-1-MEN-07-028, pursuant to **Special Condition No. 17**, the applicant submitted evidence that they had recorded an offer to dedicate easements for public access on May 31, 2011, including the extension of the 15-foot-wide lateral

easement, the 10-foot-wide vertical easement, the viewing area at the seaward end of the vertical access easement, and the easement for the 5-car parking area. On December 12, 2011, the Mendocino Land Trust accepted the offer-to-dedicate these public access easements. The Trust is planning to install a parking lot and a trail to the bluff edge.

The proposed project amendment includes the conversion of a previously approved garage structure into an innkeeper's unit and guest unit, both to be used as occasional inn units. The addition of these two units would have a negligible impact on demand for public access in the area. In addition, the proposed amendment does not affect the vertical and lateral public access secured through the original permit. Therefore, the Commission finds that the amended development as conditioned does not have any significant adverse effect on public access, and is consistent with the requirements of Coastal Act Sections 30210, 30211, 30212, and 30214.

H. ALLEGED VIOLATION

Although certain development has taken place at the project site without the benefit of a coastal development permit (including expansion of the approved septic system), consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Mendocino County, as the lead agency, adopted a Negative Declaration for the proposed amendment under Use Permit Modification No. 6-2006/2012.

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

The Commission incorporates its findings on conformity with Coastal Act policies at this point as if set forth in full. As discussed above, the project as proposed to be amended has been conditioned to be consistent with the certified Mendocino County LCP. No public comments regarding potential significant adverse environmental effects of the project amendment were received prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed amended development, as conditioned to mitigate the identified impacts, can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

APPENDIX A
SUBSTANTIVE FILE DOCUMENTS

Mendocino County UM No. 6-2006/2012
Coastal Development Permit No. A-1-MEN-07-028
Mendocino County CDU No. 6-2006
Mendocino County Local Coastal Program
Coastal Development Permit No. 1-83-278
Appeal No. A-1-MEN-96-28
Mendocino County CDU No. 9-95
Mendocino County CDUM No. 9-95/00

APPENDIX B
Mendocino County LCP Policies Regarding Adequacy of Available Resources

LUP Policy 3.8-1 states in applicable part:

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

LUP Policy 3.8-9 states in applicable part:

> *Commercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect contiguous or surrounding water sources/supplies. Such required proof shall be demonstrated prior to approval of the proposed use.*

CZC Section 20.532.095 states in applicable part:

> *(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:*
>
> > *(2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and*
> >
> > *(6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.*

APPENDIX C
Mendocino County LCP Policies Regarding Visual Resources

LUP Policy 3.5-1 states in applicable part:

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

LUP Policy 3.5-3 states in applicable part:

> *The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
>
> - *The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision…*
>
> *In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces.*

LUP Policy 3.5-4 states in applicable part:

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

CZC Section 20.504.015, "Highly Scenic Areas," states in applicable part:

> *(C) Development Criteria.*
>
> > *(1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
> >
> > *(2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
> >
> > *(3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings…*
> >
> > *(7) Minimize visual impacts of development on terraces by the following criteria:*
> >
> > > *(a) Avoiding development, other than farm buildings, in large open areas if alternative site exists;*
> > >
> > > *(b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;*
> > >
> > > *(c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;*
> > >
> > > *(d) Design development to be in scale with rural character of the area.*
> >
> > *(13) Access roads and driveways shall be sited such that they cause minimum visual disturbance and shall not directly access Highway 1 where an alternate configuration is feasible. (Ord. No. 3785 (part), adopted 1991)*

CZC Section 20.504.020 states in applicable part:

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

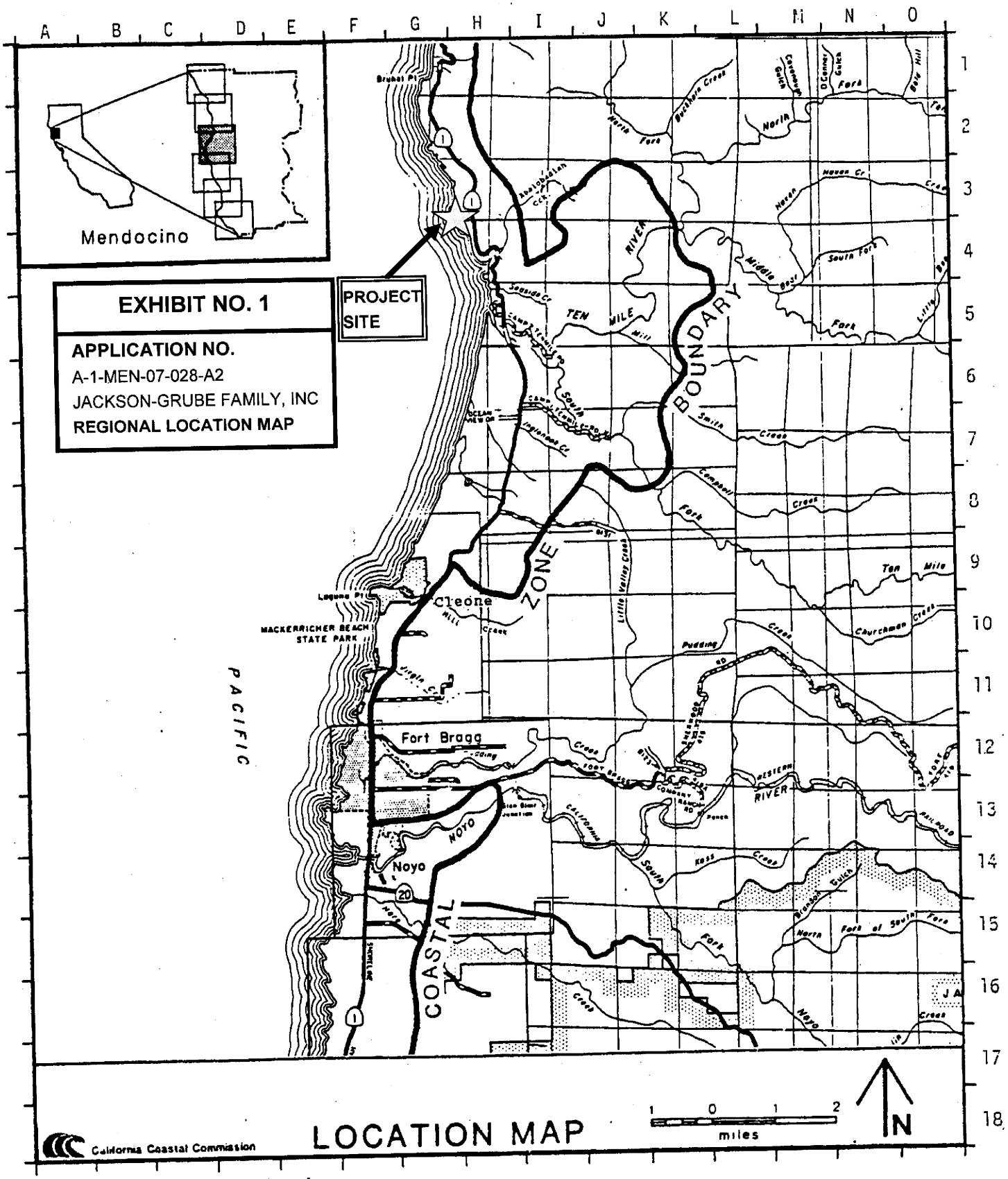


EXHIBIT NO. 1

APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC
REGIONAL LOCATION MAP

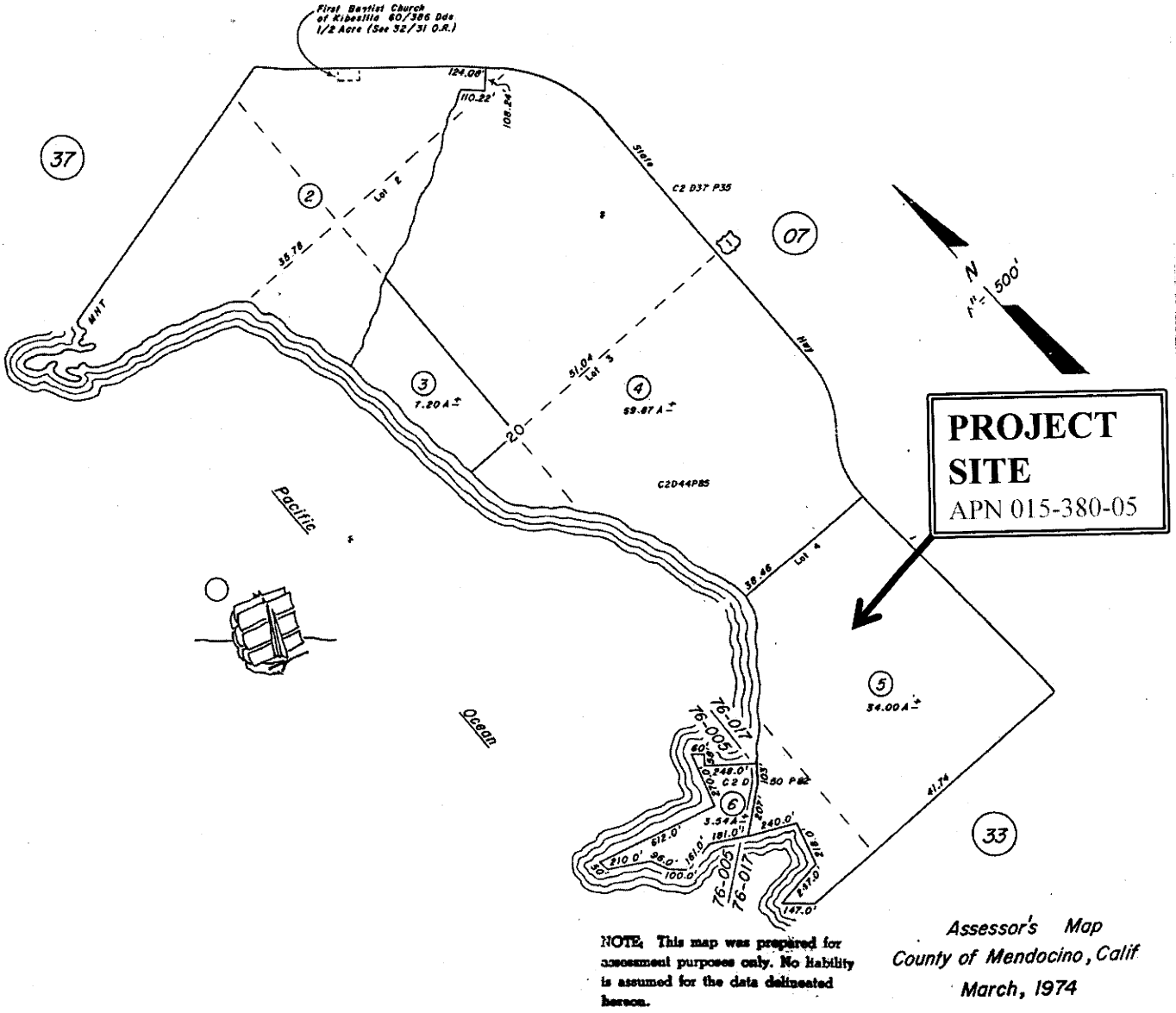
California Coastal Commission

County of Mendocino

Por. of Sec. 20, T. 20 N. R. 17 W., M.D.B.&M.

76-005
76-017

15-38



NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
County of Mendocino, Calif
March, 1974

EXHIBIT NO. 2
APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC.
VICINITY MAP

Jackson-Grube Ranch Compound: Pre and Post CDP

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California Coastal Records Project,
www.californiacoastline.org

September 27, **2009**

September 27, **2013**

EXHIBIT NO. **3**
APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC.
PHOTOGRAPHS OF SITE (1 of 2)

Aerial of Ranch and Inn Compound and Surrounding Land

September 27, 2013. Copyright © 2002-2013 Kenneth & Gabrielle Adelman. California Coastal Records Project. www.californiacoastline.org

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Inn at Newport Ranch
CDP # A-1-MEN-07-028-A2

DETAILED PROJECT DESCRIPTION

The following list describes the proposed revisions to the presently approved project:

A. SITE/ LANDSCAPING

1. Parking: Guest parking reconfigured as follows:
    a. Van-accessible parking space moved from south of Garage to central parking group (parking island stretched 18-ft. northward to accommodate).
    b. b. Six parking spaces provided along northern edge of compound; these are attributed as follows:
        i. Four existing spaces to be moved (three spaces moved from Garage to accommodate Innkeeper Unit; one space moved from south of Garage to accommodate Innkeeper Garden).
        ii. Two new spaces (one space for Innkeeper Unit/ Rental Unit #7 plus one space for innkeeper's detached bedroom/ Rental Unit #8)

    *[See drawing sheets: **A-1.1**]*

2. Exterior lighting: Exterior lighting reconfigured as follows:
    a. Move three solar luminaires from former parking spaces at south of Garage to six spaces northwest of Garage; provide four additional luminaires (for a total of seven luminaires at these six new/relocated parking spaces).
    b. Add two solar luminaries at central parking to serve accessible parking space & access aisle (for a total of seven luminaires at central parking island instead of five).

    *[See drawing sheets: **A-1.2**]*

3. Retaining Walls: Add low retaining wall at north end of Garage and between Garage and Pump Shed. The purpose of these two walls is to minimize ground disturbance, improve drainage and protect buildings, which are depressed into natural grade.

    *[See drawing sheets: **A-1.1; A-1.3**]*

4. Water tanks: Two proposed revisions are as follows:
    a. Ag. Yard fire cisterns - Convert & downsize previously-approved single 12,000 gal. tank into two 5,000 gal. tanks in order to reduce tank scale; adjacent 3,000 gal. tank previously for irrigation to be repurposed as fire cistern in order to maintain 12,000 gal. min. dedicated to Fire Dept. use.
    b. Northeast fire cisterns – Add three new 3,000 gal. tanks north of Garage where, as is the case with the Garage itself, they have the advantage of being set down 3-4 feet below natural grade. These tanks bring the total on-site storage capacity to 40,000 gallons. This is an enormous asset to help protect the Inn and its guests. Furthermore, in order to support local fire department services the owner has

agreed to make all 40,000 gallons available to the fire dept. for all local emergencies, not solely for the Inn.
*[See drawing sheets: **A-1.1**]*

5. Existing pump shed: Relocated from NW corner (adjacent to pre-existing water tank) to NE corner (adjacent to three new water tanks).
   *[See drawing sheets: **A-1.1**]*

6. Landscape irrigation: Landscape irrigation reduced from 4,875 sf to 2,475 sf in order to avoid triggering additional county permits. The only remaining area (2,475 sf) to be sprinklered is the lawn between the Main Building and Cottage.
   *[See drawing sheets: **A-1.2**]*

7. Landscaping revision: The proposed row of shrubs wrapping around the northwest corner of the site has been scrapped from the project.
   *[See drawing sheets: **A-1.1**]*

8. Driveway realignment: Caltrans initially issued an Encroachment Permit for a new driveway layout that, when exiting the site, would have jogged northward before turning east again to enter Highway #1 at the mid-point of the road curve. Now Caltrans is requiring instead that the project maintain and upgrade the existing driveway and encroachment.

9. Septic system improvements: The original on-site sewage system permit from Mendocino County's Department of Environmental Health (approved under Amendment No. A-1-MEN-07-028-A1) permitted 120 linear feet of leach field pipe and had a design flow of 300 GPD for the Garage and Ranch Manager's Unit's septic system. The revised system has 270 linear feet of leach field pipe and a design flow of 600 GPD. The leach field has been extended 20 feet eastward.

B. MAIN BUILDING

1. North Porch enclosure: Enclose 162 sf portion of 232 sf North Porch.
   a. Δ Floor Area = + 162 sf (No change to Building Footprint)
   b. Δ Glazing Area = + 154 sf (North: -8 sf, East: +81 sf, West: +81 sf)
   *[See drawing sheets: **A-2.2; A-2.4 – A-2.6**]*

2. Outdoor Patio – Stretched approx. 7-ft. southward to align with south end of Living Room.
   a. Δ Building Footprint = + 90 sf (stone pavers)
   *[See drawing sheets: **A-2.1**]*

3. Window revisions: Numerous window revisions proposed; very few new or eliminated windows, mostly slight adjustments to/ stretching of approved windows. (Following calculations are total revisions, including North Porch enclosure described in #1 above.)

a. Δ Glazing Area = +180 sf (North: -13 sf, East: +84 sf, South: -3 sf, West: +112 sf)
*[See drawing sheets: **A-2.1 – A-2.6;**]*

4. Caterer's Kitchen hood/ flue/ chimney – Horizontal exhaust replaced with vertical exhaust per manufacturer's recommendations for separation from combustible materials and occupied spaces (i.e., 2nd floor deck). Chimney is to be wood-framed w/ stucco finish (gray color to match existing concrete chimneys).
*[See drawing sheets: **A-2.3 – A-2.6**]*

5. Porte Cochere column base – Concrete stem wall provided at two groups of triple columns rather than wood columns extending down to grade.
*[See drawing sheets: **A-2.0 – A-2.1; A-2.4; A-2.6**]*

6. Basement – Staff dressing & bathroom provided; mechanical & storage partitions reconfigured with separate wine cellar.
*[See drawing sheets: **A-2.0**]*

7. 1st Floor – Walk-in cooler provided.
*[See drawing sheets: **A-2.1**]*

8. 2nd Floor – Bathrooms reconfigured to facilitate plumbing; gas fireplace added to North Bedroom (Unit #2).
*[See drawing sheets: **A-2.3**]*

Main Building - Calculations Summary:

Δ Footprint =	**+ 90 sf**	(Stone pavers at Outdoor Patio)
Δ Floor Area =	**+ 162 sf**	(North Porch enclosure)
Δ Glazing Area =	**+ 180 sf**	(North: -13 sf, East: +84 sf, South: -3 sf, West: +112 sf)

Main Building renovation – 50% calculation

The general contractor, Brent Anderson, estimates that, of the wall and roof areas intended to be retained (yellow- and green-shaded areas on sheet A-2.7), 25% was rotted and discarded while 75% was useable and retained. Additionally, some members from the wall area intended to be demolished (pink-shaded areas on sheet A-2.7) were salvaged and reused elsewhere in exterior walls. Renovation calculations are as follows:

Main Building – Renovation:

Target retention:	72% (Exterior walls & roof: 2,817 sf retained/ 3,918 sf existing)
x Re-useable material:	75% (75% useable, 25% discarded)*
= Actual retention:	**54%**

* Note: Additional materials salvaged from demolished exterior walls and interior.
*[See drawing sheets: **A-2.7**]*

C. COTTAGE

1. Basement: Partitions adjusted, convenience bathroom provided
   *[See drawing sheets: **A-3.1**]*

2. 1st Floor: Unit #4 – Change shape of West Porch bump-out from square to triangular (no increase in porch area); move hot tub to NW corner of porch.
   *[See drawing sheets: **A-3.1, A-3.3**]*

3. 1st Floor: Unit #4 – Expand shower at BR-1.
   a. Δ Floor Area = + 7 sf
   *[See drawing sheets: **A-3.1**]*

4. 1st Floor: Unit #4 – Bay window in lieu of sliding glass doors facing south.
   a. Δ Floor Area = + 10 sf
   b. Δ Glazing Area = + 18 sf (South)
   *[See drawing sheets: **A-3.1; A-3.3**]*

5. 1st Floor: Unit #4 – Smaller windows along baseboard radiators at west wall of Great Room; shear panel in lieu of windows at west wall of Bedroom #1
   a. Δ Glazing Area = - 40 sf (West)
   *[See drawing sheets: **A-3.1; A-3.3**]*

6. 1st Floor: Unit #5 – Add two windows at Den (within stairwell, not visible from R.O.W.).
   a. Δ Glazing Area = + 2 sf (North)
   *[See drawing sheets: **A-3.1**]*

7. 1st Floor: Unit #5 – Add trellis at outdoor patio.
   *[See drawing sheets: **A-3.1 – A-3.3**]*

8. 2nd Floor: Unit #6 –Recess hot tub into dining area; smaller window at Kitchen sink facing South Porch.
   a. Δ Floor Area = - 7 sf
   b. Δ Glazing Area = - 3 sf (South)
   c. *[See drawing sheets: **A-3.2 – A-3.3**]*

9. 2nd Floor: Storage – Enclose & expand (to remain accessible from outside stairwell only).
   a. Δ Floor Area = + 69 sf
   b. Δ Glazing Area = + 5 sf (North)
   c. *[See drawing sheets: **A-3.2 – A-3.3**]*

Cottage - Calculations Summary:

Δ Footprint =	**0 sf**	
Δ Floor Area =	**+ 79 sf**	
Δ Glazing Area =	**- 18 sf**	(North: +7 sf, East: +0 sf, South: +15 sf, West: -40 sf)

D. GARAGE/ INNKEEPER

1. Innkeeper conversion: Convert portions of existing 1,508 sf Garage into a one-bedroom Innkeeper unit (662 sf) and a detached bedroom (318 sf), both to be used as occasional rentals (proposed Rental Units #7 & #8, respectively). One window added at both north & south walls; three parking spaces relocated to Courtyard.
   a. Δ Floor Area = + 980 sf (No change to Building Footprint)
   b. Δ Glazing Area = + 20 sf (10 sf ea. at North & South)
   *[See drawing sheets: **A-4.1**]*

Garage/ Innkeeper - Calculations Summary:

Δ Footprint =	**0 sf**	
Δ Floor Area =	**+ 980 sf**	(Contained wholly within existing building)
Δ Glazing Area =	**+ 63 sf**	(North: +10 sf, South: +10 sf; West: +33 sf)

E. EQUIPMENT BARN

1. Wood Storage: Extend south roof eave, w/ columns and concrete slab on grade.
   a. Δ Building Footprint = + 145 sf
   *[See drawing sheets: **A-5.1**]*

2. West Entry: Recess entry for weather protection.
   a. Δ Floor Area = - 24 sf
   *[See drawing sheets: **A-5.1**]*

3. Photovoltaic Array: Provide 32-ft. x 15-ft. (540 sf) photovoltaic array on portion of south facing roof.
   *[See drawing sheets: **A-5.1**]*

Equipment Barn - Calculations Summary:

Δ Footprint =	**+ 145 sf**
Δ Floor Area =	**- 24 sf**
Δ Glazing Area =	**0 sf**

SELLERS & COMPANY ARCHITECTS
ARCHITECTS AND TOWN PLANNERS

Inn at Newport Ranch
CDP # A-1-MEN-07-028-A2

GLAZING CALCULATIONS
March 28, 2014

Inn at Newport Ranch GLAZING AREA CALCULATIONS - MAIN BUILDING Proposed Revisions ~ 03.28.14			
Direction	**Location**	**Description**	**Δ Glazed Area (SF)**
North	North Porch	Eliminate glass door pair; add window seat and sidelites	-8.0
	Bathroom #3	Combine two casement windows into single sliding window	-3.1
	Stair Hall	Eliminate western sidelite of door #17	-6.6
	West Bedroom	Enlarge casement window pair	4.4
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		-13.3
	Glazed Area (SF) as Approved 08.11.10		204.8
	Sub-Total: Proposed % Δ Glazed Area		**-6.5%**
East	North Porch	Add sliding glass doors w/ sidelites	81.4
	East Bedroom	Taller casement window w/ transom added	6.5
	Bathroom #2	Add casement window	2.2
	Bathroom #3	Combine two casement windows into single sliding window	-3.1
	Bathroom #4	Combine two casement windows into single sliding window	-3.1
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		83.9
	Glazed Area (SF) as Approved 08.11.10		322.2
	Sub-Total: Proposed % Δ Glazed Area		**26.0%**
South	East Bedroom	Add two casement windows	7.8
	Stair Hall	Divide single large window into five small windows	-15.0
	West Bedroom	Enlarge casement window	3.9
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		-3.3
	Glazed Area (SF) as Approved 08.11.10		145.3
	Sub-Total: Proposed % Δ Glazed Area		**-2.3%**
West	North Porch	Add sliding glass doors w/ sidelites	81.4
	North Bedroom	Eliminate two windows, add four	21.4
	West Bedroom	Five taller casement windows (lower sills)	9.3
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		112.1
	Glazed Area (SF) as Approved 08.11.10		487.3
	Sub-Total: Proposed % Δ Glazed Area		**23.0%**
TOTAL	Δ Glazed Area (SF) as Proposed 03.28.14		179.4
	Glazed Area (SF) as Approved 08.11.10		1159.6
	Proposed % Δ Glazed Area		**15.5%**

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Inn at Newport Ranch
GLAZING AREA CALCULATIONS - COTTAGE
Proposed Revisions ~ 03.28.14

Direction	Location	Description	Δ Glazed Area (SF)
North	Loft Storage	Add window at proposed Storage	5.0
	Den/ Stairwell	Add two windows at Den (within stairwell)	2.0
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		7.0
	Glazed Area (SF) as Approved 08.11.10		106.3
	Sub-Total: Proposed % Δ Glazed Area		**6.6%**
East	No revision		
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		0
	Glazed Area (SF) as Approved 08.11.10		61.4
	Sub-Total: Proposed % Δ Glazed Area		**0.0%**
South	Great Room	Bay window in lieu of sliding glass doors	17.8
	Great Rm./ Dining	Smaller windows along baseboard radiators	-6.0
	Loft Kitchen	Smaller window at countertop	-3.0
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		8.8
	Glazed Area (SF) as Approved 08.11.10		357.1
	Sub-Total: Proposed % Δ Glazed Area		**2.5%**
West	Bedroom #1	Shear wall in lieu of windows	-32.0
	Great Room	Smaller windows along baseboard radiators	-2.2
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		-34.2
	Glazed Area (SF) as Approved 08.11.10		223.1
	Sub-Total: Proposed % Δ Glazed Area		**-15.3%**
TOTAL	Δ Glazed Area (SF) as Proposed 03.28.13		-18.4
	Glazed Area (SF) as Approved 08.11.10		747.9
	Proposed % Δ Glazed Area		**-2.5%**

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Inn at Newport Ranch
GLAZING AREA CALCULATIONS - GARAGE
Proposed Revisions ~ 03.28.14

Direction	Location	Description	Δ Glazed Area (SF)
North	Innkeeper Unit	Add window next to door	10.8
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		10.8
	Glazed Area (SF) as Approved 08.11.10		0.0
	Sub-Total: Proposed % Δ Glazed Area		**N/A**
East	No revision		
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		0
	Glazed Area (SF) as Approved 08.11.10		214
	Sub-Total: Proposed % Δ Glazed Area		**0.0%**
South	Innkeeper Unit	Add window next to door	10.8
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		10.8
	Glazed Area (SF) as Approved 08.11.10		0.0
	Sub-Total: Proposed % Δ Glazed Area		**N/A**
West	Inkeeper Unit	Add windows facing Courtyard	28.8
	North Bedroom	Add windows facing Courtyard	11.9
	Sub-Total: Δ Glazed Area (SF) as Proposed 03.28.14		40.7
	Glazed Area (SF) as Approved 08.11.10		30.9
	Sub-Total: Proposed % Δ Glazed Area		**131.7%**
TOTAL	Δ Glazed Area (SF) as Proposed 03.28.13		62.3
	Glazed Area (SF) as Approved 08.11.10		244.9
	Proposed % Δ Glazed Area		**25.4%**

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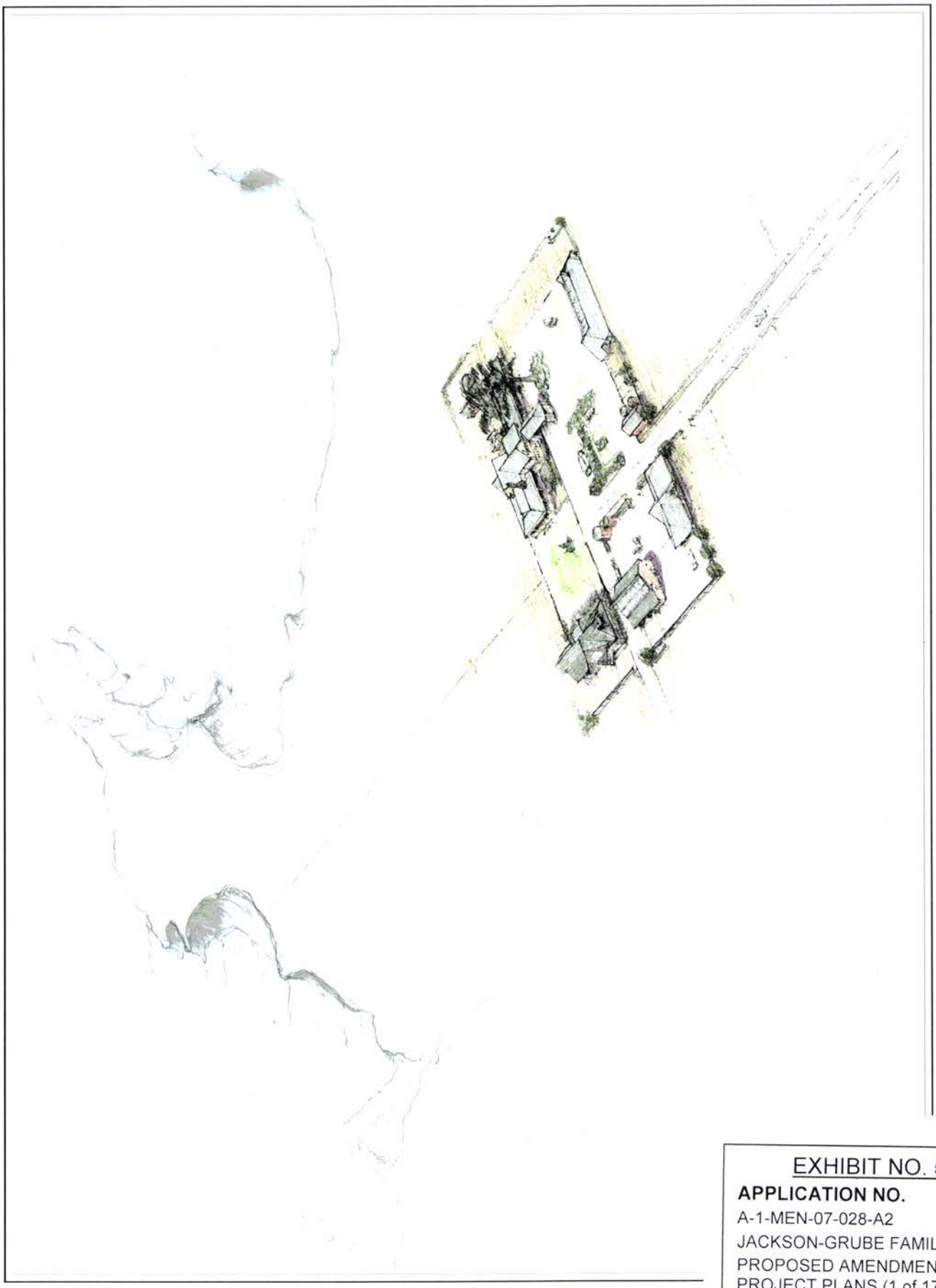

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DAVID E. SELLERS
No. C-012592
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California
SELLERS & COMPANY, ARCHITECTS
SANFORD/STRAUSS ARCHITECTS

DATE
09.20.10
REVISIONS
△ 03.28.14

TITLE
AERIAL PERSPECTIVE

SHEET NO.
COVER SHEET

EXHIBIT NO. **5**

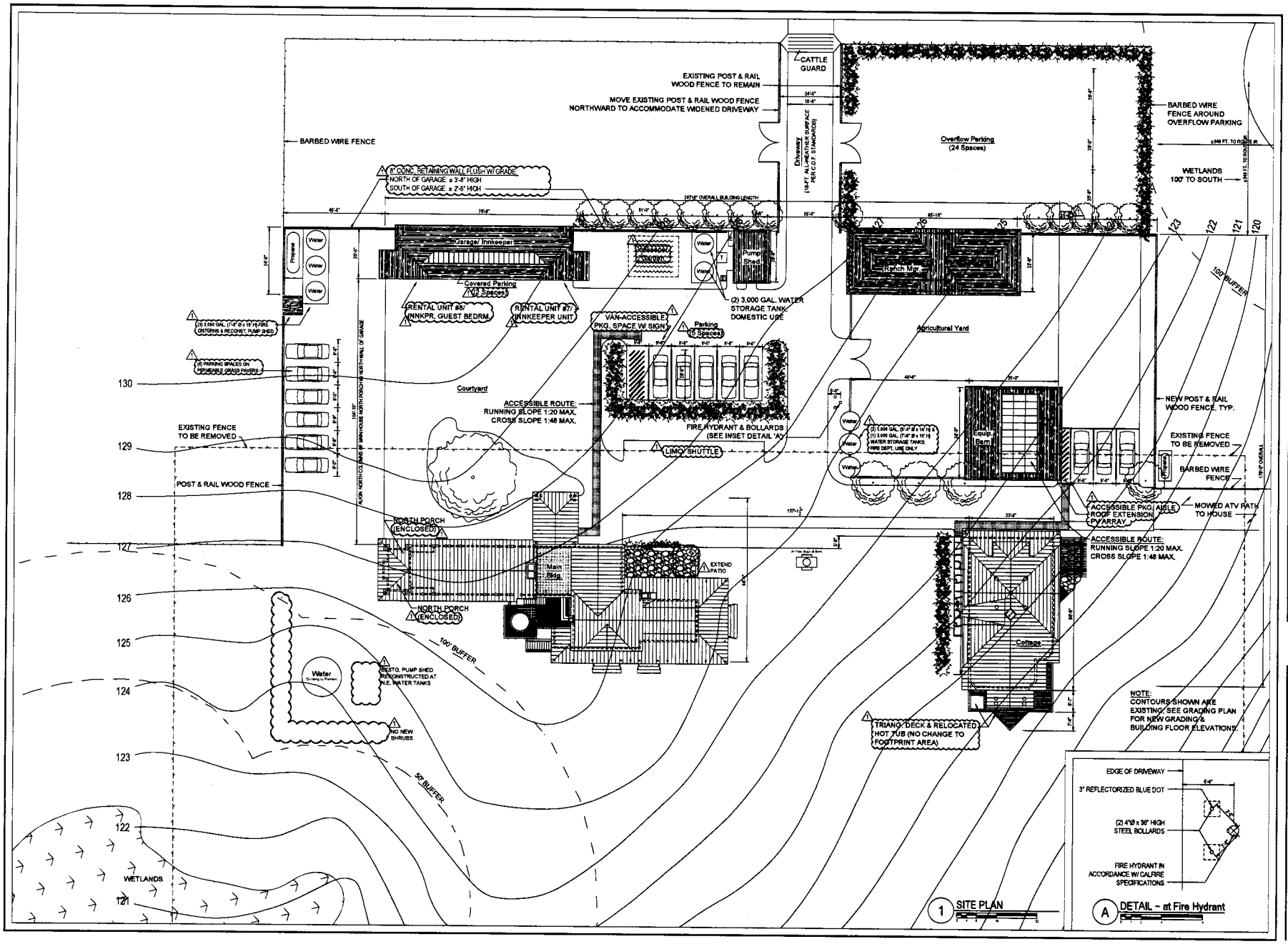
APPLICATION NO.

A-1-MEN-07-028-A2

JACKSON-GRUBE FAMILY, INC.

PROPOSED AMENDMENT

PROJECT PLANS (1 of 17)



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INN AT NEWPORT RANCH
Fort Bragg, California

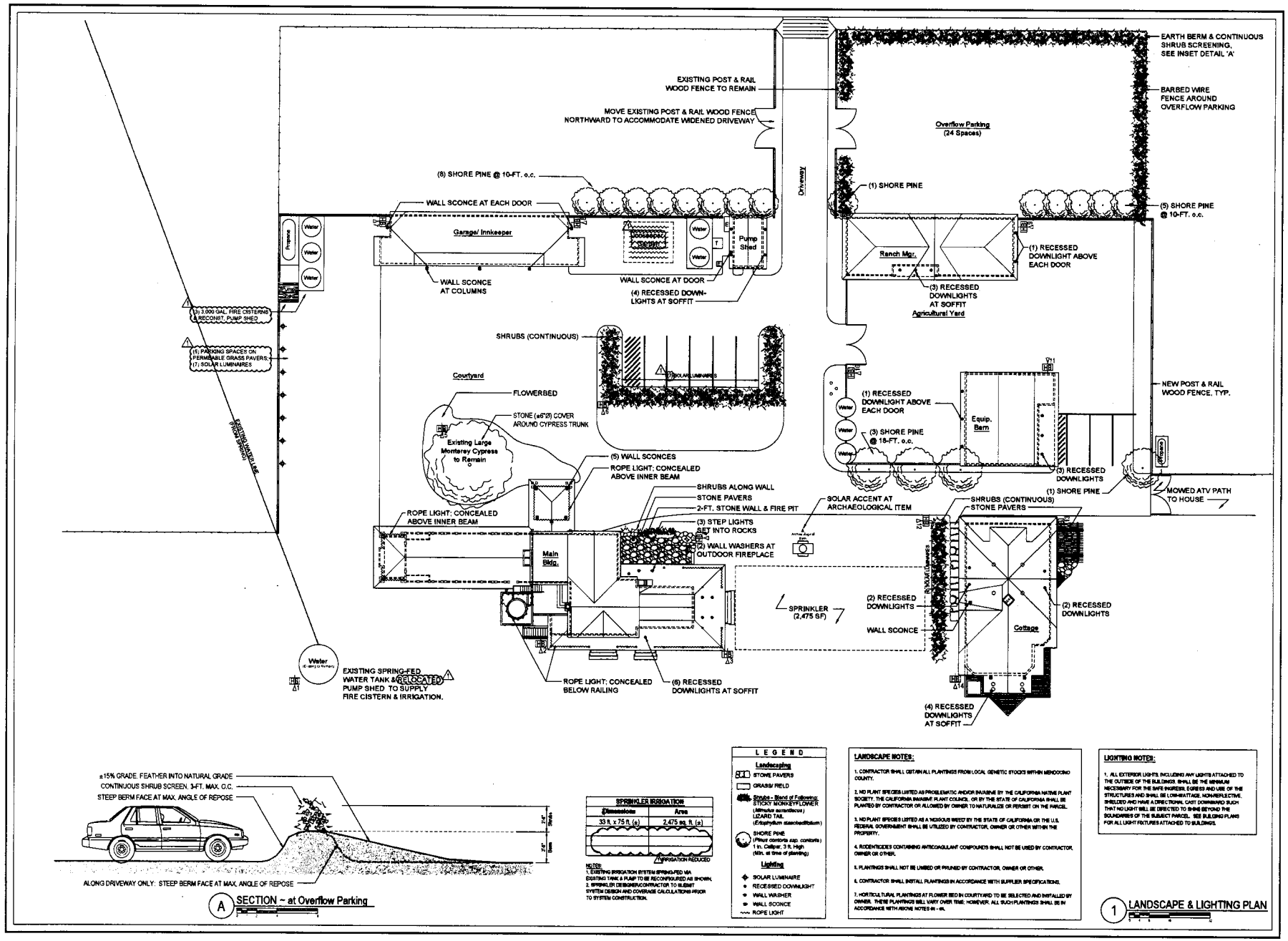
SELLERS & COMPANY ARCHITECTS
SANFORD/STRAUSS ARCHITECTS

DATE
09.20.10
REVISIONS
△ 03.26.14

TITLE
SITE PLAN

SHEET NO.
A-1.1

2 of 7



A SECTION ~ at Overflow Parking

SPRINKLER IRRIGATION	
Dimensions	Area
33 ft. x 75 ft. (±)	2,475 sq. ft. (±)

IRRIGATION REDUCED

NOTES:
1. EXISTING IRRIGATION SYSTEM SPRING-FED VIA EXISTING TANK & PUMP TO BE RECONFIGURED AS SHOWN.
2. SPRINKLER DESIGNER/CONTRACTOR TO SUBMIT SYSTEM DESIGN AND COVERAGE CALCULATIONS PRIOR TO SYSTEM CONSTRUCTION.

LEGEND

Landscaping
- STONE PAVERS
- GRASS/ FIELD
- Shrubs - Blend of Following: STICKY MONKEYFLOWER (Mimulus aurantiacus) LIZARD TAIL (Eriophyllum staechadifolium)
- SHORE PINE (Pinus contorta ssp. contorta) 1 in. Caliper, 3 ft. High (Min. at time of planting)

Lighting
- SOLAR LUMINAIRE
- RECESSED DOWNLIGHT
- WALL WASHER
- WALL SCONCE
- ROPE LIGHT

LANDSCAPE NOTES:

1. CONTRACTOR SHALL OBTAIN ALL PLANTINGS FROM LOCAL GENETIC STOCKS WITHIN MENDOCINO COUNTY.
2. NO PLANT SPECIES LISTED AS PROBLEMATIC AND/OR INVASIVE BY THE CALIFORNIA NATIVE PLANT SOCIETY, THE CALIFORNIA INVASIVE PLANT COUNCIL, OR BY THE STATE OF CALIFORNIA SHALL BE PLANTED BY CONTRACTOR OR ALLOWED BY OWNER TO NATURALIZE OR PERSIST ON THE PARCEL.
3. NO PLANT SPECIES LISTED AS A NOXIOUS WEED BY THE STATE OF CALIFORNIA OR THE U.S. FEDERAL GOVERNMENT SHALL BE UTILIZED BY CONTRACTOR, OWNER OR OTHER WITHIN THE PROPERTY.
4. RODENTICIDES CONTAINING ANTICOAGULANT COMPOUNDS SHALL NOT BE USED BY CONTRACTOR, OWNER OR OTHER.
5. PLANTINGS SHALL NOT BE LIMBED OR PRUNED BY CONTRACTOR, OWNER OR OTHER.
6. CONTRACTOR SHALL INSTALL PLANTINGS IN ACCORDANCE WITH SUPPLIER SPECIFICATIONS.
7. HORTICULTURAL PLANTINGS AT FLOWER BED IN COURTYARD TO BE SELECTED AND INSTALLED BY OWNER. THESE PLANTINGS WILL VARY OVER TIME; HOWEVER, ALL SUCH PLANTINGS SHALL BE IN ACCORDANCE WITH ABOVE NOTES #1 - #6.

LIGHTING NOTES:

1. ALL EXTERIOR LIGHTS, INCLUDING ANY LIGHTS ATTACHED TO THE OUTSIDE OF THE BUILDINGS, SHALL BE THE MINIMUM NECESSARY FOR THE SAFE INGRESS, EGRESS AND USE OF THE STRUCTURES AND SHALL BE LOW-WATTAGE, NON-REFLECTIVE, SHIELDED AND HAVE A DIRECTIONAL CAST DOWNWARD SUCH THAT NO LIGHT WILL BE DIRECTED TO SHINE BEYOND THE BOUNDARIES OF THE SUBJECT PARCEL. SEE BUILDING PLANS FOR ALL LIGHT FIXTURES ATTACHED TO BUILDINGS.

1 LANDSCAPE & LIGHTING PLAN

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INN AT NEWPORT RANCH
Fort Bragg, California

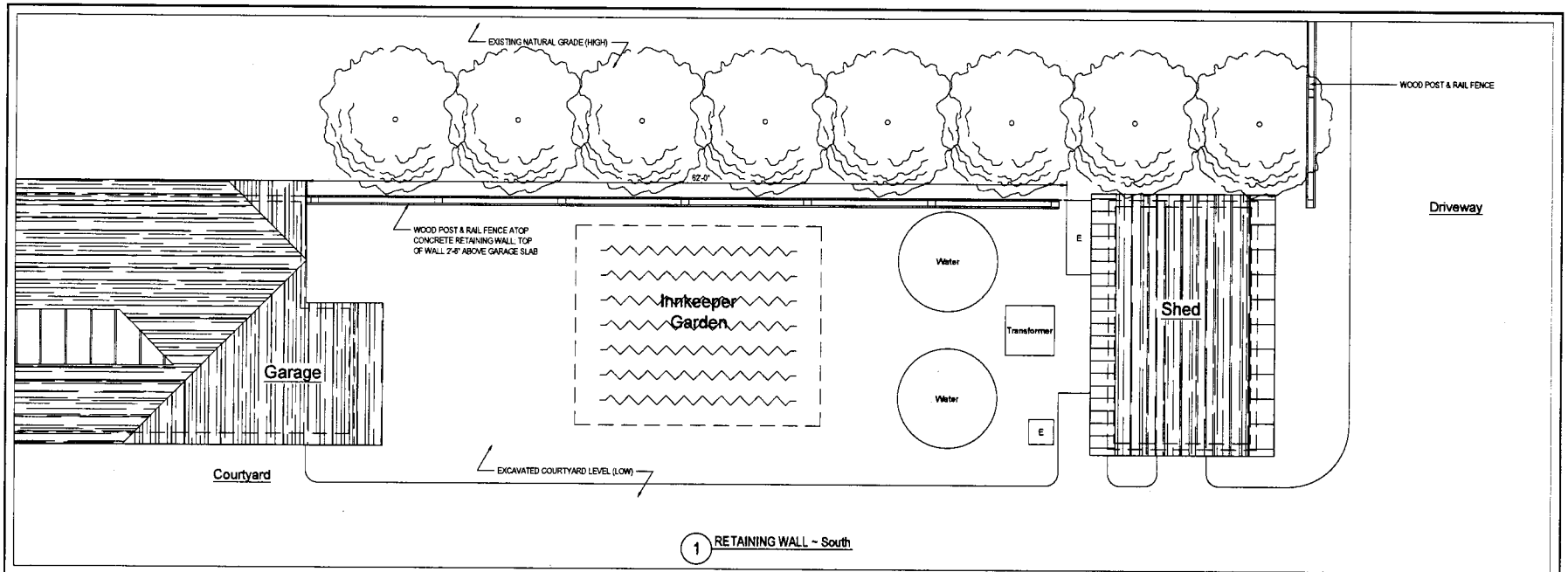
SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS, ARCHITECTS

DATE
03.29.11
REVISIONS
△ 03.28.14

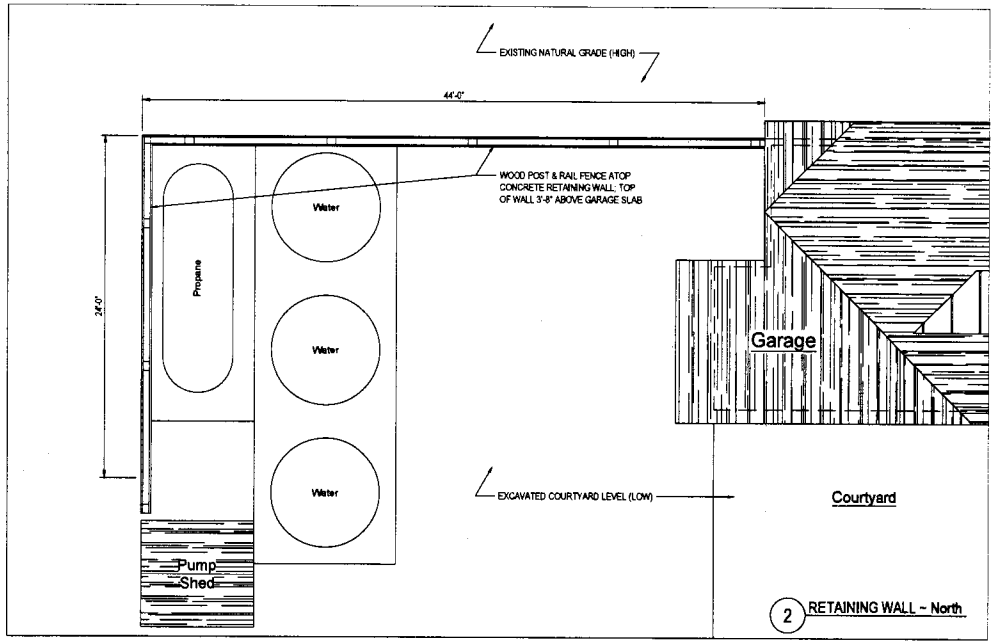
TITLE
LANDSCAPE & LIGHTING PLAN

SHEET NO.
A-1.2

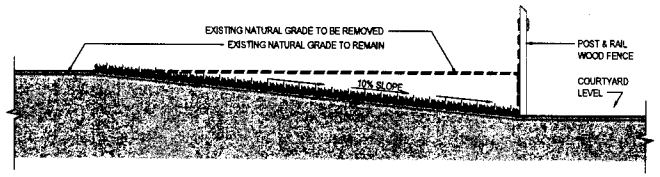
3 of 17



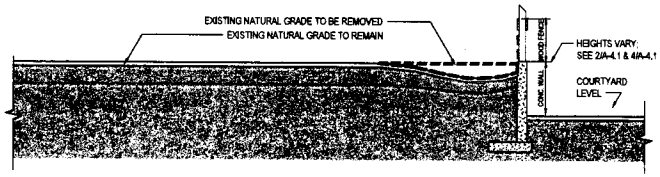
1 RETAINING WALL ~ South



2 RETAINING WALL ~ North



TYPICAL CONDITION:
PRESENTLY APPROVED



TYPICAL CONDITION:
PROPOSED

3 SECTION ~ Typical

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Fort Bragg, California

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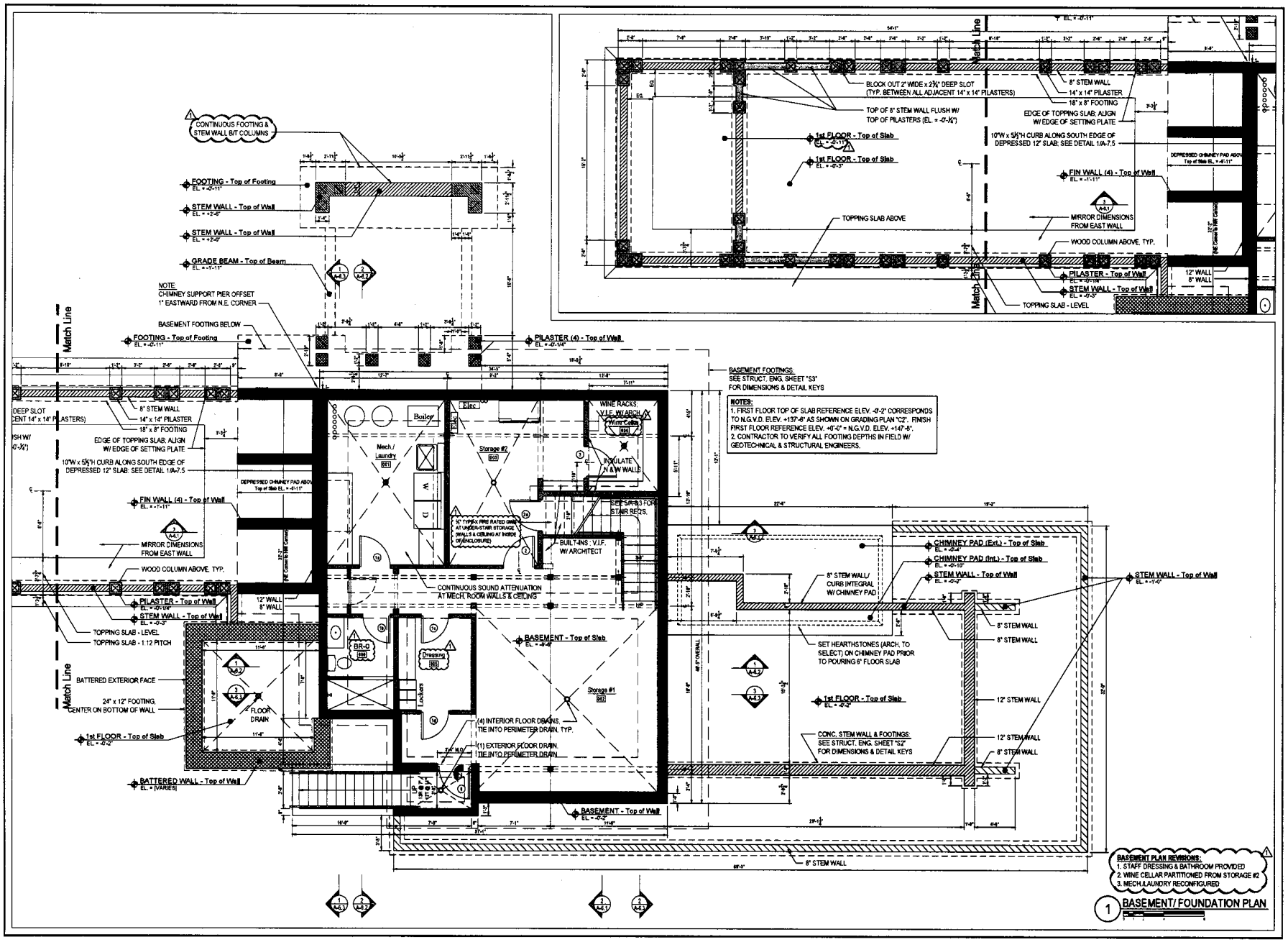
SANFORD STRAUSS, ARCHITECTS

DATE
09.20.10

REVISIONS
△3 03.28.14

TITLE
RETAINING WALL

SHEET NO.
A-1.3



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Fort Bragg, California

SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS, ARCHITECTS

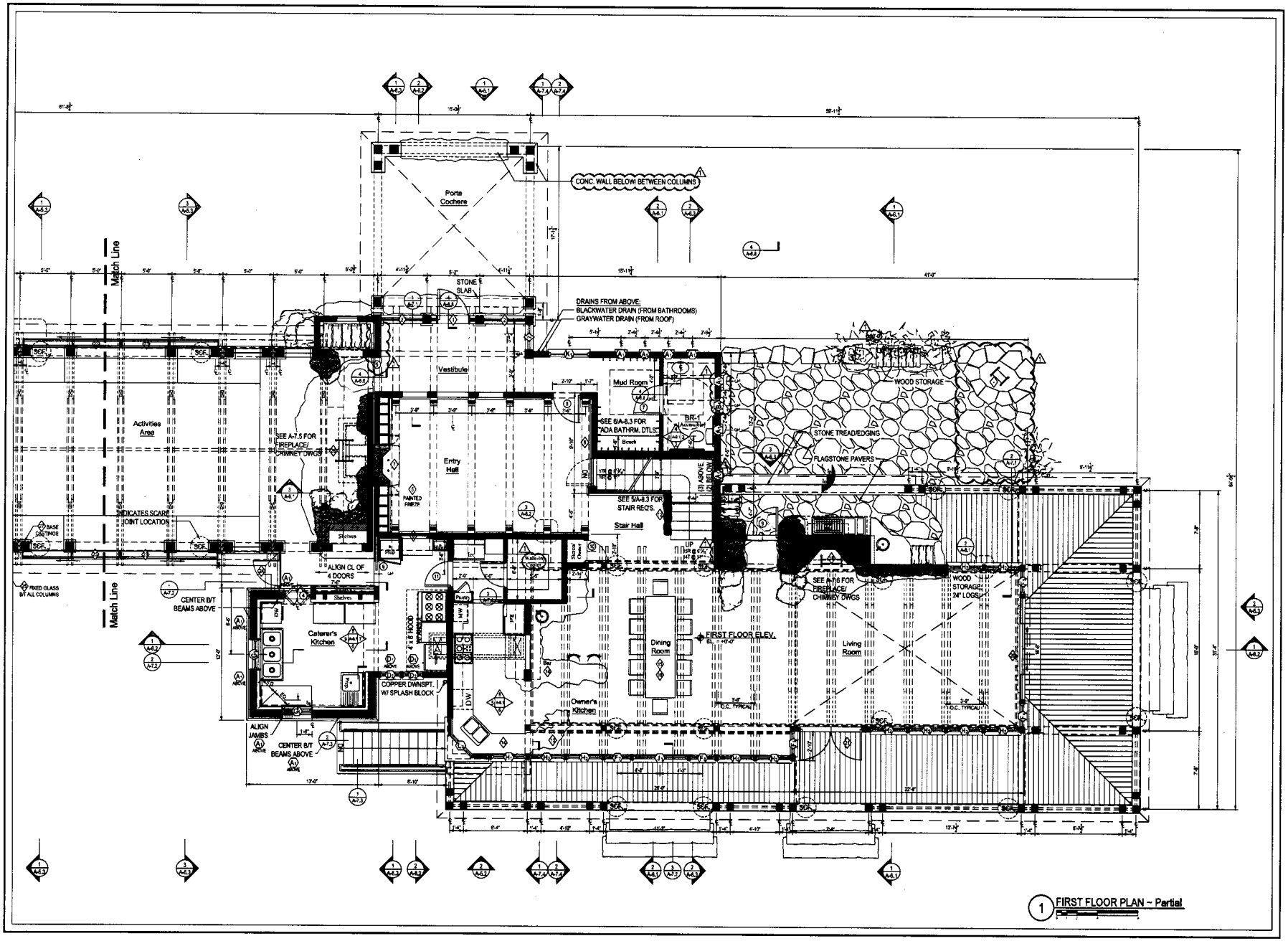
DATE
09.17.10

REVISIONS
△ 03.28.14

TITLE
FLOOR PLANS

SHEET NO.
A-2.0

5917



1 FIRST FLOOR PLAN ~ Partial

9617

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No. C012592
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

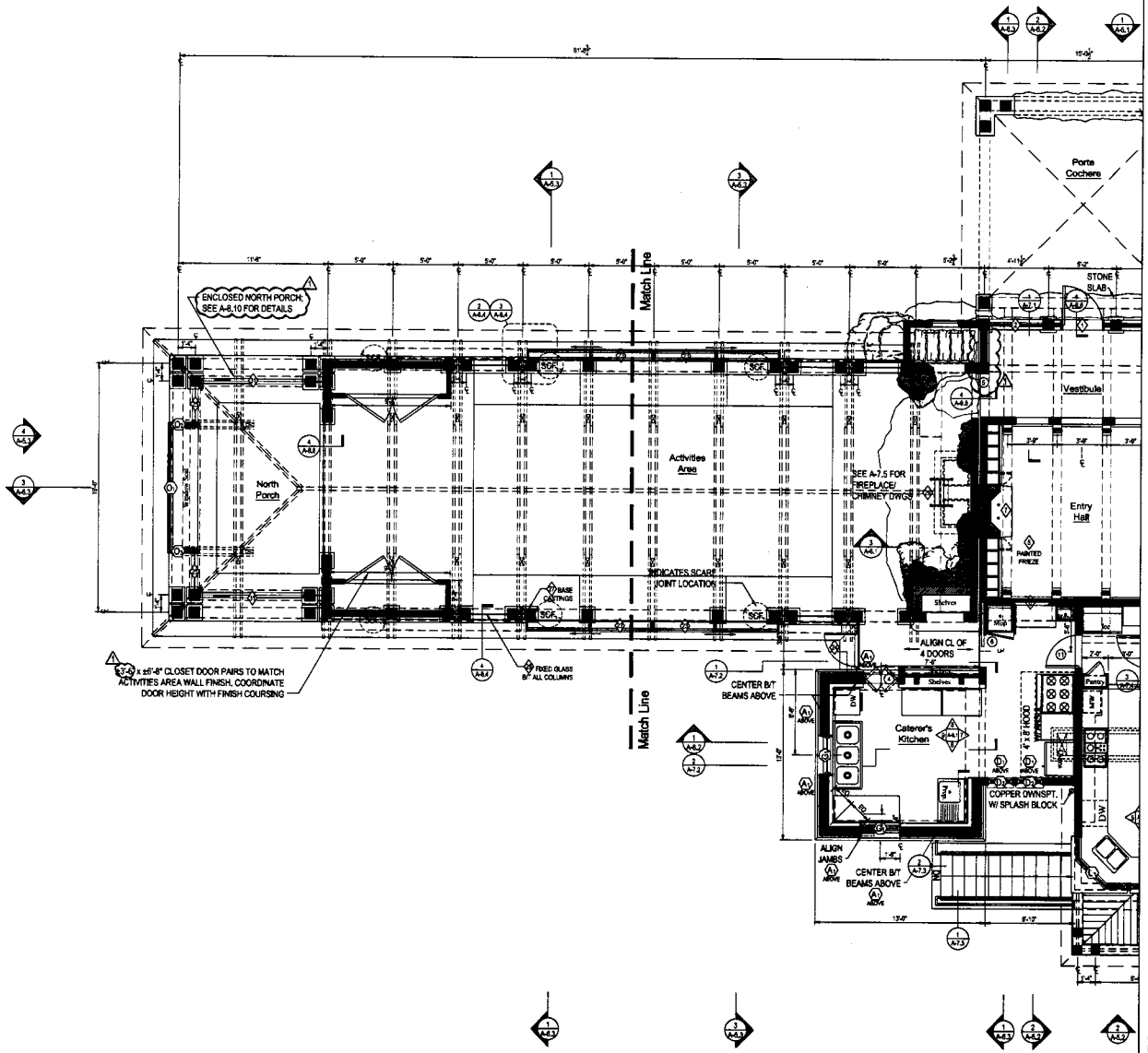
SELLERS & COMPANY, ARCHITECTS
SANFORD J. STRAUSS, ARCHITECT

DATE
09.17.10

REVISIONS
△ 03.28.14

TITLE
MAIN BLDG.:
FLOOR PLANS

SHEET NO.
A-2.1



1 FIRST FLOOR PLAN ~ Partial

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INN AT NEWPORT RANCH
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SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS, ARCHITECTS

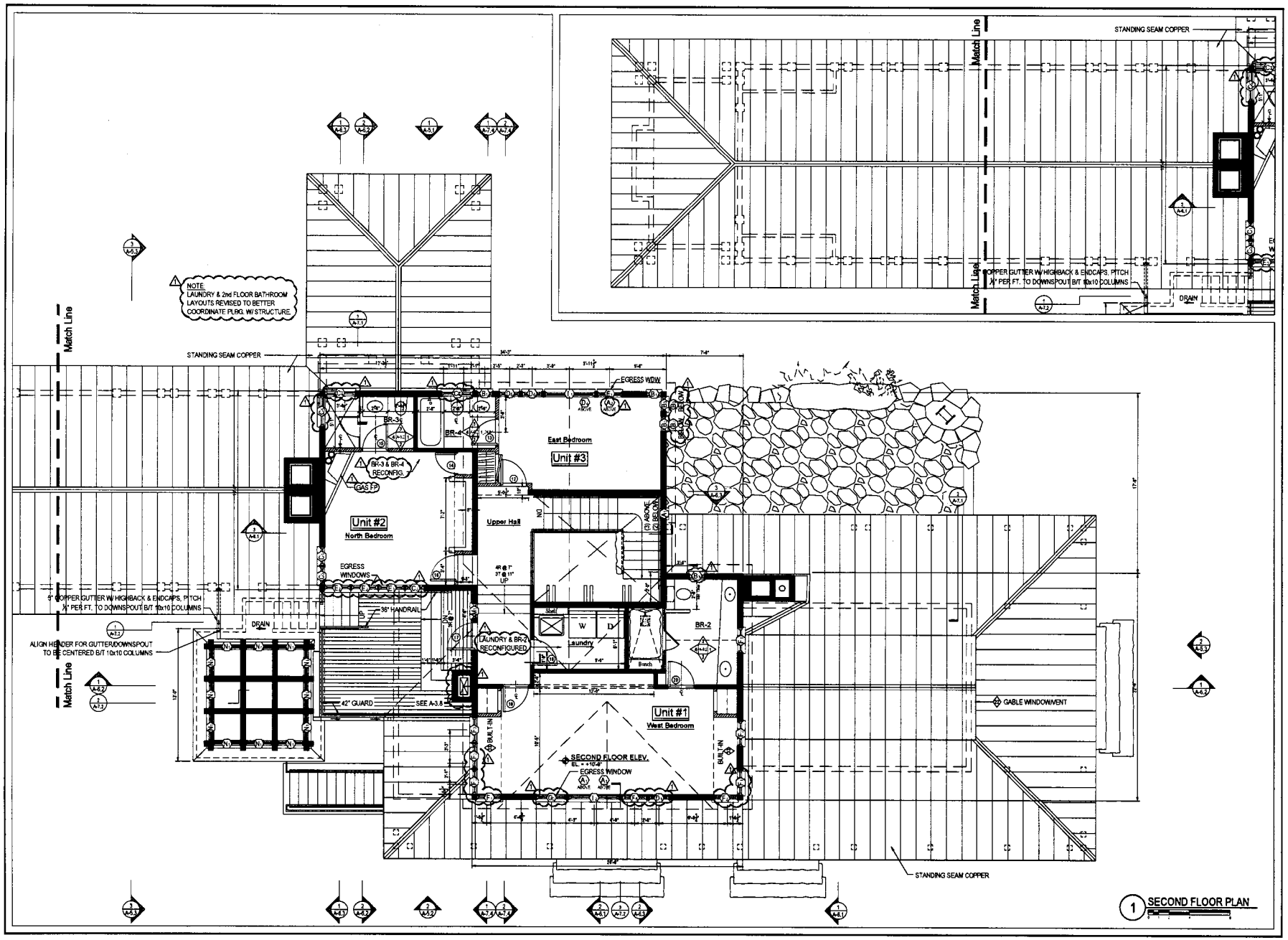
DATE
09.17.10

REVISIONS
△ 03.28.14

TITLE
MAIN BLDG.:
FLOOR PLANS

SHEET NO.
A-2.2

7817



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SANFORD STRAUSS, ARCHITECTS

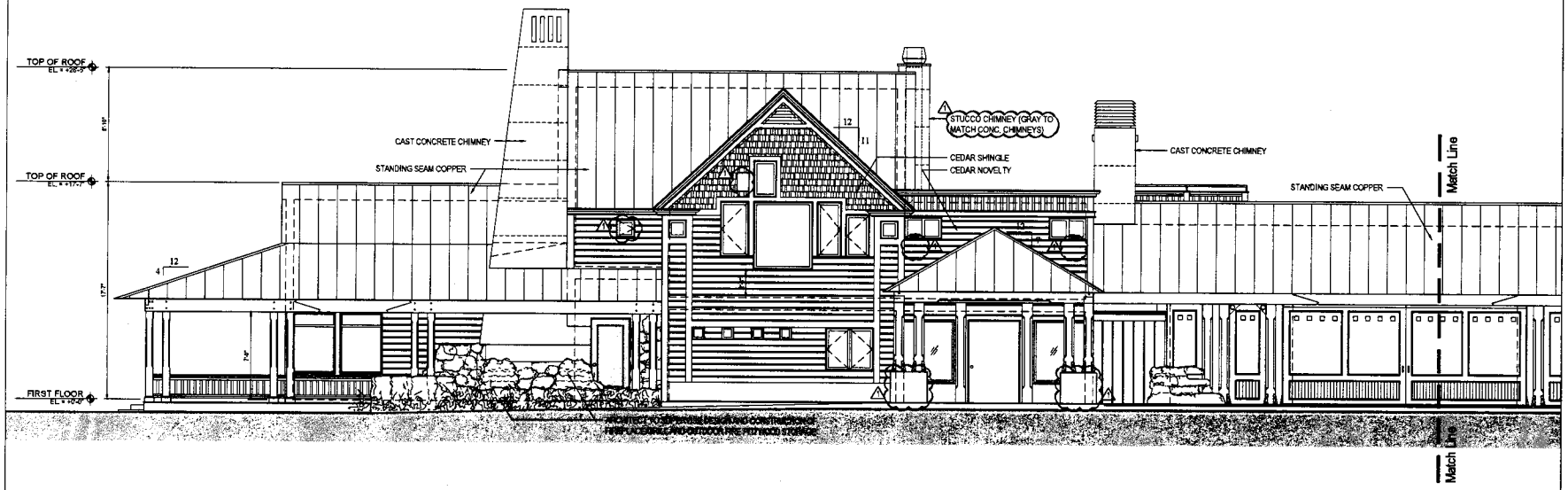
DATE
09.17.10

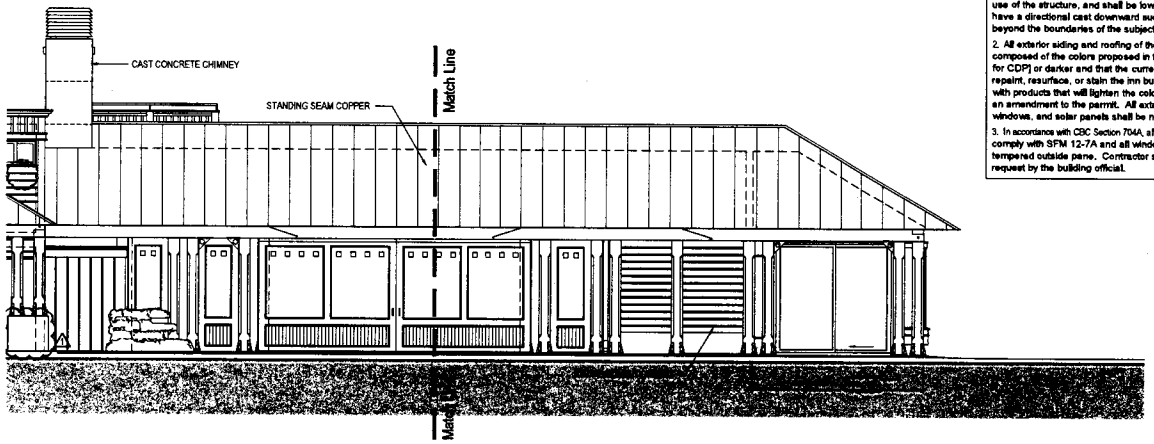
REVISIONS
1 03.28.14

TITLE
MAIN BLDG.:
FLOOR PLANS

SHEET NO.
A-2.3

8817





NOTES:

1. All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress, egress and use of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

2. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application [to Coastal Commission for CDP] or darker and that the current owner or future owners shall not repaint, resurface, or stain the inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to the permit. All exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare.

3. In accordance with CBC Section 704A, all exterior siding & trim materials shall comply with SFM 12-7A and all windows shall be insulating glass units w/ tempered outside pane. Contractor shall document compliance upon request by the building official.

1 EAST ELEVATION

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Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD/STRAUSS ARCHITECTS

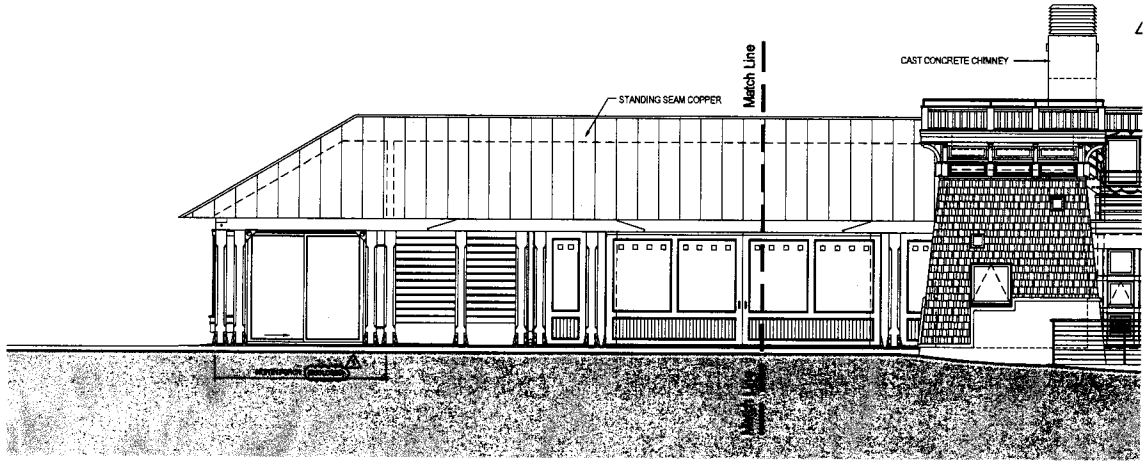
DATE
09.17.10

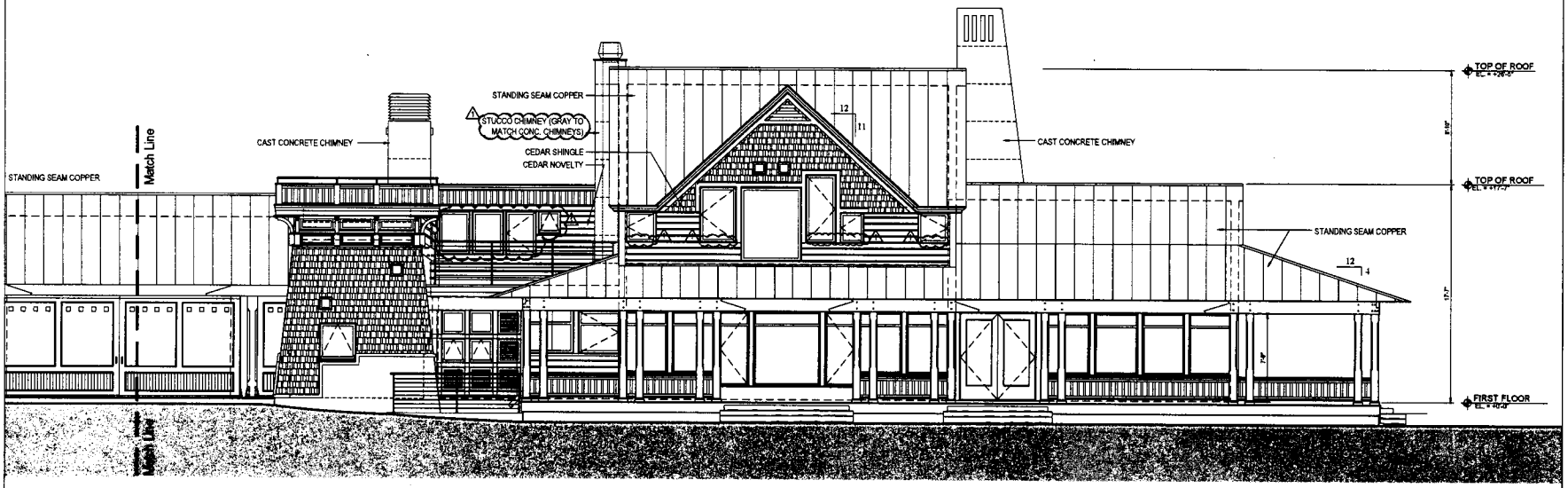
REVISIONS
△ 03.28.14

TITLE
MAIN BLDG.:
BUILDING ELEVATIONS

SHEET NO.
A-2.4

01890





1 WEST ELEVATION

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INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS, ARCHITECTS

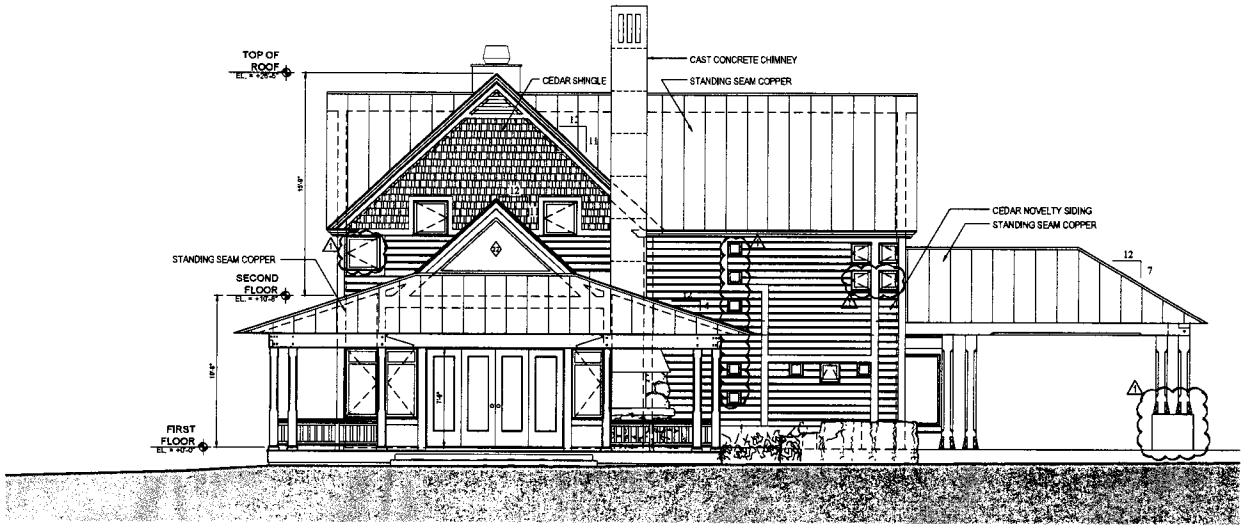
DATE
09.17.10

REVISIONS
△ 03.28.14

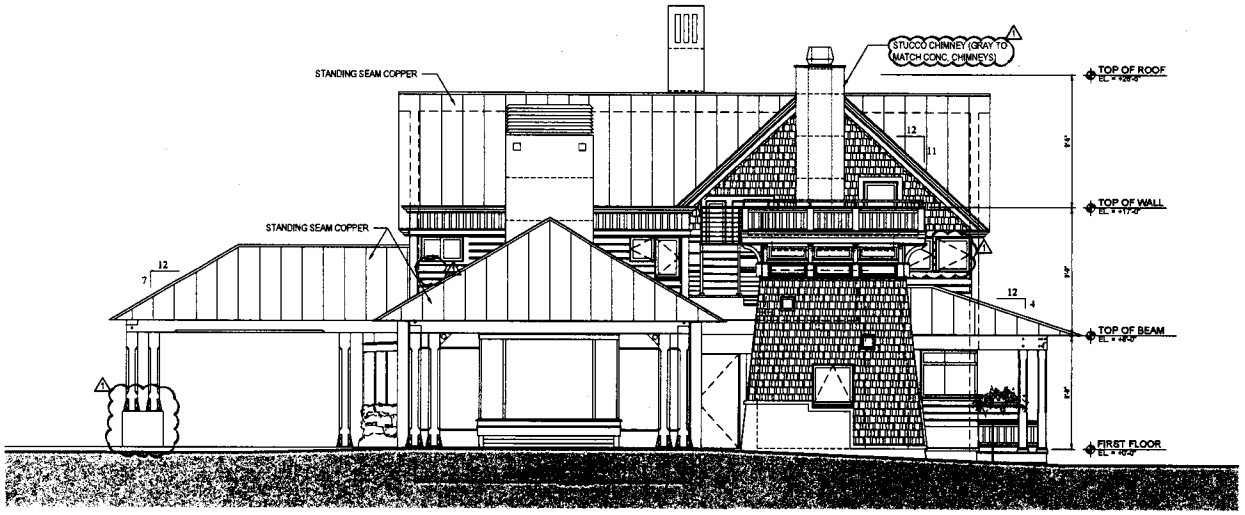
TITLE
MAIN BLDG.:
BUILDING ELEVATIONS

SHEET NO.
A-2.5

10817



1 SOUTH ELEVATION



2 NORTH ELEVATION

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INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS ARCHITECTS

DATE
09.17.10

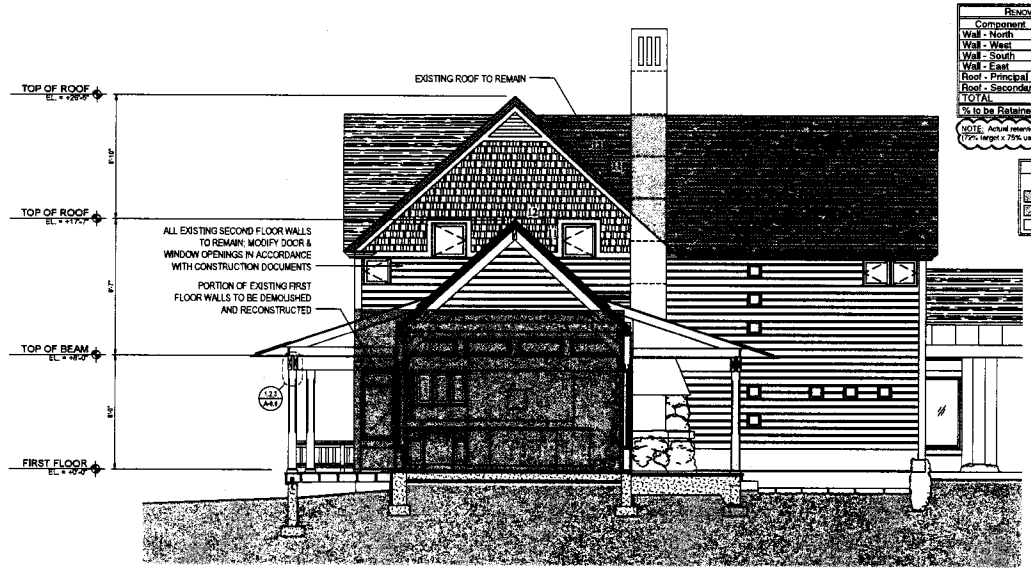
REVISIONS
△1 03.28.14

TITLE
MAIN BLDG.:
BUILDING ELEVATIONS

SHEET NO.
A-2.6

11811

1 WEST ELEVATION

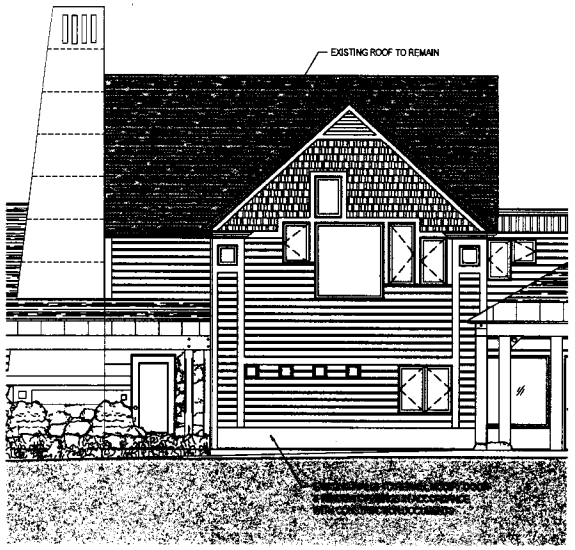


2 SOUTH ELEVATION

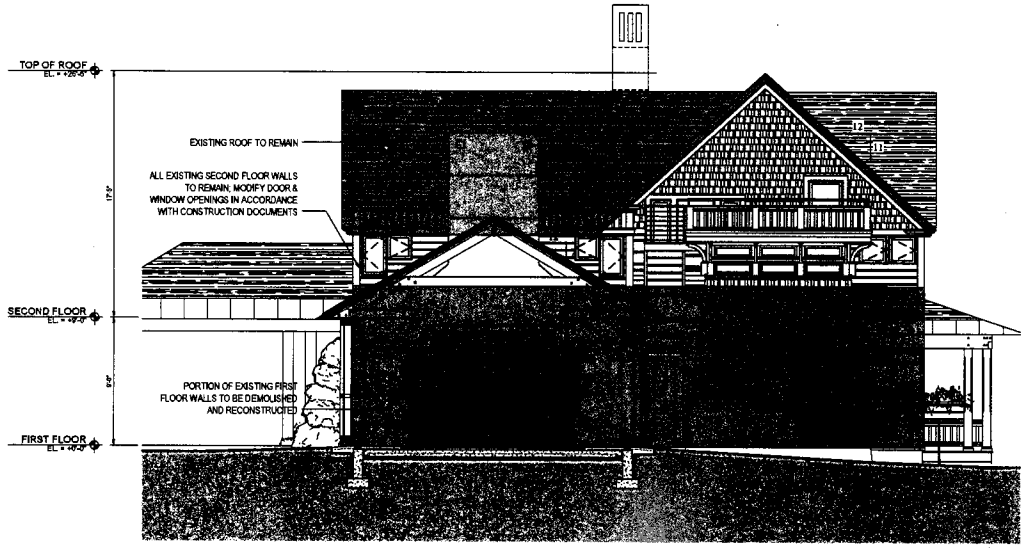
RENOVATION CALCULATIONS		
Component	Existing (sf)	Retained (sf)
Wall - North	723	272
Wall - West	398	110
Wall - South	723	511
Wall - East	483	483
Roof - Principal	930	780
Roof - Secondary	661	661
TOTAL	3,918	2,817
% to be Retained		72 %

NOTE: Actual retention is approximately 54%. (72% target x 75% useable material = 54% actual)

LEGEND
- WALL - To be Retained
- WALL - To be Demolished
- ROOF - To be Retained
- ROOF - To be Demolished



3 EAST ELEVATION



4 NORTH ELEVATION

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SEAL:
REGISTERED ARCHITECT
DAVID L. SELLERS
No. C-12392
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS ARCHITECTS

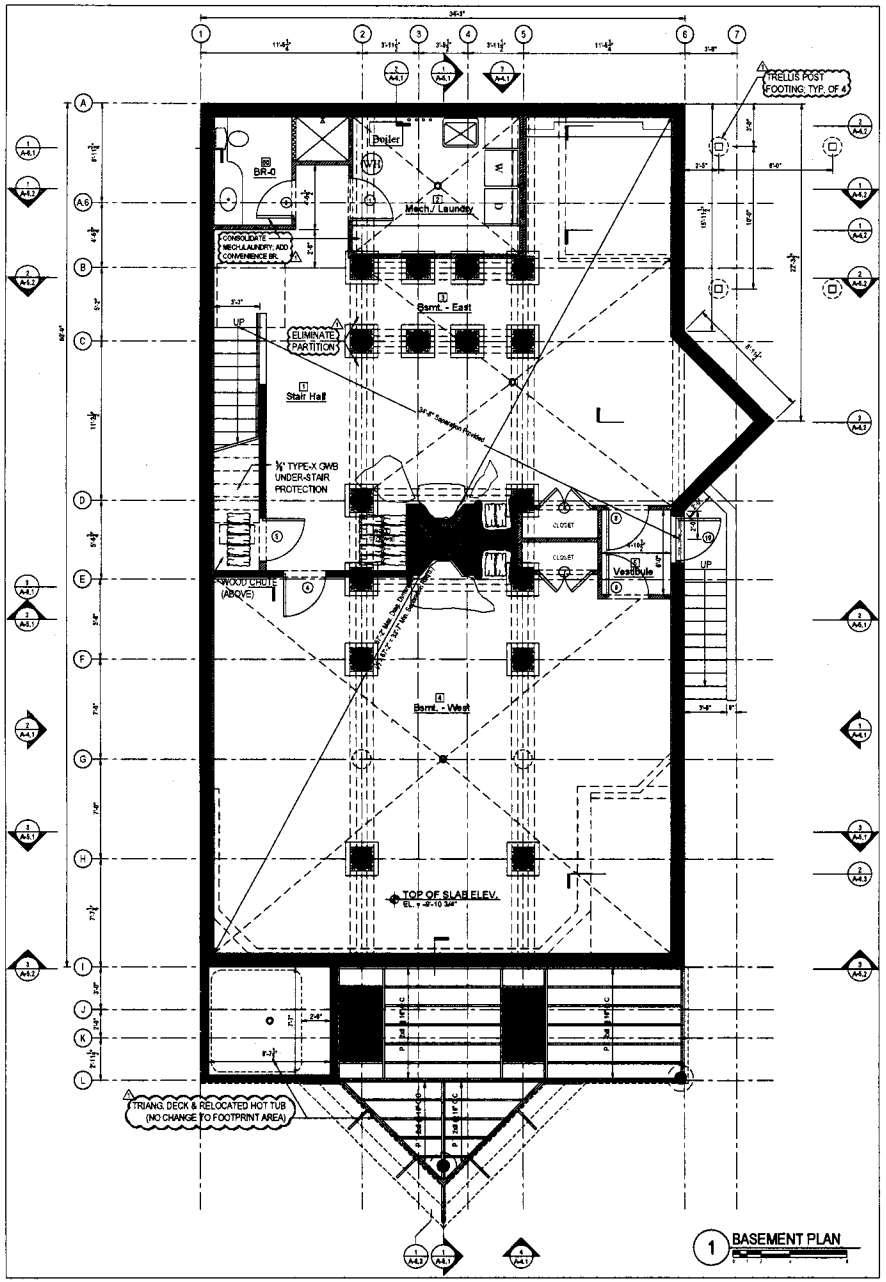
DATE
09.17.10

REVISIONS
△ 03.28.14

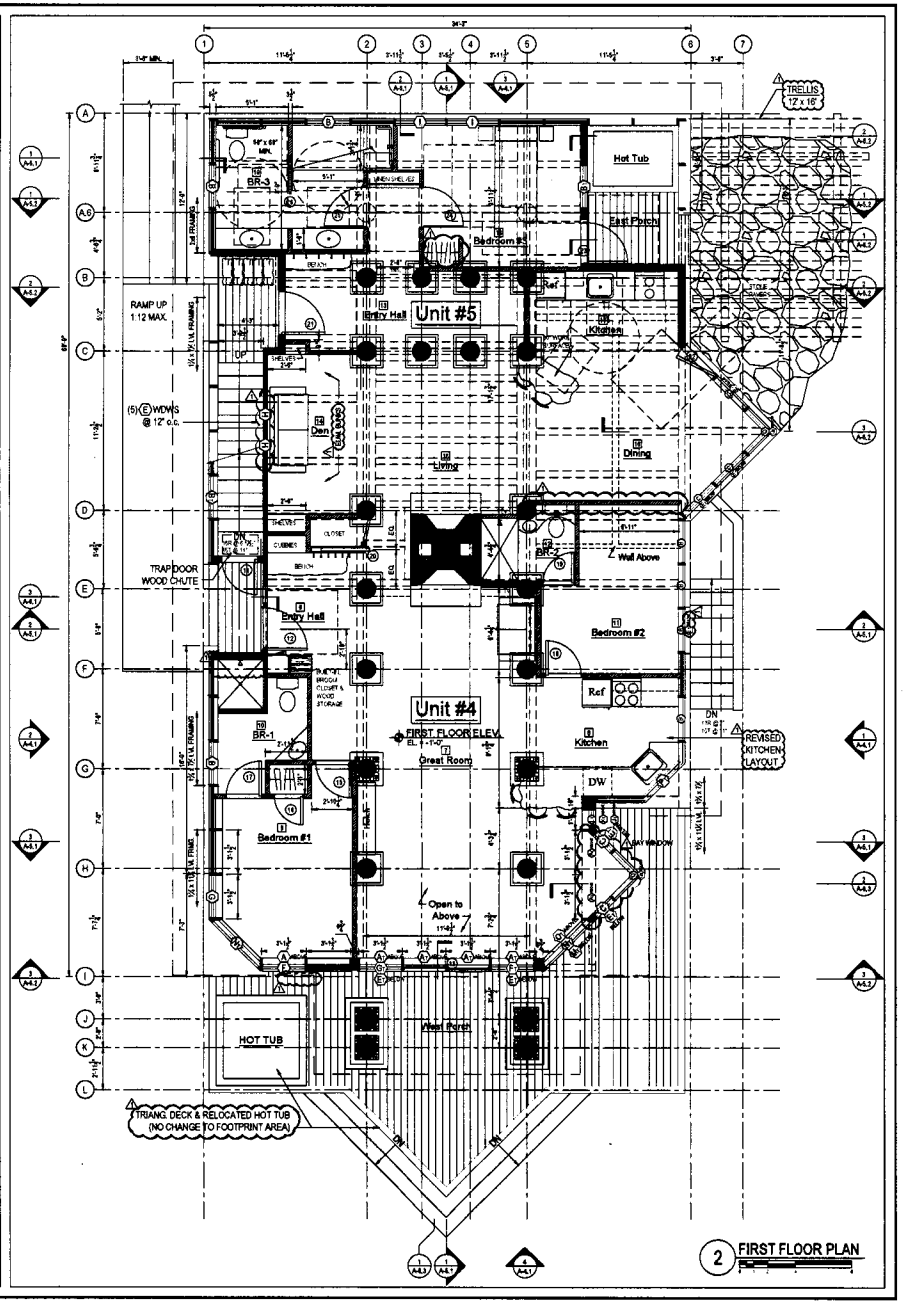
TITLE
MAIN BLDG.:
RENOVATION ELEVATIONS

SHEET NO.
A-2.7

11821



1 BASEMENT PLAN



2 FIRST FLOOR PLAN

NOTE

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SEAL

REGISTERED ARCHITECT DAVID T. SELLERS No. C-012592 STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD STRAUSS ARCHITECTS

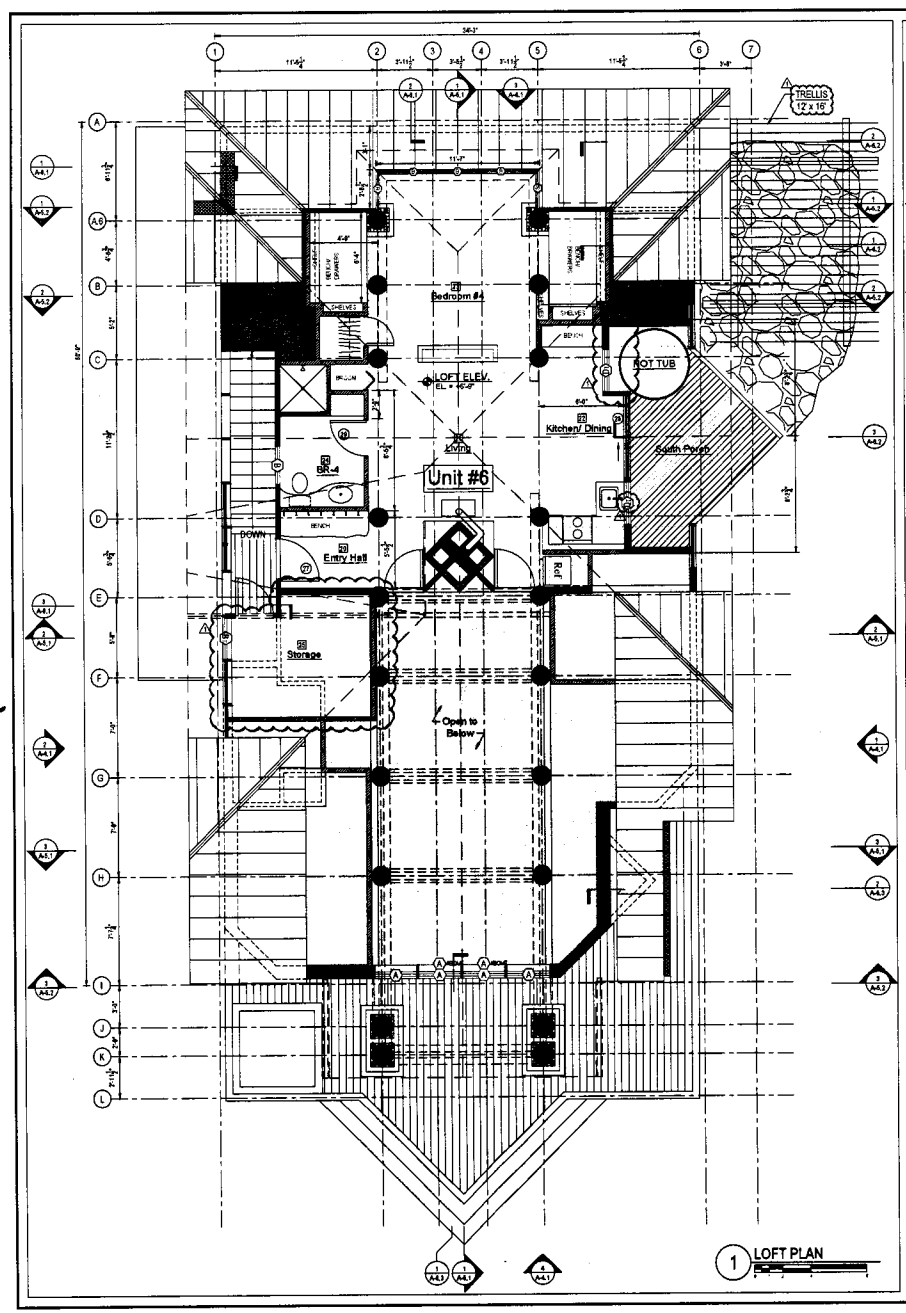
DATE
06.06.11

REVISIONS
△ 03.28.14

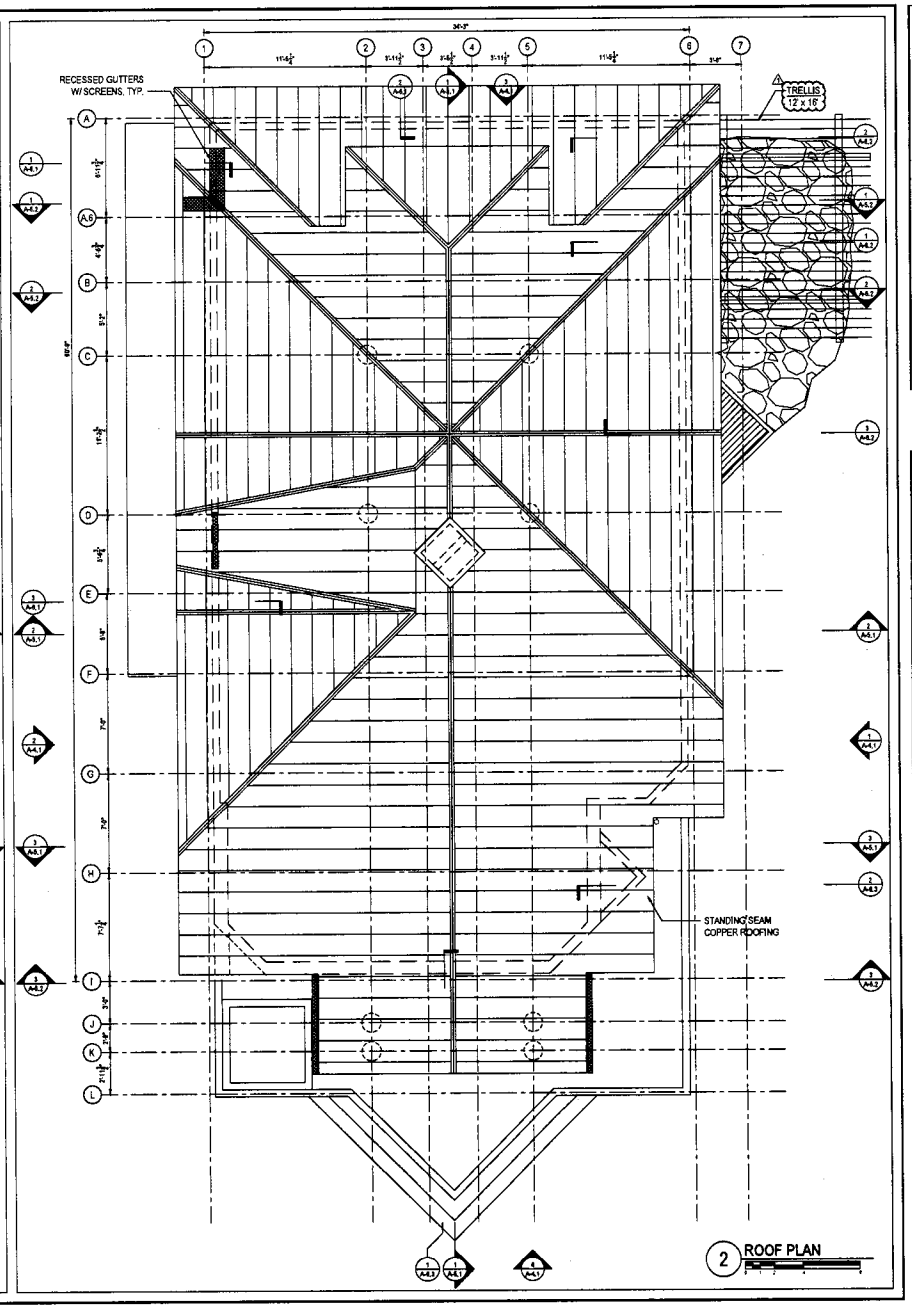
TITLE
COTTAGE:
FLOOR PLANS

SHEET NO.
A-3.1

15 of 31



1 LOFT PLAN



2 ROOF PLAN

NOTE

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SEAL

REGISTERED ARCHITECT DAVID E. SELLERS No. C-012592 STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD STRAUSS ARCHITECTS

DATE
06.06.11

REVISIONS
△ 03.28.14

TITLE
COTTAGE:
FLOOR PLANS

SHEET NO.
A-3.2

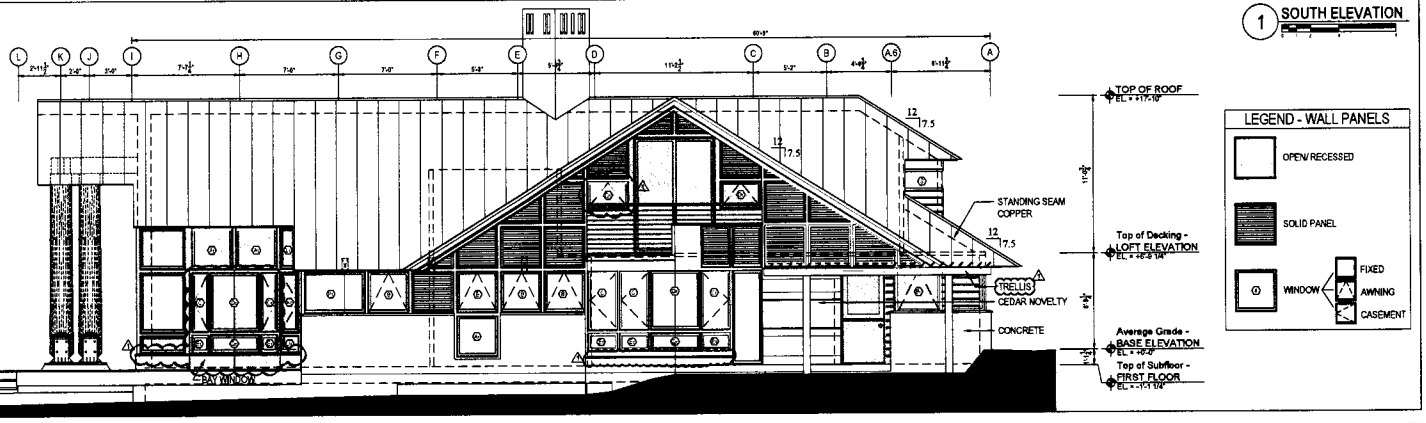
11871

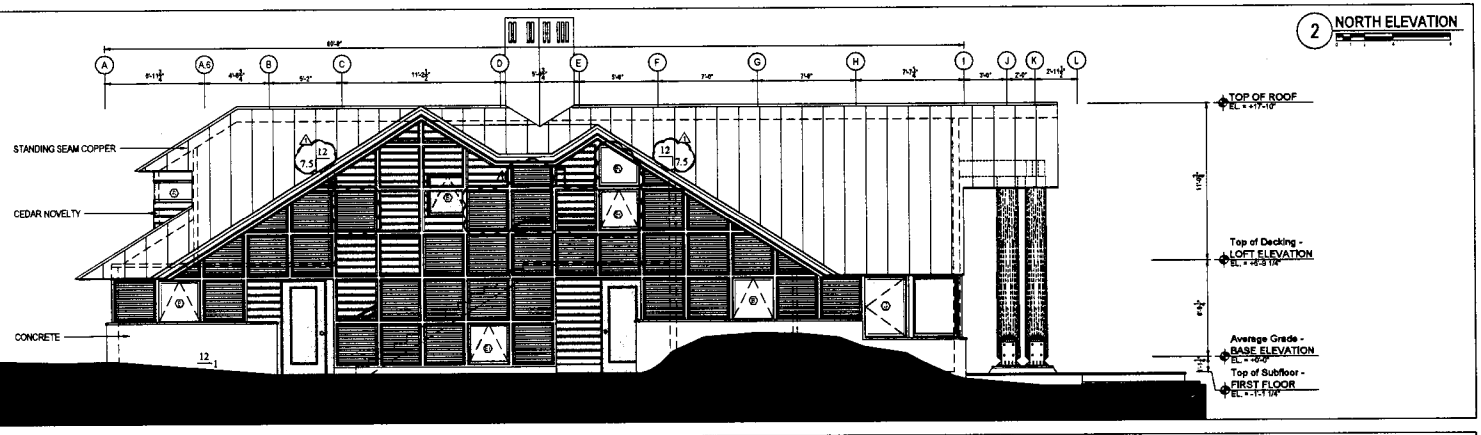
NOTES:

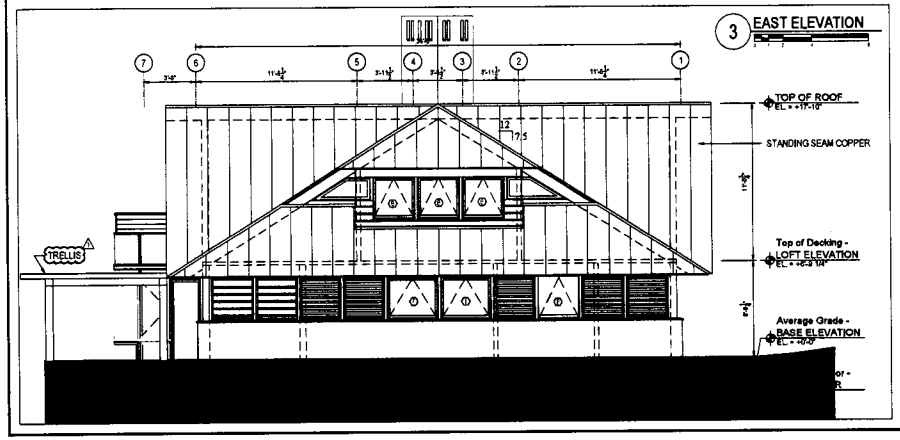
1. All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress, egress and use of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

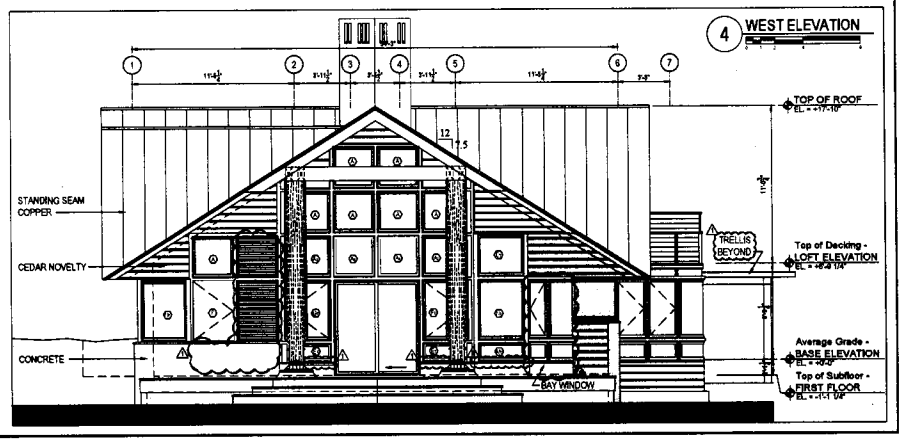
2. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application [to Coastal Commission for CDP] or darker and that the current owner or future owners shall not repaint, resurface, or stain the inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to the permit. All exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare.

3. In accordance with CBC Section 704A, all exterior siding & trim materials shall comply with SFM 12-7A and all windows shall be insulating glass units w/ tempered outside pane. Contractor shall document compliance upon request by the building official.









NOTE
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SEAL
REGISTERED ARCHITECT
SUMNER E. SELLERS
No. C-012592
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD STRAUSS ARCHITECTS

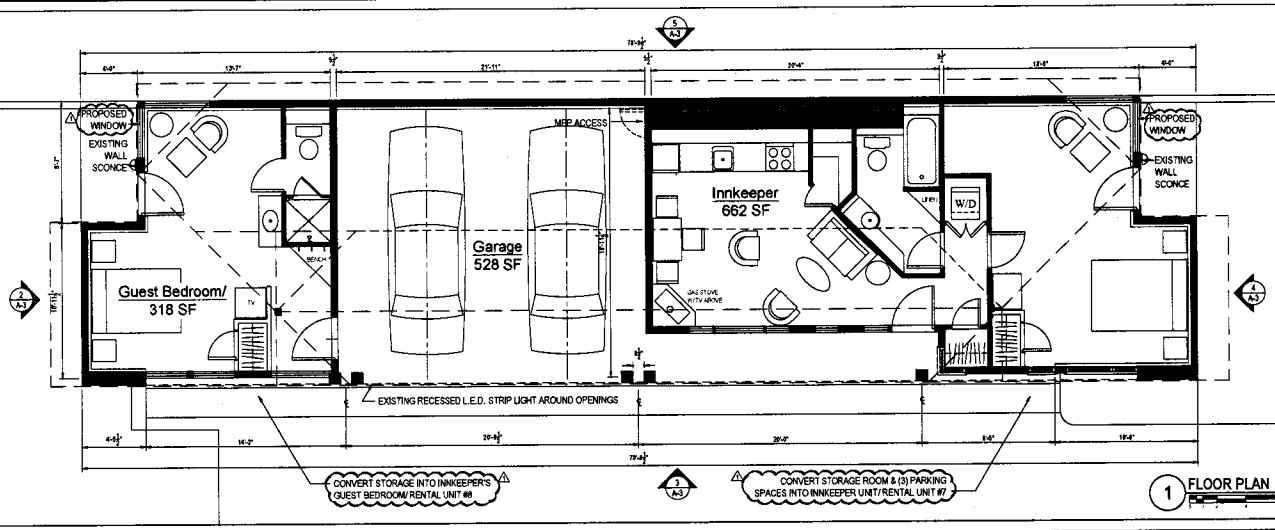
DATE
06.06.11
REVISIONS
△ 03.28.14

TITLE
COTTAGE:
BUILDING ELEVATIONS

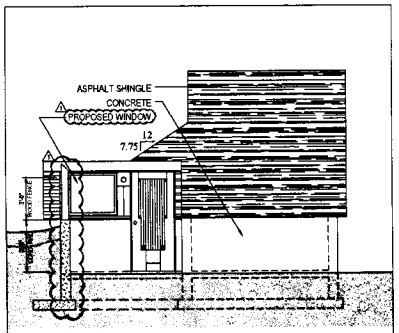
SHEET NO.
A-3.3

15 of 17

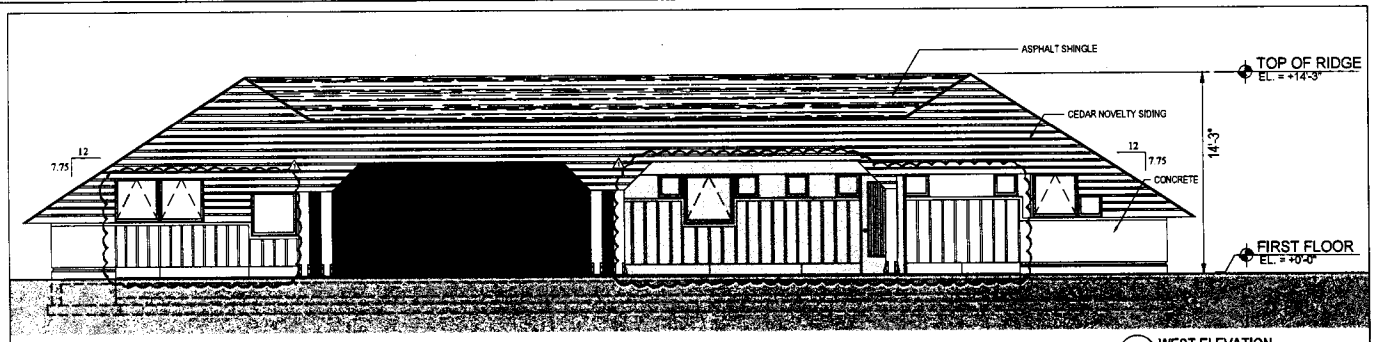
AREA - PROPOSED	
Innkeeper:	662 SF
Guest Bedroom:	318 SF
Garage:	528 SF
Total:	1,508 SF



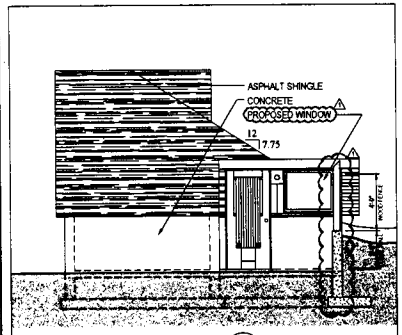
1 FLOOR PLAN



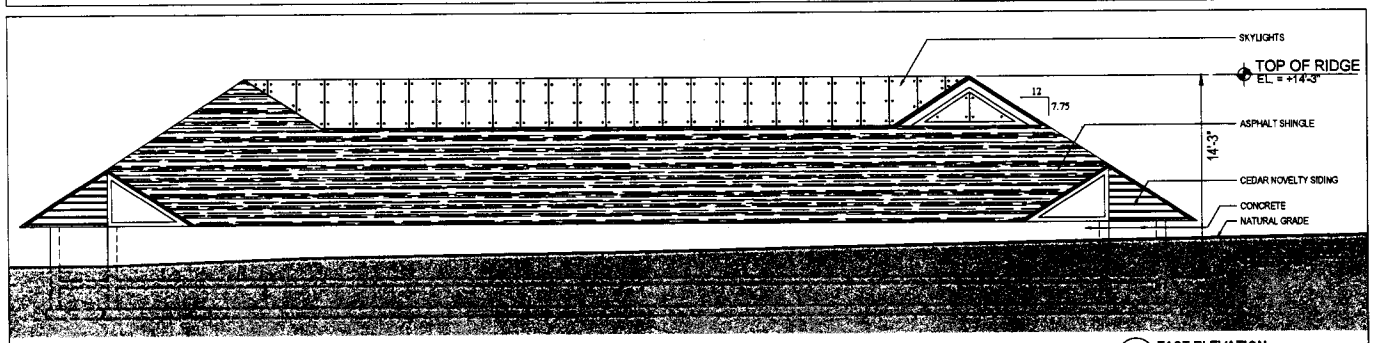
2 NORTH ELEVATION



3 WEST ELEVATION



4 SOUTH ELEVATION



5 EAST ELEVATION

NOTE
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SEAL
REGISTERED ARCHITECT GARY E. SELLERS No. C-012592 STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

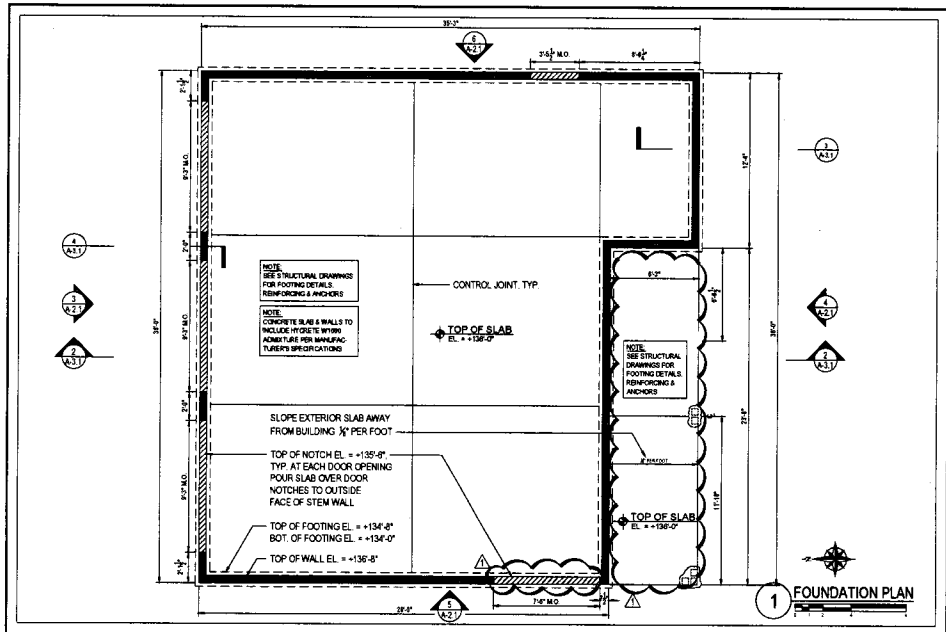
SELLERS & COMPANY ARCHITECTS
SANFORD STRAUSS ARCHITECTS

DATE
09.20.10
REVISIONS
△ 03.28.14

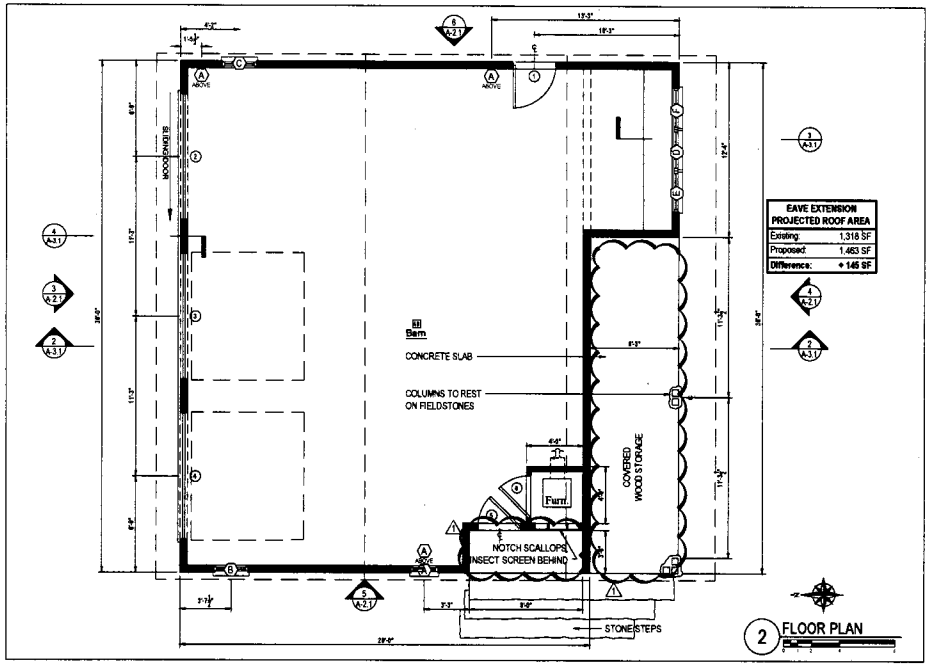
TITLE
GARAGE:
INNKEEPER CONVERSION

SHEET NO.
A-4.1

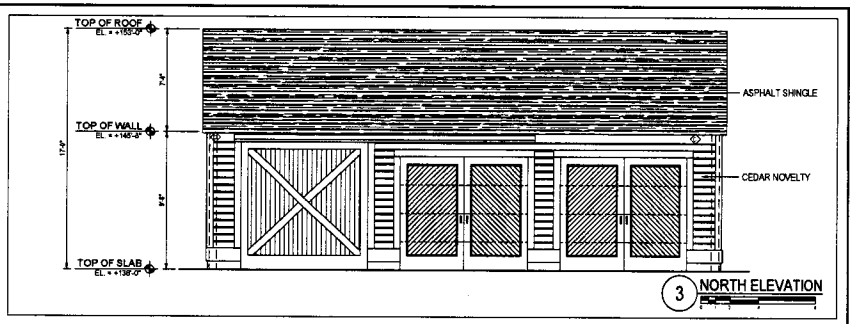
1991



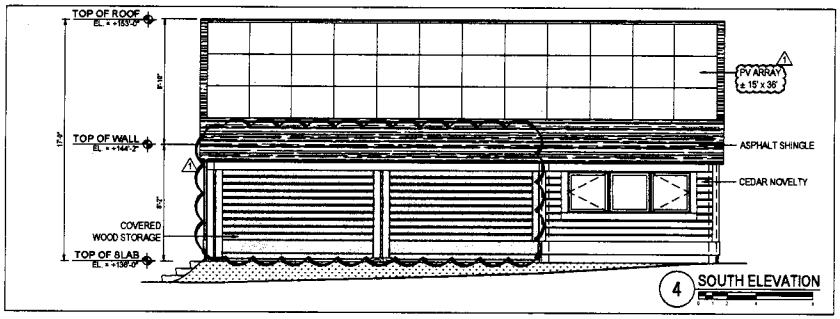
1 FOUNDATION PLAN



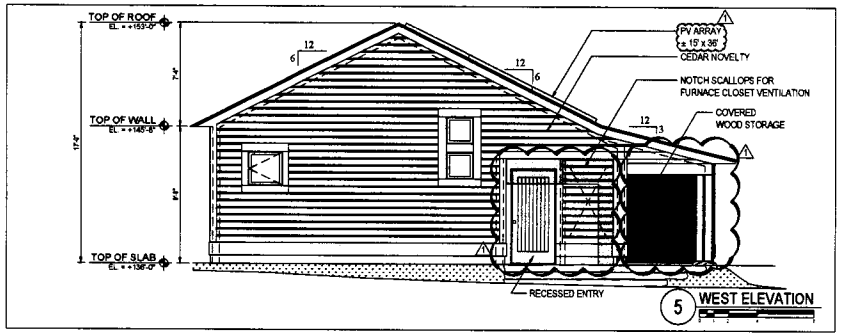
2 FLOOR PLAN



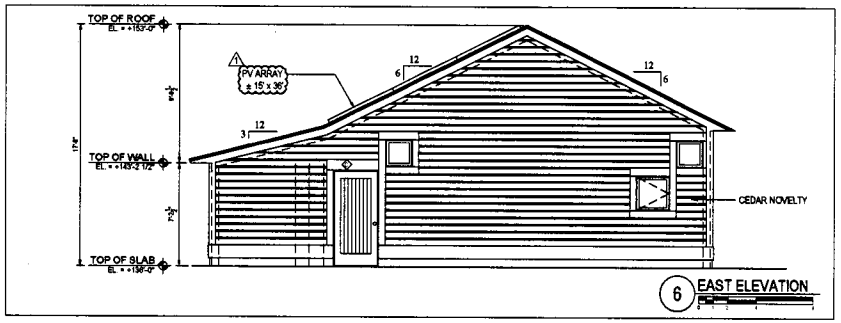
3 NORTH ELEVATION



4 SOUTH ELEVATION



5 WEST ELEVATION



6 EAST ELEVATION

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SEAL
REGISTERED ARCHITECT DAVID E. SELLERS No. C-012596 STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY, ARCHITECTS
SANFORD STRAUSS, ARCHITECTS

DATE
09.20.10
REVISIONS
△1 03.28.14

TITLE
EQUIP. BARN:
PLANS & ELEVATIONS

SHEET NO.
A-5.1

11811

EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-07-028-A2

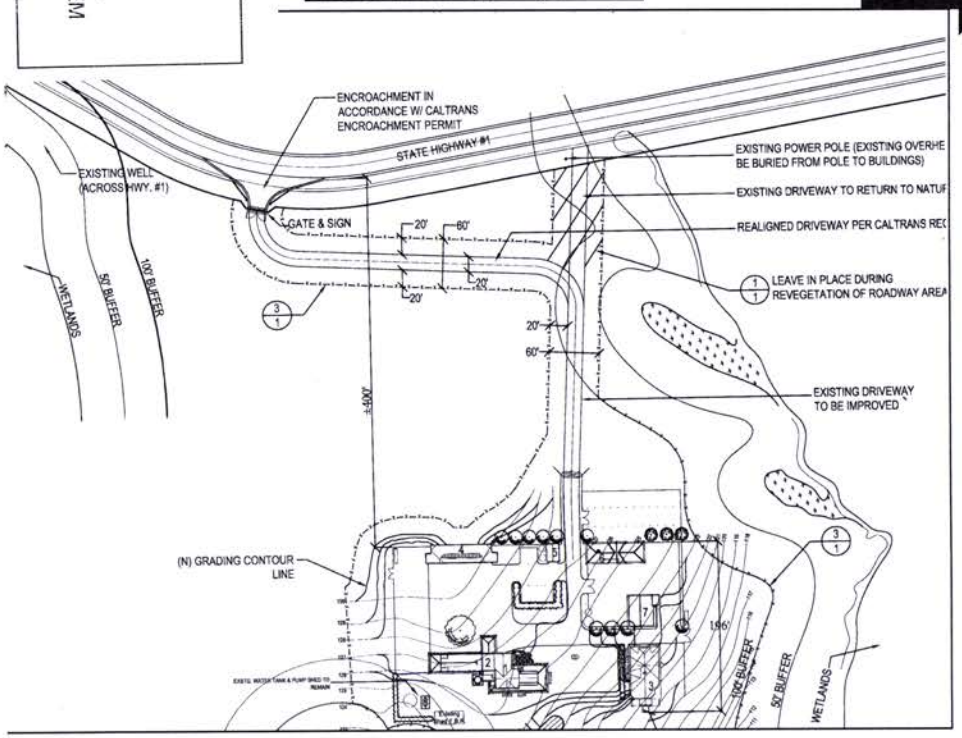
JACKSON-GRUBE FAMILY, INC.

DRIVEWAY AND SEPTIC SYSTEM REVISIONS

Driveway and Septic System Revisions

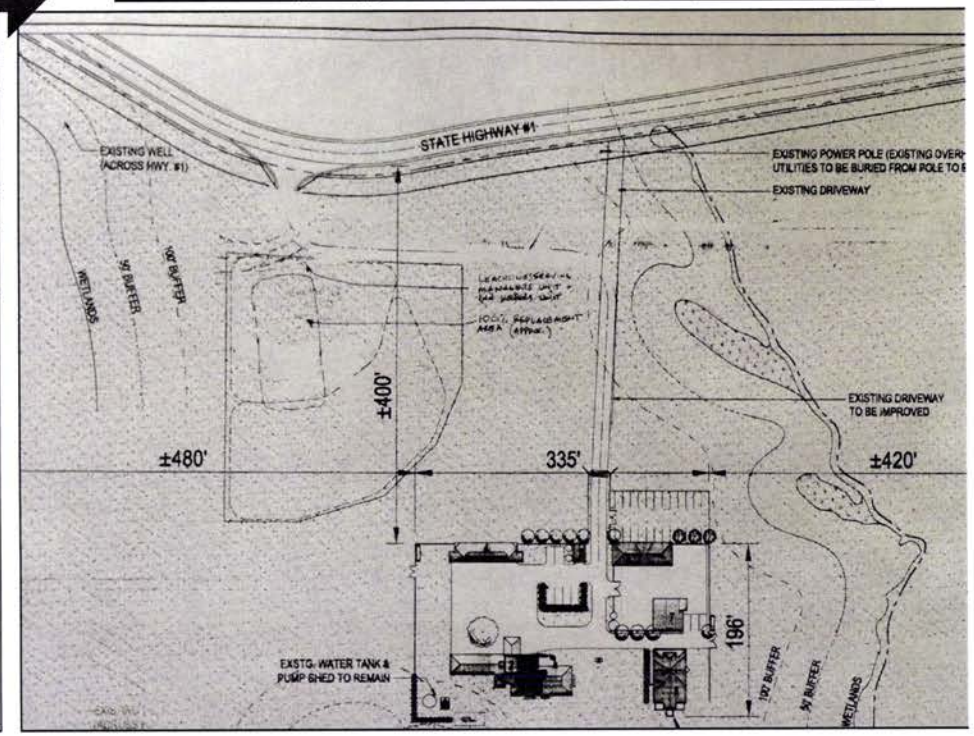
Site Plans by Sellers & Company Architects

Old Driveway Alignment



Caltrans initially issued an Encroachment Permit for a new alignment of the driveway seen in the grading plan above. Under this amendment, the applicant will no longer be using this driveway realignment.

New Driveway Alignment & Final Septic System Design



Caltrans has issued a new Encroachment Permit requiring the applicant to maintain and upgrade the existing driveway as shown in the site plan above. This plan also illustrates the septic system leach field for the garage and ranch manager's unit. The applicant is seeking after-the-fact approval for creating additional system capacity by adding 160 linear feet of leach field pipe and extended the field 20 feet eastward (into the area where the driveway would have been rerouted under the original Encroachment Permit).

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

ENCROACHMENT PERMIT RIDER

TR-0122 (REV 6/1999)

Collected By	Permit No.
N/A	0109-6-RC-0238
Rider Fee Paid	Dist/Co/Rte/PM
EXEMPT	01-MEN-1-72.39
Date	Rider Number
February 5, 2014	**0114-N-RD-0036**

TO:

WILL JACKSON
SELLERS & CO. ARCHITECTS
P.O. BOX 288
WARREN, VT 05674
ATTN: SCOTT BAKER - AGENT
TELEPHONE: (702) 496-2787

, PERMITTEE

In compliance with our request of February 5, 2014, we are hereby amending the above numbered encroachment permit as follows:

Date of completion extended to: **NO CHANGE**

This encroachment permit rider changes the scope of work by as follows:

a) Eliminate the new proposed commercial road approach which was previously approved under EP #0109-6-RC-0238. Permittee is not authorized to construct a new road approach.

b) Eliminate the work to obliterate the existing road approach.

c) Permittee is authorized to upgrade the existing road approach to commercial standards.

EXHIBIT NO. **7**

APPLICATION NO.

A-1-MEN-07-028-A2

JACKSON-GRUBE FAMILY, INC.

CALTRANS ENCROACHMENT PERMIT

Except as amended, all other terms and provisions of the original permit shall remain in effect.

M SILLS
B TOTTEN

D FIGUEIREDO
T ARSENEAU

K SCHULTZ+2

APPROVED:

CHARLES C. FIELDER, District Director

Signature on File

FILE
Permit Writer: LF

D.P.E.

5 FEB 14

JAMES T. VAN BONN, P.E., District Permit Engineer

FM 91 1437

ADA Notice

For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

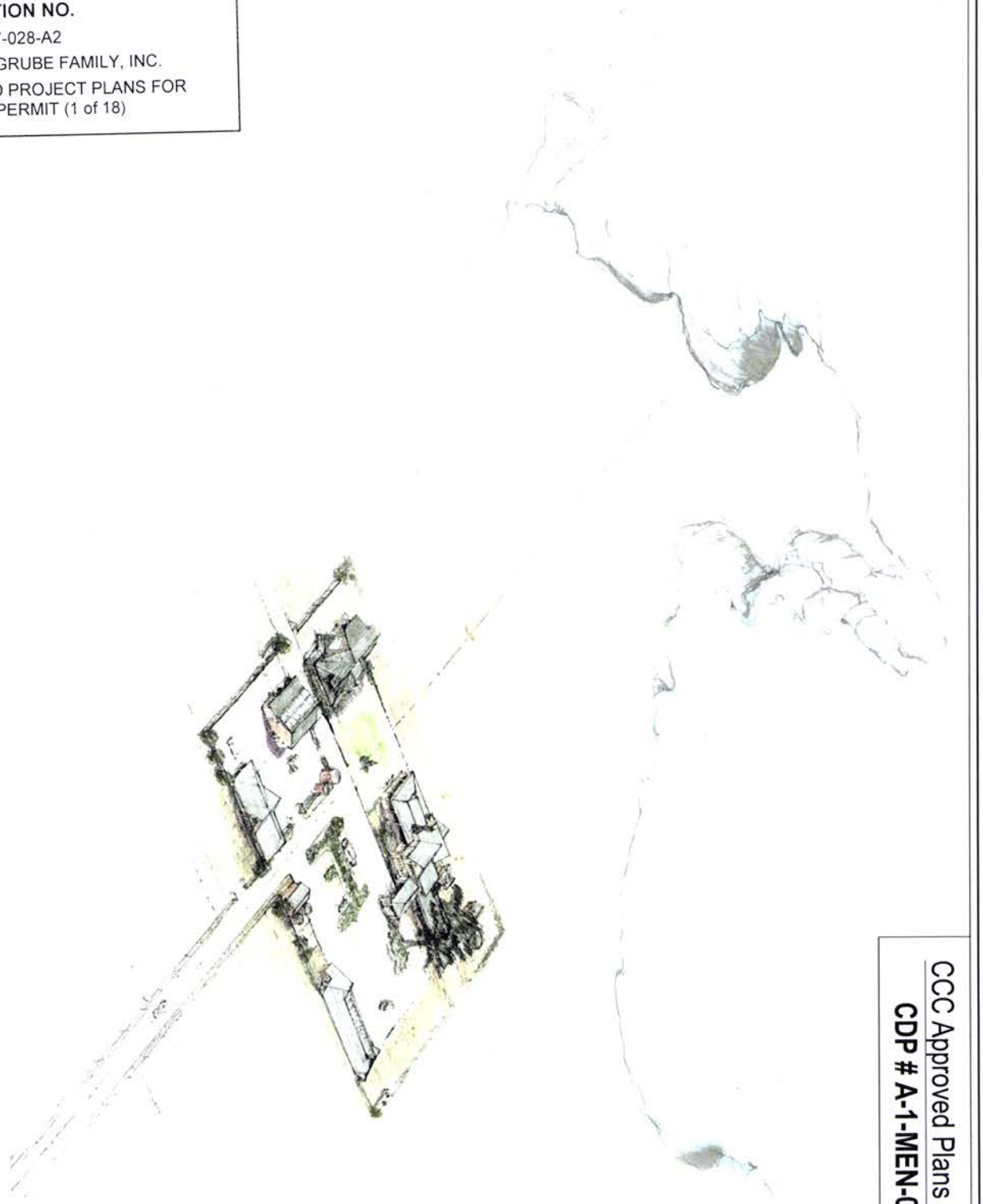
EXHIBIT NO. **8**

APPLICATION NO.

A-1-MEN-07-028-A2

JACKSON-GRUBE FAMILY, INC.

APPROVED PROJECT PLANS FOR ORIGINAL PERMIT (1 of 18)



CCC Approved Plans - 08.29.11

CDP # A-1-MEN-07-028

SHEET NO
COVER SHEET

TITLE
AERIAL PERSPECTIVE

DATE
VARIES, SEE INDIVIDUAL SHEETS

REVISIONS
△ VARIES

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS

SANFORD/STRAUSS ARCHITECTS

SEAL

REGISTERED ARCHITECT
DAVID E. SELLERS
No. C-12782
STATE OF CALIFORNIA

NOTE

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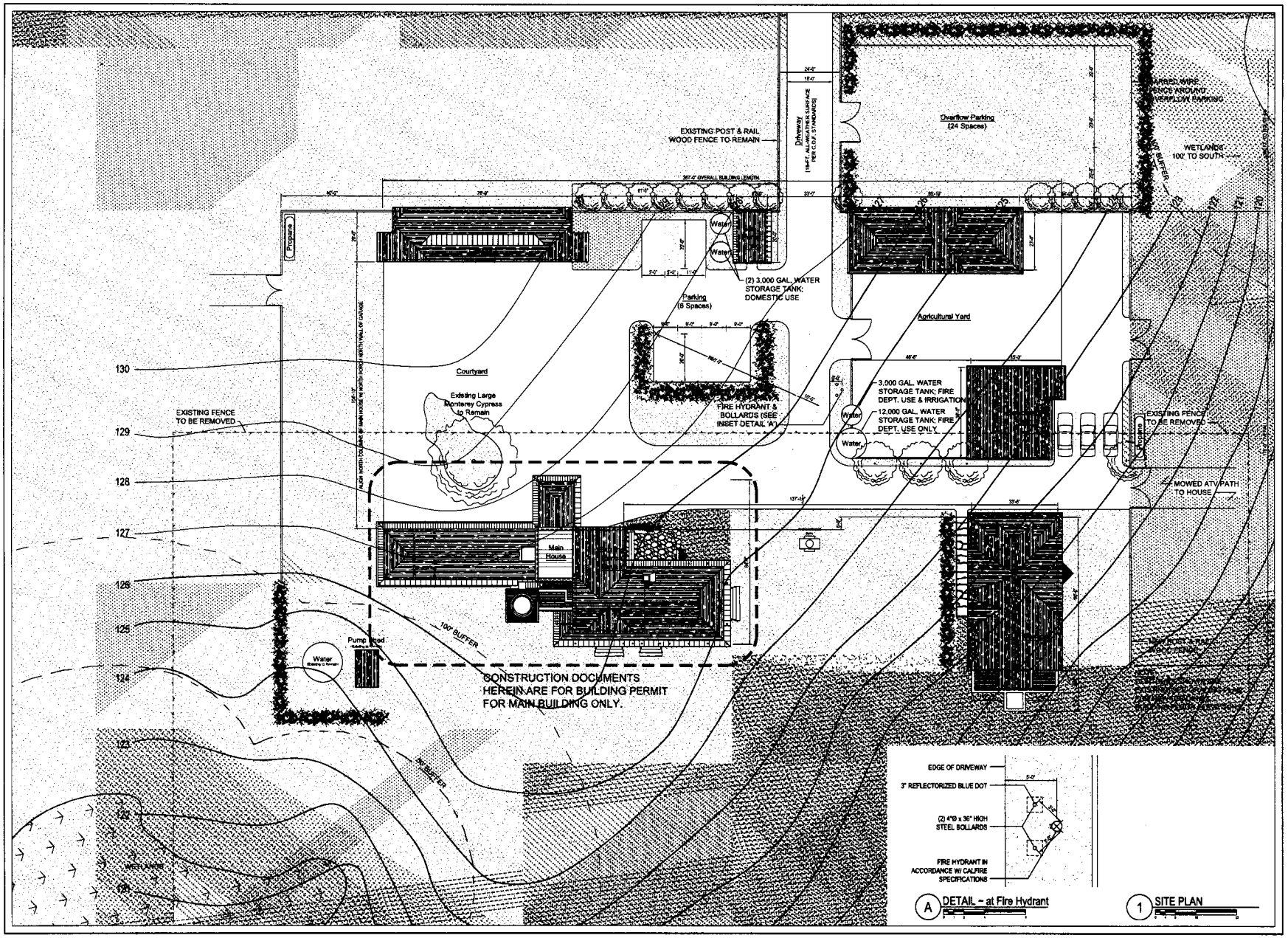

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SEAL

REGISTERED ARCHITECT — STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
2 Cross Street, Mendocino, CA 95460 | 707.937.0825 | www.sellersandcompany.com

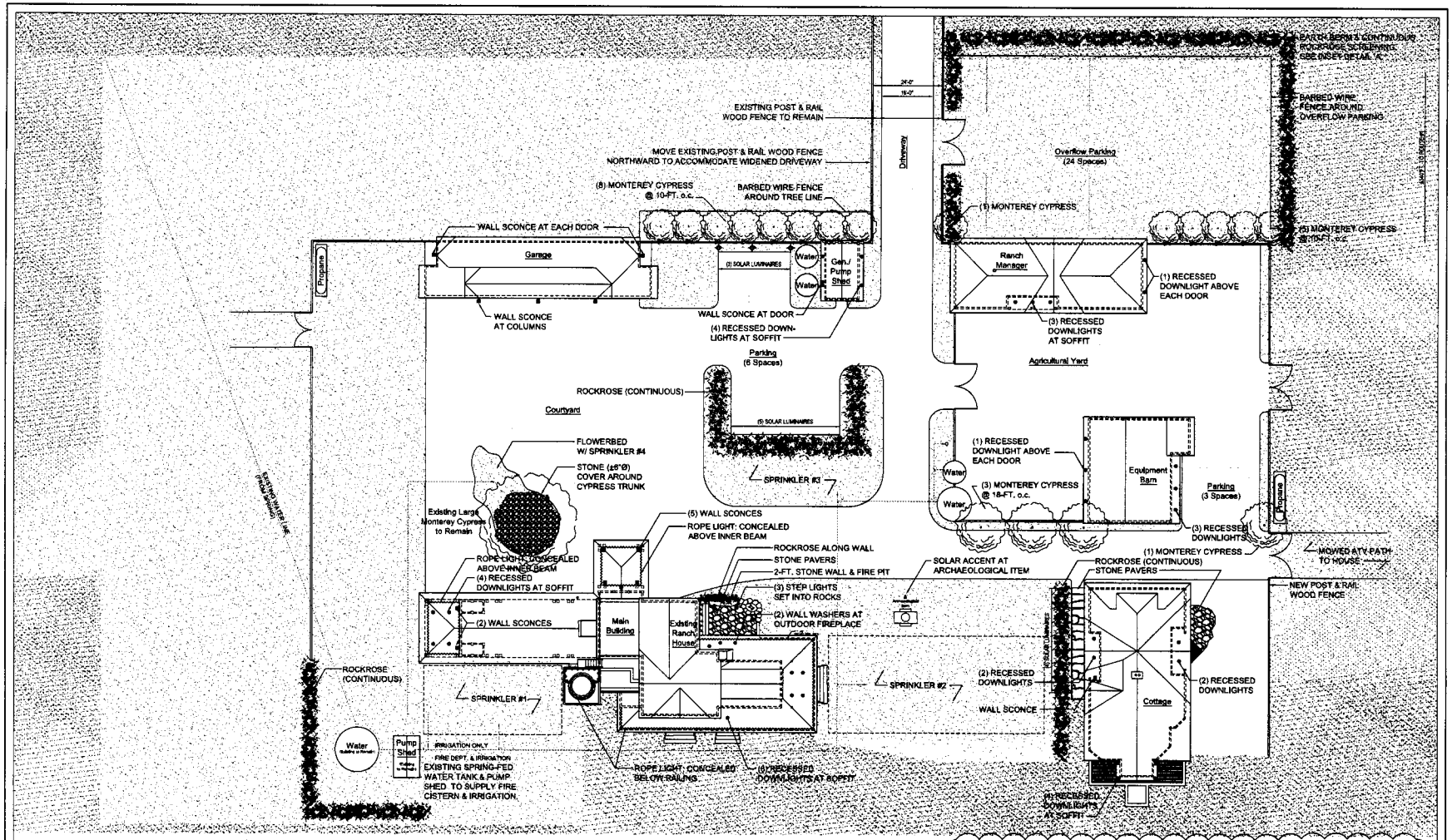
SANFORD/ STRAUSS ARCHITECTS
24 A Main Street, Middletown, CA 95461 | 707.987.3000 | FAX 707.987.3010

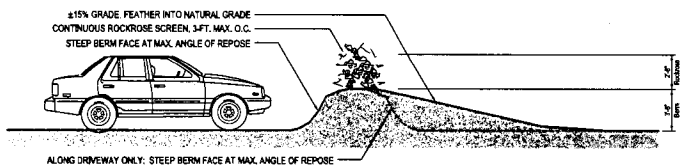
DATE
09.17.10

REVISIONS

TITLE
SITE PLAN

SHEET NO.
A-1.1





A SECTION ~ at Overflow Parking

SPRINKLER IRRIGATION		
SPRINKLER GROUP	DIMENSIONS (FT.)	AREA ± (SQ. FT.)
#1	24 x 42	1,000
#2	35 x 70	2,450
#3	20 x 60	1,200
#4	15 x 15	225
Total Area		4,875

NOTE: EXISTING IRRIGATION SYSTEM SPRING-FED VIA EXISTING TANK & PUMP TO BE RECONFIGURED AS SHOWN.

LEGEND

Landscaping

- STONE PAVERS
- GRASS/ FIELD
- ROCKROSE (Cistus shamarogii) 2.5 ft. H x 3 ft. W
- MONTEREY CYPRESS (Cupressus macrocarpa) 3-4 in. Caliper, 15 ft. High (Min. at time of planting)

Lighting

- SOLAR LUMINAIRE
- RECESSED DOWNLIGHT
- WALL WASHER
- WALL SCONCE
- ROPE LIGHT

LANDSCAPE NOTES:

1. CONTRACTOR SHALL OBTAIN ALL PLANTINGS FROM LOCAL GENETIC STOCKS WITHIN MENDOCINO COUNTY.
2. NO PLANT SPECIES LISTED AS PROBLEMATIC AND/OR INVASIVE BY THE CALIFORNIA NATIVE PLANT SOCIETY, THE CALIFORNIA INVASIVE PLANT COUNCIL, OR BY THE STATE OF CALIFORNIA SHALL BE PLANTED BY CONTRACTOR OR ALLOWED BY OWNER TO NATURALIZE OR PERSIST ON THE PARCEL.
3. NO PLANT SPECIES LISTED AS A "NOXIOUS WEED" BY THE STATE OF CALIFORNIA OR THE U.S. FEDERAL GOVERNMENT SHALL BE UTILIZED BY CONTRACTOR, OWNER OR OTHER WITHIN THE PROPERTY.
4. RODENTICIDES CONTAINING ANTICOAGULANT COMPOUNDS SHALL NOT BE USED BY CONTRACTOR, OWNER OR OTHER.
5. PLANTINGS SHALL NOT BE LIMBED OR PRUNED BY CONTRACTOR, OWNER OR OTHER.
6. CONTRACTOR SHALL INSTALL PLANTINGS IN ACCORDANCE WITH SUPPLIER SPECIFICATIONS.
7. HORTICULTURAL PLANTINGS AT FLOWER BED IN COURTYARD TO BE SELECTED AND INSTALLED BY OWNER. THESE PLANTINGS WILL VARY OVER TIME; HOWEVER, ALL SUCH PLANTINGS SHALL BE IN ACCORDANCE WITH ABOVE NOTES #1 - #4.

LIGHTING NOTES:

1. ALL EXTERIOR LIGHTS, INCLUDING ANY LIGHTS ATTACHED TO THE OUTSIDE OF THE BUILDINGS, SHALL BE THE MINIMUM NECESSARY FOR THE SAFE INGRESS, EGRESS AND USE OF THE STRUCTURES AND SHALL BE LOW-MAINTENANCE, HOOD/REFLECTIVE SHIELDED AND HAVE A DIRECTIONAL CAST DOWNWARD SUCH THAT NO LIGHT WILL BE DIRECTED TO SHINE BEYOND THE BOUNDARIES OF THE SUBJECT PARCEL. SEE BUILDING PLANS FOR ALL LIGHT FIXTURES ATTACHED TO BUILDINGS.

1 LANDSCAPE & LIGHTING PLAN

NOTE: THE ABOVE DRAWINGS, IDEAS AND DESIGNS ARE THE PROPERTY OF SELLERS & COMPANY ARCHITECTS, INC. NO PART THEREOF SHALL BE COPIED, DISCLOSED TO OTHERS OR USED IN ANY WAY WHATSOEVER WITHOUT THE PRIOR WRITTEN CONSENT OF THE ARCHITECTS.

REGISTERED ARCHITECT DAVID E. SELLERS STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD/ STRAUSS ARCHITECTS

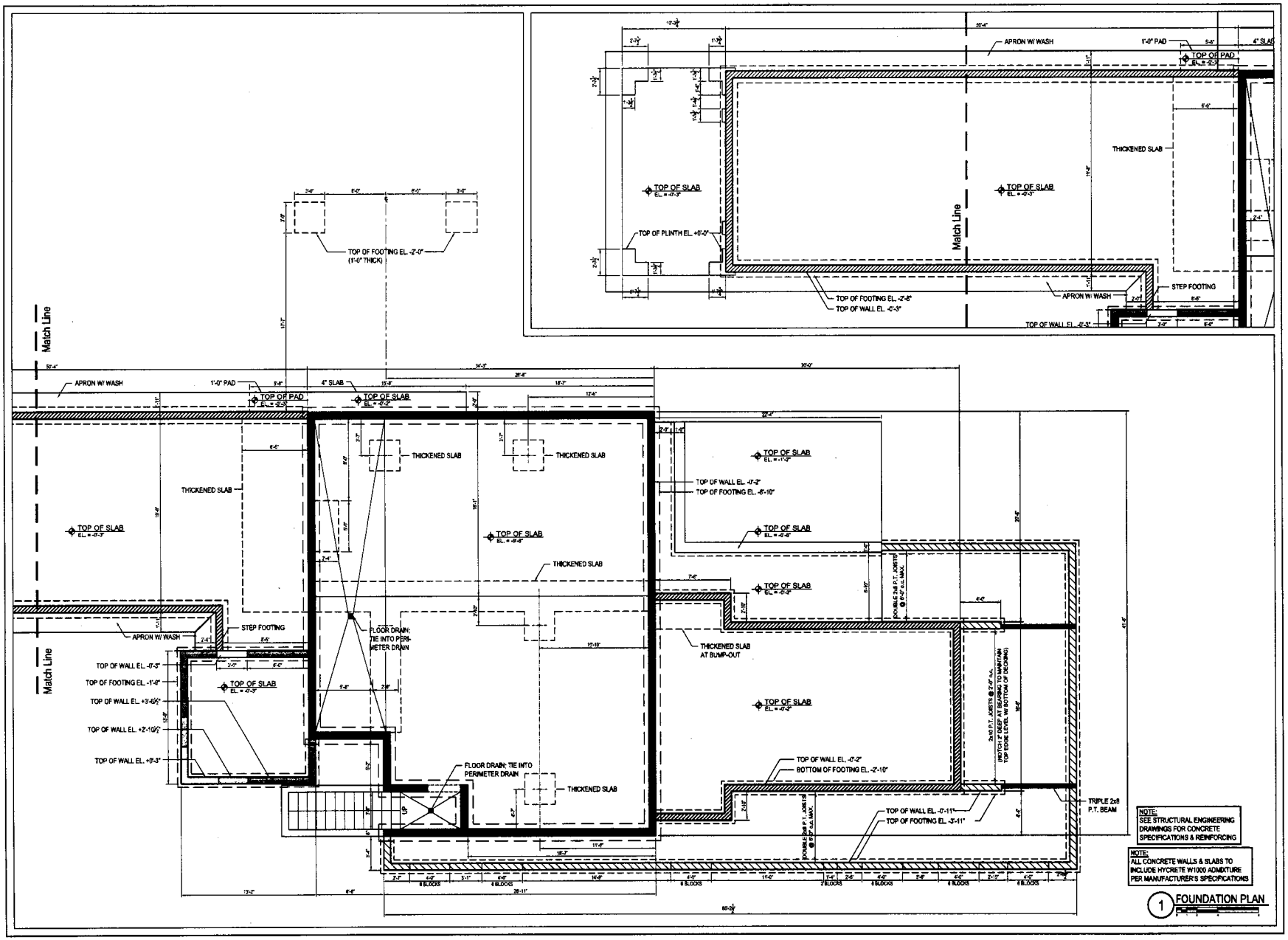
DATE
09.17.10

REVISIONS
△1 6.23.11 - Landscape & Lighting Notes

TITLE
LANDSCAPE & LIGHTING PLAN

SHEET NO.
L-1

5 of 8



1 FOUNDATION PLAN

NOTE: THE ABOVE DRAWINGS, IDEAS AND DESIGNS ARE THE PROPERTY OF THE ARCHITECT AND AS INSTRUMENTS OF SERVICE, NO PART THEREOF SHALL BE COPIED, DISCLOSED TO OTHERS OR USED FOR ANY PURPOSE NOT SPECIFICALLY AGREED TO IN WRITING BY THE ARCHITECT. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR ANY CHANGES MADE IN THESE DRAWINGS WITHOUT THE CONSENT OF THE ARCHITECT.

SEAL

REGISTERED ARCHITECT DAVID E. SELLERS NO. 6015 STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
2 Wood Road, Warren, VT 05674 T 802.496.7111 F 802.496.5871 www.sellersandcompany.com

SANFORD/STRAUSS ARCHITECTS
74 Main Street, Middlebury, VT 05753 T 802.388.7400 F 802.388.7415

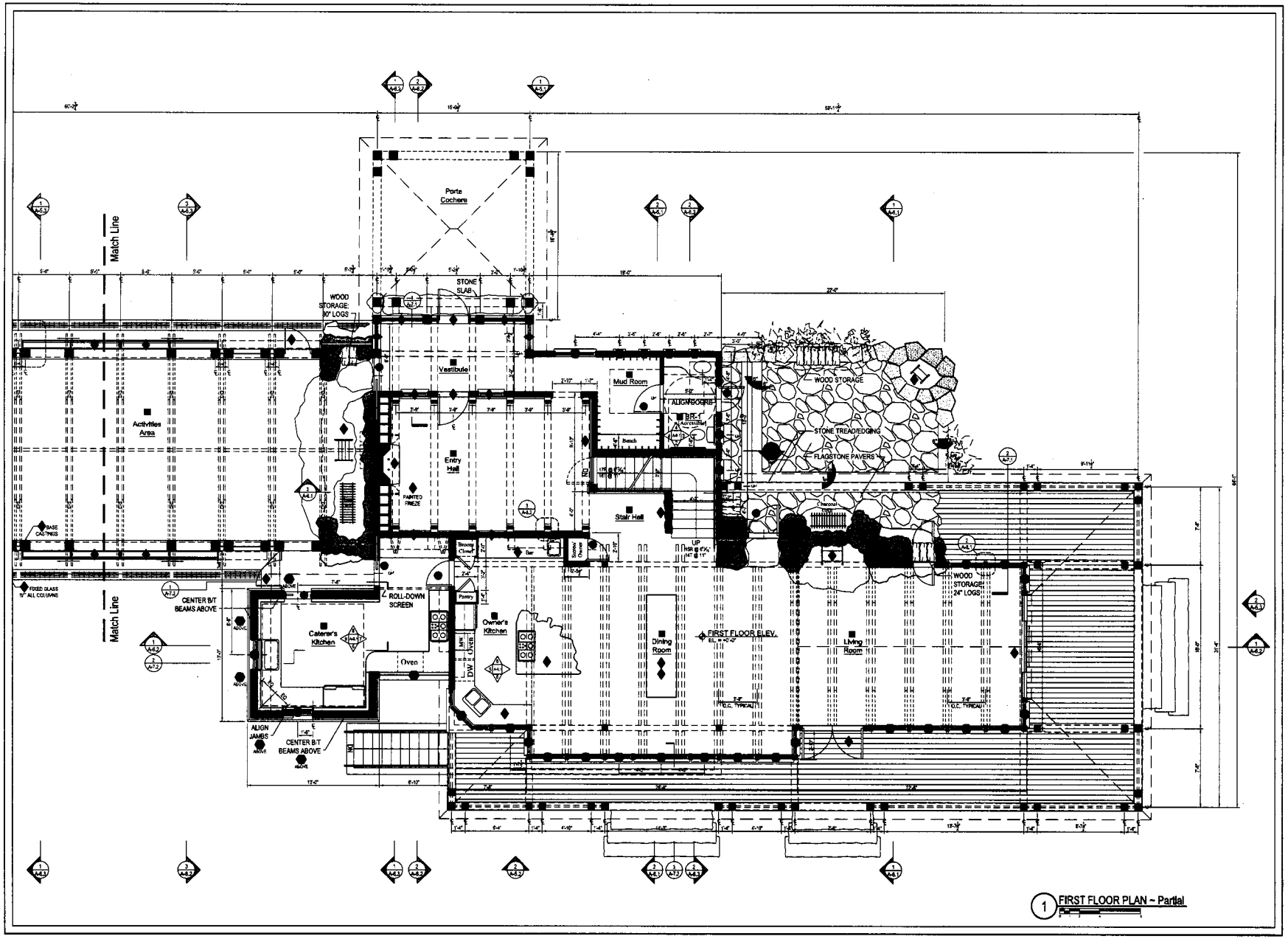
DATE
09.17.10

REVISIONS

TITLE
FOUNDATION PLAN

SHEET NO.
A-3.1

4 of 8



1 FIRST FLOOR PLAN ~ Partial

NOTE:
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SEAL

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
2 Church Street, Montpelier, VT 05602 T 802.229.0569 F 802.229.5417 www.sellersandcompany.com

SANFORD/STRAUSS ARCHITECTS
74 Main Street, Middlebury, VT 05753 T 802.388.7160 F 802.388.7176

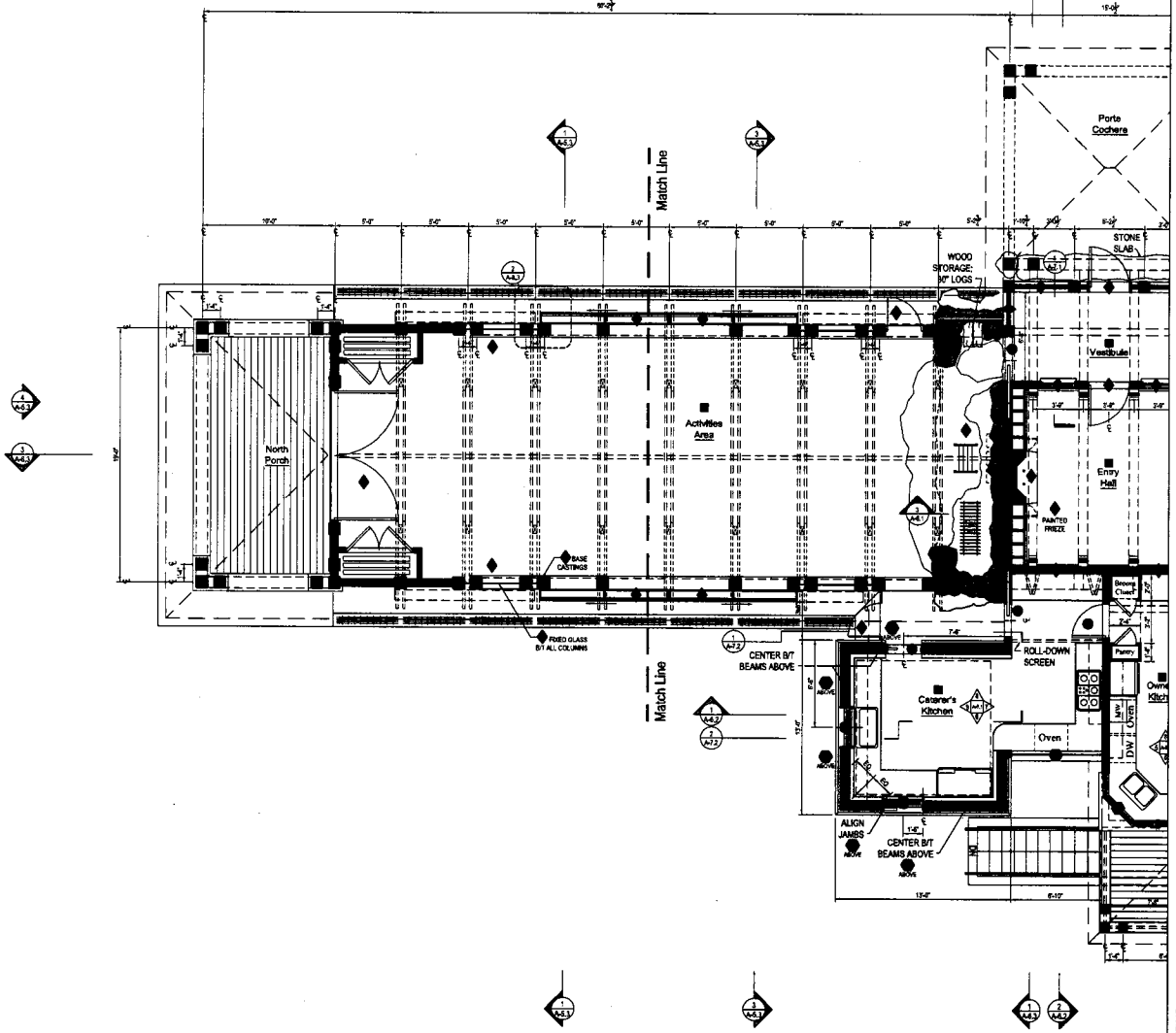
DATE
09.17.10

REVISIONS

TITLE
FLOOR PLANS

SHEET NO.
A-3.3

5 of 8



1 FIRST FLOOR PLAN ~ Partial

NOTE

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INN AT NEWPORT RANCH
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SANFORD/STRAUSS ARCHITECTS
214 North Street, Middletown, CT 06457 T 860.346.7411 F 860.346.7415

DATE
09.17.10

REVISIONS

TITLE
FLOOR PLANS

SHEET NO.
A-3.4

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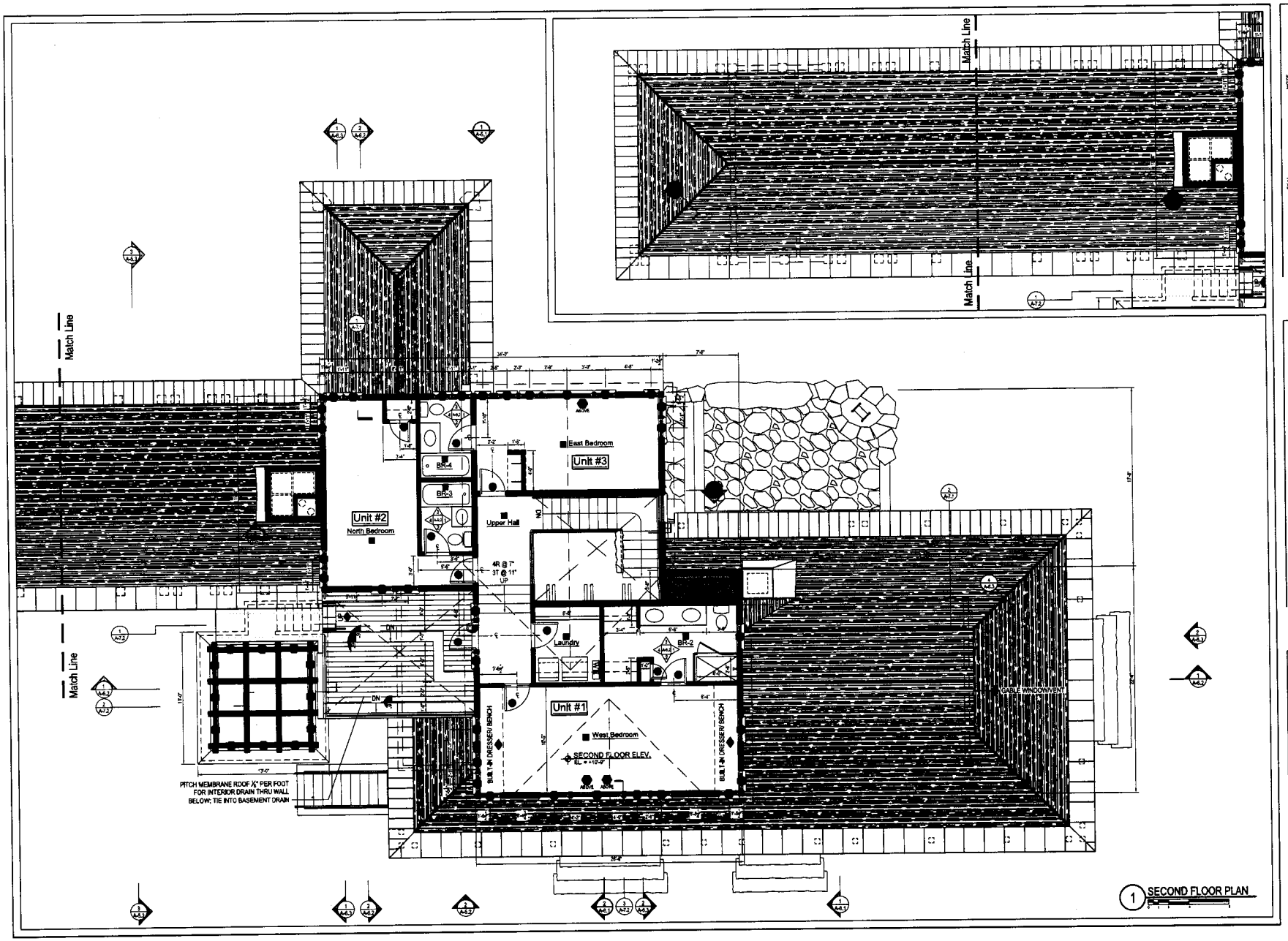

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SANFORD/ STRAUSS ARCHITECTS
74 A Main Street, Middlebury, VT 05753 / 802.388.7164 / 802.388.7165

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09.17.10

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TITLE
FLOOR PLANS

SHEET NO.
A-3.5

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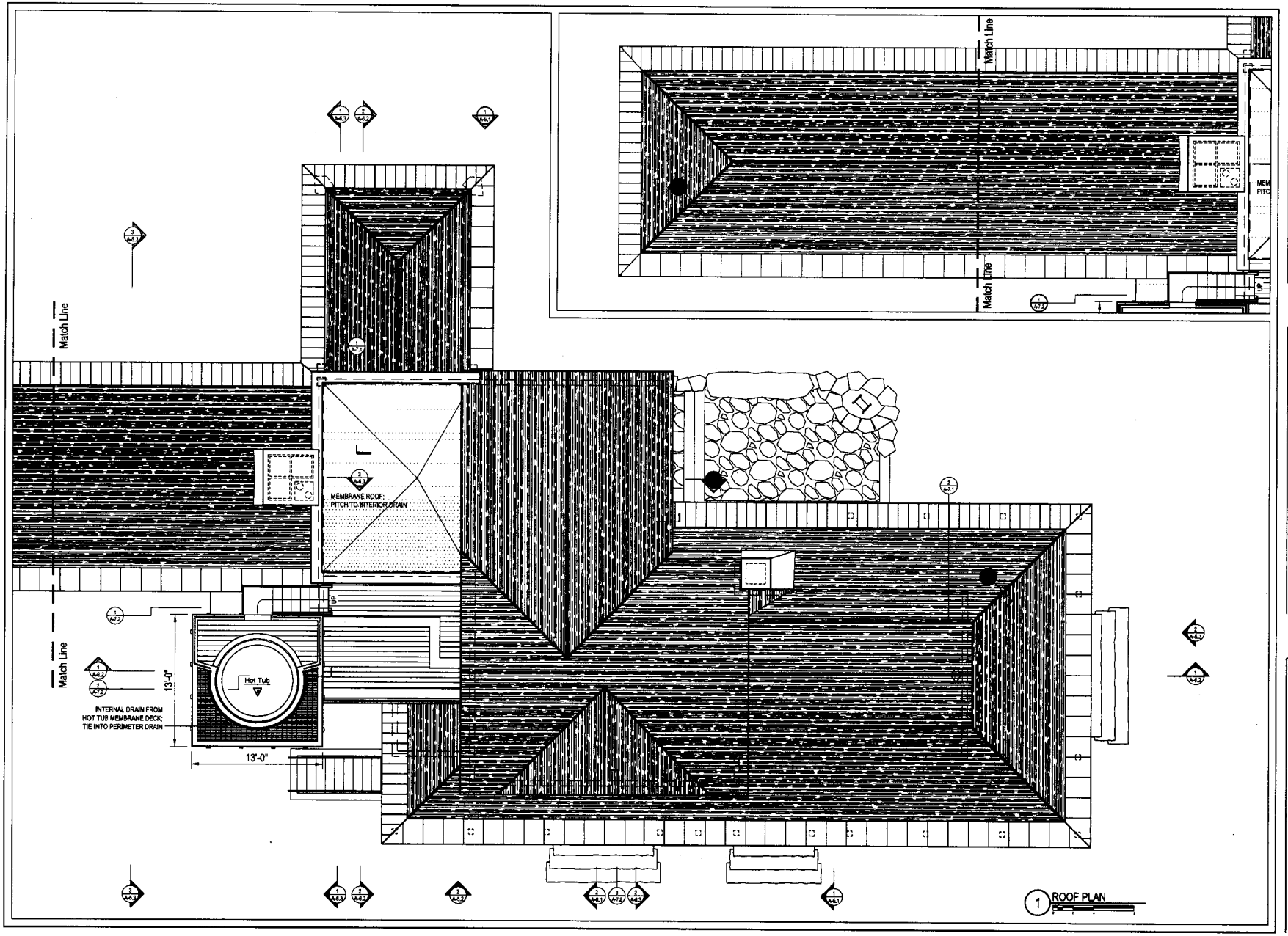

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74 A Main Street, Middletown, NY 10940 T 845.343.7600 F 845.343.7474

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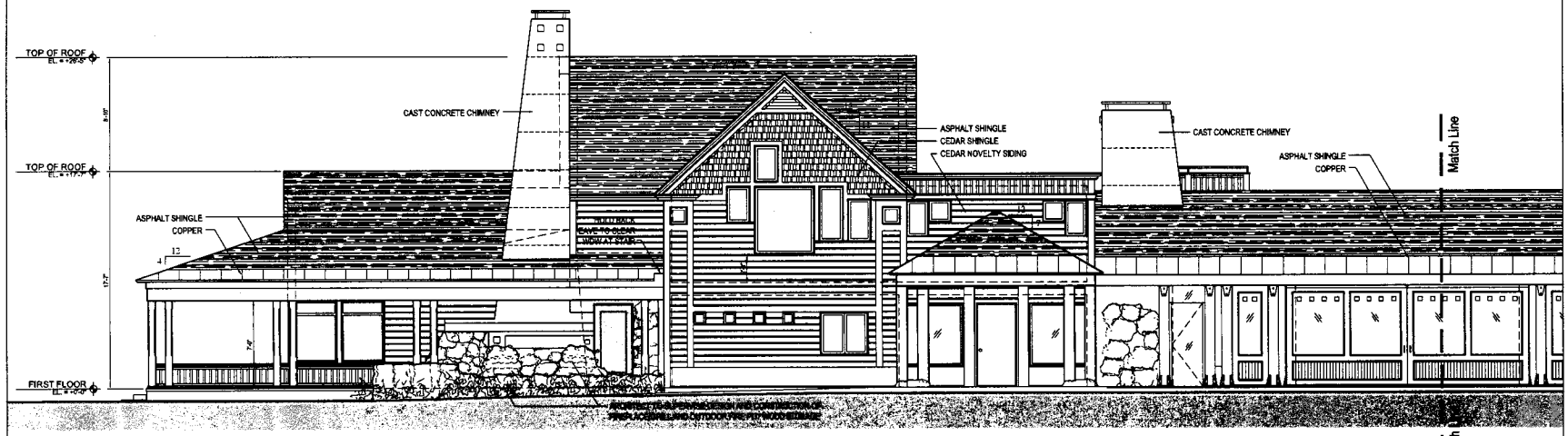
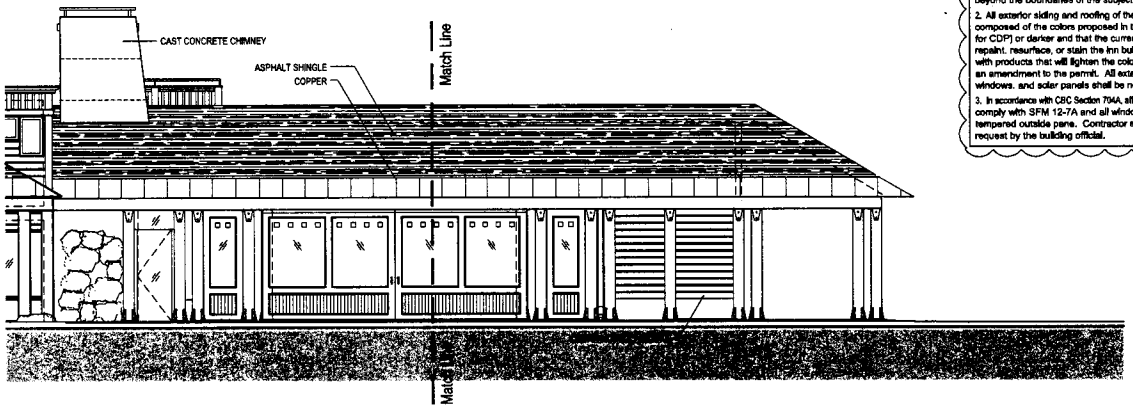
09.17.10

REVISIONS

TITLE
FLOOR PLANS

SHEET NO.
A-3.6





NOTES:

1. All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress, egress and use of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.
2. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application [to Coastal Commission for CDP] or darker and that the current owner or future owners shall not repaint, resurface, or stain the inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to the permit. All exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare.
3. In accordance with CBC Section 704A, all exterior siding & trim materials shall comply with SFM 12-7A and all windows shall be insulating glass units w/ tempered outside pane. Contractor shall document compliance upon request by the building official.

△1

1 EAST ELEVATION

SEAL

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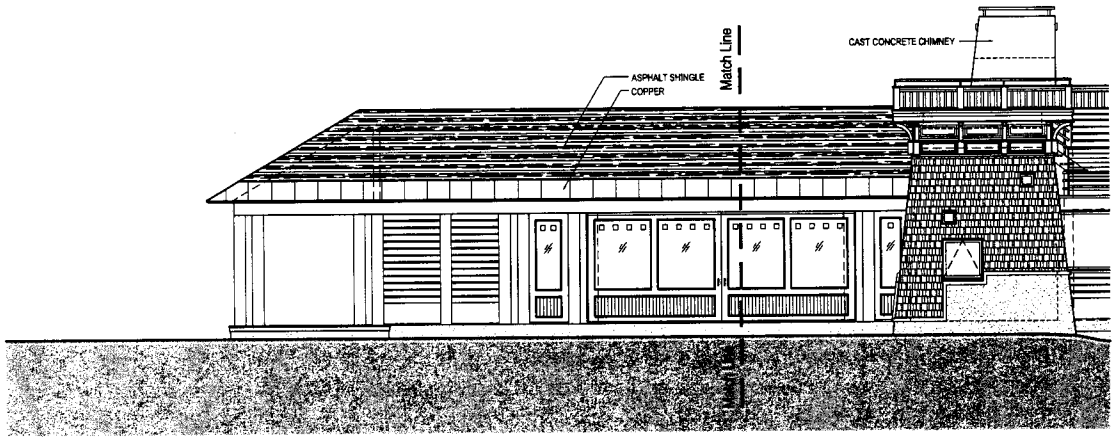
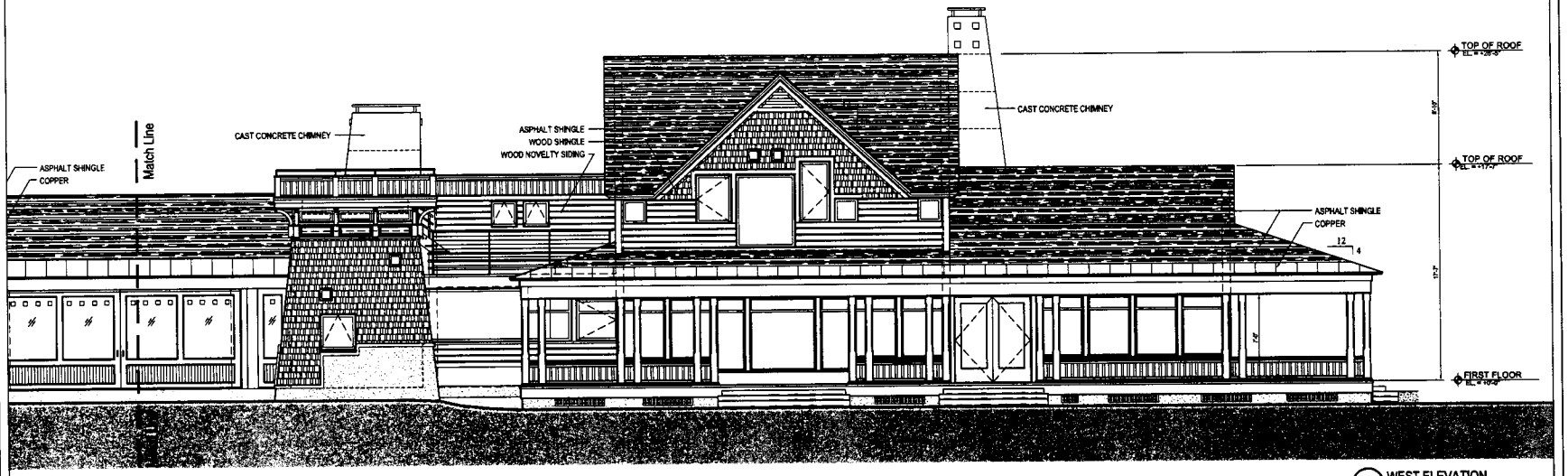
DATE
12.17.10

REVISIONS
△1 03.29.11 - CCC & WUE Notes

TITLE
BUILDING ELEVATIONS

SHEET NO.
A-5.1





1 WEST ELEVATION

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REGISTERED ARCHITECT
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STATE OF VERMONT

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Fort Bragg, California

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09.17.10

REVISIONS

TITLE
BUILDING ELEVATIONS

SHEET NO.
A-5.2

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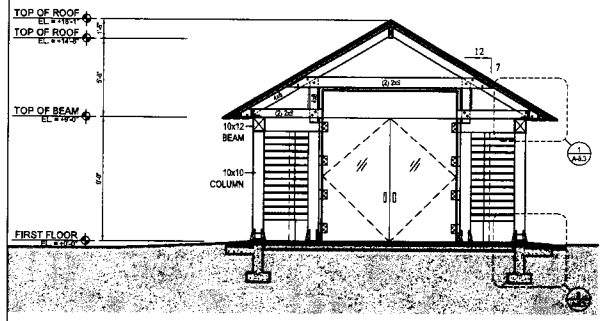
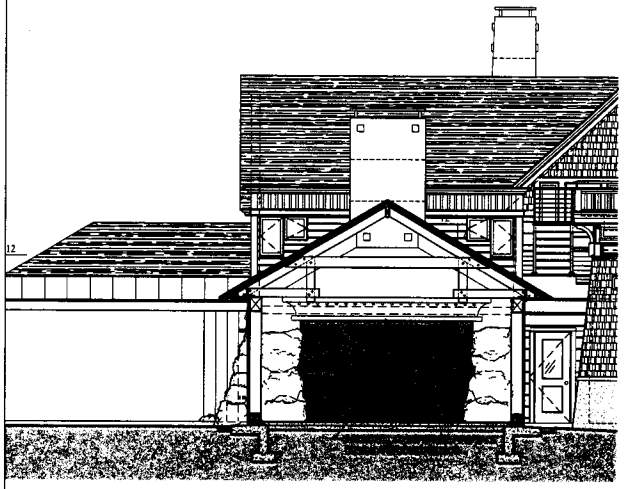


1 SECTION ~ Looking North

2 SOUTH ELEVATION



3 SECTION ~ Looking South

4 NORTH ELEVATION

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SEAL
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DAVID E. SELLERS
No. C-5317-93
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD/STRAUSS ARCHITECTS

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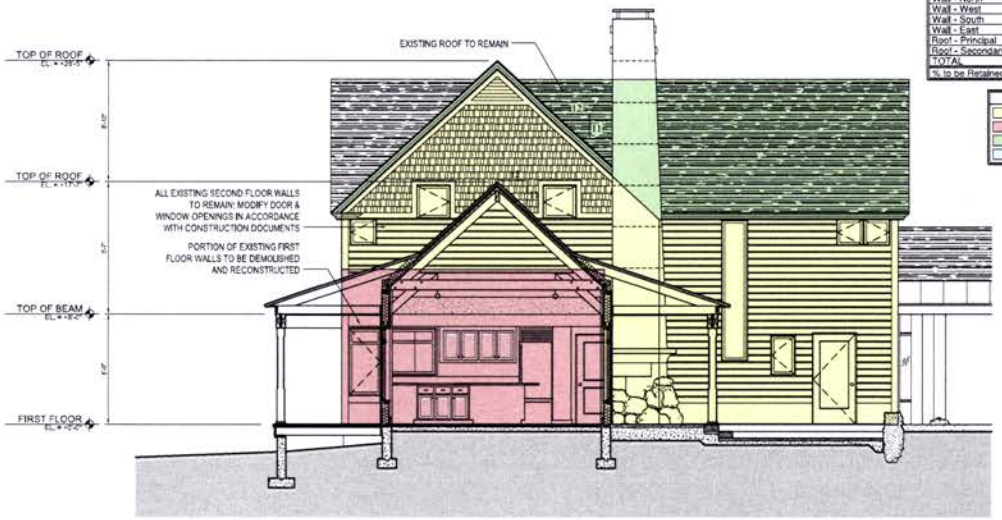
09.17.10
REVISIONS

TITLE
BUILDING SECTIONS & ELEVATIONS

SHEET NO.
A-5.3

11978

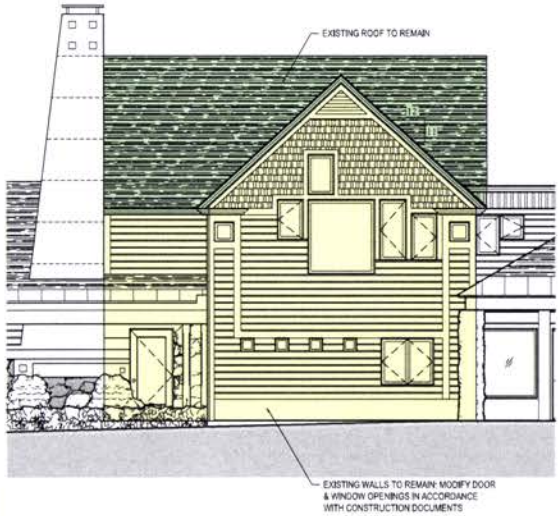
1 WEST ELEVATION



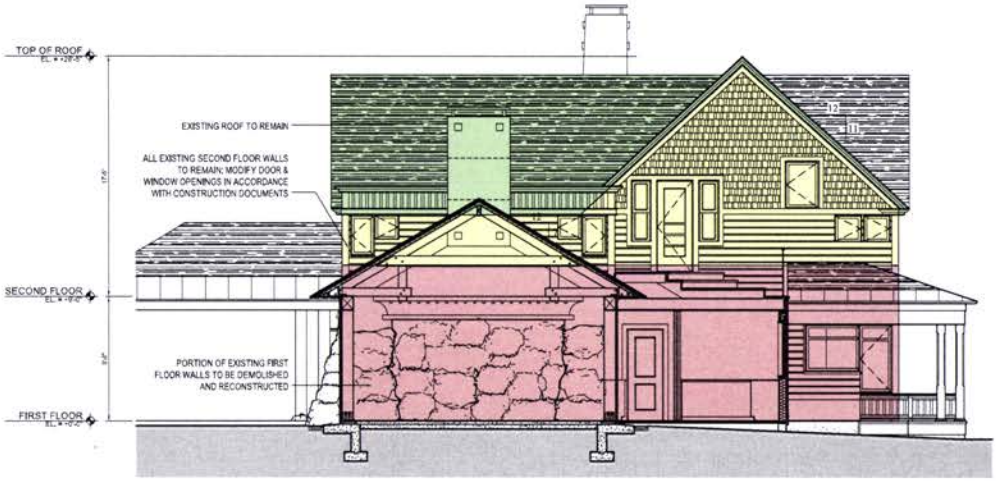
2 SOUTH ELEVATION

RENOVATION CALCULATIONS		
Component	Existing (sf)	Retained (sf)
Wall - North	723	272
Wall - West	326	110
Wall - South	723	511
Wall - East	483	483
Roof - Principal	930	780
Roof - Secondary	661	661
TOTAL	3,918	2,817
% to be Retained		72 %

LEGEND
- WALL - To be Retained
- WALL - To be Demolished
- ROOF - To be Retained
- ROOF - To be Demolished



3 EAST ELEVATION



4 NORTH ELEVATION

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SEAL

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JAMES E. SELLERS
No. 8001
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
[illegible]

SANFORD/ STRAUSS ARCHITECTS
[illegible]

DATE
09.17.10

REVISIONS

TITLE
EXIST'G HOUSE - RENOVATION ELEVATIONS

SHEET NO.
A-3.8

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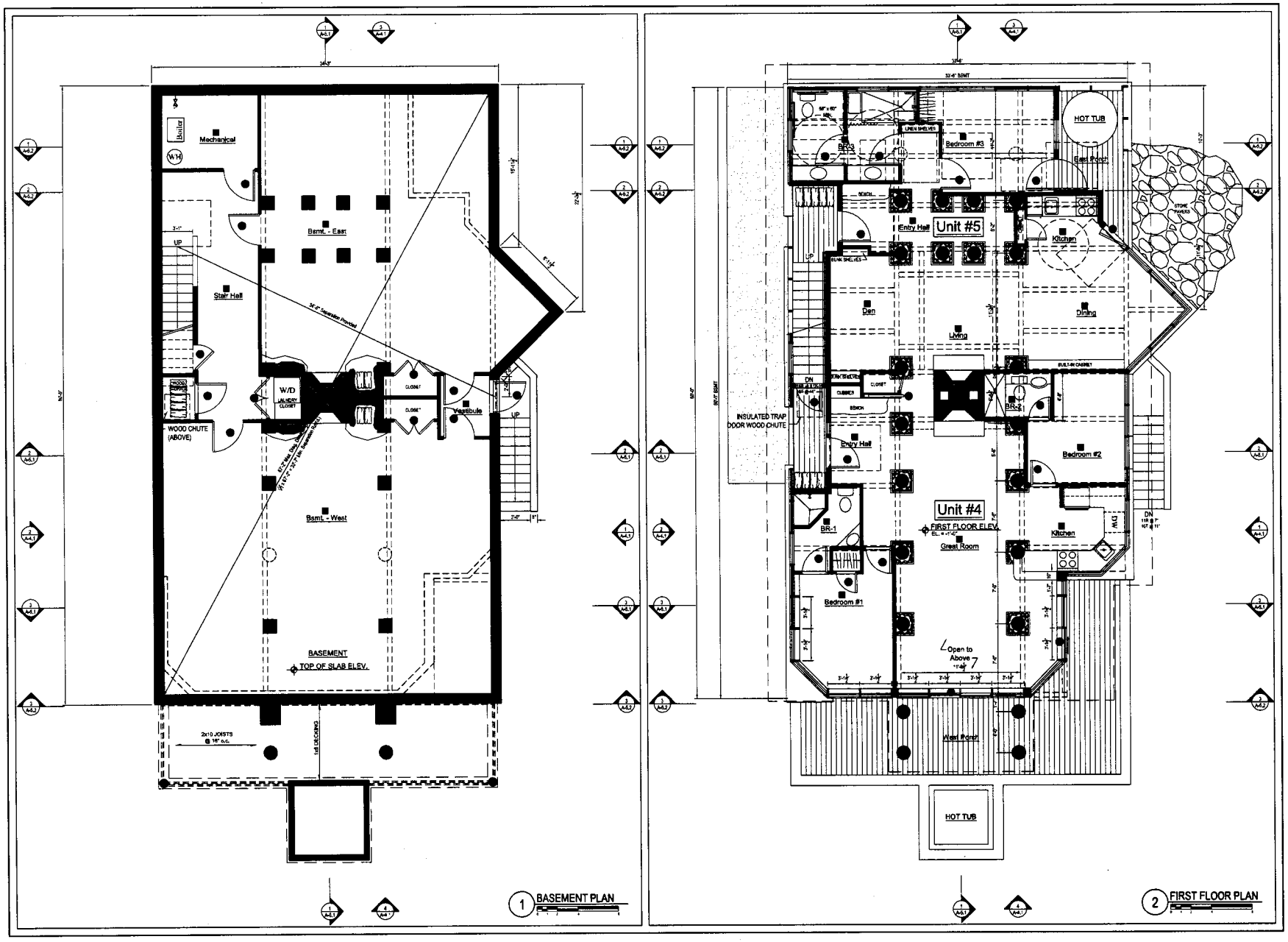

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SEAL

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DAVID G. SELLERS
NC CERTIFICATE
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
SANFORD J. STRAUSS, ARCHITECTS

DATE
06.06.11

REVISIONS

TITLE
FLOOR PLANS

SHEET NO.
A-3.1

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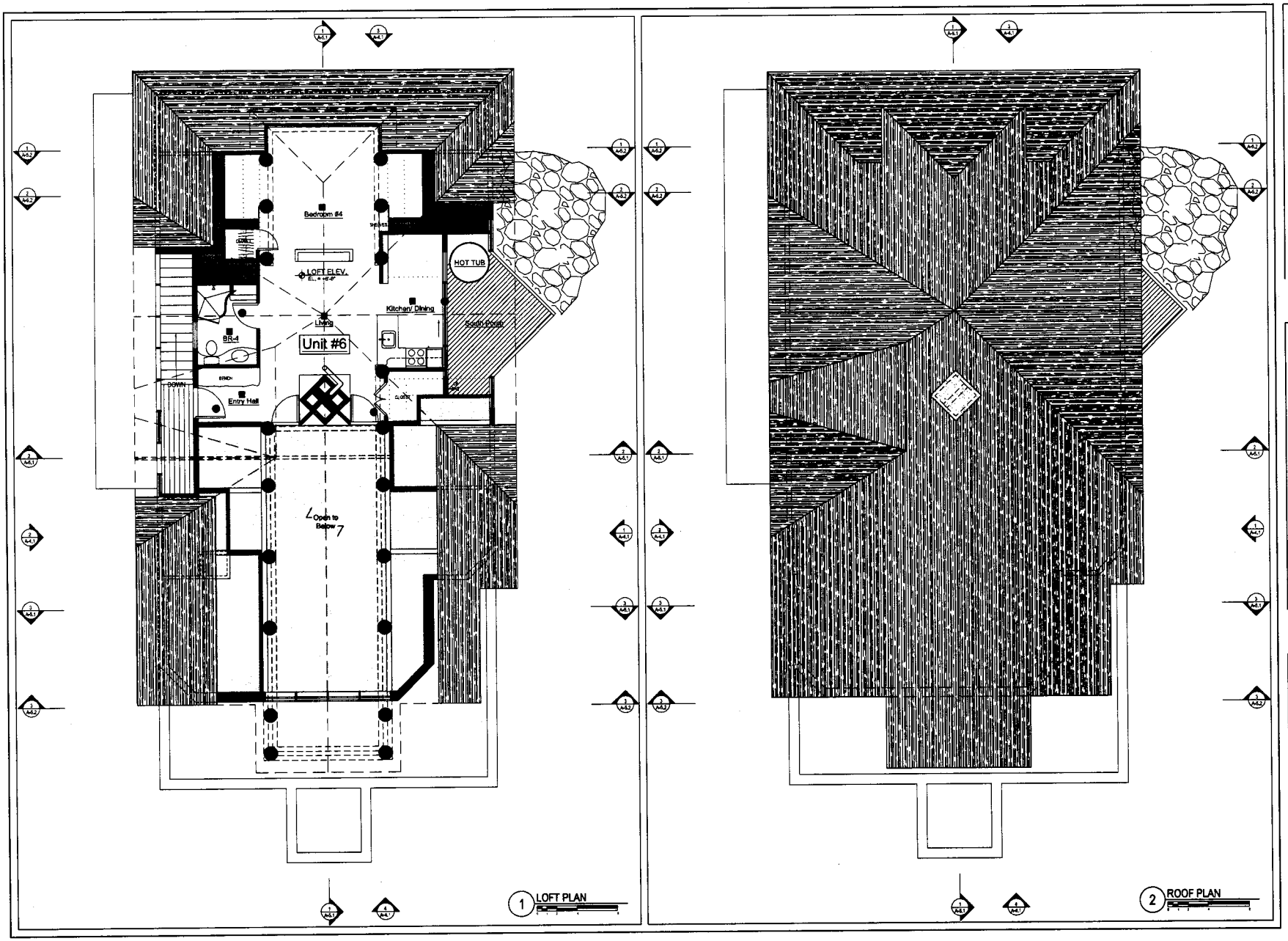

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DAVID L. SELLERS
No. C-10314
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

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SANFORD STRAUSS ARCHITECTS

DATE
06.06.11

REVISIONS

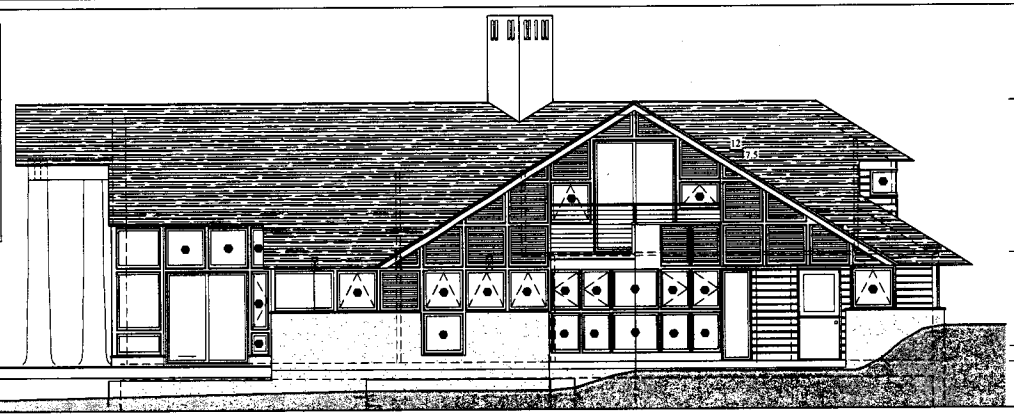
TITLE
FLOOR PLANS

SHEET NO.
A-3.2

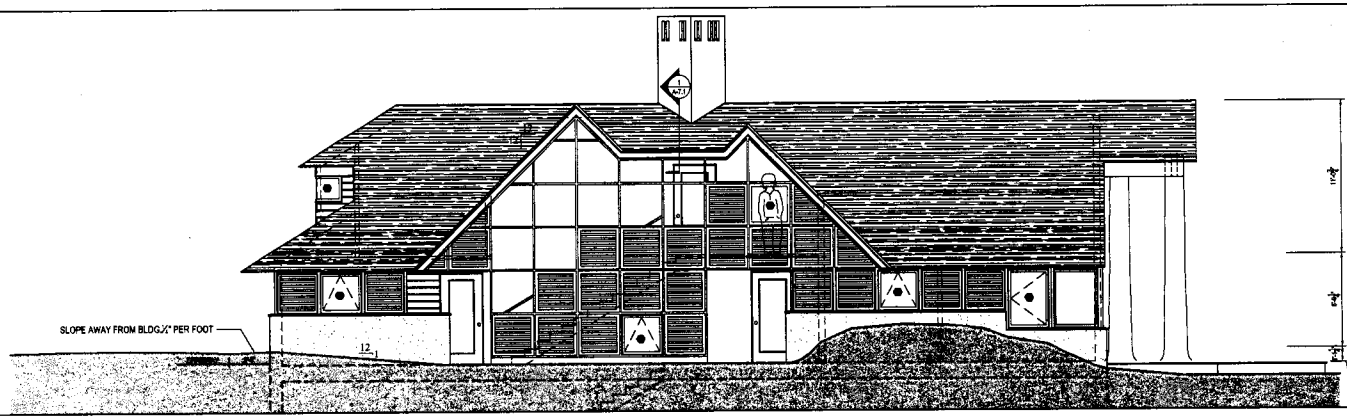
21471

NOTES:

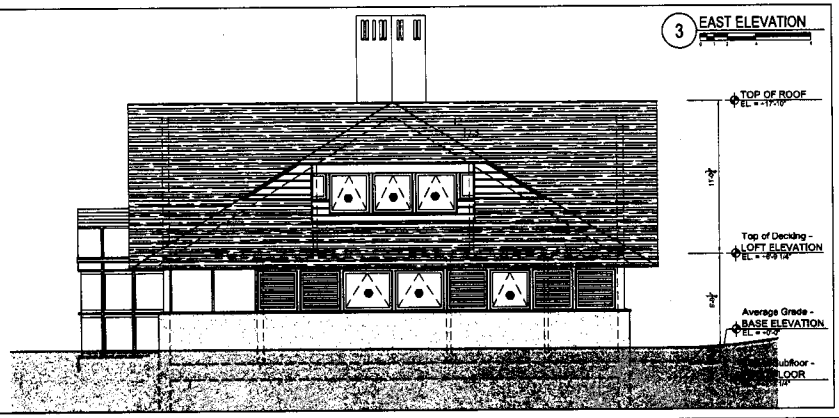
1. All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress, egress and use of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.
2. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application [to Coastal Commission for CDP] or darker and that the current owner or future owners shall not repaint, resurface, or stain the inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to the permit. All exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare.
3. In accordance with CBC Section 704A, all exterior siding & trim materials shall comply with SFM 12-7A and all windows shall be insulating glass units w/ tempered outside pane. Contractor shall document compliance upon request by the building official.



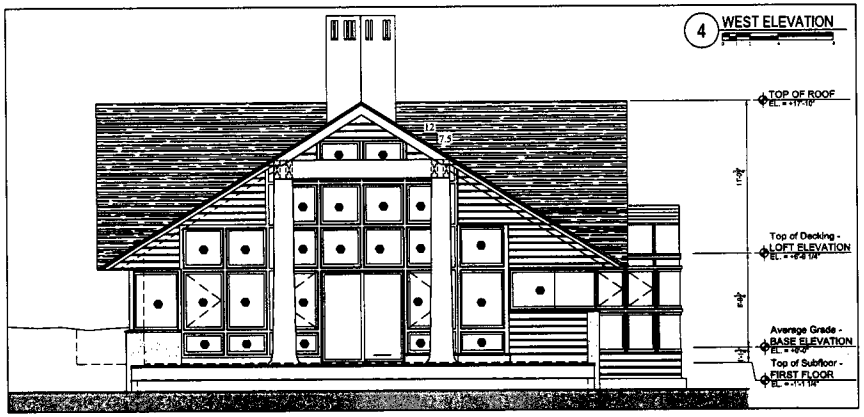
1 SOUTH ELEVATION



2 NORTH ELEVATION



3 EAST ELEVATION



4 WEST ELEVATION

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INN AT NEWPORT RANCH
Fort Bragg, California

SELLERS & COMPANY ARCHITECTS
RANFORD STRAUSS ARCHITECTS

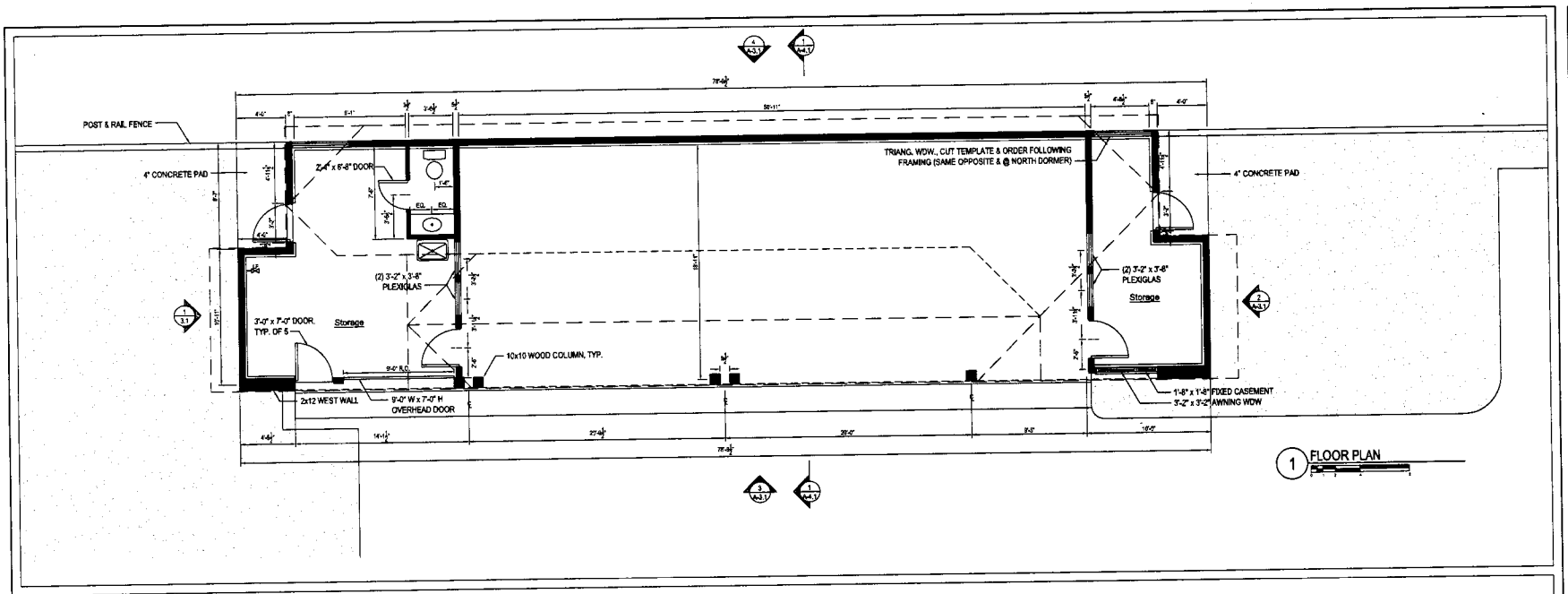
DATE
06.06.11

REVISIONS

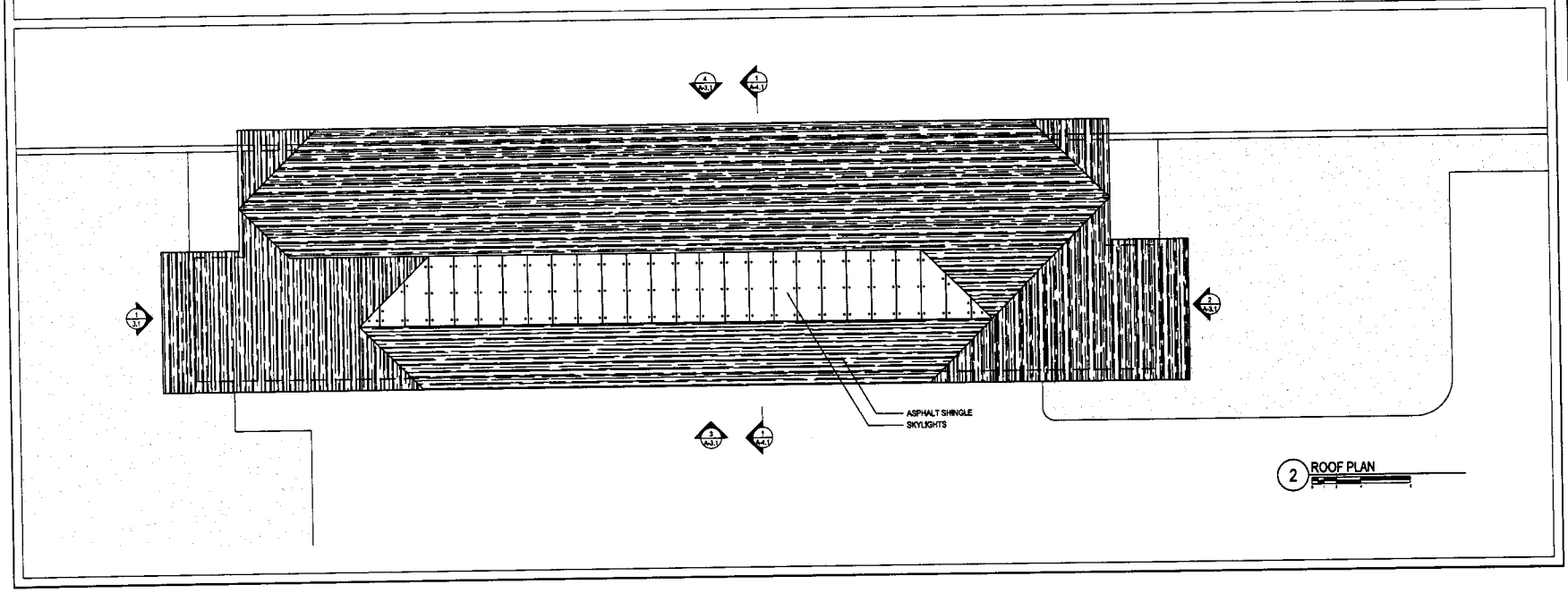
TITLE
BUILDING ELEVATIONS

SHEET NO.
A-4.1

159178



1 FLOOR PLAN



2 ROOF PLAN

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DATE
09.20.10

REVISIONS

TITLE
FLOOR PLANS

SHEET NO.
A-2.2

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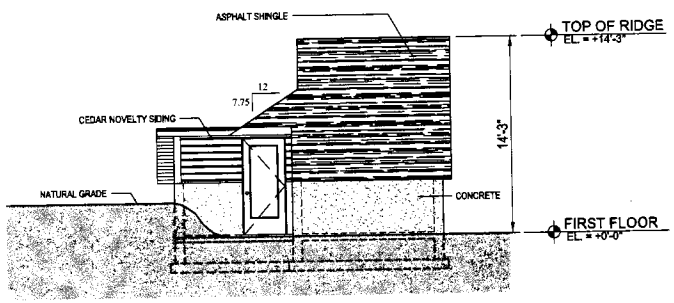
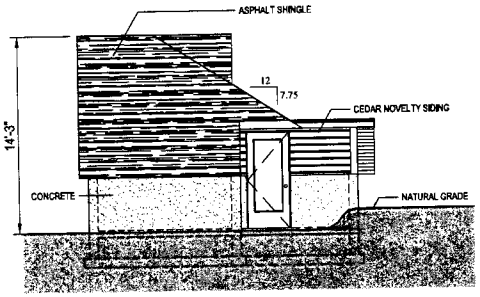


1 NORTH ELEVATION



2 SOUTH ELEVATION

NOTES:

1. All exterior lights, including any lights attached to the outside of the building, shall be the minimum necessary for the safe ingress, egress and use of the structure, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.
2. All exterior siding and roofing of the proposed structure shall be composed of the colors proposed in the application [to Coastal Commission for CDP] or darker and that the current owner or future owners shall not repaint, resurface, or stain the Inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to the permit. All exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare.
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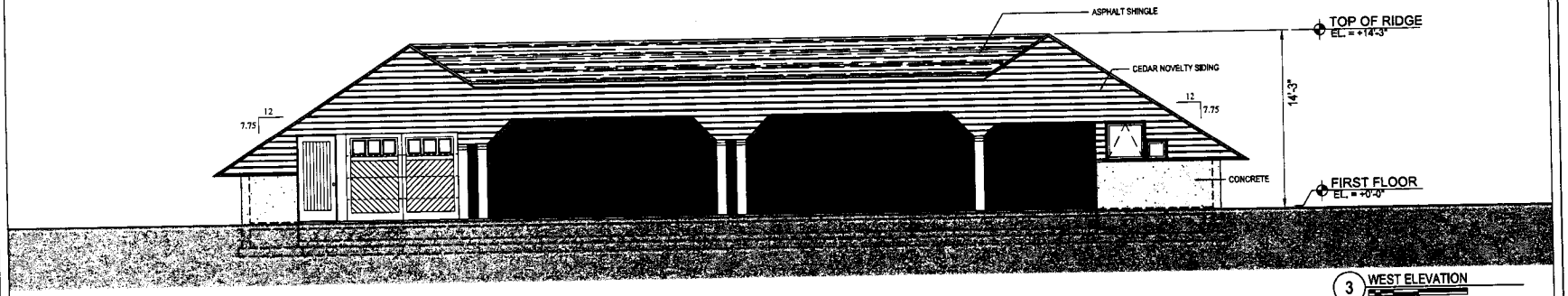
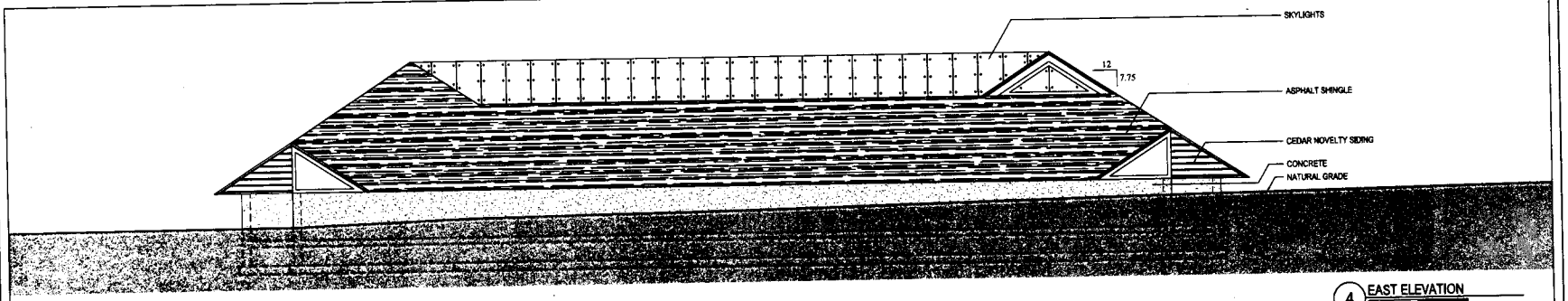


3 WEST ELEVATION



4 EAST ELEVATION

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SEAL

REGISTERED ARCHITECT
DAVID L. SELLERS
No. C-12192
STATE OF CALIFORNIA

INN AT NEWPORT RANCH
Fort Bragg, California

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SANFORD/STRAUSS ARCHITECTS
74 A Main Street, Middlebury, VT 05753 T 802.388.7580 / 802.388.7578

DATE
12.17.10

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1 03.25.11 - CCC & WUI Notes

TITLE
BUILDING ELEVATIONS

SHEET NO.
A-3.1

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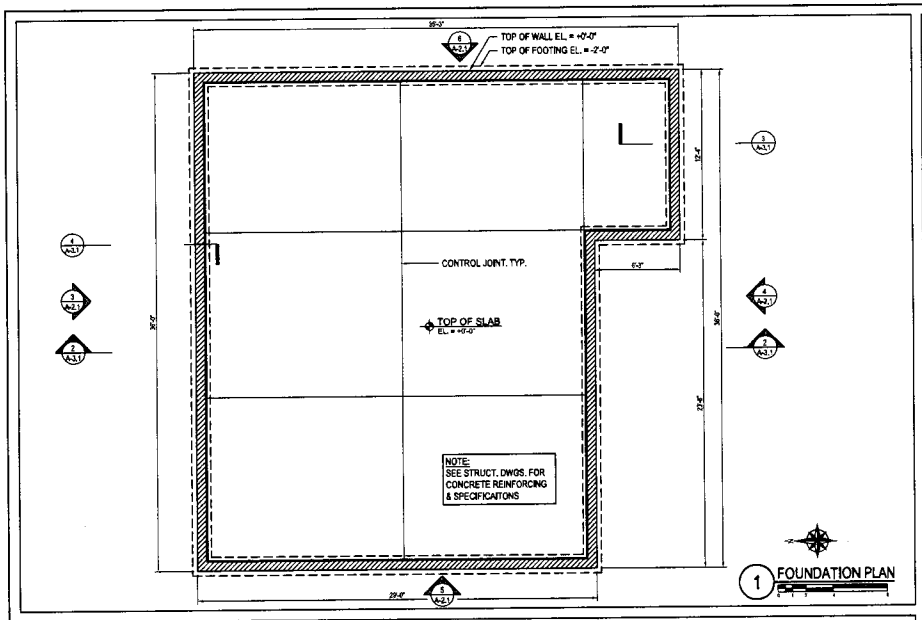
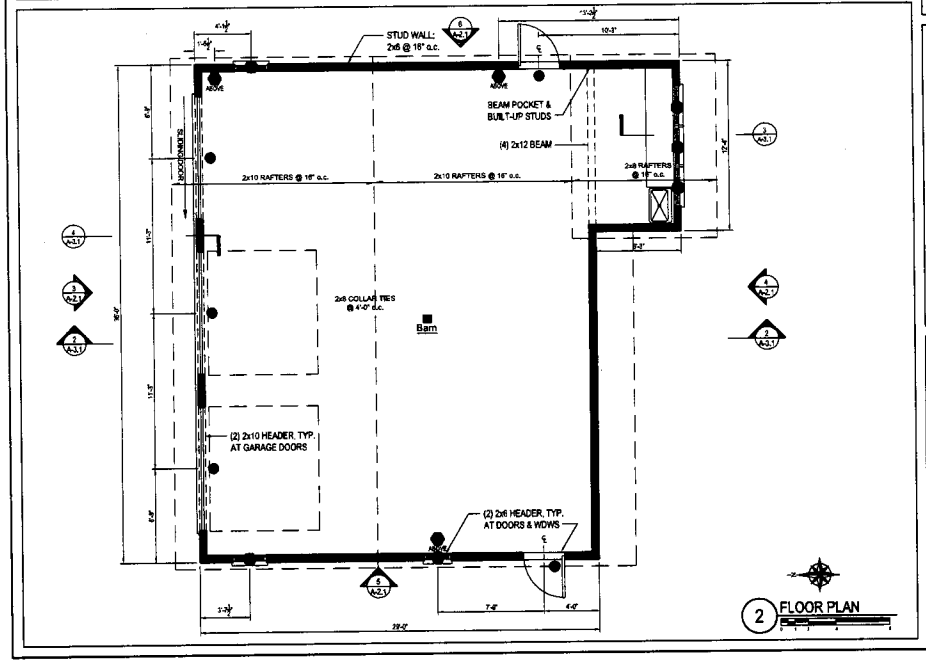
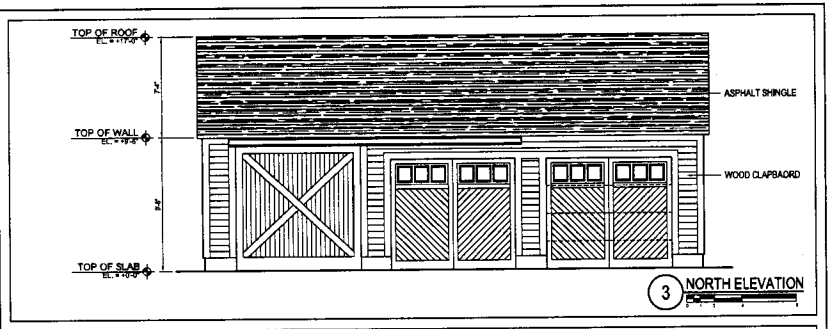


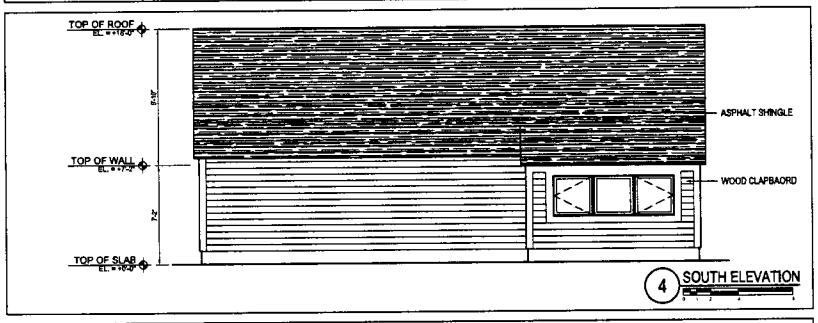
1 FOUNDATION PLAN



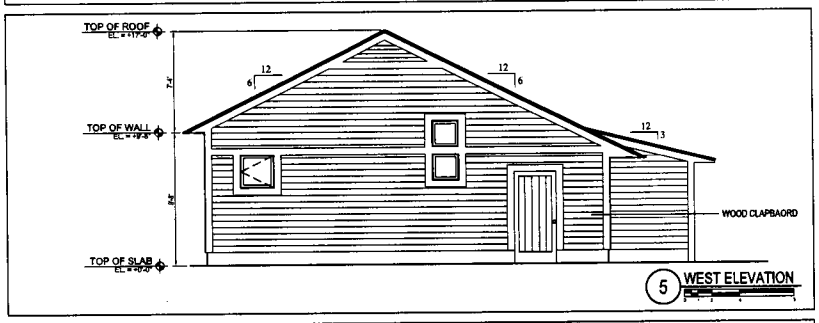
2 FLOOR PLAN



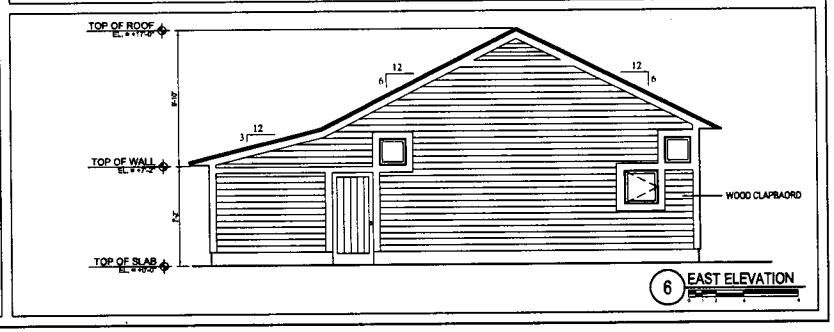
3 NORTH ELEVATION



4 SOUTH ELEVATION



5 WEST ELEVATION



6 EAST ELEVATION

NOTE

THE ABOVE DRAWINGS, IDEAS, DESIGNS AND ARRANGEMENTS ARE THE PROPERTY OF SELLERS AND COMPANY ARCHITECTS. NO PART THEREOF SHALL BE CONVEYED OR EXPLAINED TO OTHERS, NOR USED IN CONNECTION WITH ANY WORK OTHER THAN FOR THE SPECIFIC PROJECT FOR WHICH THEY HAVE BEEN PREPARED AND DEVELOPED WITHOUT THE CONSENT OF THE ARCHITECTS.

SEAL

REGISTERED ARCHITECT DAVID E. SELLERS No. 0-3037-50 STATE OF VIRGINIA

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DATE
09.20.10

REVISIONS

TITLE
PLANS & ELEVATIONS

SHEET NO.
A-2.1

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STATE OF CALIFORNIA – THE RESOURCES AGENCY

ARNOLD SCHWARZENEGGER, *GOVERNOR*

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
710 E STREET • SUITE 200
EUREKA, CA 95501-1865
VOICE (707) 445-7833
FACSIMILE (707) 445-7877

Hearing Date: August 11, 2010
Commission Action: **Approved with Conditions, August 11, 2009**

EXHIBIT NO. 9
APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC.
ADOPTED FINDINGS FOR ORIGINAL PERMIT (1 of 118)

ADOPTED FINDINGS: DE NOVO

APPEAL NO.: **A-1-MEN-07-028**

APPLICANTS: **Jackson-Grube Family, Inc.**

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

PROJECT LOCATION: Approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One (on the APNs that comprise Certificate of Compliance 39-90-D, including APNs 015-380-03; 015-380-04; 015-380-05; 015-330-05; 015-330-13; 015-330-19X; 015-330-26; 015-070-45; 015-070-49X; 015-070-51X; 015-070-47X; and 015-070-52X; as well as on APNs 015-380-02 and 015-380-06.)

PROJECT DESCRIPTION (as approved by the County): Build a 10-unit inn in 2 phases. Phase I to consist of (1) the demolition and reconstruction of the former Orca Inn into a main unit of 2,961 sq. ft., an upstairs unit of 1,089 sq. ft. and a downstairs unit of 833 sq. ft., (2) a 1,276 sq. ft. two floor manager's unit, (3) 1,269 sq. ft. equipment barn, 648 sq. ft. maintenance shop, and (4) a 240 sq. ft. generator/pump shed. Phase II would consist of (1) 7 units with 3 added to the main building in two storied units of 954 sq. ft., 951 sq. ft., and 820 sq. ft., (2) 2 units within a detached bunkhouse of 531 sq. ft. and 757 sq. ft., and (3) 2 separate cottages of 835 sq. ft. and 915 sq. ft., respectively. A 778 sq. ft.

spa, wells, septic system, roads and underground utilities are also proposed within the approximate 3.7-acre area of development.

PROJECT DESCRIPTION (as currently amended *de novo*):

Redevelop an existing complex of ranch buildings and develop a six unit inn (that can be used as a seven unit inn) by: (1) demolishing five existing ranch buildings; (2) renovating and expanding the approximately 2,049-square-foot existing main building (former Orca Inn) into an inn containing three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; (3) constructing a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet; (4) constructing a ranch manager's unit of 1,737 square feet; (5) constructing an equipment barn of 1,121 square feet; (6) installing a generator/pump shed of 240 square feet; and (7) constructing a garage of 1,508 square feet. The project will reuse the existing septic system, improve the existing driveway, bury existing overhead utilities and provide for dedications of public access.

APPELLANTS:

(1) Molly Warner & Britt Bailey
(2) Commissioners Pat Kruer and Sara Wan;
(3) Mendocino Group Sierra Club, Attn: Rixanne Wehren & Friends of the Ten Mile, Attn: Judith Vidaver;
(4) Margery S. Cahn Trust & Whiting Family Revocable Trust

SUBSTANTIVE FILE DOCUMENTS:

1) Mendocino County CDU No. 6-2006
2) Mendocino County Local Coastal Program
3) Coastal Development Permit No. 1-83-278
4) Appeal No. A-1-MEN-96-28
5) Mendocino County CDU No. 9-95
6) Mendocino County CDUM No. 9-95/00

STAFF NOTES:

1. Adopted Findings

The Commission held a public hearing and approved the permit at the meeting of August 11, 2010. The adopted findings for approval differ from those contained in the written staff recommendation dated November 4, 2010. At the hearing, the staff presented an addendum that presented: (I) a correction to an error contained in the Staff Note No. 2, "Background;" (II) changes to the special conditions including revisions to Special Condition Nos.5, 15, and 20; (III) revisions to the findings to correct an error and add more discussion about limits on special events; (IV) an insert for Exhibit No. 5, "Project Description," that corrects minor discrepancies in the project description; and (V) new correspondence received since publication of the July 22, 2010 staff report. The Commission adopted the staff recommendation as modified by the addendum in its entirety.

The following resolution, conditions, and findings were adopted by the Commission on August 11, 2010 upon conclusion of the public hearing.

2. Background

The Commission has previously considered Appeal No. A-1-MEN-07-028 on four separate occasions. On September 7, 2007, the Commission determined that the appeal of the County of Mendocino's approval of a local coastal development permit for a 10-unit inn raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. On November 4, 2009, the Commission first considered the application de novo and denied the proposed development by a final vote of 4-6. The applicant later submitted a reconsideration request (Reconsideration Request No. A-!-MEN-07-028-R) which the Commission heard at its meeting of January 15, 2010. At that meeting, the Commission held a public hearing and denied the reconsideration request.

After the Commission's denial of the reconsideration request, the applicant filed suit against the Commission challenging the Commission's denial of the permit and denial of the reconsideration request (*Jackson-Grube Family, Inc. v. California Coastal Commission*, Mendocino County Superior Court Case No. SCDKCVG-0955369). The applicant and the Commission subsequently entered into an agreement to settle the litigation. The settlement agreement provides that if the Commission acts to approve a modified project description for the development that includes certain changes to the project that the Commission considered at the initial de novo hearing in November, 2009, the lawsuit would be dismissed.

The principal changes to the project include (1) reducing the maximum number of units of the proposed inn from 7 to 6, (2) reducing the size of the proposed main inn building and overall reducing the square footage of the proposed inn and ranch building compound by approximately 28%, (3) providing various public access improvements and (4) agreement to recordation of a deed restriction prohibiting further development on Jackson-Grube Family, Inc. property west of Highway 1 (APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013). The proposed public access improvements include providing public access improvements previously provided to the County of Mendocino as part of the approval of an earlier inn project for the site including (a) conveyance of fee title to the County of a one acre portion of the property, (b) $25,000 paid to the County toward development of coastal access in the area; and (c) dedication of an easement for public access to the coast along a 15 foot strip of the property. The proposed public access improvements also including an offer to dedicate a 10-foot wide vertical pedestrian access from Highway 1 to the coastal bluff at the northern end of the property which would include a public viewing are at the end of the trail and parking for at least five vehicles in a parking area off of Highway 1.

Under the settlement agreement, the Commission retains full discretion as allowed by law to grant, condition, or deny the Revised Project after full public hearing. The Superior Court remanded the permit application to the Commission for a public hearing on the revised project during the July 7-9, 2010 Commission meeting. The Commission opened the hearing on the remanded permit application on July 7 and continued the hearing to the August 11-13, 2010 Commission meeting.

3. Procedure

On September 7, 2007, the Commission determined that the appeal of the County of Mendocino's approval of a local coastal development permit for a 10-unit inn raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the application *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program (LCP) and is located between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with the Mendocino County certified LCP and the public access policies of the Coastal Act. Testimony may be taken from all interested persons at the *de novo* hearing.

4. Amended Project Description and Supplemental Information Submitted by Applicant for *de novo* Review

For the purposes of the Commission's January 7, 2010 de novo review, the applicants have submitted a revised project description and revised plans (See Exhibit Nos. 5-8) that make changes to the development originally approved by the County.

In addition, the applicant has presented new information addresses both contentions raised specifically in the appeals as well as other issues of conformance with the policies of the certified LCP that were not raised in the appeals but which also affect the consistency of the proposed project with the certified LCP.

A. Revised Project Description

The proposed project description as revised for the Commission's *de novo* review involves redeveloping an existing complex of ranch buildings and developing a six unit inn by demolishing five existing ranch buildings and developing a new inn and ranch compound of buildings in the general location of the existing buildings to be demolished.

The new inn would include: (1) a main building, including renovation of the former Orca Inn into three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; and (2) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet.

Ranch and service operations would include: (1) a ranch manager's unit of 1,737 square feet; (2) an equipment barn of 1,121 square feet; (3) a generator/pump shed of 240 square feet; and (4) a garage of 1,508 square feet. The existing water tank of approximately 189 square feet, its adjacent pump house of approximately 134 square feet and two existing wells and majority of existing driveway are to remain. The project will reuse the existing septic system, improve the existing driveway, and bury existing overhead utilities.

The total area of development is approximately 1.56 acres, which includes the building envelope of approximately 1.22 acres and the driveway of approximately .34 acres. The existing farmhouse, which comprises a portion of the proposed main building, is to be renovated, with retention of a minimum of 50 percent of the existing exterior walls and roof.

The standard and special conditions recommended in the Commission staff report for CDP No. A-1-MEN-07-028 dated October 22, 2009, as modified in the addendum dated November 3, 2008 [*sic*], are included in the project.

Public access improvements previously provided to the County of Mendocino as part of the approval of CDP CDU 9-95 are included in the project, including: (1) conveyance of fee title to the County of a one acre portion of the property; (2) $25,000 paid to the County toward development of coastal access in the area; and (3) dedication of an easement for public access to the coast along a 15 foot strip of the property.

The project also includes recordation of an offer to dedicate a 10-foot wide vertical pedestrian access from Highway 1 to the coastal bluff, and parking for at least five vehicles at or near Highway 1, at the north end of the Jackson-Grube Family, Inc. property west of Highway 1. The new offer to dedicate will connect the existing lateral pedestrian access easement held by the Mendocino Land Trust to the new vertical pedestrian access.

The project includes agreement to recordation of a deed restriction prohibiting further development on Jackson-Grube Family, Inc. property west of Highway 1 (APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013). The deed restriction shall not prohibit Jackson-Grube Family, Inc. from seeking a CDP to replace a previous barn that formerly straddled AP 15-330-13 and AP 15-380-05. Any proposed replacement barn shall be a one-story agricultural building, may not be taller than 18 feet, shall conform to all applicable local coastal program and Coastal Act requirements, and shall be located in the general vicinity of the previous barn.

B. Supplemental Information

The supplemental information submitted addresses certain issues of conformance of the currently proposed project with the LCP. Some of the new information addresses contentions raised specifically in the appeals and determined by the Commission to raise substantial issues of conformance with the certified LCP. The new information also addresses other issues of conformance with the policies of the certified LCP not raised in the appeals but which must be addressed to approve the project de novo. The supplemental information submitted consists of the following:

(i.) Engineering Geologic Reconnaissance Report . The report, prepared by BACE Geotechnical and dated January 10, 2008 (Exhibit No. 15), evaluates geologic hazards to demonstrate that the development would be safe from bluff retreat concerns;

(ii.) Hydrological Study Report. The hydrological report presents the results of a well pumping test and hydrological study to evaluate the adequacy of groundwater to serve the development to demonstrate that the proposed withdrawal of groundwater will not have a significant adverse effect on water supplies serving

neighboring properties, prepared by Questa Engineering Corporation dated January 10, 2008 (Exhibit No. 16);

(iii) Traffic Analysis. The traffic analysis, prepared by Whitlock & Weinberger Transportation, Inc. and dated January 14, 2008, evaluates the effects of the development on motor vehicle and bicycle use of Highway One to demonstrate that the development would not reduce service levels on the highway (Exhibit No. 18); and

(iv) ESHA and Westland Delineation. The updated survey of environmentally sensitive habitat areas and wetland delineation, prepared by Redwood Coast Associates dated August, 2008, surveys rare plant and wetlands on the site and provides recommendations for establishing buffers adequate to protect these resources and achieve consistency with the ESHA buffer policies of the LCP. A separate ESHA assessment related to the proposed new vertical public access area proposed at the north end of the property was submitted on June 15, 2010. Both of these documents are included as Exhibit No. 17.

(v) Supplemental Parcel Information. The applicant has submitted various documents concerning the legality and existing configuration of the contiguous parcels at or adjoining the project site owned by the applicant. This information is submitted to establish the legal development potential of the subject property. These documents include (1) copies of County approved Certificates of Compliance (COCs) for the property owned by the applicant, (2) several property maps depicting the property owned by the applicant, the zoning designations for the different APNs, the patent deed areas, and the COC boundaries, and (3) copies of the chain of title for each parcel owned by the applicant (See Exhibits 19-21).

(vi) Evidence of County Department of Environmental Health Approval of Septic System. The applicant submitted a copy of the first page of the sewage disposal system site evaluation report prepared for the project stamped "Approved" by the County of Mendocino Environmental Health Department. The Approval is dated October 31, 2007. The stamped document was submitted to demonstrate that the project site has the necessary sewage disposal septic capacity to serve the proposed development.

(vii) Williamson Act Contract Information. The applicant has submitted a copy of an Agricultural Preserve Contract entered into between the applicant and Mendocino County and the supporting County staff report recommending approval of the contract by the County Planning Commission and Board of Supervisors. The contract placed approximately 1,339.31 acres of the ranch into a Type II Agricultural Preserve and includes mainly the portions of the ranch east of Highway One and an 8-acre APN west of the highway that is immediately south of the APN where the inn development is proposed. The agricultural preserve

information was submitted to demonstrate that the Williamson Act contract would preclude developing the inn on the portions of the ranch east of the highway.

(viii) Visual Impact Study. The study, prepared by Sellers & Company Architects, dated May 27, 2009, includes a compendium of aerial and landward views of the site comparing existing views with views from the same locations showing superimposed simulations of the proposed development as revised for purposes of the Commission's de novo review. The visual study was submitted to demonstrate that the development would not have significant adverse visual impacts and would be subordinate to the character of its setting (See Exhibit 22).

The amended project description and supporting information address issues raised by the appeal, where applicable, and provide additional information concerning the amended project proposal that was not a part of the record when the County originally acted to approve the coastal development permit.

I. Resolution to Approve 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 certified Mendocino County LCP. Approval of the permit complies with the California Environmental Quality Act because either: 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

I. STANDARD CONDITIONS: See Appendix A.

II. SPECIAL CONDITIONS:

1. Conformance of the Design and Construction Plans to the Geotechnical Investigation Report

A. All final design and construction plans, including bluff setback, foundations, grading, and drainage plans, shall be consistent with the recommendations contained in the Geotechnical Investigation report dated January 10, 2008 prepared by BACE Geotechnical. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed

professional (Certified Engineering Geologist or Geotechnical Engineer) has reviewed and approved all final design, construction, foundation, grading and drainage plans and has certified that each of those plans is consistent with all of the recommendations specified in the above-referenced geotechnical report approved by the California Coastal Commission for the project site.

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

2. <u>No Future Bluff or Shoreline Protective Device</u>

A. By acceptance of this permit, the applicant agrees, on behalf of himself and all successors and assigns, that no bluff or shoreline protective device(s) shall ever be constructed to protect the new main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines authorized pursuant to Coastal Development Permit No. A-1-MEN-07-028, in the event that the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines are threatened with damage or destruction from waves, erosion, storm conditions, bluff retreat, landslides, ground subsidence, or other natural hazards in the future. By acceptance of this permit, the applicant hereby waives, on behalf of himself and all successors and assigns, any rights to construct such devices to protect the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines that may exist under Public Resources Code Section 30235 or under Mendocino County Land Use Plan Policy No. 3.4-12, and Mendocino County Coastal Zoning Code Section 20.500.020(E)(1).

B. By acceptance of this Permit, the applicant further agrees, on behalf of himself and all successors and assigns, that the landowner shall remove the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines authorized by this permit if any government agency has ordered that the structures are not to be occupied due to any of the hazards identified above. In the event that portions of the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines fall to the beach before they are removed, the landowner shall

remove all recoverable debris associated with the development from the beach and ocean and lawfully dispose of the material in an approved disposal site. Such removal shall require a coastal development permit.

C. In the event the edge of the bluff recedes to within 10 feet of the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines but no government agency has ordered that the structures not be occupied, a geotechnical investigation shall be prepared by a licensed geologist or civil engineer with coastal experience retained by the applicant, that addresses whether any portions of the structures are threatened by waves, erosion, storm conditions, or other natural hazards. The report shall identify all those immediate or potential future measures that could stabilize the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines without shore or bluff protection, including but not limited to, removal or relocation of portions of the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines. The report shall be submitted to the Executive Director and the appropriate local government official. If the geotechnical report concludes that the main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines 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 main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines.

3. <u>Assumption of Risk, Waiver of Liability and Indemnity</u>

By acceptance of this permit, the applicant acknowledges and agrees: (i) that the site may be subject to hazards from landslide, bluff retreat, erosion, subsidence, 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.

4. **Deed Restriction**

PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028 and consistent with the applicant's implementation of Special Condition No. 6, the applicant shall submit for the review and approval of the Executive Director, 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.

5. **Open Space Restriction**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur anywhere on APN 015-380-02, APN 015-380-03, APN 015-380-04, APN 015-380-06, and APN 015-330-13, all located west of Highway One as shown on Exhibit No. 23 and as described and depicted in an Exhibit attached to the Notice of Intent to Issue Permit (NOI) that the Executive Director issues for this permit except for:

1. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit:
    a. agricultural fences, corrals, and other accessory agricultural development but not including any residences, barns, or other significant new above-ground structures other than the barn identified in subsection b. below;
    b. replacement of a barn that formerly straddled APN 015-330-13 and APN 015-380-05 with a new barn that is one-story, not taller than 18 feet, conforms to all applicable local coastal program and Coastal Act requirements, and is located in the general vicinity of the previous barn;
    c. installation of utilities;

d. removal of non-native, invasive vegetation and planting of native plants;
e. removal of vegetation for compliance with Cal-Fire defensible space requirements; and
f. improvements for public access purposes.

2. Improvement of the offered public access easements dedicated pursuant to Special Condition Nos. 17 and 20 if approved as a new coastal development permit by Mendocino County or by the Coastal Commission as an amendment to this coastal development permit.

B. **PRIOR TO ISSUANCE OF THE "NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028" (NOI)** and consistent with the applicant's implementation of Special Condition No. 6, 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 this condition, as generally described above and shown on Exhibit No. 23 attached to this staff report.

6. <u>Limitations on APN 015-380-005, APN 015-380-003, and APN 015-380-004 and Parcel Containing APN 015-380-003, APN 015-380-004, and APN 015-380-005</u>.

PRIOR TO ISSUANCE OF CDP NO. A-1-MEN-07-028, the applicant shall submit written evidence, for the review and approval of the Executive Director, that the applicant/landowner acknowledge<u>s</u>, agree<u>s</u> to, and has implemented the requirements of subsection A1, A2 and A3.

A1. By acceptance of this permit, the applicant agrees, on behalf of itself and all successors and assigns with respect to the subject property, that all portions of the property identified as APN 015-380-03, APN 015-380-04, and APN 015-380-05 and generally depicted on Exhibit 27: (a) comprise a part of one single legal parcel described in Exhibit 20 and generally depicted in Exhibit 21 as CC 39-90-D, except for APN 015-330-05 which was transferred after issuance of the certificate of compliance; (b) shall henceforth be considered and treated as part of one single parcel for all purposes including but not limited to sale, conveyance, development, taxation or encumbrance; and (c) shall not be divided or alienated from each other or from the single legal parcel of which they are a part, and

A2. **PRIOR TO ISSUANCE OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028 (NOI)**, 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 (a) the property identified by the three APNs affected by this condition as generally described above and as generally depicted on Exhibit 27 as well as (b) the entirety of the single legal parcel containing the property identified as APN 015-380-03, APN 015-380-04, and APN 015-380-05, as described in Exhibit 20 and as generally depicted on Exhibit 21 as CC 39-90-D, except for APN 015-330-05 which was transferred after issuance of the certificate of compliance.

A3. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028**, the applicant shall execute and record a deed restriction against the single legal parcel containing the property identified as APN 015-380-03, APN 015-380-04, and APN 015-380-05, in a form acceptable to the Executive Director, reflecting the restrictions set forth above. The deed restriction shall include a legal description and graphic depiction of (a) the property identified as APN 015-380-03, APN 015-380-04, and APN 015-380-05and generally depicted on Exhibit 27 as well as (b) the entirety of the single legal parcel containing the property identified as APN 015-380-03, APN 015-380-04, and APN 015-380-05 as described in Exhibit 20 and as generally depicted on Exhibit 21 as CC 39-90-D, except for APN 015-330-05 which was transferred after issuance of the certificate of compliance. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens, including tax liens, that the Executive Director determines may affect the enforceability of the restriction.

7. <u>Future Development Restrictions</u>

A. This permit is only for the development described in Coastal Development Permit No. A-1-MEN-07-028. Any future improvements to the authorized structures and other approved development and any changes in use of the structures will require a permit amendment or a new coastal development permit.

B. The approved inn units are intended to be used for commercial transient occupancy purposes only. When and if any of the inn units cease to be used **for** commercial transient occupancy purposes, a coastal development permit amendment or new coastal development permit application shall be obtained to either remove the unit or convert the unit to a use consistent with the certified Mendocino County LCP.

8. <u>Protection of Archaeological Resources</u>

A. If an area of archaeological resources or human remains are 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 archaeological resources shall submit an archaeological plan for the review and approval of the Executive Director.

1) If the Executive Director approves the Archaeological Plan and determines that the 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.

2) If the Executive Director approves the 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. <u>Landscaping Plan</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-07-028**, the applicant shall submit to the Executive Director, for review and written approval, a final landscaping plan that provides for the following:

i. Native trees that will grow to a height of at least 15-20 feet shall be planted along the eastern perimeter fence of the inn complex at a spacing of approximately 10-foot centers to partially screen the development from Highway One;

ii. A landscaped berm at least three feet high and planted with native trees and shrubs shall be planted along the perimeter of the overflow parking area. The density and mature heights of plantings shall be sufficient to screen vehicles using the parking area from view from Highway One;

iii. Unless required to abate a nuisance consistent with Coastal Act Section 30005(b), no limbing or pruning of the visually screening trees and shrubs planted pursuant to the approved landscaping plan shall occur unless a

permit amendment is obtained and issued prior to the commencement of limbing and pruning;

iv. All plantings shall be maintained in good condition throughout the life of the project to ensure continued compliance with the approved final landscape plan. If any of the plants to be planted according to the plan die, become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than May 1st of the next spring season in-kind or with another native species common to the coastal Mendocino County area that will grow to a similar or greater height;

v. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or by the State of California shall be planted or allowed to naturalize or persist on the parcel. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property;

vi. Rodenticides containing any anticoagulant compounds, including but not limited to, Bromadiolone, Brodifacoum, or Diphacinone, shall not be used;

vii. A final landscape site plan showing the species, size, and location of all plant materials that will be planted on the developed site, the size and location of the required landscaped berm, any irrigation system, delineation of the approved development, and all other landscape features such as, but not limited to, site topography, horticultural plantings, decorative rock features, pathways, and berms and/or raised beds.

B. The permittees 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 legally required.

10. <u>Landscaping Restrictions</u>

Plantings throughout the project site shall be limited to native vegetation. Only those plants that are native to northern coastal scrub or coastal prairie habitats of Mendocino County may be planted beyond the perimeter of the approved inn and ranch complex;

A. All proposed plantings shall be obtained from local genetic stocks within Mendocino County. If documentation is provided to the Executive Director that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used. 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 property that is the subject of CDP No. A-1-MEN-07-028.

B. No rodenticides of any kind shall be utilized within the property that is the subject of CDP No. A-1-MEN-07-028.

11. <u>Erosion and Runoff Control Plan</u>

A. **PRIOR TO ISSUANCE OF THE PERMIT,** the applicant shall submit to the Executive Director, for review and written approval, an erosion and runoff control plan demonstrating the following:

(1) Straw bales and/or silt fencing shall be installed to contain runoff from construction areas;

(2) Native on-site vegetation shall be maintained to the maximum extent feasible during construction;

(3) Any disturbed areas shall be replanted or seeded with native vegetation of local genetic stock following project completion;

(4) All on-site stockpiles of construction debris shall be covered and contained to prevent polluted water runoff; and

(5) Runoff from the roofs and other impervious surfaces of the development shall be collected and directed away from bluffs and the wetland environmentally sensitive habitat areas (ESHA) and ESHA buffer area as shown on Exhibit

No. 4 in a non-erosive manner into pervious areas of the site (i.e. undeveloped areas, landscaped areas) to achieve infiltration to the maximum extent practicable.

(6) All grading and excavation work shall only occur during the summer months from April 15 through October 31

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

12. Design Restrictions

A. All exterior siding and roofing of the proposed structures shall be composed of the colors proposed in the application or darker earth tone colors only. The current owner or any future owner shall not repaint, resurface, or stain the inn buildings or other approved structures with products that will lighten the colors of the approved structures without an amendment to this permit. In addition, all exterior materials, including roofs, windows, and solar panels shall be non-reflective to minimize glare;

B. All exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress, egress, and use of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will be directed to shine beyond the boundaries of the subject parcel.

C. All utilities serving the proposed project shall be placed underground.

13. Caltrans Encroachment Permit

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director a copy of the final, approved Encroachment Permit issued by Caltrans for construction of the proposed new driveway connection to Highway One and for installation of the proposed water line under the highway, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by Caltrans. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this

coastal development permit, unless the Executive Director determines that no amendment is legally required.

14. Protection of Environmentally Sensitive Habitat

The permittee shall comply with the following requirements to protect sensitive plant habitat:

A. Comply with the erosion and runoff control measures specified in the Erosion and Runoff Control Plan approved pursuant to Special Condition No. 11 and the landscaping restrictions required by Special Condition No. 10.

B. Combination silt fencing and construction fencing shall be installed around all environmentally habitat areas and their buffers as shown in Exhibit 4 that are located downslope of any construction area. The fencing shall be inspected regularly and maintained during the entire construction period.

C. Pre-construction breeding bird surveys shall be conducted by a qualified biologist for any development proposed between February 1 and August 31 of each year a maximum of two weeks prior to the commencement of the development. If a nest is discovered, a temporary buffer from construction activities at least 100 feet shall be established with silt fencing and construction fencing and no development may occur within the buffer area until a qualified biologist has determined that all young have fledged, or left the nest.

15. Special Events

Special events are gatherings of multiple persons using the approved inn and ranch complex and other parts of the subject property for purposes other than, or in addition to, overnight accommodations in the approved guest units for which the managers of the inn or their employees or agents either (a) charge a fee for the use or services to accommodate the use, or (b) exclude the general public. Examples of special events include weddings, organizational retreats, lectures, classes, business meetings or meetings of other organizations for which the managers of the inn or their employees or agents either (a) charge a fee for the use or services to accommodate the use, or (b) exclude the general public. Special events shall be subject to the following restrictions:

A. Special events at the facility shall be limited to a maximum of 99 persons and to a maximum of 12 events per year. Gatherings of 100 or more persons or requests

for more than 12 special events per year shall require an amendment to this coastal development permit.

B. During temporary events and at all other times, the number of vehicles parked at the site shall be limited so that all of the vehicles of visitors, guests, workers, and others staying at or working at the inn and ranch can be accommodated in the 10 space primary parking lot, within the 5-space guest garage structure, and the 24 space overflow parking area. No parking is allowed elsewhere on the project site as shown in Exhibit No. 28, including, but not limited to areas along the driveway or in the fields adjoining the inn complex.

C. Any tents installed to accommodate temporary events shall be located within the confines of the perimeter fence to be installed around the inn and ranch complex.

D. Special events shall have a duration of no more than three days.

E. Special events shall be non-consecutive and any tents or other temporary structures and facilities installed to accommodate a temporary event shall be taken down within 48 hours of each special event.

F. A coastal development permit amendment for a temporary event of 100 or more persons or for a special event that is the 13th or greater event held at the site in the last year shall be obtained prior to holding the event.

16. <u>Final Plans for Remodeling Existing Ranch House</u>

A. **PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-08-011**, the applicant shall submit, for review and approval of the Executive Director, a final construction plans for remodeling and expansion of the existing ranch house building and converting the structure into the main inn building.

1) The final construction plans shall demonstrate the following:

a. Fifty percent of the existing walls of the existing structure will be retained.

b. The structure will be built consistent with the revised project description and plans submitted for purposes of the Commission's de novo review.

2) The plan shall include, at a minimum, the following components:

a. Final construction plans for the structure including final framing, roofing, and floor plans, building elevations. The plans shall clearly distinguish the portions of the walls and other elements of the existing building that have been retained from the portion of the proposed remodeled structure that will be new.

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

17. **Offer to Dedicate Lateral Public Access Easement Along Highway One, Vertical Public Access Easement to Bluff, Public Access Viewing Area Easement, and Public Access Parking Area Easement**

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, and in order to implement the applicant's proposal, the applicant shall submit for the discretionary review and approval of the Executive Director, evidence that the applicant has executed and recorded against the entirety of the legal parcel containing APN 015-380-02 an irrevocable offer to dedicate a public access easement(s) to a public or non-profit entity acceptable to the Executive Director in substantial compliance with the terms of the Project Description as proposed by the applicant in Exhibit No. 5 and as generally shown in Exhibit No. 24 except as otherwise modified by these Special Conditions and comprised of the following components:

A. An approximately 1,000-foot-long A 15-foot-wide lateral public access easement adjacent to the Highway One Right-of-way extending from the southern boundary of the parcel to northern boundary;

B. An approximately 1,200-foot-long 10-foot-wide vertical public access easement extending across APN 015-380-02 parallel to and 50 feet south of the riparian area extending along the northern boundary of the parcel from the lateral public access easement referred to in Part A above to the bluff;

C. An easement for a public access parking area sufficient for five automobiles that includes a 60-foot-long by 40-foot-wide parking area located seaward of the offered lateral public access easement referred to in Part A above with a driveway connection to Highway One and located approximately 375 feet south of the northern property line of APN 015-380-02; and

D. A 25-foot-wide by 25-foot long easement for a public viewing area and platform located at the seaward end of the vertical public access easement.

Any future development that is proposed to be located either in whole or in part within the areas described in the recorded offer(s) 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(s).

18. 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 certified LCP and/or 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.

19. Public Access Easement Improvements

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit a written agreement acknowledging the ability of the entity accepting the offer(s) to dedicate a public access easement(s) to develop public access improvements within the easement area(s).

20. Recorded Evidence that Previously Granted or Offered Public Access Areas are Irrevocable, Reserved For Public Access and Are Provided As a Condition of This Permit

A. Dedication of Lateral Public Access Easement Adjacent to Highway One

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the discretionary review and approval of the Executive Director, evidence that the applicant has executed and recorded against the entirety of the legal parcel(s) containing APNs 015-330-13, 015-380-05, and 015-380-04 either an outright dedication to the Mendocino Land Trust, or an

irrevocable offer to dedicate to a public or non-profit entity acceptable to the Executive Director a public access easement(s) in substantial compliance with the terms of the Project Description as proposed by the applicant in Exhibit No. 5 and as generally shown in Exhibit No. 24 except as otherwise modified by these Special Conditions and comprised of an approximately 6,000-foot-long, 15-foot-wide lateral public access easement adjacent to the Highway One Right-of-way extending from the southern boundary of APN 015-330-13 to northern boundary of APN 015-380-04. Any future development that is proposed to be located either in whole or in part within the area described in the recorded dedication or 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.

B. <u>Reservation of APN 015-330-05 For Public Access Purposes</u>

1. The approximately one-acre area between Highway One and the ocean bearing APN 015-330-05 which: (a) was transferred to the County after issuance of the COC attached as Exhibit 20; and (b) is generally depicted on Exhibit 24 shall be reserved for public access and/or open space use in substantial compliance with the terms of the Project Description as proposed by the applicant in Exhibit No. 5.

2. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the discretionary review and approval of the Executive Director, evidence that the property owner has executed and recorded against the entirety of the legal parcel containing APN 015-330-05, documentation in substantial compliance with the terms of the Project Description as proposed by the applicant in Exhibit No. 5 of (a) the conveyance of fee title to the County of an approximately one-acre area between Highway One and the ocean bearing APN 015-330-05 and generally depicted on Exhibit 24 consistent with the requirements of Mendocino County Coastal Development Permit Modification No. CDUM 9-95/2000. The documentation recorded against the entirety of the legal parcel containing APN 015-330-05 which was transferred to the county after issuance of the COC, shall expressly evidence that the above-referenced conveyances has been accepted, shall be used for public access purposes, is irrevocable and is provided as a condition of A-1-MEN-07-028.

3. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit for the discretionary review and approval of the Executive Director, evidence that the County or successor

landowner of APN 015-330-05 acknowledges and agrees that APN 015-330-05 is irrevocably reserved for public access and/or open space use in substantial compliance with the terms of the Project Description as proposed by the applicant in Exhibit No. 5 and this special condition.

21. Liability for Costs and Attorneys Fees

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

22. Length of Stay Provisions

All six inn units shall be open and available to the general public. Rooms may not be rented to any individual, family, or group for: (1) more than 30 consecutive calendar days counting portions of calendar days as full days; or (2) no more than 60 days per year.

23. Conditions Imposed By Local Government

This action has no effect on conditions imposed by a local government pursuant to an authority other than the Coastal Act.

IV. FINDINGS & DECLARATIONS

The Commission hereby finds and declares as follows:

A. Incorporation of Substantial Issue Findings

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated August 21, 2007.

B. Project History

1. Previous Inn Development Approvals

Coastal development permits were approved for development of an inn facility at the subject property twice previously. In September 1984, prior to certification of the Mendocino LCP, the Coastal Commission granted Coastal Development Permit No. 1-83-278 for conversion of an existing residence into a four-unit bed and breakfast inn, subject to conditions, including conditions requiring recordation of an offer to dedicate coastal access. The prior to issuance conditions of this permit were never met, the approval expired, and the permit was never issued.

In 1996, four years after certification of the LCP, the County Planning Commission approved Coastal Development Permit No. CDU 9-95, allowing for a 10-unit inn involving the remodeling of the existing large ranch house into two guest units and manager's quarters and the construction of eight new individual guest cottages. The Planning Commission approval was subsequently appealed to the Board of Supervisors and approved by the Board on May 13, 1996. The County's approval included conditions requiring recordation of an offer to dedicate coastal access. The Board's approval in turn, was later appealed to the Coastal Commission (Appeal No. A-1-MEN-96-028). On July 10, 1996, the Coastal Commission determined that the appeal raised no substantial issue, allowing the County's approval of CDU 9-95 to stand.

The applicants sued the County, challenging the condition requiring coastal access on the grounds that a nexus did not exist between the impacts of the project on public access and the exaction of property for public access purposes. Eventually a settlement of the law suit was reached between the applicants and the County that provide for the County to drop the condition requiring the offer of dedication of public access in exchange for the applicants (1) conveying fee title to the County of a one-acre portion of the approximately 400-acre subject property, (2) paying the County $25,000 toward the development of coastal access in the area, and (3) dedicating an easement for public access through property along a 15-foot strip on the west side of the Highway One right-of-way. On August 3, 2000, the County then approved Coastal Development Use Permit Modification #CDUM 9-95/2000 as a means of implementing the terms of the settlement agreement.

Prior to the start of construction of the inn project approved under Coastal Development Use Permit CDUM 9-95/2000, the applicant proposed significant alterations to the site layout and interior design of the project. According to County staff, the County

determined that because the project changes were so substantial, an entirely new application would be required for the project. The applicants submitted the application for the current project that was approved by the County and appealed to the Coastal Commission.

2. Current Permit Application

On June 21, 2007, the Mendocino County Planning Commission conditionally approved the coastal development permit for the project (CDU #6-2006) (Exhibit No. 10). As discussed above, the development, as approved by the County, consisted of the establishment of a 7-unit inn with an additional manager's unit in two phases on a portion of a 400-acre parcel located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport, on the west side of Highway One, at 31502 North Highway One.

The approved permit imposed 36 special conditions. A number of these special conditions pertain to the appeal's contentions. These include several conditions that address the protection of visual resources including: (1) submittal of a parking plan that minimizes impacts on visual resources by limiting the size of overflow parking areas and requires existing vegetation to be retained , (2) submittal of a revised lighting plan to remove upcast lighting, (3) deletion of units 4-6 from the development, (4) undergrounding of utility lines, and (5) use of exterior building materials of earth tone colors, and (6) submittal of a landscaping plan. Other conditions pertinent to the contentions of the appeals include (7) encouragement to the applicant to enter into a water sharing agreement to the immediate neighbors to ensure long term availability of water; (8) demonstration of continuous use of the property as a visitor serving facility; (9) halting development if archaeological resources are encountered and not resuming development until the archaeological discover is evaluated; and (10) limitations on special events to less than 100 persons unless new coastal development permit authorization is obtained first.

The decision of the Planning Commission was not appealed at the local level to the County Board of Supervisors. The County then issued a Notice of Final Action, which was received by Commission staff on July 13, 2007 (Exhibit No. 11). Section 13573 of the Commission's regulations allows for appeals of local approvals to be made directly to the Commission without first having exhausted all local appeals when, as here, the local jurisdiction charges an appeal fee for the filing and processing of local appeals.

Between July 23-26, 2007, the Commission received four separate appeals of the County of Mendocino's decision to approve the development, including appeals from: (1) Molly Warner & Britt Bailey (Exhibit No. 10); (2) Commissioners Pat Kruer and Sara Wan (Exhibit No. 11); (3) Mendocino Group Sierra Club, signed by Rixanne Wehren &

Friends of the Ten Mile, signed by Judith Vidaver (Exhibit No. 12); and (4) the Margery S. Cahn Trust, Deborah Cahn, Trustee & the Whiting Family Revocable Trust, Judith Whiting, Trustee (Exhibit No. 13). On September 7, 2007, the Commission opened the hearing on the appeal and found that a Substantial Issue had been raised with regard to the consistency of the project as approved and the applicable policies of the LCP with respect to eight different contentions.

The Commission has previously considered Appeal No. A-1-MEN-07-028 on three separate occasions. On September 7, 2007, the Commission determined that the appeal of the County of Mendocino's approval of a local coastal development permit for a 10-unit inn raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 13115 of the Title 14 of the California Code of Regulations. On November 4, 2009, the Commission first considered the application de novo and denied the proposed development by a final vote of 4-6. The applicant later submitted a reconsideration request (Reconsideration Request No. A-!-MEN-07-028-R) which the Commission heard at its meeting of January 15, 2010. At that meeting, the Commission held a public hearing and denied the reconsideration request.

After the Commission's denial of the reconsideration request, the applicant filed suit against the Commission challenging the Commission's denial of the permit and denial of the reconsideration request (*Jackson-Grube Family, Inc. v. California Coastal Commission*, Mendocino County Superior Court Case No. SCDKCVG-0955369). The applicant and the Commission have subsequently entered into an agreement to settle the litigation. The settlement agreement provides that if the Commission acts to approve a modified project description for the development that includes certain changes to the project that the Commission considered at the initial de novo hearing in November, 2009, the lawsuit would be dismissed.

The principal changes to the project include (1) reducing the maximum number of units of the proposed inn from 7 to 6, (2) reducing the size of the proposed main inn building and overall reducing the square footage of the proposed inn and ranch building compound by approximately 28%, (3) providing various public access improvements and (4) agreement to recordation of a deed restriction prohibiting further development on Jackson-Grube Family, Inc. property west of Highway 1 (APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013). The proposed public access improvements include providing public access improvements previously provided to the County of Mendocino as part of the approval of an earlier inn project for the site including (a) conveyance of fee title to the County of a one acre portion of the property, (b) $25,000 paid to the County toward development of coastal access in the area; and (c) dedication of an easement for public access to the coast along a 15 foot strip of the property. The proposed public access improvements also including an offer to dedicate a 10-foot wide vertical pedestrian access from Highway 1 to the coastal bluff at the

northern end of the property which would include a public viewing are at the end of the trail and parking for at least five vehicles in a parking area off of Highway 1.

Under the settlement agreement, the Commission retains full discretion as allowed by law to grant, condition, or deny the Revised Project after full public hearing. The Superior Court has remanded the permit application to the Commission for a public hearing on the revised project during the July 7-9, 2010 Commission meeting.

3. The Commission's de novo review of the project on remand

As stated above, in November 2009, the Commission denied an application by the applicant for a CDP to develop an inn on a portion of the applicant's property located adjacent to and west of Highway 1 between Mendocino and Westport. The applicant subsequently sought reconsideration of the Commission's decision and the Commission denied that request. Persons who had appealed the local approval to the Commission appeared at the Commission's November 2009 permit hearing and presented testimony in opposition to issuance of a CDP that would allow development of an inn on the applicant's property.

In December of 2009, the applicant filed an action challenging the Commission's permit denial decision. Since the filing of this action, the parties have engaged in settlement discussions. The product of these discussions is a settlement agreement between the applicant and Commission staff (Exhibit 30). The settlement agreement does not obligate the Commission to grant the applicant a new CDP and explicitly states that the Commission retains full discretion to deny the applicant's revised project after a full public hearing on the revised project. If that occurs, the litigation will not be settled, and the applicant will continue to seek an order from the Court to set aside the Commission's original decision to deny the development application.

Contrary to statements made by persons who had appealed the local approval to the Commission, the Commission has not been ordered by a Court to approve settlement of pending litigation, nor has the Commission been ordered to approve a new coastal development permit for the Jackson-Grube Family project. Instead, on June 17th, the Mendocino Superior Court remanded the subject matter to the Commission for a public hearing on the applicant's settlement offer and on whether the Commission should issue a modified CDP for the project. The Commission has provided notice of its new public hearing and the public will have an opportunity to be heard by the Commission before it takes any further action on Petitioners' project. The Court's remand order does not deprive the project appellants or anyone else of due process.

Persons who had appealed the local approval to the Commission also argue that the remand order should be set aside because it improperly provides the Commission with jurisdiction it would not otherwise have to consider a revised project. However, the Court's remand order does not impermissibly expand the Commission's jurisdiction over this project. Although the Commission's de novo appellate review of this and other projects does not include the right to approve something entirely different than was approved by the local permitting authority, the Commission can and frequently does require modifications to a project when it asserts its appellate jurisdiction. In this case, the proposed modifications consist of making the proposed inn smaller than the inn approved by the County, and requiring additional public access conditions for the project. This is not an entirely different project that requires new local review. The project appellant's argument that the Commission cannot consider project changes such as ones proposed here that are responsive to Coastal Act concerns that the Commission raised during its appellate review of the project is incompatible with the Coastal Act's requirement that the Commission review appeals de novo. (Pub. Resources Code § 30621, subd.(a).) Under the theory of persons who appealed the local approval of the project to the Commission, on appeal the Commission could do no more than either approve or deny projects as approved by a local government. This interpretation is incompatible with the concept of de novo review.

C. <u>Site Description</u>

The subject property is located in the rural and sparsely developed northern Mendocino coast approximately four miles south of Westport and approximately 12 miles north of Fort Bragg, on the west side of Highway One, at 31502 North Highway One.

The surrouding area consists largely of a gently-sloping open coastal terrace that extends approximately ¼-mile from the coastal hills east of Highway One to the ocean bluff edge west of Highway Ones. The terrace and hillsides are predominantely vegetated with low-growing grasses and are largely used for agricultural grazing which contributes to the rural agricultural character of the area. Due to the flat terrain of the terrace, and lack of tall vegetation or varied topography, the project site is highly visible from Highway One in both directions. The lack of trees and the very limited and widely scattered development in the immediate vicinity of the development site gives the landscape a very open appearance. The views to and along the coast from narrow two-lane Highway One in this area are sweeping and vast (See Exhibit 2) and the area is designated in the certified Mendocino LCP as a highly scenic area.

There is very little development located on either side of the highway in the immediate vicinity of the development site with the exception of a few scattered residences on the east side of the highway, three houses and a winery scattered along the west side of the

highway beginning approximately one mile north of the applicant's ranch, and several homes west of the highway on parcels within a half mile south of the proposed development site. A larger concentration of approximately 30 homes exists along the west side of the highway approximately two miles south of the proposed development south of Abalobadiah Creek. This concentration of houses two miles south of the development site is largely screened from view from Highway One in the vicinity of the development site by intervening vegetation and a topographical break in the terrace formed by the Abalobadiah Creek drainage.

The proposed inn and ranch complex is located on APN 015-380-05, which is located west of Highway One (See Exhibits Nos. 1-2). APN 015-380-05 is contained within a larger area that was recognized as a legal parcel by Certificate of Compliance #CC 39-90 granted by the County in April 1995 (See Exhibit No. 20). The irregularly-shaped COC area extends across a coastal terrace from the ocean approximately 800 feet eastward to Highway One and beyond the highway as much as 1,600 feet farther east. The COC area extends approximately one half mile along Highway One. CC 39-90 includes a statement that the COC area exists as one legal parcel. The applicant also owns extensive adjoining area north, south, and east of the CC 39-90 area that is contained within 11 different COCs. (See Exhibit No. 21) and extends approximately 1.25 miles along Highway One. The applicant also owns APN 015-380-06, a separate legal parcel that covers most of the point that extends west of the development site, as well as APN 015-380-02 to the north of the area covered by CC 39-90 where a public access easement and parking area are proposed, and APN 015-380-013 immediately to the south.

The bluff-top property is located on a gently sloping marine terrace. The property slopes gently westward across the coastal terrace at an approximately 3-5% grade. The irregular and steep ocean bluffs are approximately 80 to 120 feet high and form a series of coves and small points of land including a dominant northeast-trending peninsula located roughly in the center of the shoreline of the COC area. The bluffs contain several sea caves and are very steep with only small pockets of boulder beaches.

According to the biological report (see Exhibit No. 17) prepared for and submitted by the applicant for the de novo portion of the Commission's review the subject property contains four basic vegetation types, including California annual grassland, introduced perennial grassland, Northern coastal bluff scrub, and several mesic areas including an ephemeral stream channel and several freshwater marsh areas.

Botanical surveys conducted in 1991 and 1992 and relied upon by the County in its approval of the project indicated that the only environmentally sensitive habitat (ESHA) on the property consisted of a rare plant population of Mendocino paintbrush located along the bluffs. The updated biological report submitted for the Commission's de novo review of the project indicates that the subject property contains four types of ESHAs,

including habitats for two special status plant species, one special status plan community, four wetlands, and one ephemeral stream. An additional biological report was submitted that assesses the area in the vicinity of the proposed public access easement and parking area that indicates the easement area and parking lot would not be located within ESHA, although it would be within 50 feet of riparian and rare plant ESHA.

Mendocino coast Indian paintbrush (castilleja mendocinensis) has been identified in the coastal bluff scrub along the western and northern portion of the prominent northwest trending peninsula (see Exhibit No. 17). In the spring of 2008, approximately 160 individual plants were detected growing along the bluff face and bluff edge in this area. The hemiparasitic perennial herb has no federal or state listing status as threatened or endangered but is listed as a class 1B species in the Department of Fish & Game's California Natural Diversity Database.

Short-leaved evax (Hesperavax sparsiflora var. brevifolia) has been identified in the coastal bluff scrub near the western end of the peninsula. In February of 2008, the applicant's biologists observed approximately 250 individual plants of the species in two separate locations at the western end of the peninsula. The annual herb also has no federal or state listing status as threatened or endangered but is listed as a class 1B species in the California Natural Diversity Database.

Northern Coastal Bluff Scrub has been identified along portions of the bluff face and along the bluff top within ten feet of the bluff edge. The woody and herbaceous plant community is listed as a class G2, S2.2 plant community in the California Natural Diversity Database.

The biological report also identified an ephemeral stream and four freshwater wetland areas on the subject property, including a northwest wetland, a northeast wetland, and two southern wetlands (See Exhibit No. 4). The northwest wetland is approximately 0.67-acres in size and extends from just inside the northwest corner of the existing fenced compound to an area to the northwest close to the bluff. The northeast wetland extends east west across a portion of the property approximately 125 feet north of the proposed new driveway connection to Highway 1. The northerly extent of the wetland has not been mapped as only the southern edge borders the project site. The ephemeral stream identified by the botanical report also extends east west across the property more than 100 feet south of the development site from a culvert under Highway One just south of the current connection of the driveway to the highway to a cove along the bluff edge. The stream ranges in width from bank to bank from 3-20 feet and in depth from the bottom of the channel to the top of the bank from2-10 feet. The channel supports some wetland vegetation, but the stream is not surrounded by riparian vegetation. The two southern wetlands connect to this stream south of the existing driveway and east of the development site.

APN 015-380-05 is currently developed with a 2,049-square-foot ranch house, a 496-square-foot cottage, and several agricultural and accessory structures including a 1,080-square-foot barn, a 460-square-foot service building, a 448-square-foot shop building, a 168-squiare-foot pump house. The existing buildings cover a total lot area of 3,765 square feet and are located within a compound located in the approximately center of the parcel several hundred feet west of Highway One and approximately 150 feet east of the predominant bluff edge. Most of the agricultural structures are in disrepair and five other agricultural accessory structures have collapsed and been removed in recent years, including a garage, a two-story barn, a separate storage barn, an outhouse, and another accessory structure along the bluff edge. Portions of the old bluff edge structures appear to have fallen down the bluff edge. The compound of buildings is accessed by a long gravel driveway that extends west from the highway. The compound is surrounded by a white wooden rail fence.

APN 015-380-05 and the surrounding area once supported the logging town of Newport, which has since disappeared. During the 1870s, a portion of the bluff edge on the project site was used as a staging area to load cut timber onto boats at anchor using cables and a chute to transport the wood down from the cliffs. For many years the property has been used in part for agricultural grazing.

APN 015-380-05 is zoned as Remote Residential with a 20-acre minimum parcel size and a Planned Unit Development Combining District. The base zoning district is also overlain by a *1C designation, which allows for the development of an inn of up to 10 units. The zoning on surrounding lands includes additional Remote Residential as well as Range Land and Forest Land.

APN 015-070-51, which is approximately 148-acres in size and located on the east side of Highway One (See Exhibit No. 19), contains an existing developed spring which has served historically as the source of supply for the former Orca Inn complex as well as an existing test well that is intended to serve as the source of domestic water supply for the proposed ranch and inn development on bluff-top parcel west of the Highway. The proposed pipeline that would deliver water from the well to the inn would run through a separate intervening 9.5-acre APN, (APN 015-070-45) located on the east side of Highway One, also owned by the applicant. These two APNs located east of the highway are largely undeveloped rangeland used for agricultural grazing.

D. <u>Project Description</u>

The development as originally proposed and approved by the County consists of the establishment of a 7-unit inn with an additional manager's unit in two phases. The inn complex would be constructed within an area of approximately 277-feet wide by 335-

feet-long, approximately 150 feet from the bluff edge at its closest point. The inn complex would be surrounded by new fencing on the three sides and a sunken wall "ha-ha" on the westernmost (as well as a portion of the southern boundary). The "ha-ha" is a sunken wall and hedge arrangement that would serve as a barrier to the livestock that is raised on the property without impairing views from the inn complex to the ocean.

For the purposes of *de novo* review by the Commission, the applicants have submitted a revised project description and revised plans (See Exhibit Nos. 5-8) that make changes to the development originally approved by the County.

The proposed project description as revised for the Commission's *de novo* review involves redeveloping an existing complex of ranch buildings and developing a six unit inn by demolishing five existing ranch buildings and developing a new inn and ranch compound of buildings in the general location of the existing buildings to be demolished.

The new inn would include: (1) a main building, including renovation of the former Orca Inn into three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; and (2) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet.

Ranch and service operations would include: (1) a ranch manager's unit of 1,737 square feet; (2) an equipment barn of 1,121 square feet; (3) a generator/pump shed of 240 square feet; and (4) a garage of 1,508 square feet. The existing water tank of approximately 189 square feet, its adjacent pump house of approximately 134 square feet and two existing wells and majority of existing driveway are to remain. The project will reuse the existing septic system, improve the existing driveway, and bury existing overhead utilities.

The total area of development is approximately 1.56 acres, which includes the building envelope of approximately 1.22 acres and the driveway of approximately .34 acres. The existing farmhouse, which comprises a portion of the proposed main building, is to be renovated, with retention of a minimum of 50 percent of the existing exterior walls and roof.

The standard and special conditions recommended in the Commission staff report for CDP No. A-1-MEN-07-028 dated October 22, 2009, as modified in the addendum dated November 3, 2008 [*sic*], are included in the project.

Public access improvements previously provided to the County of Mendocino as part of the approval of CDP CDU 9-95 are included in the project, including: (1) conveyance of fee title to the County of a one acre portion of the property; (2) $25,000 paid to the County toward development of coastal access in the area; and (3) dedication of an easement for public access to the coast along a 15 foot strip of the property.

The project will also include recordation of an offer to dedicate a 10-foot wide vertical pedestrian access from Highway 1 to the coastal bluff, and parking for at least five vehicles at or near Highway 1, at the north end of the Jackson-Grube Family, Inc. property west of Highway 1. The new offer to dedicate will connect the existing lateral pedestrian access easement held by the Mendocino Land Trust to the new vertical pedestrian access.

The project will include agreement to recordation of a deed restriction prohibiting further development on Jackson-Grube Family, Inc. property west of Highway 1 (APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013). The deed restriction shall not prohibit Jackson-Grube Family, Inc. from seeking a CDP to replace a previous barn that formerly straddled AP 15-330-13 and AP 15-380-05. Any proposed replacement barn shall be a one-story agricultural building, may not be taller than 18 feet, shall conform to all applicable local coastal program and Coastal Act requirements, and shall be located in the general vicinity of the previous barn.

E. Consistency With Use and Size Limitations of *1C Designation.

LCP Policies and Standards:

LUP Policy 3.7-1 states:

The land use plan designates the existing visitor serving facilities and reserves appropriate sites for future or potential visitor serving facilities.

LUP Policy 3.7-2 states:

Because unrestricted development of visitor facilities would destroy those qualities that attract both residents and tourists, limitations on visitor facilities by type and location shall be as set by Policy 3.7-1 and illustrated by Table 3.7-2 which reflects a tabulation based on land use maps (see footnotes) to avoid highway congestion, degradation of special communities, and disruption of enjoyment of the coast.

LUP Policy 3.7-3 states:

Visitor serving facilities and proposed sites where the Coastal Commission has approved the issuance of permits are designated on the land use maps, and are reserved for those visitor accommodations as defined in Chapter 2. Provision has also been made for the following visitor services: boat launching or rental, visitor-oriented and handicraft

shops. Precise intensity of visitor accommodations and development standards shall be specified by zoning regulations so the developments will be compatible with the natural setting and surrounding development. Visitor serving facilities which might occur in commercially designated areas have not been specifically designated, except for the Mendocino Town Plan. (See Appendix 10 for listing of privately operated visitor serving facilities.)

LUP Policy 3.7-4 states:

*Proposed sites or areas for additional visitor serving facilities are designated and reserved by a number indicating a category of VSF described in this section subject to the granting of a conditional use permit (*C). Precise intensity of the proposed visitor accommodations and development standards shall be specified in the Zoning Regulations and regulated so that the use will be compatible with existing uses, public services and environmental resources. Any visitor serving facility not shown on the LUP Maps shall require an LUP amendment except in Rural Village (RV) and Commercial (C) Land Uses.*

No development more intense than a single family residence shall be allowed on such a site, and then only if it is sited in such a location and manner that a visitor serving facility may still be placed on the site.

Policy 3.7-4.1 states:

Transference from one location to another of a visitor serving facility designation shown on the Land Use Plan maps shall require a Land Use Plan amendment. If an existing facility is being relocated, operation of the existing facility shall not continue beyond commencement of operations at the new site.

LUP Chapter 4.2 designates the subject parcel with an #1C overlay, indicating a 10-unit inn could be allowed if granted a conditional use permit.

Sec. 20.332.005 General Description of Visitor Serving Use Types.

Visitor Accommodations and Services use types include services oriented to serve primarily visitor-related needs and which serve as attractors and attractions to the Mendocino County Coastal Area. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.010 Bed and Breakfast Accommodation - *1.*

Any building or portion thereof or group of buildings containing two (2) but no more than four (4) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein breakfast may be provided to said guests for compensation or profit. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.015 Inn - *1.*

Any building or portion thereof or group of buildings containing five (5) but no more than ten (10) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.020 Hotel - *2.*

Any building or portion thereof containing five (5) but no more than twenty (20) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.025 Inn - *2.*

Any building or portion thereof or group of buildings containing five (5) but no more than twenty (20) guest rooms or suites each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit to guests occupying the overnight accommodations. Provision of regular meals to other than transient occupants of the facility shall require a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.030 Motel - *2.*

Any building or portion thereof or group of buildings containing five (5) but no more than twenty (20) guest rooms or suites where such rooms or suites are directly accessible from an outdoor parking area and where each is used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.035 Campground - *3.*

An area or a tract of land where camping in tents, cabins or out of doors occurs. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.040 Hostel - *3.*

Any building or portion thereof or group of buildings containing five (5) or more guest rooms or suites, or providing dormitory sleeping accommodations for five (5) or more transient guests for the purpose of providing low cost public travel accommodations to recreational travelers. The hostel shall contain a kitchen and sanitary facilities for use by the transient guests. (Ord. No. 3785 (part), adopted 1991)

*Sec. 20.332.045 Organized Camp - *3.*

Group camping on a site with program and facilities established for the primary purpose of providing an outdoor group living experience with social, spiritual, educational, or recreational objectives for five (5) days or more during one (1) or more seasons of the year may be permitted in compliance with the following conditions.

(A) Camp is located on a permanent site.

(B) Camp has a well defined program of organized supervised activity in which campers are required to participate.

(C) There is present at the camp a qualified program director and a staff adequate to carry out the program.

(D) A major portion of daily program activities are out-of-doors.

(E) Establishments which rent or lease facilities on an individual, family, or group basis for the principal purpose of sporting or other unorganized recreational activities should be considered an organized camp.

(F) Camps operated by organizations such as the Y.M.C.A., Y.W.C.A., Girl Scouts of America, Boy Scouts of America, Camp Fire Girls, Salvation Army, etc., are true prototypes of organized camps. Membership in one (1) of the following organizations is indicative of status as an organized camp:

(1) The American Camping Association;

(2) The Christian Camp and Conference Association;

(3) The California Association of Private Camps;

(4) The Association for Outdoor Education Inc.; or

(5) Other similar camping associations. (Ord. No. 3785 (part), adopted 1991)

*CZC Sec. 20.332.050 Recreational Vehicle Campground - *3.*

An area or a tract of land where overnight camping in recreational vehicle(s) or tents occurs. (Ord. No. 3785 (part), adopted 1991)

*CZC Sec. 20.332.055 Visitor-Oriented Eating and Drinking Establishments - *4.*

*Establishments or places of business primarily engaged in the retail sale of prepared food and beverage for on-premises consumption by the touring public. These establishments may cater to on-site lodging establishments, and may be allowed as an accessory use with *1, *2, *3 or *5 uses with the granting of a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)*

*CZC Sec. 20.332.060 Visitor-Oriented Retail Sales - *4.*

*Sale or rental of goods and merchandise primarily oriented to the touring public. Typical uses include: photography services; handcrafted items; souvenir shops; notions; bicycle and rollerskate rentals; sporting equipment and apparel. These uses may be allowed as an accessory use with *1, *2, *3 or *5 uses with the granting of a coastal development use permit. (Ord. No. 3785 (part), adopted 1991)*

*CZC Sec. 20.332.065 Resort - *5.*

Resort sites located within the Coastal Zone encompass a dispersed type of Visitor Accommodations and Services such as: dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses. New Visitor Accommodations and Services in the "Resort" category shall not be allowed on resource lands in Agricultural, Forest Lands or Range Land classifications. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.005 Intent.

The VAS Combining District is intended to allow visitor accommodations and services to be developed on selected sites designated by the asterisk (*) symbol on the land use plan maps of the Coastal Element of the General Plan and Coastal Zoning Maps. Additional sites for visitor accommodations outside of Commercial and Rural Village land use designations shall be the subject of a Local Coastal Program amendment. A single family residence may be developed in conjunction with or prior to the establishment of visitor accommodations and services if the site/parcel is not preempted for VAS facilities by such action. Preemption analysis will be performed prior to approval of a development permit pursuant to Chapter 20.532. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.010 Principal Permitted Uses for VAS Combining Districts.

*The following visitor accommodations and services use types are permitted where the corresponding symbol (*1, *2, *3, *4, *5) is found on the Land Use Plan maps and Coastal Zoning Maps (*See Chapter 20.332*)....*

(B) Visitor Accommodations and Services Use Types.

*Bed and Breakfast Accommodation - *1;*
*Inn - *1;*
*Hotel - *2;*
*Inn - *2;*
*Motel - *2;*
*Campground - *3;*
*Hostel - *3;*
*Organized Camp - *3;*
*Recreational Vehicle Campground - *3;*
*Visitor-Oriented Eating and Drinking Establishments - *4;*
*Visitor-Oriented Retail Sales - *4;*
*Resort - *5. (Ord. No. 3785 (part), adopted 1991)*

CZC Sec. 20.436.015 Conditional Uses for VAS Combining Districts.

The following use types may be permitted in the Visitor Accommodations and Services Combining District with a coastal development use permit:

(A) Coastal Residential Use Types.

Employee Caretaker Housing.

(B) Visitor Accommodations and Services Use Types.

*(1) The following Visitor Accommodations and Services Use Types may be permitted where the corresponding symbol (*1C, *2C, *3C, *4C, *5C) is found on the Land Use Plan Maps and Coastal Zoning Maps:*

*Bed and Breakfast Accommodation - *1C;*
*Inn - *1C;*
*Hotel - *2C;*
*Inn - *2C;*
*Motel - *2C;*
*Campground - *3C;*
*Hostel - *3C;*
*Organized Camp - *3C;*
*Recreational Vehicle Campground - *3C;*
*Visitor-Oriented Eating and Drinking Establishments - *4C;*
*Visitor-Oriented Retail Sales - *4C;*
*Resort - *5C.*

*(2) The following Visitor Accommodations and Services Use Types may be permitted as an accessory use with *1, *2, *3 or *5 uses:*

*Visitor-Oriented Eating and Drinking Establishments - *4;*
*Visitor-Oriented Retail Sales - *4.*

*(3) The following Coastal Commercial Use Types may be permitted as an accessory use with *5 uses:*

Commercial Recreation: Outdoor Sports and Recreation. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.020 Site Development Regulations for VAS Combining Districts.

Within the VAS Combining District, site development regulations of the base zone shall apply. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.025 Additional Requirements for the VAS Combining District.

(A) No development more intense than a single-family residence shall be allowed on a parcel within the VAS Combining District prior to the parcel being developed with a Coastal Visitor Accommodations and Services Use Type. A residence will be allowed only if it is sited in such a location and manner that a Coastal Visitor Accommodations and Services Use Type may still be placed upon the site.

(B) Approval of visitor accommodation and service facilities shall be based upon the suitability of the site to accommodate the use(s) proposed, including water availability, septic disposal capability, environmental constraints, the number of visitor serving uses existing or approved in the immediate vicinity and in the planning area, and consistency with all other regulations of this Division.

(C) Approval of new visitor accommodation and service facilities or expansion of existing visitor accommodation and service facilities shall minimize encroachment on resource lands. The development of new visitor facilities in the Resort category shall not be allowed on resource lands in the AG, FL, TP, or RL Districts.

*(D) Employee housing, other than Employee Caretaker Housing, may be allowed only with a Resort - *5 designation, consistent with all other regulations of this Division including density/intensity of the base zoning district.*

(E) Visitor accommodations and services on parcels adjoining the shoreline as identified on the public access maps shall provide public access to the blufftop and/or the shoreline. The access, to be required as a condition of permit approval or other methods as described in Chapter 20.528, shall be available to the public at large as well as to guests. In the event that the use is changed to a use other than visitor accommodations or services, an irrevocable offer to dedicate an easement for public access shall be made available to a public entity for acceptance and management. If the accessway is reopened, it shall remain available to the public free of entrance charge.

(F) Where a site contains a single-family residence and a visitor accommodation and service facility, the conversion of a single-family residence to a vacation home rental shall be considered an addition or expansion of unit(s) to the visitor accommodation and service facility. The conversion may be allowed with a coastal development permit, provided that the conversion meets the allowable density of the visitor accommodation and service facility and all other provisions of this Division.

(G) If a resort is proposed to be developed on more than one (1) legal lot, it shall be developed on contiguous lots held under one (1) ownership and will be considered one (1) lot for all purposes under the Coastal Element and this Division. Property developed with a resort shall not be allowed to be divided and/or sold from the remainder of the property unless all resort uses on the property are discontinued or a Local Coastal Program amendment and/or new use permits are processed and approved for the continuation of any visitor serving uses.

(1) For the purposes of this section, the term "contiguous" includes properties separated only by road easement(s), rights-of-way or public land provided such separation does not exceed three hundred (300) feet.

(H) Expansion and development of visitor serving facilities, including restaurants, shall be compatible with the character of their surroundings. A site plan, grading plan, landscaping plan, and outdoor lighting plan shall be submitted and shall illustrate the following.

(1) Building materials shall be natural, such as wood or stone, and shall utilize primarily earth-tone colors.

(2) Proposed tree removal and grading shall be shown on the site development plans but shall be minimized to that which is necessary for accommodation of the main and accessory structures. Where there are alternatives to development which minimize tree removal and/or grading, the development proposal shall be modified as necessary such as in location, siting, size, design, and bulk, in order to incorporate the alternative.

(3) The design and scale of individual proposed structures shall be subordinate to surrounding landforms. (Ord. No. 3785 (part), adopted 1991)

CZC Sec. 20.436.030 Maximum Density for VAS Combining Districts.

One dwelling unit per parcel until a visitor use is established. Thereafter, as provided in the base zone. Densities for the following categories shall be based upon environmental constraints and conformance with all regulations of this Division with density not to exceed those limits listed below:

(A) Maximum visitor unit density per category as noted below:

(1) Inns.

*(a) Inn - *1 or *1C: 10 guest rooms or suites. Note: A bed and breakfast accommodation is limited to four (4) guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(b) Inn - *2 or *2C: 20 guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(2) Hotel - *2 or *2C: 20 guest rooms or suites. Dining facilities for guests shall not exceed three (3) chairs per guest room or suite.*

*(3) Motel - *2 or *2C: 20 guest rooms or suites.*

*(4) Campground - *3 or *3C: Ten (10) campsites per acre.*

*(5) Hostel - *3 or *3C: Thirty (30) guests.*

*(6) Recreational Vehicle Campground - *3 or *3C: Ten (10) spaces per acre.*

*(7) Visitor-Oriented Eating and Drinking Establishment - *4 or *4C: When developed as an accessory use to visitor accommodation services to provide regular meals to members of the public other than transient occupants of the facility, the total seating capacity shall not exceed three (3) chairs per guest room or suite pursuant to subsection (A)(1) and subsection (A)(2), above, plus one (1) additional chair for every two (2) guest rooms or suites.*

*(8) Visitor-Oriented Retail Sales - *4 or *4C: When developed as an accessory use to visitor accommodation services, the gross floor area shall not exceed twenty (20) percent of the gross floor area of the visitor accommodation on the site but in no case shall exceed six-hundred forty (640) square feet maximum.*

*(9) Resort - *5 or *5C: The maximum visitor unit density for a Resort *5 or *5C shall be based on environmental constraints (i.e., site specific conditions such as traffic, water, sewerage) and conformance with all regulations of this Division with the density not to exceed three (3) guest rooms or suites per acre up to twenty (20) acres; two (2) guest rooms or suites per acre for each additional acre up to fifteen (15) acres. Total not to exceed ninety (90) guest rooms or suites.*

(B) Densities for the following categories shall be based upon environmental constraints and conformance with all regulations of this Division, including the regulations for the base zoning district:

*(1) Organized Camp - *3 or *3C: Maximum of ten (10) campsites per acre.*

*(2) Visitor-Oriented Eating and Drinking Establishments - *4 or *4C: When developed as the only use on the site and not accessory to any visitor accommodation or service facility.*

*(3) Visitor-Oriented Retail Sales - *4 or *4C: When developed as the only use on the site and not accessory to any visitor accommodation or service facility. (Ord. No. 3785 (part), adopted 1991)*

Section 20.308.115(F) defines "Transient Guest" as follows:

"Transient Guest" means any person who exercises occupancy or is entitled to occupancy by reasons of concession, permit, right of access, license or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days.

Discussion:

The portion of the property on which the development is proposed is both designated in the County's certified LUP and zoned in the County's certified Implementation Plan as Remote Residential RMR-20:PD *1C. Section 20.380.005 of the Coastal Zoning Code indicates that the Remote Residential District is intended to be applied to lands within the coastal zone which have constraints for commercial agriculture, timber production, or grazing, but which are well suited for small scale farming, light agriculture and low density residential uses, or where the land has already been divided and substantial development has occurred. The "20" attached to the designation and zoning indicates that the minimum parcel size for land division purposes is one parcel for every 20 acres. The Planned Unit Development regulations require that new development be subject to review of a site plan to ensure maximum preservation of open space, protection of views from public roads, and resource protection while allowing development provided for by the Coastal Plan. The *1C designation is a land use and zoning overlay over the base remote residential land use classification and zoning district that allows for the construction of up to a 10-unit inn or 4-unit Bed and Breakfast facility with a coastal development use permit. The overlay is one of several visitor accommodation and services (VAS) defined in the LUP that can be applied to a property covering a variety of visitor use types ranging from campgrounds to resorts. The portion of the 400-acre parcel that is east of Highway One, as well as a small portion of the parcel on the west side of Highway One, is designated in the LUP and zoned in the IP as Rangeland (RL).

As discussed above, the project description revised for purposes of the Commission's de novo review of the project involves redeveloping an existing complex of ranch buildings and developing a six unit inn by demolishing five existing ranch buildings and developing a new inn and ranch compound of buildings in the general location of the existing buildings to be demolished. The new inn would include: (1) a main building, including renovation of the former Orca Inn into three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; and (2) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet. Ranch and service operations would include: (1) a ranch manager's unit of 1,737 square feet; (2) an equipment barn of 1,121 square feet; (3) a generator/pump shed of 240 square feet; and (4) a garage of 1,508 square feet. The existing water tank of approximately 189 square feet, its adjacent pump house of approximately 134 square feet and two existing wells and majority of existing driveway are to remain. The project will reuse the existing septic system, improve the existing driveway, and bury existing

overhead utilities. The total area of development is approximately 1.56 acres, which includes the building envelope of approximately 1.22 acres and the driveway of approximately .34 acres. The existing farmhouse, which comprises a portion of the proposed main building, is to be renovated, with retention of a minimum of 50 percent of the existing exterior walls and roof.

The combination of ranching and visitor serving uses is consistent with the Remote Residential RMR-20:PD *1C LUP designation and zoning for the site. The proposed five unit inn (that can be used as a seven unit inn) is within the five to ten unit range allowed by the *1C designation applicable to the site. The proposed ranch facilities are a form of "Light Agriculture" which is a principal permitted use within the RMR zoning district. Light Agriculture is defined in Section 20.336.030 of the Coastal Zoning Code and includes the grazing of cattle, horses, sheep, goats, hogs or other farm stock or animals including the supplementary feeding thereof, provided not more than one (1) such animal per forty thousand square feet shall be kept of maintained. Section 20.456 of the Coastal Zoning Code allows uses accessory to the allowed use types including barns, garages, and other uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to a principal permitted use. The proposed ranch barn, generator/pump shed, driveway, and utilities are all forms of such allowable uses accessory to the Light Agriculture use of the site. The proposed ranch manager's unit is a residential use that is consistent with the principal permitted uses of the RMR district which includes a single-family residential use.

As noted above, the approximately 400-acre parcel extends over large areas both west and east of Highway One. The *1C designation and combining zone symbol was affixed to the certified Land Use Plan and Zoning maps at the general location on the subject property west of Highway One where the applicants propose to develop the project. The appellants have suggested that the *1C symbol is not meant to limit development of a complying inn or bed and breakfast facility to that specific location on the property, rather that the *1C symbol simply means that the applicable visitor serving facility can be built anywhere on the parcel to which it is applied. This interpretation would allow consideration of an alternative location for the proposed inn east of Highway One, and the applicants note that development of the inn east of the highway would reduce or eliminate the development's impacts on views to and along the coast from Highway One.

The *1C and the other (VAS) overlays are included as part of the particular LUP designation and zoning applied to a property, but the certified LCP does not provide specific guidance whether the overlays are always meant to limit development to the specific location on the LUP and zoning maps where the overlay is affixed or anywhere within the LUP designation and zoning district applied to the parcel. In this instance, the evidence indicates that the *1C overlay was applied west of Highway One with the

specific intent that development of an inn or bed and breakfast facility complying with the overlay would be built west of the highway for several reasons.

First, as noted previously, the Remote Residential RMR-20:PD *1C LUP designation and zoning district was only applied on a portion of the parcel that lies west of Highway One. The approximately 400-acre parcel is split zoned, with the portion of the 400-acre parcel that is east of Highway One, as well as a small portion of the parcel on the west side of Highway One south of the proposed inn site designated in the LUP and zoned in the IP as Rangeland (RL) without an *1C overlay. As no *1C overlay or any other visitor serving facility overlay is included as part of the LUP designation and zoning district applied to the area east of Highway One, the certified LCP clearly intended that the inn or bed and breakfast facility that would be allowed by the *1C overlay would be built west of the Highway.

Second, the text of Chapter 4.2 of the LUP states that provision has been made for a proposed inn at Newport on the Hemenway Ranch. The statement refers to the attachment of the *1C overlay to the subject property in the vicinity of the existing compound of buildings on the site. The historic town of Newport was one of a number of former logging towns along the Mendocino Coast established in the mid to late 1800s along the coast where logs would be loaded on to ocean going vessels for shipment to San Francisco and other locations. The historic town of Newport no longer exists, but according to an archaeological survey of the project site conducted in December 1990, by Archaeological Services, Inc., the remains of the "Newport Chute," the facility used to transfer logs to ships, were discovered along the bluffs just outside the project boundary and that the historic town may have existed with the project boundaries. Although the exact location of the town of Newport is uncertain, the area west of the Highway in the vicinity of the ranch buildings that exist on the subject site are commonly referred to as Newport. Therefore, by indicating that provision for a proposed inn has been made at Newport, Chapter 4.2 of the LUP suggests that the inn was intended to be located west of the highway in the location where the town has been thought to exist and which is commonly referred to as "Newport."

Third, LUP Policy 3.7-3 states in part that "visitor serving facilities and proposed sites where the Coastal Commission has approved the issuance of permits are designated on the land use maps, and are reserved for those visitor accommodations as defined in Chapter 2." In September 1984, one year prior to certification of the Mendocino LUP, the Coastal Commission granted Coastal Development Permit No. 1-83-278 for conversion of the existing residence on the site into a four-unit bed and breakfast inn. This residence is the same residence on APN 15-380-05 proposed to be converted to an inn under the current permit application. As the prior to issuance conditions of CDP No. 1-83-278 this permit were never met, the approval later expired, and the permit was never issued. Nonetheless, as the Commission had approved a visitor serving facility at this

exact location prior to certification of the LUP one year later in 1985, Policy 3.7-3 indicates that the LCP intends that the *1C overlay apply to the specific location where the current development is proposed.

Fourth, the fact that the area east of the highway is designated as Rangeland in the LCP, also supports a determination that the *1C overlay is meant to apply to a location west of the highway. LUP Policy 3.2-5 quotes Coastal Act Section 30242 and expressly provides that all "...lands suitable for agricultural use shall not be converted to non-agricultural use unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250"..of the Coastal Act. The rangeland east of Highway One is currently within an agricultural preserve under Williamson Act contract with the County. Although the land west of the highway is also used for grazing, as discussed above the area is designated and zoned as Remote Residential, a land use designation and zoning district intended to be applied to lands within the coastal zone which have constraints for commercial agriculture. Applying a visitor serving accommodation overlay to the area west of the highway rather than inland of the highway is more consistent with LUP Policy 3.2 and Coastal Act Section 30242 as the land east of the highway best suited for agricultural use would not be converted or affected by development of an inn.

Finally, the fact that the overlay was applied to an existing compound of buildings also supports a determination that the *1C overlay is meant to apply where it was affixed to a location west of the highway. As described previously, the subject property and surrounding lands are very sparsely developed and consist mostly of a coastal terrace covered with grasslands affording sweeping views unobstructed by development and trees. The LCP designates the area as "highly scenic." LUP Policy 3.5-1 requires that in highly scenic areas, new development must be subordinate to the character of its setting. In addition, LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8) require that the visual impacts of development on terraces be minimized by (a) avoiding development, other than farm buildings, in large open areas if alternative site exists, and (b) minimizing the number of structures and cluster them near existing vegetation, natural landforms or artificial berms. Applying the *1C overlay to one of the few areas where structures exist and form part of the visual character of the area rather than to the open grasslands would help ensure that future development of an inn would be compatible and subordinate to the character of its setting and cluster and minimize structures on terraces consistent with these visual resource protection policies.

Therefore, for all of the above stated reasons, the Commission finds that the *1C overlay was applied west of Highway One with the specific intent that development of an inn or bed and breakfast facility complying with the overlay would be built west of the highway and that development on the proposed inn inland or east of Highway One would be inconsistent with the certified LUP designation and zoning applied to that area.

Appellants 1, 3, and 4 contended in their appeals to the Commission that the development as approved by the County is not consistent with the *1C designation applied to the property in the certified LCP because the appellants believe the approved use is of a much greater intensity than development that is allowed. In addition, a submittal received by the Commission on September 30, 2009 from Jared G. Carter on behalf of Deborah Cahn, Trustee of the Margery S. Cahn Living Trust, and Judith Whiting, Trustee of the Whiting Family Revocable Trust also contends that the development is not consistent with the *1C designation (See Exhibit No. 28, "Correspondence."). The units proposed by the applicant are relatively large, some including multiple bedrooms, bathrooms, a kitchen, dining room, and sitting room. The submittal asserts that a "unit" as used in the LCP definition, means one bedroom not multiple bedrooms.

The proposed visitor-serving facility is proposed as a six unit inn. As noted above, the *1C designation allows for the construction of up to a 10-unit inn with a coastal development use permit. The overlay is one of several visitor accommodation and services (VAS) defined in the LCP that can be applied to a property covering a variety of visitor use types ranging from campgrounds to resorts. The *1C designation is defined in Section 20.332.015 of the Coastal Zoning Code as "any building or portion thereof or group of buildings containing five but no more than 10 guest rooms or suites each used, designed or intended to be used, let or hired our for occupancy by transient guests for compensation of profit, and where regular meals may be provide for compensation or profit." The VAS type defined in the LCP that is next most closely similar to the proposed visitor serving facility is a resort. A resort is defined in Section 20.332.065 of the Coastal Zoning Code as follows: "Resort sites located within the Coastal Zone encompass a dispersed type of Visitor Accommodations and Services such as: dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses."

The LCP does not contain a definition of a "unit." In addition, the above-cited LCP definition of the *1C designation does not specifically limit the number of bedrooms a unit can contain. To the contrary, the definition indicates that a unit could be either a "guest room" or "suite." A suite is defined in part in Webster's Dictionary as "a group of rooms occupied as a unit." Thus, the LCP does not specifically limit the number of bedrooms per unit. In addition, the LCP definition of the *1C designation does not specify a square-foot area size limitation for a unit.

The proposed visitor serving facility would not be consistent with the VAS overlay applied to the site if the proposed facility more closely matched the definition of a separate VAS designation in the LCP. The VAS type defined in the LCP that is next most closely similar to the proposed visitor serving facility is a resort. A resort is defined in Section 20.332.065 of the Coastal Zoning Code as follows: "Resort sites located within the Coastal Zone encompass a dispersed type of Visitor Accommodations and

Services such as: dude ranches, dispersed overnight cabin accommodations, health spas and other similar uses." The development as approved by the County more closely matched this definition. As approved by the County, the seven-unit visitor serving facility included nine separate buildings with visitor accommodations contained within four separate detached buildings including a main inn building, a "bunk house," an 835-square-foot cottage, and a 915-square-foot cottage. The nine approved buildings were also dispersed within a 1.71-acre building envelope. The County approved development also included the construction of a 778-square-foot spa. The facts that the overnight accommodations were dispersed among four buildings and the development included a spa raised a substantial issue as to whether the development was a resort rather than an inn. For purposes of the Commission's de novo review, the applicant revised the project description. The revisions were designed in part, to conform the development to the definition of an inn by (1) reducing the overall size of the development both in terms of floor area and footprint of the building complex, (2) consolidating the proposed visitor serving units into fewer dispersed buildings, and (3) eliminating the previously proposed separate spa structure. The buildings deleted and consolidated in the revised project description are shown in Exhibit No. 7. As revised, the proposed development includes six separate buildings, only two of which would contain inn units. The six buildings would be contained within an approximately 1.22 acre building envelope. In addition, the development would not include a spa. As the proposed development as revised would contain all of the inn units within just two buildings within a relatively confined building envelope rather than in multiple dispersed buildings in a larger building envelope, and as the development would not contain a spa, the Commission finds that the proposed visitor serving facility more close matches the LCP definition of an inn rather than the LCP definition of a resort. Furthermore, as the development includes six guest rooms or suites each used, designed or intended to be used, let or hired our for occupancy by transient guests for compensation of profit, the proposed visitor serving facility is *1C visitor serving facility as defined in Section 20.332.015 of the Coastal Zoning Code.

The applicant indicates that the approved inn facility may be used for special events such as weddings, corporate retreats, lectures, and business or organizational meetings. Neither the Remote Residential base zoning district nor the *1C visitor serving facility overlay zone include meeting hall, event center, or similar uses as either principal permitted or conditional uses, although the certified LCP does allow for temporary events to be held and such temporary events are not restricted to particular zones. With appropriate limits, incidental special events can be accommodated at the site without significant adverse impacts on coastal resources. Parking and temporary structures can be confined to locations that will not create significant adverse impacts and will not adversely affect sensitive habitat. As discussed in the findings below, the well that will serve the development has approximately three times the capacity needed to serve the development, and the project site is located along a stretch of Highway One that has ample capacity available to serve the development. The Commission finds that so long

as temporary events or special events are clearly incidental to the inn and agricultural uses proposed as part of the approved development, the use of the approved facility for certain special events would be consistent with the zoning for the site and would not have significant adverse impacts on coastal resources.

However, use of the site for special events in a manner that is more than incidental to the use of the facility for the approved inn and agricultural uses of the development would not be consistent with the allowable uses enumerated in the coastal zoning code for the remote residential base zone and the *1C visitor serving facility overlay zone. If special events were a significant use of the site, the use would generally change the use of the area intended by the certified LCP. The Commission did not certify the LUP and zoning designations for the site for an event center and similar uses and did not evaluate whether the area could adequately accommodate numerous large scale events without significant adverse impacts on coastal resources. Sufficient infrastructure and services to accommodate such use may not be available and larger scale special events could have significant impacts on coastal resources. Therefore, to ensure the special event use of the site is truly incidental to the use of the site for the approved visitor serving accommodation and agricultural uses and will not cause significant adverse impacts on coastal resources, the Commission attaches Special Condition No. 15. The special condition defines special events as gatherings of multiple persons using the approved inn and ranch complex and other parts of the subject property for purposes other than for, or in addition to, overnight accommodations in the approved guest units for which the managers of the inn or their employees or agents either (a) charge a fee for the use or services to accommodate the use, or (b) exclude the general public. Such events must be limited to 99 persons and may only occur 12 times per year unless the applicant obtains a coastal development permit amendment to allow more events and/or more participants in the events. In addition, the special condition requires that each event be no longer that 3 days in duration and that the events not be consecutive. Furthermore, any facilities installed for special events be taken down after each event so as not to create visual impacts even when no special event is occurring. As conditioned, the Commission finds that the use of the development site for special events will be incidental to the visitor accommodation and agricultural uses of the approved development and consistent with the Remote Residential RMR-20:PD *1C LUP designation and zoning district applicable to the site.

Section 20.308.115(F) defines "transient guest" in a manner that limits occupancy for a period of 30 consecutive calendar days or less, counting portions of calendar days as full days. To ensure that the inn units are used by transient guests as defined in the coastal zoning code and that the use of the units is consistent with *1C visitor serving facility designation as defined in CZC Section 20.332.015, the Commission attaches Special Condition No. 22. The special condition requires that rooms not be rented to any individual, family, or group for more than 30 consecutive calendar days counting portions

of calendar days as full days, To ensure that the intent of these limitations to reserve use of inn units to transient guests rather than to residents is not defeated by allowing users of the units to nominally check out of their units for a day or other short period of time and then reoccupy the unit over and over again, the condition contains the further limitation that no individual, family, or group may occupy a unit for more than 60 total days per year.

To ensure that the development is not converted to other uses that are not consistent with the Remote Residential RMR-20:PD *1C LUP designation and zoning district applicable to the site, the Commission attaches Special Condition No. 7. The special condition imposes a restriction on the site stating the permit is only for the development described in the permit and that the approved inn units are intended to be used for commercial transient occupancy only. The special condition states that any changes in use would require a permit amendment or new coastal development permit. As the Commission would have the opportunity to review any changes in use, the Commission can ensure that the development will be used consistent with the certified LUP and zoning designation applicable to the site.

As conditioned, the Commission finds that the approved development is consistent with the - Remote Residential RMR-20:PD *1C LUP designation and zoning district applicable to the site,

F. Adequacy of Available Services

1. Adequacy of Available Water

LCP Policies and Standards:

LUP Policy 3.8-1 states in applicable part:

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

LUP Policy 3.8-9 states in applicable part:

Commercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use shall not adversely affect

contiguous or surrounding water sources/supplies. Such required proof shall be demonstrated prior to approval of the proposed use.

Coastal Zoning Coastal Zoning Code Section 20.532.095 states:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

(2) <u>The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities</u>; and

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. [emphasis added]

(6) <u>Other public services, including</u> but not limited to, solid waste and <u>public roadway capacity have been considered and are adequate to serve the proposed development.</u> [emphasis added]

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:

(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. (Ord. No. 3785 (part), adopted 1991)

<u>Project Consistency with Applicable LCP Provisions</u>:

The proposed development would rely on the use of groundwater to serve its water needs. The development would be served by an existing well on the subject property located approximately 500 feet east of Highway One. This existing 60-foot deep test well was drilled in 1994. The proposed project includes the installation of a pipeline to convey the water approximately one-third of a mile to the southwest from the well to the proposed inn site.

As cited above, LUP Policy 3.8-1 requires the County to consider the availability of water when considering coastal development permit applications. Coastal Zoning Coastal Zoning Code Section 20.532.095 states that the granting of any coastal development permit by the approving authority shall be supported by findings which establish that the proposed development will be provided with adequate utilities. LUP Policy 3.8-9 specifically requires that commercial developments and other potential major water users that could adversely affect existing surface or groundwater supplies shall be required to show proof of an adequate water supply, and evidence that the proposed use will not adversely affect contiguous or surrounding water sources/supplies. Furthermore, the policy requires that such required proof shall be demonstrated prior to approval of the proposed use.

The project site lies within an area containing "Critical Water Resources" as designated by the 1982 Mendocino County Coastal Ground Water Study, which when combined with Coastal Groundwater Development Guidelines adopted by the County in 1989, requires a hydrological study for commercial projects proposing 1,500 gallons per day (gpd) or more. The County staff report for the project as approved by the County indicates that the approved project would have an estimated maximum demand of approximately 2,600 gpd.

In its findings for approval of the project, the County indicated that a hydrological report was prepared in 1994 for the previous inn project approved for the site, and that the 1994 study estimated that "well yield in the area to be more than 8,000 gpd, significantly exceeding the proposed water demand for the inn." The County did not require a new hydrological study for the current project based on the results of the 1994 study. The County's findings indicated that the County Water Agency concurred with the planning staff's determination not to require a new hydrological study and that the CWA noted that "in many areas of the County, the results from a 12-year-old Hydrological Study would be obsolete; However, [CWA staff was] not aware of any significant change in groundwater use in the area," and felt that the 1994 study would be valid for purposes of the current project.

Three of the four sets of appellants raised contentions that the project as approved by the County was inconsistent with LCP policies calling for locating development within areas

able to accommodate the development in that there is no assurance that there is adequate ground water to serve the approved development. The appellants claimed that the 13-year old hydrological study relied upon by the County did not reflect current groundwater conditions and the light rainfall of recent years. The study was prepared for the original inn project approved by the County in 1996 which was a smaller project with less water demand. In addition, the appellants claimed that the old hydrological study could not have taken into account low rainfall years that have occurred since and which would not have recharged groundwater levels as much as groundwater would have been recharged in more normal rainfall years.

The Commission determined that the appeals raised a substantial issue of conformance with the LCP polices regarding the provision of adequate groundwater to serve new development in that the County findings did not demonstrate that sufficient ground water exists to both serve the anticipated demand for water at the development and avoid depleting groundwater reserves to an extent that would adversely affect wetlands fed by the groundwater or the water supply of neighboring residents. In addition, the Commission determined that an updated hydrological study would be necessary to review the project de novo for consistency with the LCP polices regarding the provision of adequate groundwater to serve new development. The Commission requested the applicant to provide a current hydrological study demonstrating that the quantity and quality of water yielded by the proposed well(s) (or some other source available to the applicant) meets the standards of the County Health Department in order to evaluate whether adequate water will be available to serve the proposed development. The requested hydrological study was to evaluate (1) the adequacy of the on-site water source(s) to serve the proposed development, (2) potential impacts to surface and groundwater supplies at and surrounding the project site, and (3) potential impacts to coastal resources from surface and/or groundwater extraction (i.e., impacts to surrounding wetlands or watercourses, geologic stability, etc.).

Pursuant to this request, the applicant hired Questa Engineering Corporation to perform a hydrological study of the site. Questa Engineering Corporation conducted the investigation and prepared a report dated January 10, 2008. (Excerpts of the report are included as Exhibit 16). The hydrological study first determined the average daily water demand for the project, establishing this demand based on the size of the inn, County policies for water and wastewater flow estimation, assumptions regarding extra water use for incidental water uses that do not result in wastewater flow, and assumptions regarding occupancy rates at the inn. The investigation then examined existing information about the hydrologic setting for the project and the well, before conducting a 72-hour pumping test during the dry season between October 9-12, 2007 to determine the sustained yield and drawdown characteristics of the well and the local aquifer. The pumping test involved installing a pump within the well with a discharge line containing a valve to allow adjustment of the flow rate and discharging the flow from the well approximately

200 feet downslope of the well outside of the immediate well recharge area. Flow metering was done manually with a bucket and stop watch at periodic intervals. Drawdown measurements were taken at both the well and a second observation well that exists 190 feet away from the primary well. Water levels were measured using a water level probe referenced to the wellhead. The well was tested at a constant pumping rate of approximately 6.3 gallons per minute (gpm) for the full duration of the 72-hour test. At the conclusion of the pumping test, water levels in the wells were monitored for another 28 hours to determine how fast water levels recovered to pre-test levels. The study did not perform direct measurements of drawdown of the wells of neighbors as the nearest neighboring wells are located more than ¼ mile away. According to the study, a well located ¼-mile away is well beyond the expected zone of influence of the test well. Water table drawdown effects were, however, calculated for the observation well and for a point 400 feet away which corresponds with the westerly property line of the well parcel. In addition, the study analyzed the effects of the proposed groundwater extraction on the local groundwater aquifer. Finally, the hydrologic study sampled the water quality of the well water to determine whether the extracted groundwater would be suitable for the proposed uses. The results of the study are summarized below.

Project Water Demand.

The water demand was determined based on a project description that entailed development of a 10-unit inn and a caretaker's unit. Since the study was conducted, the applicant has revised the project description to reduce the maximum number of inn units to six. The hydrologic study took into account that most of the inn units are suites with multiple bathrooms and containing kitchen facilities and that the number of bedrooms is larger than the number of units. Water demand was projected on the basis that there would be 16 total bedrooms.

The report indicates that maximum daily water demand is estimated to be very similar to the daily wastewater flow. The onsite septic sewage system is designed to accommodate a flow of 3,425 gallons of wastewater per day based on County standards for wastewater flow estimation and assuming full occupancy of a 10-unit inn and the caretaker's residence. The report notes that water supply for landscape irrigation would be supplied from the existing spring source and not the well. However, other incidental water uses that do not contribute to sewage flow such as window washing would be served by the well. Taking into account a 10% to 20% additional water use allowance for such incidental water uses that do not contribute to sewage flow, the hydrologic report estimates that the maximum daily water use of a 10 unit inn and the caretaker's residence would be 3,800 gallons per day (gpd). This volume is equivalent to a continuous pumping rate of about 2.64 gallons per minute. Water usage would be less over the long term than the maximum daily water demand as the inn will not always be running at full occupancy. The hydrologic report assumes a year-round occupancy rate of 80 percent,

which translates to an average daily water demand estimate of approximately 3,000 gpd requiring a continuous pumping rate of about 2.64 gallons per minute for a 10 unit inn and the caretaker's residence. As noted above, the project as revised for purposes of the Commission's de novo review involves the installation of a six unit inn rather than a 10 unit inn so the average daily water demand estimate will be a corresponding lesser amount.

Hydrogeologic Setting

The hydrologic study notes that the project site lies within a Critical Water Resources area as designated in the Department of Water Resources Mendocino County Coastal Groundwater Study (DWR). Well water in the area is primarily drawn from the marine terrace deposits which average about 30 feet in depth and produce a greater yield than bedrock aquifers in the area. Thus, most wells in the area are relatively shallow and the report indicates that yields from these wells vary from about 1.5 to 36 gallons per minute. The proposed supply well for the project is a 60-foot-deep composite well that draws from both the terrace deposits and the sandstone bedrock.

Study Results

The results of the pumping test performed for the hydrologic study are shown in Table 2 of the report (See Exhibit No. 16). As discussed in the report, the pumping test demonstrated a stabilized yield of 6.26 gallons per minute over a sustained 72-hour pumping period which occurred at the end of a below average rainfall year. This rate corresponds to a daily pumping volume of 9,014 gallons per day. As discussed above, the maximum daily water use demand for a 10-unit inn with a caretaker's residence at the proposed site is estimated to be 3,800 gallons per day and the average daily water demand estimate of approximately 3,000 gallons per day. Therefore, the report concludes that the well has more than ample capacity to serve the proposed development.

The results of the drawdown analysis are shown in Table 3 of the report. As discussed in the report, the drawdown analysis indicates that drawdown at points 190 and 400 feet away from the supply well range from 2.5 to 6.7 percent of the available drawdown. This amount of projected drawdown impact falls within the 10% drawdown criterion contained in the Mendocino County Coastal Groundwater Development Guidelines. The report notes that drawdown effects decrease exponentially as the distance from the pumping well increases, which indicates that drawdown of the water table at the nearest neighboring wells which are more than ¼-mile form the proposed supply well would be negligible.

The hydrologic report indicates that the estimated average rate of groundwater extraction to supply the development is estimated to be about 9.1 percent of the annual

replenishment of the aquifer from on-site rainfall percolation within the portion of the property tributary to the supply well. The report indicates that the principal source of groundwater recharge is on-site percolation of rainwater plus some amount of lateral groundwater inflow from the watershed area to the east. The report estimates that the annual natural replenishment solely from on-site percolation of rainwater is estimated to be 12,055,665 gallons per year and the annual extraction of groundwater for the proposed development is 1,095,000 gallons per year. The report concludes that this amount of groundwater extraction is safely within the average annual amount of on-site recharge to groundwater within the portion of the property tributary to the supply well and the effects of the proposed extraction of groundwater to serve the proposed development on the local groundwater aquifer would be negligible.

With regard to water quality testing, the hydrologic report indicates that a water sample from the proposed supply well was tested with respect to water quality concerns. The results indicate that the sample meets all primary and secondary drinking water standards except for iron, manganese, and hardness, which were found at levels above the recommended consumer acceptance concentrations. The report recommends that a treatment system for iron and manganese be incorporated into the project to reduce the staining effects normally caused by these constituents at higher concentrations.

The Commission's geologist, Dr. Mark Johnsson, has reviewed the hydrological report and concurs with the overall conclusion that the proposed water supply well will provide sufficient water to serve the needs of a 10-unit inn and caretaker's residence development. As noted above, since the hydrological study was conducted, the applicant has revised the project description to reduce the number of inn units to a maximum of six. Thus the maximum and average daily water use demands for the current development may be as much as 40% less than the 3,800-gallons-per-day maximum and 3,000-gallons-per-day average daily water demand calculated by the hydrological study for a 10-unit inn with a caretaker's residence at the proposed site. As the pumping test results indicate that the well will yield a volume of 9,014 gallons per day, the development will only use approximately 30% of the capacity of the well. Therefore, the Commission finds that an adequate water supply is available to serve the proposed development.

Dr. Johnsson also concurs with the overall conclusion of the hydrological study that the effects of the proposed extraction of groundwater to serve the proposed development on neighboring wells and the local groundwater aquifer would be negligible. Based on the hydrological study's drawdown analysis which indicates that drawdown at points 190 and 400 feet away from the supply well range from only 2.5 to 6.7 percent of the available drawdown, and as drawdown effects decrease exponentially as the distance from the pumping well increases, the hydrological study's conclusion that drawdown of the water table at the nearest neighboring wells which are more than ¼-mile from the proposed supply well would be negligible is reasonable. In addition, based on the estimates in the

hyrdrological report that the annual natural replenishment solely from on-site percolation of rainwater is estimated to be 12,055,665 gallons per year and the annual extraction of groundwater for the proposed development is 1,095,000 gallons per year, it is reasonable to conclude that the effects of the proposed extraction of groundwater to serve the proposed development on the local groundwater aquifer would be negligible.

A submittal received by the Commission on September 30, 2009 from Jared G. Carter on behalf of Deborah Cahn, Trustee of the Margery S. Cahn Living Trust, and Judith Whiting, Trustee of the Whiting Family Revocable Trust contends that the hydrological study is inadequate and that use of groundwater for the development may deplete the aquifer and cause draw down of neighboring wells. The submittal contends (a) that the hydrological study underestimates the demand for water by the development because the 10-unit inn project it reviewed will have numerous bedrooms and other rooms not typically found in a 10-unit inn and will include a ranch manager's house, and (b) the hydrologic study did not adequately evaluate the impacts on neighboring wells because it did not include tests at the neighbors wells. With respect to the alleged underestimation of water demand, it should be noted that the hydrological study was performed prior to the applicant making final changes to the project when the inn was proposed as a 10-unit inn. As amended for purposes of the Commission's de novo review, the project has been reduced to a six unit inn. Thus, the water demand for the inn as revised will be less than the water demand for the size of inn originally contemplated and evaluated in the hydrological study. As noted above, the hydrological study determined that the previously proposed 10-unit inn development would use approximately 3,000 gallons per day on average while the pump test results indicate the well will yield a volume of 9,014 gallons per day. Thus, the development would use only approximately 30% of the available capacity. Given that approximately 70% of the capacity of the well would not be utilized, minor changes in the number or inn units and bedrooms proposed would not affect the conclusion that sufficient well capacity exists to serve the development, especially as the applicant's changes to the project description for purposes of de novo review actually reduce the number of inn units and consequently the water demand of the project.

With respect to the fact that the hydrological study did not include direct tests of neighboring wells, the closest neighboring wells are approximately ¼ mile away from the well that will serve the development. As noted previously, the hydrological study did test drawdown of the aquifer at points 190 and 400 feet away from the supply well and determined that drawdown at these locations ranged from only 2.5-6.7 percent of the available drawdown. Drawdown effects decrease exponentially as the distance form the pumping well increases, indicating that the drawdown in the vicinity of the wells located at least 1320 feet away (1.4 mile) would be negligible.

Use of the well to serve the proposed development is dependent on the installation of a pipeline extending from the well to the development. The pipeline would need to cross under Highway One. To ensure that the applicant secures any necessary encroachment permit from the Department of Transportation for authorization to cross through the state right-of-way, the Commission attaches Special Condition No. 13. The special condition requires that the applicant submit to the Executive Director a copy of the final, approved Encroachment Permit issued by Caltrans for installation of the proposed water line under the highway, or evidence that no permit is required.

Therefore, the Commission finds that the hydrological report submitted by the applicants demonstrates that conversion and use of the existing test water well located 500 feet east of Highway One will provide an adequate water supply to serve the proposed commercial inn/ranch complex development consistent with the requirements of LUP Policies 3.8-1 and 3.8-9 and CZC Section 20.532.095. The Commission further finds that the submitted hydrological report demonstrates that use of the well to serve the development will not drawdown groundwater to an extent that would adversely affect contiguous or surrounding water sources and supplies consistent with the requirements of LUP Policy 3.8-9. As conditioned, the Commission finds that the proposed development is consistent with LCP policies regarding the provision of adequate water supply to serve new development and to protect against drawdown of groundwater that would adversely affect other water supply sources and aquifers.

Highway One Capacity

LCP Policies and Standards:

LUP Policy 3.8-1 states in applicable part:

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

Coastal Zoning Coastal Zoning Code Section 20.532.095 states:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

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

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. [emphasis added]

(6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development. [emphasis added]

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:

(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. (Ord. No. 3785 (part), adopted 1991)

Discussion:

As cited above, LUP Policy 3.8-1 requires that Highway One capacity be considered when reviewing applications for development permits. Additionally, CZC Section 20.532.095 sets forth required findings for all coastal development permits and requires, in applicable part, that public services, including public roadway capacity, be considered and be found adequate to serve the proposed development.

After September 7, 2007, when the Commission found that the appeal raised a substantial issued of conformance of the project as approved by the County with the policies of the certified LCP, the applicant hired a consultant to prepare a traffic analysis of the impacts of the proposed development on Highway One. The traffic analysis, prepared by Whitlock & Weinberger Transportation, Inc. is dated January 14, 2008 and is included as Exhibit 18 of the staff report

The traffic study concludes that there is more than sufficient traffic capacity on Highway One to absorb the extra traffic generated by the development. The report notes that currently, Highway One in the vicinity of the project site carries approximately 2,360

vehicles per day, including 420 trips in the weekday p.m. peak hour. Based on Caltrans' District 1 growth factors for State Highways in the district, this volume is projected to rise to approximately 2,600 daily trips and 470 weekday p.m. peak hour trips by the year 2027. According to the applicant's traffic study, these volumes are far below the "ideal capacity" of a two lane highway as described in Caltran's Highway Capacity manual, Transportation Research Board, 2000. This document notes that the ideal capacity of a two-lane highway is 3,200 passenger cars per hour. As traffic along Highway One in this vicinity is only projected to rise to 470 weak day p.m. peak hour trips in both directions by the year 2027, the capacity available is approximately six times (3,200/470) the peak hour volume of traffic that is projected to occur.

The applicant's traffic study estimated trip generation from the proposed development using standard trip generation rates for hotels and resort hotels. The study estimates that the development would generate an average of 70 daily trips, including four trips during both the morning and evening peak hours on weekdays. Adding these additional four trips per hour to the projected traffic volumes in 2027 would still leave the available capacity at many times the peak hour volume of traffic that is projected to occur.

A submittal received by the Commission on September 30, 2009 from Jared G. Carter on behalf of Deborah Cahn, Trustee of the Margery S. Cahn Living Trust, and Judith Whiting, Trustee of the Whiting Family Revocable Trust also contends that the cumulative impacts of the development with impacts of a future public access trail project recently approved by the County have not been adequately considered. The public access trail project involves a permit granted to the Mendocino Land Trust for a coastal development permit to develop a trail within a lateral easement along Highway One through a portion of the applicant's property. The Commission notes that development of that specific public access trail project is not currently before the Commission. Specific vehicle trip generation rates for the trail project are not available. However, given that (1) the available capacity of Highway One in the vicinity of the project is many times the projected volume of traffic that Caltrans projects will use the Highway in 2027, and (2) the volume of additional traffic generated directly by the inn project will only be four trips per peak hour, the additional traffic volume on Highway One that the proposed trail project would generate in combination with the applicant's development would not result in significant adverse cumulative impacts on traffic capacity.

Therefore, the Commission finds that the public road capacity of Highway One is adequate to serve the development consistent with LUP Policy 3.8-1 and Coastal Zoning Code Section 20.532.095.

G. Geologic Hazards

Summary of Applicable LCP Provisions:

Mendocino County Land Use Plan (LUP) Policy 3.4-1 states the following (emphasis added):

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

LUP Policy 3.4-7 states, in applicable part, the following (emphasis added):

> *The County shall require that new structures be set back a sufficient distance from the edges of bluffs to ensure their safety from bluff erosion and cliff retreat during their economic life spans (75 years). Setbacks shall be of sufficient distance to eliminate the need for shoreline protective works. Adequate setback distances will be determined from information derived from the required geologic investigation and from the following setback formula:*
>
> *Setback (meters) = Structure life (years) x Retreat rate (meters/year)*
>
> *The retreat rate shall be determined from historical observation (e.g., aerial photographs) and/or from a complete geotechnical investigation.*
>
> ...

LUP Policy 3.4-8 states the following:

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

LUP Policy 3.4-9 states the following:

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

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

> *No development shall be permitted on the bluff face because of the fragility of this environment and the potential for resultant increase in bluff and beach erosion due to poorly-sited development. However, where they would substantially further the public welfare, developments such as staircase accessways to beaches or pipelines to serve coastal-dependent industry may be allowed as conditional uses, following a full environmental, geologic and engineering review and upon the determinations that no*

feasible less environmentally damaging alternative is available and that feasible mitigation measures have been provided to minimize all adverse environmental effects.

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

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

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

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

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

(2) Assure structural integrity and stability; and

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

CZC Section 20.500.015 states the following:

(A) Determination of Hazard Areas.

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

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

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

CZC Section 20.500.020 states, in applicable part, the following (emphasis added):

...

(B) Bluffs.

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

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

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

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

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

(4) No new development shall be allowed on the bluff face except such developments that would substantially further the public welfare including staircase accessways to beaches and pipelines to serve coastal-dependent industry. These developments shall only be allowed as conditional uses, following a full environmental, geologic and engineering review and upon a finding that no feasible, less environmentally damaging alternative is available. Mitigation measures shall be required to minimize all adverse environmental effects.

...

(E) Erosion.

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

Project Consistency with Applicable LCP Provisions:

The proposed development is located on a bluff top property that is subject to bluff retreat and other geologic hazards. As summarized above, CZC Section 20.500.015(A) requires all applications for coastal development permits in areas of known or potential geologic hazards such as shoreline and bluff-top lots be reviewed to ensure that new development will be safe from bluff erosion and cliff retreat. To this end, LUP Policy 3.4-7 and CZC Sections 20.500.010(A)(3) and 20.500.020(E) direct the approving authority to assure that new development is sited and designed to provide adequate setbacks from geologically hazardous areas, and that restrictions of land uses be applied as necessary to ensure that the construction of seawalls or other shoreline protective structures will not be needed "in any way" over the full 75-year economic lifespan of the development. A sole exception to this prohibition on the construction of shoreline protective devices is provided in CZC Section 20.500.020(E) for protecting existing development, public beaches, and coastal-dependent uses. LUP Policy 3.4-8 and CZC Section 20.500.020(B)(2) require property owners to maintain drought-tolerant vegetation within the required bluff top setback area to minimize the need for watering, which could accelerate bluff-top erosion. Similarly, LUP Policy 3.4-9 and CZC Section 20.500.020(B)(3) require development landward of the bluff-top setback to be constructed so as to ensure that surface and subsurface drainage does not contribute to the erosion of the bluff face or the instability of the bluff itself. Finally, CZC Section 20.500.010 requires that all development in the County coastal zone minimize risk to life and property in areas of high geologic hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion or engender the need for protective devices that would alter natural landforms along bluffs and cliffs.

As discussed above, the project description revised for purposes of the Commission's de novo review of the project involves redeveloping an existing complex of ranch buildings and developing a six unit inn by demolishing five existing ranch buildings and developing a new inn and ranch compound of buildings in the general location of the existing buildings to be demolished. The new inn would include: (1) a main building, including renovation of the former Orca Inn into three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; and (2) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet. Ranch and service operations would include: (1) a ranch manager's unit of 1,737 square feet; (2) an equipment barn of 1,121 square feet; (3) a generator/pump shed of 240 square feet; and (4) a garage of 1,508 square feet. The existing water tank of approximately 189 square feet, its adjacent pump house of approximately 134 square feet and two existing wells and majority of existing driveway are to remain. The project will reuse the existing septic system, improve the existing driveway, and bury existing overhead utilities. The total area of development is approximately 1.56 acres, which includes the building envelope of approximately 1.22 acres and the driveway of approximately .34 acres. The existing farmhouse, which comprises a portion of the

proposed main building, is to be renovated, with retention of a minimum of 50 percent of the existing exterior walls and roof.

All of the proposed development on the site is located more than 100 feet from the bluff edge. The portion of the new development that comes closest to the bluff edge is the northwest corner of the main inn building which subsumes within it the existing 2,049-square-foot existing ranch house structure. This main inn building comes to within approximately 240 feet of the bluff edge. The revised site plan for the project submitted for the Commission's de novo review shows that the five other proposed buildings will be located further back from the bluff edge than the main inn building at locations that are setback from the bluff edge by minimum distances of approximately 400 to 600 feet. The proposed septic system and the proposed section of the driveway to be rerouted come no closer than several hundred feet of the bluff edge.

LUP Policy 3.4-7 and Coastal Zoning Code Section 20.500.020(B) require new development to be set back a sufficient distance from the edge of the bluff to ensure its safety from bluff erosion and cliff retreat during the economic life span of 75 years. Additionally, these provisions require that the setback be a sufficient distance so as to eliminate the need for shoreline protection devices. The Commission must consider the conformance of all parts of the proposed new development with these standards, including the approximately 2,049-square-foot existing ranch house that will be renovated because the ranch house will be subsumed into the new inn building with new development added that extends in several directions, including towards the bluff edge.

As discussed above, the subject bluff-top parcel is located on a gently sloping marine terrace. The property slopes gently westward across the coastal terrace at an approximately 3-5% grade. The irregular and steep ocean bluffs are approximately 80 to 120 feet high and form a series of coves and small points of land including a dominant northeast-trending peninsula located roughly in the center of the shoreline of the parcel. The bluffs contain several sea caves and are very steep with only small pockets of boulder beaches.

The County did not require the preparation of a geotechnical report for the current project. Instead, to make findings of consistency with the geologic hazard policies of the LCP, the County relied upon a letter prepared by the engineer for the 1992 Inn project which would have been set back a similar distance form the bluff edge. The engineer determined that the proposed bluff setbacks were "more than adequate." Because this existing geotechnical information prepared for the project site was out of date, was not comprehensive, and did not address the currently proposed project as sited and designed, the Commission determined when it found that the appeals for the current project raised a substantial issue of conformance of the project as approved with the policies of the LCP and public access policies of the Coastal Act that an updated geotechnical report would be necessary to review the project de novo for consistency with the geologic hazard

policies of the LCP. Pursuant to this request, the applicant hired Bace Geotechnical to perform a geotechnical investigation of the site. Bace Geotechnical conducted the investigation and prepared a report dated January 10, 2008.

The geotechnical report indicates that the materials exposed at the site consist of terrace deposits overlying sedimentary bedrock. The Pleistocene Epoch terrace deposits are composed of sand and silt, with some gravel and clay, which were deposited on the generally flat wave-cut bedrock terrace when the terrace was submerged by elevated sea levels. The thickness of the terrace deposits varies to a maximum of approximately 10 feet. The sedimentary bedrock of the terrace is part of the Tertiary-Cretaceous Period Coastal Belt Franciscan Complex and consists of well-consolidated sandstone, minor shale and conglomerate, and occasional greenstone.

The geotechnical report indicates that the bedding orientation appears to have a northwestern strike with a moderately steep dip, approximately 60 degrees from the horizontal, to the northeast.

The report notes that a number of landslide-related features can be observed along the bluff edges. The most prominent slide is located north of the northern peninsula at the point along the bluff edge that is closest to the proposed new development. The slide appears to be a deep-seated, translational or rotational slide block that penetrates into the upper, weathered bedrock. The slide mass is approximately 20 feet wide and tens of feet long. Further down the bluff face are the remains of a larger slide mass that slid sometime after the year 2000 and likely caused the demise of a former house that used to be perched on the edge of the bluff in this location. The report indicates that evidence of other slides can be found along most of the bluff faces of the subject property

The geotechnical investigation found no evidence of active faulting on the property. However, the active San Andreas Fault is located offshore approximately 10.3 miles southeast of the property. The active Maacama fault is located approximately 15.5 miles northeast of the property.

The overall conclusion of the geotechnical investigation is that "the site is geologically suitable for the proposed development" (See Exhibit No. 15, page 10 of 13). The report states that the main geotechnical considerations affecting the proposed development are bluff/erosion/retreat rate, slope stability, and strong seismic shaking from future earthquakes. The report offers the following conclusions regarding these geotechnical considerations:

<u>Bluff Retreat and Slope Stability</u>

In previous actions on coastal development permits and appeals, the Commission has interpreted Section 30253 of the Coastal Act, LUP Policy 3.4-7, and CZC Section 20.500.010(A) 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. LUP Policy 3.4-7 indicates the economic life of a structure to be 75 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 and estimating changes in this rate that may be associated with continuing or accelerating sea level rise. Slope stability is a measure of the resistance of a slope to landsliding, and can be assessed by a quantitative slope stability analysis.

The geotechnical investigation included an analysis of vertical aerial photographs dated June 28, 1964, June 24, 1981, and April 1, 2000, as well as oblique-angle aerial photographs from the California Coastal Records Project from 2002 and 2005. The geotechnical report contains the following conclusions with respect to the rate of bluff retreat and site stability:

> Our analysis of aerial photographs indicates an average bluff edge retreat rate of approximately 3.7 inches per year along the bluff top nearest to the proposed development envelope (northwest of the northwest corner, currently shown at a proposed 150-foot setback for development envelope [currently 240 feet as project has been revised for the Commission's de novo review]). This erosion rate is the average for the 36-year period between 1964 and 2000, for an area clearly notched by erosion.
>
> The worst-case retreat rate on the bluffs in the proposed development area is the landside on the northwest bluff. A former house and outbuilding were previously located in this area; only a dilapidated remnant of the house exists today. We assume that the house was built a few feet back of the bluff edge in the 1940's or 1950's. To be conservative, we estimate that the bluff has retreated in this area 45 feet (back to the present landslide scarp) in the last 50 years. This results in a local retreat rate of 0.9 feet per year…This can be considered a "worst-case scenario" retreat rate under present conditions.
>
> In general, the erosion/bluff retreat rates due to "grain by grain" erosion along the northwest property bluffs are relatively low. The peninsulas are comprised of hard rock beds that are generally erosion-resistant. Most of the retreat occurring along the cliff edges appears to be due to intermittent, larger scale landslides and slumps, rather than ongoing shallow loss of the upper terrace deposits. It should be noted that the retreat rates given are considered averages over the period of

> time covered by the aerial photos up to our 2007 study. Localized, larger scale slumps or slides could occur in the future anywhere along the bluff edge...
>
> The large landslides we observed on the property appear to be due to saturation of the terrace deposits and upper, weathered bedrock. These conditions are occurring where concentrated surface runoff flows to the bluff edge. Because the terrace is nearly level in many areas adjacent to the bluff edge, conditions exist in which there is more time for water to seep through the bluff-edge soils and penetrate into the underlying rock. Where this has been allowed to occur over time, larger-scale slumping has been the result.
>
> Shallow slumping of terrace deposits along the bluff edges is occurring in many places as shown on Plate 2. These smaller-scale slumps will continue to occur but should not affect the integrity of the development as it is currently sited...
>
> Several sea caves were identified within the bluff toes along the property...We did not observe any sea caves trending towards the proposed development. Rather, the caves we observed are within the peninsulas. Therefore, no additional setbacks or recommendations regarding the sea caves are warranted at this time.
>
> Using the worst-case scenario (the active landslide) with a retreat rate of (rounded up to) one foot per year, the bluff northwest of the proposed development (closest as currently sited) could erode back approximately 75 feet over a 75-year period (assumed by the California Coastal Commission to be the economic lifespan of a development). Since the erosion may not be uniform (some areas of erosion would be greater and some less) and considering the possible effects of sea level rise, a safety factor of 1.33 should be used in determining <u>a minimum bluff setback of 100 feet.</u> [emphasis added]

To reduce the contribution of the development to bluff retreat and site stability hazards, the geotechnical report makes certain recommendations with respect to drainage. The report recommends that concentrated surface flows and subsurface seepage should be intercepted and diverted away from the building foundations and the bluff edge. In addition, roof runoff water should be directed away from the structures and dispersed, as much as possible, across the property. Furthermore, drainage across the property should be by sheet-flow directed as much as practical, to the east and south of the buildings. Moreover, surface grades should maintain a recommended two percent gradient away from building foundations. Finally, irrigation near the bluff edge should be kept to an absolute minimum to avoid sloughing and accelerate bluff edge retreat.

<u>Seismic Shaking</u>

The geotechnical report indicates that future, large magnitude earthquakes originating on the San Andreas, Maacama, or other nearby faults are expected to cause strong ground shaking at the site. The report suggests that extending building foundations into the bedrock would reduce shaking concerns, stating: "Structures founded in bedrock or in firm, relatively shallow terrace soils over bedrock are more likely to experience short, jolting motions, rather than the prolonged, oscillatory shaking brought on by perpetuation of seismic waves in thickened, unconsolidated sediment deposits." To reduce the contribution of the development to seismic shaking hazards, the report recommends that further subsurface investigation of the soils and bedrock underlying the site will be necessary to characterize the thickness and engineering properties of the terrace deposits and bedrock. Depending on the structure type, location, and site conditions, additional investigation will be required to provide specific foundation design parameters and, as appropriate, detailed recommendations for site grading, access road construction, and surface and or subsurface drainage.

The Commission's geologist, Dr. Mark Johnsson, has reviewed the geotechnical report and has determined that the overall conclusion that the project site is geologically suitable for the proposed development and its more specific conclusions regarding bluff retreat, bluff stability, seismic shaking and it specific recommendations are reasonable.

As noted above, the geotechnical report recommends a bluff setback of 100 feet to protect against bluff retreat and bluff stability concerns. As revised for purposes of the Commission's *de novo* review, the development will be located at least 240 feet from the bluff edge at its nearest point. Therefore, the Commission finds that if the development is designed in accordance with the design recommendations of the applicant's geologist, the minimum 150-foot setbacks between the bluff edges and the new structures proposed by the applicant are sufficient to protect the new structures from bluff retreat for a 75-year design life consistent with LUP Policy 3.4-7 and CZC Section 20.500.020(B).

To ensure that the proposed project is developed consistent with the proposed 150-foot bluff setback and the design recommendations of the geotechnical report regarding site drainage and foundation designs to reduce the contributions of the development to bluff retreat, bluff instability, and seismic safety hazards, the Commission attaches Special Condition No. 1. This special condition requires that prior to permit issuance, a geotechnical engineer shall approve all final design, construction, foundation, grading and drainage plans as recommended by the geologic report. Moreover, the condition requires that all geologic setback, site grading, foundation, and site drainage recommendations included in the BACE Geotechnical report prepared for the site dated January 10, 2008 (Exhibit No. 16) have been incorporated into final plans. The Commission finds that only as conditioned to ensure that the mitigation measures are properly incorporated into the development can the project be found consistent with LUP Policies 3.4-1 and 3.4-7 and CZC Section 20.500.010(A).

Although the geotechnical report concludes that that "the site is geologically suitable for the proposed development", the applicant is nonetheless proposing to construct a new inn and ranch complex on a high uplifted marine terrace bluff that is actively eroding. Thus, as the geotechnical report demonstrates, notwithstanding the relative degree of insulation of the proposed project in its proposed location from geologic hazards, the subject site is nonetheless located in an area of high geologic hazard. New development can only be found consistent with the above-referenced LCP provisions 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. As stated above, the geotechnical report demonstrates that if the new development is set back at least 100 feet from the bluff, the development will be safe from erosion and will not require any devices to protect it during its useful economic life. As proposed, the development will be located a minimum of 240 feet from the bluff edge.

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 following:

- <u>The Kavich Home at 176 Roundhouse Creek Road in the Big Lagoon Area north of Trinidad (Humboldt County)</u>. In 1989, the Commission approved the construction of a new house on a vacant bluff top parcel (CDP No. 1-87-230). Based on the geotechnical report prepared for the project it was estimated that bluff retreat would jeopardize the approved structure in about 40 to 50 years. In 1999 the owners applied for a coastal development permit to move the approved house from the bluff-top parcel to a landward parcel, because the house was threatened by 40 to 60 feet of unexpected bluff retreat that occurred during a 1998 El Niño storm event. The Executive Director issued a CDP waiver (1-99-066-W) to authorize moving the house in September of 1999.

- <u>The Denver/Canter home at 164/172 Neptune Avenue in Encinitas (San Diego County)</u>. In 1984, the Commission approved construction of a new house on a vacant bluff-top lot (CDP No. 6-84-461) based on a positive geotechnical report. In 1993, the owners applied for a seawall to protect the home (CDP Application No. 6-93-135). The Commission denied the request. In 1996 (CDP Application No. 6-96-138) and again in 1997 (CDP Application No. 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 (CDP Application No. 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 (CDP No. 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 (CDP No. 5-93-254-G) later was issued to authorize bluff-top protective works.

The Commission emphasizes that the above examples 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.

Although the project has been evaluated and designed in a manner to minimize the risk of geologic hazards, and although the Commission is requiring with Special Condition No. 1 that the applicant adhere to all recommended specifications to minimize potential geologic hazards (including recommendations on geologic setback, site grading, foundation support, and site drainage), some risk of geologic hazard still remains. This risk is reflected in the geotechnical report (Exhibit No. 16), which references various "limitations" of the analysis, such as:

> "...Changes in the condition of a site can occur with the passage of time, whether they are due to natural events or to human activities on this, or adjacent sites. In addition, changes in applicable or appropriate codes and standards may occur, whether they result from legislation or the broadening of knowledge..." [p. 10]

This language in the report itself is indicative of the underlying uncertainties of this and any geotechnical evaluation and supports the notion that no guarantees can be made regarding the safety of the proposed development with respect to bluff retreat. 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 property is an inherently hazardous piece of property, that the bluff face is clearly eroding in some areas, and that the proposed new development will be subject to geologic hazard and could potentially someday result in the applicant seeking a bluff or shoreline protective device, inconsistent with LUP Policy 3.4-7 and CZC Sections 20.500.010 and 20.500.020(B). The Commission thus finds that the proposed development could not be approved as being consistent with LUP Policy 3.4-7 and CZC Section 20.500.010 and 20.500.020(B)

if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

The slope stability analysis prepared by the applicant's geologist indicates that the risks of geologic hazard are minimized if the new development is set back at least 100 feet or more from the bluff edge. As proposed, the development will be set back a minimum of 240 feet from the bluff edge. However, given that the risk cannot be completely eliminated and the geologic report cannot assure that shoreline protection will never be sought to protect the development, 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 (1) due to the inherently hazardous nature of this lot, (2) the fact that no geology report can conclude with any degree of certainty that a geologic hazard does not exist, (3) the fact that the approved development and its maintenance may cause future problems that were not anticipated, and (4) because new development shall not engender the need for shoreline protective devices, it is necessary to attach Special Condition No. 2 to ensure that no future shoreline protective device will be constructed.

Special Condition No. 2 prohibits the construction of shoreline protective devices on the parcel, requires that the landowner provide a geotechnical investigation and remove the permitted main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines if bluff retreat reaches the point where the permitted 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 CZC Section 20.500.010, which states that new development shall minimize risk to life and property in areas of high geologic hazard, assure structural integrity and stability, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding areas, nor in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs. The Commission finds that the proposed development could not be approved as being consistent with CZC Section 20.500.010 if projected bluff retreat would affect the proposed development and necessitate construction of a seawall to protect it.

Special Condition No. 3 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 below, the requirement of Special Condition No. 4 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.

In addition, as noted above, some risks of an unforeseen natural disaster, such as massive slope failure, erosion, etc., could result in destruction or partial destruction of the inn or other development approved by the Commission. Furthermore, 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. 2(B) 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 main inn building, rental cottage and massage room, ranch manager's unit, ranch equipment barn, generator/.pump shed, garage for inn guests, septic system, rerouted driveway, and utility lines and other permitted development should the bluff retreat reach the point where a government agency has ordered that the structures not be occupied.

The Commission finds that Special Condition No. 4 is required to provide notice of potential hazards of the property and help eliminate false expectations on the part of potential buyers of the property, lending institutions, and insurance agencies that the property is safe for an indefinite period of time and for further development indefinitely into the future, or that a protective device could be constructed to protect the approved development. The condition requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property.

The Commission further notes that Sections 30610(a) and 30610(b) of the Coastal Act and Chapter 20.532 of the County's Coastal Zoning Code exempt certain additions to existing single family residential structures and additions to structures other than single-family residences from coastal development permit requirements. Pursuant to these exemptions, once a house or other building has been constructed, certain additions and accessory buildings that the applicant might propose in the future are normally exempt from the need for a permit or permit amendment. An exempt development cannot be reviewed by the County or the Commission for conformance with the geologic hazard policies of the LCP to ensure that the development would be sited and designed in a manner that would avoid contributing to geologic hazards.

However, in this case because the development is located in an area designated as highly scenic in the certified Mendocino County LCP, future improvements to any of the

structures that are approved pursuant to this authorization will not be exempt from permit requirements pursuant to Sections 30610(a) and 30610(b) of the Coastal Act and Sections 13250 and 13253 of the Commission's regulations. Sections 30610(a) and 30610(b) require the Commission to specify by regulation those classes of development which involve a risk of adverse environmental effects and require that a permit be obtained for such improvements. Pursuant to Section 30610(a) and 30610(b) of the Coastal Act, the Commission adopted Sections 13250 and 13253 of Title 14 of the California Code of regulations, respectively. Sections 13250 and 13253 specifically authorize the Commission to require a permit for additions to existing single-family residences and structures other than single-family residences that could involve a risk of adverse environmental effect.

In addition, Sections 13250(b)(1) and 13253(b)(1) indicate that improvements to a single-family structure and structures other than single-family residences an area designated as highly scenic in a certified LCP involve a risk of adverse environmental effect and therefore are not exempt. As discussed previously, the approved development is located in an area designated as highly scenic in the certified Mendocino County LCP. Therefore, pursuant to Sections 13250(b)(1) and 13253(b)(1) of the Commission's regulations, Special Condition No. 7 expressly requires all future improvements to the approved development to obtain a coastal development permit so the County and the Commission would have the ability to review all future development on the site to ensure that future improvements will not be sited or designed in a manner that would result in an adverse environmental impact. As discussed above, Special Condition No. 4 also requires that the applicant record and execute a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the property. Special Condition No. 4 will also help assure that future owners are aware of these CDP requirements applicable to all future development.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the certified LCP regarding geologic hazards, including LUP Policies 3.4-1, 3.4-7, 3.4-12 and CZC Sections 20.500.010, 20.015.015, and 20.500.020, 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, and will not require the construction of shoreline protective works. Only as conditioned is the proposed development consistent with these LCP policies on geologic hazards.

The Commission thus finds that the proposed development, as conditioned, is consistent with the policies of the LCP regarding geologic hazards since the development as conditioned (1) will not contribute significantly to the creation of any geologic hazards, (2) will not have

adverse impacts on the stability of the coastal bluff or on erosion, and (3) will not require the construction of shoreline protective works. Only as conditioned is the proposed development consistent with the LCP.

H. Visual Resources

LCP Policies and Standards

LUP Policy 3.5-1 states in applicable part:

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

LUP Policy 3.5-3 states:

> *The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. ...*
>
> - *The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1) north to the Hardy Creek Bridge, except Westport Beach Subdivision which is a recognized subdivision...*
>
> *In addition to other visual policy requirements, new development west of Highway One in designated "highly scenic areas" is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Variances from this standard may be allowed for planned unit development that provides clustering and other*

forms of meaningful visual mitigation. New development should be subordinate to natural setting and minimize reflective surfaces. All proposed divisions of land and boundary line adjustments within "highly scenic areas" will be analyzed for consistency of potential future development with visual resource policies and shall not be allowed if development of resulting parcel(s) could not be consistent with visual policies. .[emphasis added]

LUP Policy 3.5-4 states:

Buildings and building groups that must be sited within the highly scenic area shall be sited near the toe of a slope, below rather than on a ridge, or in or near the edge of a wooded area. Except for farm buildings, development in the middle of large open areas shall be avoided if an alternative site exists.
Minimize visual impact of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4) concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with hillside. Minimize visual impacts of development on terraces by (1) avoiding development in large open areas if alternative site exists; (2) minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms; (3) provide bluff setbacks for development adjacent to or near public areas along the shoreline; (4) design development to be in scale with rural character of the area. Minimize visual impact of development on ridges by (1) prohibiting development that projects above the ridgeline; (2) if no alternative site is available below the ridgeline, development shall be sited and designed to reduce visual impacts by utilizing existing vegetation, structural orientation, landscaping, and shall be limited to a single story above the natural elevation; (3) prohibiting removal of tree masses which destroy the ridgeline silhouette. Nothing in this policy shall preclude the development of a legally existing parcel.
.[emphasis added]

LUP Policy 3.5-5 states in applicable part:

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

condition of new development in those specific areas. New development shall not allow trees to block ocean views.

Section 20.504.015, "Highly Scenic Areas", of the Coastal Zoning Code states in applicable part:

(C) Development Criteria.

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

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

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

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

(a) Near the toe of a slope;

(b) Below rather than on a ridge; and

(c) In or near a wooded area.

...

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

(a) Avoiding development, other than farm buildings, in large open areas if alternative site exists;

(b) Minimize the number of structures and cluster them near existing vegetation, natural landforms or artificial berms;

(c) Provide bluff setbacks for development adjacent to or near public areas along the shoreline;

(d) Design development to be in scale with rural character of the area.

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

(11) Power transmission lines shall be located along established corridors where possible and where the corridors are not visually intrusive.

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

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

Section 20.504.020 of the Coastal Zoning Code states in applicable part:

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

Discussion:

The project site is located within a highly scenic area on a gently-sloping open coastal terrace that extends approximately one-quarter mile from the coastal hills east of

Highway One to the ocean bluff edge west of Highway Ones. The terrace and hillsides are predominantely vegetated with low-growing grasses and are largely used for agricultural grazing which contributes to the rural agricultural character of the area. Due to the flat terrain of the terrace, and lack of tall vegetation or varied topography, the development site is highly visible from Highway One in both directions. The lack of trees and the very limited and widely scattered development in the immediate vicinity of the development site gives the landscape a very open appearance. The views to and along the coast from narrow two-lane Highway One in this area are sweeping and vast (See Exhibit Nos. 3 and 22) and the area is designated in the certified Mendocino LCP as a highly scenic area.

There is very little development located on either side of the highway in the immediate vicinity of the development site with the exception of a few scattered residences on the east side of the highway, three houses and a winery scattered along the west side of the highway beginning approximately one mile north of the applicant's ranch, and several homes west of the highway on parcels within a half mile south of the proposed development site. A larger concentration of approximately 30 homes exists along the west side of the highway approximately two miles south of the proposed development south of Abalobadiah Creek. This concentration of houses two miles south of the development site is largely screened from view from Highway One in the vicinity of the development site by intervening vegetation and a topographical break in the terrace formed by the Abalobadiah Creek drainage.

The proposed development would be visible from an approximately one-mile- long stretch of Highway One, which is the primary public vantage point. Northbound travelers on the highway would first see the development several hundred feet to the south of the site. Southbound travelers would first see the development across the gently-sloping coastal terrace a location along the highway nearly a mile north of the site.

As cited above, the LCP sets forth numerous policies regarding the protection of visual resources, including several policies specific to development in designated highly scenic areas, and several policies specific to development on coastal terraces. LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas must be considered and protected by requiring 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 landforms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. Additionally, LUP Policy 3.5-1 requires that in highly scenic areas, new development must be subordinate to the character of its setting.

LUP Policy 3.5-3 similarly requires that new development located within areas designated highly scenic must be subordinate to the character of its natural setting and requires any development permitted in these areas to provide for the protection of ocean

and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes. Coastal Zoning Code (CZC) Section 20.504.015 reiterates these requirements. LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8) require that the visual impacts of development on terraces be minimized by (a) avoiding development, other than farm buildings, in large open areas if alternative site exists, and (b) minimizing the number of structures and cluster them near existing vegetation, natural landforms or artificial berms.

1. Protection of Coastal Views, Ensuring Development is Subordinate to the Character of its Setting, and Minimizing Development on Terraces in Highly Scenic Areas.

In its review of the substantial issue portion of the appeal, the Commission determined that the appeal raised a substantial issue as to whether the development approved by the County was consistent with the LCP requirements cited above that new development be subordinate to the character of its setting, and requiring the protection of views to the ocean and scenic coastal areas. Given (a) the large size of the development (approximately 16,000 square feet)in this sparsely developed area, (b) the appearance of the fenced inn compound, (c) the visual effect of planting a number of trees for screening purposes in the middle of a largely treeless terrace where the planted tree themselves would appear out of character with the landscape around it, and (d) the visual prominence and glare from cars parked at the site, portable restrooms, signs, lighting, tents, and other temporary structures that would be associated with the unlimited number of weddings and other special events accommodating up to 99 people that the County approval would allow to occur on the grounds of the facility, the Commission determined that the approved project raised a substantial issue of whether the development would be subordinate to the character of its setting. The Commission also determined that the project as approved by the County, raised a substantial issue of conformance with LCP policies requiring the protection of views to the ocean and scenic coastal areas, noting that the development would obstruct some blue water view, not just by the approved 25-foot high structures, but also from the approved fence that would surround the 3.4-acre inn complex and the required landscaping that includes trees to screen the development. The Commission found that given the wide-open landscape of the site that is largely devoid of trees, the 277-foot by 335-foot inn complex would block a significant amount of view.

As discussed above, the project description revised for purposes of the Commission's de novo review of the project involves redeveloping an existing complex of ranch buildings and developing a six unit inn by demolishing five existing ranch buildings and developing a new inn and ranch compound of buildings in the general location of the existing buildings to be demolished. The new inn would include: (1) a main building, including renovation of the former Orca Inn into three rental units of 412 square feet, 249

square feet and 240 square feet and accessory common and service areas of 3,236 square feet; and (2) a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet. Ranch and service operations would include: (1) a ranch manager's unit of 1,737 square feet; (2) an equipment barn of 1,121 square feet; (3) a generator/pump shed of 240 square feet; and (4) a garage of 1,508 square feet. The existing water tank of approximately 189 square feet, its adjacent pump house of approximately 134 square feet and two existing wells and majority of existing driveway are to remain. The project will reuse the existing septic system, improve the existing driveway, and bury existing overhead utilities. The total area of development is approximately 1.56 acres, which includes the building envelope of approximately 1.22 acres and the driveway of approximately .34 acres. The existing farmhouse, which comprises a portion of the proposed main building, is to be renovated, with retention of a minimum of 50 percent of the existing exterior walls and roof.

To address the substantial issue raised in the appeal as to whether the development would be subordinate to the character of its setting, the applicant has proposed various project changes to make the development more subordinate. These changes include: (1) reducing the overall size of the development both in terms of floor area and footprint of the building complex, (2) consolidating the proposed visitor serving units into fewer dispersed buildings, reducing the number of structures containing visitor serving accommodations, and (3) remodeling and expanding the existing ranch house building rather than demolishing and replacing the ranch house with an entirely new building to retain the historic character of the building as part of the visual character of the area.

To help the Commission assess the visual impacts of the development and the consistency of the proposed development with the visual policies of the certified LCP, the applicant provided for purposes of the Commission's de novo review a visual impact study, attached as Exhibit 22. The study includes a compendium of aerial and landward views of the site comparing existing views with views from the same locations showing superimposed simulations of the proposed development as revised for purposes of the Commission's de novo review. Page 1 of Exhibit 22 shows an overview aerial of the project site that clearly shows the sparse development pattern and expansive open space in the vicinity of the project site, labeled "Newport Ranch." Pages 4 and 5 of Exhibit 22 provide a comparison of the existing compound of buildings at the site with the redeveloped compound. The existing ranch house along the inland side of the compound shown on Page 4 will be retained and remodeled. In the proposed photo, Page 5, the ranch house is located on the seaward side of the compound, as the compound boundary will be shifted approximately 90 feet inland as well as condensed. All other existing buildings will be removed and replaced with the buildings shown on Page 5.

The before and after comparison photos on pages 6-15 of Exhibit 22 illustrate how the proposed development as viewed from Highway One will appear bulkier and taller than

the existing compound of buildings. In addition, some additional blue water view available now from Highway One over and through the existing compound will be blocked by the taller structures. However, the comparison photos also demonstrate that taking into account the large expanse of open space owned by the applicant that surrounds the development site, particularly the large open space area that extends north from the development site west of the highway, the individual visual impacts of the proposed development itself are not significant. The large expanse of uninterrupted view counter-balances the blockage of additional view and the greater massing of development that results from the project proposal. The fact that the new development will be located in the same part of the viewscape as the existing compound of buildings will also help retain the character of the existing views, which is comprised of a complex of building in this location set against vast open space area west of the highway. In this context, the development as proposed for the Commission's de novo review does not significantly affect views to and along the ocean and the development is subordinate to the character of its setting.

This determination that the visual impacts would not be significant and the development would be subordinate to the character of its setting is dependent on retaining the agricultural and open space use around the site without significant new structures, particularly the open space west of the highway and north of the development site. If this rural residential-zoned area were developed with new homes and accessory structures and driveways, the cumulative impact of the proposed inn development together with this additional residential development would be significant. The cumulative impacts of such development would block proportionately more of the ocean views and prominently break up the large expanse of open space, thereby eliminating the current opens space's value in counter-balancing the blockage of additional view and the greater massing of development that results from the project proposal. Unless individual and cumulative impacts are examined taking into account the totality of the project area, the Commission could not ensure that the approved development was subordinate to the character of its setting because every development would change the character of its setting. In order to find the proposed development consistent with the applicable LCP policies, the Commission must ensure that there is no proliferation of development surrounding the project site.

The certified LCP policies for development on coastal terraces in highly scenic area require the retention of open space and minimizing development on the terraces to protect views. As noted above, LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015 state that the scenic and visual qualities of Mendocino County coastal areas must be considered and protected by requiring that permitted development be sited and designed to protect views to and along the ocean and scenic coastal areas and requires that in highly scenic areas, new development must be subordinate to the character of its setting. In addition, LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8) specifically

require that the visual impacts of development on terraces be minimized by (a) avoiding development, other than farm buildings, in large open areas if alternative site exists, and (b) minimizing the number of structures and cluster them near existing vegetation, natural landforms or artificial berms. To ensure that the cumulative visual impacts of the proposed development will be reduced to a level of insignificance, the development will be subordinate to the character of its setting, and impacts of development on the coastal terrace will be minimized by minimizing the number of structures in large open areas, the Commission finds that it is essential to limit development on the large open space area owned by the applicant west of Highway One, both surrounding and north of the development site. Therefore, the Commission attaches Special Condition Nos. 5 and 6. Special Condition No. 5 prohibits all development, as defined in Section 30106 of the Coastal Act, anywhere on APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013 west of Highway One except for: (a) agricultural fences, corrals, and other accessory agricultural development not including any residences, barns, or other significant new above-ground structures except for the replacement of a barn that previously existed partially on APN 015-033-013; (b) installation of utilities; (c) removal of non-native, invasive vegetation, planting of native plants; (d) removal of vegetation for compliance with Cal-Fire defensible space requirements; and (e) improvement and use for public access purposes, if approved by the Coastal Commission as an amendment to this coastal development permit. The applicant has proposed such restrictions on the affected APNs in the revised project description. As discussed further below, Special Condition No. 6 ensures that the APN containing the subject ranch and inn compound and the two APNs surrounding the development area are neither divided nor conveyed separately.

The Commission finds that only as conditioned is the development consistent with the visual resource protection policies of the certified LCP regarding development on coastal terraces in highly scenic areas. Without the imposition of Special Conditions 5 and 6, this finding could not be made. As the expansive views to the ocean north of the development site will be protected by the requirements of Special Condition No. 5 that the use of certain lands north of the development site be restricted to agriculture and open space without significant structures that could block views, the development as conditioned will protect views to and along the ocean and a scenic coastal area from the cumulative impacts of the development consistent with the requirements of LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015. Similarly, as Special Condition No. 6 will continue to limit the perceived magnitude of the development by ensuring the development will always be located in a setting of significant open space and minimize the cumulative impacts of the development, the development will be subordinate to the character of it's setting consistent with the requirements of LUP Policies 3.5-1 and 3.5-3 and CZC Section 20.504.015 that development in highly scenic areas be subordinate to the character of its setting. Finally, by restricting development of the northerly APNs, the development as conditioned will avoid development in large open areas and minimize the

number of structures within a coastal terrace that is designated as highly scenic, the development as approved is consistent with the requirements of LUP Policy 3.5-4 and Zoning Code Section 20.504.015(C)(8).

Special Condition Nos. 5 and 6 would affect development on APNs adjoining APN 015-380-005 where the inn development is proposed. The conditions would preclude most development on APNs 015-038-002, 015-038-03, 015-038-004, 15-038-06 and 015-033-013. These APNs are shown in Exhibits 19 and 23. APN 015-380-003 and 015-380-004 as well as the APN where the proposed development is located, APN 015-380-005, are all contained within a much larger area that extends across the highway that was recognized as one legal parcel by Certificate of Compliance #CC 39-90 granted by the County in April 1995 (See Exhibit 20). Certificate of Compliance #CC 39-90 includes a statement that the COC area containing numerous APNs exists as one legal parcel.

The Commission finds that even if the three APNs are separate legal parcels, which they are not, the evidence supports that at least these three APNs can be aggregated as a single parcel for takings purposes for the following reasons. First, these three APNs are contiguous, owned by the applicant, and are subject to the same local land use designation (Mendocino Rural Residential, MRR). Second, all three APNs were acquired by the applicant at the same time pursuant to the same deed. (See Exhibit 19). Notably, this deed does not describe the three APNs separately, rather the property is described as a whole without reference to separate individual APNs. Third, all three APNs have followed similar conveyance patterns dating back through their chain of title to 1914, including to the applicant in 1986. Fourth, as discussed above, all three parcels are addressed by the same COC legalizing one parcel (See Exhibit 20). This COC addresses twelve separate APNs, all of which follow similar conveyance patterns dating back through their chain of title to 1914. Fifth, all three APNs appearing as a single legal parcel on the County issued COC along with other APNs owned by the applicant have historically been managed together as a ranch. Finally, as discussed below, APNs 015-380-003, 015-380-004, and 015-380-005 have been treated as part of a single parcel by the applicant, the prior owner, the County, and the Coastal Commission in the submittal and the review of coastal development permit applications since at least 1984.

As noted above, in September 1984, prior to certification of the Mendocino LCP, the Coastal Commission granted Coastal Development Permit No. 1-83-278 for conversion of the existing residence on the site into a four-unit bed and breakfast inn. This residence is the same residence on APN 15-380-05 proposed to be converted to an inn under the current permit application. As the prior to issuance conditions of CDP No. 1-83-278 this permit were never met, the approval expired, and the permit was never issued. The property was owned at the time by James and Josephine Lindsey. The coastal development permit application submitted by the applicants for the project described the

parcel as containing 832 acres and included exhibits showing the parcel boundaries (See Exhibit 24). The parcel exhibits indicate the subject parcel included (1) the area of APNs 015-380-003, 015-380-004, and 015-380-005, (2) all of the additional area covered by COC 39-90, and (3) additional lands inland of COC 39-90 approximately as large as the area covered by COC 39-90.

In 1996, four years after certification of the LCP, the County Planning Commission approved Coastal Development Permit No. CDU 9-95, allowing for a 10-unit inn involving the remodeling of the existing large ranch house into two guest units and manager's quarters and the construction of eight new individual guest cottages. The Planning Commission approval was subsequently appealed to the Board of Supervisors and approved by the Board on May 13, 1996. The permit application submitted for the project was submitted by the new owner, Jackson Grube Family, Inc. after the County issued COC 39-90 in 1995. Both the application submitted by Jackson Grube Family Inc. and the County staff report for CDU 9-95 described the parcel as being approximately 400 acres in size and included exhibits showing the parcel boundaries. These parcel boundaries shown in the exhibits coincide with the boundaries of the COC approved by the County.

The Board's approval of CDU 9-95 was later appealed to the Coastal Commission (Appeal No. A-1-MEN-96-028). One of appellants was the applicant, Jackson-Grube Family, Inc., who appealed the County's approval to challenge the County's imposition of a condition requiring the recordation of an offer to dedicate a lateral public access easement along the bluff edge and a vertical public access from Highway One to the lateral access easement. In the appeal, the applicant's representative indicates that the project site involved only 34 acres, but that the entire parcel was approximately 400 acres. The appeal states that "imposition of the access condition on the entire parcel, <u>when less than ten percent (10%) of the entire parcel is actually committed to the development</u>, is unreasonable, burdensome, and unnecessary to effectuate any applicable policies." [emphasis added]. Based on these statement in the applicant's appeal, the applicant clearly considered APNs 015-380-003, 015-380-004, and 015-380-005 as well as other APNs to be part of a single parcel and treated these APNs as if they were part of just one parcel. On July 10, 1996, the Coastal Commission determined that the appeal raised no substantial issue, allowing the County's approval of CDU 9-95 to stand.

The applicants subsequently sued the County, challenging the condition requiring coastal access on the grounds that a nexus did not exist between the impacts of the project on public access and the exaction of property for public access purposes. Eventually a settlement of the law suit was reached between the applicants and the County that provide for the County to drop the condition requiring the offer of dedication of public access in exchange for the applicants (1) conveying fee title to the County of a one-acre portion of the approximately 400-acre subject property, (2) paying the County $25,000 toward the development of coastal access in the area, and (3) dedicating an easement for public

access through property along a 15-foot strip on the west side of the Highway One right-of-way. On August 3, 2000, the County then approved Coastal Development Use Permit Modification #CDUM 9-95/2000 as a means of implementing the terms of the settlement agreement. The application submitted by the applicant indicates that the subject property was approximately 400 acres. Exhibits in the County staff report for the project show the parcel boundary again coinciding with the boundaries of the County approved COC 39-90, which as discussed above, includes APNs 015-380-003, 015-380-004, and 015-380-005 as well as substantial additional property.

On June 21, 2007, the Mendocino County Planning Commission conditionally approved the coastal development permit for the project that is the subject of the current appeal (CDU #6-2006) (Exhibit No. 10). The exhibits in the application and the County staff report do not clearly distinguish the subject parcel from other adjoining property owned by the applicant (See pages PC-17 and PC-18 of Exhibit No. 14 of this Coastal Commission staff report). However, the County staff report consistently refers to the parcel where the development was approved as a 400-acre parcel, the same size as the approved COC and the same size used to describe the parcel by the County in CDU 9-95 and CDUM 9-95/2000 and by the Commission in Appeal No. A-1-MEN-96-28. Thus, APNs 015-380-003, 015-380-004, and 015-380-005 have been treated as part of a single parcel by the applicant, the prior owner, the County, and the Coastal Commission in the submittal of applications for and the review of coastal development permit applications since at least 1984.

Therefore, even if the three APNs are separate legal parcels which they are not, the evidence establishes that the Commission should treat APNs 015-380-003, 015-380-004, and 015-380-005 as a single parcel. Because APN 015-380-005 is currently developed and as approved by Coastal Development Permit A-1-MEN-07-028 will be redeveloped into a commercial inn and ranch complex, the combined parcel of APN 015-380-005, 015-380-003 and 0-15-380-004 has an economic use and restricting further development on the two northern APNs does not constitute a taking. The Commission also notes that the APNs restricted by Special Conditions 5 and 6 would increase the value of the coastal inn and ranch by preserving both privacy and views.

To ensure that APNs 015-380-003, 015-380-004, and 015-380-005 are always considered a single economic unit for purposes of determining whether a taking has occurred, as well as ensure that the affected property is never placed into divided ownership with a future owner separately owning the agricultural and open space areas over which development has been restricted, the Commission attaches Special Condition No. 6. Special Condition No. 6 requires that the applicant to acknowledge and agree that APNs 015-380-003, 015-380-004, and 015-380-005 will be treated as part of a single legal parcel of land for all purposes. Special Condition No. 6 also requires that APNs 015-380-003, 015-038-004, and 015-380-005 never be divided or sold separately. As

such, Special Condition No. 6 will ensure that (1) all portions of the three APNs, APNs 015-380-003, 015-380-004, and 015-380-005 will be considered and treated as part of a single legal parcel of land for all purposes, including but not limited to sale, conveyance, development, taxation or encumbrance, and (2) the single legal parcel will not be divided or otherwise alienated. The condition requires the applicant to execute and record a deed restriction, free and clear of prior liens, and including a legal description and graphic depiction, reflecting the restrictions set forth above. The imposition of this condition by the Commission is necessary to ensure both that the restricted property is never conveyed separately and that the areas restricted to agriculture and open space are never the subject of a takings challenge by the current or future owner.

Use of the site for weddings, corporate retreats, lectures, and other special events would adversely affect visual resources if not limited in some manner to restrict the number and location of vehicles and tents or other temporary structures. Vehicles and temporary structures associated with special events located in the fields surrounding the inn and ranch complex would be visually prominent from public vantage points such as Highway One as they would contrast greatly in appearance to the natural setting. The addition of an unlimited number of these temporary features to the landscape for an unlimited number of persons would not be subordinate to the character of the open coastal terrace setting as required by LUP Policy 3.5-1 and 3.5-3 and Coastal Zoning Ordinance Section 20.504.015(C)(3).

The project as proposed includes an overflow parking area for special events adjacent to and along the southeast corner of the inn and ranch complex that can accommodate 24 vehicles. As proposed and conditioned by Special Condition No. 9, a landscaped berm planted with native trees and shrubs will be planted along the perimeter of the overflow parking area to partially screen vehicles parked in the overflow lot. The 24 spaces provided in the overflow lot, together with the 15 spaces serving the inn within the ranch and inn complex itself would be sufficient to accommodate most temporary events such as weddings that are limited to less than 100 people, especially as most people traveling to such events along this remote coastal area will likely be traveling together. Therefore, the Commission attaches Special Condition No. 15 which restricts vehicle parking to the proposed parking areas indicated above and limits the number of persons involved in a temporary event to 99, unless the applicant obtains a coastal development permit amendment to allow an event with a larger number of persons. With the requirement that a permit amendment be obtained for larger groups, the Commission will have the ability to review alternative off-site parking and transportation plans submitted with a permit amendment application to ensure that any proposed large event will not result in vehicles parking on the project site in areas outside of the prescribed parking areas and that the temporary event will be consistent with the visual resource protection policies of the certified LCP. The Commission notes that the requirement that events be limited to

99 persons unless the applicant obtains a coastal development permit is consistent with the requirements of the County approved use permit for the development.

To further limit the visual impact of temporary events, Special Condition No. 15 also restricts the installation of tents installed to accommodate temporary events to the confines of the perimeter fence of the 1.5-acre inn and ranch complex. This limitation will ensure that tents will not be installed in the open fields surrounding the inn and ranch complex and will be limited to the area of the complex itself where views of the water from public vantage points are already affected by the structures of the approved development.

As conditioned, the Commission finds that the proposed development is consistent with the visual resource protection polices of the certified LCP.

I. Protection of Environmentally Sensitive Habitat

LCP Policies and Standards:

Environmentally Sensitive Habitat Areas (ESHA) are defined on page 38 of the Mendocino County LUP as:

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

Coastal Zoning Code Section 20.496.010 "Environmentally Sensitive Habitat and other Resource Areas—Purpose" states (emphasis added):

...Environmentally Sensitive Habitat Areas (ESHA's) include: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation which contain species of rare or endangered plants and habitats of rare and endangered plants and animals.

LUP Policy 3.1-7 states: (emphasis added)

A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning Staff, that 100 feet is not necessary

to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and shall not be less than 50 feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must comply at a minimum with each of the following standards:

1. *It shall be sited and designed to prevent impacts which would significantly degrade such areas;*
2. *It shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and*
3. *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*

Coastal Zoning Code Section 20.496.020 "Environmentally Sensitive Habitat and other Resource Areas—-Development Criteria" states (emphasis added):

(A) Buffer Areas. *A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.*

(1) Width. *The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.*

Standards for determining the appropriate width of the buffer area are as follows:

(a) Biological Significance of Adjacent Lands. *Lands adjacent to a wetland, stream, or riparian habitat area vary in the degree to which they are functionally related to these habitat areas. Functional relationships may exist if species associated with such areas spend a significant portion of their life cycle on adjacent lands. The degree of significance depends upon the habitat requirements of the species in the habitat area (e.g., nesting, feeding, breeding, or resting).*

Where a significant functional relationship exists, the land supporting this relationship shall also be considered to be part of the ESHA, and the buffer zone shall be measured from the edge of these lands and be sufficiently wide to protect these functional relationships. Where no significant functional relationships exist, the buffer shall be measured from the edge of the wetland, stream, or riparian habitat that is adjacent to the proposed development.

(b) Sensitivity of Species to Disturbance. *The width of the buffer zone shall be based, in part, on the distance necessary to ensure that the most sensitive species of plants and animals will not be disturbed significantly by the permitted development. Such a determination shall be based on the following after consultation with the Department of Fish and Game or others with similar expertise:*

(i) Nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species;

(ii) An assessment of the short-term and long-term adaptability of various species to human disturbance;

(iii) An assessment of the impact and activity levels of the proposed development on the resource.

(c) Susceptibility of Parcel to Erosion. *The width of the buffer zone shall be based, in part, on an assessment of the slope, soils, impervious surface coverage, runoff characteristics, and vegetative cover of the parcel and to what degree the development will change the potential for erosion. A sufficient buffer to allow for the interception of any additional material eroded as a result of the proposed development should be provided.*

(d) Use of Natural Topographic Features to Locate Development. *Hills and bluffs adjacent to ESHA's shall be used, where feasible, to buffer habitat areas. Where otherwise permitted, development should be located on the sides of hills away from ESHA's. Similarly, bluff faces should not be developed, but shall be included in the buffer zone.*

(e) Use of Existing Cultural Features to Locate Buffer Zones. *Cultural features (e.g., roads and dikes) shall be used, where feasible, to buffer habitat areas. Where feasible, development shall be located on the side of roads, dikes, irrigation canals, flood control channels, etc., away from the ESHA.*

(f) Lot Configuration and Location of Existing Development. *Where an existing subdivision or other development is largely built-out and the buildings are a uniform distance from a habitat area, at least that same distance shall be required as a buffer zone for any new development permitted. However, if that distance is less than one hundred (100) feet, additional mitigation measures (e.g., planting of native vegetation) shall be provided to ensure additional protection. Where development is proposed in an area that is largely undeveloped, the widest and most protective buffer zone feasible shall be required.*

(g) Type and Scale of Development Proposed. *The type and scale of the proposed development will, to a large degree, determine the size of the buffer zone necessary to protect the ESHA. Such evaluations shall be made on a case-by-case basis depending upon the resources involved, the degree to which adjacent lands are already developed, and the type of development already existing in the area...*

(2) Configuration. *The buffer area shall be measured from the nearest outside edge of the ESHA (e.g., for a wetland from the landward edge of the wetland; for a stream from the landward edge of riparian vegetation or the top of the bluff).*

(3) Land Division. *New subdivisions or boundary line adjustments shall not be allowed which will create or provide for new parcels entirely within a buffer area.*

(4) Permitted Development. *Development permitted within the buffer area shall comply at a minimum with the following standards:*

(a) Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.

(b) <u>Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.</u>

(c) Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact

on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.

(d) Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.

(e) Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.

(f) Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural landforms.

(g) Where riparian vegetation is lost due to development, such vegetation shall be replaced at a minimum ratio of one to one (1:1) to restore the protective values of the buffer area.

(h) Aboveground structures shall allow peak surface water flows from a one hundred (100) year flood to pass with no significant impediment.

(i) Hydraulic capacity, subsurface flow patterns, biological diversity, and/or biological or hydrological processes, either terrestrial or aquatic, shall be protected.

(j) Priority for drainage conveyance from a development site shall be through the natural stream environment zones, if any exist, in the development area. In the drainage system design report or development plan, the capacity of natural stream environment zones to convey runoff from the completed development shall be evaluated and integrated with the drainage system wherever possible. No structure shall interrupt the flow of groundwater within a buffer strip. Foundations shall be situated with the long axis of interrupted impermeable vertical surfaces oriented parallel to the groundwater flow direction. Piers may be allowed on a case by case basis.

(k) If findings are made that the effects of developing an ESHA buffer area may result in significant adverse impacts to the ESHA, mitigation measures will be required as a condition of project approval. Noise barriers, buffer areas in permanent open space, land dedication for erosion control, and wetland restoration, including off-site drainage improvements, may be required as mitigation measures for developments adjacent to environmentally sensitive habitats. (Ord. No. 3785 (part), adopted 1991)

Discussion

According to the biological reports (see Exhibit No. 17) prepared for and submitted by the applicant for the de novo portion of the Commission's review the subject parcel and the applicant's adjoining Parcel 015-380-06 contains four basic vegetation types, including California annual grassland, introduced perennial grassland, Northern coastal bluff scrub, and several mesic areas including an ephemeral stream channel and several freshwater marsh areas.

Botanical surveys conducted in 1991 and 1992 and relied upon by the County in its approval of the project indicated that the only environmentally sensitive habitat (ESHA) on the property consisted of a rare plant population of Mendocino paintbrush located along the bluffs. The updated biological reports submitted for the Commission's de novo review of the project indicates that the subject property contains five types of ESHAs, including habitats for two special status plant species, one special status plan community, four wetlands, a riparian corridor, ephemeral stream, and special status migratory bats and birds that could potentially nest on the subject property.

Mendocino coast Indian paintbrush (castilleja mendocinensis) has been identified in the coastal bluff scrub along the western and northern portion of the prominent northwest trending peninsula that is mostly part of APN 015-380-06 (see Exhibit No. 17) and also on APN 015-380-02. The hemiparasitic perennial herb has no federal or state listing status as threatened or endangered but is listed as a class 1B species in the Department of Fish & Game's California Natural Diversity Database.

Short-leaved evax (Hesperavax sparsiflora var. brevifolia) has been identified in the coastal bluff scrub near the western end of the peninsula. In February of 2008, the applicant's biologists observed approximately 250 individual plants of the species in two separate locations at the western end of the peninsula. The annual herb also has no federal or state listing status as threatened or endangered but is listed as a class 1B species in the California Natural Diversity Database.

Northern Coastal Bluff Scrub has been identified along portions of the bluff face and along the bluff top within ten feet of the bluff edge. The woody and herbaceous plant

community is listed as a class G2, S2.2 plant community in the California Natural Diversity Database.

Development activities that occur between February and August could affect nesting special status bird species. Development activities performed in months other than September and October that occur in and around existing structures could potentially affect bat roosting habitat.

The biological report also identified an ephemeral stream and four freshwater wetland areas on the subject property, including a northwest wetland, a northeast wetland, and two southern wetlands (See Exhibit No. 4). The northwest wetland is approximately 0.67-acres in size and extends from just inside the northwest corner of the existing fenced compound to an area to the northwest close to the bluff. The northeast wetland extends east west across a portion of the property approximately 125 feet north of the proposed new driveway connection to Highway 1. The northerly extent of the wetland has not been mapped as only the southern edge borders the project site. The ephemeral stream identified by the botanical report also extends east west across the property more than 100 feet south of the development site from a culvert under Highway One just south of the current connection of the driveway to the highway to a cove along the bluff edge. The stream ranges in width from bank to bank from 3-20 feet and in depth from the bottom of the channel to the top of the bank from2-10 feet. The channel supports some wetland vegetation, but the stream is not surrounded by riparian vegetation. The two southern wetlands connect to this stream south of the existing driveway and east of the development site.

The supplemental biological report submitted on June 15, 2000 also identifies a riparian corridor along the northern boundary of APN 015-380-02 as well as rare plant ESHA along the bluff edges (See Exhibit 17).

As cited above, Coastal Zoning Code Section 20.496.010 states that environmentally sensitive habitat areas (ESHA) include habitats of rare and endangered plants and animals. Therefore, as ESHA, the rare and endangered plant habitat on the subject property is subject to the ESHA buffer requirements of LUP Policy 3.1-7 and Coastal Zoning Code Section 20.496.020. According to these policies, a buffer area of a minimum of 100 feet shall be established adjacent to all ESHAs, unless an applicant can demonstrate, after consultations and agreement with the California Department of Fish and Game (DFG) that 100 feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The policies state that in that event, the buffer shall not be less than 50 feet in width. Coastal Zoning Code Section 20.496.020 states that the standards for determining the appropriate width of the buffer area are the seven standards of subsections (a) through (g) of subsection (A)(1) of that section, including (a) the biological significance of adjacent

lands, (b) sensitivity of species to disturbance, (c) susceptibility of parcel to erosion, (d) use of natural topographic features to locate development, (e) use of existing cultural features to locate buffer zones, (f) lot configuration and location of existing development, and (g) the type and scale of the development proposed.

As proposed, the development will be a minimum of 50 feet from the nearest ESHAs and in most cases 100 feet away. A minimum 50-foot buffer would be established between the driveway improvements and the southeast wetland. In addition, a portion of the main inn building is located less than 100 feet away from the northwest wetland. Furthermore, the proposed vertical public access easement along the northern boundary of APN 015-380-02 is located where a minimum 50-foot buffer could be established between any future trail improvements and the riparian and rare plant ESHA. All other streams, wetlands, and special status plant community ESHAs would be protected by a 100-foot buffer.

With regard to the wetland ESHA and their surrounding landscapes where the reduced buffers are proposed, the biological study states as follows:

> The current value of the buffer area to be impacted (between 50 and 100 feet from the wetland edges) is minimal due to the current state of the ESHAs and the surrounding landscape which has been subject to a land use history which is long and varied and has resulted in disturbed upland soils, weedy vegetation and soil erosion impacts from decades of grazing. Nevertheless, an increase in activity, soil disturbance and erosion, and landscape maintenance changes could have direct impacts on nearby ESHAs.

The applicant proposes to include various mitigation measures to reduce these impacts to a less than significant level. To avoid impacts from grading and demolition activities such as the release of sediment and debris, accidental placement of filling or grading, trampling and compaction, the applicant proposes to (1) limit ground disturbance to only the summer to avoid erosion and sedimentation; (2) install flagging and construction fencing; (3) storing materials in an appropriate manner, and (4) educating construction workers about the sensitive resources. To avoid disturbance to sensitive bird and bat species, the applicant proposes to perform pre-construction surveys and establish temporary buffers around any nests until the young have fledged or left the nest. To minimize intrusion by inn guests and workers into the wetland within 100 feet of development and resulting disturbance of the vegetation, the applicant proposes to (1`) install permanent exclusionary fencing along the upland edge of the buffer, (2) discourage disturbance of existing vegetation and require revegetation of areas that are disturbed . To avoid water quality impacts, the applicant proposes to (1)minimize grading, (2) construct the driveway extension only with permeable pavers, and (3) limit vehicles to existing roads .

The applicant's biologist prepared an analysis that substantiates that a 50-foot buffer is adequate to protect the ESHA from the impacts of the proposed development based on the seven standards contained within Coastal Zoning Code Section 20.496.020. The primary factors that support allowing a reduced buffer include: (1) the lands adjacent to the wetlands with a reduced buffer do not appear to be functionally related to the wetlands as they are heavily impacted by cattle and past land use activities, (2) the land is not particularly susceptible to erosion given that the site is on a flat coastal terrace with very little impervious surfaces, and (3) the development will only have a small encroachment into areas that would provide a 100-foot buffer.

The biological report demonstrates that the portion of the wetland ESHA where a buffer of less that 100 feet would be provided does not depend on the functional relationships of adjacent lands that a larger buffer area is usually intended to protect such as breeding, nesting, feeding, or resting activities. Therefore, in this case, there is less need for a wide buffer to help sustain the ESHA. In addition, the fact that the development site is relatively flat indicates that erosion and sedimentation from construction, and from the completed development, are less likely to affect the ESHA than erosion and sedimentation would if the building site had a steeper slope with greater potential for erosion, particularly with implementation of the additional erosion and sedimentation controls required by Special Condition No. 11 described below. Additionally, the biological report establishes that there are measures that are more important and more effective for protecting the small portion of wetland ESHA from disturbance than wide spatial buffers including the use of exclusionary fencing during construction, best management practices for erosion control, and preserving the habitat from future development, restricting landscaping. The biological report demonstrates that with these mitigation measures, a 50-100 foot buffer would be adequate to protect the affected portion of the wetlands ESHA.

Therefore, the Commission finds that primarily based on the buffer width criteria of subsections (a) and (c) of Coastal Zoning Code Section 20.496.020 regarding the biological significance of adjacent lands and the susceptibility of the parcel to erosion, the proposed 50-foot buffer width in conjunction with implementation of Special Condition No. 10, requiring the submittal of an erosion and runoff control plan incorporating certain erosion and sedimentation controls, and Special Condition No. 14, requiring implementation of the protective measures recommended by the applicant's biologist is adequate to protect the portions of the environmentally sensitive wetland habitat that would have less than a 100-foot buffer at the project site from possible significant disruption caused by the proposed development.

Furthermore, the ESHA could be adversely affected by the development if non-native, invasive plant species were introduced from landscaping at the site. Introduced invasive exotic plant species could spread into the ESHA and displace native riparian and wetland

vegetation, thereby disrupting the value and function of the adjacent ESHA. To ensure that the ESHA is not adversely impacted by any future landscaping of the site, Special Condition Nos 9 and 10 requires that only native and/or non-invasive plant species of native stock be planted at the site.

To help in the establishment of vegetation, rodenticides are sometimes used to prevent rats, moles, voles, and other similar small animals from eating the newly planted saplings. Certain rodenticides, particularly those utilizing blood anticoagulant compounds such as brodifacoum, bromadiolone and diphacinone, have been found to poses significant primary and secondary risks to non-target wildlife present in urban and urban/ wildland areas. As the target species are preyed upon by raptors or other environmentally sensitive predators and scavengers, these compounds can bio-accumulate in the animals that have consumed the rodents to concentrations toxic to the ingesting non-target species. Therefore, to minimize this potential significant adverse cumulative impact to environmentally sensitive wildlife species, Special Condition No. 10 prohibits the use of specified rodenticides on the property governed by CDP No. A-1-MEN-07-028.

With the mitigation measures discussed above, which are designed to minimize any potential impacts to the adjacent environmentally sensitive habitat area, the project as conditioned will not significantly degrade adjacent ESHA and will be compatible with the continuance of the environmentally sensitive habitat areas.

Therefore, the Commission finds that the proposed development, as conditioned, is consistent with the provisions of LUP Policies 3.1-7 and Coastal Zoning Ordinance Section 20.496.020 concerning establishment of buffers between development and existing ESHA because (1) the proposed project would establish an ESHA buffer width based on the standards set forth in Coastal Zoning Ordinance Section 20.496.020(A)(1)(a) through (g) for reducing the minimum buffer below 100 feet, and (3) all impacts of the development on the adjacent ESHA would be mitigated to levels of less than significance.

A submittal received by the Commission on September 30, 2009 from Jared G. Carter on behalf of Deborah Cahn, Trustee of the Margery S. Cahn Living Trust, and Judith Whiting, Trustee of the Whiting Family Revocable Trust contends that the evaluation of impacts to ESHA is inadequate, supported by a statement from Deborah Stern Cahn, an appellant, and a letter from Roger D. Harris, Certified Wildlife Biologist. Ms. Cahn states that she has observed several species of special concern on or near the project site, including Behren's silverspot butterflies, brown pelicans, an osprey, and a western burrowing owl and suggests that the protection of these species are not addressed in the biological evaluation and in the staff report. Mr. Harris raises concerns that Behren's silverspot butterfly and lotis blue butterfly may be present at the project site and raises

numerous other technical concerns with the manner in which the biological evaluation was conducted.

The project as conditioned provides for protection of the bird species of special concern observed by the commenter. Special Condition No. 14 requires that pre-construction breeding bird surveys be conducted by a qualified biologist for any development proposed during the nesting season prior to the commencement of development. If a nest is discovered, the condition requires that a temporary buffer from construction activities of at least 100 feet be established and no development may occur with the buffer area until a qualified biologist has determined that all young have fledged, or left the nest. Therefore, to the extent sensitive bird species such as brown pelicans, ospreys, and owls breed on the site, the species nesting activities will be protected.

With regard to the possible presence of endangered butterfly species, the applicant's biological consultant, Matt Richmond, responds to this concern in a letter dated October 20, 2009 attached as Exhibit No. 33. Mr. Richmond notes that based on communications with the staff of the U.S. Fish & Wildlife Service, the subject property is outside the range of both the Behren's silverspot butterfly and the lotis blue butterfly. In addition, Mr. Richmond notes that the larval food plant for these species has not been observed during rare plant surveys.

Mr. Richmond's letter of October 20, 2009 (Exhibit No. 33) also responds point by point to the other concerns raised by Mr. Harris. The Commission incorporates the responses of Mr. Richmond's letter of October 20, 2009 into these findings, including his responses to the concerns raised by Mr. Harris.

J. Archaeological Resources

LCP Policies and Standards:

LUP Policy 3.5-10 states as follows:

The County shall review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources. Prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a limited field survey by a qualified professional shall be required at the applicant's expense to determine the extent of the resource. Results of the field survey shall be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment. The County shall review all coastal development permits to ensure that proposed projects incorporate reasonable mitigation measures so the development will

not adversely affect existing archaeological/paleontological resources. Development in these areas are subject to any additional requirements of the Mendocino County Archaeological Ordinance. [emphasis added]

Coastal Zoning Code Section 20.532.095(A)(5) states in applicable part:

Section 20.532.095 Required Findings for all Coastal Development Permits.

(A) The granting or modification of any coastal development permit by the approving authority shall be supported by findings which establish that:

(1) The proposed development is in conformity with the certified local coastal program; and

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

(3) The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of this Division and preserves the integrity of the zoning district; and

(4) The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

(5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource. [emphasis added]

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

(B) If the proposed development is located between the first public road and the sea or the shoreline of any body of water, the following additional finding must be made:

(1) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan. (Ord. No. 3785 (part), adopted 1991)

Discussion:

LUP Policy 3.5-10 requires the County to review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological

resources. LUP Policy 3.5-10 further requires that (1) prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance, a field survey must be prepared by a qualified professional to determine the extent of the resource, (2) results of the field survey be transmitted to the State Historical Preservation Officer and Cultural Resource Facility at Sonoma State University for comment, and (3) proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources. Coastal Zoning Code Section 20.532.095 sets forth findings required for all coastal development permits and includes, in part, that the proposed development will not have any adverse impacts on any known archaeological or paleontological resource.

An archaeological survey of the site was prepared in 1990. No archaeological resources were discovered. However, the project site is along a part of the coast where archaeological resources have been discovered in the past. 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 No. 8. This condition requires that if an area of archaeological resources or human remains 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.

The appellants have raised concerns that the 1990 archaeological survey submitted by the applicant for the project is flawed and inadequate to inform a decision about the potential impacts of the approved development on historic resources, particularly potential historic buildings and structures. The 1990 archaeological survey noted that the remains of the Newport Chute, a facility for loading logs onto seagoing vessels used during the late1800s and early 1900s, were discovered nearby the project site. In addition, the survey noted that the historic Town of Newport may have been located within the project boundaries, although no evidence was noted.

The Newport Chute and the historic Town of Newport may be considered historic resources, but are not of an age or nature to be considered archaeological resources. The appellants and Mr. Thad Van Buren in letters submitted to the Commission contend that consideration of adverse impacts to historical resources is required by LUP Policy 3.5-10 and the LCP. Mr. Van Buren notes that the term historical resource refers to any object, building, structure, site, area place, record, or manuscript which is historically or archaeologically significant. Although archaeological resources may be historic resources under this definition, the reverse is not true. Not all historic resources are old enough or of a nature to be considered "archaeological resources." Contrary to the

commentator's assertions, LUP Policy 3.5-10 does not refer to the protection of historic buildings or structures, rather to archaeological and paleontological resources. Thus, only historic resources that are archaeological resources are addressed by the policy. The Commission notes that the LCP Archaeological resource policies are similar to Section 30244 of the Coastal Act which specifically refers to the protection of archaeological and paleontological resources, not historic resources. The Mendocino County LCP includes historic preservation policies that pertain specifically to the Town of Mendocino, but the LCP is silent with regard to historic structures in the remainder of the County outside of the Town. As the standard of review for the project is consistency with the policies of the certified LCP and the public access policies of the Coastal Act, the Commission does not have a basis to require mitigation for potential impacts to historic resources that do not qualify as archaeological or paleontological resources.

No evidence of archaeological or paleontological resources has been found at the site. However, as conditioned, the project will require monitoring for archaeological resources during project construction and protective measures if such resources are discovered. Similar conditions are commonly applied by the Commission and the County to development projects where concerns about impacts to archaeological resources have been raised, yet no archaeological resources are presently known to exist at the site. Therefore, the Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-10 and Coastal Zoning Code Section 20.532.095 as the development will not adversely impact archaeological and paleontological resources.

K. Public Access

1. Summary of Coastal Act and LCP Provisions

a. Coastal Act Access Policies

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.

b. <u>LCP Provisions</u>

LUP Policy 3.6-6 of states, in applicable part:

Shoreline access points shall be at frequent rather than infrequent intervals for the convenience of both residents and visitors and to minimize impacts on marine resources at any one point. Wherever appropriate and feasible, public access facilities, including parking areas, shall be distributed throughout the coastal area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area.

LUP Policy 3.6-11 states:

Visitor accommodations and services on parcels adjoining the shoreline as identified on the public access maps shall provide public access to the blufftop and/or the shoreline. The access, to be required as a condition of permit approval or other methods as described in policy 3.6-5, shall be available to the public at large as well as to guests. In the event that the use is changed to a use other than visitor accommodations or services, an irrevocable offer to dedicate an easement for public access shall be made available to a public entity for acceptance and management. If the accessway is reopened, it shall remain available to the public free of entrance charge.

LUP Policy 3.6-13 states:

The County may seek agencies to accept accessways as prescribed in this section under "Managing and Maintaining Accessways". Dedicated accessways 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.

LUP Policy 3.6-18 states:

Along sections of the highway where development intensity will result in pedestrian use, or where this is the siting of the County designated coastal trail, a 15-foot accessway measured from the right-of-way of Highway 1 shall be offered for dedication as a condition of permit approval if the topography is deemed suitable for pathway development. Coastal trail includes trails identified in Table 3.6-1 and portions of Highway 1 and Usal Road that are necessary to connect these trail segments. All such access offers that have been recorded shall be offered to Caltrans for acceptance. Prevailing acquisition methods for acquiring public right-of-way by Caltrans shall apply to this section.

LUP Policy 3.6-25 reiterates Coastal Act Section 30214 cited above.

Discussion:

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 both the Coastal Act and the LCP. 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 and the LCP policies listed above. The project's consistency with these policies is described below. In its application of the above policies, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

1. Proposed Public Access

In order to implement a settlement agreement of a lawsuit over a previous permit for development at the site approved by Mendocino County, the applicant has dedicated certain public access easements on the applicant's property and has provided money for planning implementation of public access improvements within these easements. As discussed in Finding 1, in 1996, four years after certification of the LCP, the County Planning Commission approved Coastal Development Permit No. CDU 9-95, allowing

for a 10-unit inn involving the remodeling of the existing large ranch house into two guest units and manager's quarters and the construction of eight new individual guest cottages. The Planning Commission approval was subsequently appealed to the Board of Supervisors and approved by the Board on May 13, 1996. The County's approval included conditions requiring recordation of an offer to dedicate coastal access. The Board's approval in turn, was later appealed to the Coastal Commission (Appeal No. A-1-MEN-96-028). On July 10, 1996, the Coastal Commission determined that the appeal raised no substantial issue, allowing the County's approval of CDU 9-95 to stand.

The applicants sued the County, challenging the condition requiring coastal access on the grounds that a nexus did not exist between the impacts of the project on public access and the exaction of property for public access purposes. Eventually a settlement of the law suit was reached between the applicants and the County that provide for the County to drop the condition requiring the offer of dedication of public access in exchange for the applicants (1) conveying fee title to the County of a one-acre portion of the applicant's property approximately 1/8th of a mile south of the inn site and located between Highway One and the ocean bearing APN 015-330-05, (2) paying the County $25,000 toward the development of coastal access in the area, and (3) dedicating an easement for public access through property along a 15-foot strip along the west side of the Highway One right-of-way along most of the applicants' property extending approximately 6,000 feet from the southern boundary of APN 015-330-13 to the northern boundary of APN 015-380-04 across APN 015-330-13, APN 015-380-05, and APN and 015-380-04. The one-acre area south of the inn site was to be used for public access parking and viewing and it is envisioned that the lateral access along the highway would eventually be designated as part of the California Coastal Trail.

On August 3, 2000, the County then approved Coastal Development Use Permit Modification #CDUM 9-95/2000 as a means of implementing the terms of the settlement agreement. The County accepted the grant of fee title to APN 015-330-05, the public access easement along Highway One, and the $25,000 for developing coastal access and subsequently transferred the easement and funds to the Mendocino Land Trust to plan and construct a trail within the 15-foot strip along the west side of the Highway One right-of-way. On April 13, 2010, the Mendocino County Board of Supervisors approved County Coastal Development Permit No. CDP 67-2008 for development of the trail. The coastal development permit was not appealed to the Commission. Neither the lateral trail nor the one-acre public access site on APN 015-330-05 have been improved yet for public access.

The applicant includes as part of the revised project description submitted for the Commission's review of the denovo portion of Appeal No. A-1-MEN-07-028 these public access areas and funds previously granted to the County (See Exhibit No. 5). Inclusion of both the one-acre parking and viewing area south of the inn site and the

6,000-foot-long section of lateral access trail in the revised project description for this coastal development permit will ensure that the grant of these areas to the County is provided in consideration for, and as a condition of, this coastal development permit and cannot be revoked. In addition, the applicant has included as part of the revised project description additional public access on: (1) APN 015-380-02, an APN owned by the applicant located west of the highway and north of the inn site; and (2) the northern end of the 15-foot-wide lateral public access easement along the highway previously offered by the applicant described above.

The additional public access includes offers to dedicate public access easements for the following:

1. An approximately 1,000-foot-long extension of the 15-foot-wide lateral public access easement adjacent to the Highway One Right-of-way previously offered to the County and eventually accepted by the Mendocino Land Trust that extends from the southern boundary of the parcel to northern boundary;

1. An approximately 1,200-foot-long 10-foot-wide vertical public access easement extending across APN 015-380-02 parallel to and 50 feet south of the riparian area extending along the northern boundary of the parcel from the lateral public access easement referred to in Part 1 above to the bluff;

2. An easement for a public access parking area sufficient for five automobiles that includes a 60-foot-long by 40-foot-wide parking area located seaward of the offered lateral public access easement along the highway with a driveway connection to Highway One and located approximately 375 feet south of the northern property line of APN 015-380-02; and

3. A 25-foot-wide by 25-foot long easement for a public viewing area and platform located at the seaward end of the vertical public access easement.

The applicant's proposal expressly proves that the offer to dedicate the new public access easements on APN 015-380-02 would be submitted for the discretionary review and approval of the Executive Director prior to recordation and prior to issuance of the coastal development permit.

The additional public access proposed is in the form of offers to dedicate public access easements. The offered public access easements would not be opened for public access use until an appropriate public or non-profit entity approved by the Commission has accepted the easements and developed a management plan approved by the County and the Commission. Physical development of public access improvements including the

parking lot, trails, public access signage, etc. would be the responsibility of the accepting entities and would require additional coastal development permit authorization.

2. Consistency with Coastal Act Public Access and Recreation Policies

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided 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 that 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 that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected. Section 30214 requires, in applicable part, that public access be provided in a manner that takes into account the fragility of the natural resources in the area.

a. Provision and Protection of Public Access

The public access proposed as part of the project would provide significant public access opportunities to the public. The one-acre public access parking and viewing area 1/8th of a mile south of the proposed inn and ranch building complex that was previously granted in fee title to the County offers the traveling public the opportunity to pull off the highway and enjoy coastal views in a location where the highway comes close to the bluff edge. The 15-foot-wide lateral public access easement previously granted to the County and later transferred to the Mendocino Land Trust along the west side of the Highway One right-of-way along approximately 6,000 feet of the applicants' property south of APN 015-380-02 will become a significant portion of the Coastal Trail offering sweeping coastal views across the applicant's lands that will be deed restricted for open space pursuant to Special Condition No. 5 of this permit. Inclusion of both the one-acre parking and viewing area south of the inn site and the 6,000-foot-long section of lateral access trail in the revised project description for this coastal development permit will ensure that the grant of these areas to the County is provided in consideration for, and as a condition of, this coastal development permit and cannot be revoked.

The new public access that the applicant is offering for dedication on APN 015-380-02 as part of the revised project description would provide significant new public access opportunities to the public. The extension of the lateral public access easement along the

highway would provide an additional approximately 1,000-foot-long segment of the California Coastal Trail. The new approximately 1,200-foot-long vertical easement connecting the lateral easement along the highway to the bluff would lead to an area of the bluff with dramatic tide pool and open ocean views as well as views looking many miles north and south along the coast. The vertical easement would provide public access to the bluff along an approximately 1-3/4-mile stretch of coastline that currently has no bluff or shoreline access between a Caltrans coastal viewing area located approximately half a mile to the north and the one-acre public access area the applicant granted to the County described previously. Access is not proposed down to the tidal areas because of the steepness of portions of the bluff and dangerous conditions. The offered 25-foot wide by 25-foot-long public viewing area easement at the seaward end of the vertical trail would enable a viewing platform to be built to facilitate public viewing and provide a destination point for the vertical trail. The 5-car public access parking area would provide useful parking serving both users of the lateral easement along the highway as well as the vertical easement and viewing area.

Other than at the one-acre public access parking and viewing area 1/8-mile south of the inn and ranch building complex, there is currently no public access to the shoreline on the subject property due to the very steep bluff. In addition, no evidence of public use of the property to gain access to the shoreline has been presented. Thus, the proposed development will not interfere with any existing public access use on the subject property. The development will, however, draw more people to this coastal area in the form of guests staying at the inn and people coming to the inn for occasional temporary events such as weddings. The applicant indicates that the guests to the proposed inn would have access to the blufftop on the applicant's property. It is reasonable to assume, however, that having traveled long distances to the inn site, guests will be interested in visiting other shoreline locations along this part of the coast besides in the immediate vicinity of the inn. Thus, the development will create additional demand for public access in the area. The public access being provided as part of the revised project description will accommodate this demand by providing continuous lateral access along the coast for approximately 1-1/4 miles along the entire length of the applicant's holdings west of the highway and by providing blufftop viewing areas at the northern and southern end of these lands that will include parking for visitors and a vertical trail to the bluff. Therefore, the Commission finds that the proposed development, as conditioned, will not have any significant adverse impact on any existing public access and will provide maximum public access consistent with the requirements of Coastal Act Sections 30210, 30211, and 30212 and the public access policies of the certified LCP.

b. Protection of Natural Resources

As cited above, Coastal Act Section 30210 requires that public access and recreational opportunities be provided in a manner that protects natural resource areas, such as ESHA,

from overuse. Similarly, Coastal Act Sections 30212 and 30214 require that public access be provided in a manner that takes into account the fragility of the natural resources in the area.

As discussed above, Mendocino County recently granted Coastal Development Permit No. 67-2008 to the Mendocino Land Trust to develop a trail within the 15-foot-wide lateral public access dedication along the highway. The County considered the effects of the development on wetlands and environmentally sensitive habitat and issued a mitigated negative declaration, indicating that no significant environmental impacts would occur that cannot be adequately mitigated. A botanical survey indicated that no rare, endangered, or unique plant species were found in the trail area. The trail will cross several small drainage channels, but will utilize existing rock placed by Caltrans as revetment material to create rock ford over the channels. A small segment of trail was approved as a boardwalk over a separate wetland area. The 225 square feet of fill is for a nature study use consistent with the wetland fill policies of the LCP. The trail project was determined not to have significant impacts on riparian vegetation, other than minor pruning. The coastal development permit was approved on April 13, 2010 by the County Board of Supervisors and was not appealed to the Commission.

As part of the revised project description for the Appeal No. A-1-MEN-07-028, the applicant submitted a supplemental biological report June 15, 2010 evaluating the impacts of the proposed new public access dedications on APN 015-380-02. The supplemental biological report indicates that the study area is dominated by non-native grassland with a riparian corridor along a small stream that coincides with the northern boundary of APN 015-380-02. The riparian habitat is dominated by coastal willow (Salix hookeriana) which are patchy and appear to be regularly damaged or eaten by cows. The stream and adjoining riparian vegetation is an environmentally sensitive riparian habitat. Native dominated habitats are found along the coastal bluff slopes and terrace closest to the bluff edge. These areas include a mix of typical Coastal Terrace Prairie (CTP) and Northern Coastal Bluff Scrub habitats. Both of these natural communities are considered to be environmentally sensitive habitat. In addition, 20 individuals of Mendocino coast Indian paintbrush (Castilleja mendocinensis) were found in two separate locations along the bluff edges in the study area.

None of the areas on APN 015-380-02 offered for dedication would encroach into ESHA areas, including the vertical public access easement, the public viewing area at the end of the vertical easement, the extension of the 15-foot-wide lateral public access easement along the highway north through APN 015-380-02, and the 5-car parking lot adjoining the lateral easement. The vertical easement and viewing area would be positioned parallel to the riparian corridor in a location that is a minimum of 50 feet away from the riparian corridor and a minimum of 100 feet away from all of the ESHA plant communities and species located along the bluff edges.

The supplemental biological report evaluated whether a 50-foot buffer would be sufficient to protect the riparian corridor and other ESHA using the buffer width criteria in the Commission's Interpretive Guidelines that are also incorporated into Section 20.496.020 of the County's Coastal Zoning Code. The biological study concludes that if certain mitigation measures are included when trails and public access improvements are developed in the future by the entity that accepts the offered public access dedications, a 50-foot buffer would be sufficient to protect the riparian corridor. The study does recommend that a 100-foot buffer be applied to the portion of trail and viewing areas that would be located adjacent to the bluff where the Northern Coastal Bluff Scrub and westward end of the riparian vegetation exists. The analysis indicates the areas near the bluff require the larger buffer as these ESHAs are more sensitive to disturbance given the fragility of the bluff face. The recommended mitigation measures include constructing fencing at or outside of the boundary of the 50-foot buffer to protect the ESHAs from foot traffic and also allow for recuperation of damaged riparian and stream habitat currently impacted by cattle. Other suggested mitigation measures include (a) conducting detailed and current botanical studies at the time permits are applied for to develop the facilities to ensure that ESHA plant habitat has not moved into the easements or needed buffer areas, (b) restricting construction activities that would disturb the ESHA or buffer areas when the public access facilities are built such as the storage of materials and the disposal of debris (c) limiting construction windows to the summer months to minimize potential erosion and sedimentation, (d) delineating ESHA buffer boundaries during construction to minimize the encroachment of construction activities into these areas, (e) cleaning the undercarriage and tires of construction equipment with pressure washing equipment prior to use on the site to avoid the spread of invasive species, and (f) prohibiting landscaping within the ESHAs or ESHA buffers to minimize the spread of exotics.

The biological study demonstrates that future development of public access facilities by an entity that accepts the offered dedications of public access easements on APN 015-380-02 can be conducted in a manner that provides for requisite ESHA buffers and will not result in significant adverse impacts on the adjacent ESHA habitat if conditioned to require the mitigation measures recommended in the report.

In a letter dated June 28, 2010 submitted by Greg Risse representing the Risse Family Trust, a concern is raised that poachers (mainly for abalone) trespass in the location of the proposed vertical public access trail and that the public access dedication will exacerbate this problem. The Commission notes that poaching in violation of California Department of Fish & Game fishing laws occurs up and down the coast and is not limited to this one area. Enforcement is a continuing challenge for the Department, but no evidence has been submitted that the situation is having greater impact on fish resources in this location as compared to other locations such that public access should not be provided.

Therefore, the Commission finds that for all of the above reasons, the proposed project, as conditioned, is consistent with Sections 30210, 30211, 30212, and 30214 of the Coastal Act, as the proposed project would (1) enhance and permanently protect public access to and along the coast, (2) protect natural resource areas from overuse, and (3) be sited and designed to account for the fragility of the natural resources in the area.

c. Traffic Impacts.

Coastal Act Sections 30214 states in applicable part 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 including, but not limited to ...(2) the capacity of the site to sustain use and at what level of intensity.* A factor in the capacity of the site to sustain the public access use is the accessibility of the site for people traveling to the proposed public access areas.

The public access dedications included in the project description will all be accessed via Highway One. Some of the public access users will include bicyclists and coast walkers traveling to the site without vehicles, but the majority of the use of the site will be by people traveling to the site by car. As discussed in the Highway One Capacity Section of Finding F of this report, the applicant commissioned a traffic study to evaluate the impacts of the development on Highway One capacity. The study concluded that there is more than sufficient traffic capacity on Highway One to absorb the extra traffic generated by the development. The report notes that currently, Highway One in the vicinity of the project site carries approximately 2,360 vehicles per day, including 420 trips in the weekday p.m. peak hour. Based on Caltrans' District 1 growth factors for State Highways in the district, this volume is projected to rise to approximately 2,600 daily trips and 470 weekday p.m. peak hour trips by the year 2027. According to the applicant's traffic study, these volumes are far below the "ideal capacity" of a two lane highway as described in Caltran's Highway Capacity manual, Transportation Research Board, 2000. This document notes that the ideal capacity of a two-lane highway is 3,200 passenger cars per hour. As traffic along Highway One in this vicinity is only projected to rise to 470 weak day p.m. peak hour trips in both directions by the year 2027, the capacity available is approximately six times (3,200/470) the peak hour volume of traffic that is projected to occur.

The applicant's traffic study estimates that the development would generate an average of 70 daily trips, including four trips during both the morning and evening peak hours on weekdays. Adding these additional four trips per hour to the projected traffic volumes in 2027 would still leave the available capacity at many times the peak hour volume of traffic that is projected to occur.

A submittal received by the Commission on September 30, 2009 from Jared G. Carter on behalf of Deborah Cahn, Trustee of the Margery S. Cahn Living Trust, and Judith Whiting, Trustee of the Whiting Family Revocable Trust and additional submittals dated June 28, 2010 and July 2, 2010 from this party contend that the cumulative impacts of the development with impacts of the public access dedications have not been adequately considered. Specific vehicle trip generation rates for the public access facilities that could ultimately be built within the areas included as public access dedications in the revised project description are not available. However, given that (1) the available capacity of Highway One in the vicinity of the project is many times the projected volume of traffic that Caltrans projects will use the Highway in 2027, and (2) the volume of additional traffic generated directly by the inn project will only be four trips per peak hour, the additional traffic volume on Highway One that future trail development within the access dedications included as part of the project description would generate in combination with the applicant's development would not result in significant adverse cumulative impacts on traffic capacity.

The proposed project also includes dedication of an area for the future installation of a 5-car parking lot near the north end of the 15-foot-wide lateral easement. This parking area is positioned where it will be able to serve both users of the vertical trail easement to the bluff as well as the lateral trail easement along the highway. In addition, the one-acre coastal viewing and parking area located 1/8th of a mile south of the inn site that the applicant previously conveyed to the County and has included in its revised project description will provide for more public access parking, both for users of that coastal viewing area and for people who wish to access the lateral access easement along the highway. Although this parking area is approximately 1/8th of a mile south of the end of the lateral access easement, the public is not precluded from walking along the highway right-of-way from the parking area to the beginning of the lateral easement.

Therefore, the Commission finds that the public access that will be facilitated by the dedications and conveyances of public access easements and fee-title as part of the revised project description will be implemented in a manner that takes into account the sufficiency of parking and transportation facilities to serve the public access consistent with Section 30214 of the Coastal Act.

2. Consistency with LCP Public Access and Recreation Policies

a. Provision of Shoreline Access

The proposed project is consistent with the provisions of LUP Policy 3.6-6 that require shoreline access points at frequent intervals for the convenience of residents and visitors and to avoid overcrowding of the access area at any one time. The proposed project would provide a significant public access location in the northern portion of Mendocino County where public access opportunities are more limited than in the central portions of

the County. As discussed above, the new public access that the applicant is offering for dedication on APN 015-380-02 as part of the revised project description would provide significant new public access opportunities to the public. The extension of the lateral public access easement along the highway would provide an additional approximately 1,000-foot-long segment of the California Coastal Trail. The new approximately 1,200-foot-long vertical easement connecting the lateral easement along the highway to the bluff would lead to an area of the bluff with dramatic tide pool and open ocean views as well as views looking many miles north and south along the coast. The proposed vertical easement would break up an approximately 1-3/4-mile expanse of coastline where no public access to the bluff currently exists between a Caltrans coastal viewing area located approximately half a mile to the north and the one-acre public access area approximately 1-1/4 miles to the south the applicant granted to the County. Therefore, the Commission finds that as the development would increase the frequency of access to the shoreline in the subject area, the development, as conditioned, is consistent with LUP Policy 3.6-6.

b. Provision of Coastal Access With Visitor Serving Facilities.

LUP Policy 3.6-11 states that visitor accommodations and services on parcels adjoining the shoreline shall provide public access to the blufftop and/or the shoreline. As discussed above, the revised project description for the development conveys a one-acre bluff top lot located 1/8th of a mile south of the inn site to the County for viewing and parking. In addition, the development offers to dedicate a 1,200-foot-long vertical public access easement to the coastal bluff with an associated viewing area that will be connected to a separately offered lateral access along the highway and a parking area. Therefore, as the development provides public access to the blufftop in two locations, the Commission finds that the development, as conditioned, is consistent with LUP Policy 3.6-11.

c. Provision of Lateral Access Along Highway One.

LUP Policy 3.6-18 states that along sections of the highway where development intensity will result in pedestrian use, or where this is the siting of the County designated coastal trail, a 15-foot accessway measured from the right-of-way of Highway 1 shall be offered for dedication as a condition of permit approval if the topography is deemed suitable for pathway development. As discussed above, the development will generate additional demand for public access that could result in increased pedestrian use. In addition, although the Mendocino County LCP does not currently designate the coastal trail through the subject area, a lateral trail along the highway in this location is likely to be designated as the coastal trail in the future. As proposed, the project provides a 15-foot accessway along the seaward side of the Highway One along the entire

approximately 7,000-foot-long stretch of property owned by the applicant in this location west of the highway. The project includes the previous dedication to the County of an approximately 6,000-foot-long portion of the accessway extending from the southern end of APN 015-330-13 to the northern end of APN 015-380-04, as well as a new dedication through the length of APN 015-380-02. Therefore, the Commission finds that the development, as conditioned, is consistent with LUP Policy 3.6-18.

E. Conclusion

To ensure that the project as amended will accommodate the demand for public access generated by the proposed inn and ranch complex development and provide maximum public access consistent with Coastal Act and LCP public access policies, the Commission attaches Special Condition Nos. 17-21.

Special Condition No. 17 requires the applicant to provide evidence for the review and approval of the executive Director that their offer to dedicate easements for public access over APN 015-380-02 including the extension of the 15-foot-wide lateral easement along the seaward side of the Highway One right-of-way, the 10-foot-wide vertical easement extending from Highway One to the bluff, the 25-foot-long by 25-foot-wide viewing area at the seaward end of the vertical access easement, and the easement for the 5-car parking area adjacent to the lateral access easement along the highway have been properly recorded prior to issuance of the coastal development permit.

Special Condition No. 20 requires the applicant to provide evidence for the review and approval of the Executive Director that the applicant has executed and recorded a document demonstrating that the conveyance of fee title to the County of the approximately one-acre area between Highway One and the ocean bearing APN 015-330-05 previously required by Mendocino County Coastal Development Permit Modification No. CDUM 9-95/2000, has been accepted, is for public access purposes, is now provided as a condition of this coastal development permit and is irrevocable. In addition. Special Condition No. 20 requires the applicant to provide evidence for the review and approval of the executive Director that either an outright dedication to the Mendocino Land Trust or a new offer to dedicate a 15-foot-wide lateral easement along the westerly edge of the Caltrans Highway One right-of-way extending from the southern boundary of APN 015-330-13 to the northern boundary of APN 015-380-04 across APN 015-330-13, APN 015-380-05, and APN and 015-380-04, has been properly executed and recorded prior to issuance of the coastal permit. A similar easement over this same area was previously required by Mendocino County Coastal Development Permit Modification No. CDUM 9-95/2000. Recordation of the new easement required by Special Condition No. 20(B) will ensure that the easement is provided as a condition of Coastal Development Permit No. A-1-MEN-07-028 and is irrevocable. In addition, in its review of the previously reocorded easement for the lateral accessway along the highway, Commission staff has

noted certain errors in the recordation process including, but not limited to the fact that an acceptance of the easement by the Mendocino Land Trust was not properly recorded. Recordation of a new easement as a condition of Coastal Development Permit No. A-1-MEN-07-028 will help ensure that the public access easement is provided in perpetuity.

Special Condition No. 18 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. 10 states that by acceptance of the permit amendment, the applicant agrees that the issuance of the permit amendment 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.

Finally, Special Condition No. 19 requires the applicant to submit a written agreement acknowledging the ability of the entity accepting the offer(s) to dedicate a public access easement(s) to develop public access improvements within the easement area(s).

In conclusion, the Commission finds for the reasons discussed above, that the development as conditioned is consistent with the public access policies of the Coastal Act and the certified LCP.

L. Indemnity

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application in the event that the Commission's action is challenged by a party other than the Applicant. Therefore, consistent with Section 30620(c), the Commission imposes Special Condition No. 21 requiring reimbursement for any costs and attorneys fees that the Commission incurs in connection with the defense of any action brought by a party other than the Applicant challenging the approval or issuance of this permit, the interpretation and/or enforcement of permit conditions, or any other matter related to this permit.

M. California Environmental Quality Act

Mendocino County, as the lead agency, adopted a Negative Declaration for the Project on June 21, 2007.

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

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

EXHIBITS:

1. Regional Location Map
2. Parcel Map
3. Photos of Site
4. ESHA Locations
5 Revised Project Description
6. Current Project Plans
7. Changes to Proposed Project
8. Project Comparison Information
9. County Approved Project Plans
10. Appeal No. 1 (Warner & Bailey)
11. Appeal No. 2 (Commissioners Kruer and Wan)
12. Appeal No. 3 (Sierra Club and Friends of Ten Mile River)
13. Appeal No. 4 (Margery S. Cahn Trust & Whiting Family)

14. Notice of Final Local Action
15. Geologic Report
16. Hydrological Study
17. Biological Studies
18. Traffic Study
19. Property Deed
20. Certificate of Compliance
21. Boundaries of Applicant's COCs
22. Visual Impact Study
23. Open Space Deed Restriction Area Pursuant to Special Condition No. 5
24. Proposed Public Access OTDs
25. Correspondence
26. Ex Parte Communication Disclosures
27. Area Affected by Special Condition No. 6
28. Extent of Project Site
29. Settlement Agreement
30. Remand Order for New De Novo Hearing

APPENDIX A

STANDARD CONDITIONS

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

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

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

STATE OF CALIFORNIA NATURAL RESOURCES AGENCY

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
710 E STREET, SUITE 200
EUREKA, CA 95501
(707) 445-7833 FAX (707) 445-7877
www.coastal.ca.gov

EXHIBIT NO. 10
APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC.
IMMATERIAL AMENDMENT NO. A-1-MEN-07-028-A1 (1 of 2)

EDMUND G. BROWN, JR., *Governor*

LSM

NOTICE OF PROPOSED PERMIT AMENDMENT

TO: All Interested Parties

FROM: Charles Lester, Executive Director

DATE: February 5, 2013

SUBJECT: **Permit No: A-1-MEN-07-028-A1**
Granted to: Jackson-Grube Family, Inc., Attn: Willard T. Jackson, President

Original Description:

for **Redevelop an existing complex of ranch buildings and develop a six unit inn by: (1) demolishing five existing ranch buildings; (2) renovating and expanding the approximately 2,049-square-foot existing main building (former Orca Inn) into an inn containing three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; (3) constructing a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet; (4) constructing a ranch manager's unit of 1,737 square feet; (5) constructing an equipment barn of 1,121 square feet; (6) installing a generator/pump shed of 240 square feet; and (7) constructing a garage of 1,508 square feet. The project will reuse the existing septic system, improve the existing driveway, bury existing overhead utilities and provide for dedications of public access.**

at **31502 North Highway One (four miles south of Westport), Mendocino County**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

Install additional septic system improvements to serve development approved under the original permit including (1) four new septic tanks ranging in size from 1,200-3,000 gallons and a pumping system to be connected by buried pipelines to the existing leach field southwest of the approved inn compound to serve the main inn building and cottage, and (2) a new 1,200-gallon septic tank and 1,200 gallon pump tank to be installed near the ranch manager's building and connected by a 2-inch buried pipeline to a new leachfield northeast of the inn compound near Highway One to serve both the Ranch Manager's Unit and a convenience bathroom in the Garage building.

FINDINGS

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled

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NOTICE OF PROPOSED PERMIT AMENDMENT

meeting. This amendment has been considered IMMATERIAL for the following reason(s):

A septic system evaluation determined that the existing septic system and leachfield do not have sufficient capacity to serve the development authorized by the original permit at full 100% occupancy as required by the Department of Environmental Health. The proposed additional septic system improvements have been sized to limit capacity to what is needed to sufficiently serve the currently authorized development. To avoid impacts to wetlands and other sensitive habitat, the proposed tanks, lines, and leachfield will be located more than 100 feet away from all such resource areas. The development would be subject to the existing permit conditons, including conditions requiring that the applicant monitor for archaeological resources and implement planned erosion and runoff control measures. No coastal resources woud be adversely affected by the proposed additional development and the amended project as conditioned is consistent with all applicable policies of the certified Mendocino County Local Coastal Program.

If you have any questions about the proposal or wish to register an objection, please contact Robert Merrill at the North Coast District office.

cc: Local Planning Dept.

Sellers & Company Architects, Attn: Scott Baker

CALIFORNIA COASTAL COMMISSION
NORTH COAST DISTRICT OFFICE
1385 8TH STREET, SUITE 130
ARCATA, CA 95521
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NOTICE OF PROPOSED PERMIT AMENDMENT

EXHIBIT NO. 11
APPLICATION NO.
A-1-MEN-07-028-A2
JACKSON-GRUBE FAMILY, INC.
IMMATERIAL AMENDMENT NO. A-1-MEN-07-028-A3 (1 of 2)

TO: All Interested Parties

FROM: Charles Lester, Executive Director

DATE: August 13, 2013

SUBJECT: **Permit No. A-1-MEN-07-028-A3**
Granted to Jackson-Grube Family, Inc., Attn: Willard T. Jackson, President

Original Description:

For **Redevelop an existing complex of ranch buildings and develop a six unit inn by: (1) demolishing five existing ranch buildings; (2) renovating and expanding the approximately 2,049-square-foot existing main building (former Orca Inn) into an inn containing three rental units of 412 square feet, 249 square feet and 240 square feet and accessory common and service areas of 3,236 square feet; (3) constructing a cottage with three rental units of 915 square feet, 837 square feet and 526 square feet; (4) constructing a ranch manager's unit of 1,737 square feet; (5) constructing an equipment barn of 1,121 square feet; (6) installing a generator/pump shed of 240 square feet; and (7) constructing a garage of 1,508 square feet. The project will reuse the existing septic system, improve the existing driveway, bury existing overhead utilities and provide for dedications of public access.**

at: **31502 North Highway One (four miles south of Westport), Mendocino County**

The Executive Director of the Coastal Commission has reviewed a proposed amendment to the above referenced permit, which would result in the following changes:

Change the approved roofing material for the main building and cottage of the approved inn from asphalt shingle to standing seam copper.

FINDINGS

Pursuant to Title 14, Section 13166(b) of the California Code of Regulations this amendment is considered to be IMMATERIAL and the permit will be amended accordingly if no written objections are received within ten working days of the date of this notice. If an objection is received, the amendment must be reported to the Commission at the next regularly scheduled meeting. This amendment has been considered IMMATERIAL for the following reason(s):

The change of the roofing material of the two buildings will not adversely affect coastal views through the site from Highway One and other public vantage points. The copper roofs will have a dark earth tone appearance that will blend with the surroundings in a manner similar to the approved dark asphalt shingle roofs. The proposed copper roofs will utilize the same roofing material as the applicant's approximately ten-year-old house on an adjoining parcel. The applicant proposes as part of the project that in the unlikely event a green patina effect develops on the copper roofs, the applicant will restore the copper to its original condition using copper cleaning products and techniques specified in the application and recommended by the Copper Development Association. No coastal resources would be adversely affected by the proposed amended development and the amended project as conditioned is consistent with all applicable policies of the certified Mendocino County Local Coastal Program.

If you have any questions about the proposal or wish to register an objection, please contact Robert Merrill at the North Coastal District office.

Cc: Mendocino County Planning Dept.
Sellers & Company Architects, Attn: Scott Baker
Alan Block