

CALIFORNIA COASTAL COMMISSION

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F9a & F9b

A-1-PTA-20-0028 & A-1-PTA-20-0074

CITY OF POINT ARENA

February 12th, 2021

EXHIBITS

Exhibit 1 – Regional Location

Exhibit 2 – Vicinity Map

Exhibit 3 – Land Use and Zoning Map

Exhibit 4 – Project Plans

Exhibit 5 – Geological Report

Exhibit 6 – Biological Report

Exhibit 7 – Map of Mountain Beaver Buffer Area [MBBA]

Exhibit 8 – Correspondence with USFW

Exhibit 9 – Correspondence with Applicant

Exhibit 10 – Appeal Documents (Original Permit)

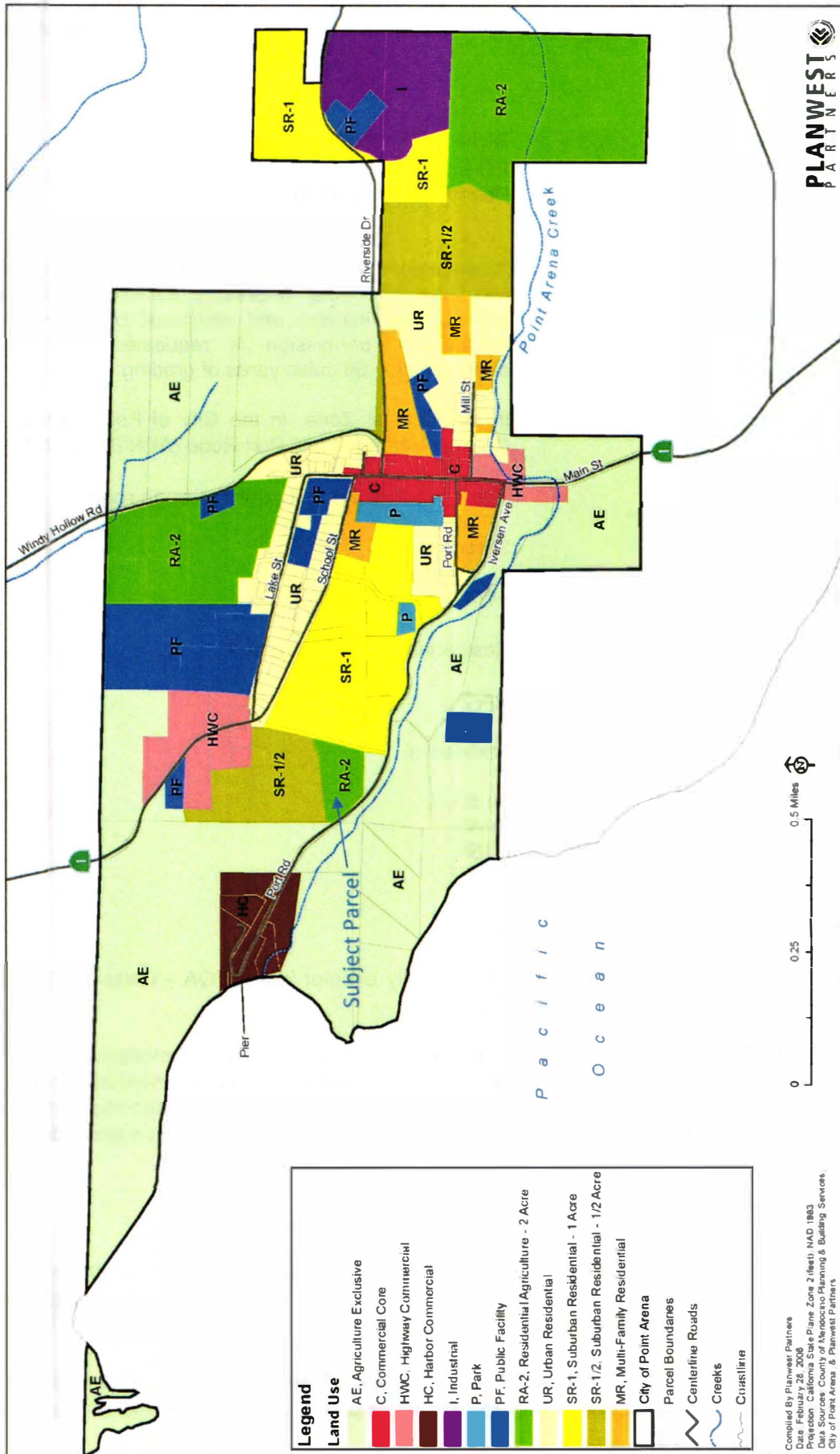
Exhibit 11 – Appeal Documents (Permit Amendment)

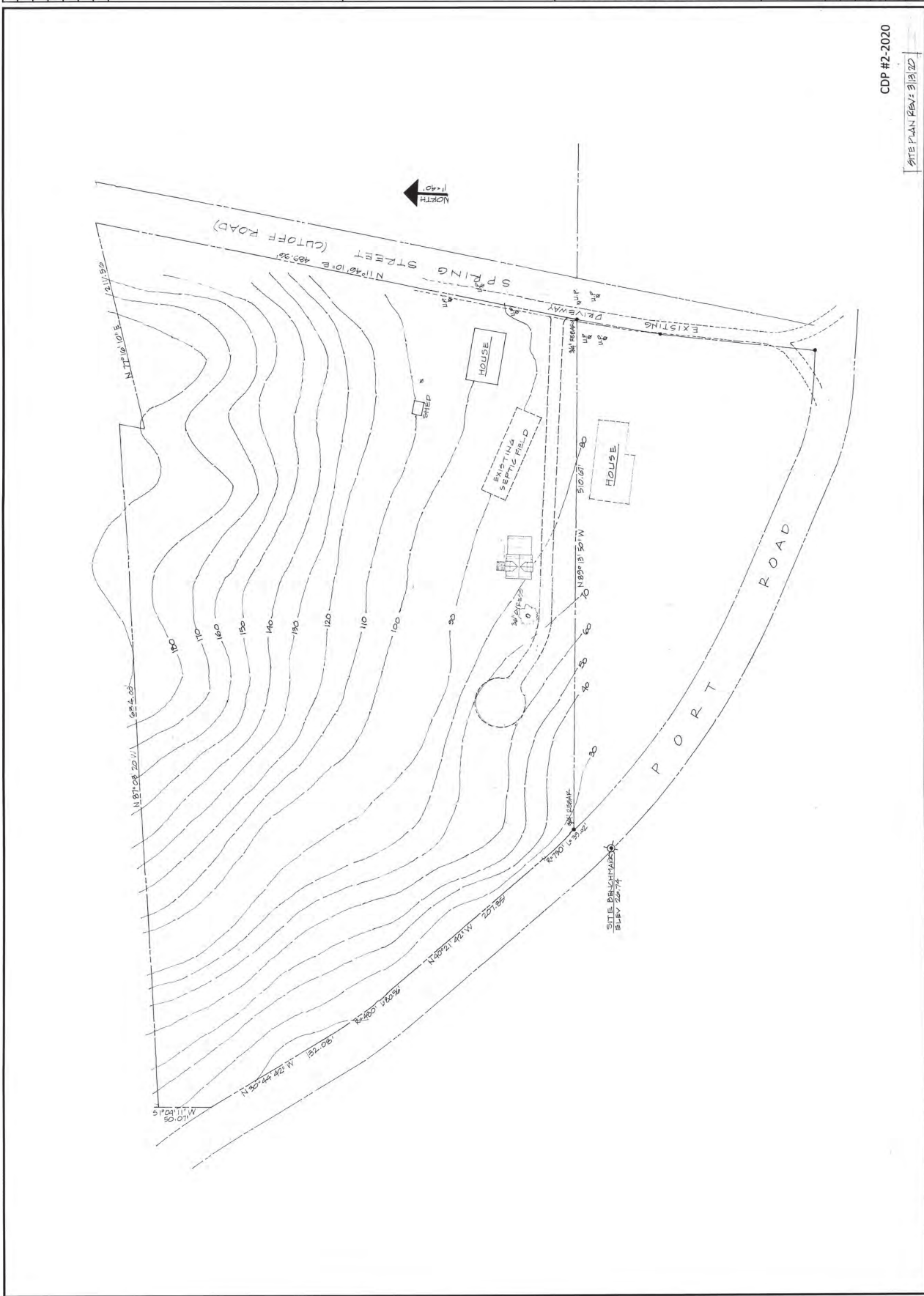
Exhibit 12 – Local Notice of Final Action (Original Permit)

Exhibit 13 – Local Notice of Final Action (Permit Amendment)



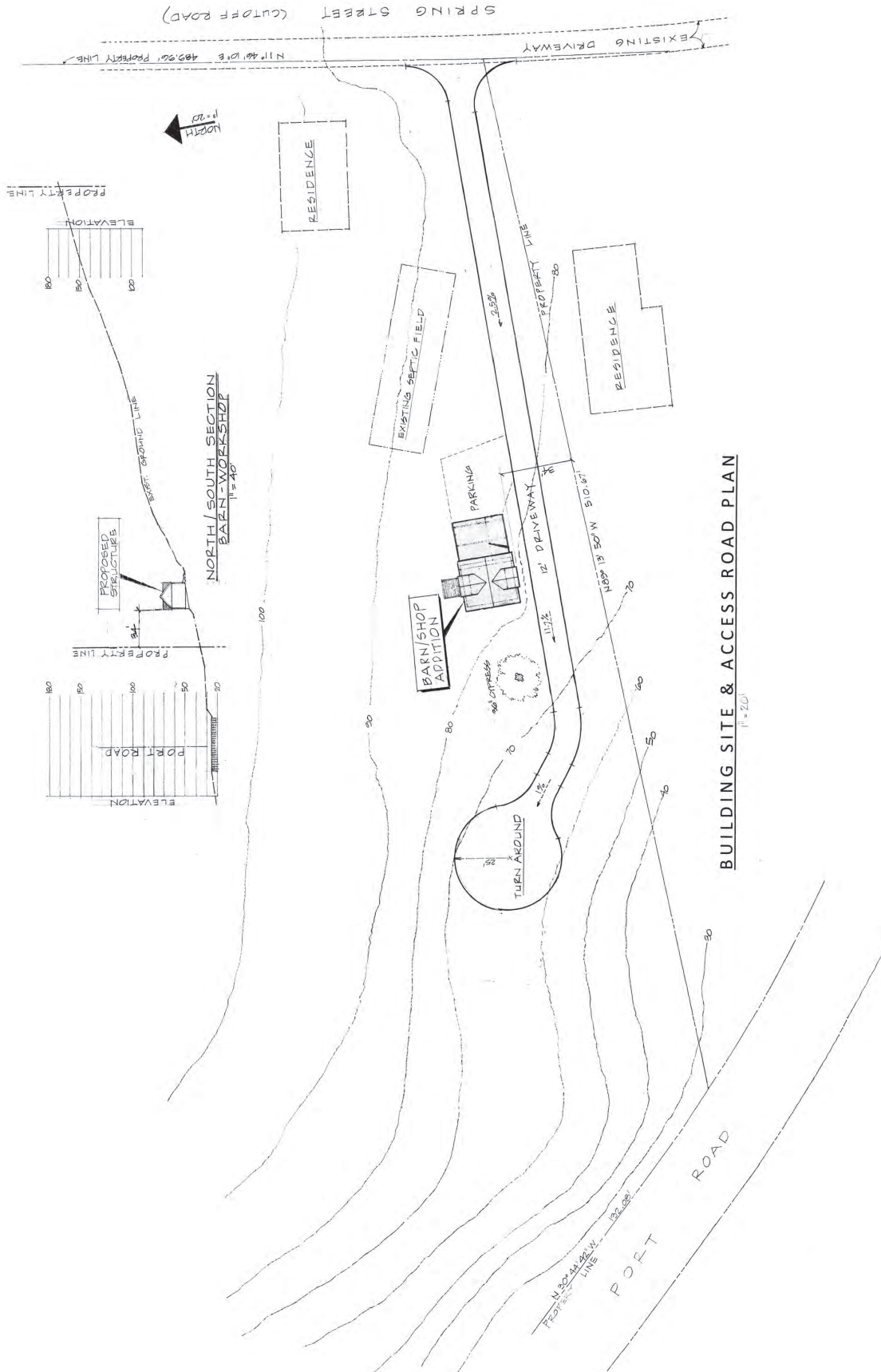
City of Point Arena Land Use and Zoning Map

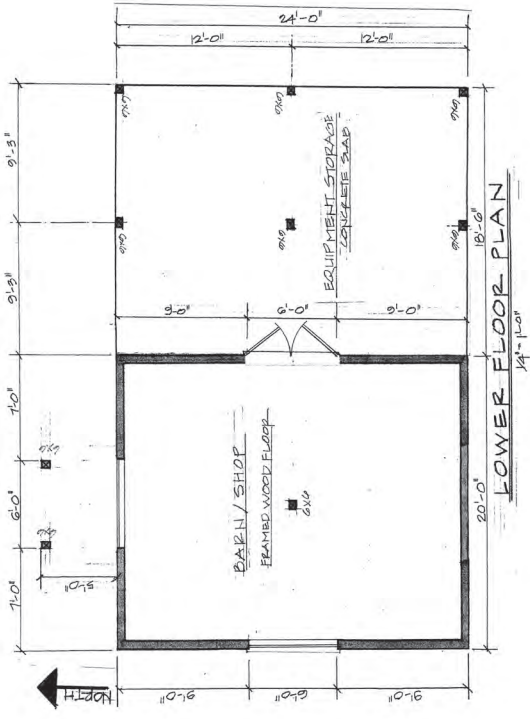
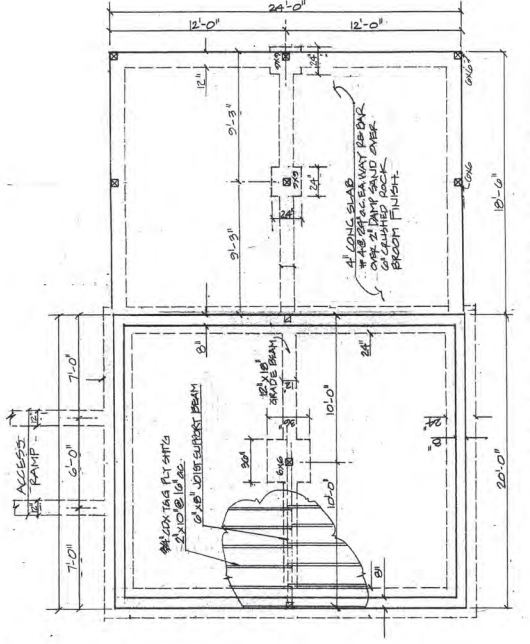
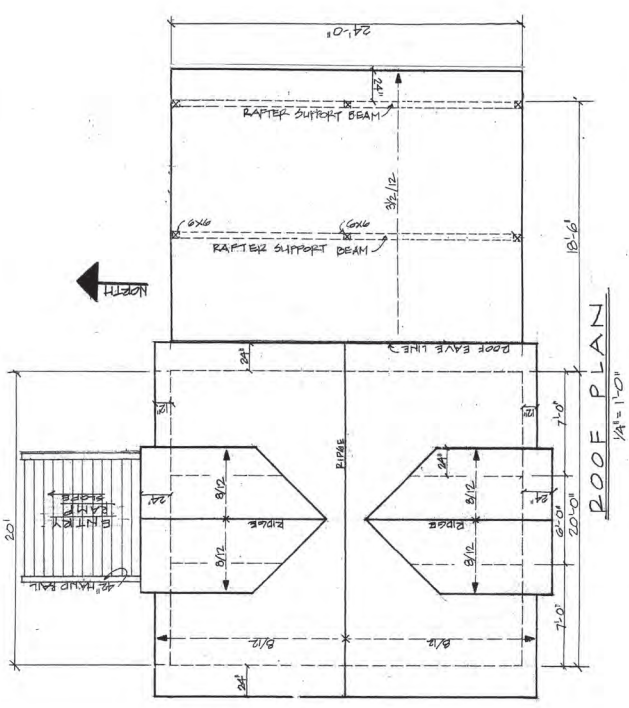
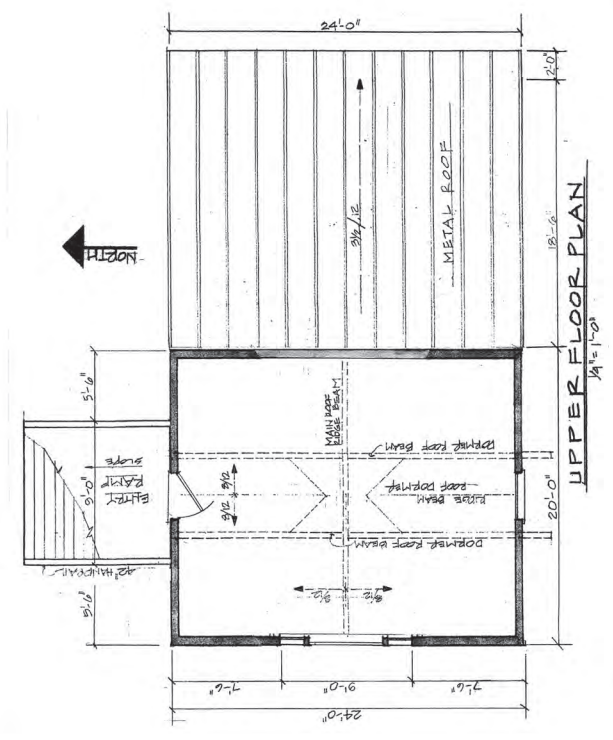




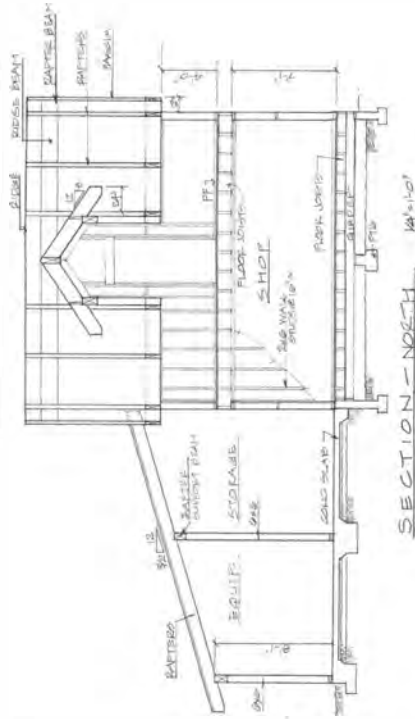
CDP #2-2020

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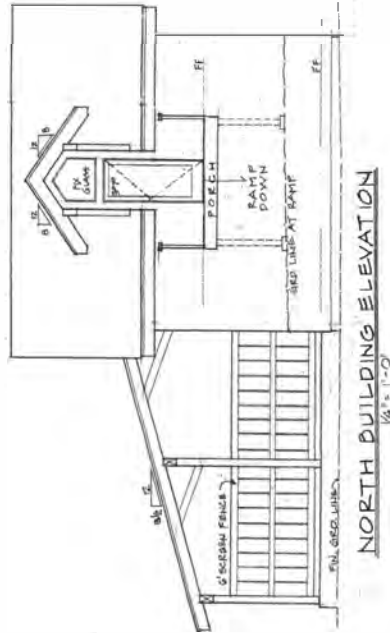




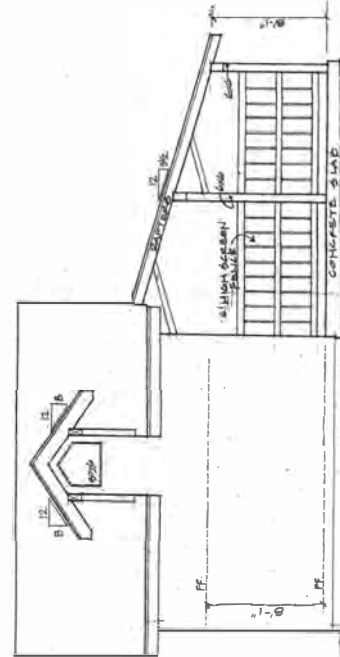
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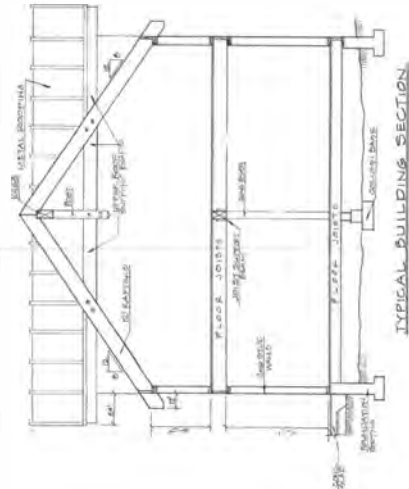
SECTION - NORTH 1/4" = 1'-0"



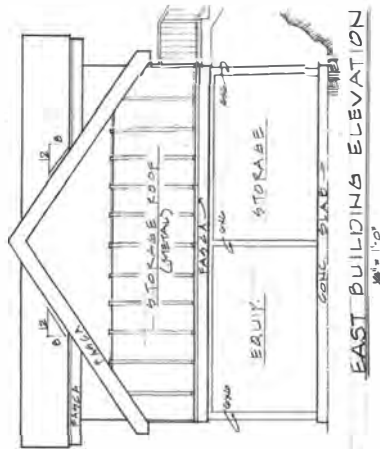
NORTH BUILDING ELEVATION 1/4" = 1'-0"



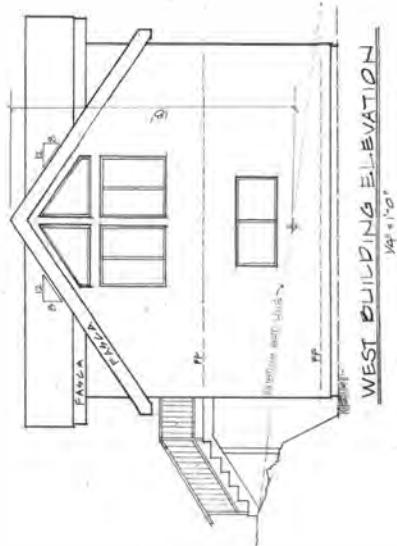
SOUTH BUILDING ELEVATION 1/4" = 1'-0"



TYPICAL BUILDING SECTION 1/4" = 1'-0"



EAST BUILDING ELEVATION 1/4" = 1'-0"



WEST BUILDING ELEVATION 1/4" = 1'-0"



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November 13, 2018

Mendocino County
Planning & Building Services
120 West Fir Street
Fort Bragg, CA 95437

Geotechnical Evaluation of the earth materials under a proposed new barn storage building on the Wasserman property located at 240 Port Road, Point Arena, California.

I made a site visit to the Wasserman property located in Arena Cove along Port Road in the western part of the city of Point Arena. The proposed garage/storage building site is south and west of the residence. The surface was graded many years ago into a level area. An old building was previously located at the proposed site.

The thin soil has been scraped away exposing the underlying bedrock. The bedrock weathers to a white color and belongs to the Point Arena Member of the Monterey Formation of Miocene Age. This rock formation is a brittle white fairly thin bedded porcelaneous siltstone to shale. It dips very steeply (around 73 degrees) to the north northwest. The bedrock formations are twisted and fractured the length of Port Road from flat lying to vertical beds and finally into an anticline on the south end of the cove.

Groundwater and surface waters from rainfall events drain rapidly into the fractured bedrock. There seems to be little threat from erosion except from gravity falling of loose rocks along the steepened road bank to the Arena Pier.

Requirements.

1. The underlying bedrock is highly adequate to support the proposed structure. A minimal depth of footing of twelve inches should remove whatever loose rock is at the surface. A qualified Geotechnical person should observe the excavation for the footings.
2. The site will need to be graded away from the structure. Although there is a cut bank to the north of the site, a French drain does not seem warranted between it and the building.

Page Two.

Wasserman Geotechnical Letter
Barn/Storage Building
240 Port Road
Point Arena, California.

3. The building site should be located near the cut bank as to allow for an adequate turn around zone west and south of the building.
4. The existing driveway may require some additional smoothing and possible addition or cleanout of a drainage ditch on the north side.

The site is highly adequate for the proposed structure. It is protected by the wind by a grove of trees to the west. The underlying bedrock faults and cracks are old geologic features and considered inactive and of no immediate threat to the property.

Respectfully submitted,



Thomas E. Cochrane
CA. Professional Geologist #6124





Reference: 418093

October 17, 2018

Richard Wasserman
P.O. Box 43
Point Arena, CA 95468

**Subject: Wasserman Point Arena Mountain Beaver (*Aplodontia rufa nigra*) and
Botanical Assessment Survey Results**

Dear Mr. Wasserman:

SHN is submitting this Point Arena mountain beaver (PAMB) and botanical assessment survey report for special status botanical species¹ and PAMB that have the potential to occur within the proposed project area. The purpose is to assess potential effects associated with the proposed development of a barn within Assessor's Parcel Number (APN) 027-081-012. On July 31, 2018, a SHN biologist conducted a comprehensive field investigation for PAMB and special status botanical species and their respective habitats that are protected under State and Federal Endangered Species Acts (CESA & FESA respectively), at the proposed action area (see Figure 1, Wasserman barn site).

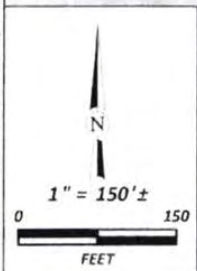
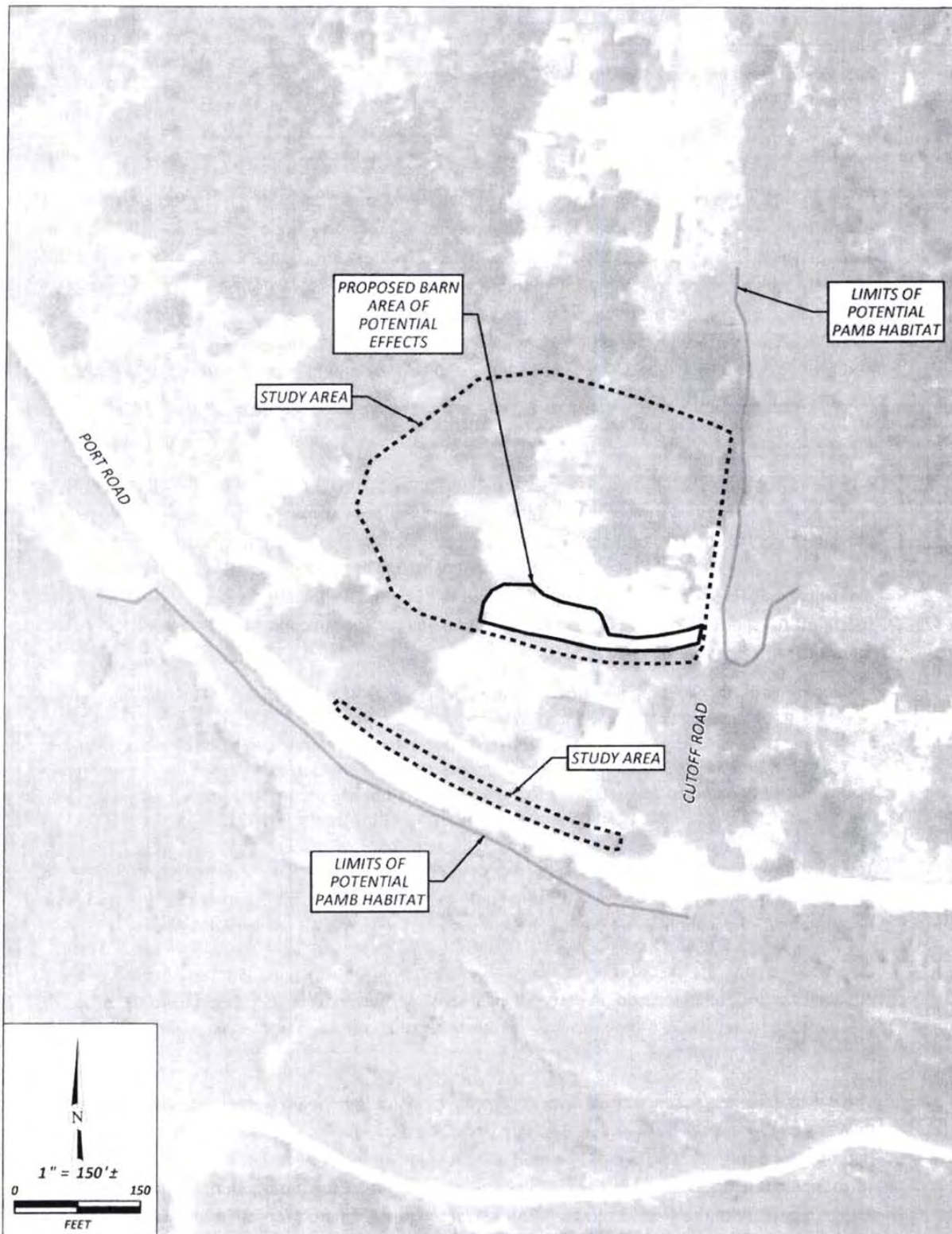
Project Description

The project site is 7.4-acre parcel, 0.5 miles west of Highway 1 and situated on the north slope of Arena Cove, ranging from 20 to 200 feet elevation. The site is bordered by Port Road to the west, and residential property and undeveloped lands to the east, north, and south. Habitat types within the site include northern coastal scrub, introduced perennial grassland, non-native pine and cypress forest, and willow riparian forest (see Appendix 1, Photos 1-4). Soils are primarily Dystropepts (shallow or moderately deep to bedrock and well drained). It is anticipated that project impacts will not impact more than 0.25 acres during implementation of the project. The proposed project area is currently located within non-native grassland and will be situated within a pre-existing level area, currently used for storage of equipment. The site is within the United States Geological Survey (USGS) 7.5-minute Point Arena quadrangle located in Mendocino County.

In order to thoroughly assess potential impacts to special status botanical species and PAMB associated with this project, the project site and the adjacent areas containing potential habitat and movement

¹ The Term "Special Status Species" is used collectively to refer to species that are State or federally listed, species that are State or federal candidates for listing, and all species listed by the California Natural Diversity Database. This term is consistent with the biological resources that need to be assessed pursuant to the California Environmental Quality Act.

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SH
Consulting Engineers
& Geologists, Inc.

Richard Wasserman
Wasserman PAMB and Botanical Assessment
Point Arena, California

October 2018

BOT_Fig2_StudyArea

Study Area

SHN 418093

Figure 2

corridors within the study parcel or public right-of-way were surveyed. This Assessment details potential impacts and reports conditions within the survey area. The proposed barn site is situated on a slope with south to southwest aspect, approximately 100 feet above Arena Creek and the associated wetlands, which are approximately 250 feet to the south of the proposed project area at the nearest point. Additional wetland areas were observed approximately 250 feet east of the project, east of Cutoff Rd. Observed wetland areas are dominated by willow species, and other shrubby and herbaceous hydrophytic plants. This PAMB and Botanical Assessment Report documents the biological site investigation and findings.

Methodology

A two-part survey methodology was utilized to determine potential impacts to the biological resources at the project site and its surrounding habitat. The first component consisted of conducting an initial database query of special status species that have been identified as having the potential to occur in the proposed project area. The second component consisted of conducting a field investigation to determine actual conditions at the project site and its surrounding habitats for potential to support the special status species identified in the database assessment. Prior to conducting fieldwork, the following references were reviewed:

- California Natural Diversity Database (CNDDDB) query for the Point Arena Quadrangle and surrounding USGS 7.5-minute topographic quadrangles.
- U.S. Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) was queried for threatened, endangered, and candidate species, as well as proposed and final designated critical habitats that may be affected by the proposed project.
- California Native Plant Society (CNPS) Rare Plant Inventory.

Table 2-1 in Appendix 2 represents a list of Regionally Occurring Special Status Plant Species that were identified in the CNDDDB, IPaC, and CNPS databases as having the potential to occur in the project area. Photographic information of site conditions at the time of the survey is presented in Appendix 1.

Based on the generated list of species identified as potentially occurring in the project area, the July 31, 2018 field investigation focused on determining if these species, or their associated habitats, were present at, or in proximity to, the proposed project site and if the proposed activities would have an adverse impact on these species, or their habitats.

The PAMB Presence/Absence survey was conducted by USFWS trained/approved Point Arena Mountain Beaver surveyor Joseph Saler on July 31, 2018 from 9:45-11:15am. The survey focused on habitat and potential for occurrence of the PAMB within and surrounding the project site. The entire area surrounding the proposed project area was surveyed for PAMB using the wandering survey technique with >75 percent of the ground surface observed (see Figure 2 for study area). Additional time was

spent on areas with shrubby vegetation cover, including the shrub dominated Right-of-Way (ROW) along Port Road south of the study area. The PAMB survey was conducted according to the protocol established in the PAMB Habitat Assessment and Presence-Absence Survey Guidelines. Areas with shrubby vegetation not surveyed (due to lack of access to private property) are presumed to be suitable PAMB habitat and as such could harbor PAMB (see Figure 2 for survey boundary and extent of potential PAMB occurrence).

Botanical Site Investigation

A botanical site investigation was conducted on July 31, 2018 to search the project site and its immediate surrounding area for the presence of special status species and habitat suitable to support these species. During the site investigation, numerous botanical species were observed at the proposed project site and its surrounding area (see Appendix 2, Table 2-2). The project site consists of a level area within non-native grassland on a southwest-facing slope. The level area is currently used for equipment storage and is overwhelmingly dominated by non-native botanical species (see Appendix 1, Photos 1-4 and Appendix 2, Table 2-1). Dominant species within the level area and surrounding non-native grassland included wild oat (*Avena barbata*), wildrye (*Festuca perennis*), velvet grass (*Holcus lanatus*), sweet vernal grass (*Anthoxanthum odoratum*), orchard grass (*Dactylis glomerata*), and creeping bentgrass (*Agrostis stolonifera*), among others. The remainder of the parcel surrounding the study area was characterized by varying dominance of the aforementioned species. Portions of the parcel to the west and up-slope to the north were dominated by mature non-native Monterey cypress (*Hesperocyparis macrocarpa*) and Monterey pine (*Pinus radiata*). The oldest trees were planted as wind breaks and provide suitable nesting habitat for nesting birds (see Appendix 1, Photo 4). Currently, the parcel is developed with a single-family residence and adjacent outbuildings. Aerial imagery dating back 20 years (Google Earth, 2018) shows little change within the study parcel. The neighboring house to the south of the project area between the project and Arena Creek was constructed during those years.

Results from the pre-survey database scoping and field survey within the study area indicate that there is suitable habitat potentially occurring within the study area for 16 special status botanical species (see Appendix 2, Table 2-1). Of these 16 species with suitable habitat within the study area, 13 were determined to have a moderate potential of occurrence, and three were determined to have a high potential of occurrence within the study area. The three species with high potential of occurrence were Coastal bluff morning glory (*Calystegia purpurata* ssp. *saxicola*), supple daisy (*Erigeron supplex*), and pacific gilia (*Gilia capitata* ssp. *pacifica*). These species have been recorded nearby and have suitable habitat within the study area. The survey on July 31, 2018 was floristic in nature and all species recorded during the site visit were recorded (see Appendix 2, Table 2-2). The survey specifically



targeted the species with moderate or high potential of occurrence, in addition to all species on the scoping list. See Table 2-1 in Appendix 2 for a complete list of habitat requirements, bloom periods, and potential for occurrence for all special status species potentially occurring within the study area. No special status botanical species were observed within the project area or study area. This is likely due to the overwhelming dominance of the area by non-native species as well as the historic disturbance and continued use of the area for equipment storage, and grazing of goats. The survey was conducted during the bloom period for the majority of the special status botanical species potentially occurring within the study area, and it is unlikely species were missed during the survey. Previous botanical surveys in 2002 and 2006 did not locate any special status species.

PAMB Site Investigation

The project area is located within a 1,000-foot buffer established by the City of Point Arena around critical PAMB habitat on the north-facing slope across Arena Creek from the project area (see Appendix 1, Photo 5). PAMB is known from areas with lush mesic herbaceous and woody vegetation, often on north facing slopes or gullies where soils are well drained and friable. This typically includes riparian habitat, moist coastal scrub, and dune scrub comprised of a wide variety of brushy and herbaceous cover. The PAMB Habitat Assessment and Presence-Absence Survey Guidelines states that areas containing only grasses (with no brushy or herbaceous species), or areas dominated by conifer or hardwood trees with little to no understory or ground vegetation are not considered to be suitable habitat (USFWS, 2017). Habitat within the study area was found to be unsuitable for PAMB. The south-facing slope is likely too dry to support PAMB within the project area and the larger study area. Furthermore, the project area and surrounding slope is dominated by grasses and non-native conifers with little to no shrub cover. A willow-dominated swale to the east of Cutoff Road; approximately 250 feet east of the proposed barn, may support PAMB, and at the least could provide a movement corridor for the species (see Appendix 1, Photo 6). Arena Creek is known to support PAMB and is 250 feet south of the proposed project area (see Figure 2 for potential PAMB habitat locations in relation to the proposed project area). These areas were not surveyed due to lack of permission to enter the property that contained the habitat. Brushy areas to the north of Port Road were surveyed (see Figure 2) as this area represented potential habitat.

No PAMB or PAMB burrows were observed within or surrounding the project area, or along Port Road. It is not expected that this species will occur within the project area or study area due to a lack of habitat and the dry nature of the south-facing slope. Additional PAMB surveys conducted on the parcel in 2002 and 2006 by BioConsultant LLC did not to locate PAMB or PAMB burrows, and did not observe suitable habitat within the immediate vicinity of the project area.

Richard Wasserman

Botanical Assessment and PAMB Presence/Absence Survey

October 17, 2018

Page 5

Conclusions

No special status species were observed at the project site or within the study area. Although the study area has suitable habitat for 16 special status species, these species were not observed, nor is it expected that they will occur within the study area due to the dominance of the area by non-native species, historic disturbance of the slope for grading, and on-going use of the project area for equipment storage and grazing of goats.

Suitable PAMB habitat does not exist within the project area, however, potential habitat for the PAMB was observed 250 feet to the east and 250 feet to the south of the project area (see Figure 2). No impact to these areas is anticipated as a result of this project.

The proposed construction of a barn should have no effect on any of the special status species identified in the CNDDDB, IPaC, and CNPS database inquiries. If you have any questions or concerns regarding this report, please contact me at 707-822-5785.

Respectfully submitted,

SHN

Joseph Saler

Botanist, PAMB Surveyor

JLS:ceg

Appendices

1. Study Area photos
2. Potentially Occurring Special Status Botanical Species, and List of Botanical Species Observed within the study area.

References

Google Earth. (2018). (7/31/2018). [38.911890° / -123.702893°](#). Accessed July 2018. NR: Google Earth.

USFWS. (2017). Draft Guidelines for Project-Related Habitat Assessments and Presence-Absence Surveys for the Point Arena Mountain Beaver. Accessed July 2018 at:

[https://www.fws.gov/arcata/es/mammals/mtnbeaver/documents/Draft%20PAMB%20Habitat%20Assessment%20and%20Presence-Absence%20Survey%20Protocol v3.pdf](https://www.fws.gov/arcata/es/mammals/mtnbeaver/documents/Draft%20PAMB%20Habitat%20Assessment%20and%20Presence-Absence%20Survey%20Protocol%20v3.pdf).





Photo 1: Looking East across the proposed barn site. Note equipment storage, gravelly soils and non-native plant dominance.



Photo 2: Looking west across the proposed barn location. Note dense cover by non-native species.

SW



Photo 3: Looking north within the study area directly north of the proposed barn location. Note dense non-native species vegetation and surrounding use of the area.



Photo 4: Looking west of the proposed barn location. Note Monterey cypress windbreak.

SW
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Photo 5: Looking south across Arena Creek from the proposed barn site toward suitable PAMB habitat on north-facing slope. Note coastal scrub and lush vegetation. Top of slope in picture is approximately 700 feet south of project area.



Photo 6: Looking northeast along Cutoff Road. Suitable PAMB habitat exists within willows in the center of the photo. This area was not surveyed due to lack of access to private property. Proposed project area is 250 feet west of the edge of Cutoff Road.

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Photo 7: Looking east along the north side of Port Road. Shrub dominated areas within the ROW of Port Road were surveyed for PAMB. Results were negative.



Photo 8: Looking northeast along Port Road approximately 210 feet from the proposed project area.

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Table 2-1 Regionally Occurring Special Status Plant Species Scoping List CNDDb, RareFind5, CNPS, IPaC (September 2018) Point Arena and Surrounding Quadrangles Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Abronia umbellata</i> var. <i>breviflora</i>	pink sand-verbena	Nyctaginaceae	None	None	S	G4G5-T2	S1	1B.1	Jun-Oct	Coastal dunes and coastal strand.	Foredunes and interdunes w/ sparse cover. Usually the plant closest to the ocean. 0-10 m.	None
<i>Agrostis blasdalei</i>	Blasdale's bent grass	Poaceae	None	None	S	G2	S2	1B.2	May-Jul	Coastal dunes, coastal bluff scrub, coastal prairie.	Sandy or gravelly soil close to rocks; often in nutrient-poor soil with sparse vegetation. 5-365 m.	Low
<i>Arctostaphylos nummularia</i> ssp. <i>mendocinensis</i>	pygmy manzanita	Ericaceae	None	None	None	G3?T1	S1	1B.2	Jan	Closed-cone coniferous forest.	Acidic, sandy-clay soils in dwarf coniferous forest. 90-185 m.	None
<i>Astragalus agnicidus</i>	Humboldt County milk-vetch	Fabaceae	None	E	S	G2	S2	1B.1	Apr-Sep	Broadleaf upland forest, north coast coniferous forest.	Disturbed openings in partially timbered forest lands; also along ridgelines; south aspects. 160-570 m.	Low
<i>Astragalus rattanii</i> var. <i>rattanii</i>	Rattan's milk-vetch	Fabaceae	None	None	None	G4T4	S4	4.3	Apr-Jul	Chaparral, cismontane woodland, lower montane conifer forest.	Open grassy hillsides, gravelly flats in valleys, and gravel bars of stream beds. 30-825 m.	Moderate
<i>Bryoria pseudocapillaris</i>	false gray horsehair lichen	Parmeliaceae	None	None	None	G3	S2	3.2	N/A	Coastal dunes, North Coast coniferous forest (immediate coast).	Usually on conifers. 0-90 m.	Moderate
<i>Calamagrostis bolanderi</i>	Bolander's reed grass	Poaceae	None	None	None	G4	S4	4.2	May-Aug	Closed-cone and N. coast conifer forest, broadleaf upland forest, coastal scrub, marshes, swamps, meadows, seeps, bogs and fens.	Mesic sites. 0-455 m.	Low
<i>Calystegia purpurata</i> ssp. <i>saxicola</i>	coastal bluff morning-glory	Convolvulaceae	None	None	None	G4T2-T3	S2S3	1B.2	(Mar) Apr-Sep	Coastal bluff scrub, Coastal dunes, Coastal scrub, North Coast coniferous forest	0 - 105 meters	High
<i>Campanula californica</i>	swamp harebell	Campanulaceae	None	None	S	G3	S3	1B.2	Jun-Oct	Bogs and fens, closed-cone conifer forest, coastal prairie, meadows and seeps, freshwater marsh, N. coast conifer forest.	Bogs and marshes in a variety of habitats; uncommon where it occurs. 1-405 m.	Low

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SW

Table 2-1 Regionally Occurring Special Status Plant Species Scoping List CNDD8, RareFind5, CNPS, IPaC (September 2018) Point Arena and Surrounding Quadrangles Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Carex californica</i>	California sedge	Cyperaceae	None	None	None	G5	S2	2B.3	May-Aug	Bogs and fens, closed-cone conifer forest, coastal prairie, meadows, seeps, marshes and swamps.	Meadows, drier areas of swamps, marsh margins. 90-335 m.	Low
<i>Carex lyngbyei</i>	Lyngbye's sedge	Cyperaceae	None	None	None	G5	S3	2B.2	Apr-Aug	Marsh & swamp (brackish or freshwater).	0-200 m.	None
<i>Carex saliniformis</i>	deceiving sedge	Cyperaceae	None	None	None	G2	S2	1B.2	Jun(Jul)	Coastal prairie, coastal scrub, meadows, seeps, marshes and swamps (coastal salt).	Mesic sites. 2-230 m.	None
<i>Castilleja ambigua</i> var. <i>ambigua</i>	johnny-nip	Orobanchaceae	None	None	None	G4T5	S4	4.2	Mar-Aug	Coastal bluff scrub, Coastal prairie, Coastal scrub, Valley and foothill grassland, Vernal pools margins	Marshes and swamps, 0 - 435 meters	Low
<i>Castilleja ambigua</i> var. <i>humboldtiensis</i>	Humoldt Bay owl's-clover	Orobanchaceae	None	None	None	G4T2	S2	1B.2	Apr-Aug	Marshes and swamps.	Coastal saltmarsh with <i>Spartina</i> , <i>Distichlis</i> , <i>Salicornia</i> , <i>Jaumea</i> . 0-20 m.	None
<i>Castilleja mendocinensis</i>	Mendocino Coast paintbrush	Orobanchaceae	None	None	None	G2	S2	1B.2	Apr-Aug	Coastal bluff scrub, coastal scrub, coastal prairie, closed-cone coniferous forest, coastal dunes.	Often on sea bluffs or cliffs in coastal bluff scrub or prairie. 3-70 m.	Moderate
<i>Ceanothus gloriosus</i> var. <i>exaltatus</i>	glory brush	Rhamnaceae	None	None	None	G4T4	S4	4.3	Mar-Jun (Aug)	Chaparral	30 - 610 meters	Moderate
<i>Ceanothus gloriosus</i> var. <i>gloriosus</i>	Point Reyes ceanothus	Rhamnaceae	None	None	None	G4T4	S4	4.3	Mar-May	Closed-cone conifer forest, coastal dunes, coastal scrub, coastal bluff scrub.	Usually on bluffs along the coast in sandy soils, but also known from more inland sites. 5-520 m.	Moderate
<i>Coptis laciniata</i>	Oregon goldthread	Ranunculaceae	None	None	None	G4?	S3?	4.2	Mar-May (Sep-Nov)	North coast conifer forest, meadows and seeps.	Mesic sites such as moist streambanks. 0-1,000 m.	None
<i>Cuscuta pacifica</i> var. <i>papillata</i>	Mendocino dodder	Convolvulaceae	None	None	None	G5T1	S1	1B.2	(Jun)Jul-Oct	Coastal dunes.	Interdune depressions. Annual parasitic vine observed on <i>Gnaphalium</i> , <i>Silene</i> and <i>Lupinus</i> . 0-50 m.	None

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Table 2-1
Regionally Occurring Special Status Plant Species Scoping List (CNDS, IPaC (September 2018))
Point Arena and Surrounding Quadrangles
Wasserman Barn Project

Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Erigeron biolettii</i>	streamside daisy	Asteraceae	None	None	None	G3?	S3?	3	Jun-Oct	Broadleaved upland forest, Cismontane woodland, North Coast conifer forest	Dry slopes, rocks, ledges along rivers, mesic sites. 30-1,100 m.	Low
<i>Erigeron supplex</i>	supple daisy	Asteraceae	None	None	None	G2	S2	1B.2	May-Jul	Coastal bluff scrub, coastal prairie.	Usually in grassy sites. 5-185 m.	High
<i>Erysimum concinnum</i>	bluff wallflower	Brassicaceae	None	None	None	G3	S2	1B.2	Feb-Jul	Coastal dunes, coastal bluff scrub, coastal prairie.	More or less a coastal generalist within coastal habitat types. 3-60 m.	Low
<i>Erythronium revolutum</i>	coast fawn lily	Liliaceae	None	None	None	G4G5	S3	2B.2	Mar-Jul (Aug)	Bogs and fens, broadleaf upland forest, north coast conifer forest.	Mesic sites; streambanks. 60-1,405 m.	None
<i>Fritillaria roderickii</i>	Roderick's fritillary	Liliaceae	None	E	None	G1Q	S1	1B.1	Mar-May	Coastal bluff scrub, coastal prairie, valley and foothill grassland.	Grassy slopes, mesas. 15-610 m.	Moderate
<i>Gilia capitata</i> ssp. <i>pacifica</i>	Pacific gilia	Polemoniaceae	None	None	None	G5T3	S2	1B.2	Apr-Aug	Coastal bluff scrub, chaparral, coastal prairie, valley & foothill grassland	5-1,345 m.	High
<i>Glehnia littoralis</i> ssp. <i>leiocarpa</i>	American glehnia	Apiaceae	None	None	None	G5T4	S3	4.2	May-Aug	Coastal Dunes	0-20 m.	None
<i>Glyceria grandis</i>	American manna grass	Poaceae	None	None	None	G5	S3	2B.3	Jun-Aug	Bogs and fens, meadows and seeps, marshes and swamps.	Wet meadows, ditches, streams, and ponds, in valleys & lower elevations in the mountains. 60-2,045 m.	Low
<i>Hesperovax sparsiflora</i> var. <i>brevifolia</i>	short-leaved evax	Asteraceae	None	None	None	G4T3	S2	1B.2	Mar-Jun	Coastal bluff scrub, coastal dunes, coastal prairie.	Sandy bluffs and flats. 0-215 m.	Moderate
<i>Hesperocyparis pygmaea</i>	pygmy cypress	Cupressaceae	None	None	None	G1	S1	1B.2		Closed-cone coniferous forest.	On podzol-like blacklock soil in pygmy cypress forest community. 30-430 m.	None
<i>Horkelia marinensis</i>	Point Reyes horkelia	Rosaceae	None	None	None	G2	S2	1B.2	May-Sep	Coastal dunes, coastal prairie, coastal scrub.	Sandy flats and dunes near coast; in grassland or scrub plant communities. 2-775 m.	Moderate

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Table 2-1 Regionally Occurring Special Status Plant Species Scoping List CNRDB, RareFind5, CNPS, IPaC (September 2018) Point Arena and Surrounding Quadrangles Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Horkelia tenuiloba</i>	thin-lobed horkelia	Rosaceae	None	None	S	G2	S2	1B.2	May-Jul (Aug)	Broadleaved upland forest, chaparral, valley and foothill grassland.	Sandy soils; mesic openings. 45-640 m.	Low
<i>Hosackia gracilis</i>	harlequin lotus	Fabaceae	None	None	None	G3G4	S3	4.2	Mar-Jul	Broadleaf upland forest, coast bluff scrub, coast prairie, coast scrub, closed-cone conifer forest, meadow, seep, marsh & swamp, N. coast conifer forest, valley & foothill grassland.	Wetlands and roadsides. 0-700 m.	Low
<i>Hypogymnia schizidiata</i>	island tube lichen		None	None	None	G2	S1	1B.3		Chaparral, closed-cone coniferous forest.	On bark/wood of hardwoods & conifers. 360-405 m.	None
<i>Kopsiopsis hookeri</i>	small ground-cone	Orobanchaceae	None	None	None	G4?	S1S2	2B.3	Apr-Aug	North coast coniferous forest.	Open woods, shrubby places, generally on Gaultheria shallon. 120-1,435 m.	None
<i>Lasthenia burkei</i>	Burke's goldfields	Asteraceae	E	E	None	G1	S1	1B.1	Apr-June	Vernal pools, meadows and seeps.	Most often in vernal pools and swales. 15-600 m.	None
<i>Lasthenia californica</i> ssp. <i>bakeri</i>	Baker's goldfields	Asteraceae	None	None	None	G3T1	S1	1B.2	Apr-Oct	Closed-cone conifer forest, coastal scrub, meadows, seeps, marshes & swamps.	Openings. 60-520 m.	Low
<i>Lasthenia californica</i> ssp. <i>macrantha</i>	perennial goldfields	Asteraceae	None	None	None	G3T2	S2	1B.2	Jan-Nov	Coastal bluff scrub, coastal dunes, coastal scrub.	5-185 m.	Moderate
<i>Lasthenia conjugens</i>	Contra Costa goldfields	Asteraceae	E	None	None	G1	S1	1B.1	Mar-Jun	Valley & foothill grassland, vernal pools, alkaline playas, cismontane woodland.	Vernal pools, swales, low depressions, in open grassy areas. 1-450 m.	None
<i>Lathyrus palustris</i>	marsh pea	Fabaceae	None	None	None	G5	S2	2B.2	Mar-Aug	Bogs & fens, lower montane conifer forest, marsh & swamp, N. coast conifer forest, coastal prairie, coastal scrub.	Moist coastal areas. 2-140 m.	None
<i>Leptosiphon acicularis</i>	bristly leptosiphon	Polemoniaceae	None	None	None	G4?	S4?	4.2	Apr-Jun	Chaparral, cismontane woodland, coastal prairie, valley & foothill grassland.	Grassy areas, woodland, chaparral. 55-1,500 m.	Low

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Table 2-1 Regionally Occurring Special Status Plant Species Scoping List CNDDb, RareFind5, CNPS, IPaC (September 2018) Point Arena and Surrounding Quadrangles Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Lilium maritimum</i>	coast lily	Liliaceae	None	None	None	G2	S2	1B.1	May-Aug	Closed-cone conifer forest, coastal prairie, coastal scrub, broadleaf upland forest, N. coast conifer forest, marshes & swamps.	Historically in sandy soil, often on raised hummocks or bogs; today mostly in roadside ditches. 4-475 m.	Low
<i>Lilium rubescens</i>	redwood lily	Liliaceae	None	None	None	G3	S3	4.2	Apr-Aug(Sep)	Chaparral, low & upper montane conifer forest, broad-leaf upland forest, N. coast conifer forest.	Sometimes on serpentine. 30-1,910 m.	None
<i>Lycopodium clavatum</i>	running-pine	Lycopodiaceae	None	None	None	G5	S3	4.1	Jun-Aug (Sep)	Lower montane conifer forest, north coast conifer forest, marsh &swamp.	Forest understory, edges, openings, roadsides; mesic sites with partial shade and light. 45-1,225 m.	None
<i>Microseris paludosa</i>	marsh microseris	Asteraceae	None	None	None	G2	S2	1B.2	Apr-Jun(Jul)	Closed-cone conifer forest, cismontane woodland, coastal scrub, valley and foothill grassland.	3-610 m.	Low
<i>Mitellastrum caulescens</i>	leafy-stemmed mitrewort	Saxifragaceae	None	None	None	G5	S4	4.2	(Mar) Apr-Oct	Broadleaf upland forest, lower montane conifer forest, meadow & seep, N. coast conifer forest.	Mesic sites. 5-1,700 m.	None
<i>Oenothera wolfii</i>	Wolf's evening-primrose	Onagraceae	None	None	S	G2	S1	1B.1	May-Oct	Coastal bluff scrub, coastal dunes, coastal prairie, low montane conifer forest.	Sandy substrates; usually mesic sites. 0-125 m.	Moderate
<i>Perideridia gairdneri</i> ssp. <i>gairdneri</i>	Gairdner's yampah	Apiaceae	None	None	None	G5T3-T4	S3S4	4.2	Jun-Oct	Broadleaf upland forest, chaparral, coastal prairie, valley and foothill grassland, vernal pools.	Adobe flats, grasslands, wet meadows & vernal pools, under <i>Pinus radiata</i> along coast; mesic sites. 0-610 m.	Moderate
<i>Piperia candida</i>	white-flowered rein orchid	Orchidaceae	None	None	S	G3	S3	1B.2	(Mar) May-Sep	N. Coast and lower montane conifer forest, broadleaf upland forest.	Sometimes serpentine. Forest duff, mossy banks, rock outcrops, muskeg. 45-1,615 m.	None
<i>Pleurapogon refractus</i>	nodding semaphore grass	Poaceae	None	None	None	G4	S4	4.2	(Mar) Apr-Aug	Meadow & seep, low montane conifer forest, N. coast conifer forest, riparian forest.	Mesic sites along streams, grassy flats in shaded redwood groves. 0-1,600 m.	None

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Table 2-1 Regionally Occurring Special Status Plant Species Scoping List CNDDB, RareFind5, CNPS, IPaC (September 2018) Point Arena and Surrounding Quadrangles Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
<i>Potamogeton epiphydrus</i>	Nuttall's ribbon-leaved pondweed	Potamogetonaceae	None	None	None	G5	S2S3	2B.2	(Jun) Jul-Sep	Marshes and swamps.	Shallow water, ponds, lakes, streams, irrigation ditches. 295-2,640 m.	None
<i>Sidalcea calycosa</i> ssp. <i>rhizomata</i>	Point Reyes checkerbloom	Malvaceae	None	None	None	G5T2	S2	1B.2	Apr-Sep	Marshes and swamps.	Freshwater marshes near the coast. 5-95 m.	None
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom								(Mar) Apr-Aug	Broadleaf upland forest, coast prairie, coast scrub, N. coast conifer forest, riparian.	Woodlands and clearings near coast; often in disturbed areas. 0-730 m.	Moderate
<i>Sidalcea malviflora</i> ssp. <i>purpurea</i>	purple-stemmed checkerbloom	Malvaceae	None	None	None	G3	S3	4.2				
<i>Streptanthus glandulosus</i> ssp. <i>hoffmanii</i>	Hoffman's bristly jewelflower	Malvaceae	None	None	None	G5T1	S1	1B.2	May-Jun	Broadleaved upland forest, coastal prairie.	15-85 m.	Moderate
										Chaparral, cismontane woodland, valley and foothill grassland.	Moist, steep rocky banks, in serpentine and non-serpentine soil. 60-765 m.	Low
<i>Trifolium amoenum</i>	showy Indian clover	Fabaceae	E	None	None	G1	S1	1B.1	Apr-June	Valley and foothill grassland, coastal bluff scrub.	Sometimes serpentine soil, open sunny sites, swales. Recently cited on roadside & eroding cliff face. 5-310 m.	Low
<i>Trifolium buckwestiorum</i>	Santa Cruz clover	Fabaceae	None	None	S	G2	S2	1B.1	Apr-Oct	Coastal prairie, broadleaf upland forest, cismontane woodland.	Moist grassland. Gravelly margins. 30-550 m.	Low
<i>Trifolium trichocalyx</i>	Monterey clover	Fabaceae	E	E	None	G1	S1	1B.1	Apr-Jun	Closed-cone coniferous forest.	Openings, burned areas, and roadsides. Sandy soils. 60-210 m.	None
											In the "redwood zone" on branches of a variety of trees, including big leaf maple, oaks, ash, Douglas fir, and bay. 45-1,465 m in California.	None
<i>Usnea longissima</i>	Methuselah's beard lichen	Parmeliaceae	None	None	S	G4	S4	4.2	n/a	North coast coniferous forest, broadleaf upland forest.		
<i>Veratrum fimbriatum</i>	fringed false-hellebore	Melanthiaceae	None	None	None	G3	S3	4.3	Jul-Sep	Coastal scrub, north coast coniferous forest, bogs and fens, meadows and seeps.	Marine terrace deposits, mesic sites. 3-300 m.	None

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Table 2-1												
Regionally Occurring Special Status Plant Species Scoping List CNDDb, RareFind5, CNPS, IPaC (September 2018)												
Point Arena and Surrounding Quadrangles												
Wasserman Barn Project												
Scientific Name	Common Name	Family	Fed List	State List	Other Status	Global Rank	State Rank	Plant Rank	Bloom Period	General Habitat	Micro-habitat	Potential of Occurrence
1. Species indicator status as assigned by Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), and California Department of Fish and Wildlife (CDFW)												
C:	candidate									FP:	fully protected	
CT:	candidate threatened									PT:	proposed threatened	
D:	delisted									SSC:	species of special concern	
DpS:	distinct population segment									T:	threatened	
E:	endangered									WL:	watch list	
ESU:	evolutionarily significant unit									S:	sensitive	
2. Species Heritage rank as assigned by California Department of Fish and Wildlife (CDFW)												
G1/S1:	critically imperiled											
G2/S2:	imperiled											
G3/S3:	vulnerable											
G4/S4:	apparently secure											
G5/S5:	secure											

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Table 2-2
Plant Species Observed
7/31/2018 (9:45-11:15)
Point Arena Barn Project Botanical Assessment

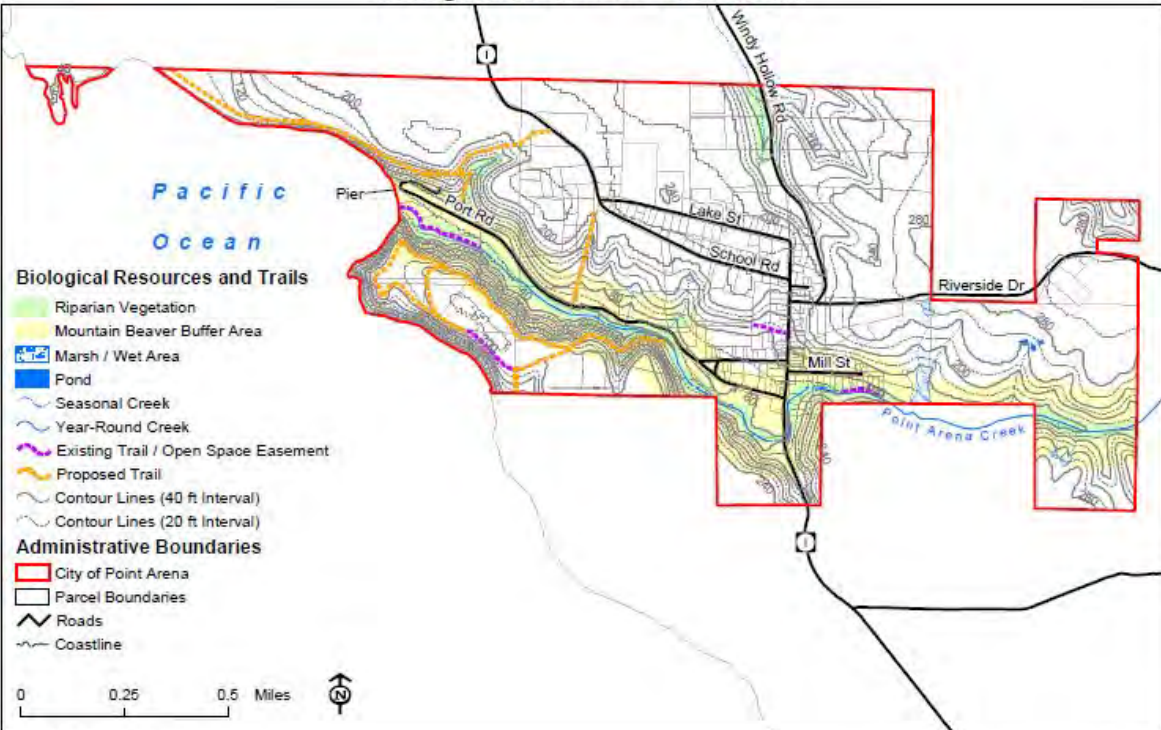
Scientific Name	Common Name	Family	Native?
Trees			
<i>Hesperocyparis macrocarpa</i>	Monterrey cypress	Cupressaceae	N
<i>Sequoia sempervirens</i>	coast redwood	Cupressaceae	Y(planted)
Shrubs			
<i>Baccharis pilularis</i> ssp. <i>consanguinea</i>	coyote brush	Asteraceae	Y
<i>Rubus ursinus</i>	California blackberry	Rosaceae	Y
Ferns and Allies			
<i>Polystichum munitum</i>	sword fern	Dryopteridaceae	Y
Sedges and Rushes			
<i>Carex gracilior</i>	slender sedge	Cyperaceae	Y
<i>Cyperus eragrostis</i>	tall flat sedge	Cyperaceae	Y
<i>Juncus effuses</i>	common rush	Juncaceae	Y
<i>Juncus patens</i>	spreading rush	Juncaceae	Y
Grasses			
<i>Agrostis stolonifera</i>	creeping bentgrass	Poaceae	N
<i>Anthoxanthum odoratum</i>	sweet vernal grass	Poaceae	N
<i>Avena barbata</i>	wild oat	Poaceae	N
<i>Briza maxima</i>	large quaking grass	Poaceae	N
<i>Briza minor</i>	small quaking grass	Poaceae	N
<i>Bromus catharticus</i> var. <i>catharticus</i>	rescue grass	Poaceae	N
<i>Bromus hordeaceus</i>	soft chess	Poaceae	N
<i>Cynosurus echinatus</i>	dogtail grass	Poaceae	N
<i>Dactylis glomerata</i>	orchard grass	Poaceae	N
<i>Danthonia californica</i>	California oat grass	Poaceae	Y
<i>Elymus glaucus</i> ssp. <i>glaucus</i>	blue wildrye	Poaceae	Y
<i>Festuca myuros</i>	rattail six-weeks grass	Poaceae	N
<i>Festuca perennis</i>	wildrye	Poaceae	N
<i>Holcus lanatus</i>	velvet grass	Poaceae	N
<i>Hordeum marinum</i> ssp. <i>gussoneonum</i>	seaside barley	Poaceae	N
<i>Hordeum murinum</i>	foxtail barley	Poaceae	N
<i>Hordeum vulgare</i>	barley	Poaceae	N
Herbs			
<i>Carduus pycnocephalus</i>	Italian thistle	Asteraceae	N
<i>Cirsium vulgare</i>	bull thistle	Asteraceae	N
<i>Conium maculatum</i>	poison hemlock	Apiaceae	N
<i>Convolvulus arvensis</i>	field bindweed	Convolvulaceae	N
<i>Euphorbia lathyris</i>	gopher plant	Euphorbiaceae	N
<i>Geranium dissectum</i>	cutleaf geranium	Geraniaceae	N

S. J. L.

Table 2-2
Plant Species Observed
7/31/2018 (9:45-11:15)
Point Arena Barn Project Botanical Assessment

Scientific Name	Common Name	Family	Native?
<i>Geranium molle</i>	crane's bill geranium	Geraniaceae	N
<i>Heracleum maxima</i>	cow parsley	Apiaceae	Y
<i>Horkelia californica</i> var. <i>californica</i>	California horkelia	Rosaceae	Y
<i>Hypochaeris radicata</i>	hairy cat's ear	Asteraceae	N
<i>Linum bienne</i>	flax	Linaceae	N
<i>Lotus corniculatus</i>	bird's foot trefoil	Fabaceae	N
<i>Plantago lanceolata</i>	English plantain	Plantaginaceae	N
<i>Pseudognaphalium luteoalbum</i>	Jersey cudweed	Asteraceae	N
<i>Raphanus sativa</i>	wild radish	Onagraceae	N
<i>Rumex acetosella</i>	sheep sorrel	Polygonaceae	N
<i>Rumex conglomeratus</i>	green dock	Polygonaceae	N
<i>Senecio glomeratus</i>	cutleaf burnweed	Asteraceae	N
<i>Sonchus olereacus</i>	sow thistle	Asteraceae	N
<i>Torilis arvensis</i>	field hedge parsley	Apiaceae	N
<i>Vicia sativa</i>	spring vetch	Fabaceae	N
<i>Vinca major</i>	vinca	Apocynaceae	N
Vines			
<i>Hedera helix</i>	English ivy	Araliaceae	N
<i>Symphoricarpos mollis</i>	creeping snowberry	Caprifoliaceae	Y
<i>Toxicodendron diversilobum</i>	poison oak	Anacardiaceae	Y
51 Species			27% Native

City of Point Arena Biological Resources and Trails



Compiled By Planwest Partners
 Date: January 29, 2004
 Projection: California State Plane Zone 2 (feet), NAD 1983
 Data Sources: County of Mendocino Planning & Building Services,
 City of Point Arena, & Planwest Partners
 Contour Lines derived from USGS 10 Meter DEM





Teresa Spade <spadenrc@gmail.com>

**44600 Port Road PAMB habitat assessment and presence/absence survey
conducted 22 October 2020**

Schmidt, Gregory <gregory_schmidt@fws.gov>
To: Teresa Spade <spadenrc@gmail.com>

Wed, Oct 28, 2020 at 2:45 PM

Hi Teresa,

I conducted a PAMB habitat assessment for the proposed workshop site and 100 feet (the distance used for elevated sound levels and for basic small scale construction such as the workshop) around the site. The only suitable PAMB habitat was located on the southern border of the target parcel (i.e., 44600 Port Road). The suitable habitat was composed mainly of a black raspberry thicket approximately 50 ft long by 15-20 feet wide. The entire patch of suitable habitat was surveyed for PAMB occupancy. No PAMB burrow entrances or other PAMB sign was found during a presence/absence survey that lasted approximately 1.5 hours (the patch was very thick and difficult to survey). A large patch of suitable PAMB habitat was located just over 100 feet south of the proposed workshop site on a neighbors parcel along the north side of the driveway. That patch of suitable habitat was not surveyed because it fell outside the 100 foot focal distance. However, the patch occurred on a dry, south-facing slope, suggesting it was only marginally suitable for PAMB. I conclude that PAMB take is unlikely within 100 feet of the proposed workshop site. Please let me know if you need more information or wish to see the GPS tracks I recorded. Thanks.

Greg

Gregory Schmidt

Fish & Wildlife Biologist, Endangered Species Program

US Fish and Wildlife Service

Arcata Fish and Wildlife Office

1655 Heindon Road, Arcata CA 95521-4573

Phone: (707) 825-5103; Fax: (707) 822-8411; Cell: (707) 834-3193

E-mail: Gregory_Schmidt@fws.gov

Wasserman appeal - Application No. 1-PTA-20-0223

[Reply](#) | [Reply all](#) | [Forward](#)

From: Richey Wasserman <richey@mcn.org>
Sent: Tuesday, January 26, 2021 11:08 AM
To: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>
Subject: Re: Wasserman appeal - Application No. 1-PTA-20-0223
Importance: High

Melissa B. Kraemer-

I am writing this letter to state, unequivocally, that no development will occur under the original CDP #2020-02 by the Point Arena City Council , which was received by the California Coastal Commission on July 3, 2020. and that the original permit is null and void.

Thank you.

Richard Wasserman

From: [REDACTED]
To: NorthCoast@Coastal
Subject: Appeal CDP# 2-2020 Point Arena
Date: Thursday, July 16, 2020 2:08:59 PM
Attachments: [COASTAL APPEAL FINAL.docx](#)
[Scan_0019.pdf](#)

Dear Sir or Madam:

Please find attached the appeal documents opposed to CDP#2-2020, granted to Richard Wasserman in Point Arena, CA, on 6/23/2020. The appeal period ends tomorrow at 5:00PM.

This email includes the CCC Appeal Form as well as the attached pages to "Grounds for the appeal" on page 4 of the appeal form.

To follow in a separate email are the Exhibits as well as Exhibit 11 (response to staff letter).

Thank you for your time and consideration.

Best,
Arabella Akossy

From: [REDACTED]
To: NorthCoast@Coastal
Subject: APPEAL CDP#2-2020 Point Arena / Exhibits plus Exhibit 11 (Rebuttal)
Date: Thursday, July 16, 2020 2:25:57 PM
Attachments: [Scan_0023.pdf](#)
[REBUTTAL.docx](#)

Dear Sir or Madam:

Please find attached the exhibits for my appeal opposing CDP2@-2020, granted to Richard Wasserman for a barn/workshop located at 44600 Port Rd., Point Arena, CA 95468. Exhibit 11 is included as a separate file "Rebuttal".

Thank you.
Best, Arabella Akossy

From: [REDACTED]
To: NorthCoast@Coastal
Subject: Please add to Appeal CDP#2-2020 Point Arena
Date: Friday, July 17, 2020 11:07:55 AM
Attachments: [REVOKE.docx](#)

Dear Sir or Madam:

Please add the attached information to Page 2 of my CCC Appeal Form under "Please identify how you have exhausted all LCP CDP appeal processes..."

While I was not able to appeal on the local level, I did request for the permit to be revoked following the procedure outlined in the LCP.

My request was denied by city manager Richard Shoemaker on 7/8/2020.

Moreover, as listed within my appeal, I do think that the hearing procedures were not followed correctly.

Thank you.

Best, Arabella Akossy

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
1385 EIGHTH STREET, SUITE 130
ARCATA, CA 95521
(707) 826-8950
NORTHCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: North Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____




APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the North Coast district office, the email address is NorthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision
Page 2

1. Appellant information¹

Name: Arabella Akossy
Mailing address: 
Phone number: 
Email address: 

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☒ Other

Describe: I also contacted city planner Teresa Spade and city manager Richard

Shoemaker with questions regarding the project.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: The public hearing notice listed the project as being appealable to the Coastal Commission. I did check with the city manager about this, who said there was no point in appealing locally because Point Arena no longer has a Planning Commission and to appeal to the CC directly.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 3

2. Local CDP decision being appealed²

Local government name: City of Point Arena
Local government approval body: City of Point Arena City Council
Local government CDP application number: CDP #2-2020
Local government CDP decision: ☒ CDP approval ☐ CDP denial³
Date of local government CDP decision: 6/23/2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: The project is located at 44600 Port Rd. (The NOFA also lists 240 Port Rd.

This is incorrect as that parcel does not belong to the applicant but to Jeff
& Tara Kahler APN 027-081-11-00.) The development is described as a
residential accessory barn/shop with a 400 sqft footprint (800 sqft total floor
area), with a maximum height of 18ft above natural grade. A roof will extend
from the barn structure over an adjacent 444 sqft concrete slabs to be used
for equipment storage.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

**Appeal of local CDP decision
Page 4**

3. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Several substantial issues are raised within the application and staff report for CDP#2-2020. The issues are as follows:

A) Inaccurate project description when requesting input from different agencies with jurisdiction.

B) Protection for the endangered Point Arena Mountain Beaver has not been duly considered

C) Utter disregard for the proposed project's impact on surrounding ESHA

D) The categorical CEQA exemption was granted in error

F) Lack of noise level and visual screening considerations

G) Unpermitted grading activity and future impact therefrom

H) Inaccurate property boundary and inappropriate setback descriptions

I) Improper public hearing protocol / J) Issues with NOFA

PLEASE SEE ATTACHED PAGES.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Arabella Akossy
Print name _____

Signature _____

7/14/2020
Date of Signature _____

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☒ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Arabella Akossy

CDP Application or Appeal Number CDP#2-2020

Lead Representative

Name James Barnes

Title Attorney-at-Law

Street Address. [REDACTED]

City [REDACTED]

State [REDACTED]

Email Address [REDACTED]

Daytime Phone [REDACTED]

Your Signature [REDACTED]

Date of Signature 7/14/20

LIST OF INTERESTED PARTIES:

1. Applicant: Richard Wasserman, [REDACTED]
[REDACTED]

2. "Neighbor": Thomas White, [REDACTED]

White is the only other person who commented at the hearing, saying that he "approve(s) of the project" and "think(s) it is a good idea". He claimed to be a neighbor across the street without giving his actual property address. His parcel is located at the top of the bluff and sits at an elevation 600 feet higher and to the southwest of the building site. His residence is over 1200 feet away and set far back with absolutely no view of the building site.

7/2/2020

Dear City Clerk of Point Arena:

On the grounds of the rules outlined in the Zoning Ordinance on Page 116, I hereby ask you to revoke the Point Arena City Council's approval on 6/23/2020 for Richard Wasserman's CDP 2-2020 for a barn/workshop located at 44600 Port Rd., Point Arena, CA 95468.

B. Revocation of Coastal Development Permits^{L SEP} Grounds for revocation of a coastal development permit shall be:

(1) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a coastal development permit application, where the City finds that accurate and complete information would have caused the City to require additional or different conditions on a permit or deny an application;

(3) Initiation of Proceedings. Any person who did not have an opportunity to fully participate in the original permit proceeding by reason of the permit applicant's intentional inclusion of inaccurate information or failure to provide adequate public notice as specified in Section 6.15(B)(1) & (2) may request revocation of a permit by application to the City Clerk specifying, with particularity, the grounds for revocation. The City Clerk shall review the stated grounds for revocation and, unless the request is patently frivolous and without merit, shall initiate revocation proceedings. The City may initiate revocation proceedings on its own motion when the grounds for revocation have been established pursuant to the provisions of Section 6.15(B)(1) & (2).

(4) Suspension of Permit. Where the City Clerk determines in accord with Section 6.15(B)(3), that grounds exist for revocation of a permit, the operation of the permit shall be automatically suspended until the City Planning Commission votes to deny the request for revocation. The City Clerk shall notify the permittee by mailing a copy of the request for revocation and a summary of the procedures set forth in this article, to the address shown in the permit application. The City Clerk shall also advise the applicant in writing that any development undertaken during suspension of the permit may be in violation of the LCP and subject to the penalties set forth in Section 7.02.

(5) Hearing on Revocation (Zoning Ordinance Page 116)

The reasons for my request for revocation are as follows:

- The public hearing for the project failed to follow proper legal protocol. Not only was there a discrepancy about the zoning of the project parcel but the posted agenda for the hearing was not followed correctly, when city attorney Terry Gross asked Mr. Wasserman not only to recuse himself as a member of the council but also prevented him from speaking about his project and moved him to being a member of the public instead. He was thereby technically removed from his role as the applicant, which was completely improper. Wasserman therefore did not talk about his project, other than answering a single question from the staff about

window orientation, to which he gave a one-word-reply. Consequently Wasserman never presented his project, nor did the public get a chance to address the applicant or the staff with questions.

All this is highly unusual given that the hearing agenda listed under *Recommended Action*:

3. Hear Applicant/4. Questions to Staff/5. Open Public Comment.

Point 3 was omitted and the meeting skipped forward to the Public Comment portion. Thereby the entire purpose of a “public hearing” was completely undermined. Furthermore, there was discussion among council members during the hearing to allow the applicant to change parts of his application (not stating what specifically though) and without calling for another public hearing.

- A statement of support by a neighbor was taken into account, when this person doesn't even live anywhere near the proposed building site. Thomas White provided a lengthy, yet misleading property address description and tried to pass himself off as a “neighbor across the street”. In fact, he resides at 760 Bluff Top Road, a location that is situated at an elevation 600 feet higher than the building site, with his residence being approximately 1200 feet away (aerial distance only, not topographical which would be much farther) and without any view of the building site whatsoever! Nobody of the staff or council actually questioned his statement or asked for clarification about his actual address, even though it is obvious that there is no “neighbor across the street”.

- During the hearing, my arguments against the project as outlined in my letter to the Council, dated 6/22/2020, were only partially and/or cursorily considered. The incomplete and inaccurate information was allowed to stand and application was approved regardless.

The above reasons call for revocation of the current permit.

Respectfully submitted,
Arabella Akossy

4. Grounds for this appeal:

The Point Arena City Council permitted Richard Wasserman (one of its sitting members) a noise-generating workshop/barn within a protected area for the endangered Point Arena Mountain Beaver. In order to do so, the City Council approved for its member false and substandard evidence in regards to the environmental impact of the project. Moreover, during the public hearing discussion of the intended use for the project as commercial woodworking shop was disallowed.

Several substantial issues raised within the application and the staff report are as follows:

- A) Inaccurate project description when requesting input from the different agencies with jurisdiction.
- B) Protection for the endangered Point Arena Mountain Beaver (PAMB) has not been duly considered
- C) Utter disregard of the proposed project's impact on the surrounding ESHA
- D) The categorical CEQA exemption granted in error
- E) The intended use of the building is a noise-generating commercial workshop
- F) Lack of noise level and visual screening considerations
- G) Unpermitted grading activity and future impact therefrom
- H) Inaccurate property boundary and inappropriate setback descriptions
- I) Improper protocol of public hearing
- J) Issues within the NOFA

A) Inaccurate Description of the Project's Size and Scope

All the agencies with jurisdiction received an incomplete description of the scope and size of the project when they were asked for their input on a 800 SQFT barn only, instead of a 960 SQFT barn/workshop with adjacent 444 SQFT equipment storage area. (See Exhibit 1, correspondence from the City Planner to the Coastal Commission.) Therefore, none of the agency comments currently apply to the appropriate scope of the project as presently proposed.

From the LCP Glossary, Page 1:

*Floor Area, Gross. The enclosed area of a building **measured from an exterior surface to exterior surface**, but excluding the following: Exterior balconies and galleries covered but not enclosed; patios, atriums, and the like if not covered; common-use areas for all tenants; garages and carports; major mechanical equipment rooms.*

The included building plans show dimensions for the barn at 20x24=480x2(floors)=960 SQFT plus adjacent 444 SQFT covered equipment storage area on a concrete slab. This also changes the total footprint of the project to 924 SQFT.

B) Protection for the endangered Point Arena Mountain Beaver (PAMB) has not been duly considered

Issues with the PAMB study conducted on July 31, 2018 by Joseph Saler of SHN Engineering (which has been under contract with the City of Point Arena since 2018) are as follows:

- The study only refers to a barn site but not a workshop, which has significant bearing on the scope of the report, including failure to consider the noise impact on the endangered PAMB.
- My entire property at 220 Port Rd. as well as most of the building site parcel are both located within the Mountain Beaver Buffer Area (MBBA). Furthermore, the area 500 feet south of Arena Creek (a steep bluff across from Port Rd.) is also within this zone. (See Exhibit 2 map)

Pertaining to this, page 69 of the Point Arena Zoning Ordinance reads:

The MBBA is designated on the Point Arena Opportunities and Constraints Map as a 1,000-foot strip along Arena Creek, 500 feet from the centerline. Surveys shall be done by a qualified biologist and should cover all of the mountain beaver habitat from the perimeter of the project out to a distance of 500 feet.

However, the study did not adhere to the above guidelines and failed to survey large swaths of potential habitat within the prescribed perimeter. (See Figure 2 map of SHN study/ Exhibit 2)

- The Figure 2 map clearly shows that most of my parcel was not surveyed at all. The biologist only marks a small area along Port Rd. and its bicycle path as having been surveyed.
- The explanation within the report says the failure to survey my property at 220 Port Rd. was “due to lack of access to private property” and “lack of permission to

enter.” However, this is demonstrably false. I was present the day the study took place and saw Mr. Saler and his assistant at the site from my house. I then asked the Applicant’s sister-in-law, Ellen Whatley, who they were. She claimed they were conducting the geological study. A couple of days later, however, she said to have made a mistake and that they had been there for the biological study. Even though I was present, and available, no one ever asked for access to my property that day. Nor was I previously contacted about granting the biologist access to my property. In order for SHN to conduct a properly thorough study they should have reached out to me directly in advance or asked the Applicant to arrange for them to be able to enter my property. So why such a large company with multiple offices wasn’t professional enough to handle this small yet very important preliminary step raises definite concerns and has made the study unnecessarily incomplete.

- The study did not at all take into account the north-facing slope south of Point Arena Creek (all within the MBBA), which also falls into the 500 feet perimeter from the proposed building site. The noise from the workshop would have a detrimental impact on this part of the habitat as well. The biologist, however, incorrectly limits the PAMB habitat as just immediately south of the creek. In contrast, the map for the City of Point Arena Biological Resources and Trails (Figure 7 in the staff report / Exhibit 3) gives a clear outline of the MBBA encompassing almost the entire bluff.

- Furthermore, the area 250 feet to the east is also incorrectly labeled as “Limits to Potential PAMB Habitat” when in fact this area with a seasonal creek is full of shrubby vegetation and also falls into the MBBA.

- The report states “areas with shrubby vegetation (*of which there is plenty on my parcel*) are presumed to be suitable PAMB habitat and as such could harbor PAMB.” Moreover, my property contains a seasonal spring surrounded by dense willow shrubs, which also makes it prime PAMB habitat.

- Had anyone inquired, I would have been able to report having sighted PAMB activity on my property within 100 feet of the proposed building site – a fact that the Applicant was and is acutely aware of.

- The entire field study was conducted within 90 minutes at the height of summer, when PAMB is likely to retreat to the moistest habitat areas available. This changes during the winter and spring, and this seasonal fact was not taken into consideration. In addition, a very large area of the study site marked as surveyed on the report’s map is actually that part on Wasserman’s property which is an open south-facing, grass-covered slope that would not be suitable PAMB habitat at any time of the year.

Therefore the provided study cannot conclusively claim that there is no PAMB activity on my property (which I have already stated as having witnessed firsthand) or on the north-facing bluff across from the proposed building site (all located within the prescribed 500 foot perimeter / see Exhibit 2). On the contrary, the

report actually admits that those areas not accessed ARE “presumed to be suitable PAMB habitat and as such could harbor PAMB”. Obviously, Gregory Schmidt from USFWS must have overlooked this absolutely essential point and came to his conclusion that in error. Schmidt comments: “Based on the habitat assessment, take on PAMB is unlikely for the project”. However, since the habitat assessment is incomplete and in parts demonstrable inaccurate, Mr. Schmidt did not have a valid basis to come to his conclusion.

In summary, this raises serious concerns about the validity of the study’s conclusion that PAMB are not present in vicinity of the proposed building site. Therefore, another complete study, which actually covers the entire 500-foot radius from the perimeter of the building site, and takes into consideration the potential impact of the workshop on PAMB as well as seasonal changes that affect PAMB’s behavior, is necessary to determine conclusively the presence or absence of PAMB.

Incidentally, there is a very high likelihood of PAMB presence in the area according to the following sources:

The Point Arena LCP/ 2. Arena Creek^[1] X. Coastal, Page 21 states:

The Point Arena Mountain Beaver, a federally listed Endangered Species, resides in burrows in the Arena Creek canyon, primarily on north facing slopes.

The proposed building site is less than 200 feet across said Arena Creek canyon (also referred to as “bluff” within this appeal).

2.4. Environmentally Sensitive Habitat Areas (ESHA) / (C) Findings X. Coastal, Page 29:

The creek area contains considerable prime Mountain Beaver Habitat.

Said creek area is also less than 200 feet from the project site.

Moreover, the City Council neglected to take into consideration the following:

(D) Goals LCP/X. Coastal, Page 30:

To protect and restore Point Arena Creek, it’s fishery and riparian habitat, including Mountain Beaver habitat.

To protect other sensitive habitat areas within the city including, but not limited to, seasonal creeks, vernal pools, marshes, certain wetlands, other riparian habitats, Point Arena Mountain Beaver habitat, rare plant habitat, off-shore rocks, and kelp beds.

LCP X. Coastal, Page 31:

6. Additional development restrictions shall apply within the Mountain Beaver

Buffer Area along Arena Creek (measured 500 feet from the centerline of the creek). The city has incorporated the development restrictions recommended by the U.S. Fish & Wildlife Service Mountain Beaver Recovery Plan into Section 5.24 of the Zoning Ordinance.

LCP X. Coastal, Page 32

16. North-facing slopes south of Point Arena Creek in the annexation area are confirmed Point Arena Mountain Beaver habitat. Development proposed in this area, zoned for residential agriculture, shall be reviewed to ensure compliance with policies of the General Plan, Zoning Ordinance, and LCP regarding the protection of environmentally sensitive habitat areas to ensure the preservation of the populations of Point Arena Mountain Beaver that inhabit the area.

*To minimize and mitigate disturbance to Point Arena mountain beavers, noise-generating or habitat-modifying projects within the Mountain Beaver Buffer Area (MBBA) shall be surveyed. The MBBA is designated on the Point Arena Opportunities and Constraints Map as a 1,000 foot strip along Arena Creek, 500 feet from the centerline. **Surveys shall be done by a qualified biologist and should cover all of the mountain beaver habitat from the perimeter of the project out to a distance of 500 feet.** If mountain beaver sign (trails, burrows, digging, etc.) is detected within this **radius**, additional project mitigation or the development of a habitat conservation plan shall be required.*

Again, John Saler's PAMB study clearly did NOT cover the prescribed perimeter.

In regards to the workshop aspect (even when considered non-commercial) the Council neglected to take into account any of these important rules listed in the LCP / X. Coastal, Page 32:

Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15 through June 15:

- A. The action and related activities shall be greater than 100 feet from occupied habitat.*
- B. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g. axe, etc.)*
- C. No tools shall be used that require an air compressor.*
- D. No power tools shall be operated while in direct contact with the ground.*

Zoning Ordinance, Page 72 Sec. 5.26:

Control of noise: New development shall conform to noise control policies set forth in the Noise Element of the General Plan or in any noise ordinance that may be in effect

*and in conformance therewith, **and the Planning Commission may require that noise studies be prepared as a condition of any permit review, and may also require that a developer mitigate for negative noise impacts.***

Inexplicably, no noise studies were required even though the application also lists a “workshop” as intended use. (See page 1 of staff report under Project Description.) Nor did the council members even consider ANY noise mitigating measures for this project, even though it is within the officially mapped MBBA and also within 60 feet of the neighboring residence.

Additionally, according to LCP VI. Open Space/Cons., Page 6, no new additions are allowed within the MBBA. The Applicant’s proposed building however is located within the 500 feet riparian setback area. This is also noted on page 4 of the SHN/Saler-study: “PAMB Site Investigation The project is located within a 1,000 foot buffer for PAMB...”

*13. Riparian buffer areas shall be maintained to preserve and protect the valuable wildlife habitats provided by riparian areas (riparian corridors) along streams and creeks shown on the official General Plan maps, as well as unmapped streams and creeks that meet the definition of an environmentally sensitive habitat area (ESHA). Uses and use restrictions pertaining to riparian buffers shall be regulated by Sections 5.22 and 5.23 of the Zoning Ordinance, and pre-existing non-conforming uses and structures may continue in the buffer area, **but no additions that may encroach upon the buffer area shall be permitted**, with the following exception:*

a. accessory structures located at the City's waste water reclamation facility situated entirely within the developed, fenced area subject to securing a coastal development permit consistent with all other applicable provisions of the certified LCP.

*14. Since the Point Arena Mountain Beaver was listed as an endangered species on December 12, 1991, with beaver habitat potentially located along Point Arena Creek, the City shall establish a **500 feet riparian setback area ("Mountain Beaver Buffer Area") from the centerline of the stream as recommended by the United States Fish and Wildlife Service (USFWS).***

C) Utter Disregard For The impact of Proposed Project on The Surrounding ESHA

Members of the Council must have also overlooked the following from the LCP pertaining to ESHA (Environmentally Sensitive Habitat Area) when they decided to approve the application:

LCP (E) Policies X. Coastal, Page 27:

21. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be

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

LCP X. Coastal, Page 30:

3. To the maximum extent feasible, the City shall map environmentally sensitive habitat areas inside the city including, but not limited to, certain wetlands, seasonal creeks, springs, habitat for rare, threatened, or endangered species, and riparian habitat. The determination of what constitutes ESHA shall not be limited by what is mapped. Restrictions shall apply to development in and adjacent to sensitive habitat areas. Any area not designated on the LUP ESHA Map that meets the ESHA criteria is ESHA and shall be accorded all the protection provided for ESHA in the LCP. Revisions to the map depicting ESHA shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission.

Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

The following areas shall be considered ESHA:

- . Any habitat area that is rare or especially valuable from a local, regional, or statewide basis. ·*
- . Areas that contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law. ·*
- . Areas that contribute to the viability of species designated as Fully Protected or Species of Special Concern under State law or regulations. ·*

LCP X. Coastal, Page 32

15. "Environmentally sensitive area" shall be defined as any area 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.

Sec. 5.27 Mitigation Measures: Permissible development shall be sited and designed to avoid adverse impacts to ESHA. If there is no feasible alternative that can eliminate all adverse impacts, then the alternative that would result in the fewest or least significant adverse impacts shall be selected. Residual adverse impacts to ESHA shall be fully mitigated, with priority given to on-site mitigation. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site or where off-site mitigation is more protective in the context of a Natural

Community Conservation Plan that is certified by the Coastal Commission as an amendment to the Point Arena LCP. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

The Planning Commission or City Council shall as a condition for a Coastal Development Permit, require that a developer mitigate for impacts to ESHA. The permit shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the project.

Just to reiterate: the project is within the MBBA as well as adjacent to other ESHA (Arena Creek, wetlands, riparian corridors) and there are “16 other special status species” (see Saler study) in the area that would be impacted by the project. However, no mitigation measures have been included for this project. It should also be noted that a workshop and the associated use of products such as toxic solvents, stains, oils, etc. could lead to major contamination of Arena Creek as well as the wetlands associated with it.

D) The CEQA Exemption Was Granted in Error

Moreover, the flawed and incomplete PAMB study as well as disregard for ESHA protection throw into question the decision to grant the project exemption from CEQA standards, as the AEP CEQA Portal <https://ceqaportal.org/tp/Exemptions%20Topic%20Paper%2003-23-16.pdf> states the following:

Under State CEQA guidelines the categorical exemption does not apply when:

The project is located in a sensitive environment such that the project may impact an officially mapped and designated environmental resource of hazardous or critical concern.

The City of Point Arena Biological Resources and Trail map (Figure 7. in the CDP# 2-2020 staff report / Exhibit 3) clearly shows that the proposed building site parcel, my parcel and the bluff area straight across are all located within the officially mapped 1000-foot zone of the MBBA. Therefore, the categorical exemption should not apply.

Moreover, Page 70 of the Point Arena Zoning Ordinance states that even when PAMB have been eliminated (i.e. are currently not present) from their habitat within the MBBA, the area should still be granted protection as ESHA :

Sec. 5.25 Any area mapped as MBBA shall not be deprived of protection as ESHA, *as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.*

(The above quote from the Zoning Ordinance applies as LCP, X. Coastal, Page 3 says:

1.2. The Local Coastal Program (LCP)

The City of Point Arena's LCP shall be a combined document of this General Plan and its subsequent Zoning Ordinance (with associated maps).)

Of relevance is also LCP XII. Review/Permits, Page 3:

*The process for review is set forth in the State's "CEQA Guidelines", as are the obligations of the City to conduct proper environmental review. The City must follow CEQA procedures, and ensure that Environmental Impact Reports (EIRs) or Negative Declarations are **objective**, that they are prepared by individuals or firms acceptable to the City Council, and that the environmental document reflects the independent judgment of the City, which is responsible for the adequacy and objectivity of any EIR or Negative Declaration.*

Concerns about objectivity are raised by the fact that Applicant and Point Arena City council member Wasserman used SHN to conduct the PAMB study and botanical assessment, when the City's engineer (according to Ms. Spade) works for the same company and the City has been contracting with SHN since January 2018 on large projects, such as repairs at Arena Cove

(<https://drive.google.com/file/d/1yCFyZEVadoQ8A3CcCN6t4At5ijaiOiBD/view>)

and the Port Rd. maintenance project.

SHN are certainly not the only firm that would have been able to conduct the PAMB and botanical study as the City Planner likes to contend, and for the sake of "objectivity" and transparency another company would certainly have been a more sensible choice.

E) The Intended Use of The Building is for a Noise-generating Commercial Workshop

Related to the project, there exists a misleading "narrative" implying that the proposed building will be used as an "agricultural barn." The only farming element on the Applicant's property consists of two pet goats, for which there already exists a fenced-in corral and stall as well as an adjacent shed for their feed. The proposed agricultural activity described in the application's "narrative" is a simply fiction designed to distract from the true intended use for the building—all of which could be easily verified with a visit to the Applicant's property.

In actuality, Mr. Wasserman is a working finish carpenter who is in need of housing his workshop since last year having sold his rental property at 71 Mill Street in Point Arena, where he used the garages for his shop and equipment storage. It's an open secret that the Applicant has had longstanding plans for operating his woodworking shop at his residence, which he has related not only to me on numerous occasions in the past but to others as well. As a matter of fact, even city

manager Shoemaker mentioned during the public hearing that the Applicant will be able to operate his shop under the Home Occupation rule. It is also of special concern, that the proposed storage area would be used for tools, equipment, and building materials related to a woodshop and not agricultural equipment or animal feed, as council member Anna Dobbins wanted to imply during the public hearing by acting as Wasserman's unofficial spokesperson. (Her explanatory comments in regards to the intended use of the building raise serious red flags about the Brown Act having been violated, i.e. that council members discussed the project amongst themselves in private outside of an open meeting. Private conversations about the project are also indicated between the City Manager and the Applicant.)

Along these lines, Dobbins also tried to claim that the shop would be used for "small home improvement projects". If that were the case, the Applicant would already have ample space to carry out those projects in two large sheds located on his property in easy walking distance of his residence. In addition, he currently also uses two steel containers for his carpentry tools and equipment storage. However, because he doesn't deem those spaces "big enough" (his words not mine) to house all his woodworking equipment, he wants to build a shop with a large adjacent storage area, all right within the sensitive habitat of the extremely noise-sensitive Point Arena Mountain Beaver.

See LCP Glossary, Page 14 for problems with operating a shop in this location:

Home Occupation. *A use, which may be a commercial enterprise, customarily conducted within a dwelling or accessory building by the inhabitants of the dwelling and which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the character of the dwelling, premises or neighborhood, or cause significant impact or nuisance. Home Occupation Permit. A permit that the City may issue to a home owner or renter on a conditional basis to authorize a home occupation, which permit becomes valid upon the paying of a business license fee.*

(However, this definition is not in conformance with how Home Occupation is allowed within the RA-2 zoning, which expressly excludes commercial activity.)

E) Lack of Noise and Visual Screening Considerations

As the adjoining neighbor to the south, my property and I will be most impacted by the project. Please note that I am the only neighbor who would be able to see the proposed building. All the other surrounding neighbors are between 400 and 1200 feet away from the building site. The noise and light pollution, as well as the added traffic in very close proximity to my residence, will severely degrade my property in terms of value and my continued use and enjoyment of it. Furthermore, the privacy my backyard and home would be completely destroyed.

The considerable noise pollution would not only have an adverse effect on me, but also on the public, and the environment (especially the endangered PAMB). The sounds of screeching electric saws, loud hammering and air compressor use would be amplified by bouncing off my house and the bluff across the way and would undoubtedly be audible at the Cove. Furthermore, it is of special concern that the bluff in question is part of the designated buffer zone for PAMB (MBBA) and that they are extremely sensitive to noise and vibrations. Additionally, the very large metal roof of the project would create a noise nuisance during rainfalls.

Specific questions to the City Planner about workshop zoning guidelines and on whether any noise impact studies had been conducted were left unanswered for weeks. Eventually, City Manager Richard Shoemaker did refer me to the Municipal Code, the General Plan, and the Zoning Ordinance.

Within these documents are numerous rules and regulations regarding noise. However, the staff report did not call for a noise study nor did it include any requirement that noise from the workshop be mitigated.

Since the Applicant would have to conduct his workshop under the One Home Occupation allowance for RA-2 zoning (which as stated before, was already talked about by city manager Shoemaker at the public hearing), the following from the PA Municipal Code also applies:

18.25.060 Home Occupation

(6) No significant increase in automobile and truck traffic over normal residential use;

(10) No equipment or process used shall create noise, vibration, fumes, dust, odors, smoke, electrical interference, or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood;

Moreover, according to Zoning Ordinance NO. 179, principally permitted uses for RA-2 include:

3) Accessory structures such as barns, pens, coops, stables, not used for commercial purposes.

(RA-2 zoning does not list “shops” or “workshops” as permitted use.)

Operating a workshop for the manufacture of wood products, however, clearly falls under commercial activity and should therefore not be allowed within the RA-2 zone. Especially without incorporating any noise mitigating measures whatsoever. Moreover, the building plans show that no screening is intended for the south-facing opening of the proposed equipment storage area, so 444 SQFT of assorted equipment and materials would be visible from almost every room of my house and

backyard. The western side, which is not visible to anyone, however, would be screened.

This also does not conform to Home Occupation guidelines as listed under 18.25.060 Home Occupation:

(7) The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. All aspects of the home occupation, including storage, shall be conducted entirely within the dwelling unit or enclosed accessory building(s) on the premises;

Furthermore, LCP Glossary, Page 1 states:

Accessory Uses. Accessory uses are uses customarily associated with, and appropriate, incidental, and subordinate to the principal use. Accessory uses are typically located on the same lot as the principal use, and do not alter or change the character of the premises.

A workshop with an open, non-enclosed 444 SQFT storage area will absolutely change the character of the premises and is also clearly not “incidental and subordinate of the premises for residential purposes”.

In comparison, conditionally permitted uses for Highway Commercial or HWC (Sec. 4.08) allow for the following:

1) Very light goods production and assembly, and very light industrial uses, ^[L]_[SEP] provided production, assembly, repair work and storage are enclosed and screened and are found not likely to negatively impact adjoining or nearby properties or become an eyesore to those traveling on Highway 1, nor impact negatively on adjoining commercial or residential properties, nor create any noticeable noise.

It belies sense that the Applicant, whose property is in a much more restricted RA-2 zoning area, should be allowed to forego all of the regulations HWC requires to protect neighboring properties. As a matter of fact, the Council seems to have disregarded most of the applicable rules and regulations and appears to have rushed into granting their fellow council member his permit.

This also does not conform with LCP VI. Open Space/Cons., Page 4:

4. OPEN SPACE AND CONSERVATION GOALS

13. To ensure that all pollutants, including unwanted sounds, are not allowed to impact negatively on the environment.

In light of LCP, II. Community Char., Page 8, a workshop in the proposed location clearly does not meet the:

3.4. Constraints Imposed By Local Values and Expectations

The following are Point Arena's "Sacred Cows" ... those features which are to be maintained and preserved as the town grows and accommodates more people, businesses, and houses. The General Plan acknowledges these and other features and asserts that they are to be taken into account with respect to all new developments in order to create a more perfect environment and save what is highly regarded by the populace. The "sacred cows" of Point Arena are:

4. The integrity, water quality and natural condition of Point Arena Creek

6. The low ambient noise levels

Moreover, LCP XII. Review/Permits, Page 6 states:

A. That the proposed development at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and

B. That such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

1) The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

2) The accessibility and traffic pattern for persons and vehicles, and the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

3) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

4) Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

Furthermore, the Notice of Final Action under Findings on page 2 falsely asserts:

8. The proposed location of the use and conditions under which it may be operated and maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

This is incorrect, as my property would be severely degraded by the proposed building due to the numerous reasons outlined in this appeal.

G) Unpermitted Grading Activity

The enclosed satellite images (Exhibit 4 & 5) show that the area of proposed building site was still ungraded only a few years ago and not leveled back in the 70s, despite what the Applicant appears to imply in his “narrative.” In addition, the Applicant has performed some significant grading very close to the existing septic field in September 2019, to widen his access road to the building site as well as to create a level area for a tent to store some of his building materials. (See images included at Exhibit 6&7) This area is right within the project area outlined in eastern area the submitted building plans. (Exhibit 8)

In regards to this the City Planner’s claim that Google Earth doesn’t show this grading is completely irrelevant because she was supplied with the actual pictures of the recently graded area. Moreover, Google Earth images only update periodically so grading activity from less than a year ago would not show up yet. On the other hand, Google Earth Historical View clearly shows that the western area of the proposed building site was still ungraded back around 2010. (see also Exhibit 15)

In addition, under the heading “Water Quality,” the staff report states that “the shall submit, as a condition of the approval of the building permit, a Best Management Plan map, showing where needed grading shall occur, how much material will be removed.” However, the condition for the permit pertaining to drainage was already violated when the Applicant graded without having submitted a Best Management Practices plan for approval as stated under Special Condition #2. This – along with the other previously performed unpermitted grading – has a high potential for causing problems with run-off onto my property (which is located downslope from the building site) and onwards to Arena Creek. This is of particular concern once the Applicant starts operating his workshop and storing toxic solvents, stains, etc. which could lead to major contamination of Arena Creek as well as the wetlands associated with it.

Again, LCP VI. Open Space/Cons., Page 4 applies:

4. OPEN SPACE AND CONSERVATION GOALS

13. To ensure that all pollutants, including unwanted sounds, are not allowed to impact negatively on the environment.

Additionally, the problem with unpermitted grading activity is also noted in LCP XII. Review/Permits, Page 4:

6. Site Preparation . The removal of existing residential buildings, the alteration of existing land forms including tree removal and any grading, or any action that might affect any stream or riparian area, or natural habitat, shall not proceed without a coastal development and any other necessary permits first being secured from the City to do so, subject to all applicable policies and provisions of the LCP.

See also Section 18.25.340(1) requiring of all CDP applications:

Controls to be implemented on the amount and timing of grading.

Plus, LCP 2.4. Goal #4 states:

Preserve Open Spaces, Natural Resources, Coastal Assets and Environmental Quality
[SEP] *Planning must also protect natural resources and sensitive habitats, streambeds, creeks and wetlands from inappropriate, unnecessary and damaging developments and from pollutants, uncontrolled grading, and neglect.* [SEP]

In addition to the environmental impact on Arena Creek and the associated riparian area, placing the proposed building and its parking area above and almost adjacent to my residence would create severe drainage and run-off problems for my property. The increased water flow could result in considerable damage to my foundation, which is yet another reason why this building should not be permitted in its current proposed location. To remedy this particular issue, the Applicant could move the building to another location on his 7.4 acres parcel.

H) Inaccurate Property Boundary and Inappropriate Setback Descriptions

The property boundary and necessary setbacks are inaccurately represented in the building plans. Please review the attachments included showing that the section line has been substituted for the true boundary, which is not being appropriately considered. The survey recorded under Map Case 2/Drawer 60/Page 11 (Exhibit 9) commissioned by Mr. Wasserman in 1995, in conjunction with the Google Maps satellite images, clearly demonstrates this. (Exhibits 4&5)

The actual boundary line is considerably farther north and, therefore, the application's building site plan is flawed, and the required setbacks are not as described and would run afoul of the setback requirements as presently proposed. (Exhibits 8 &10)

I. Improper Protocol of Public Hearing

The public hearing for the project failed to follow proper legal protocol. Not only was there a discrepancy about the zoning of the project parcel but the posted agenda for the hearing was not followed correctly, when city attorney Terry Gross asked Mr. Wasserman not only to recuse himself as a member of the council but also prevented him from speaking about his project and moved him to being a member of the public instead. He was thereby technically removed from his role as the Applicant, which appears improper. Wasserman therefore did not talk about his project, other than answering a single question from the staff about window orientation, to which he gave a one-word-reply. Consequently, Wasserman never presented his project, nor did the public get a chance to address the Applicant or the staff with questions.

All this is highly unusual given that the hearing agenda listed under *Recommended Action*:

3. Hear Applicant/4. Questions to Staff / 5. Open Public Comment.

Point 3 was omitted and the meeting skipped forward to the Public Comment portion. Thereby the entire purpose of a “public hearing” was completely undermined. Furthermore, there was discussion among council members during the hearing to allow the Applicant to change parts of his application (not stating what specifically though) and without calling for another public hearing.

D) Issues within the NOFA

Additionally, the following points from Findings on page 2 of the Notice of Final Action are incorrect in light of the issues outlined in this appeal since:

1. Coastal resources WILL be adversely affected.
2. Hardly any “feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects....”
3. The proposed use as a “workshop” is NOT consistent with the zone.
6. The project WILL have a significant adverse visual impact.
7. The project is NOT the least environmentally damaging alternative.
8. The project WILL be “materially injurious” to properties in the vicinity.
9. None of these requirements were considered since they were “not applicable to the project” according to the City Planner.
10. Environmentally Sensitive Habitat Area findings:
 - (i) False – The project is to be sited where it most convenient for the Applicant without any consideration for “habitat values, functional capacity, and species diversity of the adjacent riparian habitat area”.
 - (ii) False – The proposed development is NOT “compatible with the continuance of such habitat areas”
 - (iii) False – The Applicant already did most of the soil and vegetation removal without a permit.

Moreover, on page 3 *Standard Conditions* of the NOFA says the following:

6. The permit shall be subject to revocation or modification upon a finding of any one or more of the following:

b. One or more of the conditions upon which the permit was granted have been violated.

Please see above under Unpermitted Grading: The Applicant has in fact already violated Special Condition #2., when he graded within the designated project site without first submitting a BMP plan, thereby trying to forego having to adhere to all the relevant stipulations.

Also on page 3 of the NOFA Standard Conditions:

7. The permit is issued without legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries.

The boundary line in the building plans IS incorrect; therefore the permit should “become null and void”.

For each of these reasons raising substantial issue, and for all these reasons collectively, the current permit approval for CDP#2-2020 should be revoked.

Thank for your time and consideration.
Respectfully submitted,

LCP, X. Coastal, Page 3

1.2. The Local Coastal Program (LCP)

The City of Point Arena's LCP shall be a combined document of this General Plan and it's subsequent Zoning Ordinance (with associated maps). Thus, as referenced herein, LCP refers to the City's General Plan, otherwise known as the Land Use Plan, including the Opportunities and Constraints Maps but not including the Housing Element, the Land Use and Development Map and associated support documents, and the Implementation Plan (IP), which includes the Zoning Ordinance, Zoning Map, and Second Dwelling Ordinance.

EXHIBITS:

1. Letter from city planner Teresa Spade, showing input for 800 SQFT barn but not workshop
2. PAMB study map
3. City of Point Arena Biological Resources and Trails Map showing MBBA
4. Satellite Image showing building site area still ungraded. Also shows section line in white and property boundary in red.
5. Satellite image with survey overlay. Also shows previously ungraded area where building is supposed to be sited.
6. Area that was graded by Applicant in September 2019, west view
7. Same graded area, view to the north
8. Building site plan with area graded in September 2019, marked in red
9. Survey Map Case 2, Drawer 60, Page 11 showing 220 Port Rd. parcel
10. Building Site Plan, showing incorrect property line, which should be a straight western line and much further away from the residence at 220 Port Rd.
11. My response to the City Planner's response to my original letter of concern
12. Google map showing section line and placement of shed
13. Image of Arena Canyon/"Bluff"/ESHA directly across from the proposed building site
14. Another image of the area described in 13.
15. Google historical view image from 2010 showing extensive grading at the 220 Port Rd. parcel, but clearly no evidence of grading directly to the north where the Applicant plans to build.

EXHIBIT 1

Robinson, Aurora@Coastal

From: Preston, Destiny@Coastal
Sent: Thursday, February 20, 2020 12:07 PM
To: Robinson, Aurora@Coastal
Subject: FW: Project Referral Wasserman CDP 2020-02
Attachments: Wasserman CDP 2020-025 Response Form 2018 02 19.doc

RECEIVED
FEB 20 2020
CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT

FYI

-----Original Message-----

From: Teresa Spade, AICP [<mailto:planning@pointarena.ca.gov>]

Sent: Thursday, February 20, 2020 11:37 AM

To: planning@pointarena.ca.gov

Cc: Treatment Plant Operator; Mike Suddith; Michael Oliphant; Jason Island; Greg Schmidt; Gil Falcone; Preston, Destiny@Coastal; Harrington, Daniel@Wildlife; Christine Pallman; Carla Sigman; Air Quality; Air Quality; Richard Shoemaker; Paul Andersen
Subject: Re: Project Referral Wasserman CDP 2020-02

The address on the referral response sheet I sent out yesterday was incorrect - the corrected address is on the sheet attached. If you have already responded and your response is not changed by this correction, there is no need to respond again.

Thanks much,

Teresa Spade
Point Arena City Planner

On Wed, February 19, 2020 11:59 am, Teresa Spade, AICP wrote:

- > The City of Point Arena is requesting comments from agencies with
- > jurisdiction over the attached project, which consists of construction
- > of an 800 square foot barn, accessory to an existing residence.
- > Attached is the application packet and referral sheet. Please respond within 15 days.
- >
- >
- >
- > Teresa R Spade, AICP
- > City of Point Arena Planner
- > PO Box 67
- > Point Arena, CA 95468
- > City Hall: 707-882-2122
- > Office: 707-397-1802
- >
- >

EXHIBIT 2

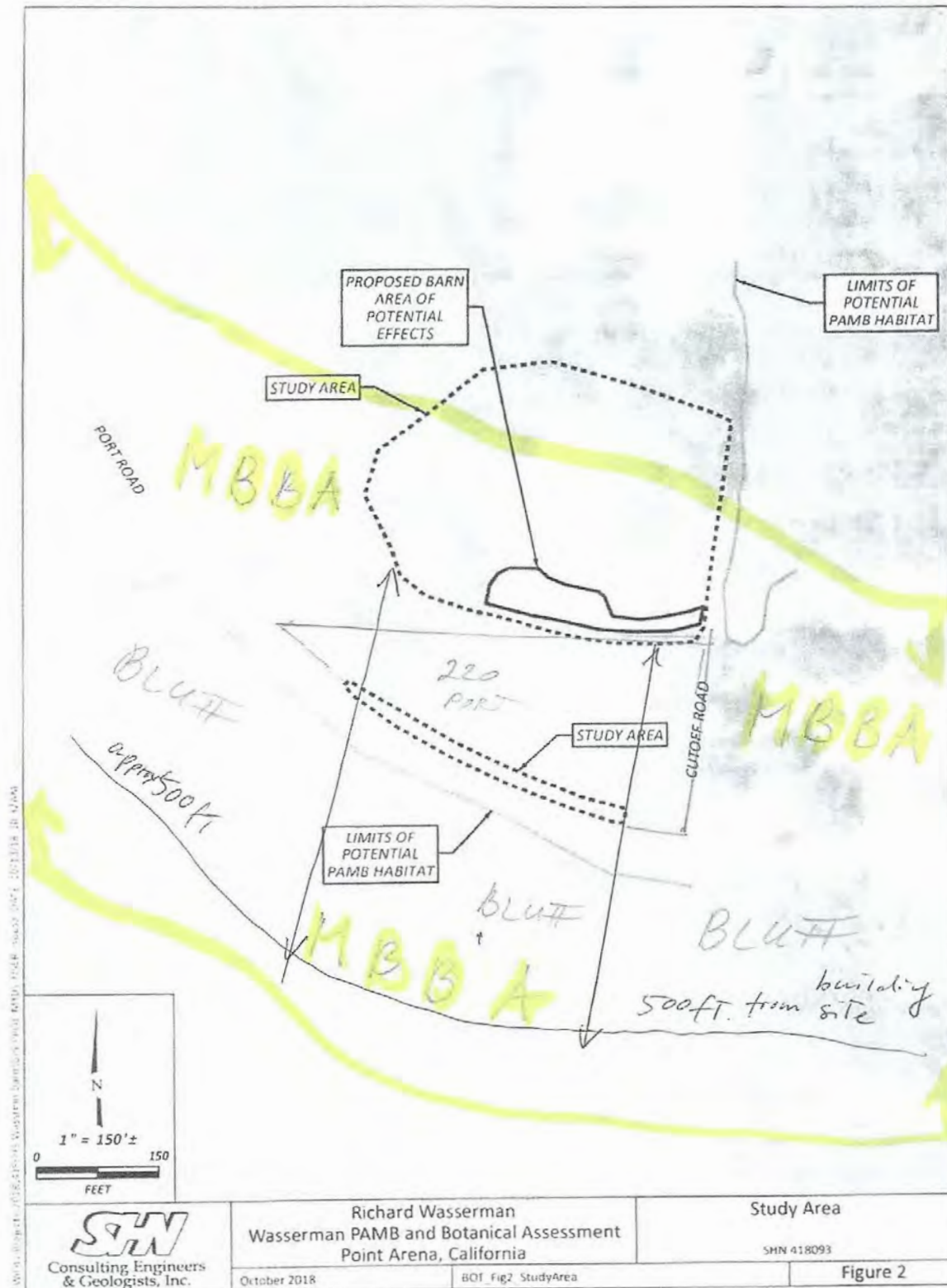
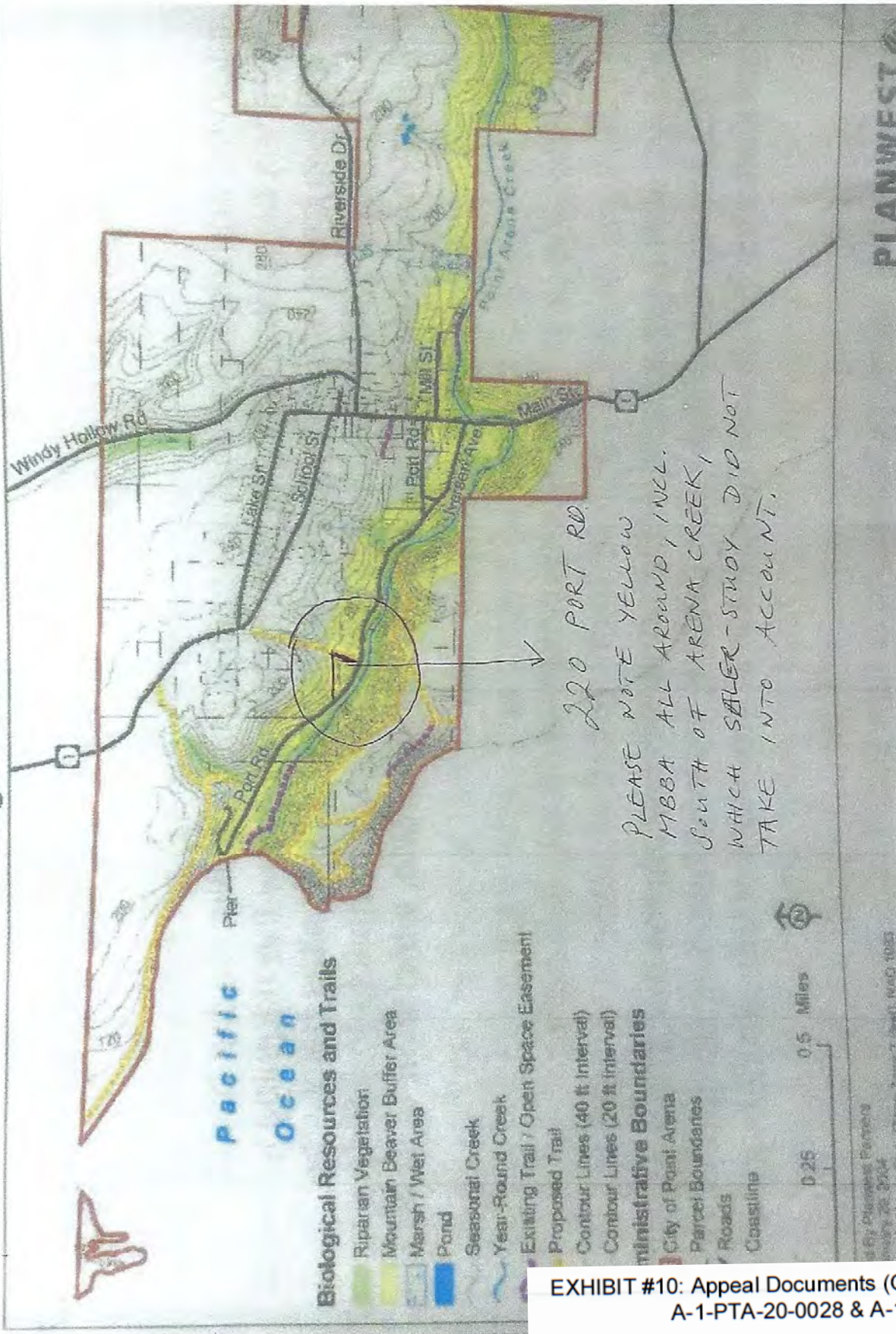


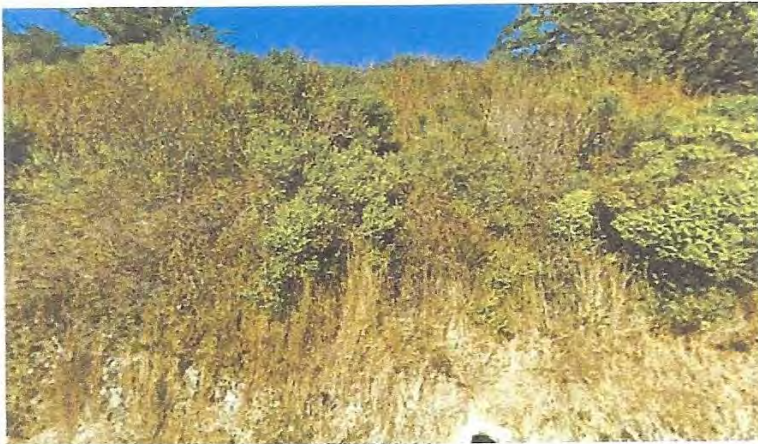
EXHIBIT 3

City of Point Arena Biological Resources and Trails





Imagery ©2020 Maxar Technologies, Map data ©2020 20 ft



2013 ↑

RED LINE SHOWS TRUE
BOUNDARY; WHITE LINE
APPROX. WHERE BUILDING
PLANS SHOW THE BOUNDARY
IN RELATION TO MY RESIDENCE.

220 Port Rd

Point Arena, CA 95468



Directions



Save



Nearby



Send to your
phone



Share

EXHIBIT 5

SURVEY OVERLAY OF RECORDED SURVEY ON FILE
PREPARED BY SURVEYOR VANCE RICKS



EXHIBIT #10: Appeal Documents (Original Permit)
A-1-PTA-20-0028 & A-1-PTA-20-0074

Wasserman
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EXHIBIT #10: Appeal Documents (Original Permit)
A-1-PTA-20-0028 & A-1-PTA-20-0074
Wasserman
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EXHIBIT 6



EXHIBIT #10: Appeal Documents (Original Permit)
A-1-PTA-20-0028 & A-1-PTA-20-0074

EXHIBIT 7



EXHIBIT #10: Appeal Documents (Original Permit)
A-1-PTA-20-0028 & A-1-PTA-20-0074
Wasserman
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EXHIBIT 8



Wasserman
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[illegible]

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EXHIBIT 11

Response to:

Staff response to letter of concern from Arabella Akossy, June 23, 2020

A neighbor to Wasserman has submitted a letter of concern as of today at around 2:30pm. In her letter, Ms. Akossy expresses several concerns. The following is planning staff's response to the concerns expressed in the letter:

1. Akossy believes the project description is inaccurate, that the barn is actually 960 square feet rather than 800. The project application, including building plans were sent to the agencies and have been included with the staff report for clarity. Interior floor space is measured from the enclosed interior walls of the structure. The project plans show exterior measurements, which Akossy may have used to come to her different measurement. [1] [SEP]

Response: According to the LCP Glossary, Page 1:

Floor Area, Gross. The enclosed area of a building measured from an exterior surface to exterior surface, but excluding the following: Exterior balconies and galleries covered but not enclosed; patios, atriums, and the like if not covered; common-use areas for all tenants; garages and carports; major mechanical equipment rooms.

Therefore, Ms. Spade's claim that the interior space should be used to calculate square footage is incorrect. (Incidentally, the building plans don't even list any interior measurements.)

Consequently, the barn/workshop still adds up to 960 SQFT and the total footprint is 926 SQFT, including the equipment storage area.

Much more importantly though, the planner fails to respond to my concern about the absolutely crucial omission of the project consisting not just of a barn but also of a workshop when asking input from the different agencies with jurisdiction. This has changed and distorted the basic premise and how the agencies would look at the project.

2. Akossy is concerned that the PAMB study is flawed, and also appears to suggest that the surveyor may have a conflict of interest. The study was reviewed and considered sufficient by US Fish and Wildlife Service, who is the expert on PAMB. Mr. Schmidt of USFWS was provided with the project referral which included all information associated with the nature of the project, and he is familiar with the extent of the habitat in the area. While the City Engineer also works for SHN, it is the opinion of staff that having the applicant hire someone from SHN to do the survey is not a conflict of interest. SHN is a large company with multiple offices. Further, the number of people qualified to do this type of PAMB survey is very limited in this area, and of the options, Mr. Saler appears to be a reasonable one

Response: I have outlined in detail the numerous reasons as to why the provided PAMB study for the project is utterly flawed and incomplete. The PAMB surveyor failed to survey “all the mountain beaver habitat from the perimeter of the project out to a distance of 500 feet” as required by The report actually admits that those areas not accessed ARE “presumed to be suitable PAMB habitat and as such could harbor PAMB”. Obviously, Gregory Schmidt from USFWS must have overlooked this absolutely essential point and came to his conclusion in error. However, even in light of this and the other very compelling evidence I have provided previously, the planner seems to argue that both the biologist and the representative from USFWS are infallible when further investigation is clearly indicated before any decisive conclusion can be made. As a matter of fact, it should give pause as to why I was never contacted in first place about granting the biologist access to my property. In order for SHN to conduct a properly thorough study they should have reached out to me directly in advance or asked the applicant to arrange for them to be able to enter my property. So why this “large company with multiple offices” wasn’t professional enough to handle this small yet very important preliminary step raises definite concerns.

Moreover, concerns about objectivity are raised by the fact that applicant and Point Arena City council member Wasserman used SHN to conduct the PAMB study and botanical assessment, when the City’s engineer (according to Ms. Spade) works for the same company and the City has been contracting with SHN since January 2018 on large projects, such as repairs at Arena Cove (<https://drive.google.com/file/d/1yCFyZEVadoQ8A3CcCN6t4At5ijaiOiBD/view>) and the Port Rd. maintenance project.

SHN are certainly not the only firm (nor John Saler the only available PAMB surveyor) that would have been able to conduct the PAMB and botanical study as the City Planner likes to contend, and for the sake of “objectivity” and transparency another company would certainly have been a more sensible choice.

3. Akossy expresses concern that the CEQA exemption used was not appropriate because it should not be used if the project is located in a sensitive environment such that the project may impact an officially mapped and designated environmental resource of hazardous or critical concern. According to the study that was approved by USFWS, the project is not expected to have detrimental impact on PAMB, and therefore the project will not have the potential to impact an environmental resource of critical concern. The CEQA exemption is appropriate because with measures in place through the CDP process, no resources are being detrimentally impacted. ^[L]_{SEP}

Response: As outlined in my appeal the incomplete Saler-study should not be allowed as basis for the CEQA exemption. Moreover, I have listed numerous other reasons pertaining to ESHA why the CEQA exemption does not apply. Ms. Spade also references “measures in place with the CDP process”. However, no noise studies have been conducted. Moreover, the ESHA contained within the MBBA also serves as “habitat for 16 special status species” (see Saler study), which would also be

impacted but no consideration is given hereto.

4. Akossy expresses concerns that the shop will be used for commercial purposes. Specifically that the applicant will be using the structure for woodworking. Any residential use of the structure would need to adhere to the noise ordinance for a residential neighborhood, and similarly, if the applicant was to be granted a home occupations permit, the residential noise ordinance would still apply. Approval or denial of the structure should be based on the reasonable, proposed use of the structure.

Response: The planner seems to suggest that the applicant should be able to build under the pretense of an “agricultural barn” and then be allowed to convert its use to a commercial shop under the Home Occupation rule, at which point the residential noise ordinance would apply. So the Council would actually knowingly go along with the applicant’s ploy to obtain a CDP permit under false pretenses, thereby trying to forgo having to adhere to the rules and regulations (listed in detail in my appeal) that apply to a workshop. [1] [SEP]

5. Akossy expresses concerns that water is not adequate to serve the structure and use. The proposed barn does not include any water or sewer hookups or use, so water capacity is not a consideration for the proposal. The project was referred to the fire department, who did not respond with concerns for the project. [1] [SEP]

Response: The planner states that the fire department did not respond with concerns for the project. Let’s keep in mind that they, along with all the other agencies, were told only of a barn and not a workshop, which with all its equipment and flammable materials has a much higher fire hazard potential than a mere barn.

6. Akossy expresses concerns that the area in question was illegally graded within the past couple years. Aerial photos and photographs have been submitted. From my own review of GoogleEarth imagery, I did not note any recent grading occurrences. [1] [SEP]

Response: Maybe Ms. Spade did not understand that the applicant has graded without a permit within the area of the proposed building site area more than once. First years ago, when he leveled the area of where the building is proposed and just recently when he graded to the east (still within the project site) to widen the access road and level an area for material storage. I provided photos clearly showing the grading activity that occurred in September 2019 right next to and up to the applicant’s existing septic field. This area is right within the project area outlined in the submitted building plans. Claiming that Google Earth doesn’t show this grading is irrelevant because the planer had the actual pictures in front of her. Moreover, Google Earth images only update periodically so grading activity from less than a year ago would not show up yet. However, Google Earth Historical View clearly shows that the area of the proposed building site, which the applicant claims was

graded in the 70s, was in fact still ungraded back around 2010, after he had owned the property since October 1991.

7. Akossy expresses concerns about drainage and runoff problems. A condition of approval has been included to address such concerns.

Response: The condition for the permit pertaining to drainage was already violated when the applicant graded in September 2019 without having submitted a Best Management Practices plan for approval as stated under Special Condition #2. This – along with the other previously performed unpermitted grading has a high potential for causing problems with run-off to my downslope property and onwards to Arena Creek. This is of particular concern once the applicant starts operating his workshop and storing toxic solvents, stains, etc. which could lead to major contamination of the creek as well as the wetlands associated with it.

8. Akossy expresses concerns about the way the orientation of the building differs in the plans. The plans provided have been determined to be sufficiently clear to show what is proposed. ^{T}_{SEP}

Response: As members of the council found out for themselves during the hearing, while for several minutes trying to make sense of the building plans, they are actually not “sufficiently clear to show what is proposed” but rather confusing and inconsistent. So much so, that the NOFA under Special Conditions on page 4 lists:

4. Prior to issuance of the CDP, the City Planner will revise the CDP Staff Report by correcting the zoning from AE to RA-2, and will replace the floor plans and elevations, with accurate floor plans and elevations, which match the barn layout as shown on the site plan, and will clarify the use of the second story of the barn structure within the staff report.

9. Akossy expresses concerns regarding the accuracy of the property boundary in the plans. When the structure is built, the boundary line will need to be clearly delineated for the building inspector so that they can measure and assure the proper setbacks have been met. If there is a problem meeting the approved setbacks at that time, the applicant may need to come in for an amendment to the Coastal Permit. The site plan was designed by a registered architect with years of experience.

Response: Same said architect could not have used the recorded survey on file with the Mendocino County Assessor's Office for the site plan, otherwise the property line would not run as close to my house as shown.

In closing, I would also like to point out that the City Planner only chose to address some points expressed in my letter and simply left a lot of questions and concerns unanswered.



220 Port Rd

Point Arena, CA 95468



Directions



Save



Nearby

Send to your
phone

Share

THE ARCHITECT HAS
SUBSTITUTED THE SECTION
LINE FOR THE BOUNDARY.
THE SHED IS ON MY PARCEL,
PLEASE VIEW SATELLITE
IMAGE W/ SURVEY OVERLAY.
CLARIFICATION:
ONLY ONE OF THE SHEDS
REMAINS TODAY; THE ONE
RIGHT ABOVE MY RESIDENCE.

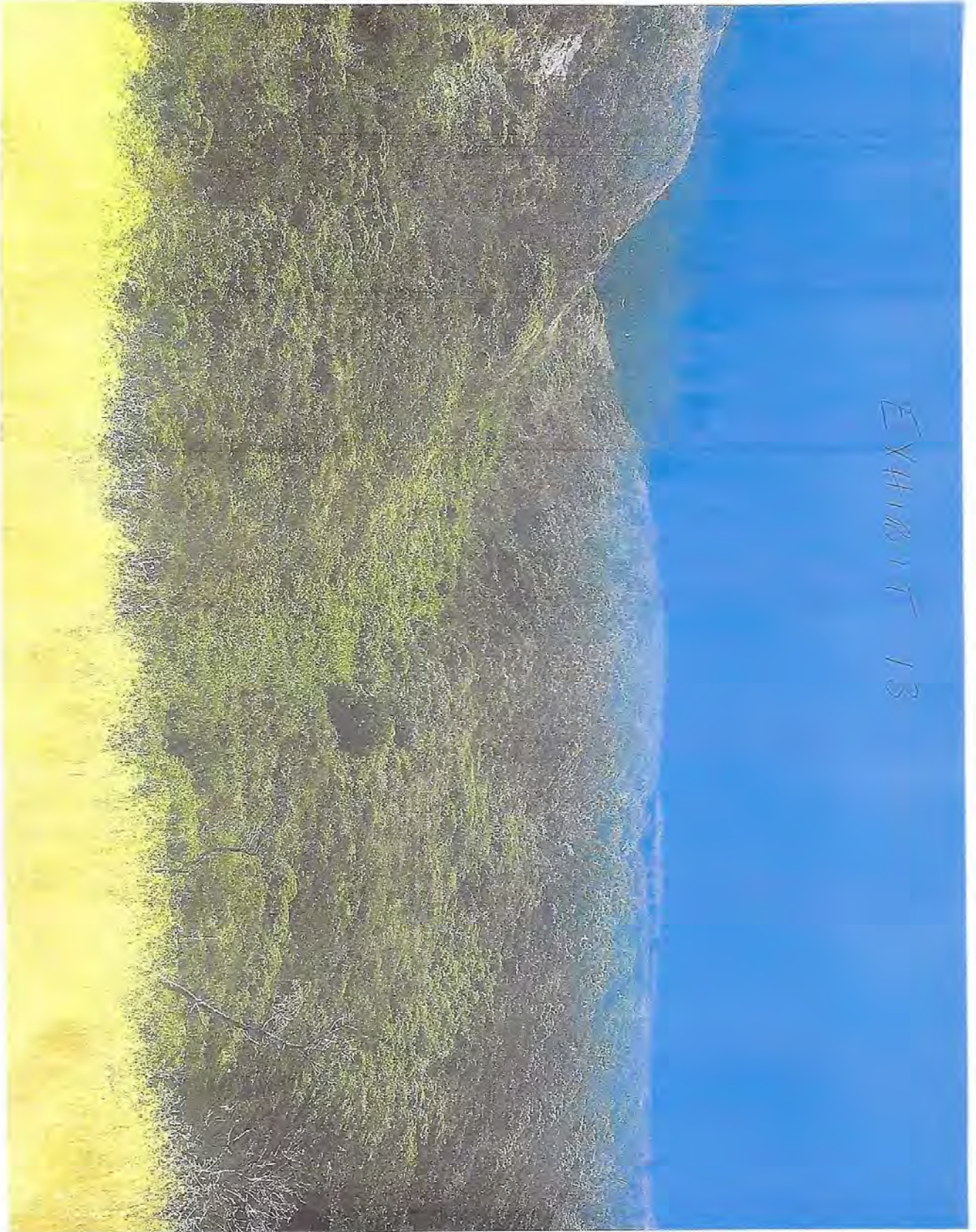
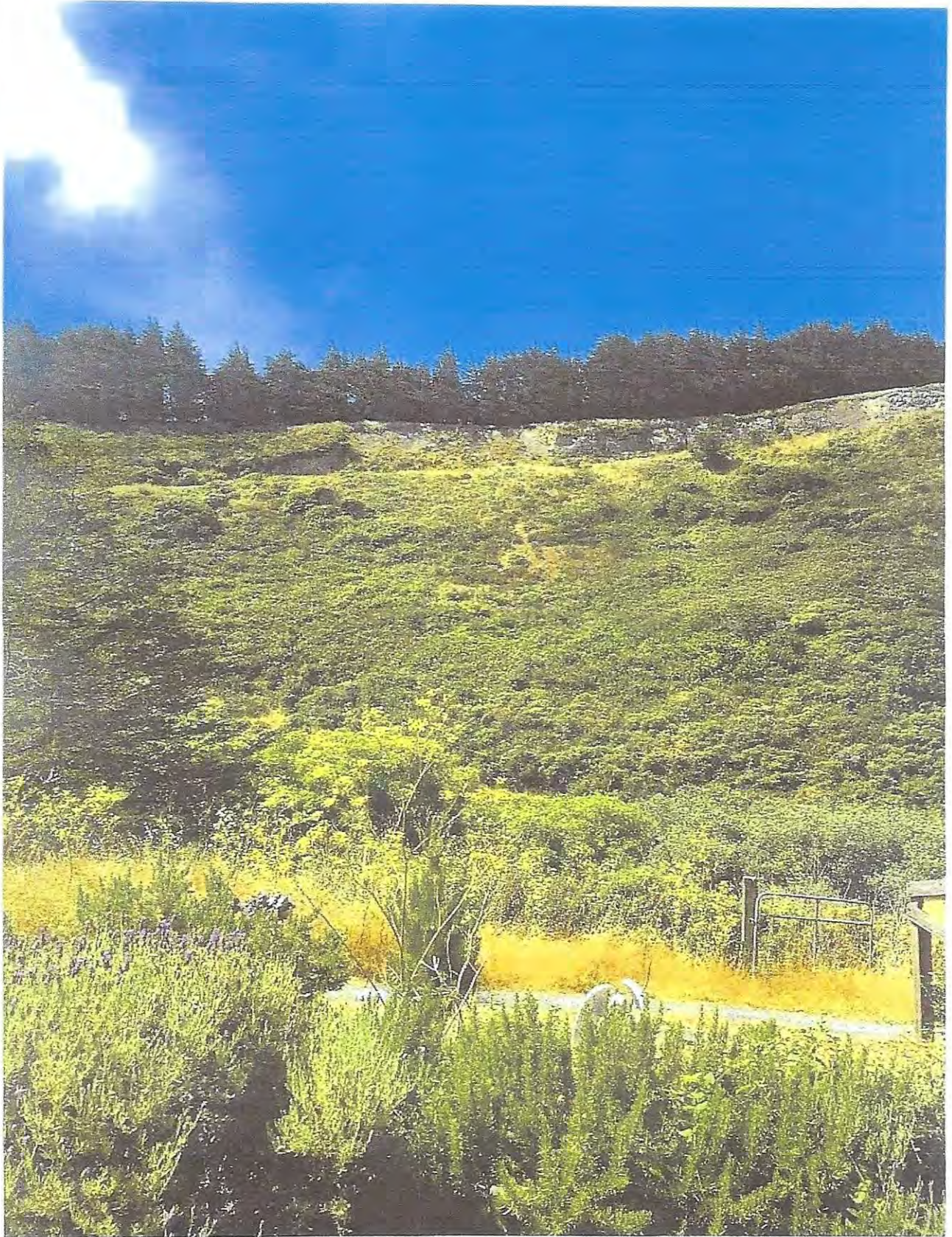
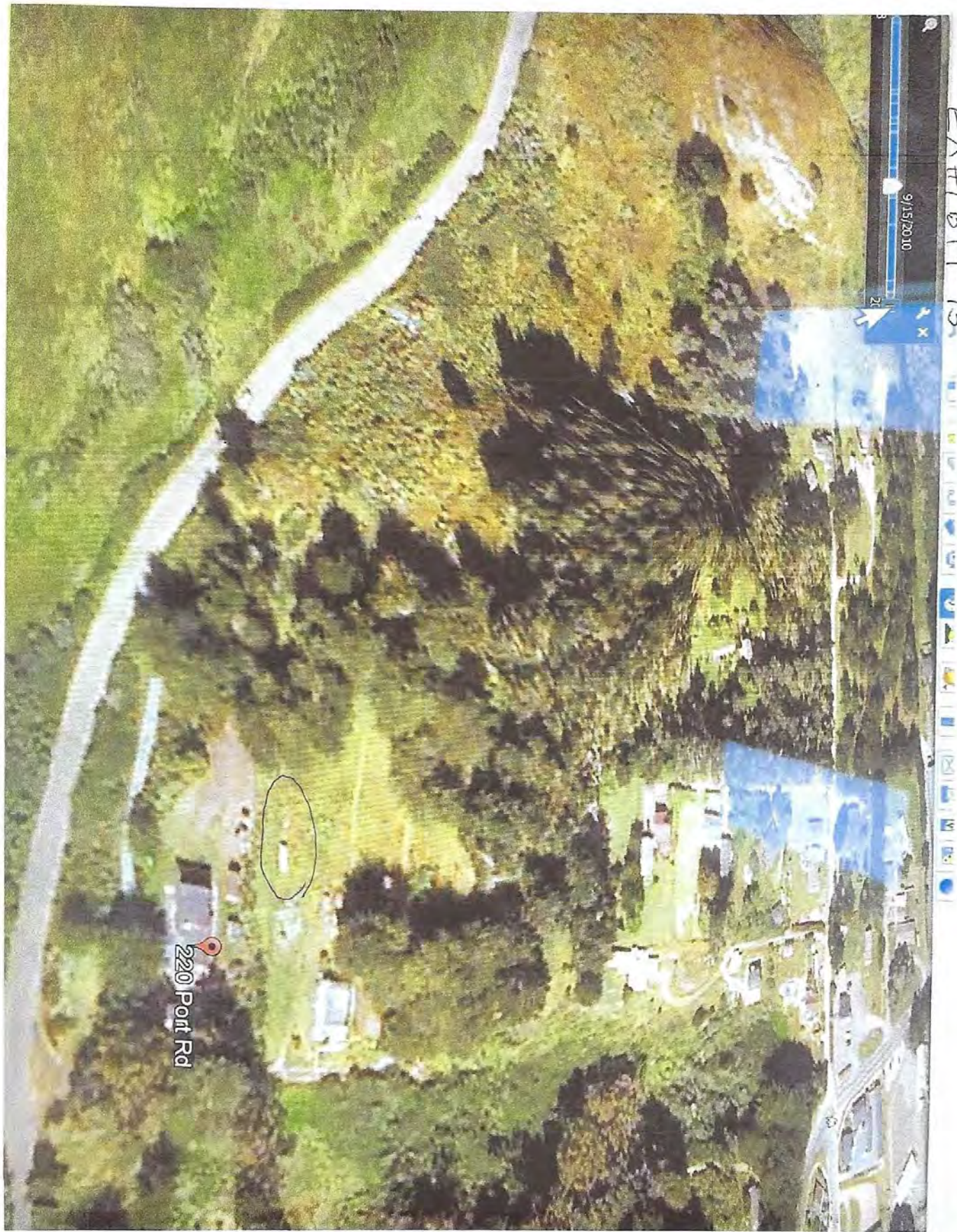


EXHIBIT #10: Appeal Documents (Original Permit)
A-1-PTA-20-0028 & A-1-PTA-20-0074
Wasserman
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EXHIBIT 14





From: [REDACTED]
To: NorthCoast@Coastal
Subject: Appeal 2020-02(01)
Date: Wednesday, December 9, 2020 3:04:57 PM
Attachments: [CCC APPEAL 2.docx](#)

To Whom It May Concern:

This is the final document of my appeal.

Thank you for your help and patience having to piece together numerous files.

Best, Arabella Akossy

From: [REDACTED]
To: NorthCoast@Coastal
Subject: APPEAL FORM for CDP 2020-02(01)
Date: Wednesday, December 9, 2020 2:26:22 PM
Attachments: [APPEAL Form.pdf](#)

To Whom It May Concern:

Attached is the Appeal Form. Please excuse that some pages are upside down.
The attachment for the Grounds of the Appeal is still to follow.

Thank you.
Best, Arabella Akossy

From: [REDACTED]
To: NorthCoast@Coastal
Subject: Appeal 2020-02(01)
Date: Wednesday, December 9, 2020 2:14:20 PM
Attachments: [Scan_0019.pdf](#)

To Whom It May Concern:

This attachment includes Exhibits 12 and 14 to be added to the Exhibit List of my appeal.

Thanks again.
Best, Arabella Akossy

From: [REDACTED]
To: NorthCoast@Coastal
Subject: Appeal 2020-02(01)
Date: Wednesday, December 9, 2020 1:54:42 PM
Attachments: [IMG_7681.MOV](#)

To Whom It May Concern:

Please add this video attachment as Exhibit 13 to my appeal.
Thank you.
Best, Arabella Akossy

Sent from my iPhone

From: [REDACTED]
To: NorthCoast@Coastal
Subject: Appeal 2020-02(01)
Date: Wednesday, December 9, 2020 1:53:32 PM
Attachments: [Scan_0010.pdf](#)

To Whom It May Concern:

The attached Exhibit List was used for my letter of concern and is now part of my Exhibit List for my current appeal. It includes Exhibits 1 through 11. The appeal includes three more exhibits I have already sent Exhibit 13, a video file. The other two will follow in another attachment.

Thank you.
Best, Arabella Akossy

CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____



APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the [appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#>).

Note regarding emailed appeals. Please note that emailed appeals are accepted **ONLY** at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#>).

Appeal of local CDP decision
Page 2

1. Appellant information¹

Name: Arabella Akossy
Mailing address: 
Phone number: 
Email address: _____

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☐ Other
Prior to the hearing I submitted a letter of concern;

Describe: I also spoke at the public hearing.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: See above. As noted in the hearing notice the decision of the Point Arena
City Council is only appealable to the California Coastal Commission.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 3

2. Local CDP decision being appealed²

Local government name:	City of Point Arena
Local government approval body:	Point Arena City Council
Local government CDP application number:	02-2020(01)
Local government CDP decision:	<input checked="" type="checkbox"/> CDP approval <input type="checkbox"/> CDP denial
Date of local government CDP decision:	11/18/2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: A barn/workshop at 44600 Port Rd., Point Arena, CA 95468

2 Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

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On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Please see attached file.

[illegible]

EXHIBIT #11: Appeal Documents (Permit Amendment)
A-1-PTA-20-0028 & A-1-PTA-20-0074 Wasserman
Page 9 of 88

3. Identification of interested persons

1. Applicant: Richard Wasserman, [REDACTED]
[REDACTED]

The following persons spoke at the hearing:

2. Debra Keipp; [REDACTED]

3. Jennifer Smallwood, [REDACTED]

4. Dan McCaskell, [REDACTED]

5. James Barnes, [REDACTED]
[REDACTED]

Appeal of local CDP decision
Page 5

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Arabella Akossy
Print name _____


Signature _____

12/08/2020
Date of Signature _____

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☒ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Arabella Akossy

CDP Application or Appeal Number 02-2020(01)

Lead Representative

Name James Barnes

Title Attorney-at-Law

Street Address. [REDACTED]

City [REDACTED]

State, Zip CA 9

Email Address [REDACTED]

Daytime Phone [REDACTED]

Your Signature [REDACTED]

Date of Signature 12/08/2020

Additional Representatives (as necessary)

Name Dan McCaskell
Title PhD
Street Address. [REDACTED]
City [REDACTED]
State, Zip CA 9
Email Address [REDACTED]
Daytime Phone [REDACTED]

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature [REDACTED]

Date of Signature 12/08/2020

4. Grounds for this appeal:

Dear Members of the California Coastal Commission:

On November 18, 2020 the Point Arena City Council voted 3:1 in favor of the amended version for council member Richard Wasserman's CDP 02-2020 (01). The approval contains errors of the law, the conclusions are not supported by substantial evidence, and there are elements of constructive fraud.

Since the decision is only appealable to the California Coastal Commission but not to the City Council, it is the Commission's duty to either consider ALL issues raised within the appeal or to require of city staff and the applicant to address the remaining issues that are not of direct concern to the Commission.

It belies sense to assert that the Commission (according to CCC supervisor Melissa Kraemer) should be able to disregard grave issues within the application, including fraudulent information and actual violations, which are grounds for revocation of the permit as stated within the Notice of Final Action (NOFA.) De facto, the Commission would be allowing an invalid permit to stand, when it needs to go back to the drawing board before even being considered at the appeal level.

However, local city government officials have made it perfectly clear that they will continue to turn a blind eye to the applicable rules and regulations. They are only interested in supporting their fellow council member and personal friend Richard Wasserman in realizing his deceptive building plans for a bogus barn. Make no mistake: the applicant, from the very start, has intended to build a commercial workshop with an Accessory Dwelling Unit (ADU) on the top level and not an agricultural barn with a second-level storage space.

The Coastal Commission's mission statement: "To protect, conserve, restore, and enhance the environment of the California coastline" -- when upheld to its true intended standard -- should certainly not mean that local government official Wasserman be allowed to "enhance" the Mountain Beaver Buffer Area (MBBA), set aside for the federally listed endangered Point Arena Mountain Beaver, with a noisy woodworking shop. That only an alarmingly small number remain of the endangered species, unique in the entire world, needs to be considered with utmost care. Permitting the applicant to proceed with his project on the basis of a demonstrably inaccurate and incomplete CDPA not only runs counter to all sense and reason but against the applicable perimeters of the law.

Please consider all of the following substantial issues:

- A) Insufficient Point Arena Mountain Beaver (PAMB) Protection**
- B) Lack of Adequate ESHA Protection**
- C) Categorical CEQA Exemption Error**
- D) Unpermitted Grading**
- E) Failure to Provide Correct Information to Commenting Agencies**

- F) Inaccurate Property Boundary and Setback Descriptions Remain**
- G) Land Use and Zoning Issues**
- H) Lack of Noise and Visual Screening Considerations**
- I) Negative Impact on Public from Workshop**
- J) Degradation and Devaluation of Neighboring Areas**
- K) Lack of Enforcement For Previous Violations**
- L) Undue Assistance, Leniency and Questionable Ethical Conduct**
- M) Issues within the NOFA**

A) Insufficient Point Arena Mountain Beaver (PAMB) Protection

1. Currently, this CDP does not have a required valid PAMB survey report on file, after the original study expired on July 31, 2020. This renders the entire application incomplete. (Exhibit 7)

2. Within the staff report, the planner misleadingly implies that the original PAMB report only expired on October 17, 2020. This is incorrect, as the actual study was performed on July 31, 2018, which then expired exactly two years later on July 31, 2020.

3. City staff arranged for USFWS (U.S. Fish & Wildlife Service) biologist Greg Schmidt to provide free of charge another survey for applicant Wasserman, subsequently performed on October 23, 2020. However, Mr. Schmidt did not write up an actual report including the required maps, photographs, etc. as outlined in the guidelines by the USFWS and as written in the LCP code. He only provided an email (Exhibit 5) to the planner describing his findings without any of the required corroborating materials (Exhibit 7.)

4. I had a number of email conversations about an appropriate PAMB survey with Mr. Schmidt:

- a) Initially, he said a new study was needed because the old one had expired on July 31, 2020.
- b) He was at first doubtful a workshop was going to operated. (Remember that the agencies with jurisdiction were only told of an 800SQFT barn and nothing about a workshop.)
- c) After being repeatedly questioned if all applicants whose privately funded PAMB studies have expired are granted a free study by the USFWS, he said that he usually does not provide assessments for private individuals.
- d) He was providing the service because there was a "conflict of interest" (presumed to be of ethical nature), referring to city planner Teresa Spade not being able to perform the survey.
- e) He personally trained city planner Spade to be a PAMB surveyor.
- f) When asked why the planner should now perform the survey in the first place, Schmidt then replied he would be doing the study because I had

brought the original into question. (However, he did not respond to my detailed concerns when I first contacted him on July 9, 2020.)

- g) Mr. Schmidt did not respond to several requests for the name and contact information of his supervisor. (None of the relevant email contacts on USFWS Arcata Office's website are valid and not even the general email address is working.)

It is therefore not a far stretch to wonder if Mr. Schmidt's responses (and non-responses) indicate some bias on his part.

5. According to USFWS guidelines surveys need to be conducted within 250 feet of the project site and are then valid for two years (Exhibit 7). The original study by John Saler did not survey on my parcel at all, giving the false explanation that they were not granted access to my land. Now only 100 feet have been surveyed, leaving 150 feet still unsurveyed.

6. When Mr. Schmidt only surveyed within 100 feet (or less, see subsequent point 7) of the project site, he did note a "large patch of suitable habitat" on my parcel. He also points out suitable habitat of up to 1000 SQFT running directly adjacent to the project site between the two properties. (Exhibit 5)

7. When he did survey, I spoke to Mr. Schmidt in person. He said the applicant had told him the building was going to be situated near a stack of metal rods (which are up against the back-slope of the site. (Exhibit 12) This would seem a rather vague description to base an official survey on because the actual site was not marked at all. This indicates that the edge of my suitable habitat is actually closer than 100 feet. However, that suitable habitat area was not surveyed and it is therefore not a foregone conclusion that PAMB are not present within 100 feet of the proposed building site. That area is also shaded by very large trees and would likely make it more than marginally suitable habitat.

8. Ultimately, the full 250 foot perimeter from the building site was not surveyed and consequently Mr. Schmidt's assessment does not qualify as a new complete study, as is required after the original became invalid. (Exhibit 7) This is even more relevant in consideration that the first PAMB survey by John Saler did not assess my property at all and therefore disqualifies Mr. Schmidt's survey from being an adequate "update."

9. Overall, having a USFWS federal employee involved in providing a survey for the applicant, personally arranged by city staff, seems rather irregular. Most probably, every other CDP applicant would have had to hire his or her own independent PAMB surveyor and pay for the required new study. The city planner even commented during the hearing that this was arranged to save the applicant money. Yet, according to Mr. Schmidt himself, he does normally not provide surveys for

individuals. That begs the question why exactly was an exception made for local government official Wasserman?

10. In addition, endangered PAMB (of which according to Mr. Schmidt possibly only 500 remain) is still not granted protection to the fullest extent required since:

- a) No mitigation for “Visual Disturbance” as described in the *Draft Point Arena Mountain Beaver Standard Protection Measures For “No-Take” Determinations* that were supplied to me by Mr. Schmidt has been added. (Exhibit 6)
- b) The same guidelines list the breeding season for PAMB from “1 December through 30 June” (Exhibit 6). But Special Condition #2 (SR, p. 11) wrongly lists “December 15 through June 15” instead.

11. On December 3, 2020, Josh Levine of the Coastal Commission stated the following in our phone conversation:

- a) Noise sensitivity of PAMB has been downgraded by Mr. Schmidt due to a study on a similar species. However, there is no actual proof that this applies to PAMB and Mr. Schmidt never actually provided any links to any relevant studies when asked for that information. Most importantly though, to date none of these “updates” have been officially incorporated by the USFWS.
- b) Mr. Levine also claimed that despite being within the Mountain Beaver Buffer Area (MBBA) neither my property nor the applicant’s was ESHA because PAMB was not present according Mr. Schmidt. However, Mr. Schmidt does note of suitable habitat being present on both properties (Exhibit 5).

12. Mr. Levine’s argument is also incorrect when considering the following:

2.4. Environmentally Sensitive Habitat Areas (ESHA)

X. Coastal, Page 29

Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

13. The following applies as well in conclusively demonstrating that the MBBA is in fact an ESHA and should not be deprived of its protection:

Zoning Ordinance Page 67:

For Point Arena Mountain Beaver ESHA, see Section 5.24 for development guidelines and buffer policies.

Zoning Ordinance Page 71

Section 5.24 : **Any area mapped as MBBA shall not be deprived of protection as ESHA**, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

Any area not designated as MBBA on the Opportunities and Constraints Map **that contains Point Arena Mountain Beaver Habitat, is ESHA and shall be accorded all the protection provided for the MBBA in this section and all the relevant ESHA provisions in the LCP.**

14. Furthermore, the original survey by Joseph Saler also identifies suitable habitat east of the building site, along the Spring St. corridor. But Mr. Levine says no PAMB would be present because “they would not cross Port Rd.”. This statement is pure conjecture and not supported by any evidence. Yet, Mr. Levine said that this is the main reason the CCC would not consider the MBBA an ESHA and therefore not have any further concern for PAMB.

15. Even if PAMB are not currently present near the project site again the following from the California Coastal Act applies:

2.4. Environmentally Sensitive Habitat Areas (ESHA)

X. Coastal, Page 29

Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

The following areas shall be considered ESHA:

Any habitat area that is rare or especially valuable from a local, regional, or statewide basis. ^[1]_{SEP}

Areas that contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law.

Areas that contribute to the viability of species designated as Fully Protected or of Special Concern under State law or regulations.

Therefore, any suitable habitat contributes to the viability of the endangered PAMB, which was obviously the reason to designate the areas 500 feet north and south from the centerline of Arena Creek as MBBA in the first place. It is incorrect to assume that the MBBA should now not be considered ESHA.

15. It follows that the officially mapped MBBA absolutely does constitute an ESHA; consequently the appropriate PAMB protection is lacking.

B) Lack of Adequate ESHA Protection

1. The applicant's as well as my property are located within the officially mapped MBBA, which designates it as ESHA, even if PAMB are currently not present. However, the ESHA designation is not being taken into consideration.

2, LCP X. Coastal, p. 32 defines ESHA as such:

"Environmentally sensitive area" shall be defined as any area 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.

2. The following areas shall be considered ESHA (LCP X. Coastal, p. 30):

- a) *Any habitat area that is rare or especially valuable from a local, regional, or statewide basis.*
- b) *SEP Areas that contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law.*

3. LCP (E) Policies X. Coastal, Page 27:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

4. A noise- and dust-generating workshop has no place in an ESHA, as it would clearly impact and degrade the environment. The associated noise nuisance would also significantly disrupt habitat values for all wildlife (including the 16 special status species mentioned in the Saler report) in a significant radius from the building site.

5. LCP X. Coastal, Page 30:

a) To the maximum extent feasible, the City shall map environmentally sensitive habitat areas inside the city including, but not limited to, certain wetlands, seasonal creeks, springs, habitat for rare, threatened, or endangered species, and riparian habitat. The determination of what constitutes ESHA shall not be limited by what is mapped. Restrictions shall apply to development in and adjacent to sensitive habitat areas. Any area not designated on the LUP ESHA Map that meets the ESHA criteria is ESHA and shall be accorded all the protection provided for ESHA in the LCP. Revisions to the map depicting ESHA shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission.

b) Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been

illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.

5. This clearly indicates that even though PAMB may currently not be present within 100 feet of the project area, the area should not be deprived of ESHA protection.

6. LCP X. Coastal, Page 32, Sec. 5.27 Mitigation Measures:

The Planning Commission or City Council shall as a condition for a Coastal Development Permit, require that a developer mitigate for impacts to ESHA. The permit shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the project.

7. Just to reiterate: the project is within the MBBA as well as adjacent to other ESHA (Arena Creek, wetlands, riparian corridors) and there are “16 other special status species” (see original Saler study) in the area that would be impacted by the project. However, no specific ESHA mitigation measures have been included for this project – on the contrary, the area is supposed to get stripped of the ESHA status it is due. **It should also be noted that a workshop and the associated use of products such as toxic solvents, stains, oils, etc. could lead to major contamination of Arena Creek as well as the wetlands associated with it.**

8. X. Coastal, Page 1

The Coastal Act [Section 30001.5] sets the following goals for all Land Use Plans for the coastal zone:

- a. ***Protect, maintain and, where feasible, enhance and restore the overall quality of the coastal zone environment and it's natural and artificial resources.***

9. X. Coastal, Page 2

(A) Development Priorities

1. Preservation and protection of natural resources, including environmentally sensitive habitats, and prime agricultural and timberlands.

Allowing a noisy workshop within the coastal zone does not conform to the above sections of the Coastal Act.

10. Again, LCP VI, Open Space/Cons., p. 6 calls for the following:

New development should be required to: (a) avoid creating concentrated runoff, particularly over steep slopes and bluff faces, by installing energy dissipating devices, (b) create drainage swales, detention, and retention basins, (c) control the timing and manner of new construction so that there are no bare soil slopes during the rainy season, etc.

However, none of these requirements have been added to the Special Conditions in the current staff report.

C) Categorical CEQA Exemption Error

1. Since the MBBA does constitute ESHA the categorical CEQA (California Environmental Quality Act) exemption is erroneously allowed to stand, thereby also disregarding the proposed project's impact on the surrounding ESHA and foregoing necessary mitigation measures for noise impact, etc., as outlined under CEQA.

2. Under State CEQA guidelines the categorical exemption does not apply when:

- a) *The project is located in a sensitive environment such that the project may impact an officially mapped and designated environmental resource of hazardous or critical concern.*

3. The City of Point Arena Biological Resources and Trail map (SR, Figure 7, p. 10) clearly shows that the proposed building site, my parcel and the bluff area straight across are all located within the officially mapped 1000-foot zone of the MBBA.

Therefore, the categorical exemption does not apply.

D) Unpermitted Grading

1. Grading activity from September 2019 is downplayed and its location misrepresented in the staff report. Instead of 50'x10'x2' and 37 cubic yards asserted by the planner, the actual graded area measures in excess of 60'x12'x2.5', adding to 67 cubic yards. In addition, the access road was widened by at least 2 feet along 100 feet, adding roughly another 15 cubic yards for an approximate total of 81 cubic yards. (Exhibit 1)

2. Thus, the allowable 50 cubic yards for the most recent grading have been exceeded and the categorical exemption no longer applies.

3. All remaining additional extensive grading without a permit by the applicant done in previous years, brought to the City's attention in my original letter of concern, dated June 22, 2020, continues to be ignored. This includes, but is not limited to, the intended building site as well as the access road plus the entire turn around area. (Exhibit 4)

4. The applicant has graded literally thousands of cubic yards since acquiring the property at 44600 Port Rd. in October 1991. Historical Google Earth Pro satellite images date back to 1998 (see Exhibit 2 and Exhibit 3) and clearly show that it was not until 2011 (Exhibit 4) that significant grading was performed all over the

property. The applicant's explanation in his mostly fictional "Narrative for the Barn" that all grading happened before his ownership is thereby demonstrably false.

5. Since the applicant graded the access road to the building plus the proposed building site himself, it is incorrect to assert these areas are "not near, nor directly connected to the barn project" (Staff Report (SR), p. 12.) All this grading is in fact connected and pertinent to the proposed project site but has not been identified, as was recommended in the current and previous staff report (p. 15 and p. 9 respectively)

6. Staff's claim that "the barn is to be placed in area that was an old road bed" (SR, p.6) is false. There was no roadbed until the applicant graded and graveled the area himself.

7. It is nonsensical to maintain the graded area from 2019 "is meant to be temporary until the barn is completed". The applicant is already using this particular area for storage of building materials, thereby already having circumvented staff's original recommendation (SR June 23, 2020, p. 9) to identify where building materials are going to be stored.

8. Moreover, a correct representation of the grading would then show that the applicant indeed did grade right up to his existing septic field. Misleadingly, the area marked red, depicting the most recent grading on the building site map (SR, p. 21) does not correspond to the scale legend and actually only depicts 30 feet in length, not even the 50 feet presumed by the planner nor the actual length of 60 feet. (Exhibit 1)

9. This illegal grading near the applicant's septic system has potential negative implications for my water well located downslope from the grading site and needs to be investigated further.

10. A number of issues described under the Water Quality heading have been triggered due to all the grading performed without permits and/or a BMP (Best Management Practices) plan.

11. The accumulated illegal grading also has high potential for causing problems with run-off onto my property (which is located downslope from the building site) and onwards to Arena Creek. This is of particular concern once the applicant would start operating his workshop and storing toxic solvents, stains, etc. which could lead to major contamination of Arena Creek as well as the wetlands associated with it.

12 In addition to the environmental impact on Arena Creek and the associated riparian area, placing the proposed building and its parking area above and almost adjacent to my residence would create severe environmental damage; drainage and run-off problems for my property, toxic contamination among them. The increased water flow could result in considerable damage to my foundation.

13. In regard to run-off LCP VI, Open Space/Cons., p. 6 calls for the following:

New development should be required to: (a) avoid creating concentrated runoff, particularly over steep slopes and bluff faces, by installing energy dissipating devices, (b) create drainage swales, detention, and retention basins, (c) control the timing and manner of new construction so that there are no bare soil slopes during the rainy season, etc.

However, none of these requirements have been added to the Special Conditions in the current staff report.

14. Another issue with all the extensive grading is CCC Enforcement Officer Josh Levine's current unwillingness to investigate these clearly visible violations. When I first spoke to him in early 2019, it was he who noticed extensive grading all over the property and said he could not find any permits associated with it. In our most recent conversation, however, he explained, since there is supposedly no ESHA on the property, none of this grading matters. One has to wonder then, why does anyone ever have to apply for a grading permit when it is apparently okay to move thousands of cubic yards within the coastal zone without any oversight?

15. In actuality, Mr. Levine's explanations run counter to information found on the CCC website:

<https://www.coastal.ca.gov/enforcement/>
Enforcement Coastal Act Violations

What are Coastal Act Violations?

*A violation of the Coastal Act can occur in two main instances. First, when someone undertakes **development within the Coastal Zone** that requires a CDP from the Coastal Commission or a local government, without obtaining such a permit.*

*The term "development" is defined very broadly in Chapter Two of the Coastal Act. It covers many activities, including, but not limited to, the construction, demolition, or alteration of the size of homes or other structures; **the grading of earth**, extraction of materials, **and removal of major vegetation**;*

Unless exempt, any such activity in the Coastal Zone is regulated by the Coastal Act, and for such development a CDP may be required from the Coastal Commission or a local government with a certified local coastal program.

16. Since the extensive grading by the applicant far exceeds the amount allowed under the categorical exemption and there is no specification that the graded area even needs to be an ESHA, it is the Coastal Commission's duty to investigate the applicant's prior grading violations, especially those that are part of the building

project, which include the actual site of the proposed building, the access road plus the entire turnaround area. Analysis of the historical satellite images will easily corroborate that these areas were indeed all graded by the applicant.

17. Furthermore, XII. Review/Permits, Page 4 also addresses ANY GRADING:
*(6.) Site Preparation . The removal of existing residential buildings, the alteration of existing land forms **including tree removal and any grading**, or any action that might affect any stream or riparian area, or natural habitat, shall not proceed without a coastal development and any other necessary permits first being secured from the City to do so, subject to all applicable policies and provisions of the LCP.*

It should also be noted that when the applicant graded the western side of his property he also removed several large trees.

18. Zoning Ordinance, Page 65, also describes in no uncertain terms that grading is not allowed without first obtaining appropriate permits:

Development In or Adjacent to Environmentally Sensitive Habitat Areas (ESHA)
No new development shall be allowed within or adjacent to riparian corridors along Arena Creek, or other environmentally sensitive habitat areas (ESHA) where mapped (on the Opportunities and Constraints Map: Biological Resources and Trails) or other unmapped ESHAs that meet the ESHA criteria contained in LUP Chapter X Section 2.4 without first obtaining appropriate permits. New development includes, but is not limited to, vegetation removal, grading, filling, soils or refuse dumping, and the alteration of creek banks.

All of the above clearly indicates that the extensive grading violations cannot be ignored and need to be investigated, especially the areas that ARE part of the project.

E) Failure to Provide Correct Information to Commenting Agencies

1. "Fire Hazards" (SR, p. 7) notes that the Fire Department was noticed on February 20, 2020 (Exhibit 8), which means they have not been updated on the true scope and nature of the proposed building but are instead still under the impression that the project consists of an 800SQFT agricultural barn instead of 960SQFT barn/workshop building with an abutting 446SQFT equipment storage area. Of concern is also that the woodworking shop would house flammable liquids, such as toxic wood stains, solvents and oils.

2. Had all the agencies, such as Environmental Health, Planning and Building, Air Quality, etc. (SR, Summary of Referral Agency Comments, p. 20) received the correct information, they certainly may have added comments relevant to a WORKSHOP plus 444 SQFT equipment storage area. This is crucial information, yet it continues to be willfully withheld by city staff.

3. Specifically, still not updating all the agencies with jurisdiction with the correct project description, after this oversight was pointed out to city staff in my initial letter of concern, amounts to willful misrepresentation of the facts and triggers cause for revocation due to knowingly including inaccurate information in the application.

F) Inaccurate Property Boundary and Setback Descriptions Remain

1. The property boundary and necessary setbacks are still inaccurately represented in the building plans. Please review the attachments included showing that the section line has been substituted for the true boundary. The survey recorded under Map Case 2/Drawer 60/Page 11 (Exhibit 9) commissioned by the applicant in 1995, in conjunction with the survey overlay aerial image, clearly demonstrates this. (Exhibit 10).

None of this has been appropriately considered so far.

2. The actual boundary line is considerably farther north and, therefore, the application's building site plan is flawed, and the required setbacks are not as described and would run afoul of the setback requirements as presently proposed. (Exhibits 9 & 10)

3. Two boundary surveys have indicated that the property markers for my parcel have been manipulated and are therefore no longer in the correct position. To remedy this situation I would have to commission a very costly completely new property survey - a fact that the applicant is well aware of and has been trying to exploit to his benefit as evidenced by the utterly skewed building site plans. These drawings do not even match in regards to the given boundary measurements in relation to the scale legend (i.e. 1 inch/or the downscaled lengths on smaller printouts equaling 20 or 40 feet respective of the different plan pages.)

4. At the same time, even a non-professional can easily see when comparing the recorded survey map and satellite images of the properties that the supposed boundary line in the building plans is incorrect. (Exhibits 9 & 10)

G) Land Use and Zoning Issues

1. Staff continues to perpetuate the false narrative that "the proposed barn is to be used for storage associated with existing livestock maintenance, and proposed agriculture." (SR, p. 3)

2. The only livestock element on the applicant's property continues to consist of two pet goats, for which there already exists a fenced-in corral and stall as well as an adjacent shed for their feed. CCC staff was able to see this for themselves when they visited the site.

3. While the applicant has, since the first appeal, added a vegetable patch, not a single fruit tree, as described in the narrative, has been planted. Such small-scale gardening would hardly require a 960SQFT barn with 444SQFT equipment storage.

4. Instead, the true intended use of the building all along has been for a commercial woodworking shop and an apartment conversion on the first floor. The applicant is a working finish carpenter, who has already been engaging in carpentry activity on his property, creating an ongoing noise nuisance. (Exhibit 13)

5. While maintaining that the workshop is going to be a non-commercial "hobby" workshop, staff is nevertheless trying to lay the groundwork for the applicant to operate his commercial woodworking business under the Home Occupation Rule. (SR, p. 3)

6. In the staff report (p. 3) the planner failed to use the definition from the Zoning Ordinance (p. 12) for the applicant's RA-2 zoning, which clearly states under "Principally permitted uses":

Accessory structures such as barns, pens, coops, stables, not used for commercial purposes.

7. Furthermore, the planner should have used the following definition for Home Occupation as described in Zoning Ordinance (p. 22-23):

Home Occupation: Home occupations, including but not limited to sewing, music studios, desktop publishing, art studios, computer programming, professional offices, home and health care product distributors, bookkeeping, rooming and boarding of not more than 2 persons including tourists, may be permitted as an accessory use to any dwelling, subject to the following conditions and to the provisions of the zone in which the occupation is proposed, and coastal development permits, where the use constitutes "development" as defined in the Glossary and Appendix A of the Zoning Ordinance:

D. Electrical motors only, and not to exceed a total of three horsepower each.

*E. No radio or television interference, amplified music, **or noise audible beyond the boundaries of the site.***

F. No significant increases in automobile and truck traffic over normal residential use.

G. The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. All aspect of the home occupation, including storage, shall be conducted entirely within the dwelling unit or

enclosed accessory building(s) on the premises.

J. No equipment or process used shall create noise, vibration, fumes, dust, odors, smoke, electrical interference, or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood. K. Home Occupations shall not include manufacturing, processing or transportation of flammable, combustible, explosive, toxic or other hazardous materials.

8. All this indicates unambiguously that under no circumstances should the applicant be allowed to operate a noise-generating commercial shop in a residential neighborhood within city limits.

H) Lack of Noise and Visual Screening Considerations

1. The extreme proximity of the proposed building and parking area would have the following impact:

- a) Noise pollution: the applicant has already been performing extremely noisy woodworking activity on a regular basis right near my house by the property line (Exhibit 14)
- b) Light pollution: an exterior light has been added to the building plans. Currently, the applicant already flouts the City's Light Pollution Ordinance by operating glaringly bright 270-degree floodlights on his deck that shine into my two north-facing bedrooms and light up not just his large cypress tress 250 feet from his residence but also all of my very tall trees on the west side as well.
- c) Added traffic would create noise and fumes.
- d) Complete loss of privacy in my backyard and majority of rooms in my residence.

2. Considerable noise pollution from the shop would also affect the public and the environment. The sounds of screeching electric saws, loud hammering and air compressor use would be amplified by bouncing off my house and the bluff across the way and would undoubtedly be audible at significant distances. Furthermore, it is of special concern that the bluff in question is part of the designated buffer zone for PAMB (MBBA) and that they are extremely sensitive to noise and vibrations.

3. Additionally, the very large metal roof of the project would create a noise nuisance during rainfalls.

4. However, the staff report still does not call for a noise study nor does it include any requirement that noise from the workshop be mitigated.

5. From the Municipal Code 18.25.060 the following applies:

- a)(6) No significant increase in automobile and truck traffic over normal residential use;*

b) (10) No equipment or process used shall create noise, vibration, fumes, dust, odors, smoke, electrical interference, or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood;

A workshop and living quarters on the first floor would create all of the above.

6. Moreover, the building plans have still not incorporated any screening for the south-facing opening of the proposed equipment storage area, so 444 SQFT of assorted equipment and materials would be visible from almost every room of my house and backyard. The western side, which is not visible to anyone, however, would be screened.

7. According to 18.25.060 Home Occupation:

- a) The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. All aspects of the home occupation, including storage, shall be conducted entirely within the dwelling unit or enclosed accessory building(s) on the premises*
- b) The proposed location of the use and conditions under which it may be operated and maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

8. Yet, my property would be severely degraded by the proposed building due to the numerous reasons outlined in this appeal.

9. In addition, LCP VIII. Noise, Page 4 applies:

3. NOISE CONTROL GOALS

1. To preserve low ambient noise levels in residential neighborhoods, especially at night (8PM - 7AM)

5. To implement and enforce the State of California Noise Insulation Standards for all new developments.

Yet, the application was approved without considering ANY noise control measures.

4. NOISE CONTROL POLICIES AND PROGRAMS

3. New development in all zones must not raise the ambient noise levels in any residential zone within the city. Where residential zoning is adjacent to other zones, the lower residential noise limits will apply.

8. To mitigate exterior sound levels, due to transportation or other sources, for new residential

VIII. Noise, Page 5

or other new projects, consideration shall be given to an increased setback distance; use of property line, patio, and deck barriers; orientation of buildings to achieve a sound shielding benefit at outdoor use areas.

Even a mere “hobby” workshop of working finish carpenter Mr. Wasserman would increase the exterior sound levels (Exhibit 13), but NOTHING in regard to noise mitigation has been considered yet implemented, ESPECIALLY NOT THE REQUIRED INCREASED SETBACK REQUIREMENT.

9. To mitigate interior sound levels, due to transportation or other sources, for new residential or other new projects, consideration shall be given to an increased setback distance and use of barriers, insulation measures applied to the building skins, including appropriate designs for windows, walls, doors, roof/ceiling assemblies, weather seals, and other components.

Vegetative barriers do not generally provide substantial reductions in noise levels.

A workshop is always going to increase noise levels, whether the “work” is performed outdoors or indoors, nevertheless, the applications fails to address ANY NOISE MITIGATION.

10. The City will consider the following measures which can be used to mitigate the sound impacts created at residential or other sensitive receptors as a result of equipment operations or other activities at industrial and commercial facilities:

a. Use buffer zones of open space or "intermediate" type uses. It is desirable, where feasible, to allow at least 200 feet between noisy industrial or commercial sites and residential or other sensitive land uses. Noisy buildings or other noisy facilities shall be well set back from the property line.

b. The City shall require noise studies for potentially noisy facilities which are to be located near sensitive land uses.

c. The public shall be notified of the proposed placing of noisy industrial or commercial facilities in proximity to sensitive uses and vice versa.

THE NOISE ELEMENT WAS BROUGHT UP FROM THE START IN MY FIRST LETTER OF CONCERN, YET THE CITY CONTINUES TO BLATANTLY DISREGARD THIS ASPECT.

11. During the public hearing, forensic and vocational expert Dr. Dan Mccaskell pointed out that the noise level from a workshop would fall in the Category 4 noise-level. Only level 5 is considered louder. Yet, members of the City Council were left unfazed.

12. In regards to screening the following also applies:
Zoning Ordinance Page 45

C. Dense landscaping or a solid wall or fence of a minimum height of 6 feet shall be provided along the rear and side property lines of any non-residential use which abuts on a residential use; to screen any open area used for the storage of goods, materials, or waste from view from abutting properties and from public right-of-way;

Failure to incorporate this type of mitigation is yet another glaring example of city staff completely ignoring the applicable rules and regulations when it comes to the applicant's project.

I) Negative Impact on Public from Workshop

1. LCP VI. Open Space/Conservation Goals (p. 4) stipulates:
*To ensure that all pollutants, **including unwanted sounds**, are not allowed to impact negatively on the environment.*

However, nothing in this regard has been addressed.

2. From LCP, *Constraints Imposed By Local Values and Expectations*:
The following are Point Arena's "Sacred Cows" ... those features which are to be maintained and preserved as the town grows and accommodates more people, businesses, and houses. The General Plan acknowledges these and other features and asserts that they are to be taken into account with respect to all new developments in order to create a more perfect environment and save what is highly regarded by the populace. The "sacred cows" of Point Arena are:

- The integrity, water quality and natural condition of Point Arena Creek
- The low ambient noise levels^[1]_{SEP}
-

Again, neither one of these points has been taken into consideration.

3. Moreover, LCP XII. Review/Permits, Page 6 states:

- a) *That the proposed development at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community;*
- b) *b) That such use as proposed **will not be detrimental** to the health, safety, convenience or **general welfare of persons residing** or working **in the vicinity**, or injurious to property improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*
- c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*
- d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;*

Yet again, all these points have been disregarded since:

- a) A noisy workshop is in no way *necessary or desirable for, and compatible with, the neighborhood or the community.*
- b) A loud noise- and dust-generating workshop will absolutely impact my general welfare since I reside within less than 60 feet of the proposed building.
- c) There are currently ZERO safeguards proposed.
- d) No landscaping, screening, etc. have been considered either.

J) Degradation and Devaluation of Neighboring Areas

The negative impact from the proposed building includes but is not limited to:

- a) Noise Pollution
- b) Light Pollution
- c) Water Quality Issues
- d) Flooding
- e) Property Damage
- f) Soil Contamination
- g) Property Value Decrease

K) Lack of Enforcement For Previous Violations

The following violations have occurred:

1. Unpermitted grading near septic system performed in September 2019.
2. Extensive unpermitted grading in years prior that encompass the proposed building site, the entire access road and the turnaround area.

3. Mr. Wasserman already violated a Standard Condition due to his illegal grading and by not providing a BMP plan for the areas graded in the past that in fact all part of the project area. HIS PERMIT SHOULD HAVE ALREADY BEEN REVOKED.

See: XII. Review/Permits, Page 7: (3.) MONITORING AND ENFORCEMENT

Requirements and conditions attached to permits issued by the city often require compliance by the permittee and imply monitoring and enforcement by city officials. Section 6.09 of the existing Zoning Ordinance states that "violation of any specification or condition...imposed shall constitute a violation of this ordinance and may constitute grounds for revocation of the...permit".

See also: Zoning Ordinance Page 128 :

ARTICLE 7. ENFORCEMENT

Sec. 7.03

*Public nuisance: **Any earth moving, grading, or any modification of any stream or creek, and any building or structure, including signs and fences, set up, erected, constructed, altered, enlarged, converted, moved, or maintained **contrary to the provisions of this Ordinance** and/or any use of property contrary to the provisions of this Ordinance **shall be, and the same is hereby declared to be, unlawful and a public nuisance;** and the City Attorney of said City shall, upon order of the City Council, immediately commence action or proceedings for the abatement***

The applicant needed a grading permit as part of a CDP but graded without one. Therefore, he went against the provisions of the Zoning Ordinance.

5. Carpentry noise nuisance from the applicant using his steel containers as temporary makeshift workshop.
6. Points 1 and 2 should have been of concern to the CCC, as mentioned under "Unpermitted Grading" Point 14.

Yet, none of these violations were even acknowledged, let alone investigated.

Instead, the application process has been marred by:

L) Inappropriate Assistance, Leniency and Questionable Ethical Conduct

1. The initial CDP approval was granted despite the application being quite obviously inaccurate and incomplete.

2. A completely flawed original PAMB study was allowed to stand.

3. The grading was blatantly denied to even exist until an appeal to the Coastal Commission had been filed. (Exhibit 11)

4. The NOFA (Notice of Final Action) was issued despite all the problems with the application, when instead the CDPA should have been revoked due to illegal grading and for having already violated a Standard Condition by not providing a BMP plan for the areas graded that indeed are part of the project area.

5. The planner now wants to falsely assert the graded area and the access road are not part of the project area when they are. (Exhibit 1)

6. The planner also aims to misrepresent the volume and location of the illegal grading. In this attempt she has drawn up a misleading depiction on the building site plan to minimize the visual representation of the damage done. (Exhibit 1)

7. The planner arranged for USFWS biologist Greg Schmidt, who is personally known to her as he trained her to become a PAMB surveyor, to supply the applicant a PAMB survey free of charge. His "update" does not qualify as a new PAMB study and he fails to provide actual evidence proving PAMB's decreased noise sensitivity on which his entire assessment is based. His report should therefore be considered invalid.

8. Staff already tries to lay the groundwork for letting the applicant operate his commercial workshop under the Home Occupation rule when his RA-2 zoning does not support this kind of use.

9. Another example of leniency by city staff towards the applicant is shown by failure to add the following special conditions for the project:

XII. Review/Permits, Page 4

(19.) Earthmoving during the rainy season (extending from October 15 to April 15) shall be prohibited for development that is 1) located within or adjacent to ESHA, or 2) that includes grading on slopes greater than 20%. In such cases, approved grading shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after April 15, unless the City determines that completion of grading would be more protective of resources.

(25). Exterior night lighting shall be minimized, restricted to low intensity fixtures, shielded, and directed away from ESHA in order to minimize impacts on wildlife. High intensity perimeter lighting and lighting for sports courts or other private recreational facilities in ESHA, ESHA buffer, or where night lighting would increase illumination in ESHA is prohibited.

10. **The hearing noticing protocol has not been followed correctly.** The applicant never posted a notice nearest the project site, which in this case should have been at the bottom of his driveway on Port Rd. Instead, there were only notices posted at the Post Office (which makes sense) and at City Hall (which is quite far away from the project site.) My attorney addressed this issue during the public hearing.

Zoning Ordinance Page 125 specifies:

Local Noticing Requirements by Applicant. .

*Between the time the application is accepted for filing and the date when notices must be mailed, **the applicant must post two notices, at a conspicuous place, easily read by the public, and as close as possible to the subject property.** The City shall furnish the applicant with a standardized form to be used for such posting.*

If the applicant fails to so post the notice form, distribute notices, or to sign the declaration of posting and distribution no less than 10 days prior to a hearing, or it is determined that the application is incomplete, the City Clerk shall withdraw the application from consideration and shall not mail out the hearing notices.

11. There are serious implications of the Brown Act having been violated. Case in point: a community member, who wishes to remain unnamed at the moment, informed me on or around August 29, 2020 that they spoke to council member Barbara Burke in the afternoon before the first public hearing on June 23, 2020. The person was concerned about not being able to attend the meeting because they were having computer problems. Ms. Burke told them not to worry because they “would not miss anything because the application is going to go right through.” Now how would Ms. Burke have been privy to this type of information unless the project had already been discussed amongst council members/city staff before the open meeting? This is yet another very serious issue calling for the application to be revoked.

12. It is also of concern that CCC representative Sylvia Targ in a letter on August 7, 2020 (Exhibit 14) offers city staff assistance by suggesting the most effective ways to circumvent my initial appeal and that CCC staff would discourage me from filing a subsequent appeal (something Mr. Levine did his best to do during our last conversation), so the building can commence as quickly as possible. Interestingly, all this was discussed before a new PAMB report had been conducted or an actual site visit by CCC staff had taken place. As a matter of fact, Ms. Targ expected that “the Commission would not find substantial issue” – which indicates that Commission staff had already come to a foregone conclusion in August -- without any supporting evidence. Commission staff also called the city planner to announce they want the project to proceed (this was brought up during the public

hearing on November 18), which does not seem appropriate since my initial appeal was never officially dismissed.

13. This is all the more troubling, as my initial appeal outlined to Commission staff outlined not just a number of inaccuracies but outright dishonesty within the application and the staff report, such as:

- Brazen denial of illegal grading despite clear photographic evidence to the contrary
- Willfully submitting a wrong project description (omitting the workshop aspect and the 444 SQFT equipment storage area) to all the agencies with jurisdiction (and still not having updated any of them with the correct information)
- Falsely claiming that the original PAMB surveyor was not granted access to my property

14. In addition, the amended application includes demonstrably falsified information about the grading by downplaying the amount of grading as well as its actual location in relation to the existing septic field.

15. Moreover, Zoning Ordinance Page 98 explains why the original application should not have been approved in the first place:

Sec. 6.08

Findings:

A. Coastal Development Permit findings: A coastal development permit may only be granted if the following written findings can be made.

3. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment; – THIS HAS CLEARLY NOT BEEN THE CASE.

4. The proposed use is consistent with the purposes of the zone in which the site is located; THE RA-2 ZONING IS NOT CONSISTENT FOR A NOISY WORKSHOP IN A RESIDENTIAL NEIGHBORHOOD.

6. The proposed location of the use and conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. THE PROPOSED STRUCTURE IS BOTH DETRIMENTAL TO MY WELFARE AND MATERIALLY INJURIOUS TO MY PROPERTY.

M) Issues within the NOFA

The current Notice of Final Action makes no note of project findings and also skips Environmentally Sensitive Habitat Area findings. This should have been included since the previous permit has been superseded.

In relation to the previous Findings the following still applies:

1. Coastal resources WILL be adversely affected.
 2. Hardly any “feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects....”
 3. The proposed use as a “workshop” is NOT consistent with the zone.
 6. The project WILL have a significant adverse visual impact.
 7. The project is NOT the least environmentally damaging alternative.
 8. The project WILL be “materially injurious” to properties in the vicinity.
 9. None of these requirements were considered since they were “not applicable to the project” according to the City Planner.
-
- (i) False – The project is to be sited where it most convenient for the Applicant without any consideration for “habitat values, functional capacity, and species diversity of the adjacent riparian habitat area”.
 - (ii) False – The proposed development is NOT “compatible with the continuance of such habitat areas”
 - (iii) False – The Applicant already did most of the soil and vegetation removal without a permit.

Page 2 *Standard Conditions* of the NOFA says the following:

6. *The permit shall be subject to revocation or modification upon a finding of any one or more of the following:*
 - a) *The permit was obtained or extended by fraud.*

As outlined in this appeal deliberately false information has been included in the application and staff report.

b. One or more of the conditions upon which the permit was granted have been violated.

Please see above under *Unpermitted Grading*: The Applicant has in fact already violated Special Condition #2., when he graded within the designated project site without first submitting a BMP plan, thereby trying to forego having to adhere to all the relevant stipulations. This grading also affected the access road and is therefore part of the project.

Also on page 3 of the NOFA Standard Conditions:

7. The permit is issued without legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries.

The boundary line in the building plans IS incorrect; therefore the permit should “become null and void”.

For each of these reasons raising substantial issue, and for all these reasons collectively, the current permit approval for CDP#2-2020 needs to be revoked.

I have highlighted multiple travesties surrounding this case, yet, I still trust a fair and just outcome is possible.

Thank for your time and consideration.

Respectfully submitted,

Arabella Akossy

Exhibit List:

1. Shows the actual size of the illegal grading that occurred marked in black with diagonal lines.
2. Google Earth Pro image from 1998, which shows none of the grading, which was performed by the applicant in later years. The building site had not been graded at that point nor is there an access road to it.
3. The image from 2003 still shows none of the later extensive grading.
4. The image from 2011 shows fresh grading all over the applicant's property. No permits were acquired for any of this grading.
5. USFWS biologist's assessment email, which does not qualify as a full PAMB survey report.
6. USFWS *Draft Point Arena Mountain Beaver Standard Protection Measures For "No-Take" Determinations*
7. USFWS *Draft Point Arena Mountain Beaver Survey Protocol*
8. Letter to Coastal Commission by City Planner from February 20, 2020 showing that only a barn of 800SQFT is mentioned.
9. This is the valid recorded survey, on file with the County Clerk's Office, under Map Case 2/Drawer 60/Page 11.
10. This shows a overlay of the above referenced survey, prepared by surveyor Vance Ricks. Please note how much further north the property boundary is compared to the depiction in the building site plan.
11. Rebuttal to the response the Planner gave to my original letter of concern. This document was included in my appeal to the Coastal Commission. It was omitted by city staff when they posted my appeal on the City's website and have still not corrected this, even after I made them aware of the oversight. Point 6 pertains to the Planner not being able to find any grading activity on the applicant's property.
12. Aerial showing the building "marker" USFWS biologist Greg Schmidt used for his PAMB assessment
13. Video file demonstrating the noise the applicant has already been producing when he is working in his makeshift container workshop (there are many more recorded examples)
14. Letter by CCC representative Sylvia Targ to city staff

EXHIBIT 1

BARN & SHOP ADDITION WASSERMAN PROPERTY 240 PORT ROAD, POINT ARENA, CA APN 027-081-12		BUILDING SITE & ROAD ACCESS PLAN		HOWARD E. CURTIS ARCHITECT P.O. Box 927, Orinda, CA 94662 C 14199 T 925 945-1500 FAX 925 945-1501	
SHEET NO. 1	DATE 1/20/17	SCALE 1" = 20'	DRAWN BY HEC	CHECKED BY HEC	APPROVED BY HEC

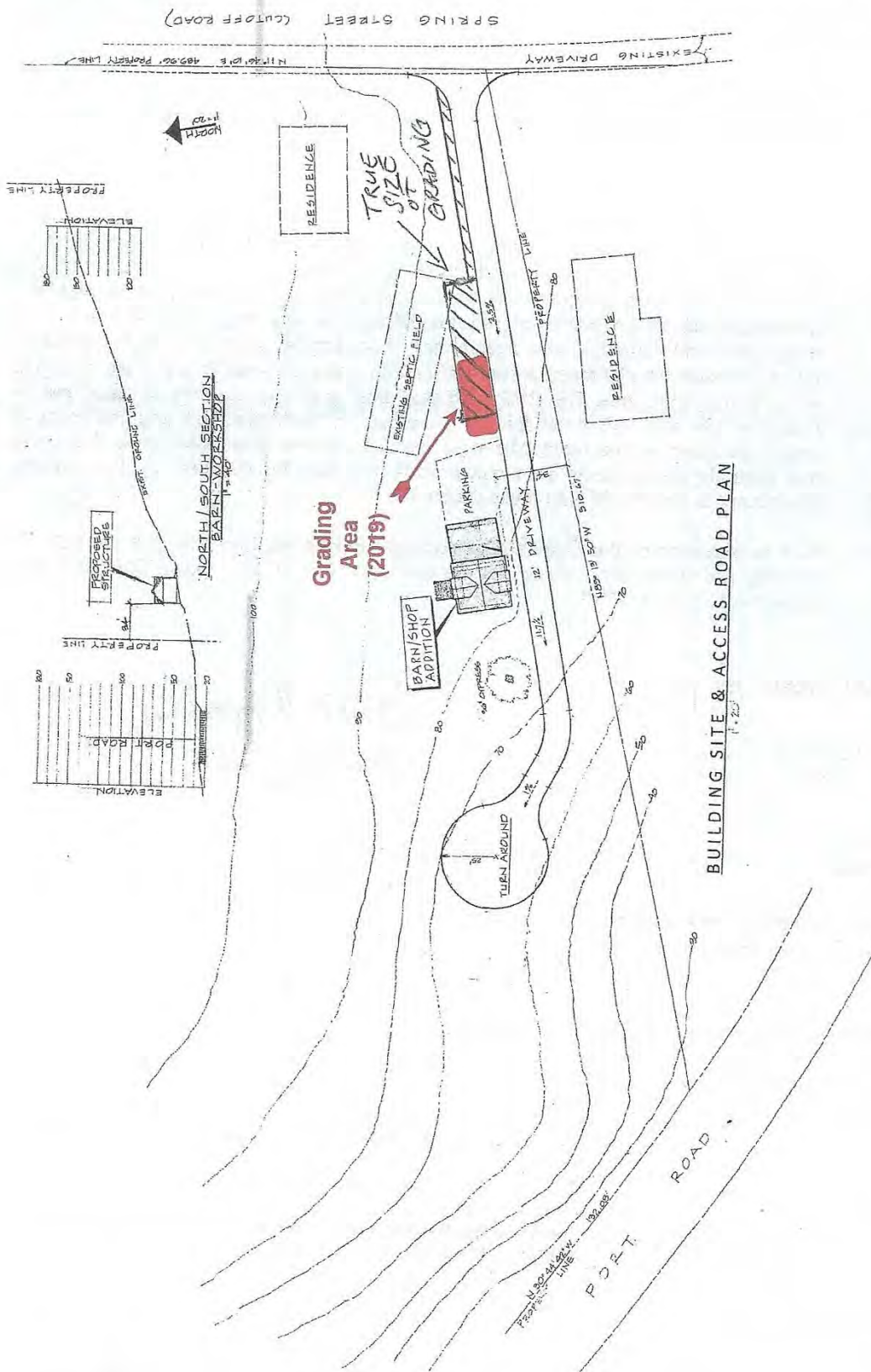


Exhibit 2

Google Earth Pro

Arena, CA Search

Get Directions History

Port Rd

es
[Viewing Tour](#)
sure 3D Buildings
s checked
ary Places

Database
increments
rs and Labels



44600 Port Rd

Image U.S. Geological Survey

Go

38°54'49.76"N 123°42'22.05"W elev 82 ft



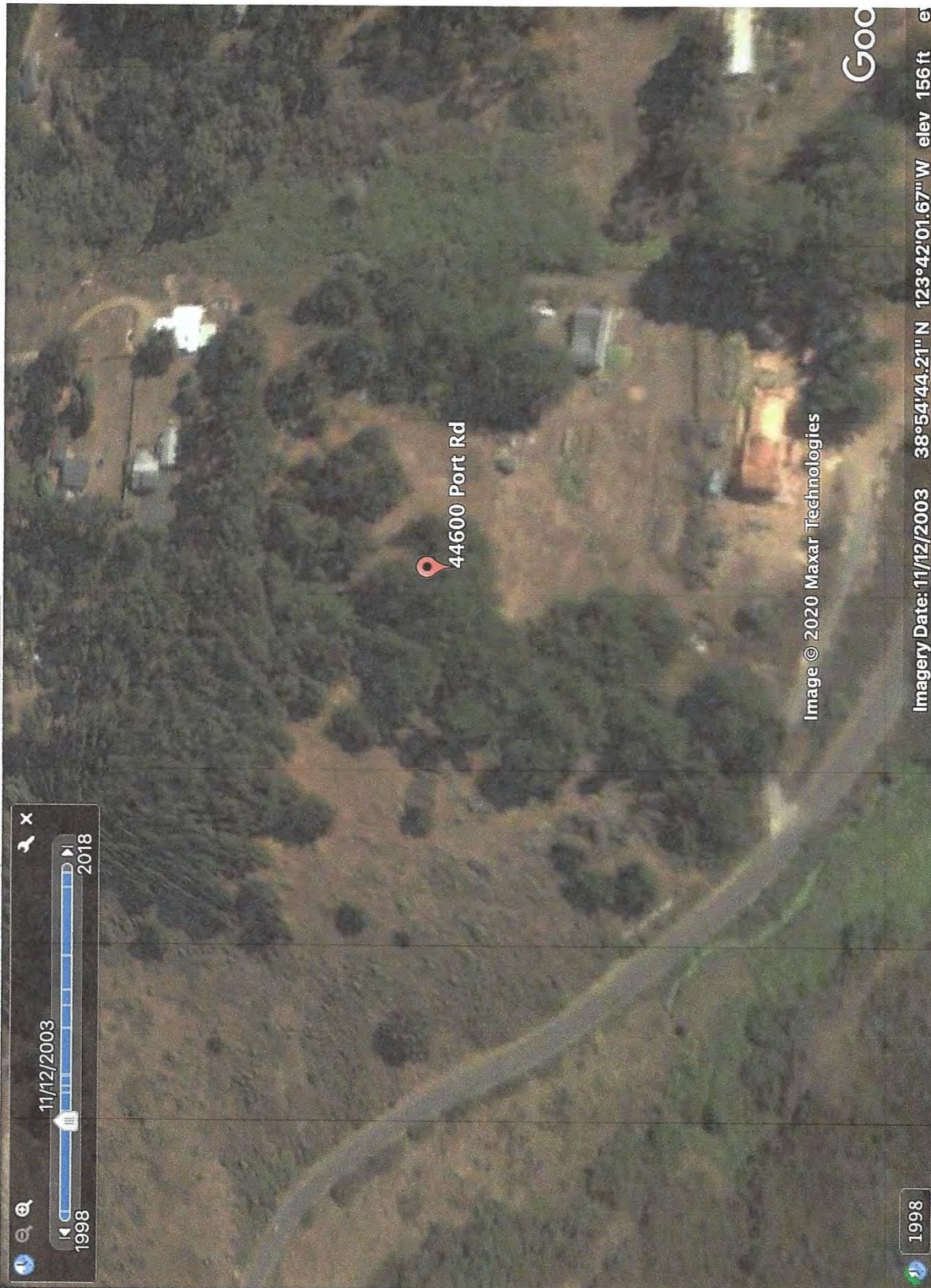
Exhibit 3

Google Earth Pro

Arena, CA Search

Get Directions History

Port Rd



1998

Imagery Date: 11/12/2003 38°54'44.21\"/>

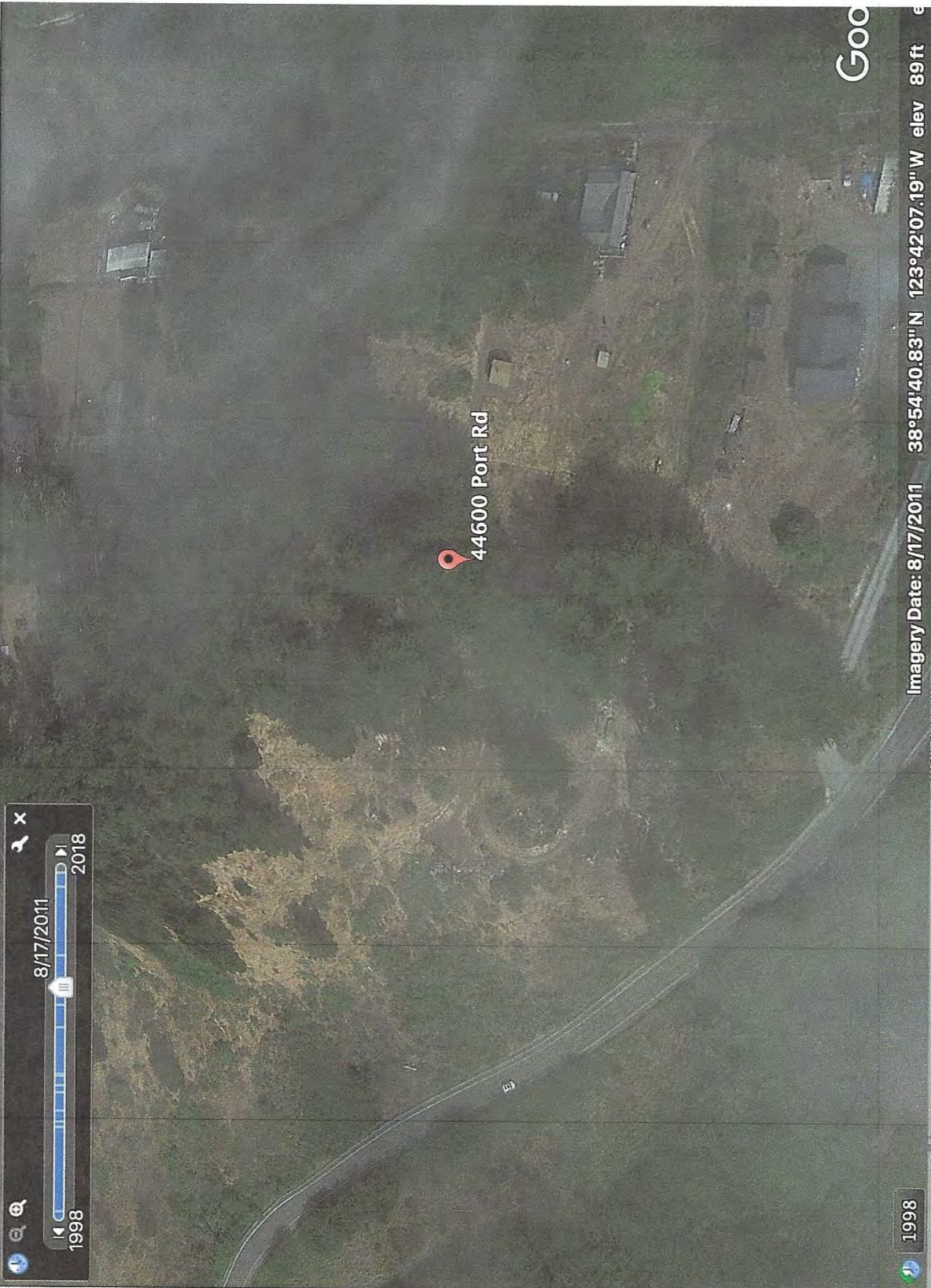


Exhibit 4

Google Earth Pro

Arena, CA
Search
10000 Ave, 20500
Get Directions History

Timeline slider showing 1998 to 2018 with a date marker at 8/17/2011.



44600 Port Rd

Imagery Date: 8/17/2011 38°54'40.83"N 123°42'07.19"W elev 89 ft

Port Rd
es
[Viewing Tour](#)
sure 3D Buildings
s checked
ary Places

Database
increments
rs and Labels

Windows taskbar with icons for Google Chrome, Firefox, and other applications.



Exhibit 5

Teresa Spade <spadenrc@gmail.com>

**44600 Port Road PAMB habitat assessment and presence/absence survey
conducted 22 October 2020**

Schmidt, Gregory <gregory_schmidt@fws.gov>
To: Teresa Spade <spadenrc@gmail.com>

Wed, Oct 28, 2020 at 2:45 PM

Hi Teresa,

I conducted a PAMB habitat assessment for the proposed workshop site and 100 feet (the distance used for elevated sound levels and for basic small scale construction such as the workshop) around the site. The only suitable PAMB habitat was located on the southern border of the target parcel (i.e., 44600 Port Road). The suitable habitat was composed mainly of a black raspberry thicket approximately 50 ft long by 15-20 feet wide. The entire patch of suitable habitat was surveyed for PAMB occupancy. No PAMB burrow entrances or other PAMB sign was found during a presence/absence survey that lasted approximately 1.5 hours (the patch was very thick and difficult to survey). A large patch of suitable PAMB habitat was located just over 100 feet south of the proposed workshop site on a neighbors parcel along the north side of the driveway. That patch of suitable habitat was not surveyed because it fell outside the 100 foot focal distance. However, the patch occurred on a dry, south-facing slope, suggesting it was only marginally suitable for PAMB. I conclude that PAMB take is unlikely within 100 feet of the proposed workshop site. Please let me know if you need more information or wish to see the GPS tracks I recorded. Thanks.

Greg

Gregory Schmidt

Fish & Wildlife Biologist, Endangered Species Program

US Fish and Wildlife Service

Arcata Fish and Wildlife Office

1655 Heindon Road, Arcata CA 95521-4573

Phone: (707) 825-5103; Fax: (707) 822-8411; Cell: (707) 834-3193

E-mail: Gregory_Schmidt@fws.gov

DRAFT POINT ARENA MOUNTAIN BEAVER STANDARD PROTECTION MEASURES FOR "NO-TAKE" DETERMINATIONS

The following protective measures applied to projects will typically result in a low likelihood of incidental "take" of Point Arena Mountain Beaver (PAMB; *Aplodontia rufa nigra*). These guidelines may be adjusted on a project and site-specific basis. Factors affecting determinations for individual projects include specifics of the proposed activity (e.g., duration, distance, intensity, extent, time of year, and time of day), specifics of the site (e.g., soils, topography, background levels of disturbance, habitat continuity), and status of PAMB in the area (e.g., historical information, monitoring information, and quality of survey information). These draft guidelines are based on the best information currently available to the Service, and are subject to change.

Season	Date range	Citations
Breeding Season	1 December through 30 June	Hubbard 1922, Scheffer 1929, Pfeiffer 1958, Lovejoy and Black 1974, Zielinski and Mazurek 2006
Dispersal Season	15 April through 30 September	Pfeiffer 1958, Martin 1971

Visual Disturbance

Installation of lighting or extended use of night time illumination should not occur within 100 feet of active burrows or unsurveyed suitable habitat. New construction within 100 feet of active burrows may require additional measures for protection of habitat. Ninety percent of the recorded locations for 10 radio-tagged adults in western Washington were less than 80 feet from their nest chambers (Martin 1971).

Noise Disturbance

Operation of above ground noise-generating equipment (including chainsaws and weed eaters) should not occur within 100 feet of active burrows or unsurveyed suitable habitat during the breeding season. Hand tools and electric weed eaters may be used within 100 feet of active burrows during the breeding season. For example, hand shovels can be used at any time to clean roadside ditches in close proximity to burrow openings, as long as only debris that has accumulated in the ditch is removed.

Ground Vibration Disturbance

Operation of mechanical equipment that is in direct contact with, or below, the ground which causes ground vibrations (including water well drilling, heavy equipment such as graders, soil excavators, air compressors, and directional boring equipment) should not occur within 100 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 50 feet during the remainder of the year. This includes the use of power mowers and ditch cleaning with motorized equipment; however, small mowers with rubber tires may be considered to only result in noise disturbance and not vibration disturbance. Directional boring beneath active

burrows or unsurveyed suitable habitat should not occur at any time.

Severe Ground Vibration Disturbance

Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

Suitable Habitat Degradation and Removal

Habitat **degradation** involves temporary alteration (such as timber harvest, mowing, livestock grazing, herbicide application, removal of existing down wood, and burning) of suitable habitat. Habitat **removal** involves permanent loss (such as paving, any road construction, construction of structures, and conversion to agriculture) of suitable habitat. Patches of suitable habitat are not considered contiguous if they are greater than 50 feet apart. Degradation of suitable PAMB habitat that is contiguous with and within 200 feet of active burrows or unsurveyed suitable habitat should be avoided. Removal of suitable PAMB habitat that is contiguous with and within 400 feet of active burrows or unsurveyed suitable habitat should be avoided. Annual mowing of areas currently not considered PAMB habitat is not considered modification or removal. New construction within 100 feet of active burrows may require additional measures for protection of habitat. For road and trail maintenance, a 2-foot strip of vegetation on either side of the road or trail may be reduced in height to no less than 2 feet. Mountain beaver have been recorded moving 350 feet from their nest chambers (Martin 1971). Zielinski and Mazurek (2006) recorded movement distances between PAMB locations up to 334 feet.

Disruption of Dispersal

Vegetation degradation or removal (not including timber harvest), or construction of permanent barriers (including fences, and unvegetated openings greater than 50 feet wide), should occur at any location at any time that may disrupt dispersal of PAMB, or movement of PAMB between occupied sites. Any temporary barriers should be removed during the dispersal season. Hacker and Coblenz (1993) found mountain beaver will disperse up to, and possibly greater than, 1,476 feet; Martin (1971) recorded a subadult dispersing 1,850 feet. Arjo et al. (2007) documented dispersal distances greater than 984 feet. Herbicides should only be used in or near burrow areas outside of the breeding and dispersal seasons.

Damage to Burrow Systems

No vehicle use, human foot traffic, soil excavation, cattle grazing or movement, or other potential sources of burrow collapse should occur within 25 feet of active burrows or unsurveyed suitable habitat at any time. By necessity, surveyors may approach to within 25 feet of active burrows or unsurveyed suitable habitat. No activity should occur that alters water drainage or hydrology of areas containing burrow systems or in unsurveyed suitable habitat.

Rodent Control

No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

Predation

Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

Timber Harvest Operations

No ground disturbing activities (includes felling and yarding) within suitable habitat that is contiguous with and within 200 feet of active burrows or unsurveyed suitable habitat should occur at any time. Felling and yarding in unsuitable PAMB habitat (or suitable habitat that is not occupied and not contiguous with occupied habitat) may occur within 50 feet of active burrows during the non-breeding season and within 100 feet of active burrows during the breeding season. Directional felling may be necessary to meet these requirements. Full suspension yarding may be permissible when it occurs at least 50 feet from active burrows. While overstory tree removal may improve PAMB habitat quality in some situations, burning after timber harvest can reduce habitat suitability over the short term (Motobu 1978, Hacker and Coblenz 1993). Roads may be used for timber hauling during the breeding season if greater than 100 feet from active burrows or unsurveyed suitable habitat, and during the non-breeding season only if greater than 50 feet from active burrows or unsurveyed suitable habitat. Hauling restrictions may be relaxed depending on level of ongoing road use and evidence of habituation to road use by PAMB.

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- Lovejoy, B.P. and H.C. Black. 1974. Growth and weight of the mountain beaver, *Aplodontia rufa pacifica*. Journal of Mammalogy 55:364–369.
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- Motobu, D.A. 1978. Effects of controlled slash burning on the mountain beaver (*Aplodontia rufa rufa*). Northwest Science 52:92–99.
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- Scheffer, T.H. 1929. Mountain Beavers in the Pacific Northwest: Their Habits, Economic Status, and Control. USDA Farmers Bulletin No. 1598.
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- Zielinski, W.J. and M.J. Mazurek. 2006. The reproductive ecology and home range of the Point Arena mountain beaver (*Aplodontia rufa nigra*). Unpublished report on file US Fish and Wildlife Service, 1655 Heindon road, Arcata, CA 95521.

Exhibit 7

DRAFT GUIDELINES FOR PROJECT-RELATED HABITAT ASSESSMENTS AND PRESENCE-ABSENCE SURVEYS FOR THE POINT ARENA MOUNTAIN BEAVER (*Aplodontia rufa nigra*)

The Point Arena mountain beaver (PAMB) was listed by the U.S. Fish and Wildlife Service (Service) as endangered under the Endangered Species Act of 1973 on 12 December 1991. The Recovery Plan for the Point Arena Mountain Beaver (USFWS 1998) provided a review of mountain beaver biology and ecology and identified the need to conduct presence-absence surveys to locate new populations so they could be protected. Further, the recovery plan recommended that a presence-absence survey protocol be developed to guide survey efforts. Accordingly, the Service developed these presence-absence survey guidelines as well as guidelines for assessing habitat suitability. The habitat assessment and presence-absence survey methods described in this document are only intended for use prior to projects that may impact PAMB, not for research or population monitoring purposes.

Habitat assessments and presence-absence surveys should be conducted prior to any ground- or vegetation-disturbing activities located within the current occupied distribution of the PAMB: currently considered by the Service to be coastal Mendocino County, California from 2 miles north of Bridgeport Landing to 3 miles south of the mouth of Moat Creek and inland 5 miles from the Pacific Ocean (Figure D1).

Prior to the implementation of any project that may impact PAMB, a two-step process should be followed. First, a habitat assessment should be conducted to determine if potentially suitable PAMB habitat exists in the project area. Second, thorough presence-absence surveys of these suitable habitat areas should be conducted. In some situations, such as where only small pockets of suitable habitat are located, assessments and surveys may be conducted simultaneously. The distance from proposed activities within which assessments and surveys must be conducted (i.e., the "impact area") depends on the disturbance and habitat-modification particulars of the proposed activity. If preventing "take" of PAMB is the objective, refer to the document entitled "Draft Point Arena mountain beaver standard protection measures for "no-take" determinations" (USFWS 2001) for activity-specific guidance on determining the impact area. **In most cases, assessments and surveys within 500 feet of proposed activities will be sufficient. Technical assistance should be requested from the Service if suitable habitat exists within 500 feet of the proposed activities.** When in doubt, you should contact the Service for assistance. Also, if the suitability of any habitat area is in question, conduct a presence-absence survey: PAMB occupy a wide array of habitat types and may be found in habitat types that may be considered "atypical."

Habitat Assessments

While some generalizations about PAMB habitat suitability can be provided, quantitative descriptions based on vegetation height, percent ground cover, species composition, or other variables are not possible given the limited information available. However, PAMB burrow openings are often found in areas of lush mesic (moist) herbaceous and woody vegetation. These areas are often, but not always, located on steep north-facing slopes or in gullies, and where soils are well-drained and friable. Mountain beavers also are known to use areas around and beneath coarse woody material on the ground.

Point Arena mountain beaver are typically found in one of three basic habitat types:

1. Riparian - This broad group of habitats includes areas dominated by willow (*Salix* spp.) or alder (*Alnus* spp.), with a variety of understory plant species including California blackberry (*Rubus ursinus*), skunk cabbage (*Lysichitum americanum*), horsetail (*Equisetum* sp.), and stinging nettle (*Urtica* sp). Sword fern (*Polystichum munitum*) is a very good indicator of PAMB habitat, especially in more inland locations such as openings and riparian strips in coniferous forest.
2. Coastal scrub - This brushy type is comprised of cow parsnip (*Heracleum lanatum*), coyote brush (*Baccharis pilularis*), coffeeberry (*Rhamnus californica*), poison oak (*Rhus diversiloba*), wax myrtle (*Myrica californica*), various berries (*Rubus* and *Sambucus* spp.) and other species.
3. Dune scrub - These areas are sand dunes stabilized by various species including bush lupine (*Lupinus arboreus*), coyote brush, seaside woolly sunflower (*Eriophyllum staechadifolium*), ice plant (*Carpobrotus edulis*), reedgrass (*Calamagrostis* spp), and European beachgrass (*Ammophila arenaria*). Grasses and other herbaceous species such as wild radish (*Raphanus sativus*) and hedge nettle (*Stachys ajugoides* var. *rigida*) are also typically present.

These three habitat types can overlap and intergrade with one another and can occur within other vegetation types such as coniferous forest, which could include redwood (*Sequoia sempervirens*), Douglas-fir (*Pseudotsuga menziesii*), grand fir (*Abies grandis*), or Bishop pine (*Pinus muricata*). The Recovery Plan for the Point Arena Mountain Beaver provides a detailed description of habitats associated with PAMB.

Given the variety and mix of plant species that could constitute suitable PAMB habitat, virtually all areas encountered during habitat assessments that contain brushy or herbaceous plant cover should be mapped and considered potentially suitable. Areas not considered suitable habitat would be those containing only grasses (with no brushy or herbaceous species), or those dominated by conifer or hardwood trees with little or no understory or ground vegetation. Poorly-drained or very rocky soils may not be suitable. Since no data are available quantifying the amount or juxtaposition of suitable habitat necessary to support PAMB, even small pockets of potentially suitable habitat should be surveyed.

For Habitat Assessments, provide the following information to the Service:

1. Name(s) and contact information for person(s) conducting assessment.
2. Date(s) of assessment.
3. A description of the project for which the assessment was conducted.
4. Amount of time spent in the field conducting the assessment for each area assessed.
5. A map at appropriate scale showing the footprint of the project area, locations of proposed activities, all areas covered by the habitat assessment, and any areas not assessed. Aerial imagery may also be useful. Provide a discussion of why any particular areas were not assessed, such as lack of access to private lands.

6. A map at appropriate scale showing areas of suitable habitat found.
7. A general description of the vegetation in the suitable habitat areas. Photos (with labels) are highly recommended.
8. If available, provide information on soils in the project and assessment areas.
9. UTM coordinates of the project area. Use the center point of the project area.

Presence-Absence Surveys

Once potentially suitable habitat areas are located, presence-absence surveys should be conducted. Areas with burrow openings are considered to have PAMB “presence,” while PAMB are considered “absent” in areas without burrow openings. This determination is the primary purpose of surveys. In areas where PAMB burrow openings are present, they can be classified as either “active” or “inactive” (see descriptions below). When there are any indications of activity at a site, or when determinations of activity are inconclusive, sites are considered “occupied” by PAMB.

Surveys may be conducted at any time of the year. However, surveys should not be conducted after heavy rains when soils are saturated, in order to reduce the likelihood that burrows are collapsed as a result of foot traffic. **Surveys should be conducted no more than 8 weeks prior to proposed work activities to reduce the likelihood that PAMB move into the project area subsequent to surveys.** In some situations, initial surveys should be conducted greater than 8 weeks prior to operations to allow sufficient time for environmental analysis or other regulatory processes. In these situations, the site may need to be resurveyed within 8 weeks of the initiation of proposed activities. When PAMB occupancy is confirmed (i.e., when active burrows are found) or presumed, resurveying may not be necessary depending on the adequacy of the protection measures to be implemented.

Areas determined to be non-habitat for PAMB will not need further habitat assessment for a period of 10 years. If PAMB are determined to be absent following complete assessments and surveys within 500 feet of the impact area, these negative surveys will be considered valid for a period of 5 years. If PAMB are determined to be absent following complete assessments and surveys within 250 feet of the impact area, these negative surveys will be considered valid for a period of 2 years.

The primary survey method consists of a set of transects that are approximately parallel to one another, where all areas are visually inspected for the presence of PAMB burrow openings or other signs of PAMB activity. The number of transects and distance between transects is variable depending on the density of the vegetation, the criteria being that all areas are visually inspected. The time of year has a great influence on this; vegetation is generally most dense in late spring/early summer and most sparse in fall and early winter. In areas of very rugged topography or dense vegetation, this may require the surveyor to actually crawl through the vegetation. The use of a walking stick or similar object can be useful for parting or lifting vegetation to inspect for burrows. A walking stick is also useful for climbing steep slopes; thick gloves are also recommended. Areas not surveyed to this level are assumed by the Service to be occupied by PAMB.

Burrow openings average 15 centimeters (cm; 6 inches) in diameter, and range from 10 to 28 cm (4 to 11 inches) in diameter. Excavated soil or debris may not always be present. A diagnostic feature of PAMB burrows is that the burrow remains approximately the same diameter as far as your arm can reach. PAMB burrows also angle downward immediately. In contrast, unsealed pocket gopher (*Thomomys bottae*) burrow openings are considerably smaller, and quickly narrow to the width of several fingers. California ground squirrels (*Citellus beecheyi*) are typically observed during the daytime near their burrow openings. The presence of rabbit (*Sylvilagus* sp.) pellets in burrow entrances and excavated soil does not indicate absence of PAMB since rabbits (and other species) will share burrows with PAMB. While less diagnostic, other indicators of PAMB presence include runways through the vegetation, vegetation that has been clipped off, and exposed caches of vegetative material such as "haystacks." The presence of old, dried, or "worked" vegetation can be evidence of burrow cleaning activity. This material can be either food waste or old nesting material. A large amount (an arm load) indicates that the burrow leads directly to the nest chamber.

If possible, it should also be noted during surveys whether burrows are active or inactive. Indicators of activity include a large mound of freshly dug loose soil at the burrow entrance, wilted vegetation in or near the burrow opening, an open and clean burrow entrance, and a wad of old dried vegetation pushed out of the opening or inside of the burrow entrance. Indicators of inactivity include debris in, or collapsing of, burrow openings. Heavy spider webs may indicate inactivity, but caution should be used when applying this criterion because web building can be very rapid. Burrow systems also have multiple entrances, some of which are infrequently used. In addition, certain burrows may only be used seasonally for specific activities or when certain nearby plants are being consumed. Use of PAMB burrows by rabbits and other species also confuses the assessment of activity. As a result of these considerations, a determination that burrow openings are "active" or "inactive" is somewhat subjective, and a reliable determination that all PAMB burrows are inactive, and that the site is unoccupied is exceedingly difficult to make. Therefore, when activity status cannot be determined with certainty for all burrow openings, a site will be considered occupied by the Service.

Other techniques can be used to help assess if burrows are currently active, or if they are actually being used by another species. Track plates, remote cameras, or hair-snares may be useful for these purposes. In addition, small bundles of fresh sword fern growth can be placed in suspicious burrows; if bundles are promptly removed this would suggest presence of PAMB. These techniques are still being developed and tested, and you should contact the Service for assistance in determining the applicability of these techniques to your particular situation.

A primary consideration during surveys is that every attempt should be made not to crush or cause the burrows to be collapsed, and to disturb the vegetation as little as possible. Surveyors should walk slowly and carefully, making careful note of foot placement. While counting burrow openings and determining if they are active provides good information on the site, these data should not be collected whenever collapsing burrows cannot be avoided. When damage to vegetation in areas with PAMB presence cannot be avoided, surveyors should stay out of these areas. The minimum number of visits to burrow areas necessary to get the job done should be conducted, since human presence may attract predators.

For Presence-absence Surveys, the following information should be provided to the Service:

1. Date(s) of survey.
2. For each area surveyed, amount of time spent in field conducting the surveys.
3. Name(s) and contact information for person(s) conducting surveys.
4. A map at appropriate scale showing the areas of potentially suitable habitat identified.
5. A description of survey intensity and method. For example, parallel transects at 5-meter spacing and/or wandering surveys with >75% of ground surface observed.
6. A map at appropriate scale showing suitable habitat areas with PAMB presence or absence, and any suitable habitat areas not adequately surveyed. For areas not adequately surveyed, provide a discussion of the reasons (access denied to private property, presence of poison oak, steep topography, impenetrable vegetation, etc.). Air photos may also be useful.
7. UTM coordinates for the center point of each area with PAMB presence.
8. If available, counts of burrow openings or estimates of the area containing active or inactive burrow openings. If large enough, areas with inactive burrow openings should also be mapped.
9. An estimate of the area (e.g., square meters) with burrow openings present.
10. The distance between proposed activities and the closest burrow openings.
11. A discussion/description of the habitat in areas with burrow openings present versus suitable areas without burrow openings present. Topics should include plant species present, vegetation height and percent ground cover, slope and aspect, and soil characteristics if known.
12. Presence of other fossorial species.
13. If possible, submit photos of burrow openings; any photos must include an object for scale.

It is important that negative survey results also be reported to the Service. These data are useful in improving our understanding of the distribution and habitat associations of PAMB.

Qualifications

Only Service-trained individuals should conduct habitat assessments and presence-absence surveys. Most potential new PAMB surveyors should attend a Service-sponsored, 1-day training session on PAMB habitat assessment and presence-absence survey methods. Candidates for this training should first demonstrate a suitable background, which includes post-secondary education in general biology, wildlife biology, botany, forestry, or other related fields; actual field experience with mountain beavers; or other applicable education or experience. All candidates for the training should also be familiar with the contents of the Recovery Plan for the Point Arena Mountain Beaver (USFWS 1998). Individuals lacking the formal education mentioned above, but with past experience assessing habitat suitability and detecting signs of PAMB occupancy (especially burrow entrances) may be considered as Service-trained without

participating in the aforementioned training. The Service's lead PAMB biologist will determine whether the past experience is deemed sufficient to conduct habitat assessments and presence-absence surveys.

Literature Cited

U.S. Fish and Wildlife Service (USFWS). 1998. Recovery Plan for the Point Arena Mountain Beaver *Aplodontia rufa nigra* (Rafinesque). Portland, Oregon. 71 p.

_____. 2001. Draft Point Arena mountain beaver standard protection measures for "no-take" determinations. Unpublished document on file at the Arcata Fish and Wildlife Office, Arcata, California.



Figure 1. Current occupied distribution of the Point Arena Mountain Beaver.

Exhibit 8

Robinson, Aurora@Coastal

From: Prestori, Destiny@Coastal
Sent: Thursday, February 20, 2020 12:07 PM
To: Robinson, Aurora@Coastal
Subject: FW: Project Referral Wasserman CDP 2020-02
Attachments: Wasserman CDP 2020-025 Response Form 2018 02 19.doc

RECEIVED
FEB 20 2020
CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT

FYI

-----Original Message-----

From: Teresa Spade, AICP [<mailto:planning@pointarena.ca.gov>]

Sent: Thursday, February 20, 2020 11:37 AM

To: planning@pointarena.ca.gov

Cc: Treatment Plant Operator; Mike Suddith; Michael Oliphant; Jason Island; Greg Schmidt; Gil Falcone; Preston, Destiny@Coastal; Harrington, Daniel@Wildlife; Christine Pallman; Carla Sigman; Air Quality; Air Quality; Richard Shoemaker; Paul Andersen
Subject: Re: Project Referral Wasserman CDP 2020-02

The address on the referral response sheet I sent out yesterday was incorrect - the corrected address is on the sheet attached. If you have already responded and your response is not changed by this correction, there is no need to respond again.

Thanks much,

Teresa Spade
Point Arena City Planner

On Wed, February 19, 2020 11:59 am, Teresa Spade, AICP wrote:

- > The City of Point Arena is requesting comments from agencies with
- > jurisdiction over the attached project, which consists of construction
- > of an 800 square foot barn, accessory to an existing residence.
- > Attached is the application packet and referral sheet. Please respond within 15 days.
- >
- >
- >
- > Teresa R Spade, AICP
- > City of Point Arena Planner
- > PO Box 67
- > Point Arena, CA 95468
- > City Hall: 707-882-2122
- > Office: 707-397-1802
- >
- >

16.08 ACRES

EXHIBIT 9

$R = 730'$
 $\Delta = 3^{\circ}03'44''$
 $L = 39.02'$

See Detail "B"

$N 89^{\circ}13'50''W$ 510.18' (West 7.73 Ch.)
 $N 89^{\circ}13'50''W$ 510.67'

1.75 ACRES

(Section Line)²

PORT

ROAD

($S 89^{\circ}16'26''E$)
Basis of Bearings
1945 O.R. 203
Wasserman

Set monuments

only, based on
the official Field
to Town of Point
evidence at the
monuments or en-
circled.

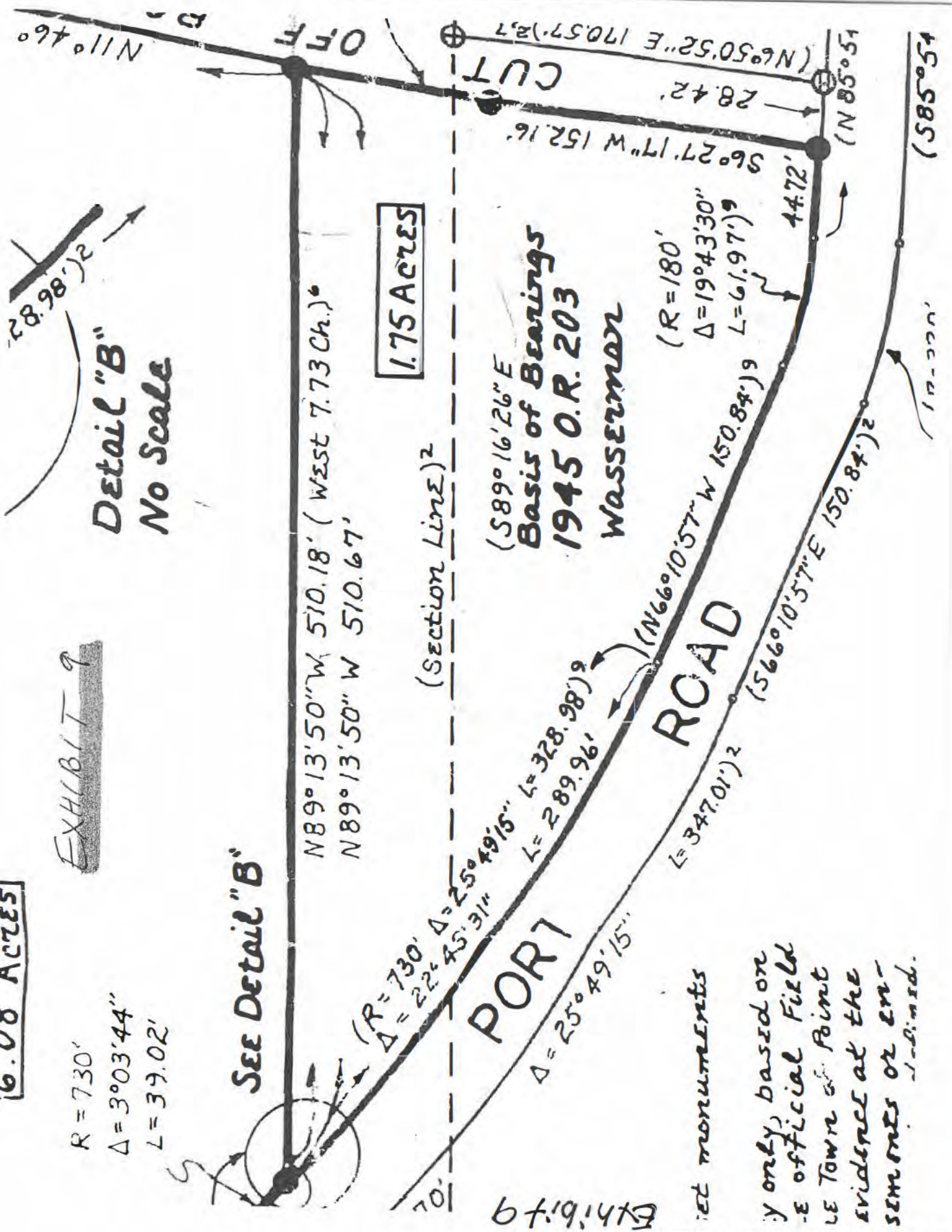


EXHIBIT 10

SURVEY OVERLAY OF RECORDED SURVEY ON FILE
PREPARED BY SURVEYOR VANCE RICKS



Exhibit 11

EXHIBIT

Response to:

Staff response to letter of concern from Arabella Akossy, June 23, 2020

A neighbor to Wasserman has submitted a letter of concern as of today at around 2:30pm. In her letter, Ms. Akossy expresses several concerns. The following is planning staff's response to the concerns expressed in the letter:

1. Akossy believes the project description is inaccurate, that the barn is actually 960 square feet rather than 800. The project application, including building plans were sent to the agencies and have been included with the staff report for clarity. Interior floor space is measured from the enclosed interior walls of the structure. The project plans show exterior measurements, which Akossy may have used to come to her different measurement. [7]

Response: According to the LCP Glossary, Page 1:

Floor Area, Gross. The enclosed area of a building measured from an exterior surface to exterior surface, but excluding the following: Exterior balconies and galleries covered but not enclosed; patios, atriums, and the like if not covered; common-use areas for all tenants; garages and carports; major mechanical equipment rooms.

Therefore, Ms. Spade's claim that the interior space should be used to calculate square footage is incorrect. (Incidentally, the building plans don't even list any interior measurements.)

Consequently, the barn/workshop still adds up to 960 SQFT and the total footprint is 926 SQFT, including the equipment storage area.

Much more importantly though, the planner fails to respond to my concern about the absolutely crucial omission of the project consisting not just of a barn but also of a workshop when asking input from the different agencies with jurisdiction. This has changed and distorted the basic premise and how the agencies would look at the project.

2. Akossy is concerned that the PAMB study is flawed, and also appears to suggest that the surveyor may have a conflict of interest. The study was reviewed and considered sufficient by US Fish and Wildlife Service, who is the expert on PAMB. Mr. Schmidt of USFWS was provided with the project referral which included all information associated with the nature of the project, and he is familiar with the extent of the habitat in the area. While the City Engineer also works for SHN, it is the opinion of staff that having the applicant hire someone from SHN to do the survey is not a conflict of interest. SHN is a large company with multiple offices. Further, the number of people qualified to do this type of PAMB survey is very limited in this area, and of the options, Mr. Saler appears to be a reasonable one

Response: I have outlined in detail the numerous reasons as to why the provided PAMB study for the project is utterly flawed and incomplete. The PAMB surveyor failed to survey "all the mountain beaver habitat from the perimeter of the project out to a distance of 500 feet" as required by The report actually admits that those areas not accessed ARE "presumed to be suitable PAMB habitat and as such could harbor PAMB". Obviously, Gregory Schmidt from USFWS must have overlooked this absolutely essential point and came to his conclusion in error. However, even in light of this and the other very compelling evidence I have provided previously, the planner seems to argue that both the biologist and the representative from USFWS are infallible when further investigation is clearly indicated before any decisive conclusion can be made. As a matter of fact, it should give pause as to why I was never contacted in first place about granting the biologist access to my property. In order for SHN to conduct a properly thorough study they should have reached out to me directly in advance or asked the applicant to arrange for them to be able to enter my property. So why this "large company with multiple offices" wasn't professional enough to handle this small yet very important preliminary step raises definite concerns.

Moreover, concerns about objectivity are raised by the fact that applicant and Point Arena City Council member Wasserman used SHN to conduct the PAMB study and botanical assessment, when the City's engineer (according to Ms. Spade) works for the same company and the City has been contracting with SHN since January 2018 on large projects, such as repairs at Arena Cove

(<https://drive.google.com/file/d/1yCFyZEVadoQ8A3CcCN6t4At5ijaiOiBD/view>) and the Port Rd. maintenance project.

SHN are certainly not the only firm (nor John Saler the only available PAMB surveyor) that would have been able to conduct the PAMB and botanical study as the City Planner likes to contend, and for the sake of "objectivity" and transparency another company would certainly have been a more sensible choice.

3. Akossy expresses concern that the CEQA exemption used was not appropriate because it should not be used if the project is located in a sensitive environment such that the project may impact an officially mapped and designated environmental resource of hazardous or critical concern. According to the study that was approved by USFWS, the project is not expected to have detrimental impact on PAMB, and therefore the project will not have the potential to impact an environmental resource of critical concern. The CEQA exemption is appropriate because with measures in place through the CDP process, no resources are being detrimentally impacted. ☐

Response: As outlined in my appeal the incomplete Saler-study should not be allowed as basis for the CEQA exemption. Moreover, I have listed numerous other reasons pertaining to ESHA why the CEQA exemption does not apply. Ms. Spade also references "measures in place with the CDP process". However, no noise studies have been conducted. Moreover, the ESHA contained within the MBBA also serves as "habitat for 16 special status species" (see Saler study), which would also be

impacted but no consideration is given hereto.

4. Akossy expresses concerns that the shop will be used for commercial purposes. Specifically that the applicant will be using the structure for woodworking. Any residential use of the structure would need to adhere to the noise ordinance for a residential neighborhood, and similarly, if the applicant was to be granted a home occupations permit, the residential noise ordinance would still apply. Approval or denial of the structure should be based on the reasonable, proposed use of the structure.

Response: The planner seems to suggest that the applicant should be able to build under the pretense of an "agricultural barn" and then be allowed to convert its use to a commercial shop under the Home Occupation rule, at which point the residential noise ordinance would apply. So the Council would actually knowingly go along with the applicant's ploy to obtain a CDP permit under false pretenses, thereby trying to forgo having to adhere to the rules and regulations (listed in detail in my appeal) that apply to a workshop. ☐

5. Akossy expresses concerns that water is not adequate to serve the structure and use. The proposed barn does not include any water or sewer hookups or use, so water capacity is not a consideration for the proposal. The project was referred to the fire department, who did not respond with concerns for the project. ☐

Response: The planner states that the fire department did not respond with concerns for the project. Let's keep in mind that they, along with all the other agencies, were told only of a barn and not a workshop, which with all its equipment and flammable materials has a much higher fire hazard potential than a mere barn.

6. Akossy expresses concerns that the area in question was illegally graded within the past couple years. Aerial photos and photographs have been submitted. From my own review of GoogleEarth imagery, I did not note any recent grading occurrences. ☐

Response: Maybe Ms. Spade did not understand that the applicant has graded without a permit within the area of the proposed building site area more than once. First years ago, when he leveled the area of where the building is proposed and just recently when he graded to the east (still within the project site) to widen the access road and level an area for material storage. I provided photos clearly showing the grading activity that occurred in September 2019 right next to and up to the applicant's existing septic field. This area is right within the project area outlined in the submitted building plans. Claiming that Google Earth doesn't show this grading is irrelevant because the planer had the actual pictures in front of her. Moreover, Google Earth images only update periodically so grading activity from less than a year ago would not show up yet. However, Google Earth Time Machine clearly shows that the area of the proposed building site, which the applicant claims was

graded in the 70s, was in fact still ungraded back around 2009 when he owned the property.

7. Akossy expresses concerns about drainage and runoff problems. A condition of approval has been included to address such concerns. ☐

Response: The condition for the permit pertaining to drainage was already violated when the applicant graded in September 2019 without having submitted a Best Management Practices plan for approval as stated under Special Condition #2. This – along with the other previously performed unpermitted grading has a high potential for causing problems with run-off to my downslope property and onwards to Arena Creek. This is of particular concern once the applicant starts operating his workshop and storing toxic solvents, stains, etc. which could lead to major contamination of the creek as well as the wetlands associated with it.

8. Akossy expresses concerns about the way the orientation of the building differs in the plans. The plans provided have been determined to be sufficiently clear to show what is proposed. ☐

Response: As members of the council found out for themselves during the hearing, while for several minutes trying to make sense of the building plans, they are actually not “sufficiently clear to show what is proposed” but rather confusing and inconsistent. So much so, that the NOFA under Special Conditions on page 4 lists:

4. Prior to issuance of the CDP, the City Planner will revise the CDP Staff Report by correcting the zoning from AE to RA-2, and will replace the floor plans and elevations, with accurate floor plans and elevations, which match the barn layout as shown on the site plan, and will clarify the use of the second story of the barn structure within the staff report.

9. Akossy expresses concerns regarding the accuracy of the property boundary in the plans. When the structure is built, the boundary line will need to be clearly delineated for the building inspector so that they can measure and assure the proper setbacks have been met. If there is a problem meeting the approved setbacks at that time, the applicant may need to come in for an amendment to the Coastal Permit. The site plan was designed by a registered architect with years of experience.

Response: Same said architect could not have used the recorded survey on file with the Mendocino County Assessor’s Office for the site plan, otherwise the property line would not run as close to my house as shown.

In closing, I would also like to point out that the City Planner only chose to address some points expressed in my letter and simply left a lot of questions and concerns unanswered.

Exhibit 12

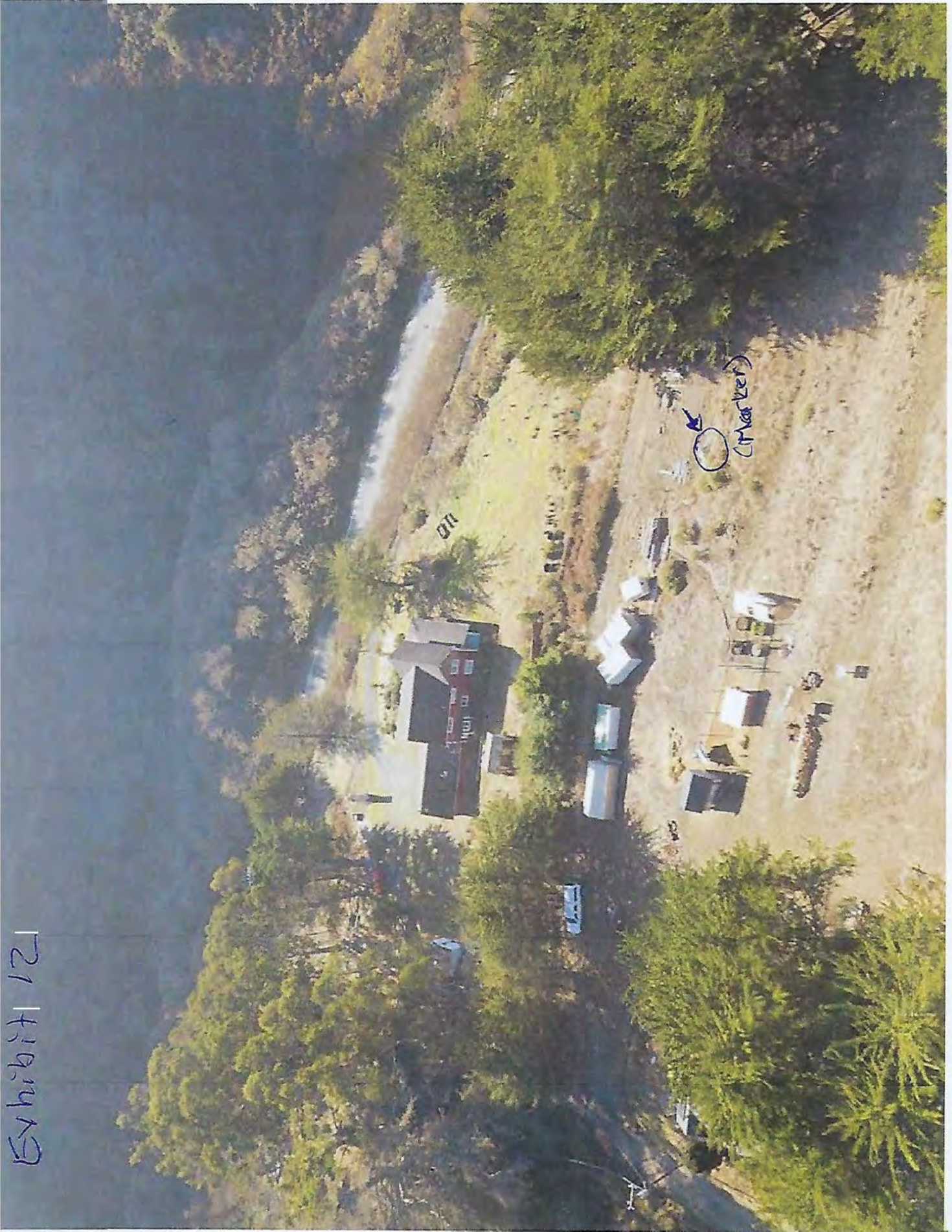


Exhibit 14

Subject: Summary of Points on Wasserman Appeal
From: "Targ, Sylvia@Coastal" <sylvia.targ@coastal.ca.gov>
Date: Fri, August 7, 2020 4:04 pm
To: "Teresa Spade" <planning@pointarena.ca.gov>, "Richard Shoemaker" <cm@pointarena.ca.gov>
Cc: "Kraemer, Melissa@Coastal" <Melissa.Kraemer@coastal.ca.gov>
Priority: Normal
Status: answered

Hi Teresa and Richard,

Outlined below are the three potential scenarios we discussed for the path of the appeal, some discussion of the appellant's contentions and some points of clarification we are seeking.

Paths for Wasserman appeal:

1) The applicant grants a "49-day waiver" (i.e., a waiver of the requirement that the Commission must hear an appeal within 49 working days; the form can be accessed from the Commission's website:

<https://documents.coastal.ca.gov/assets/cdp/49-day-waiver.nc.pdf>), the City re-hears the application (e.g., considers a permit amendment) at an upcoming Council hearing with changes (added conditions and findings) to address PAMB noise mitigation, water quality requirements, and any other LCP consistency issues needed. Commission staff would work with the City and applicant on condition recommendations. This is likely the fastest option for the applicant, because it could be heard at the City's August agenda and the applicant potentially could have his modified permit as early as September. However, the City's approval may again be appealed to the Commission. If that were to happen, we expect the Commission would find "no substantial issue" under the second appeal (which, if filed, would be filed in September) given the project changes addressing the identified issues. Commission staff would communicate this to the appellant to ensure she understands the likely outcome prior to filing another appeal.

2) The applicant grants a 49-day waiver, the CC processes the appeal and recommends substantial issue on the current permit to the commission (due to the PAMB and water quality issues raised in the appeal) but also, at the same Commission hearing, recommends approval of the permit with the added, agreed upon conditions. The Commission's decision would be final (not appealable). The soonest the Commission could bring the appeal to a hearing would likely be December.

3) The applicant does not grant a 49-day waiver, the CC hears the appeal at the September commission meeting with the recommendation of substantial issue with the permit due to PAMB and potentially other issues. The de novo action on the permit would be recommended for continuance till a future commission meeting. This option is the most complicated and has the most uncertain timeline. The timeline would in part depend on additional information required for submittal by the applicant.

Some of the contentions raised in the appeal include:

1) Noise concerns about the interference with the habitat of the Point Arena Mountain Beaver. Per the survey, there is potential PAMB habitat within 250 feet of

the proposed development.

* Section 5.24 of the Zoning Ordinance requires that listed standards A-D be met for any noise generating projects within 500 feet of occupied PAMB habitat, and as of now there are no noise limits specifically outlined in the permit. A woodworking workshop could potentially be considered a noise-generating project. The CDP should require noise mitigation as a condition of approval to ensure no adverse impacts to nearby PAMB habitat.

2) Concern about grading and water quality impacts. There is no specified plan included for managing runoff from the workshop that would ensure prevention of erosion, runoff, and pollution in the downslope area.

* The LCP includes various drainage/erosion control/water quality protection policies that require that creation of concentrated runoff be avoided, protection of bare soil areas during the rainy season, etc. Although there is a condition on the CDP requiring BMPs, no specific standards are specified for ensuring drainage/erosion control will be dealt with as required by the various LCP policies.

3) Concern that a future home occupation use will be developed in the permitted structure without separate CDP/environmental review that would assess potential noise impacts and a contention that such commercial use actually is not allowed in accessory structures in the RA-2 zone.

Some policy considerations and points of clarification related to these contentions:

These are some points in the zoning ordinance we have been examining in light of the appellant's concerns and the proposed development:

* Section 4.06 A, #3 reads that principally permitted uses in RA-2 areas include "accessory structures such as barns... not to be used for commercial purposes"

* Section 4.06 #7 reads that "adequate traffic capacity shall be substantiated prior to approval of any CDP"

* Section 5.06 of the zoning ordinance states that any home occupation that constitutes "development" (which includes "change in intensity/density of use" etc.) requires a coastal development permit.

* The definition of home occupation as stated in the LCP glossary on page 14 says that home occupation is "A use, that may be a commercial enterprise..."

Could you please clarify the process you would use to determine if the barn/workshop would or would not require a CDP if it becomes a commercial enterprise in the future as allowed for in the home occupation definition?

Do you see a conflict with the LCP provision that disallows commercial activity in accessory structures in the RA-2 zone (such as the barn structure permitted under this CDP) and the permitted home occupation use in the RA-2 zone? Perhaps an added condition on the CDP could address this conflict (e.g., a condition expressly stating that any future use of the structure for commercial purposes is not allowed and/or requires separate CDP authorization)?

The appeal raises issues about proximity of the approved development to the property line and errors in the project siting with respect to proper setbacks. Could you please clarify what you explained to us on the phone, the process by which the City

ensures that a project will be built with appropriate setbacks and how if needed an applicant is responsible for a land survey to confirm property boundaries?

We are trying to determine whether the alleged grading raised in the appeal is at the same site as the approved building site or elsewhere on the property. Perhaps the applicant can confirm/clarify.

We are working on consulting directly with the U.S. Fish and Wildlife Service to better understand potential PAMB disturbance and appropriate mitigation for new development within 250 feet of PAMB habitat.

We also will consult with our legal staff on Richard's question about whether an appeal can raise an issue that wasn't raised at the local level. We believe the answer is yes, it can bring up an issue that wasn't raised at the local level, but we will double check.

Please don't hesitate to contact us with any questions, comments or concerns. We will get back to you next week about how to move forward and we will try to communicate with the applicant next week as well. We hope to arrange a phone call with the applicant in the near future.

Best,

Sylvia Targ

Sylvia Targ

Coastal Planner

California Coastal Commission

1385 Eighth Street, Suite 130

Arcata CA 95521

sylvia.targ@coastal.ca.gov<<mailto:sylvia.targ@coastal.ca.gov>>

[cid:image002.jpg@01D0B189.E90AA810]

Attachments

untitled-[1.2].html	text/html	41 KiB	
Outlook-cid_image0.png	image/png	24 KiB	Outlook-cid_image0.png

November 17, 2020

Dear Point Arena City Council Members:

On June 23, 2020, you approved your fellow council member Richard Wasserman's CDP 02-2020 application for a barn/workshop at 44600 Port. Rd., completely disregarding numerous inaccuracies and serious issues that had been pointed out to you in my letter of concern prior to the hearing. Only after I filed an appeal with the California Coastal Commission on July 16, 2020, did the applicant and city staff think it prudent to address at least a select few of the glaring problems within the application.

This has included correcting the wrong square footage and errors within the building plans; adding previously non-existing PAMB mitigation, and now seeking permission after the fact for the grading that the city planner supposedly could not find any signs of, even though clear photographic evidence had been provided.

As a matter of fact, the applicant has been granted special treatment and undue assistance by city staff all along. As elected city government officials it is your duty to serve the public in general and not to selectively favor the private interests of a fellow council member by overlooking applicable rules and regulations.

Therefore, today's CDP 02-2020 amendment should be denied as the following substantial issues remain with both the application and the staff report dated November 4, 2020:

A) Unpermitted Grading Activity

1. Grading activity from September 2019 is downplayed and its location misrepresented in the staff report. Instead of 50'x10'x2' and 37 cubic yards asserted by the planner, the actual graded area measures in excess of 60'x12'x2.5', adding to 67 cubic yards. In addition, the access road was widened by at least 2 feet along 100 feet, adding roughly another 15 cubic yards for an approximate total of 81 cubic yards. (Exhibit 1)
2. Thus, the allowable 50 cubic yards for the most recent grading have been exceeded and the categorical exemption no longer applies.
3. All remaining additional extensive grading without a permit by the applicant done in previous years, brought to the City's attention in my original letter of concern, dated June 22, 2020, continues to be ignored. This includes, but is not limited to, the intended building site as well as the access road plus the entire turn around area. (Exhibit 4)
4. The applicant has graded literally thousands of cubic yards since acquiring the property at 44600 Port Rd. in October 1991. Google Earth Pro satellite images date back to 1998 (see Exhibit 2 and Exhibit 3) and clearly show that it was not until 2011 (Exhibit 4) that significant grading was performed all over the property. The applicant's explanation in his mostly fictional "Narrative for the Barn" that all grading happened before his ownership is thereby demonstrably false.
5. Since the applicant graded the access road to the building plus the proposed building site himself, it is incorrect to assert these areas are "not near, nor directly connected to the barn project" (Staff Report (SR), p. 12.) All this grading is in fact connected and pertinent to the

proposed project site but has not been identified, as was recommended in the current and previous staff report (p. 15 and p. 9 respectively)

6. Staff's claim that "the barn is to be placed in area that was an old road bed" (SR, p.6) is false. There was no roadbed until the applicant graded and graveled the area himself.

7. It is nonsensical to maintain the graded area from 2019 "is meant to be temporary until the barn is completed". The applicant is already using this particular area for storage of building materials, thereby already having circumvented staff's original recommendation (SR June 23, 2020, p. 9) to identify where building materials are going to be stored.

8. Moreover, a correct representation of the grading would then show that the applicant indeed did grade right up to his existing septic field. Misleadingly, the area marked red, depicting the most recent grading on the building site map (SR, p. 21) does not correspond to the scale legend and actually only depicts 30 feet in length, not even the 50 feet presumed by the planner nor the actual length of 60 feet. (Exhibit 1)

9. This illegal grading near the applicant's septic system has potential negative implications for my water well located downslope from the grading site and needs to be investigated further.

10. A number of issues described under the Water Quality heading have been triggered due to all the grading performed without permits and/or a BMP (Best Management Practices) plan.

11. The accumulated illegal grading also has high potential for causing problems with run-off onto my property (which is located downslope from the building site) and onwards to Arena Creek. This is of particular concern once the applicant would start operating his workshop and storing toxic solvents, stains, etc. which could lead to major contamination of Arena Creek as well as the wetlands associated with it.

12 In addition to the environmental impact on Arena Creek and the associated riparian area, placing the proposed building and its parking area above and almost adjacent to my residence would create severe environmental damage; drainage and run-off problems for my property, toxic contamination among them. The increased water flow could result in considerable damage to my foundation.

13. In regard to run-off LCP VI, Open Space/Cons., p. 6 calls for the following:

New development should be required to: (a) avoid creating concentrated runoff, particularly over steep slopes and bluff faces, by installing energy dissipating devices, (b) create drainage swales, detention, and retention basins, (c) control the timing and manner of new construction so that there are no bare soil slopes during the rainy season, etc.

However, none of these requirements have been added to the Special Conditions in the current staff report.

B) Point Arena Mountain Beaver (PAMB) Protection

1. Currently, this CDP does not have a required valid PAMB survey report on file, after the original study expired on July 31, 2020. This renders the entire application incomplete.

2. Within the staff report, the planner misleadingly implies that the original PAMB report only expired on October 17, 2020. This is incorrect, as the actual study was performed on July 31, 2018, which then expired exactly two years later on July 31, 2020.

3. City staff arranged for USFWS (U.S. Fish & Wildlife Service) biologist Greg Schmidt to provide free of charge another survey for applicant Wasserman, subsequently performed on October 23, 2020. However, Mr. Schmidt did not write up an actual report including the required maps, photographs, etc. as outlined in the guidelines by the USFWS and as written in the LCP code. He only provided an email (Exhibit 5) to the planner describing his findings without any of the required corroborating materials.

4. I had a number of email conversations about an appropriate PAMB survey with Mr. Schmidt, in which said the following:

- a) Initially, he said a new study was needed because the old one had expired on July 31, 2020.
- b) He was at first doubtful a workshop was going to be operated. (Remember that the agencies with jurisdiction were only told of an 800SQFT barn and nothing about a workshop.)
- c) After being repeatedly questioned if all applicants whose privately funded PAMB studies have expired are granted a free study by the USFWS, he said that he usually does not provide assessments for private individuals.
- d) He was providing the service because there was a "conflict of interest" (presumed to be of ethical nature), referring to the city planner Teresa Spade not being able to perform the survey.
- e) He personally trained city planner Spade to be a PAMB surveyor.
- f) When asked why the planner should now perform the survey in the first place, Schmidt then replied he would be doing the study because I had brought the original into question. (However, he did not respond to my concerns when I first contacted him on July 9, 2020.)

5. According to USFWS guidelines surveys need to be conducted within 250 feet of the project site and are then valid for two years (Exhibit 7). The original study by John Saler did not survey on my parcel at all, giving the false explanation that they were not granted access to my land.

6. In actuality, Mr. Schmidt subsequently only surveyed within 100 feet of the project site, and notes a "large patch of suitable habitat" on my parcel. He also points out suitable habitat of up to 1000SQFT running directly adjacent to the project site. (Exhibit 5)

6. Ultimately, the full 250 foot perimeter from the building site were not surveyed and consequently Mr. Schmidt's assessment does not qualify as a new complete study, as is required after the original became invalid. (Exhibit 7)

7. Overall, having a USFWS federal employee involved in providing a survey for the applicant, personally arranged by city staff, seems rather irregular. Most probably, every

other CDP applicant would have had to hire his or her own independent PAMB surveyor and pay for the required new study.

8. In addition, critically endangered PAMB (of which according to Mr. Schmidt possibly only very few remain) is still not granted protection to the fullest extent required.

a) No mitigation for "Visual Disturbance" as described in the *Draft Point Arena Mountain Beaver Standard Protection Measures For "No-Take" Determinations* that were supplied to me by Mr. Schmidt has been added. (Exhibit 6)

b) The same guidelines list the breeding season for PAMB from "1 December through 30 June" (Exhibit 6). But Special Condition #2 (SR, p. 11) wrongly lists "December 15 through June 15" instead.

C) Categorical CEQA Exemption Error

1. The categorical CEQA (California Environmental Quality Act) exemption is erroneously allowed to stand, thereby also disregarding the proposed project's impact on the surrounding ESHA (Environmentally Sensitive Habitat Area) and foregoing necessary mitigation measures for noise impact, etc., as outline under CEQA.

2. Under State CEQA guidelines the categorical exemption does not apply when:

- a) *The project is located in a sensitive environment such that the project may impact an officially mapped and designated environmental resource of hazardous or critical concern.*
- b) *The City of Point Arena Biological Resources and Trail map (SR, Figure 7, p. 10) clearly shows that the proposed building site parcel, my parcel and the bluff area straight across are all located within the officially mapped 1000-foot zone of the MBBA.*

3. Therefore, the categorical exemption should not be allowed to stand.

D) Lack of Adequate ESHA Protection

1. The applicant's as well as my property are located within the officially mapped MBBA, which designates it as ESHA (Environmentally Sensitive Habitat Area), even if PAMB are currently not present. However, the ESHA designation is not being taken into consideration.

2, LCP X. Coastal, p. 32 defines ESHA as such:

"Environmentally sensitive area" shall be defined as any area 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.

2. The following areas shall be considered ESHA (LCP X. Coastal, p. 30):

- a) Any habitat area that is rare or especially valuable from a local, regional, or statewide basis.
- b) *SEP Areas that contribute to the viability of plant or animal species designated as rare, threatened, or endangered under State or Federal law.*

3. LCP (E) Policies X. Coastal, Page 27:

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.

4. A noise-generating workshop has no place in an ESHA, as it would clearly impact and degrade the environment.

5. LCP X. Coastal, Page 30:

a) To the maximum extent feasible, the City shall map environmentally sensitive habitat areas inside the city including, but not limited to, certain wetlands, seasonal creeks, springs, habitat for rare, threatened, or endangered species, and riparian habitat. The determination of what constitutes ESHA shall not be limited by what is mapped. Restrictions shall apply to development in and adjacent to sensitive habitat areas. Any area not designated on the LUP ESHA Map that meets the ESHA criteria is ESHA and shall be accorded all the protection provided for ESHA in the LCP. Revisions to the map depicting ESHA shall be treated as LCP amendments and shall be subject to the approval of the Coastal Commission.

b) Any area mapped as ESHA shall **not be deprived of protection as ESHA**, as required by the policies and provisions of the LCP, **on the basis that habitat has been illegally removed, degraded, or species that are rare or especially valuable because of their nature or role in an ecosystem have been eliminated.**

5. This clearly indicates that even though PAMB may currently not be present within 100 feet of the project area, the area should not be deprived of ESHA protection.

6. LCP X. Coastal, Page 32, Sec. 5.27 Mitigation Measures:

The Planning Commission or City Council shall as a condition for a Coastal Development Permit, require that a developer mitigate for impacts to ESHA. The permit shall include conditions that require implementation of all feasible mitigation measures that would significantly reduce adverse impacts of the project.

7. Just to reiterate: the project is within the MBBA as well as adjacent to other ESHA (Arena Creek, wetlands, riparian corridors) and there are "16 other special status species" (see original Saler study) in the area that would be impacted by the project. However, no specific ESHA mitigation measures have been included for this project. It should also be noted that a workshop and the associated use of products such as toxic solvents, stains, oils, etc. could lead to major contamination of Arena Creek as well as the wetlands associated with it.

8. Again, LCP VI, Open Space/Cons., p. 6 calls for the following:

New development should be required to: (a) avoid creating concentrated runoff, particularly over steep slopes and bluff faces, by installing energy dissipating devices, (b) create drainage swales, detention, and retention basins, (c) control the timing and manner of new construction so that there are no bare soil slopes during the rainy season, etc.

9. However, none of these requirements have been added to the Special Conditions in the current staff report.

E) Land Use and Zoning Issues

1. Staff continues to perpetuate the false narrative that “the proposed barn is to be used for storage associated with existing livestock maintenance, and proposed agriculture.” (SR, p. 3)

2. The only livestock element on the applicant’s property continues to consist of two pet goats, for which there already exists a fenced-in corral and stall as well as an adjacent shed for their feed.

3. While the applicant has added a vegetable patch, not a single fruit tree, as described in the narrative, has been planted. Such small-scale gardening would hardly require a 960SQFT barn with 444SQFT equipment storage.

4. Instead, the true intended use of the building all along has been for a commercial woodworking shop and an apartment conversion on the first floor. The applicant is a working finish carpenter, who has already been engaging in carpentry activity on his property, creating an ongoing noise nuisance. (separate Video Attachment)

5. While maintaining that the workshop is going to be non-commercial, staff is nevertheless trying to lay the groundwork for the applicant to operate his commercial woodworking business under the Home Occupation Rule.

6. In the staff report (p. 3) the planner failed to use the definition from the Zoning Ordinance (p. 12) for the applicant’s RA-2 zoning, which clearly states under “Principally permitted uses”:

Accessory structures such as barns, pens, coops, stables, not used for commercial purposes.

7. Furthermore, the planner should have used the following definition for Home Occupation as described in Zoning Ordinance (p. 22-23):

Home Occupation: Home occupations, including but not limited to sewing, music studios, desktop publishing, art studios, computer programming, professional offices, home and health care product distributors, bookkeeping, rooming and boarding of not more than 2 persons including tourists, may be permitted as an accessory use to any dwelling, subject to the following conditions and to the provisions of the zone in which the occupation is proposed, and coastal development permits, where the use constitutes “development” as defined in the Glossary and Appendix A of the Zoning Ordinance:

D. Electrical motors only, and not to exceed a total of three horsepower each.

*E. No radio or television interference, amplified music, **or noise audible beyond the boundaries of the site.***

F. No significant increases in automobile and truck traffic over normal residential use.

G. The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. All aspect of the home occupation, including storage, shall be conducted entirely within the dwelling unit or enclosed accessory

building(s) on the premises.

J. No equipment or process used shall create noise, vibration, fumes, dust, odors, smoke, electrical interference, or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood.

K. Home Occupations shall not include manufacturing, processing or transportation of flammable, combustible, explosive, toxic or other hazardous materials.

8. All this indicates unambiguously that under no circumstances should the applicant be allowed to operate a noise-generating commercial shop in a residential neighborhood within city limits.

9. This also brings up the incorrect zoning of my parcel as AE (Agricultural Exclusive), which instead needs to be designated SR -1. The applicant mentioned well over a year ago, that my zoning had been changed. I have enquired three times with Deputy City Clerk Paul Andersen and he promised to send me the updated information. Just recently, however, he said it was up to the city planner Spade to make the determination. AE requires a minimum lot size of 20 acres; my 1.75 acres clearly do not qualify.

F) Lack of Noise and Visual Screening Considerations

1. The extreme proximity of the proposed building and parking area would have the following impact:

- a) Noise pollution: the applicant has already been performing extremely noisy woodworking activity on a regular basis right near my house by the property line (see video attachment sent to council members' email)
- b) Light pollution: an exterior light has been added to the building plans. Currently, the applicant already flouts the City's Light Pollution Ordinance by operating glaringly bright 270-degree floodlights on his deck that shine into my two north-facing bedrooms and light up not just his large cypress tree 250 feet from his residence but also all of my very tall trees on the west side as well.
- c) Added traffic would create noise and fumes.
- d) Complete loss of privacy in my backyard and majority of rooms in my residence.

2. Considerable noise pollution from the shop would also affect the public and the environment. The sounds of screeching electric saws, loud hammering and air compressor use would be amplified by bouncing off my house and the bluff across the way and would undoubtedly be audible at significant distances. Furthermore, it is of special concern that the bluff in question is part of the designated buffer zone for PAMB (MBBA) and that they are extremely sensitive to noise and vibrations.

3. Additionally, the very large metal roof of the project would create a noise nuisance during rainfalls.

4. However, the staff report still does not call for a noise study nor does it include any requirement that noise from the workshop be mitigated.

5. From the Municipal Code 18.25.060 the following applies:

- a)(6) *No significant increase in automobile and truck traffic over normal residential use;*

b) (10) No equipment or process used shall create noise, vibration, fumes, dust, odors, smoke, electrical interference, or other impacts in excess of those customarily generated by single-family residential uses in the neighborhood;

A workshop and living quarters on the first floor would create all of the above.

6. Moreover, the building plans have still not incorporated any screening for the south-facing opening of the proposed equipment storage area, so 444 SQFT of assorted equipment and materials would be visible from almost every room of my house and backyard. The western side, which is not visible to anyone, however, would be screened.

7. According to 18.25.060 Home Occupation:

- a) The home occupation shall be clearly incidental and subordinate to the use of the premises for residential purposes. **All aspects of the home occupation, including storage, shall be conducted entirely within the dwelling unit or enclosed accessory building(s) on the premises***
- b) The proposed location of the use and conditions under which it may be operated and maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.*

8. Yet, my property would be severely degraded by the proposed building due to the numerous reasons outlined in this letter.

G) Negative Impact on Public from Workshop

1. LCP VI. Open Space/Conservation Goals (p. 4) stipulates:

*To ensure that all pollutants, **including unwanted sounds**, are not allowed to impact negatively on the environment.*

However, nothing in this regard has been addressed.

2. From LCP, *Constraints Imposed By Local Values and Expectations*:

The following are Point Arena's "Sacred Cows" ... those features which are to be maintained and preserved as the town grows and accommodates more people, businesses, and houses. The General Plan acknowledges these and other features and asserts that they are to be taken into account with respect to all new developments in order to create a more perfect environment and save what is highly regarded by the populace. The "sacred cows" of Point Arena are:

- The integrity, water quality and natural condition of Point Arena Creek*
- The low ambient noise levels^[SEP]*
-

Again, neither one of these points has been taken into consideration.

3. Moreover, LCP XII. Review/Permits, Page 6 states:

- a) That the proposed development at the size and intensity contemplated, and at the proposed location, will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community;*
- b) That such use as proposed will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, injurious to property improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*

- c) *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*
- d) *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;*

Yet again, all these points have been disregarded.

H) Failure to Provide Correct Information to Commenting Agencies

1. "Fire Hazards" (SR, p. 7) notes that the Fire Department was noticed on February 20, 2020 (Exhibit 8), which means they have not been updated on the true scope and nature of the proposed building but are instead still under the impression that the project consists of an 800SQFT agricultural barn instead of 960SQFT barn/workshop building with an abutting 446SQFT equipment storage area. Of concern is also that the woodworking shop would house flammable liquids, such as toxic wood stains, solvents and oils.
2. Had Environmental Health been informed of the applicant's illegal grading near his septic system they more than likely would have responded with a comment, instead of not commenting (SR, Summary of Referral Agency Comments, p. 20.)

I) Degradation and Devaluation of Neighboring Areas

The negative impact from the proposed building includes but is not limited to:

- a) Noise Pollution
- b) Light Pollution
- c) Water Quality Issues
- d) Flooding
- e) Property Damage
- f) Soil Contamination
- g) Property Value Decrease

J) Inaccurate Property Boundary and Inappropriate Setback Descriptions Remain

1. The property boundary and necessary setbacks are still inaccurately represented in the building plans. Please review the attachments included showing that the section line has been substituted for the true boundary. The survey recorded under Map Case 2/Drawer 60/Page 11 (Exhibit 9) commissioned by the applicant in 1995, in conjunction with the survey overlay aerial image, clearly demonstrates this. (Exhibit 10). None of this has been appropriately considered so far.
2. The actual boundary line is considerably farther north and, therefore, the application's building site plan is flawed, and the required setbacks are not as described and would run afoul of the setback requirements as presently proposed. (Exhibits 9 & 10)
3. Two boundary surveys have indicated that the property markers for my parcel have been manipulated and are therefore no longer in the correct position. To remedy this situation I would have to commission a very costly completely new property survey - a fact that the applicant is well aware of and has been trying to exploit to his benefit as evidenced by the utterly skewed building site plans. These drawings do not even match in regards to the

given boundary measurements in relation to the scale legend (i.e. 1 inch equaling 20 or 40 feet respective of the different plan pages.)

4. At the same time, even a non-professional can easily see when comparing the recorded survey map and satellite images of the properties that the supposed boundary line in the building plans is incorrect. (Exhibits 9&10)

K) Lack of Enforcement For Previous Violations

In my first Letter of Concern submitted before the first public hearing on June 23, 2020 I brought up the following issues:

1. Unpermitted grading near septic system performed in September 2019.
2. Extensive unpermitted grading in years prior that encompass the proposed building site and the entire access road.
3. Carpentry noise nuisance from the applicant using his steel containers as temporary makeshift workshop.

Yet, none of these violations were even acknowledged, let alone investigated.

Instead, the application process has been marred by:

L) Inappropriate Assistance, Leniency and Questionable Ethical Conduct from City Staff

1. The initial CDP approval was granted despite the application being quite obviously inaccurate and incomplete.
2. A completely flawed original PAMB study was allowed to stand.
3. The grading was blatantly denied to even exist until a Coastal Commission had been filed. (Exhibit 11)
4. The NOFA (Notice of Final Action) was issued despite all the problems with the application, when instead the CDPA should have been revoked due to illegal grading and for having already violated a Standard Condition by not providing a BMP plan for the areas graded that indeed are part of the project area.
5. The planner now wants to falsely assert the graded area and the access road are not part of the project area when they are. (Exhibit 1)
6. The planner also aims to misrepresent the volume and location of the illegal grading. In this attempt she has drawn up a misleading depiction on the building site plan to minimize the visual representation of the damage done. (Exhibit 1)
7. The planner arranged for USFWS biologist Greg Schmidt, who is personally known to her as he trained her to become a PAMB surveyor, to supply the applicant a PAMB survey free of charge.
8. Staff already tries to lay the groundwork for letting the applicant operate his commercial workshop under the Home Occupation rule when his RA-2 zoning does not support this kind of use.
9. There are also serious implications of the Brown Act having been violated (i.e. the project has been discussed outside of open meetings).
10. The hearing noticing protocol has not been followed correctly.

All in all, an inappropriate amount of time and effort from city staff seems to have been invested in helping council member Wasserman realize his ill-conceived building project against better judgment and the applicable rules and regulations. This begs the question if a member of the general public would receive the same kind of support in a similar situation?

In closing, I would like to remind you of a statement council member Wasserman made during the council meeting on August 25, 2020 after being asked if there were ways to make the CDP application process easier for applicants. His reply: "We can't be lenient for some people and then not for others, that would open us up to legal repercussions."

Respectfully submitted,
Arabella Akossy

Exhibit List:

1. Shows the actual size of the illegal grading that occurred marked in black with diagonal lines.
2. Google Earth Pro image from 1998, which shows none of the grading, which was performed by the applicant in later years. The building site had not been graded at that point nor is there an access road to it.
3. The image from 2003 still shows none of the later extensive grading.
4. The image from 2011 shows fresh grading all over the applicant's property. No permits were acquired for any of this grading.
5. USFWS biologist's assessment email, which does not qualify as a full PAMB survey report.
6. USFWS *Draft Point Arena Mountain Beaver Standard Protection Measures For "No-Take" Determinations*
7. USFWS *Draft Point Arena Mountain Beaver Survey Protocol*
8. Letter to Coastal Commission by City Planner from February 20, 2020 showing that only a barn of 800SQFT is mentioned.
9. This is the valid recorded survey, on file with the County Clerk's Office, under Map Case 2/Drawer 60/Page 11.
10. This shows a overlay of the above referenced survey, prepared by surveyor Vance Ricks. Please note how much further north the property boundary is compared to the depiction in the building site plan.
11. Rebuttal to the response the Planner gave to my original letter of concern. This document was included in my appeal to the Coastal Commission. It was omitted by city staff when they posted my appeal on the City's website and have still not corrected this, even after I made them aware of the oversight. Point 6 pertains to the Planner not being able to find any grading activity on the applicant's property.

From: [REDACTED]
To: [Targ, Sylvia@Coastal](mailto:Targ.Sylvia@Coastal); NorthCoast@Coastal
Subject: Re: Wasserman industrial development in Point Arena Mountain Beaver territory, and several other overlooked encroachments.
Date: Wednesday, December 9, 2020 3:10:21 PM
Attachments: [CDP-AppealForm-sc.pdf](#)
[Outlook-cid_image0.png](#)

ATTN: Aurora Robinson, Arcata Administration

As we discussed earlier today. I hope this doesn't erase everything I wrote on the form - again!

Please forgive that I have sent "unsigned" documents on purpose, in that my computer isn't updated to sign digitally. Consider them signed by sending this email.

Thanks for calling.

Debra Keipp

On Wednesday, December 9, 2020, 09:49:10 AM PST, Targ, Sylvia@Coastal <sylvia.targ@coastal.ca.gov> wrote:

Hello Ms. Keipp,

Thank you for your email. Today @ 5 PM is the deadline to file an appeal. We need the appeal form sent to the North Coast inbox to be considered filed- attached is an appeal form.

Sylvia Targ
Coastal Planner
California Coastal Commission
1385 Eighth Street, Suite 130
Arcata CA 95521
(707) 826-8950
sylvia.targ@coastal.ca.gov

*please note in-office phone responses may be delayed due to SIP and COVID-19



From: Debra Keipp [REDACTED]
Sent: Tuesday, December 8, 2020 2:13 PM
To: Targ, Sylvia@Coastal <sylvia.targ@coastal.ca.gov>
Cc: City of Point Arena <admin@pointarena.ca.gov>
Subject: Wasserman industrial development in Point Arena Mountain Beaver territory, and several other overlooked encroachments.

I am a former Planner and City Council Member with the City of Point Arena, around the turn of the last century(!). For much of the time, Council also served as Planners and were paid \$35/month, if the City

hadn't voted to withhold salaries altogether in a budget crisis! I sat with Mayor Leslie Dahlhoff, Wasserman, Kevin Gallagher (Coast Guard House) and John Tante (Wharf Master's Inn). All of us owned property in Arena Cove Canyon on Port and Mill Streets.

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I moved up to Point Arena from Berkeley in the '90's, and prior to that, the first environmental creek restoration project was funded to a Berkeley woman for the restoration of Point Arena Creek, which borders Mill Street. Absolute PAMB territory.

As Planners we made allowances for thorough inspection and EIR's of the limestone cliffs and PAMB areas in question also belonging to R. Wasserman at his Port Road home. As well, the *unpermitted driveway that Wasserman graded and paved in the past, sits half on his neighbor's property, as the property stakes were long ago, pulled out between Wasserman and Fox properties/homes by Richey Wasserman to build his unpermitted driveway*. This driveway, previously named Devil's Cut-Off, served as a skid-road short-cut to Arena Cove from Lake Street to Port Road. Planners had voted to NOT develop it as a fire road.

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Can't imagine the noise from Richard Wasserman's saw mill is going to be music to the ears, either, do you?

Wasserman had appointed Mayor Dahlhoff, who ran on the environmental ticket, and both voted in favor of many of the same issues concerning sanctuary for the PAMB, grading ordinances, lighting issues, building and planning setbacks acceptable to the privacy, peace and enjoyment of personal space within our homes, regarding encroachment of building projects within the City limits of Point Arena, while respecting the rural sensitive habitat setting we all love and want to maintain. Within Point Arena there are several microclimates as they relate to the limestone cliffs scattered throughout town.

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positions of power, Wasserman has served many times as Mayor over the last forty years in Point Arena.

Don't you suppose at this point in his political career, it's probably time to pay off alot of favors? I'm just going by appearances in this particular oversight.

I ask you to look at the one minority who voted against approving Wasserman's building plan and ask this minority what his concerns were. He asked some very credible questions. We were very excited to see Jonathan Torres take a seat with the City of Point Arena Planners and Council, but he recently quit after one term, discouraged at the way the process was used... votes for personal gain after many years' service to the City of Point Arena.

I understand Richard Shoemaker is "waiting to retire until after Richard Wasserman's plan is approved". Interesting pre-cognizant choice of words.

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To approve an industrial saw mill in this environmentally protected area of the City of Point Arena is ludicrous from an environmental point of view.

Sincerely,

Debra Keipp

[REDACTED]

Air Quality
Fish & Wildlife
City of Point Arena



APPEAL FORM

Appeal of Local Government Coastal Development Permit

Filing Information (STAFF ONLY)

District Office: South Coast

Appeal Number: _____

Date Filed: _____

Appellant Name(s): _____

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review [the appeal information sheet](#). The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's [contact page](#) at <https://coastal.ca.gov/contact/#/>.

1. Appellant information¹

Name: Debra Keipp

Mailing address: [REDACTED]

Phone number: [REDACTED]

Email address: [REDACTED]

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☒ Submitted comment ☒ Testified at hearing ☒ Other

Describe: All those checked above, and was Planner for City of Pt. Arena.
Wrote and edited original PAMB protected species act of 12/12/99,
Adopted into General Plan/Ordinances for City of Pt. Arena.
See attached documents.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: City did not obtain required current PAMB survey.
It only takes 60-80 votes to get elected in small town Pt. Arena.
He has graded, paved and developed his property known as AP027-081-12.
Rarely does he apply for appropriate permits. He also voted for preservation of the PAMB.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

2. Local CDP decision being appealed²

Local government name: City of Point Arena

Local government approval body: Point Arena City Council/Planners

Local government CDP application number: 2020-02(01)-44600/240 Port Road

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: November 18, 2020

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Council/Planners approved further permitted development of APN:027-081-12.

Driveway is former skid road straddling neighbor's obscured property line,

known as Devil's Cut-off, which City decided because of alluvial nature of terrain,

against developing in 1998-99, as a firelane from Lake to Port Road.

As well as unstable nature of alluvial flow, PAMB territory is protected Federally.

Please see documents submitted by Arabella Arassy, downhill neighbor at 220 Port Road.

Wasserman pulled up neighbor, Fox's property stakes in order to create paved driveway for himself.

He then, built his new driveway straddling the property line, even tho Fox is not given use of drive.

Wasserman's moto is: Better to ask for forgiveness later than permission, first.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

3. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., the applicant, other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

4. Grounds for this appeal⁴

For appeals of a CDP approval, grounds for appeal are limited to allegations that the approved development does not conform to the LCP or to Coastal Act public access provisions. For appeals of a CDP denial, grounds for appeal are limited to allegations that the development conforms to the LCP and to Coastal Act public access provisions. Please clearly identify the ways in which the development meets or doesn't meet, as applicable, the LCP and Coastal Act provisions, with citations to specific provisions as much as possible. Appellants are encouraged to be concise, and to arrange their appeals by topic area and by individual policies.

Describe: Please read documents submitted by Arabella Arassy, neighbor at 220 Port Road. Arassy will suffer the loss of the peace, privacy and continued enjoyment of her property as she bought it, without a lumber saw mill next door, breaking previously serene decibel levels. She has prepared valid arguments. Please consider her reality living next to a sidewinder like Wasserman, who has manipulated all the property lines around his new development. Development should be pursuant to determining correct property lines FIRST! Also, City records of 1998-99 re: aborted development of Devil's Cut-Off due to alluvial flow and PAMB Wasserman worked his unpermitted development for 30 years before filing for appropriate permits after the fact. Where are fines for this privileged Councilman? Why is there no current PAMB survey? Why, when Mayor Dahlhoff served, was she concerned with decibel levels disturbing the PAMB, which we had come to know lives all over town in everyone's yards. Point Arena is perfect for digging rodents.

⁴ Attach additional sheets as necessary to fully describe the grounds for appeal.

5. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Debra Keipp

Signature _____

Date of Signature Dec. 9, 2020

5. Representative authorizations

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☒ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Debra Keipp

CDP Application or Appeal Number 2020-02(01) - 44600/240 Port Road

Lead Representative

Name Arabella Arassy
Title Property owner, neighbor next door.
Street Address. [REDACTED]
City [REDACTED]
State, Zip [REDACTED]
Email Address [REDACTED]
Daytime Phone [REDACTED]

Your Signature _____

Date of Signature _____

Additional Representatives (as necessary)

Name Blake Juntz
Title Owner, Coast Guard Boat House formerly owned by Wasserman at time of RICO investigation.
Street Address. unknown to me
City Ft. Bragg
State, Zip _____
Email Address [REDACTED]
Daytime Phone [REDACTED]

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Your Signature _____

Date of Signature _____

From: [REDACTED]
Subject: [REDACTED] Coastal
Fw: Wasserman industrial development in Point Arena Mountain Beaver territory, and several other overlooked encroachments.
Date: Tuesday, December 8, 2020 10:29:51 PM

Additionally, CDP Appeal Form submitted under separate cover e-mail in consecutive order.

From: Debra Keipp <debrakeipp@yahoo.com>
To: Sylvia.Targ@coastal.ca.gov <sylvia.targ@coastal.ca.gov>
Cc: City of Point Arena <admin@pointarena.ca.gov>
Sent: Tuesday, December 8, 2020, 02:13:22 PM PST
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Sincerely,

Debra Keipp
[REDACTED]



NOTICE OF FINAL ACTION

On Coastal Development Permit

On November 18, 2020, final action was taken by the City of Point Arena on the following Coastal Development Permit application:

Permit Type & No.: CDPA #2020-02 (01)
Project Location: 44600/240 Port Road, Point Arena (Mendocino County)
APN: 027-081-12
Owner/Applicant: Richard Wasserman
Agent: n/a
Filing Date: August 14, 2020 **Action Date:** November 18, 2020

RECEIVED

NOV 25 2020

CALIFORNIA
COASTAL COMMISSION
NORTH COAST DISTRICT

Project Description: The applicant requests an amendment to Coastal Development Permit 2020-02 which approved construction of a residential accessory barn/workshop. The amendment adds clarifications and additional conditions of approval. Additionally, permission is requested after the fact for approximately 38 cubic yards of grading.

Appealable Area: Yes

General Plan: Residential Agriculture – 2 Acre

Zoning: Residential Agricultural (RA-2)

CEQA: Categorically exempt from CEQA – Class 3 (e) Section 15303

Action By: ☐ City of Point Arena Planning Commission
☒ City of Point Arena City Council

Action Taken: ☐ Approved
☒ Approved with Conditions (See attached Findings & Conditions)
☐ Denied (See attached Findings)

This project is: ☐ Appealable to the City Council. An aggrieved person may appeal this decision to the City Council by filing a written appeal with the City Clerk within 10 working days after a decision by the Planning Commission.

☐ Not appealable to the Coastal Commission. Actions of the City Council, acting as Planning Commission, are final.

☒ Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following the Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the appropriate Coastal Commission district office.

Richard Shoemaker City Clerk/City Manager
November 19, 2020

STANDARD CONDITIONS:

1. This action shall become final on the date of approval. No appeal periods apply. The permit shall expire and become null and void at the expiration of two years after the effective date, except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The City will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 18 of the Point Arena Municipal Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the City of Point Arena Planning Commission or its successor agency.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Mendocino County Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined

or otherwise prohibited the enforcement or operation of one or more such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. A two-year limitation applies to all coastal development, variance, conditional use, design review, planned residential development, or comprehensive development plan permits. If development has not commenced within two years from the granting of a permit, the permit shall be void, except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous. On or before the date of expiration of a coastal development permit, variance, conditional use permit, design review, planned residential development, or comprehensive development plan, the person holding the permit shall apply for a renewal of said permit if the use is to be continued beyond the date of expiration or the development cannot be initiated prior to expiration. A renewal could be processed under Administrative review by the City, on a cost-recovery basis, for a renewal period of two years.

SPECIAL CONDITIONS:

1. The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.
2. The following Point Arena Mountain Beaver protection measures shall be observed:
 - 2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:
 1. The action and related activities shall be greater than 100 feet from occupied habitat;
 2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);
 3. No tools shall be used that require an air compressor;

4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

3. The following archaeological resource protection measures shall be observed:

3a. Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

3b. Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

4. Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.
5. Prior to issuance of the Coastal Development Permit, all fees are due the City for planning and engineering review per the executed "City of Point Arena Cost Recovery Agreement" dated 9/30/19.

OWNER/APPLICANT: Richard Wasserman
PO Box 43
Point Arena, CA 95468

REQUEST: Amendment to CDP 2020-02, which approved construction of a two-story residential accessory barn/shop. The amendment includes clarifications and additional conditions of approval. Additionally, permission is requested after the fact for approximately 38 cubic yards of grading.

LOCATION: In the Coastal Zone, in the City of Point Arena, Mendocino County, located at 240 Port Road (APN 027-081-12).

APPEALABLE AREA: Yes – West of the first public through road.

PERMIT TYPE: Standard

TOTAL ACREAGE: ~7.4 Acres

GENERAL PLAN: Residential Agriculture (RA-2)

ZONING: RA-2

EXISTING USES: Residential

ADJACENT LAND USES: N: SR ½
S: AE
E: SR 1
W: AE

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA – Class 3 (e) Section 15303

PROJECT DESCRIPTION: The applicant requests an amendment to Coastal Development Permit 2020-02 which approved construction of a residential accessory barn/workshop. The amendment adds clarifications and additional conditions. In order to assure the development conforms to the revised conditions contained in this amendment, a condition of approval is added, which states the subject amendment supersedes the previous approval:

Special Condition #1:

The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.

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

City of Point Arena Land Use and Zoning Map

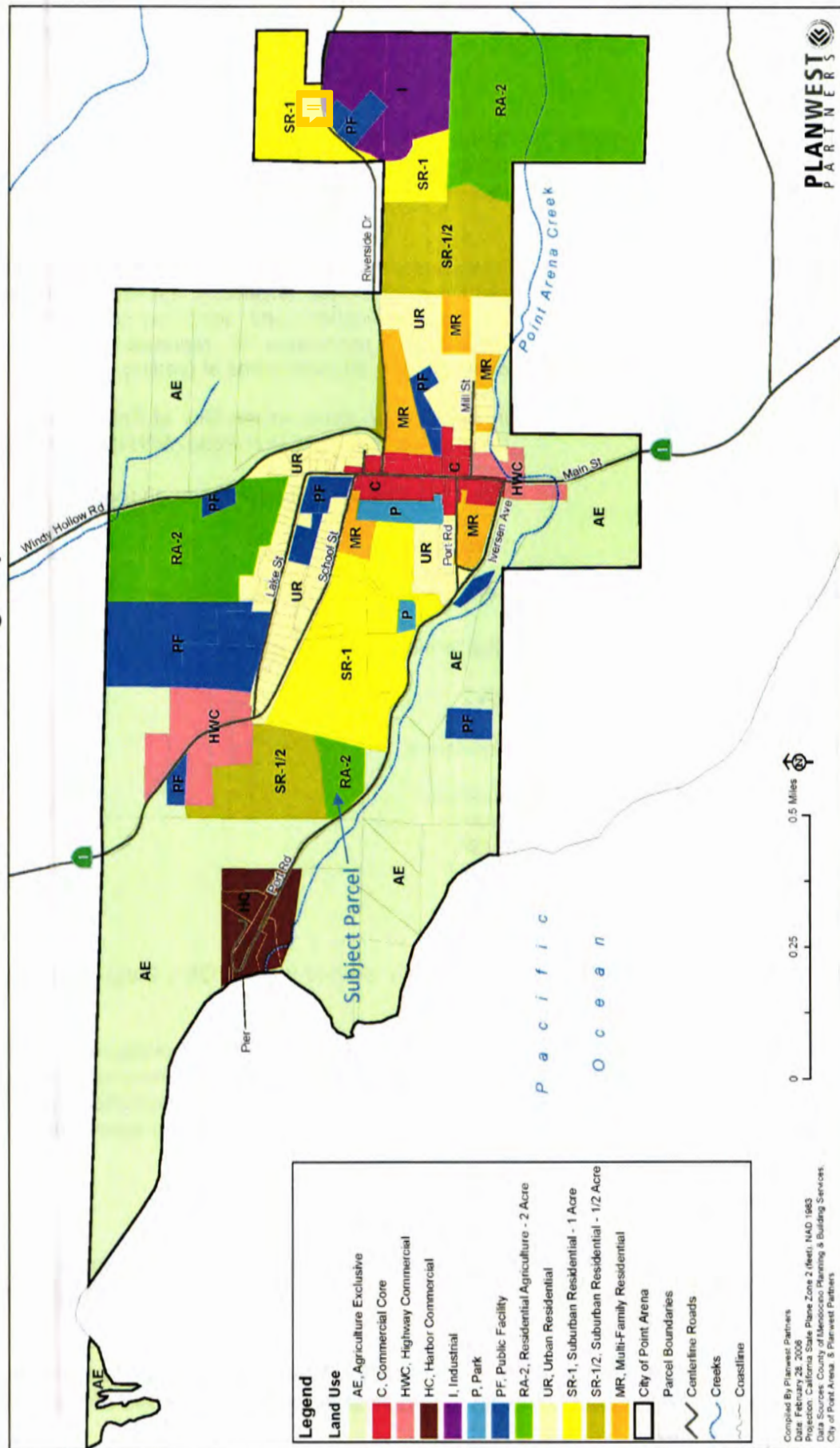


Figure 1. Project location

LAND USE and ZONING

The parcel is classified on the Coastal Plan Land Use and Development Map and zoned as Residential Agriculture (RA-2) as shown on the Zoning Map (Figure 1). Single family residences as incidental to the agricultural use of the land are principally permitted in this zoning district. The proposed barn is to be used for storage associated with existing livestock maintenance, and proposed agriculture as described in the Coastal Development Permit application.

The structure will also be used as a residential accessory workshop. Typically a residential accessory workshop is used for repair and maintenance activities associated with the residence, and for hobbies. They are not permitted for commercial purposes except those allowed with a valid Home Occupations permit. Home Occupation is defined as:

Home Occupation. A use, which may be a commercial enterprise, customarily conducted within a dwelling or accessory building by the inhabitants of the dwelling and which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the character of the dwelling, premises or neighborhood, or cause significant impact or nuisance.

Should the accessory structure be used for commercial purposes, a Home Occupations permit shall first be obtained, and the commercial use will need to be compatible with the residential neighborhood, in that it cannot cause significant impact or nuisance. If a proposed Home Occupations use will constitute development as defined in the LCP, a Coastal Development Permit will be needed at the time the Home Occupations use is requested. The definition of development is:

Development. Development means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations, which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this plan, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

An intensification of use that would warrant a Coastal Development Permit for any future home occupations may include but is not limited to a commercial use that results in an increase in traffic to the site, an increase in noise above that typically associated with residential use or the use of equipment that produces gasses or other offensive smells beyond that normally associated with a

residential use.

While the property is in an agricultural zone, the property does not contain prime agricultural lands as shown on the California Department of Conservation California Important Farmland Finder Map. According to this map, soils in the project area are appropriate for grazing of livestock. The online mapping resource is found at <https://maps.conservation.ca.gov/DLRP/CIFF/> and an overlay of the map is provided as Figure 2. The project meets the intent of the Residential Agriculture zoning district.

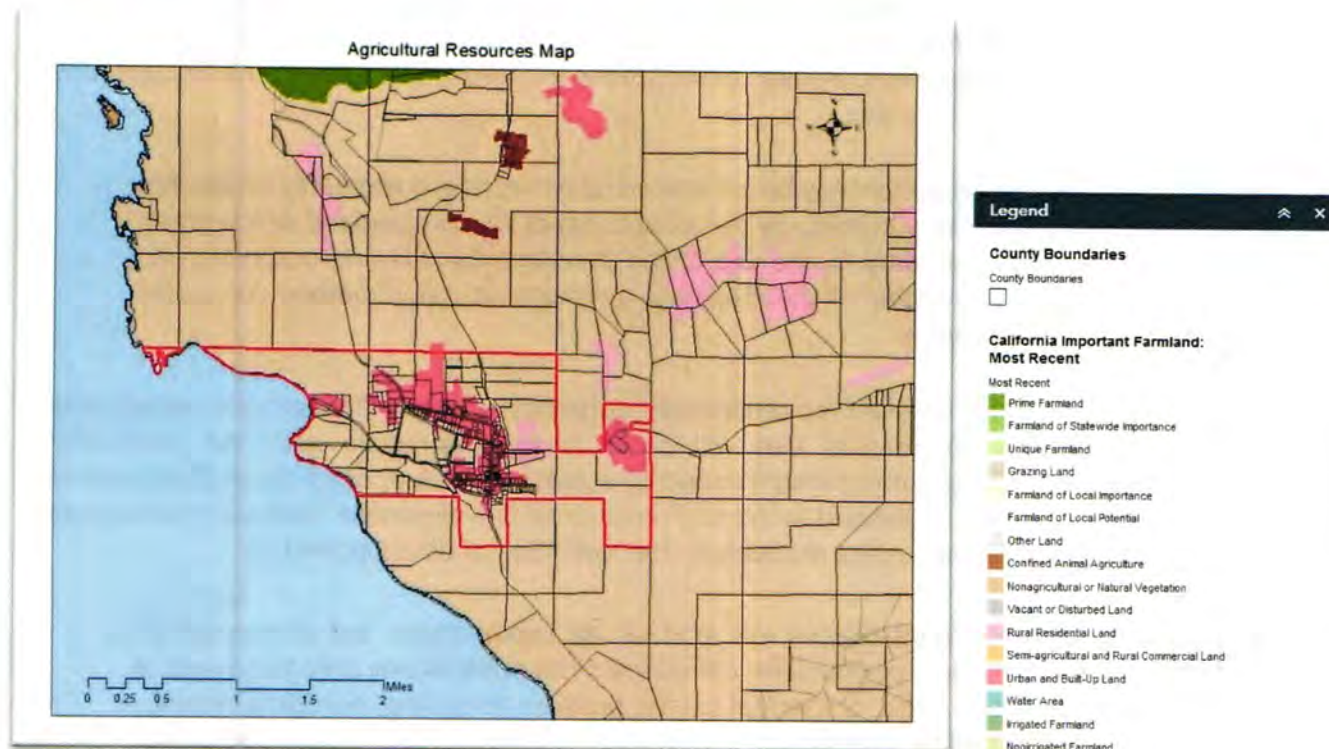


Figure 2. Agricultural resources map shows the project area contains lands suitable for grazing.

Setbacks: Required setbacks for an agricultural barn to be used to house livestock are 50 feet from any residence. An accessory structure needs to be set back at least 10 feet from any on-site building and at least 15 feet from any property line abutting a street (PA Zoning Code 18.25.090). Farm outbuildings must be at least 20 feet from any residence per PA Zoning Code 18.20.050, and minimum setbacks in the Residential Agriculture zone are 20 feet front, 15 feet rear, and 10 feet side. The site plan shows that at the closest property boundary, the proposed barn structure is to be located roughly 34 feet from the side yard property line, and over 50 feet from the neighboring residence. It is not clear whether the applicant wishes to use the barn to shelter goats or other farm animals, but the zoning distances do allow for this use if it is desired and the setbacks are met. The structure exceeds minimum setback requirements outlined in the zoning code.

It is the responsibility of the property owner to accurately portray and site the building such that it meets the required minimum setbacks. The property boundary will need to be accurately flagged by the applicant prior to the first building permit inspection so that the building inspector can check the setbacks in the field. Any property boundary dispute is a private matter between property owners, however if it is determined that the structure when inspected or built does not meet the minimum

setback requirements, an amendment to this Coastal Development Permit will be needed for any proposed reduction in setback requirements, in addition to any other permits required. Standard Condition #7 applies:

Standard Condition #7: This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

Height and Square Footage: The proposed enclosed barn structure is shown on the floor plans as approximately 960 square feet in size, with an adjacent covered slab that is approximately 444 square feet in size, and an entry ramp that is approximately 40 square feet in size. The proposed structure is to be approximately 18 feet in height above natural grade. The zoning code allows a maximum height of 35 feet. The building height is in conformance with height limits.

PUBLIC ACCESS

The project site is located west of Highway 1. There are no existing or mapped potential access routes on the property. As shown in the CAP Trails Plan (Figure 3), the proposed Devil's Cutoff Trail is located in the roadway corridor east of the subject parcel. The project is not expected to impact public access.



Figure 3. Community Action Plan Trails Map.

HAZARDS

Steep Slopes: The property is located within a mapped Natural Hazard area according to the Natural Hazards Map (Figure 4), due to steep slopes. As shown on the map, small patches of areas on the property do not contain steep slopes. Those areas are in the vicinity of the proposed barn, and the existing residence. The barn is to be placed in an area that was an old road bed, and is already graded flat. A geotechnical evaluation, dated 2018 by geologist Thomas Cochrane was included with

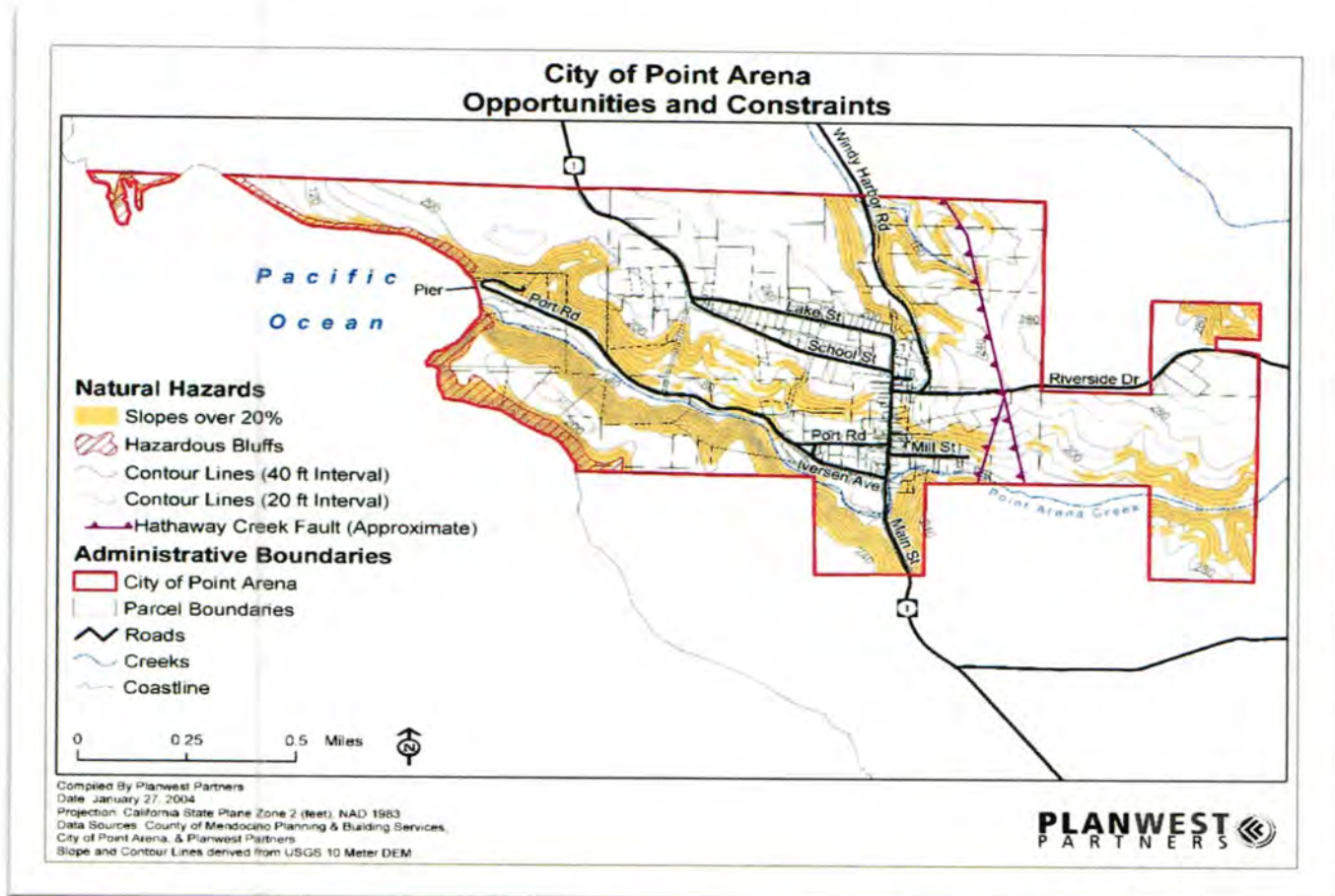


Figure 4. Some portions of the property contain steep slopes, however the proposed barn is not located in the mapped Natural Hazards area.

the application. The evaluation indicates the site and underlying materials are appropriate to support the proposed structure. The site will need to be prepared according to the geologist when the building permit is issued, and the building permit process will include sufficient review and guidance from the building department to assure geologic safety for the building.

Flooding - The property is located outside the 100 Year Flood Zone according to the FEMA flood map (Figure 5). Flood hazards are not an issue for this project.



Figure 5. The FEMA flood map shows the project area is outside of the 100 year flood zone.

Fire Hazards: The project was referred to the Redwood Coast Fire Department on February 19, 2020. The fire department did not respond with any concerns regarding the project.

VISUAL RESOURCES

The proposed project is located within the mapped viewshed, looking looking towards the harbor, as shown on the Point Arena Scenic Corridors map. The project area is not visible from any existing public view areas, but will be visible from the Devil's Cutoff Trail when it is constructed. Visual resources policies apply to how development is viewed from public view areas, with the intent that any adverse impacts to public views are avoided to the extent feasible, with regard to those public views to or along the ocean. The subject barn will not be visible from any public view point when

constructed, however, if the Devils Cutoff trail is constructed in the future, the barn will be visible from that public trail. It will not block any views to or along the ocean, however, because the barn will be backdropped by a thick grove of trees present between the barn and the harbor area. The barn will also not rise above any ridgeline from the viewpoint of the Devil's Cutoff Trail. The colors and materials generally blend with the natural area, as the barn will be clad in natural wood. The roof is proposed as green, doors to be red, and window frames to be white, so there will be some contrasting colors, however given the limited visibility from only a possible future view area, staff is not concerned about

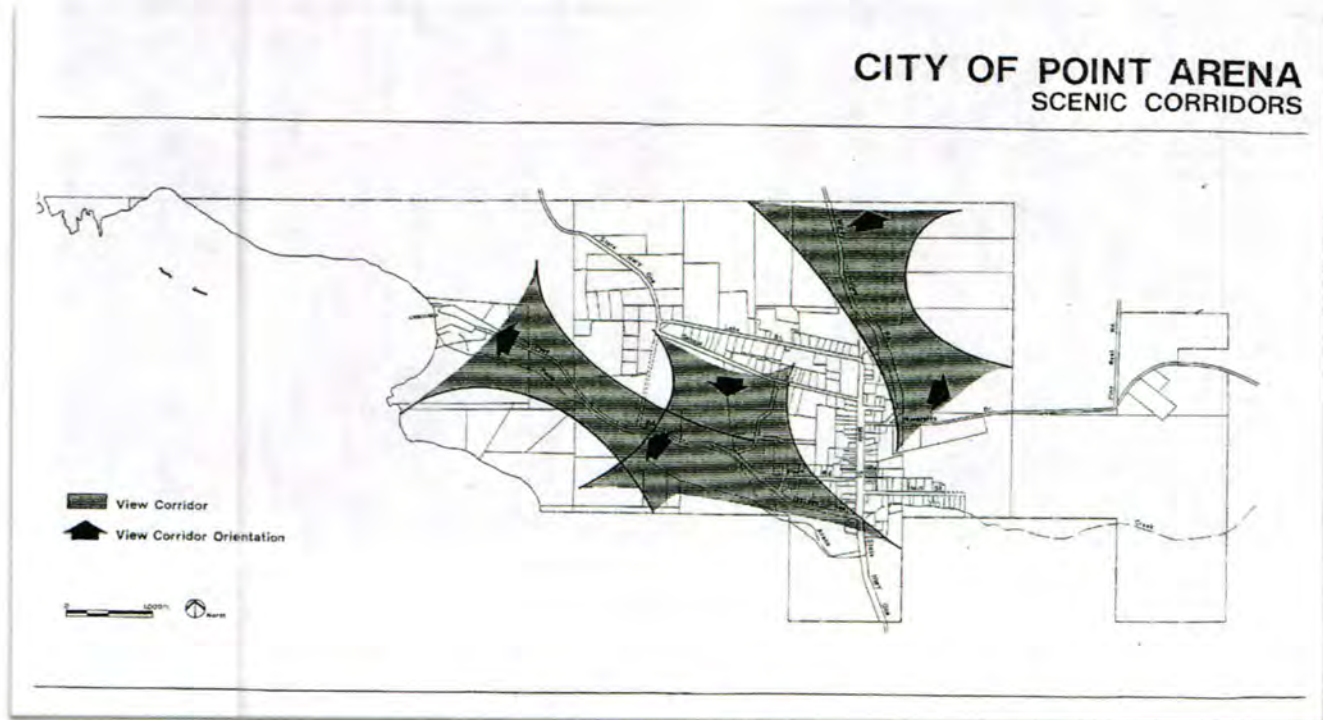


Figure 6. City of Point Arena Scenic Corridors map showing the project area is in a scenic corridor towards the harbor.

the contrasting colors.

Section 18.25.150(3) of the zoning code requires:

(3) Development Siting Criteria. The planning commission shall be guided by the following criteria when evaluating development, including land form alterations and construction of structures:

(a) New development shall be sited and designed to minimize adverse impacts on scenic areas from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height

standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

The proposed barn will be visible from the Devils Cutoff Trail when it is constructed. The structure will be backdropped by a thick grove of trees and does not block any public views to or along the ocean. Existing residences will be visible from the Devil's Cutoff Trail in this vicinity. The proposed height is 18 feet above grade, which is a height that is common in scenic areas in Mendocino County, and well below the maximum allowed height. Grading is minimized by placing the structure in the proposed location, which is already flat. The structure is not expected to result in adverse impacts from public view areas as it does not block any public views to or along the ocean.

(b) Where there is no feasible alternative that is not visible from scenic highways or public viewing areas, the development area shall be restricted to minimize adverse impacts on views from scenic highways or public viewing areas.

Development is limited to a barn structure that does not block any public views to or along the ocean. No adverse impacts need to be mitigated.

(c) Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.

No adverse impacts to visual resources are proposed. The project does not block views to or along the ocean but would be visible, as backdropped by trees, from an area where a public trail is proposed. This trail is located within the city limits, and will traverse in the vicinity of several existing residential structures.

(d) Prominent ridgelines and other intervening ridgelines that are visible from a public road, a beach, public viewing areas, or public hiking trails, shall be protected by setting structures below the ridgeline to avoid intrusions into the skyline where feasible. Where there are no feasible alternative building sites below the ridgeline or where the only alternative building site would result in unavoidable adverse impacts to ESHA, structures shall be limited to one-story (18 feet maximum from existing or finished grade, whichever is lower) in height to minimize visual impacts.

The proposed structure will not be visible above the ridgeline, and is to be a maximum of 18 feet in height.

The barn is proposed to be clad in natural wood siding, with a green roof, white wood window frames and red wood doors. The proposed exterior colors and materials would blend with the natural setting while maintaining compatibility with the existing residence in style and colors. Staff believes the project complies with the intent of the site development criteria for visual resources.

NATURAL RESOURCES

The project is located in the mapped riparian and Point Arena mountain beaver buffer area as shown on the Biological Resources and Trails Map (Figure 7). Project components that were analyzed for consistency natural resources protection policies include the proposed barn and associated ground

disturbing impacts and grading that occurred in 2019. The site plan (Attachment A) shows the location of the grading that occurred in 2019.

A Point Arena Mountain Beaver Habitat Assessment was prepared by Joseph Saler of SHN Consulting Engineers and Geologists, Inc., dated October 17, 2018. According to the assessment, suitable Point Arena Mountain Beaver (PAMB) habitat does not exist within the project area. Potential habitat was observed approximately 250 feet away from the project area. Since areas of potential habitat roughly 250 feet away were not surveyed, there is a presumption of presence of Point Arena mountain beaver.

On October 22, 2020, Greg Schmidt of the US Fish and Wildlife Service conducted a habitat assessment for the proposed workshop site and areas within 100 feet. The only suitable PAMB habitat was located in the southern border of the subject parcel. The suitable habitat was comprised of berry brambles approximately 50 feet long by 15-20 feet wide. The entire patch was surveyed for PAMB No PAMB burrow entrances or other PAMB sign was found during the on-site presence absence survey. Suitable habitat was observed to occur on the neighboring parcel, just over 100 feet south of the proposed development. That suitable habitat was not surveyed as it occurred more than 100 feet from the project area. Presence within that suitable habitat is unlikely because the patch occurs on a dry, south-facing slope, suggesting only marginal suitability.

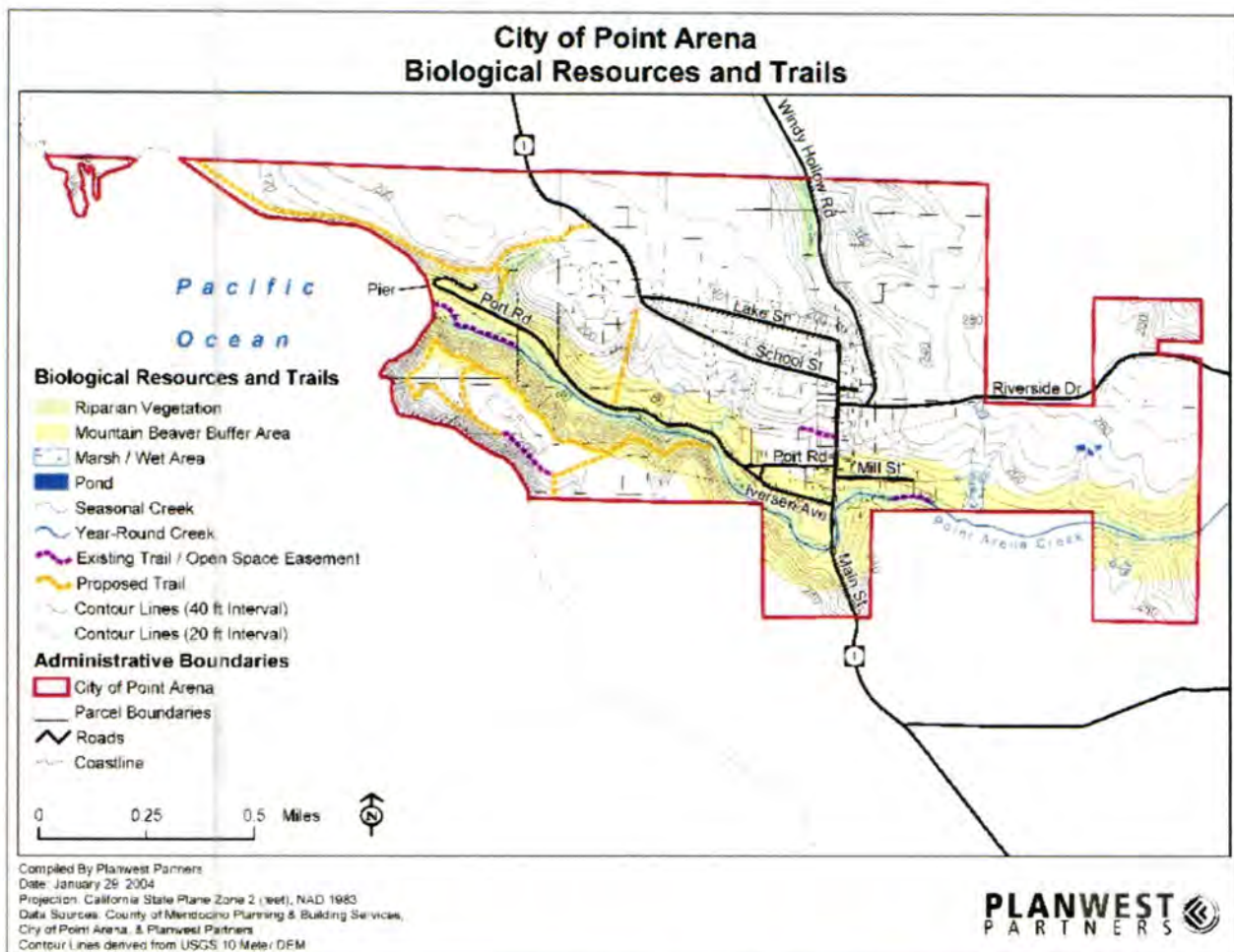


Figure 7. City of Point Arena Biological Resources and Trails map shows the project area is in the Mountain Beaver

Buffer Area.

The Point Arena zoning code Section 18.25.240 requires surveys to occur within 500 feet of the perimeter of the project area. All areas of potential habitat that were not surveyed within 500 feet of the perimeter of the project are therefore presumed to be occupied PAMB habitat, and as such avoidance measures as outlined in the Point Arena zoning code shall apply as appropriate.

The following avoidance measures are recommended to prevent impacts to PAMB that may be present between 100 and 500 feet from the project area – this includes impacts during construction as well as ongoing use of the proposed workshop:

Special Condition #2:

2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:

1. The action and related activities shall be greater than 100 feet from occupied habitat;
2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);
3. No tools shall be used that require an air compressor;
4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

Joseph Saler also performed a botanical study of the area, and determined that no special status plant species were observed in the project area. The project was referred to the California Department of Fish and Wildlife, and Daniel Harrington of the Department of Fish and Wildlife responded with no comments for the project.

The neighbor indicated by submitting a photo at the time of the hearing for CDP 2020-02, that prior ground disturbance had occurred near the site of the proposed barn. A clarification was received from Mr. Wasserman on August 11, 2020 who indicates that the area in question where prior disturbance occurred is approximately 100 feet east of the proposed barn site, and that approximately 38 cubic yards of material was graded:

The total area in the photo in question is 10' x 50', and the maximum cut on the upper side is no more than 2' at one end (East), sloping to almost grade at the other end (West).

I calculated the material disturbed to be no more than 37 cu. yds. As you may remember, the area in question is not near, nor directly connected to the barn project. It about 100 feet East of the barn site, and is meant to be temporary until the barn is completed (Wasserman 2020).

The City of Point Arena Categorical Exclusion Order allows for some grading under specified conditions to occur without a Coastal Development Permit. Section 18.30.120(2)(d) allows for grading as Categorically Excluded from the requirement for a Coastal Development permit as follows:

(d) Except within a geologically unstable area or area within 100 feet of the Hathaway Creek Fault, discussed in Section 18.25.200, or a riparian buffer area described in Section 18.25.220 (the geologic and riparian areas are clearly designated in the city of Point Arena land use plan), any excavation or fill or combination thereof, less than both of the following criteria:

(i) 1000 square feet of surface area including the removal of groundcover. This does not include groundcover removed for agricultural or grading for road and trail maintenance purposes;

(ii) 50 cubic yards of material.

The definition of a riparian buffer is:

Riparian Buffer Zone. That portion of a riparian corridor directly adjacent to a stream or creek which is measured 100 feet from the outside edge of the riparian vegetation. The width of the buffer area shall be a minimum of 100 feet and shall be larger if necessary to protect the habitat from significant degradation caused by proposed development. No buffer may be less than 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game and the city, that 100 feet is not necessary to protect the resources of that particular habitat area from significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive riparian habitat area and may not be less than 50 feet in width. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive riparian vegetation from significant disruption of habitat values, functional capacity, and species diversity as a result of future development.

While the development is not within a riparian buffer per the LCP definition, the development is within the PAMB buffer area as shown on the City of Point Arena Biological Resources and Trails Map. It is

staff's belief that the intent of the Categorical Exclusion language was to except areas within the PAMB buffer area as shown on the designated LUP map.

Section 18.25.220 of the zoning code states in part:

No new development shall be allowed within or adjacent to riparian corridors along Arena Creek, or other environmentally sensitive habitat areas (ESHA) where mapped (on the opportunities and constraints map: biological resources and trails) or other unmapped ESHAs that meet the ESHA criteria contained in LUP Chapter X Section 2.4 without first obtaining appropriate permits. New development includes, but is not limited to, vegetation removal, grading, filling, soils or refuse dumping, and the alteration of creek banks.

Staff believes the intent of the mapped PAMB buffer area is to protect against ground disturbing impacts such as grading by requiring special studies in conjunction with a CDP prior to grading. It is recommended by staff that the LCP be updated in the future to more clearly specify that areas within the PAMB buffer area do not qualify for a Categorical Exclusion under Section 18.30.120(2)(d).

The grading that occurred in 2019 is therefore added to this Coastal Development Permit application after the fact. The area graded was determined to be located in an area that does not contain PAMB habitat, which was verified by Greg Schmidt of US Fish and Wildlife Service after his site visit. The area graded is subject to water quality measures as outlined in the water quality section of this summary.

ARCHAEOLOGICAL RESOURCES

The applicant submitted an archaeological survey report by ALTA Archaeological Consulting, dated July 3, 2018. The study is kept as a confidential document in the project file, as archaeological resources are generally considered confidential.

The study was designed to identify any archaeological, historical or cultural resources within the study area boundaries. Fieldwork was conducted on June 28, 2018, and the entire parcel was surveyed. A Native American consultation was also conducted by the archaeologist. The existing residence was identified as a historic era building, and is not expected to be affected by the project. It was determined that the project would not impact any historic or cultural resources. Condition language is recommended by the archaeologist to ensure that cultural resources are not adversely impacted:

Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

The recommendations of the archaeologist are included as Special Condition #3.

WATER QUALITY

The project will require ground disturbance for construction of the barn and covered slab.

Section 18.25.340(1) of the zoning code requires the following for all Coastal Development Permit applications:

(1) Application Requirements for All Developments. The following information shall be submitted with all applications for a coastal development permit:

- (a) A site plan specifying the distance from the proposed development to the nearest water body;
- (b) Proposed methods for controlling erosion and sedimentation during construction:
 - (i) Controls to be implemented on the amount and timing of grading,
 - (ii) Best management practices (BMPs) to be implemented for staging, storage, and disposal of excavated materials,
 - (iii) Design specifications for structural BMPs such as sedimentation basins,
 - (iv) Revegetation or landscaping plans for graded or disturbed areas;
- (c) Proposed methods for controlling polluted runoff during construction:
 - (i) Methods to eliminate or reduce the discharge of other potential pollutants from construction materials (including paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff,
 - (ii) Best management practices (BMPs) to be implemented for staging, storage, and disposal of construction chemicals and materials,
 - (iii) Methods to treat or infiltrate stormwater prior to conveyance off-site during construction,

- (iv) Methods to convey runoff from impervious surfaces into permeable areas of the property in a nonerosive manner;
- (d) Proposed site design and source control best management practices (BMPs) to minimize post-construction polluted runoff and impacts to water quality:
 - (i) Proposed site design and source control BMPs that will be implemented to minimize post-construction polluted runoff,
 - (ii) Proposed drainage improvements (including locations of infiltration basins, and diversions/ conveyances for upstream runoff),
 - (iii) Potential flow paths where erosion may occur after construction,
 - (iv) Measures to maximize on-site retention and infiltration (including directing rooftop runoff to permeable areas rather than to driveways),
 - (v) Measures to maximize, to the extent practicable, the percentage of permeable surfaces, and to limit the percentage of directly-connected impervious areas, to increase infiltration of runoff,
 - (vi) Revegetation plans for disturbed portions of the site,
 - (vii) Methods to address any other onsite and/or offsite impacts, and construction of any necessary improvements.

It is expected that some site preparation will be needed in order to improve the parking area, and for preparation of the area where the concrete slab will be located, and for the building footings. Additionally, the area graded in around 2019, constituting approximately 38 cubic yards of grading, is subject to water quality requirements, and a staging area will need to be identified for the storage of materials to be used during construction.

The project was referred to the County Building Division, and Michael Oliphant, Chief Building Official, responded:

- 1) A grading plan will be needed
- 2) The wrong code cycle is quoted on the plans, we are now in the 2019 CA Codes.
- 3) A Utility - U occupancy is not allowed to be two stories in height.
- 4) Complete details/plans with calculations will be required at time of building permit plan review submittal.

Staff recommends that the applicant submit, as a condition of approval of the building permit, a grading and Best Management Plan map, showing where grading occurred in the past, and where needed grading will occur, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated after disturbance, if applicable, as well as the revegetation plan for those areas, and how stormwater runoff from the barn

and slab will be managed on-site. The grading plan and all other applicable plans will additionally need to meet the requirements of the County building department as indicated in their comments above.

Special Condition #4: Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 18.30.080 and Chapter 18.30.090 of the Point Arena Municipal Code, the City Council approves the proposed project, and adopts the following findings and conditions.

FINDINGS:

1. The proposed development as described in the application and accompanying materials, if constructed as modified by any conditions of approval is in conformity with the city of Point Arena's certified local coastal program, will not adversely affect coastal resources; and
2. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
3. The proposed use is consistent with the purposes of the zone in which the site is located. The use constitutes a residential accessory use and is subject to the same noise and nuisance requirements as adjacent residential properties; and
4. The proposed development is in conformance with the city of Point Arena's general plan; and
5. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons;
6. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions;
7. The project, as proposed or as conditioned, is the least environmentally damaging alternative;
8. The proposed location of the use and conditions under which it may be operated or

maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;

9. Services, including, but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;
10. Environmentally Sensitive Habitat Area findings
 - (i) The proposed development has been sited and designed to prevent significant impacts to the habitat values, functional capacity, and species diversity of the adjacent riparian habitat area; and
 - (ii) The proposed development is compatible with the continuance of such habitat areas;
 - (iii) Soils and vegetation removal and disturbances shall be minimized;
 - (iv) Nonnative vegetation shall not be planted except for the continuance of existing agricultural practices.

STANDARD CONDITIONS:

1. This action shall become final on the date of approval. No appeal periods apply. The permit shall expire and become null and void at the expiration of two years after the effective date, except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The City will not provide a notice prior to the expiration date.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 18 of the Point Arena Municipal Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the City of Point Arena Planning Commission or its successor agency.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Mendocino County Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one

or more of the following:

- a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. A two-year limitation applies to all coastal development, variance, conditional use, design review, planned residential development, or comprehensive development plan permits. If development has not commenced within two years from the granting of a permit, the permit shall be void, except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous. On or before the date of expiration of a coastal development permit, variance, conditional use permit, design review, planned residential development, or comprehensive development plan, the person holding the permit shall apply for a renewal of said permit if the use is to be continued beyond the date of expiration or the development cannot be initiated prior to expiration. A renewal could be processed under Administrative review by the City, on a cost-recovery basis, for a renewal period of two years.

SPECIAL CONDITIONS:

1. The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.
2. The following Point Arena Mountain Beaver protection measures shall be observed:
 - 2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:
 1. The action and related activities shall be greater than 100 feet from occupied habitat;
 2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);

3. No tools shall be used that require an air compressor;
4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

3. The following archaeological resource protection measures shall be observed:

3a. Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

3b. Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are

deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

4. Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.
5. Prior to issuance of the Coastal Development Permit, all fees are due the City for planning and engineering review per the executed "City of Point Arena Cost Recovery Agreement" dated 9/30/19.

Staff Report Prepared By:

11/6/2020

Date



Teresa R Spade, AICP
City Planner

Attachments

Attachment A: Site Plan with Grading Location Shown

Attachment B: Floor Plan & Elevations

SUMMARY OF REFERRAL AGENCY COMMENTS:

Air Quality Management District
Division of Environmental Health
Building Inspection – Fort Bragg

No comment.

No comment.

1) A grading plan will be needed

2) The wrong code cycle is quoted on the plans, we are now in the 2019 CA Codes.

3) A Utility - U occupancy is not allowed to be two stories in height.

4) Complete details/plans with calculations will be required at time of building permit plan review submittal.



NOTICE OF FINAL ACTION
On Coastal Development Permit

On November 18, 2020, final action was taken by the City of Point Arena on the following Coastal Development Permit application:

Permit Type & No.: CDPA #2020-02 (01)
Project Location: 44600/240 Port Road, Point Arena (Mendocino County)
APN: 027-081-12
Owner/Applicant: Richard Wasserman
Agent: n/a
Filing Date: August 14, 2020 **Action Date:** November 18, 2020



Project Description: The applicant requests an amendment to Coastal Development Permit 2020-02 which approved construction of a residential accessory barn/workshop. The amendment adds clarifications and additional conditions of approval. Additionally, permission is requested after the fact for approximately 38 cubic yards of grading.

Appealable Area: Yes

General Plan: Residential Agriculture – 2 Acre

Zoning: Residential Agricultural (RA-2)

CEQA: Categorically exempt from CEQA – Class 3 (e) Section 15303


Action By: ☐ City of Point Arena Planning Commission
☒ City of Point Arena City Council

Action Taken: ☐ Approved
☒ Approved with Conditions (See attached Findings & Conditions)
☐ Denied (See attached Findings)

This project is: ☐ Appealable to the City Council. An aggrieved person may appeal this decision to the City Council by filing a written appeal with the City Clerk within 10 working days after a decision by the Planning Commission.

☐ Not appealable to the Coastal Commission. Actions of the City Council, acting as Planning Commission, are final.

☒ Appealable to the Coastal Commission pursuant to Coastal Act Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following the Coastal Commission receipt of this notice. Applicants will be notified by the Coastal Commission as to the date the Commission's appeal period will conclude. Appeals must be in writing to the appropriate Coastal Commission district office.


Richard Shoemaker City Clerk/City Manager
November 19, 2020

STANDARD CONDITIONS:

1. This action shall become final on the date of approval. No appeal periods apply. The permit shall expire and become null and void at the expiration of two years after the effective date, except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The City will not provide a notice prior to the expiration date.

2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 18 of the Point Arena Municipal Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the City of Point Arena Planning Commission or its successor agency.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Mendocino County Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined

or otherwise prohibited the enforcement or operation of one or more such conditions.

7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. A two-year limitation applies to all coastal development, variance, conditional use, design review, planned residential development, or comprehensive development plan permits. If development has not commenced within two years from the granting of a permit, the permit shall be void, except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous. On or before the date of expiration of a coastal development permit, variance, conditional use permit, design review, planned residential development, or comprehensive development plan, the person holding the permit shall apply for a renewal of said permit if the use is to be continued beyond the date of expiration or the development cannot be initiated prior to expiration. A renewal could be processed under Administrative review by the City, on a cost-recovery basis, for a renewal period of two years.

SPECIAL CONDITIONS:

1. The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.
2. The following Point Arena Mountain Beaver protection measures shall be observed:
 - 2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:
 1. The action and related activities shall be greater than 100 feet from occupied habitat;
 2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);
 3. No tools shall be used that require an air compressor;

4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

3. The following archaeological resource protection measures shall be observed:

3a. Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

3b. Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

4. Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.
5. Prior to issuance of the Coastal Development Permit, all fees are due the City for planning and engineering review per the executed "City of Point Arena Cost Recovery Agreement" dated 9/30/19.

OWNER/APPLICANT: Richard Wasserman
PO Box 43
Point Arena, CA 95468

REQUEST: Amendment to CDP 2020-02, which approved construction of a two-story residential accessory barn/shop. The amendment includes clarifications and additional conditions of approval. Additionally, permission is requested after the fact for approximately 38 cubic yards of grading.

LOCATION: In the Coastal Zone, in the City of Point Arena, Mendocino County, located at 240 Port Road (APN 027-081-12).

APPEALABLE AREA: Yes – West of the first public through road.

PERMIT TYPE: Standard

TOTAL ACREAGE: ~7.4 Acres

GENERAL PLAN: Residential Agriculture (RA-2)

ZONING: RA-2

EXISTING USES: Residential

ADJACENT LAND USES: N: SR ½
S: AE
E: SR 1
W: AE

SUPERVISORIAL DISTRICT: 5

ENVIRONMENTAL DETERMINATION: Categorically exempt from CEQA – Class 3 (e) Section 15303

PROJECT DESCRIPTION: The applicant requests an amendment to Coastal Development Permit 2020-02 which approved construction of a residential accessory barn/workshop. The amendment adds clarifications and additional conditions. In order to assure the development conforms to the revised conditions contained in this amendment, a condition of approval is added, which states the subject amendment supersedes the previous approval:

Special Condition #1:

The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.

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

City of Point Arena Land Use and Zoning Map

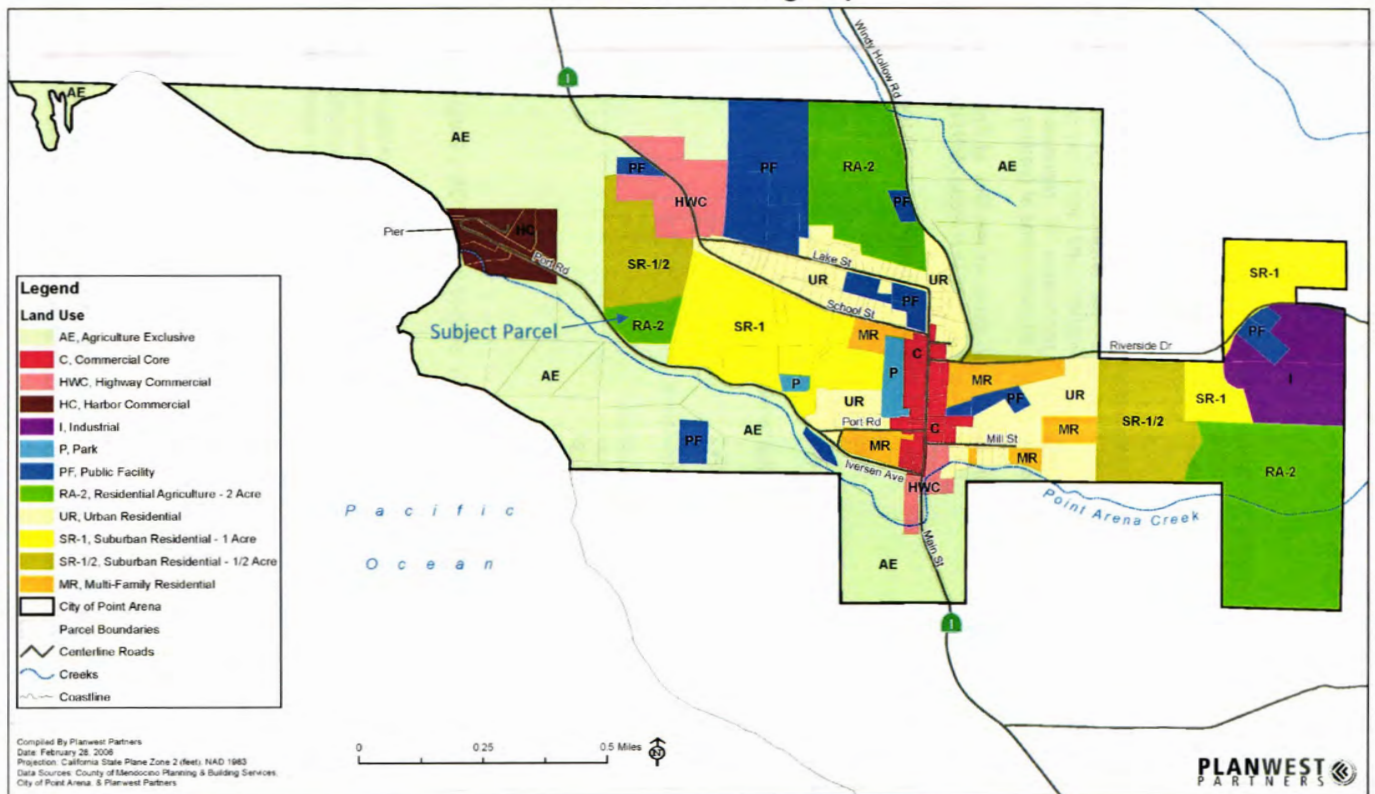


Figure 1. Project location

LAND USE and ZONING

The parcel is classified on the Coastal Plan Land Use and Development Map and zoned as Residential Agriculture (RA-2) as shown on the Zoning Map (Figure 1). Single family residences as incidental to the agricultural use of the land are principally permitted in this zoning district. The proposed barn is to be used for storage associated with existing livestock maintenance, and proposed agriculture as described in the Coastal Development Permit application.

The structure will also be used as a residential accessory workshop. Typically a residential accessory workshop is used for repair and maintenance activities associated with the residence, and for hobbies. They are not permitted for commercial purposes except those allowed with a valid Home Occupations permit. Home Occupation is defined as:

Home Occupation. A use, which may be a commercial enterprise, customarily conducted within a dwelling or accessory building by the inhabitants of the dwelling and which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the character of the dwelling, premises or neighborhood, or cause significant impact or nuisance.

Should the accessory structure be used for commercial purposes, a Home Occupations permit shall first be obtained, and the commercial use will need to be compatible with the residential neighborhood, in that it cannot cause significant impact or nuisance. If a proposed Home Occupations use will constitute development as defined in the LCP, a Coastal Development Permit will be needed at the time the Home Occupations use is requested. The definition of development is:

Development. Development means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting and timber operations, which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

As used in this plan, "structure" includes, but is not limited to, any building, road, pipe, flume, conduit, siphon, aqueduct, telephone line, and electrical power transmission and distribution line.

An intensification of use that would warrant a Coastal Development Permit for any future home occupations may include but is not limited to a commercial use that results in an increase in traffic to the site, an increase in noise above that typically associated with residential use or the use of equipment that produces gasses or other offensive smells beyond that normally associated with a

residential use.

While the property is in an agricultural zone, the property does not contain prime agricultural lands as shown on the California Department of Conservation California Important Farmland Finder Map. According to this map, soils in the project area are appropriate for grazing of livestock. The online mapping resource is found at <https://maps.conservacion.ca.gov/DLRP/CIFF/> and an overlay of the map is provided as Figure 2. The project meets the intent of the Residential Agriculture zoning district.

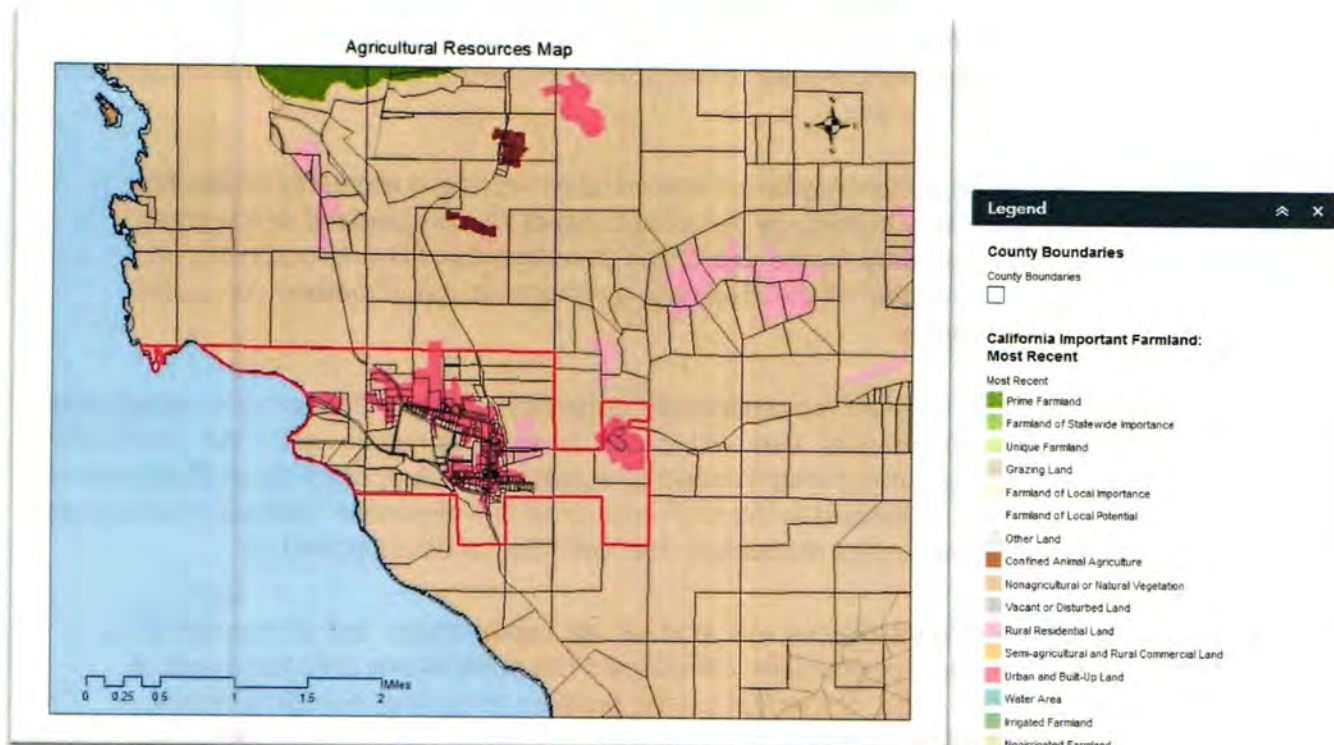


Figure 2. Agricultural resources map shows the project area contains lands suitable for grazing.

Setbacks: Required setbacks for an agricultural barn to be used to house livestock are 50 feet from any residence. An accessory structure needs to be set back at least 10 feet from any on-site building and at least 15 feet from any property line abutting a street (PA Zoning Code 18.25.090). Farm outbuildings must be at least 20 feet from any residence per PA Zoning Code 18.20.050, and minimum setbacks in the Residential Agriculture zone are 20 feet front, 15 feet rear, and 10 feet side. The site plan shows that at the closest property boundary, the proposed barn structure is to be located roughly 34 feet from the side yard property line, and over 50 feet from the neighboring residence. It is not clear whether the applicant wishes to use the barn to shelter goats or other farm animals, but the zoning distances do allow for this use if it is desired and the setbacks are met. The structure exceeds minimum setback requirements outlined in the zoning code.

It is the responsibility of the property owner to accurately portray and site the building such that it meets the required minimum setbacks. The property boundary will need to be accurately flagged by the applicant prior to the first building permit inspection so that the building inspector can check the setbacks in the field. Any property boundary dispute is a private matter between property owners, however if it is determined that the structure when inspected or built does not meet the minimum

setback requirements, an amendment to this Coastal Development Permit will be needed for any proposed reduction in setback requirements, in addition to any other permits required. Standard Condition #7 applies:

Standard Condition #7: This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

Height and Square Footage: The proposed enclosed barn structure is shown on the floor plans as approximately 960 square feet in size, with an adjacent covered slab that is approximately 444 square feet in size, and an entry ramp that is approximately 40 square feet in size. The proposed structure is to be approximately 18 feet in height above natural grade. The zoning code allows a maximum height of 35 feet. The building height is in conformance with height limits.

PUBLIC ACCESS

The project site is located west of Highway 1. There are no existing or mapped potential access routes on the property. As shown in the CAP Trails Plan (Figure 3), the proposed Devil's Cutoff Trail is located in the roadway corridor east of the subject parcel. The project is not expected to impact public access.



Figure 3. Community Action Plan Trails Map.

HAZARDS

Steep Slopes: The property is located within a mapped Natural Hazard area according to the Natural Hazards Map (Figure 4), due to steep slopes. As shown on the map, small patches of areas on the property do not contain steep slopes. Those areas are in the vicinity of the proposed barn, and the existing residence. The barn is to be placed in an area that was an old road bed, and is already graded flat. A geotechnical evaluation, dated 2018 by geologist Thomas Cochrane was included with

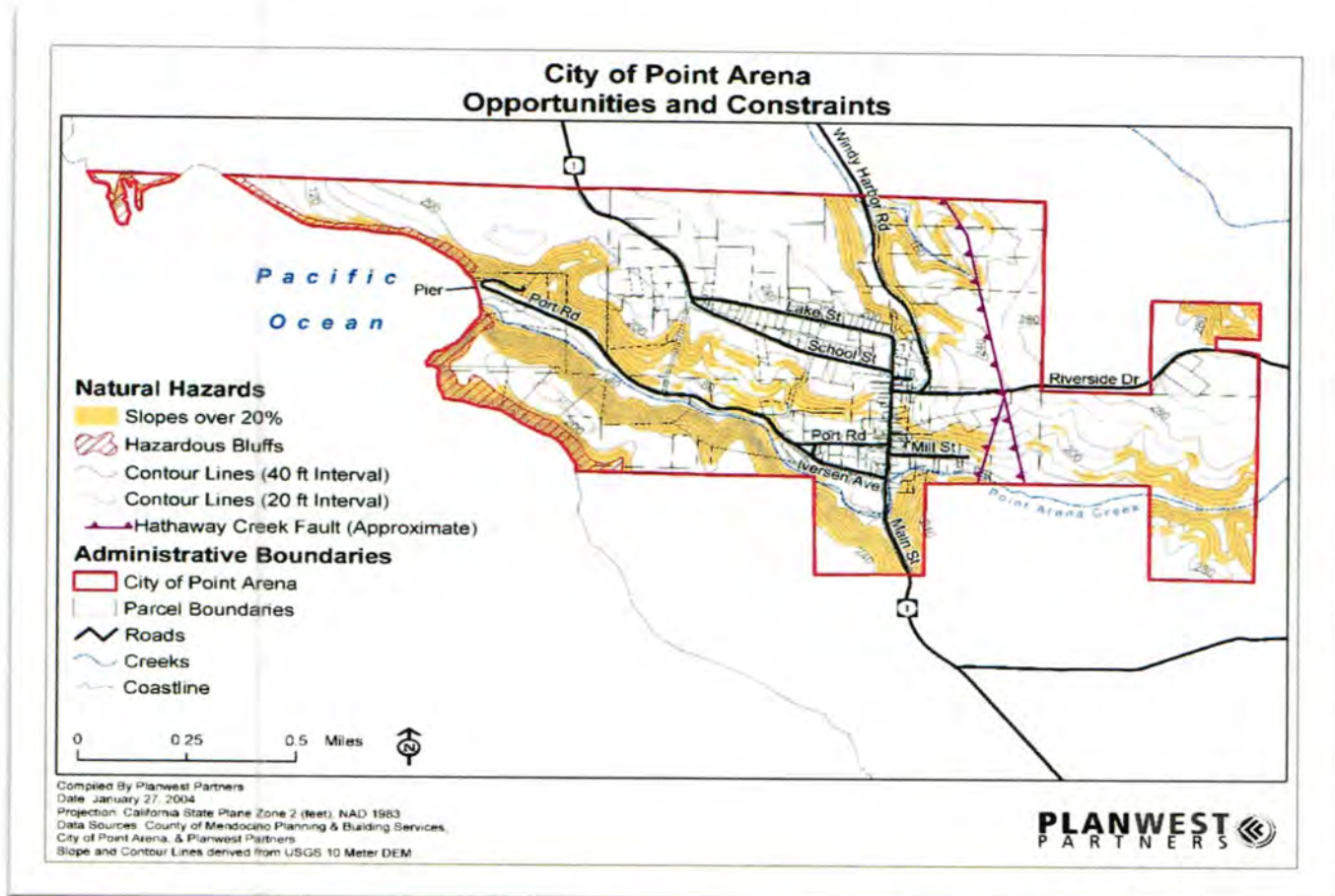


Figure 4. Some portions of the property contain steep slopes, however the proposed barn is not located in the mapped Natural Hazards area.

the application. The evaluation indicates the site and underlying materials are appropriate to support the proposed structure. The site will need to be prepared according to the geologist when the building permit is issued, and the building permit process will include sufficient review and guidance from the building department to assure geologic safety for the building.

Flooding - The property is located outside the 100 Year Flood Zone according to the FEMA flood map (Figure 5). Flood hazards are not an issue for this project.



Figure 5. The FEMA flood map shows the project area is outside of the 100 year flood zone.

Fire Hazards: The project was referred to the Redwood Coast Fire Department on February 19, 2020. The fire department did not respond with any concerns regarding the project.

VISUAL RESOURCES

The proposed project is located within the mapped viewshed, looking looking towards the harbor, as shown on the Point Arena Scenic Corridors map. The project area is not visible from any existing public view areas, but will be visible from the Devil's Cutoff Trail when it is constructed. Visual resources policies apply to how development is viewed from public view areas, with the intent that any adverse impacts to public views are avoided to the extent feasible, with regard to those public views to or along the ocean. The subject barn will not be visible from any public view point when

constructed, however, if the Devils Cutoff trail is constructed in the future, the barn will be visible from that public trail. It will not block any views to or along the ocean, however, because the barn will be backdropped by a thick grove of trees present between the barn and the harbor area. The barn will also not rise above any ridgeline from the viewpoint of the Devil's Cutoff Trail. The colors and materials generally blend with the natural area, as the barn will be clad in natural wood. The roof is proposed as green, doors to be red, and window frames to be white, so there will be some contrasting colors, however given the limited visibility from only a possible future view area, staff is not concerned about

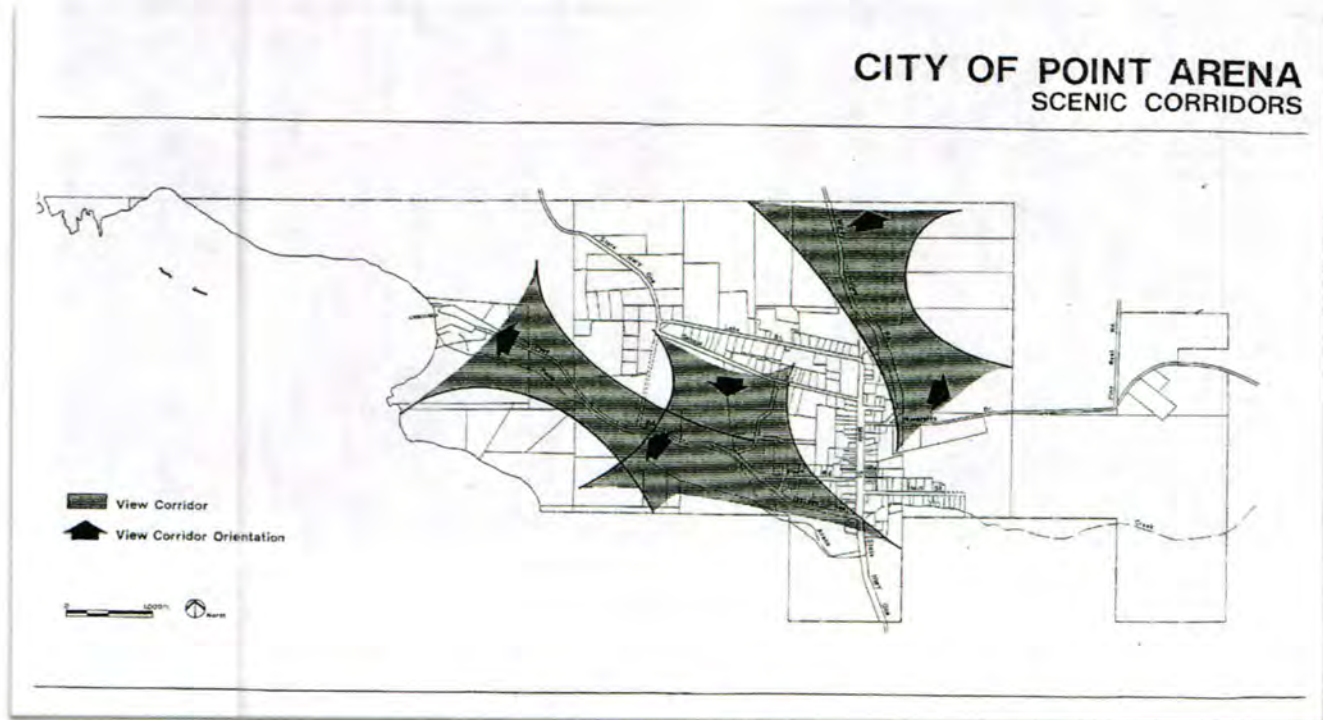


Figure 6. City of Point Arena Scenic Corridors map showing the project area is in a scenic corridor towards the harbor.

the contrasting colors.

Section 18.25.150(3) of the zoning code requires:

(3) Development Siting Criteria. The planning commission shall be guided by the following criteria when evaluating development, including land form alterations and construction of structures:

(a) New development shall be sited and designed to minimize adverse impacts on scenic areas from scenic roads or public viewing areas to the maximum feasible extent. If there is no feasible building site location on the proposed project site where development would not be visible, then the development shall be sited and designed to minimize impacts on scenic areas from scenic highways or public viewing areas, through measures including, but not limited to, siting development in the least visible portion of the site, breaking up the mass of new structures, designing structures to blend into the natural hillside setting, restricting the building maximum size, reducing maximum height

standards, clustering development, minimizing grading, incorporating landscape elements, and where appropriate, berming.

The proposed barn will be visible from the Devils Cutoff Trail when it is constructed. The structure will be backdropped by a thick grove of trees and does not block any public views to or along the ocean. Existing residences will be visible from the Devil's Cutoff Trail in this vicinity. The proposed height is 18 feet above grade, which is a height that is common in scenic areas in Mendocino County, and well below the maximum allowed height. Grading is minimized by placing the structure in the proposed location, which is already flat. The structure is not expected to result in adverse impacts from public view areas as it does not block any public views to or along the ocean.

(b) Where there is no feasible alternative that is not visible from scenic highways or public viewing areas, the development area shall be restricted to minimize adverse impacts on views from scenic highways or public viewing areas.

Development is limited to a barn structure that does not block any public views to or along the ocean. No adverse impacts need to be mitigated.

(c) Avoidance of impacts to visual resources through site selection and design alternatives is the preferred method over landscape screening. Landscape screening, as mitigation of visual impacts shall not substitute for project alternatives including resiting, or reducing the height or bulk of structures.

No adverse impacts to visual resources are proposed. The project does not block views to or along the ocean but would be visible, as backdropped by trees, from an area where a public trail is proposed. This trail is located within the city limits, and will traverse in the vicinity of several existing residential structures.

(d) Prominent ridgelines and other intervening ridgelines that are visible from a public road, a beach, public viewing areas, or public hiking trails, shall be protected by setting structures below the ridgeline to avoid intrusions into the skyline where feasible. Where there are no feasible alternative building sites below the ridgeline or where the only alternative building site would result in unavoidable adverse impacts to ESHA, structures shall be limited to one-story (18 feet maximum from existing or finished grade, whichever is lower) in height to minimize visual impacts.

The proposed structure will not be visible above the ridgeline, and is to be a maximum of 18 feet in height.

The barn is proposed to be clad in natural wood siding, with a green roof, white wood window frames and red wood doors. The proposed exterior colors and materials would blend with the natural setting while maintaining compatibility with the existing residence in style and colors. Staff believes the project complies with the intent of the site development criteria for visual resources.

NATURAL RESOURCES

The project is located in the mapped riparian and Point Arena mountain beaver buffer area as shown on the Biological Resources and Trails Map (Figure 7). Project components that were analyzed for consistency natural resources protection policies include the proposed barn and associated ground

disturbing impacts and grading that occurred in 2019. The site plan (Attachment A) shows the location of the grading that occurred in 2019.

A Point Arena Mountain Beaver Habitat Assessment was prepared by Joseph Saler of SHN Consulting Engineers and Geologists, Inc., dated October 17, 2018. According to the assessment, suitable Point Arena Mountain Beaver (PAMB) habitat does not exist within the project area. Potential habitat was observed approximately 250 feet away from the project area. Since areas of potential habitat roughly 250 feet away were not surveyed, there is a presumption of presence of Point Arena mountain beaver.

On October 22, 2020, Greg Schmidt of the US Fish and Wildlife Service conducted a habitat assessment for the proposed workshop site and areas within 100 feet. The only suitable PAMB habitat was located in the southern border of the subject parcel. The suitable habitat was comprised of berry brambles approximately 50 feet long by 15-20 feet wide. The entire patch was surveyed for PAMB No PAMB burrow entrances or other PAMB sign was found during the on-site presence absence survey. Suitable habitat was observed to occur on the neighboring parcel, just over 100 feet south of the proposed development. That suitable habitat was not surveyed as it occurred more than 100 feet from the project area. Presence within that suitable habitat is unlikely because the patch occurs on a dry, south-facing slope, suggesting only marginal suitability.

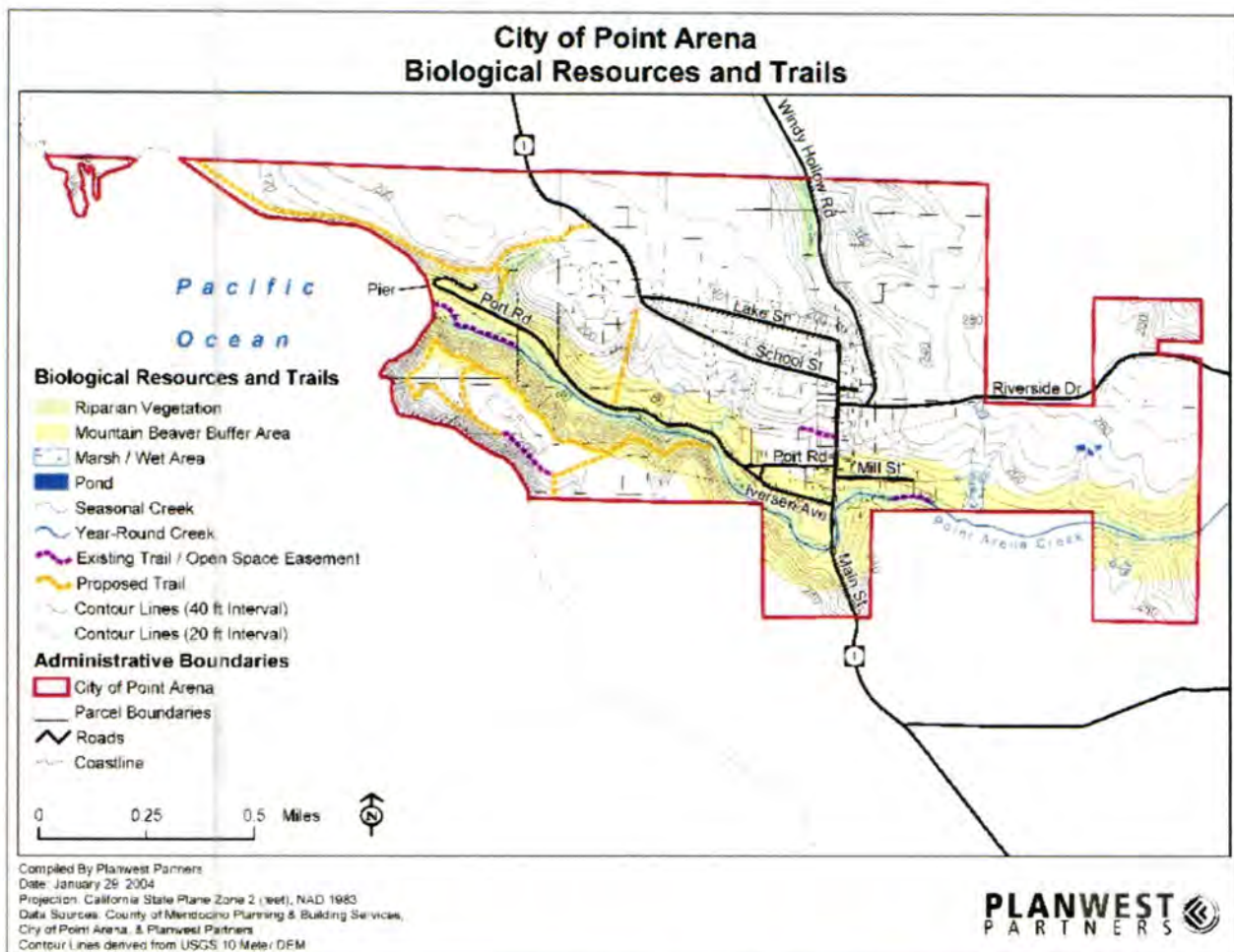


Figure 7. City of Point Arena Biological Resources and Trails map shows the project area is in the Mountain Beaver

Buffer Area.

The Point Arena zoning code Section 18.25.240 requires surveys to occur within 500 feet of the perimeter of the project area. All areas of potential habitat that were not surveyed within 500 feet of the perimeter of the project are therefore presumed to be occupied PAMB habitat, and as such avoidance measures as outlined in the Point Arena zoning code shall apply as appropriate.

The following avoidance measures are recommended to prevent impacts to PAMB that may be present between 100 and 500 feet from the project area – this includes impacts during construction as well as ongoing use of the proposed workshop:

Special Condition #2:

2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:

1. The action and related activities shall be greater than 100 feet from occupied habitat;
2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);
3. No tools shall be used that require an air compressor;
4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

Joseph Saler also performed a botanical study of the area, and determined that no special status plant species were observed in the project area. The project was referred to the California Department of Fish and Wildlife, and Daniel Harrington of the Department of Fish and Wildlife responded with no comments for the project.

The neighbor indicated by submitting a photo at the time of the hearing for CDP 2020-02, that prior ground disturbance had occurred near the site of the proposed barn. A clarification was received from Mr. Wasserman on August 11, 2020 who indicates that the area in question where prior disturbance occurred is approximately 100 feet east of the proposed barn site, and that approximately 38 cubic yards of material was graded:

The total area in the photo in question is 10' x 50', and the maximum cut on the upper side is no more than 2' at one end (East), sloping to almost grade at the other end (West).

I calculated the material disturbed to be no more than 37 cu. yds. As you may remember, the area in question is not near, nor directly connected to the barn project. It about 100 feet East of the barn site, and is meant to be temporary until the barn is completed (Wasserman 2020).

The City of Point Arena Categorical Exclusion Order allows for some grading under specified conditions to occur without a Coastal Development Permit. Section 18.30.120(2)(d) allows for grading as Categorically Excluded from the requirement for a Coastal Development permit as follows:

(d) Except within a geologically unstable area or area within 100 feet of the Hathaway Creek Fault, discussed in Section 18.25.200, or a riparian buffer area described in Section 18.25.220 (the geologic and riparian areas are clearly designated in the city of Point Arena land use plan), any excavation or fill or combination thereof, less than both of the following criteria:

(i) 1000 square feet of surface area including the removal of groundcover. This does not include groundcover removed for agricultural or grading for road and trail maintenance purposes;

(ii) 50 cubic yards of material.

The definition of a riparian buffer is:

Riparian Buffer Zone. That portion of a riparian corridor directly adjacent to a stream or creek which is measured 100 feet from the outside edge of the riparian vegetation. The width of the buffer area shall be a minimum of 100 feet and shall be larger if necessary to protect the habitat from significant degradation caused by proposed development. No buffer may be less than 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game and the city, that 100 feet is not necessary to protect the resources of that particular habitat area from significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive riparian habitat area and may not be less than 50 feet in width. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive riparian vegetation from significant disruption of habitat values, functional capacity, and species diversity as a result of future development.

While the development is not within a riparian buffer per the LCP definition, the development is within the PAMB buffer area as shown on the City of Point Arena Biological Resources and Trails Map. It is

staff's belief that the intent of the Categorical Exclusion language was to except areas within the PAMB buffer area as shown on the designated LUP map.

Section 18.25.220 of the zoning code states in part:

No new development shall be allowed within or adjacent to riparian corridors along Arena Creek, or other environmentally sensitive habitat areas (ESHA) where mapped (on the opportunities and constraints map: biological resources and trails) or other unmapped ESHAs that meet the ESHA criteria contained in LUP Chapter X Section 2.4 without first obtaining appropriate permits. New development includes, but is not limited to, vegetation removal, grading, filling, soils or refuse dumping, and the alteration of creek banks.

Staff believes the intent of the mapped PAMB buffer area is to protect against ground disturbing impacts such as grading by requiring special studies in conjunction with a CDP prior to grading. It is recommended by staff that the LCP be updated in the future to more clearly specify that areas within the PAMB buffer area do not qualify for a Categorical Exclusion under Section 18.30.120(2)(d).

The grading that occurred in 2019 is therefore added to this Coastal Development Permit application after the fact. The area graded was determined to be located in an area that does not contain PAMB habitat, which was verified by Greg Schmidt of US Fish and Wildlife Service after his site visit. The area graded is subject to water quality measures as outlined in the water quality section of this summary.

ARCHAEOLOGICAL RESOURCES

The applicant submitted an archaeological survey report by ALTA Archaeological Consulting, dated July 3, 2018. The study is kept as a confidential document in the project file, as archaeological resources are generally considered confidential.

The study was designed to identify any archaeological, historical or cultural resources within the study area boundaries. Fieldwork was conducted on June 28, 2018, and the entire parcel was surveyed. A Native American consultation was also conducted by the archaeologist. The existing residence was identified as a historic era building, and is not expected to be affected by the project. It was determined that the project would not impact any historic or cultural resources. Condition language is recommended by the archaeologist to ensure that cultural resources are not adversely impacted:

Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

The recommendations of the archaeologist are included as Special Condition #3.

WATER QUALITY

The project will require ground disturbance for construction of the barn and covered slab.

Section 18.25.340(1) of the zoning code requires the following for all Coastal Development Permit applications:

(1) Application Requirements for All Developments. The following information shall be submitted with all applications for a coastal development permit:

- (a) A site plan specifying the distance from the proposed development to the nearest water body;
- (b) Proposed methods for controlling erosion and sedimentation during construction:
 - (i) Controls to be implemented on the amount and timing of grading,
 - (ii) Best management practices (BMPs) to be implemented for staging, storage, and disposal of excavated materials,
 - (iii) Design specifications for structural BMPs such as sedimentation basins,
 - (iv) Revegetation or landscaping plans for graded or disturbed areas;
- (c) Proposed methods for controlling polluted runoff during construction:
 - (i) Methods to eliminate or reduce the discharge of other potential pollutants from construction materials (including paints, solvents, vehicle fluids, asphalt and cement compounds, and debris) into stormwater runoff,
 - (ii) Best management practices (BMPs) to be implemented for staging, storage, and disposal of construction chemicals and materials,
 - (iii) Methods to treat or infiltrate stormwater prior to conveyance off-site during construction,

- (iv) Methods to convey runoff from impervious surfaces into permeable areas of the property in a nonerosive manner;
- (d) Proposed site design and source control best management practices (BMPs) to minimize post-construction polluted runoff and impacts to water quality:
 - (i) Proposed site design and source control BMPs that will be implemented to minimize post-construction polluted runoff,
 - (ii) Proposed drainage improvements (including locations of infiltration basins, and diversions/ conveyances for upstream runoff),
 - (iii) Potential flow paths where erosion may occur after construction,
 - (iv) Measures to maximize on-site retention and infiltration (including directing rooftop runoff to permeable areas rather than to driveways),
 - (v) Measures to maximize, to the extent practicable, the percentage of permeable surfaces, and to limit the percentage of directly-connected impervious areas, to increase infiltration of runoff,
 - (vi) Revegetation plans for disturbed portions of the site,
 - (vii) Methods to address any other onsite and/or offsite impacts, and construction of any necessary improvements.

It is expected that some site preparation will be needed in order to improve the parking area, and for preparation of the area where the concrete slab will be located, and for the building footings. Additionally, the area graded in around 2019, constituting approximately 38 cubic yards of grading, is subject to water quality requirements, and a staging area will need to be identified for the storage of materials to be used during construction.

The project was referred to the County Building Division, and Michael Oliphant, Chief Building Official, responded:

- 1) A grading plan will be needed
- 2) The wrong code cycle is quoted on the plans, we are now in the 2019 CA Codes.
- 3) A Utility - U occupancy is not allowed to be two stories in height.
- 4) Complete details/plans with calculations will be required at time of building permit plan review submittal.

Staff recommends that the applicant submit, as a condition of approval of the building permit, a grading and Best Management Plan map, showing where grading occurred in the past, and where needed grading will occur, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated after disturbance, if applicable, as well as the revegetation plan for those areas, and how stormwater runoff from the barn

and slab will be managed on-site. The grading plan and all other applicable plans will additionally need to meet the requirements of the County building department as indicated in their comments above.

Special Condition #4: Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 18.30.080 and Chapter 18.30.090 of the Point Arena Municipal Code, the City Council approves the proposed project, and adopts the following findings and conditions.

FINDINGS:

1. The proposed development as described in the application and accompanying materials, if constructed as modified by any conditions of approval is in conformity with the city of Point Arena's certified local coastal program, will not adversely affect coastal resources; and
2. Feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
3. The proposed use is consistent with the purposes of the zone in which the site is located. The use constitutes a residential accessory use and is subject to the same noise and nuisance requirements as adjacent residential properties; and
4. The proposed development is in conformance with the city of Point Arena's general plan; and
5. The project, as proposed, will have no significant adverse scenic or visual impacts due to project design, location on the site or other reasons;
6. The project, as conditioned, will not have significant adverse scenic or visual impacts due to required project modifications, landscaping or other conditions;
7. The project, as proposed or as conditioned, is the least environmentally damaging alternative;
8. The proposed location of the use and conditions under which it may be operated or

maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity;

9. Services, including, but not limited to, water supply, sewage disposal, solid waste, and public roadway capacity have been considered and are adequate to serve the proposed development;
10. Environmentally Sensitive Habitat Area findings
 - (i) The proposed development has been sited and designed to prevent significant impacts to the habitat values, functional capacity, and species diversity of the adjacent riparian habitat area; and
 - (ii) The proposed development is compatible with the continuance of such habitat areas;
 - (iii) Soils and vegetation removal and disturbances shall be minimized;
 - (iv) Nonnative vegetation shall not be planted except for the continuance of existing agricultural practices.

STANDARD CONDITIONS:

1. This action shall become final on the date of approval. No appeal periods apply. The permit shall expire and become null and void at the expiration of two years after the effective date, except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The City will not provide a notice prior to the expiration date.
2. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 18 of the Point Arena Municipal Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the City of Point Arena Planning Commission or its successor agency.
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Mendocino County Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one

or more of the following:

- a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is conducted so as to be detrimental to the public health, welfare or safety, or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more such conditions.
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. A two-year limitation applies to all coastal development, variance, conditional use, design review, planned residential development, or comprehensive development plan permits. If development has not commenced within two years from the granting of a permit, the permit shall be void, except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration. To remain valid, progress toward completion of the project must be continuous. On or before the date of expiration of a coastal development permit, variance, conditional use permit, design review, planned residential development, or comprehensive development plan, the person holding the permit shall apply for a renewal of said permit if the use is to be continued beyond the date of expiration or the development cannot be initiated prior to expiration. A renewal could be processed under Administrative review by the City, on a cost-recovery basis, for a renewal period of two years.

SPECIAL CONDITIONS:

1. The subject amended Coastal Development Permit supersedes the previous approval of Coastal Development Permit 2020-02. The prior approval, CDP 2020-02 has no legal affect as of the issuance date of this amendment, and therefore cannot be exercised.
2. The following Point Arena Mountain Beaver protection measures shall be observed:
 - 2a. Mitigation for noise generating projects within 500 feet of occupied habitat shall include the following restrictions from December 15th through June 15th:
 1. The action and related activities shall be greater than 100 feet from occupied habitat;
 2. Noise-generating activities shall be limited to the use of hand tools and light power-tools (e.g., axe, chainsaw, etc.);

3. No tools shall be used that require an air compressor;
4. No power tools shall be operated while in direct contact with the ground.

2b. Operation of mechanical equipment that is in direct contact with the ground, or below ground, which causes severe ground vibrations (including operation of log landings and soil compaction with vibrators) should not occur within 500 feet of active burrows or unsurveyed suitable habitat during the breeding season, and not within 100 feet during the remainder of the year. Very severe ground vibration disturbance (such as pile driving or blasting) should not occur within 500 feet at any time.

2c. No rodent control measures (including trapping and application of poison bait or fumigants) should occur within 400 feet of active burrows or unsurveyed suitable habitat at any time. However, baits intended to kill commensal rodents (i.e., rodenticides) near human structures that are less than 400 feet from active burrows or unsurveyed suitable habitat, can be used when placed in tamper resistant bait boxes placed in areas inaccessible to PAMB. Any outdoor rodent control should only be conducted by individuals able to distinguish between burrow openings of mountain beavers and target rodent species (California Department of Pesticide Regulation 1998). The purchase, possession, and use of second-generation anticoagulant rodenticides that contain the active ingredients brodifacoum, bromodialone, difenacoum, or difethialone are prohibited in California except by certified pesticide applicators (California Department of Pesticide Regulation 2014).

2d. Domestic or feral dogs and cats are known to kill mountain beavers (USFWS 1998) and should not be allowed within areas containing burrow systems or within unsurveyed suitable habitat. Human-generated garbage may attract natural PAMB predators.

3. The following archaeological resource protection measures shall be observed:

3a. Unanticipated Discovery of Cultural Resources

If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or adobe foundations or walls, structures and remains with square nails, and refuse deposits or bottle dumps, often located in old wells or privies.

3b. Encountering Native American Remains

Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a certified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are

deemed to be Native American and prehistoric, the Native American Heritage Commission must be contacted by the coroner so that a 'Most Likely Descendant' can be designated and further recommendations regarding treatment of the remains is provided.

4. Prior to issuance of the Building Permit, the applicant shall submit a grading and Best Management Practices (BMP) plan for approval by the City Manager or his agent, and the Mendocino County Building Division. The grading and BMP plan shall show where grading occurred in around 2019, and where grading will occur for the workshop, how much material will be removed and placed, where stockpiles and construction equipment will be stored, identification of any areas that will need to be revegetated and stabilized after disturbance, if applicable, as well as the revegetation and stabilization plan for those areas, and how stormwater runoff from the barn and slab will be managed on-site. The BMP plan shall ensure that all stormwater runoff will be treated on-site and will not result in off-site erosion or sedimentation, and that areas of ground disturbance shall be stabilized as soon as possible after disturbance. Complete and accurate details/plans with calculations will also be required by the building department at the time of plan review submittal.
5. Prior to issuance of the Coastal Development Permit, all fees are due the City for planning and engineering review per the executed "City of Point Arena Cost Recovery Agreement" dated 9/30/19.

Staff Report Prepared By:

11/6/2020

Date



Teresa R Spade, AICP
City Planner

Attachments

Attachment A: Site Plan with Grading Location Shown

Attachment B: Floor Plan & Elevations

SUMMARY OF REFERRAL AGENCY COMMENTS:

Air Quality Management District
Division of Environmental Health
Building Inspection – Fort Bragg

No comment.

No comment.

1) A grading plan will be needed

2) The wrong code cycle is quoted on the plans, we are now in the 2019 CA Codes.

3) A Utility - U occupancy is not allowed to be two stories in height.

4) Complete details/plans with calculations will be required at time of building permit plan review submittal.