

## CALIFORNIA COASTAL COMMISSION

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## RECORD PACKET COPY



## F15a

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Staff: Jim Baskin  
Staff Report: February 5, 2004  
Hearing Date: February 20, 2004  
Commission Action:

STAFF REPORT: APPEALDE NOVO HEARING

APPEAL NO.: **A-1-MEN-03-029**

APPLICANT: **Deirdra Claiborne and Noren Schmitt**

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

PROJECT LOCATION: 36951 Road 526 (former Highway 1), approximately 2½ miles north of the town of Gualala, Mendocino County, APN 144-140-07.

PROJECT DESCRIPTION: Construction of a 2,574-square-foot, 20-foot average height, single-family residence on a one acre parcel with an attached 460-square-foot garage, 100-square-foot deck, 1,750-square-foot gravel driveway, ±1,360-square feet of paved patios and walkways, landscaping, onsite sewage disposal system and extension of utilities to the new structure.

APPELLANTS: **Susie and Fred Sedlacek**

SUBSTANTIVE FILE:  
DOCUMENTS

- 1) Mendocino County CDP No. 19-02;
- 2) County of Mendocino Local Coastal Program;
- 3) Coastal Permits 1-93-38 (Burdick), 1-91-75, (Feiner, Kefauver & Cirino); and 1-95-10 (Feiner); and
- 4) Lucas v. South Carolina Coastal Council (1992) 505 U.S., 112 S.Ct. 2886

**STAFF NOTES:**

**1. Procedure.**

On July 10, 2003, the Coastal Commission found that the appeal of the County of Mendocino's approval raised a substantial issue with respect to the grounds on which the appeal had been filed, pursuant to Section 30625 of the Coastal Act and Section 13115 of Title 14 of the California Code of Regulations. As a result, the County's approval is no longer effective, and the Commission must consider the project *de novo*. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application. Since the proposed project is within an area for which the Commission has certified a Local Coastal Program (LCP) and is not within the area between the first public road and the sea, the applicable standard of review for the Commission to consider is whether the development is consistent with the County's certified LCP. Testimony may be taken from all interested persons at the *de novo* hearing.

**2. Submittal of Additional Information by the Applicant.**

For the purposes of *de novo* review by the Commission, the applicant has provided Commission staff with supplemental information consisting of: 1) an analysis of the effects on rare plant ESHA at five potential building locations prepared by a consulting botanist with recommendations for ESHA protection; 2) a comparative engineering analysis of the effects on grading and drainage at the five different building locations on the parcel; and 3) information regarding the applicants' acquisition of the property to allow the Commission to evaluate whether a denial of the project would result in a "takings" inconsistent with Section 30010 of the Coastal Act. The supplemental information addresses issues raised by the appeal and provides additional information that was not a part of the record when the County originally acted to approve the coastal development permit. The applicants have also revised their project description for purposes of the Commission's *de novo* review by changing their site plan to: 1) move the building envelope for the house and garage approximately 20 feet downslope toward the south and west to site the structures in a location that would avoid the most viable and productive rare plant habitat areas, require less ridgeline tree removal, and correspondingly be less visually prominent from the Cook's Beach public coastal vista point; 2) make several other minor changes to the style, size, and placement of windows and doors and to add two skylights; 3) add a 100-square-foot deck and 1,080 square feet of paved patio area; 3) provide material specifications for a short retaining wall required to construct the relocated residence; 4) include additional 280 square feet of pathways and yard landscaping; and 5) reiterate their intent to participate in a rare plant mitigation agreement with the California Department of Fish and Game, to include provisions for coastal bluff morning glory seed banking and underwriting research studies on the species.

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**SUMMARY OF STAFF RECOMMENDATION DE NOVO:**  
**APPROVAL WITH CONDITIONS**

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project. Staff believes that, as conditioned, the development as amended for purposes of the Commission's *de novo* hearing is consistent with the County of Mendocino Local Coastal Program (LCP) and the Coastal Act even though it will result in significant adverse impacts to environmentally sensitive habitat rare plant habitat.

A botanical survey of the subject site prepared for the original project (Jon Thompson, 2002) determined that two rare plant species, coastal bluff morning glory and Point Reyes ceanothus, occur throughout the entire parcel. Because the entire parcel contains concentrations of coastal bluff morning glory that meet the definition of an "environmentally sensitive habitat area" (ESHA), the Habitats and Natural Resources policies of the Mendocino County LCP's Land Use Plan for the protection of ESHAs would apply to the entire parcel, including the proposed residential building site. As implemented through Coastal Zoning Code (CZC) Section 20.496.015, approval of development within an ESHA may only be authorized if affirmative findings can be made demonstrating that: (1) the identified resource will not be significantly degraded by the proposed development; (2) there is no feasible less environmentally damaging alternative; and (3) all feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

At the Substantial Issue hearing in July 2003, the Commission continued the project and directed staff to further analyze the project's potential impacts to rare plant habitat. Since the July 2003 hearing on the Substantial Issue determination, the applicant has provided considerable additional information on the effects of the project on coastal resources.

Further assessments of the rare plant habitat on the parcel and comparative studies of the relative degree of habitat intrusion, grading, and drainage implications at five alternative building sites have been presented. In addition, the applicant has provided information as to their acquisition and derived income from the property site to assist staff in assessing the degree to which the Commission's action on the permit application might result in an unconstitutional taking of private property. Moreover, based upon the recent findings of the rare plant, grading, and drainage investigations, the applicants have revised their permit application, for purposes of the Commission's hearing *de novo* on the project to relocate all of the proposed development on another portion of the parcel that would avoid the most viable and productive rare plant environmentally sensitive habitat areas (ESHAs) on the parcel, avoid the cutting of numerous ridgeline trees, and site the improvements so that they would be much less visible from the Cook's Beach coastal vista point. Notwithstanding the revised location for the site improvements, some of the coastal bluff morning glory rare plant ESHA on the subject property would unavoidably be displaced by the development. Given this outcome, staff does not believe that the proposed development would avoid significant degradation to this rare plant resources required by Coastal Zoning Code 20.496.015.

Thus, staff believes application of CZC §20.496.015 by itself could require denial of the project because the proposed project's approximately 7,000 square feet of structural coverage and

landscaping would result in significant degradation of the rare plant habitat resource. Given the inability to make the required LCP finding, staff would ordinarily recommend denial of the project. However, the Commission must also consider Coastal Act Section 30010 and the United States Supreme Court's decision in Lucas v. South Carolina Coastal Council (505 US 1003, 112 S.Ct. 2886, 120 L.Ed.2d 798 (1992)) and other relevant cases on takings law.

Section 30010 provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Under the Lucas decision, where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property which would allow the proposed project and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. The permit applicant also must demonstrate that project denial would interfere with reasonable investment-backed expectations. In this case, based upon the property ownership information submitted by the applicants, and the absence of evidence indicating that the project would constitute a nuisance under state law, the staff recommends that the Commission find that denial of all use residential of the property would be inconsistent with Section 30010 of the Coastal Act.

While applicants are entitled under Coastal Act Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize the Commission to avoid application of the policies of the Coastal Act or on appeal, policies within certified LCPs, including CZC §20.496.015. Instead, the Commission is only directed to avoid construing these policies in a way that would result in a taking of private property for public use. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the Act. Thus, the Commission may deny a specific development proposal, while indicating that a less impacting alternative proposal be approved, and thus assure the property owner of some economically viable use.

Staff recommends that the Commission approve the development with conditions that would minimize the amount of impact to rare plant vegetation while allowing the applicant an economically viable use of their property. As revised for purposes of the Commission's *de novo* hearing, the applicants have relocated the building envelope to place the house and garage in a portion of the lot that would avoid the most highly valued habitat areas of the parcel. As currently proposed, the house and garage would be sited on the lot so that the alteration of natural landforms, namely removal of tree cover on the upper crest of the hillside along the north side of the parcel would be minimized. In its revised location, the greatest feasible degree of physical separation between the residential uses and the most valuable rare plant habitat area would also be afforded. Furthermore, as revised for purposes of the Commission's *de novo* review, the building envelope would be located closer to the southern side of the parcel where ingress/egress onto the lot through an easement across the adjoining parcel occurs. Siting the house in this location would serve to shorten the length of driveway to the proposed attached garage, correspondingly reducing the amount of ground disturbance and habitat area displacement.

Special Condition No. 1 requires the applicants delineate a formal building envelope comprising the residence, garage, driveway, deck, and patio areas with provisions that areas outside of the delineated building envelope be kept in their natural state and not be utilized for any ancillary or accessory structures. Exceptions would be provided for a paved walkway between the driveway and the residence main entry, installation and maintenance of the underground sewage disposal system, landscaping needed to screen the approved development, removal of exotic, invasive plants, wildfire fuels management, and the erection of fencing required pursuant to a rare plant mitigation plan. Accordingly, staff is recommending that other paved walkways and landscaping beyond a five-foot perimeter around the residence be deleted from the development plans.

In conjunction with requiring the development to occur within the area that would minimize ESHA and coastal view impacts, staff is recommending other special conditions to ensure the project's consistency with all other applicable policies of the County's certified LCP.

Special Condition No. 2 requires the submittal of final plans evidencing that the proposed development will be sited within the building envelope required by Special Condition No. 1 to avoid intrusion into the most viable and productive rare plant habitat areas on the parcel. These final construction and site drainage plans shall also incorporate other recommendations of the submitted botanical and engineering studies intended to avoid creating or contributing impacts to ESHAs and implement the conservation measures proposed by the applicants to protect rare plants on the site and identify appropriate construction phase and long-term best management practices for reducing significant adverse impacts to the quality of coastal waters. In addition, the final plans detailing the implementing provisions of the applicants' rare plant mitigation agreement involving seed collection and botanical study underwriting are also to be detailed on the final plans.

Special Condition No. 2 also requires the applicants to submit for the approval of the Executive Director, a revised landscaping and vegetation maintenance plan requiring the applicant to: (1) maintain the rare plant habitat outside of the approved building envelope; (2) ensure that no invasive exotic vegetation is planted on the parcel that could spread into and significantly reduce the presence of rare plants being conserved on the site; and (3) provide certain new landscaping and to protect existing major vegetation on the parcel in order to screen the development from public vista points and scenic coastal areas.

Special Condition No. 3 sets design standards for the exterior building materials and lighting to ensure that the development is compatible with the character of its surroundings and subordinate to its setting to protect coastal visual resources.

Special Condition No. 4 requires the applicants to provide a copy of the rare plant mitigation plan agreement executed with the California Department of Fish and Game to the Executive Director for review and approval prior to issuance of the permit, inform the Executive Director of any changes in the plan from those within the draft plan, and implement the plan if the Executive Director finds the plan consistent with the conditions of the permit or obtain a permit amendment if the Executive Director determines such an amendment is required by law.

Special Condition No. 5 requires a permit for all future improvements to the approved development that might normally be exempt from permitting requirements.

Special Condition No. 6 requires that all terms and conditions of the permit be recorded as deed restrictions.

Staff recommends that the Commission find that the Special Conditions attached to the permit will minimize the disturbance of the ESHAs on the property while providing for reasonable use of the property that will avoid an unconstitutional taking of private property.

**MOTION, STAFF RECOMMENDATION *DE NOVO*, AND RESOLUTION:**

**Motion:**

I move that the Commission approve Coastal Development Permit No. A-1-MEN-03-029 pursuant to the staff recommendation.

**Staff Recommendation of Approval:**

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

**Resolution to Approve Permit:**

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development, as conditioned will be in conformity with the certified County of Mendocino LCP. Approval of the permit complies with the California Environmental Quality Act because there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

I. **STANDARD CONDITIONS:** See attached.

II. **SPECIAL CONDITIONS:**

1. **Open Space Restrictions**

A. No development, as defined in Section 30106 of the Coastal Act, shall occur in the open space area generally depicted on Exhibit No. 13, which includes all areas of the subject parcel outside of the approved building envelope for the authorized 2,574-square foot residence, 460-square-foot attached garage, 100-square-foot deck, 504-square-foot rear

patio, and an approximately 1,500-square-foot graveled driveway turn-around area, and patio entry, except for:

1. Installation and maintenance of the authorized onsite sewage disposal system, an approximately 70-foot-long by four-foot-wide walkway connecting the entrance drive to the front entrance of the residence, as generally shown in Exhibit No. 5 attached to the staff report, a propane tank, community water services and public utility hook-ups; vegetation clearance required by the California Department of Forestry and Fire Protection (CDF) to meet fire safety standards; removal of non-native vegetation; planting and maintenance of required screening landscaping pursuant to Special Condition No. 2; installation of erosion control measures installed pursuant to Special Condition No. 2; and erection of protective fencing pursuant to a rare plant mitigation plan; and
2. The following development, if approved by the Coastal Commission as an amendment to this coastal development permit: planting of native vegetation to improve the habitat value, planting and maintenance of additional screening landscaping, installation of a secondary sewage disposal system leachfield, and removal of debris and unauthorized structures.

**B. PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-03-029**, the applicant shall submit for the review and approval of the Executive Director, and upon such approval, for attachment as an Exhibit to the NOI, a formal legal description and graphic depiction of the portion of the subject property affected by this condition, as generally described above and shown on Exhibit No. 13 attached to this staff report.

**2. Revised Plans**

**A. PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-03-029**, the applicant shall submit revised plans to the Executive Director for review and approval. The revised plans shall substantially conform with the plans submitted to the Commission on January 28, 2004 and February 2, 2004, prepared by Magma Design, and consisting of four (4) sheets, including site plan, floor plan building elevation views, and landscaping plan, except that the plans shall also provide for the following changes to the project:

- 1) Site Plan Revisions
  - a. The garden walkways and landscaping outside of the building envelope generally shown on Exhibit No. 13 of the staff report not intended to screen the development for coastal visual resource protection as required by Special Condition No. 3 shall be eliminated.
  - b. The plans shall depict the main residence with no more than three bedrooms and the combined building footprint of the residence and attached garage no greater

than 3,034 square feet, and a gravel-surfaced driveway and turning area located within the designated 6,000-square-foot building envelope shown in Exhibit No. 13 of the staff report and outside of the open space area required pursuant to Special Condition No. 1.

- c. The plans shall depict the approved septic tank and propane tank located within the 30-foot vegetation clearance radius around the house and garage and sited in accordance with Mendocino County Department of Public Health – Division of Environmental Health regulations.
- d. The plans shall depict the driveway at the minimum width required by the County and by the California Department of Forestry and Fire Protection, and surfaced with gravel or another pervious material.
- e. Runoff from roof downspouts and other drainage from the site shall utilize splash blocks and be dispersed and diffused on the ground rather than concentrated in one location.

2) Erosion and Runoff Control Plan

- a. The plans shall include an erosion and Runoff Control Plan that incorporates design elements and/or Best Management Practices (BMPs) which will serve to minimize the volume and velocity of stormwater runoff leaving the developed site, and to capture sediment and other pollutants contained in stormwater runoff from the development, by facilitating on-site infiltration and trapping of sediment generated from construction. The final runoff control plans shall at a minimum include the following provisions:
  - i. Soils grading activities shall be restricted to the dry-season between April 15 and October 31;
  - ii. A physical barrier consisting of silt fencing and/or bales of straw placed end-to-end shall be installed downslope of any construction areas. The bales shall be composed of weed-free rice straw, and shall be maintained in place throughout the construction period;
  - iii. Vegetation at the site shall be maintained to the maximum extent possible. Topsoil shall be stockpiled and reused as ground cover after excavation work has been completed. Any disturbed areas shall be replanted with noninvasive native plants obtained from local genetic stock immediately following project completion, and covered by jute netting, coir logs, and rice straw;
  - iv. The washing-out of concrete delivery vehicles, disposal of solid waste, or release of any hazardous materials on the parcel shall be

prohibited, and any accidental spill of such materials shall be promptly cleaned up and restored;

- v. Runoff from the residence and garage roof shall be collected and tie-line conveyed to the western side of the structures and discharged through a series of at least four downspouts and onto the vegetated slope for infiltration to the maximum extent practicable in a non-erosive manner. Where gutters and downspouts are used, splash block velocity reducers shall be incorporated, to prevent scour and erosion at the outlet; and
- vi. Contractors shall be informed of the presence of rare plant habitat on the site and the importance of avoiding disturbance to areas outside of the authorized building envelope, especially with regard to erosion and runoff from the building site.

3) Landscape Revisions

a. The revised landscaping plan shall demonstrate that:

- i. The planting of non-native invasive plants at the project site will be prohibited;
- ii. No landscaping shall be installed outside of the building envelope generally shown in Exhibit No. 13 of the staff report except as required herein;
- iii. Following completion of site clearing and grubbing, a minimum of ten (10) 15-gallon container plants composed of a mixture of Bishop pine (Pinus muricata), beach pine (Pinus contorta var. contorta), and Douglas-fir (Psuedotsuga douglasii) shall be planted in a non-linear arrangement along the northern property line situated between the northern side of the residence and the sightline to the Redwood Coast Land Trust's Cook's Beach overlook and vista point;
- iv. The plantings illustrated and described within the revised Landscape Plan prepared by Magma Design, dated February 2, 2004, including two (2) Monterey cypress (Cupressus macrocarpa), four (4) "Hidcote" lavender (Lavandula angustifolia var. Hidcote), eight (8) bear's breeches (Acanthus spinosus), four (4) French lavender (Lavandula stoechas), two sage (Salvia sp.), and two (2) rosemary (Rosmarinus officinalis) shall be planted in the locations identified along the western elevation of the residence and garage; and

- v. All landscaping planted pursuant to this condition shall be maintained for the life of the project.
- b. The plan shall include, at a minimum, the following components:
  - i. A map showing the type, size, and location of all plant materials that will be retained or installed on the developed site, the irrigation system, delineation of the approved building envelope for structures, driveways, and landscaped yard and play areas, topography of the developed site, and all other landscape features, and
  - ii. Appropriately worded landscaping plan notes, declaring that:
    - (1) "No non-native invasive plants shall be planted at the project site;" and
    - (2) "All areas located outside of the approved building site envelope are subject to the requirements of a 'rare plant mitigation agreement and mitigation plan' executed with the California Department of Fish and Game pursuant to Section 1802 of the California Fish and Game Code. These areas are not to be developed, landscaped, or otherwise encroached into by residential uses or site improvements;" and
  - iii. The landscape plan shall provide that all plantings be maintained in good growing conditions throughout the life of the project, and to ensure continued compliance with the landscape plan. If any of the trees and plants to be planted according to the plan die or are removed for any reason, they shall be immediately replaced in-kind.
- B. The permittees shall undertake development in accordance with the approved revised plans. Any proposed changes to the approved revised plan shall be reported to the Executive Director. No changes to the approved revised plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Design Restrictions**

- A. All exterior siding of the proposed structures shall be composed of natural or natural appearing materials, and all siding and roofing of the proposed structures shall be composed of materials of the colors proposed in the application or darker earthtone colors only. The current owner or any future owner shall not repaint or stain the house with products that will lighten the color the house without an amendment to this permit approved by the Commission. In addition, all exterior materials, including roofs and windows, shall be non-reflective to minimize glare; and

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

**4. Rare Plant Mitigation Plan**

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-03-029**, applicants shall provide to the Executive Director a copy of the mitigation agreement and plan executed between the applicants and the California Department of Fish and Game (CDFG) pursuant to Section 1802 of the California Fish and Game Code for the protection of coastal bluff morning-glory (Calystegia purpurata ssp. saxicola) rare plants on the subject parcel. The applicants shall inform the Executive Director of any changes to this approved project required by the CDFG. Such changes shall not be incorporated into the approved project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

**5. Future Development Restriction**

This permit is only for the development described in Coastal Development Permit No. A-1-MEN-03-029. Pursuant to Title 14 California Code of Regulations section 13250(b)(6), the exemptions otherwise provided in Public Resources Code Section 30610(a) shall not apply to the development governed by coastal development permit No. A-1-MEN-03-029. Accordingly, any future improvements to the single family house authorized by this permit, including but not limited to repair and maintenance identified as requiring a permit in Public Resources section 30610(d) and Title 14 California Code of Regulations sections 13252(a)-(b), shall require an amendment to Permit No. A-1-MEN-03-029 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government

**6. Deed Restriction.**

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. A-1-MEN-03-029**, the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded against the parcel(s) governed by this permit a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property; and (2) imposing the Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the entire parcel or parcels governed by this permit. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.

**7. Conditions Imposed By Local Government.**

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

**IV. FINDINGS AND DECLARATIONS:**

The Commission hereby finds and declares as follows:

**A. Incorporation of Substantial Issue Findings.**

The Commission hereby incorporates by reference the Substantial Issue Findings contained in the Commission staff report dated June, 26, 2003, and subsequent addenda, dated July 9, 2003.

**B. Project History / Background.**

On February 4, 2002, Noren Schmitt and Deirdra Claiborne submitted Coastal Development Permit Application No. 19-02 (CDP #19-02) to the Mendocino County Planning and Building Services Department seeking authorization of a coastal development permit to construct an approximately 2,100- to 2,200-square-foot, 26.5-foot-high single-family residence, 400-square-foot detached garage, and 640-square-foot guest studio cottage, onsite sewage disposal system, and extension of utilities on a parcel of land north of the unincorporated town of Gualala in southern Mendocino County. The application was subsequently referred to various review agencies, including the Gualala Municipal Advisory Council (GMAC), AND the California Department of Fish and Game (CDFG).

At its regular meeting on June 10, 2002, the GMAC reviewed the application, voting unanimously to recommend that the Coastal Permit Administrator deny the development, finding that the development as proposed, "...created a broad visual mass that would dominate rather than be subordinate to the setting, and ... failed to satisfy requirements of the subdivision architectural review committee." The original project proposal was also rejected because plans for the studio cottage included a kitchen, effectively making it a secondary dwelling unit. As a result of the review, the applicants informed the County that they would be revising the project to respond to the concerns identified by the GMAC and County Planning & Building Division staff.

On October 29, 2002, County Planning staff reissued the project referrals with a cover memo explaining to the reviewing agencies that the changes had been affected to the project in response to the earlier GMAC and County staff review. In its revised form, the development would forego development of the studio cottage and detached garage and instead would entail the construction of a 20-foot-average height, 2,574-square-foot single-family residence with an attached 640-square-foot garage to be developed further east and north from the originally proposed building site. In its new location with a 20-foot-average-height, the residence and garage clustered, and with no studio cottage, the County found that the development's effects on

views along the coast from Cook's Beach would be less than what would have resulted from the originally proposed 26.5-foot residence in the location closer to the lot's County road frontage. The memo also included a copy of the draft botanical report prepared for the site.

In addition to the changes in the project's building site to achieve greater visual resource policy conformance, the applicants investigated what additional mitigation measures could be included to further reduce the project's effects on the rare plants on the parcel. On August 15, 2002, a field consultation was conducted with the applicant/owners, County Planning staff, and Gene Cooley, associate botanist with the CDFG in attendance. A mitigation and monitoring program was subsequently developed for protecting the coastal bluff morning-glory on the project site. The mitigation program provided for: (1) fencing off the particularly diverse and prospective rich morning-glory habitat areas on the property's western third and the dense southeastern corner from disturbance by both construction phase and ongoing residential activities; (2) replanting all ground areas on the parcel disturbed by construction with noninvasive, native plants obtained from local genetic stock; (3) limiting landscaping plants to noninvasive species; (4) participation in a seed collection program for two growing seasons; and (5) contributing funding toward research to further understanding the plant's demographics, distribution, and ecology.

In the staff report prepared for the modified project, County planning division staff directed very little analysis as to whether findings concluding the redesigned project at the new building site to be the least environmentally damaging feasible alternative, inclusive of all feasible mitigation measures, and not resulting in significant degradation of the resource as required by the LCP. Instead, emphasis was placed on the relatively improved level of visual resource protection afforded under the new design and the agreement reached between CDFG and the owners to participate in a rare plant mitigation plan and that agency's generally-stated supportive recommendation for the project as revised.

On February 27, 2003, the Coastal Permit Administrator (CPA) for the County of Mendocino approved Coastal Development Permit No. #19-02 (CDP #19-02) for the subject development. The Coastal Permit Administrator attached a number of special conditions, including requirements that: (1) the temporary occupancy travel trailer be removed upon completion of the primary dwelling; (2) all exterior building materials and finishes match those specified in the permit application, all glass be non-reflective, and changes in building materials be subject to CPA review for the life of the project; (3) a final landscape plan for complete screening of site improvements from Highway One views be submitted, reviewed and approved by the Coastal Permit Administrator prior to issuance of the coastal development permit; and (4) the existing trees surrounding the proposed residence building site be retained without tree removal or limbing of existing trees whose trunks are greater than 15 feet from the building site be undertaken.

The decision of the Coastal Permit Administrator was appealed at the local level to the County Board of Supervisors. On April 22, 2003, the Board of Supervisors denied the appeal, effectively upholding the Planning Commission's actions on the project, including its previously-adopted findings and conditions of approval. The County issued a Notice of Final Local Action on April 24, 2003, which was received by Commission staff on April 28, 2003 (see Exhibit No. 7).

On May 9, 2003, the Commission received an appeal of the County's decision to approve the development from neighbors Fred and Susie Sedlacek. The appeal alleged that the manner in which the County of Mendocino conditionally approved the project did not effectively ensure: (1) the establishment of an adequate buffer between the approved development and environmentally sensitive habitat areas on the site; and (2) minimization of potentially significant adverse impacts to coastal visual resources. The full text of the appellant's contentions is included as Exhibit No. 8.

On July 10, 2003, the Commission found that a Substantial Issue had been raised with regard to the consistency of the project as approved and the applicable policies of the LCP concerning the provisions of adequately wide buffers between new development and environmentally sensitive areas and the protection of visual resources.

The Commission continued the *de novo* portion of the appeal hearing so that the applicant could provide additional information relating to the substantial issue. Supplemental botanical assessments as the extent and viability of rare plant habitat on the project site from the comparative perspective of five alternative building sites on the parcel were subsequently provided to the Commission. An engineering analysis was also provided addressing the grading and drainage impacts at the site determined to have the least rare plant habitat impacts. The engineering report also provided two sub-options to this latter building site to reposition the residential structures to further reduce site grading and land form alteration. Moreover, Commission and CDFG staff have met on the project site to further examine rare plant conditions and assess the implications for rare plant habitat under the various house siting alternatives studied. Additionally, the applicants have provided information relating to their acquisition of the property and any income derived there from to allow for an analysis of the applicants likely investment-backed expectations for the property.

From the results of these studies, field visits and consultations, and after consideration of the property information, on January 28, 2004, the applicants revised the project description for purposes of the Commission's *de novo* review to relocate the house and garage further to the south-southwest from the County-approved location to one that would avoid the most viable and productive rare plant ESHA on the parcel, result in less overall coverage or displacement of rare plants, ground disturbances, and removal of major vegetation, and lessen the visual dominance of the development on the area's landscape. In addition, the revised project description now includes certain decking, patio, walkway, and landscaping improvements (see Section IV.C.2, below, for a more detailed project description).

### **C. Project and Site Description.**

#### **1. Project Setting**

The project site for the proposed single-family residential development comprises Parcel 2 of the Rhodes Subdivision, created by parcel map in 1962. The site is one of the series of double-frontage lots located between Highway One on the east and County Road No. 526 (former alignment of Highway 1) on the west, approximately 2½ miles north of the unincorporated town

of Gualala (see Exhibit No. 2). This roughly rhomboidal-shaped property is approximately one acre in size and consists of a moderately sloped brushy lot with scattered tree cover along its northern and eastern sides. Plant cover includes upland grasses, forbs, and shrubs, including coyotebrush (Baccharis pilularis), bush lupine (Lupinus sp.), and blueblossom (Ceanothus thyrsiflorus). Several patches shore pine (Pinus contorta ssp. contorta) lies across the northern and eastern sides of the parcel. The site contains known environmentally sensitive habitat areas in the form of rare plants, namely coastal bluff morning-glory (Calystegia purpurata ssp. saxicola) and Point Reyes ceanothus (Ceanothus gloriosus ssp. gloriosus), species that appear on the California Native Plants Society's List 1B and List 4, respectively. Adjacent to the site on the west lies the coastal terrace headland known as Bourms Landing, the former site of the Mar-Lyn Planing Mill. Across Highway One to the east lies the Glen Glenn residential subdivision. To the south of the site beyond the Rhodes Subdivision lots, the coastline continues on as the rocky cliffs off of Wilson Field, a former airfield.

The project site lies within the LCP's Iversen Road to Sonoma County Line Planning Area. The parcel is currently designated in the Land Use Plan and on the Coastal Zoning Map as Rural Residential – 5-acre Minimum Lot Area (RR:L-5). The subject property is within a highly scenic area as designated on the Land Use Map (see Exhibit No. 3). With the exception of the utility poles and vaults along the county road frontage and access driveways extending along the lot's southwestern side, the site is largely undeveloped. Views to and along the ocean across the site are limited to lateral site lines to the north and south from the lot's western county road frontage. Due to the terrain, no views are afforded across the lot from Highway One to the east.

## 2. Project Description

At the building site location approved by the County, the development would have resulted in the construction of a 2,574-square-foot, 20-foot average-height<sup>1</sup>, one-story residence with a 640-square-foot attached garage, (see Exhibit No. 7). The structures would have been situated on the parcel in a manner such that the house would be visible from County Road 526 looking northerly. In addition, the gables of the house would have been visible from the County road, the Redwood Coast Land Trust coastal viewing area on the southern blufftop above Cook's Beach and from portions of the beach proper. In addition, removal of the five Bishop pines at the proposed building site would have taken away much of the backdrop screening provided to the residence on the adjoining parcel to the north and significantly alter the tree-lined hillside character of the area.

For the purposes of the Commission's *de novo* review, the project was subsequently revised by the applicants to: 1) relocate the new residence and garage approximately 20 feet southwesterly down from the hillside break in slope building site approved by the County to minimize impacts to rare plant habitat and visual resources. Although the overall size of the structure would not

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<sup>1</sup> CZC Section 20.308.025(L) defines building height as "the vertical distance from the average ground level of the building to the highest point of the roof ridge or parapet wall." At the building site approved by the County, the dwelling maximum heights would have ranged from approximately 16 feet above an at-grade elevation of +110 feet msl on the upper northern side to about 24 feet on the lower southern side above an at-grade elevation of +102 feet msl, or approximately 20 feet  $(24 - (102+110) \div 2)$  in average height.

change, because of being located on a slightly steepened portion of the lot, the building height at the southern end of the house would extend to 26 feet above grade at the revised site location, however the average height would remain at a 20 feet height<sup>2</sup> (see Exhibit No. 5). The structures as re-situated on the parcel would continue to be visible from northbound County Road 526. However, only the uppermost portions of the house would be visible from the Redwood Coast Land Trust coastal viewing area on the southern blufftop above Cook's Beach and from portions of the beach proper. In addition, by retaining the conifers at the former approved building site, some screening would be provided to lessen the visual presence of the residence as viewed from public vantage points to the north and help to preserve the tree-covered ridgeline character of the area. The revised project also included a 100-square-foot redwood deck, a 572-square-foot front patio area, a 504-square-foot paved rear patio, installation of utilities and community services to the new structure, and 560-square-feet of paved walkways, with housing perimeter, and yard landscaping. The applicants also reiterated their intent to participate in a rare plant mitigation plan agreement with the CDFG for protecting the coastal bluff morning glory on the site.

**D. Planning and Locating New Development.**

1. LCP Provisions

LUP Policy 3.9-1 of the Mendocino County Land Use Plan states that new development shall be located within or near existing developed areas able to accommodate it or in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

LUP Policy 3.8-1 states that Highway 1 capacity, availability of water and sewage disposal systems and other know planning factors shall be considered when considering applications for development permits.

The subject property is designated in the Land Use Plan and on the Coastal Zoning Map as Rural Residential – 5-acre Minimum Lot Area (RR:L-5). Coastal Zoning Code Chapter 20.376 establishes the prescriptive standards for development within Rural Residential (MRR) zoning districts. Single-family residences are a principally permitted use in the RR zoning district. Setbacks for the subject non-conforming one-acre parcel are twenty feet to the front, rear, and side yards, pursuant to CZC Section 20.376.030. CZC Sec. 20.376.045 limits building heights to 18 feet above natural grade for areas west of Highway One within highly scenic areas unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. CZC Section 20.376.065 sets a maximum of 20% structural coverage on RR lots of less than two acres in size.

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<sup>2</sup> For the proposed amended dwelling, the maximum building heights would range from approximately 16 feet above an at-grade elevation of +110 feet msl on the upper northern side to about 26 feet on the lower southern side above an at-grade elevation of +98 feet msl, or approximately 20 feet  $(26 - (98+110 \div 2))$  in average height.

2. Discussion

The proposed residence would be constructed within an existing developed residential area known as the Rhodes Subdivision. The proposed single-family residential use is consistent with the Rural Residential zoning for the site. The subject parcel, created in 1962 before adoption of the County's coastal zoning regulations, is a legal parcel of approximately one acre in size. The applicants propose to construct a total floor area of 3,034 square feet of single-family residential structural improvements, which, with the proposed deck, entrance and perimeter walkways, and patio and retaining walls, represents a total of approximately 3,900 square feet or approximately nine percent lot coverage. The proposed building height, as measured from the average ground elevation would be 20 feet. The proposed residence's location, lot coverage and building height are consistent with the standards for the zoning district.

The project site is located within the water service area of the North Gualala Water Company (NGWC). The NGWC has capacity remaining to serve additional users and continues to accept applications for new connections to its water system. Sewage would be processed by a proposed individual septic disposal system. The system's design has received a preliminary approval "clearance" letter from the Mendocino County Department of Public Health's Division of Environmental Health (see Exhibit No. 15). Therefore, the proposed development is consistent with the LUP and Zoning designations for the site and would be constructed within an existing developed area consistent with applicable provisions of LUP Policy 3.9-1.

Use of the site as a single-family residence is envisioned under the certified LCP. The cumulative impacts on traffic capacity of development approved pursuant to the certified LCP on lots recognized in the certified LCP were addressed at the time the LCP was certified. Further, the proposed development would meet the prescriptive standards for development within its rural residential zoning district in terms of height, bulk, and coverage, and demonstrated water and wastewater infrastructure. Therefore, the proposed development is consistent with the LUP and Coastal Zoning Code designations for the site, would be constructed within an existing developed rural residential area, and would not adversely impact transportation or public service infrastructure capacities consistent with applicable provisions of LUP Policies 3.9-1 and 3.8-1, respectively.

E. Environmentally Sensitive Habitat Areas

1. LCP Provisions

LUP Policy 3.1-7 in applicable part states:

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

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

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

[Note: The requirements for establishing buffers adjacent to all ESHAs and the buffer width adequacy standards of Policy 3.1-7 are implemented verbatim through CZC Section 20.496.020.]

LUP Policy 3.1-24 states:

*Any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some development under mitigating conditions but would assure the continued protection of the resource.* [emphasis added]

LUP Policy 3.1-29 states:

*The California Department of Fish and Game, the California Native Plant Society, and the U.S. Fish and Wildlife Service shall be requested to maintain and augment mapped inventory of all rare, endangered, threatened and protected plant and wildlife habitats on the Mendocino Coast based on up-to-date survey information. Symbols indicating rare or endangered plants and wildlife are placed on the Land Use Maps to generally locate listed species and will be pinpointed as necessary to prevent degradation prior to issuing any development permit. Furthermore, the Department of Fish and Game is requested to work with the county during the planning and permit process to evaluate the significance of mapped sites as they apply to individual development applications.* [emphases added]

Section 20.308.040(F) of the Mendocino County Coastal Zoning Code (CZC) defines the term “environmentally sensitive habitat area” as follows:

‘Environmentally Sensitive Habitat Area’ means 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 easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals. [emphasis added]

CZC Section 20.496.010 states in applicable part:

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

CZC Section 20.496.015 states in applicable part:

(A) Determining Extent of ESHA. The Coastal Permit Administrator shall review, with the assistance of land use maps, all permit applications for coastal developments to determine whether the project has the potential to impact an ESHA. A project has the potential to impact an ESHA if: ...

(2) The development is proposed to be located within an ESHA, according to an on-site investigation, or documented resource information; ...

(B) Disagreement as to Extent of ESHA. Where the Coastal Permit Administrator and representatives of the California Department of Fish and Game, the California Coastal Commission, and the applicant are uncertain as to the extent of the sensitive habitat on any parcel, such disagreements shall be investigated by an on-site inspection by the landowner and/or agents, county staff member and representatives from Fish and Game and the Coastal Commission...

(D) Development Approval. Such development shall only be approved if the following occurs:

(1) All members of the site inspection team agree to the boundaries of the sensitive resource area; and

(2) Findings are made by the approving authority that the resource will not be significantly degraded by the development as set forth in Section 20.532.100(A)(1).

(E) *Denial of Development. If findings cannot be made pursuant to Section 20.532.100(A)(1), the development shall be denied.* [emphases added]

Cited CZC Section 20.532.100 states in applicable part:

*In addition to required findings, the approving authority may approve or conditionally approve an application for a permit or variance within the Coastal Zone only if the following findings, as applicable, are made:*

(A) *Resource Protection Impact Findings.*

(1) *Development in Environmentally Sensitive Habitat Areas. No development shall be allowed in an ESHA unless the following findings are made:*

(a) The resource as identified will not be significantly degraded by the proposed development.

(b) There is no feasible less environmentally damaging alternative.

(c) All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted. [emphases added]

## 2. Discussion

### a. Identification of the Presence, Extent, and Impacts of Development on Rare Plant ESHA.

The applicants' botanist, Jon Thompson, conducted a botanical survey of the subject parcel and submitted an initial report dated October 21, 2002 with several subsequent finalized and addendum reports submitted to the County during its review of the project. The initial report identified the presence of coastal bluff morning glory (Calystegia purpurata ssp. saxicola) and Point Arena ceanothus (Ceanothus gloriosus ssp. gloriosus), listed California Native Plant Society (CNPS) Class 1B and 4 rare plant species, respectively. "List 1B" plants are defined as rare plant species vulnerable under present circumstances or to have a high potential for becoming so because of its limited or vulnerable habitat, its low numbers of individuals per population (even though they may be wide ranging), or its limited number of populations. All plants appearing on the CNPS List 1B meet the definitions within the Native Plant Protection Act and the California Endangered Species Act as species eligible for state listing as a rare, threatened, or endangered plant. Pursuant to the California Environmental Quality Act guidelines, it is mandated that the effects of a development project on the species be fully considered during project environmental review. Given this listing's significance as a threshold for determining the relative significance of potentially adverse impacts on biological resources and for setting requirements for formulating related mitigation and monitoring programs, the

coastal bluff morning glory and the area in which it is growing meet the LCP's definition of an ESHA as they are both: (1) "*an 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 (2) "*which could easily be disturbed or degraded by human activities or developments.*" In addition, the Mendocino County LCP specifically identifies rare and endangered plants as ESHA. CNPS "List 4" is effectively a "watch list," comprising those rare plants which are of limited distribution or infrequent throughout a broader area in California, and their vulnerability or susceptibility to threat appears relatively low at this time. These plants cannot be considered "rare" from a statewide perspective and therefore are not eligible for CESA candidacy as a "threatened" or "endangered" species. As a result, the Point Arena ceanothus and its habitat found on the subject property do not meet the LCP's definition of a "environmentally sensitive habitat area" for purposes of implementing the LCP's ESHA policies (i.e., restrictions on development within ESHAs, provision of adequately-wide buffer areas between development and ESHAs).

The Thompson botanical survey found the coastal bluff morning-glory habitat occurring throughout the majority of the project parcel. At the time of the field surveys in May, June, and July, 2002, the subspecies covered more than two-thirds of the property. Approximately 30 individual plants were observed within the bounds of the proposed building envelope for the house, garage, and driveway, with upwards of an additional 70 individuals being potentially impacted by construction activities. An estimated 200-300 individual plants were found to exist throughout the remainder of the lot.

A map prepared as part of the Thompson botanical survey illustrated the relative concentrations of the coastal bluff morning-glory plants on the site (see Exhibit No. 9). Plant occurrence within the areas along the northeastern fringe and within the southeastern corner of the parcel were characterized as being "very low to absent." With the exception of a roughly 30-foot-diameter dense patch within the southwestern corner, the plant was found to be in "low" concentrations within the approximately 100-foot-wide westerly half of the property. The highest concentration of individual coastal bluff morning-glory plants were found to lie in the middle to southeastern portions of the lot. The house, garage, driveway, and landscape areas as approved by the County would have been developed entirely within the "high" concentration areas of the lot as designated in the Thompson report. The proposed development as amended for purposes of the Commission's *de novo* review would reposition the majority of the site improvements to the western half of the property within the area with a "low" concentration of coastal bluff morning glory.

The wide pattern of occurrence of the plant across the majority of the parcel effectively renders the whole of the parcel as ESHA. As a result, no portion of the site can be found to lie outside of the rare plant ESHA.

Since the Commission's Substantial Issue determination in July 2003 that Appeal No. A-1-MEN-03-029 raised a substantial issue of conformance with the certified LCP, a habitat impact alternatives analysis was prepared by the late Gordon McBride, PhD for the project site (see Exhibit 11). As coastal bluff morning glory plants reproduce both embryonically (by seed) and vegetatively (via adventitious stem tissue sprouting from an underground root-like "caudex"), the

above-ground presence of these plants shifts geographically over time. Consequently, as Dr. McBride anecdotally observed, unlike other fixed-rooted or corporally-discrete organisms, such as redwood trees or buffalo, a statistical measurement of the absolute distribution or density of these plants for purposes of assessing the extent of their habitat is somewhat elusive. Only by carefully digging up each and every plant and their radial caudices could such a purely quantitative analysis of the areal extent of coastal bluff morning glory be accomplished.

Accordingly, Dr. McBride favored a more qualitative approach of visually observing where the coastal bluff morning glory plants appear most abundant over time and then recommending such areas for protection. Dr. McBride considered this latter approach to be an equally effective and far less potentially destructive tactic. In addition, Dr. McBride stressed the need to consider the variable effects of development on the other wildlife habitat types afforded on the parcel, namely coastal bluff scrub, coastal terrace prairie, and closed-cone coniferous plant communities.

Based on these approaches, Dr. McBride considered the relative impacts to each of the following five building site scenarios (see Exhibit 10):

Site "A": The location originally proposed by the applicants in the upper center of the parcel straddling areas of "high" and "low" rare plant concentrations as mapped in the Thompson study. Because the structures at this site would "create a broad visual mass rather than be subordinate to the setting," as viewed from public vistas along County Road 526 and to the south, this location subsequently received a recommendation for denial from the GMAC. This unfavorable advisory review led the applicants to revise the project plans to move the structures further to the east and upslope into the trees to reduce their visual dominance.

Site "B": The building site as revised by the applicants following the recommendation from the GMAC for denial, approved by the County of Mendocino, and subsequently appealed to the Commission. In the course of trying to lessen the visual expression of the residence and garage that would have resulted at Site "A," the relocation would have placed the development fully within the area of highest rare plant concentration according to the Thompson study map. This location would also require the greatest amount of natural landform alteration, in the form of tree removal and grading, and place the development within the view from the northern stretch of Cook's Beach and from its blufftop overlook vista point.

Site "C": The current proposed building site as revised for purposes of the Commission's *de novo* review. This site is situated in a mid-slope location on the parcel, further down slope from Sites "A" and "B," but maintains a slightly greater setback from the western road front as compared with Site "A." Approximately half of the structural improvements would be located each within the areas identified by Thompson as having "low" and "high" rare plant concentration.

Site "D": This building site would place the structures as far into the flatter southeast quarter of the property as possible and still conform with the RR zoning district's minimum yard setback standards. This location would result in the least visually

dominant placement for the house and garage and would require the least ground disruption and natural landform alteration. In this location, the majority of the structural improvements would be located in the area of "high" rare plant concentration, with only a small portion of the house at the northern end of the house within the area designated by Thompson as exhibiting "very low to absent" rare plant concentrations. Moreover, the development would significantly encroach into the area on the parcel concluded by both Thompson and Dr. McBride to have the greatest viability for coastal bluff morning glory, and the most worthy for preservation, as indicated by exhibiting the greatest observable abundance of plants.

Site "E": Under this scenario, the structures would be centered in the southwest quarter of the property. Due to its relative proximity to the County Road 526 frontage, this location would result in perhaps the most visually dominant placement for the house and garage. In addition, because of the steep slopes on this portion of the lot, development on this site would require a substantial amount of ground disruption and natural landform alteration. This alternative would place the structural improvements entirely within areas mapped by Thompson as having "low" and "very low to absent" rare plant concentrations. However, based upon input derived from consultation with CDFG staff during the preparation of the survey, because of its westerly aspect and location well-moved from the tree cover on the site, the western half of the lot was identified as being ecologically diverse and rich, worthy of protection, regardless of the relative low density of plant occurrence in this area (e.g., 20 to 40 individual plants with an approximately 1/2-acre area) at the time of field survey.

Dr. McBride's investigation found the greatest potentially significant impacts on rare plant habitat to be associated with Site "D," where the highest density of plant specimens were observed. Moderate levels of impacts were concluded for Sites "A," "C," and "E." Because of the presence of over-shadowing tree boughs, soil acidity associated with accumulated pine needle litter, and the relative few, less-than-vibrant morning glory specimens observed, Dr. McBride identified Site "B" as his recommended site for the proposed development.

It should be pointed out again that Dr. McBride's analysis considered a number of other factors other than just the potential effects of the proposed development on the coastal bluff morning glory rare plant habitat. For example, the conclusion that moderate impacts would result from development at Sites "A," "C," or "E" was based partly on the observation that impacts to wildlife habitat impacts in general would result from the construction within these coastal terrace prairie and coastal bluff scrub areas, particularly with regard to removal of the manzanita thickets at the site(s). Accordingly, his recommendation for Site "B" was not based solely on the protection of ESHA at the site, but included consideration of other ecological characteristics which would not necessarily meet the rarity, ecosystem importance, or easily disturbed or degradation-prone criteria to quality as ESHA. Based upon the recommendation from Dr. McBride, the applicants engineer prepared an analysis of the grading and drainage implications for development at Site "B." The engineering analysis also proposed a modification to the house location at Site "B" to further minimize grading and drainage at the building site (see Exhibit 12).

Commission Staff re-visited the site on October 1, 2003, and reviewed the rare plant habitat impact analysis with Gene Cooley, botanist with the California Department of Fish and Game (CDFG). A walk-over of the site validated earlier considerations of the subject parcel as wholly consisting of concentrations of coastal bluff morning glory habitat, as additional specimens were found by Mr. Cooley in areas where they had not been observed previously, including under the closed cone coniferous forest portions of the lot mapped by Thompson as containing "very low to absent" concentrations and considered by Dr. McBride as having the least viable habitat conditions. During the site visit, Mr. Cooley reiterated many of the points contained in the comments provided to the County during its consideration of the project (see Exhibit No. 15), especially with respect to identifying areas on the parcel where coastal bluff might be capable of growing although they might not be observable at the time of a particular site visit. While concurring with both the findings of the Thompson survey and the McBride analysis with respect to identifying the southeastern corner of the property as possessing the most viable and productive, Mr. Cooley felt that making further distinctions in the relative degree of habitat viability across the other portions of the lot, as had been done in the Thompson survey, was not necessarily appropriate for purposes of determining a least environmentally damaging feasible site. From Mr. Cooley's perspective, with the exception of the well-drained, sunny, somewhat rocky areas on the western third of the property where the species would very likely grow and thrive (the plant's sub-species name *saxicola* denotes a preference for growing in such environments), the relative value of all other portions of the parcel outside of the southeast corner could be considered as having equal likelihood for supporting the growth of coastal bluff morning glory. Thus, according to Mr. Cooley, the least environmentally damaging feasible alternative in terms of building site location would be those areas on the lot outside of the southeastern corner and beyond the slopes on the western third of the parcel, effectively the middle section of the parcel. In subsequent conversations with Commission staff, Mr. Cooley has also re-emphasized his agency's support for the applicant's proposal to participate in a mitigation agreement and plan for the rare plants on the site.

b. Findings for the Approval of Development within ESHAs.

As the entire parcel constitutes an environmentally sensitive habitat area, any approved development would encroach into ESHA. CZC Section 20.496.015(D) restricts development on the parcel to only those instances where: (1) agreement as to the extent of the ESHA has been reached among the members of the site inspection party; and (2) findings are made by the approving authority that the resource will not be significantly degraded by the development as set forth in Section 20.532.100(A)(1). That section indicates that no development shall be allowed in an ESHA unless: (a) the resource will not be significantly degraded by proposed development, (b) no feasible, environmentally less damaging alternative exists; and (c) all feasible mitigation measures capable of reducing or eliminating project-related impacts have been adopted. In addition, CZC Section 20.496.015(E) states that if findings cannot be made pursuant to Section 20.532.100(A)(1), the development shall be denied.

Notwithstanding the concurrence reached among the members of the site inspection team members as to the extent of rare plants at the site, determinations as to the revised site proposal constituting the least environmentally damaging feasible site for the project, and the mitigation measures proposed by the applicants or contemplated for attachment to the permit approval by

the Commission for ensuring consistency with the LCP, the project as amended for purposes of the Commission's *de novo* review would result in direct impacts to an environmentally sensitive resource. Coverage or displacement of approximately 100 individual coastal bluff morning glory plants would result from the estimated 7,000-square-foot development area comprising the residential structures, driveway, decking, patio and walkways, septic leachfield, and landscaped areas. Additional indirect and cumulative adverse impacts could also occur beyond the development area associated with stormwater runoff from impervious surfaces, shading, disruptions in micro-climate, or other effects caused by placement of the site improvements.

Although the development would be sited to avoid the most highly productive areas for these rare plants, the proposed residential development located within the ESHA would significantly degrade it, inconsistent with the provisions of CZC Section 20.532.100(A)(1)(a). Therefore, the Commission finds that the proposed development is inconsistent with CZC Sections 20.532.100(A)(1)(a) and thereby 20.496.015(D). As findings for approval cannot be made consistent with CZC Section 20.532.100(A)(1), CZC Section 20.496.015(E) mandates that the project be denied.

c. Permit Denial Resulting in the Uncompensated Taking of Property.

As discussed above, the proposed development is inconsistent with CZC Sections 20.532.100(A)(1) and 20.496.015(E) therefore instructs that the project must be denied. However, the Commission must also consider Section 30010, and the recent United States Supreme Court decision in Lucas v. South Carolina Coastal Council (1992) 505 U.S., 112 S.Ct. 2886. Section 30010 of the Coastal Act provides that the Coastal Act shall not be construed as authorizing the Commission to exercise its power to grant or deny a permit in a manner which will take private property for public use. Application of Section 30010 may overcome the presumption of denial in some instances. The subject of what government action results in a "taking" was addressed by the U.S. Supreme Court in Lucas v. South Carolina Coastal Council (1992).

In Lucas, the Court identified several factors that should be considered in determining whether a proposed government action would result in a taking. For instance, the Court held that where a permit applicant has demonstrated that he or she has a sufficient real property interest in the property to allow the proposed project, and that project denial would deprive his or her property of all economically viable use, then denial of the project by a regulatory agency might result in a taking of the property for public use unless the proposed project would constitute a nuisance under State law. Another factor that is considered is the extent to which a project denial would interfere with reasonable investment-backed expectations.

The Commission interprets Section 30010, together with the Lucas decision, to mean that if an applicant demonstrates that Commission denial of the project would deprive his or her property of all reasonable economic use, the Commission may be required to allow some development even where a Coastal Act or LCP provision would otherwise prohibit it, unless the proposed project would constitute a nuisance under state law. In other words, unless the proposed project would constitute a public nuisance under state law, CZC Sections 20.532.100(A)(1), 20.20.496.015(D), and 20.496.015(E) of the certified LCP cannot be read to deny all

economically beneficial or productive use of land because these sections of the certified LCP cannot be interpreted to require the Commission to act in an unconstitutional manner. In complying with this requirement, however, a regulatory agency may deny a specific development proposal, while indicating that a more modest alternative proposal could be approved, and thus assure the property owner of some economically viable use.

#### Sufficiency of Interest

In the subject case, the applicants purchased the parcel for \$191,467.80 with a closing date of June 19, 2000. On that same date, a *Grant Deed* was recorded in Volume 2000 at pages 9636 through 9638 of the Official Records, Mendocino County Recorders Office, effectively transferring and vesting fee-simple ownership to the applicants. On July 20, 2000, First American Title Company of Mendocino County issued a *Policy of Title Insurance* in the amount of \$190,000 for the subject property to the applicants. Based upon an examination of copies of these documents and related entries within the current property tax rolls of the County of Mendocino's Assessor's Office, the Commission concludes that the applicants have demonstrated that they have sufficient real property interest in the subject parcel to allow pursuit of the proposed project.

#### Deprivation of Economic Use of Property

The Commission finds that in this particular case, other allowable uses at the subject site which might arguably avoid the significant degradation of the rare plant resources on the property, such as a passive recreational park or a nature preserve, are not feasible and would not provide the owners an economic return on their investment. Commission staff have also consulted with California Department of Parks and Recreation and the Redwood Coast Land Trust to ascertain if any potential might exist for the parcel to be acquired for natural resource conservation or other resource-compatible public uses. These agencies have confirmed that they do not presently have an interest in or funding for purchasing the parcel, as it is too small to be of value as a habitat preserve and is located within an established residentially-developed area. Neither does the property appear as a priority site for conservation measures under the Mendocino Land Trust's Mendocino County Coastal Conservation Plan. In addition, given the project site's proximity to several large state and regional parks and other conservation areas that contain and preserve rare plant habitat (i.e., Gualala Point County Park, Schooners Cove State Beach, Manchester State Park, and numerous small open space easement-deeded areas within Sea Ranch and along the southern Mendocino County coastline), there is no impetus for these agencies to purchase the lot for habitat preservation. Furthermore, the applicants attest that no other public agency has indicated any interest in purchasing their property.

#### Creation of Nuisance

Next the Commission turns to the question of nuisance. There is no evidence that construction of a residence on the subject property would create a nuisance under California law. Other houses have been constructed in similar situations in or near the rare plant communities in coastal Mendocino County, apparently without the creation of nuisances. The County's Environmental Health Department has reviewed and approved the applicant's proposed septic system, ensuring that the system will not create public health problems in the area. Furthermore,

the use that is proposed is residential, rather than, for example, industrial, which might create noise or odors or otherwise create a public nuisance.

#### Interference with Reasonable Investment-backed Expectations

The subject parcel as well as much of the adjoining lands were designated in the County's certified LUP in 1985 for rural residential use (see Exhibit Nos. 3 and 4). Residential development has previously been approved by the Commission or the County on other parcels within the adjoining Rhodes, Smuggler's Cove, and Glen Glennen Subdivisions. The approval of Coastal Development Permit Nos. CDP#50-00 (McNeely) by the County in October 2000 and CDP No. A-1-MEN-00-051 (Bonham) by the Commission on appeal for a lot line adjustment to reconfigure vacant rural residential- and visitor-serving facility-zoned lands in August 2001, both on lots in the immediate Rhodes Subdivision area, may have further reinforced the applicant's belief that they would later be able to obtain a coastal development permit to build a residence on the site.

In addition, none of the sales listing information provided to the applicants when they were considering purchasing the property indicated the existence of any constraints to development at the site relating to the presence of sensitive environmental resources. The listing of coastal bluff morning glory in the January 2001 printing of the CDFG's Natural Diversity Database had not as yet occurred. As a result, no mention of the possible effects on development from the presence of endangered, threatened, or rare plant or animal species was disclosed in either the Codes, Conditions, or Restrictions instrument recorded against the Rhodes Subdivision in 1973, the Multiple Listing Service<sup>®</sup> documents, the preliminary title report, in the natural hazards or other disclosure documents provided to the applicants, or personally by the brokers or County Planning staff.

#### Conclusion

Thus, the Commission concludes that, as a result of possessing sufficient ownership interest in the property, obtaining zoning conformance, community service, and environmental health clearances that no nuisance would result from development at the site, knowing the parcel's land use regulatory status and the permitted development pattern of the project site's surroundings, the applicants had reason to believe that they had purchased a parcel upon which they would be able to build a residence. The Commission also finds that in this particular case there is no other viable economic use for the site other than single-family residential development. The Commission finds, therefore, that outright denial of all residential use on the property would deprive the property of all reasonable economic use.

In conclusion, the Commission finds that a residential project, which includes a moderately-sized house, attached garage, driveway, septic system, small deck and patio, and landscaping can be allowed to permit the applicants a reasonable economic use of their property consistent with Section 30010 of the Coastal Act.

#### Maximizing LCP Conformity while Avoiding Takings

Though applicants are entitled under Coastal Act Section 30010 to an assurance that the Commission will not act in such a way as to take their property, this section does not authorize

the Commission to completely avoid application of the policies and standards of the certified LCP, including CZC Sections 20.496.015(D), 20.496.015(E), and 20.532.100(A)(1). Instead, the Commission is only directed to avoid construing these applicable policies in a way that would take private property for public use. Aside from this instruction, the Commission is still otherwise directed to enforce the requirements of the LCP. Therefore, in this situation, the Commission must still comply with CZC Section 20.496.015(D) by protecting the sensitive coastal bluff morning glory vegetation on the remainder of the applicants' property, and avoiding impacts that would degrade the rare plant habitat, to the greatest feasible extent.

Commission staff requested that the applicant submit an analysis of alternative locations for residential development on the subject parcel that would minimize adverse impacts to the rare plant habitat. The discussion of the alternatives points by the applicants' botanist's and the reviewing botanist from the California Department of Fish and Game point out that the parcel, with certain exceptions, should be considered as effectively uniformly covered with rare plant vegetation. Areas where higher concentrations of the plant have been observed over time or where growing conditions are most favorable exist in the southeastern corner and within the western third of the lot. Therefore, to avoid the most significant portions of the ESHA, approved development should be generally located in the middle portions of the parcel. As shown on the site plan submitted by the applicant in Exhibit No. 5, the proposed house and garage would be sited near the middle of the parcel just up slope from the area approved for development of an onsite sewage disposal system leachfield.

The Commission has considered multiple alternatives to the proposed configuration of the house and garage and has determined that an alternative configuration other than that proposed would minimize the amount of impact to rare plant ESHA. In considering alternative configurations of the proposed development, the Commission looked at four factors, or constraints, that affect the siting of the proposed development on the subject parcel as they relate to the rare plants. These factors include: (1) areas where development is generally precluded, including within minimum yard setback requirements, on steep slopes, and in areas approved for septic system development; (2) the relative amounts of grading needed to construct the house, garage, and driveway at the various alternative sites; (3) CDF fire clearance requirements; and 4) the essential and non-essential components of the proposed single-family residential use.

The most general constraints that limit how the development can be configured to further minimize impacts to the ESHA results from the shape and size of the parcel, the portions of the lot which have 30% or greater slopes, and areas on the lot which exhibit appropriate siting and percolation to allow for development of a septic disposal system leachfield. As mentioned in Findings Section IV.C.1, above, all above-grade structures must be placed a minimum of 20 feet inboard from the property lines to provide perimeter open space on the property. Furthermore, pursuant to CZC Section 20.492.015(E), unless specific engineering analysis has been provided to the contrary, structures are not to be developed on the slopes of or greater than 30% along the western side of the parcel. In addition, to meet County Public Health Department requirements, a minimum of approximately 2,000 square feet of leachfield area must be provided within an area along the southern side of the lot that has been shown to have an appropriate rate of

percolation and would be properly setback from property lines, cutbanks, topographic breaks-in-slope, areas over 20% slope<sup>3</sup>, waterbodies, and domestic water supplies.

The second factor affecting how the development can be configured to further minimize impacts to the ESHA is the amount of ground disturbance that must be made in constructing the structures, installing the sewage treatment system, and grading access drives. Because of the steep slope up from the County road along much of the parcel's frontage, access to the lot is through an easement across the adjoining property line to the south. Locating development as close as possible to the southern property would obviously reduce the amount of additional ground clearing that would be needed to serve the residence with a driveway.

The third factor affecting how the development can be configured to further minimize impacts to the ESHA is the vegetation clearance required pursuant to CDF regulations which require a 30-foot clear area around buildings for fire safety purposes. In other parts of the state, such as southern California, greater influences of heat and wind necessitate a 200 to 300-foot vegetation clearance radius around buildings. In comparison, the 30-foot clearance required on the North Coast is relatively small. The applicable regulation states that in forest or brush-covered lands, the property owner shall:

Maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

The fourth factor affecting how the development can be configured to further minimize impacts to ESHA is determining what are the essential and non-essential components of the proposed single-family residential use. The greater the size of the house and the greater the number and size of accessory components allowed as part of the residential development, the greater the size of the area of disturbance to the ESHA

Two examples of where this factor was a major determinant in the Commission's consideration of how to condition an approval of a development to minimize impacts on ESHA and assure that the development would be in the greatest conformity with coastal development policies and standards and avoid a denial that would result in an uncompensated taking of property can be found in the Commission's past actions on the Burdick (CDP No. 1-93-038) and Feiner (CDP No. 1-95-054) projects. In both of these cases, the Commission considered whether permit conditions to reduce the size of certain project components in the interest of minimizing the amount of pygmy forest covered by structural improvements would be an appropriate measure in the interest of striving for the greatest level of conformity with the Coastal Act's ESHA protection policies.

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<sup>3</sup> If the site has less than five feet of soil-to-bedrock depth, sewage disposal system development is limited to areas with slopes not exceeding 20%.

At the time that the Burdick project was considered by the Commission in September of 1994, the Mendocino County staff reviewed its building permits to determine the average size of houses approved. The report determined that the average size of houses approved in the Burdick project vicinity was approximately 1,700 square feet, and the average size of comparable combined garage/storage structures to be approximately 700 square feet. The Commission granted a coastal development permit to Burdick to allow construction of a 1,888-square-foot residence, a 528-square-foot attached garage, and a 48-square-foot storage shed.

The most recent amendment to the Feiner permit proposed a manufactured home that was to encompass 1,352 square feet with a detached garage of 672 square feet and a 520-square-foot deck. The Commission found in that instance that because the proposed house and garage would be both within the range of existing residences in the project vicinity, and within the range of the Commission's previous approval of residential development in the pygmy forest area at the Burdick property, the proposed residential development provided that property owner with an economically viable use.

After considering the factors discussed above, and the different options for siting and configuring the proposed development, the Commission finds that siting the development within the building envelope located on the mid-slope portion of the lot proposed by the applicants is the most optimal means of minimizing impacts of the development on rare plant ESHA. Special Condition No. 1 would establish a 6,000-square-foot building envelope that would accommodate the proposed 2,574-square-foot house and 460-square-foot garage, 100-square-foot deck and 504-square-foot rear patio, and entry drive. The building envelope would be large enough to accommodate a three-foot-wide curtilage area around the perimeter of the house for landscaping and walkways. The area outside of the building envelope would be protected by an open space deed restriction.

Development within the open space area is restricted to the installation and repair of utility lines, sewage system improvements, a walkway connecting the driveway with the front of the home, a propane tank, vegetation clearance required by CDF, erection of protective fencing pursuant to an approved rare plant mitigation plan, planting and maintenance of required screening landscaping, and removal of debris. Such activities that are defined as development in Public Resources Code 30106 will require a coastal permit, as is the case with all development in the coastal zone. These restrictions will ensure that the minimum amount of sensitive habitat is disturbed and that the use of the deed restricted area is limited to natural open space for habitat protection and conservation uses.

It is not the Commission's intention that the deed restricted area provide public entry or public use of any kind. The deed restricted area will remain in the applicant's ownership. Rather, the Commission is requiring the deed restricted area solely to protect the existing sensitive habitat from significant adverse impacts resulting from the applicants' development, and is thus restricting development on that portion of the property subject to the open space deed restriction. The Commission finds that a reasonable development can be achieved consistent with the criteria of CZC Section 20.496.015 by adoption of Special Condition No. 1 that limits site impacts by,

among other means, prohibiting uses outside the development envelopes that are inconsistent with habitat protection and conservation.

The building envelope established by Special Condition No. 1 most effectively takes into account the four factors discussed herein to ensure that the development will have the least amount of additional impact to rare plant vegetation.

Special Condition No. 1 ensures that the building envelope will be located in a site that would both accommodate the proposed development and minimize the amount of area impacted by the 30-foot vegetation clearance requirement pursuant to CDF regulations. By situating the building envelope for the house and garage on the lower mid-slope area on the parcel away from the trees along its northern and northeastern sides, the required tree clearance radius around the two structures will be minimized<sup>4</sup>. As conditioned, the building envelope is sited so that the majority of the required 30-foot clearance would coincide with the existing disturbed and/or cleared areas discussed above. Although the 30-foot clearance regulation does not necessarily require all vegetation to be completely cleared to bare ground, Special Condition Nos. 1(b) and 2 will minimize the amount of rare plant vegetation needed to be cleared to any extent. The total development envelope required by Special Condition 1(b) is 6,000-square-feet, which is approximately 8% of the 43,560-square-foot (one acre) parcel. Including the vegetation clearance and installation of the septic leachfield, approximately 10,340-square-feet, or 24% of the parcel would be developed and/or cleared, leaving approximately 76% of the parcel undisturbed. Furthermore, Special Condition No. 2 requires the applicant to submit final plans for review and approval that incorporate the development specifications discussed above to ensure that impacts to ESHA are minimized.

With regard to the fourth siting factor, the extent of development proposed in terms of essential and non-essential rural residential features, the Commission does not find it necessary to reduce the size of the proposed development other than to eliminate the proposed flagstone walkway extending northeast from the entryway, the hedge landscaping proposed to be planted along the northeast side of the parcel, and the other portion of the landscaped area along the east side of the house. The proposed walkway and yard landscaping to be eliminated would intensify the amount of rare plant disturbance by increasing the area of rare plants being covered or displaced. The Commission finds that the eliminated walkway and the landscaping are not essential features of the single-family residence as outdoor living space would be provided by the allowed patio and deck and landscaping is already allowed within the three-foot-wide curtilage area around the house and where required to screen the development to reduce visual impacts. Therefore, Special Condition No. 2 eliminates these proposed features. Given the size of the one-acre parcel, the 3,034-square-foot house and garage, 100-square-foot deck, 504-square-foot rear patio, 280-square-foot main walkway, and installation of an approximately 2,000-square-foot septic system leach field, the proposed development as conditioned to delete certain non-essential amenities will result in a total developed area of approximately 7,000 square feet, leaving

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<sup>4</sup> The Commission notes that the CDF wildfire fuels management clearance requirements include the mowing down of brush and grass as well as tree limbing and/or removal within 30 feet of structures. Such mowing is generally not considered as being impacting to coastal bluff morning glory and would actually help prevent it becoming displaced by other ruderal vegetation. Accordingly for purposes of this analysis, only the tree limbing and/or removal along the north and northeastern sides of the residence was considered in determining the area of disturbance.

approximately 80% of the lot undisturbed. Given the relatively small size of the property and the modest proposal for a single family home and detached garage, the Commission finds that as conditioned, the development minimizes the potential loss of rare plant habitat to the maximum extent practical while allowing for a reasonable residential use of the parcel.

To further minimize and mitigate to the greatest extent feasible the adverse impacts to the ESHA, the Commission finds it is necessary to restrict those portions of the property on which development can take place in the following manner:

Concentrated runoff from roof downspouts and other drainage from the proposed development could increase erosion and alter the hydrodynamics of the rare plant habitat, adversely affecting the habitat. The Commission thus attaches Special Condition No. 2. This special condition requires the submittal of revised plans for the review and approval of the Executive Director prior to issuance of the permit to ensure that certain mitigation measures are incorporated into the development to minimize impacts to the ESHA, including measures requiring that drainage be diffused and dissipated over large areas to reduce impacts from runoff on the rare plant habitat. One such measure requires the placement of concrete energy-absorbing and water-dispersing splash blocks under the downspouts. Special Condition No. 2 also requires the driveway to be surfaced with a pervious material, as proposed in the project description, to minimize runoff and potential adverse impacts to water quality and rare plant vegetation. To further minimize clearance of sensitive habitat, Special Condition No. 2, also requires that the proposed driveway be the minimum width necessary, pursuant to County and CDF regulations (i.e., 10 feet).

To ensure that any future development that is not proposed under the current application will not be located where it will adversely affect the sensitive habitat, the Commission attaches Special Condition No. 5, requiring recordation of a deed restriction regarding future development. This condition requires that any future development, including any additions or other structures that might otherwise be exempt from coastal permits under the administrative regulations, will be reviewed by the Commission so that the Commission can ensure that the development within the building envelope will be located and designed in a manner that will not disrupt the habitat values of the sensitive area. Section 13250(b)(6) of Title 14 of the California Code of Regulations specifically authorizes the Commission to require a permit for improvements that could involve a risk of adverse environmental effect.

Special Condition No. 6 requires that the applicants record a deed restriction detailing the specific development authorized under the permit, identifying all applicable special conditions attached to the permit, and providing notice to future owners of the terms and limitations placed on the use of the property.

With Special Condition Nos. 5 and 6, the Commission ensures that any future development that might otherwise not require a coastal permit will not take place in the environmentally sensitive habitat area, and also that any future buyers of the property are made aware of the development restrictions on the site because the deed restriction will run with the land in perpetuity.

The Commission finds that the special conditions attached to the permit will minimize the disturbance of the ESHA and will thus minimize adverse impacts to the sensitive habitat while providing for a reasonable use of the property that will avoid an unconstitutional taking of private property for public use.

Adverse impacts resulting from development on the site have been minimized by the imposition of the conditions discussed above, but not eliminated. The Commission also considered requiring either onsite enhancement or off-site mitigation for the destruction of sensitive rare plant habitat. In this particular case, however, the Commission finds that there is no feasible off-site mitigation available at this time. Rare plant habitat, unlike wetlands and other habitat, thrives only under a combination of very specific soil and topographic conditions, and such conditions cannot be reproduced randomly off-site. Restoration of existing degraded rare plant habitat is an option for off-site mitigation, and Commission staff explored the possibility of the applicant contributing to such restoration efforts at one of the nearby State parks that contains degraded rare plant habitat. However, Commission staff consulted with Botanist Gene Cooley of the California Department of Fish and Game and determined that at this time, no program exists whereby in-lieu fees from a permit applicant could be applied to rare plant habitat restoration. Although the CDFG does engage in occasional restoration of rare plant vegetation at the State Parks, it is not feasible for the agency to accept in-lieu fees for the purpose of rare plant restoration. With regard to onsite enhancement, Mr. Cooley indicated that as little is presently known about the growth habit of coastal bluff morning glory, particularly with regard to rates and dormancy in caudex reproduction, planting of new coastal bluff morning glory seedlings within or near areas where they are already established could actually result in destruction of more plants than would be established during the enhancement planting.

Given that onsite, offsite, and in-lieu fee replacement and restoration mitigation measures are not feasible options, the applicants and CDFG staff investigated other possibilities for offsetting the permanent loss of rare plant habitat that would result from development of the proposed project. Several alternative mitigations measures were subsequently identified: (1) protect the most productive and viable sites on the parcel where rare plants had been observed to be growing the most profusely or would exhibit optimum growing conditions in the southeast corner and on the western third of the lot, respectively, by fencing off and deed-restricting such areas as non-developable open space; (2) provide further protection to the preservation area by stabilizing the habitat areas disturbed during construction with erosion control measures such as jute netting, coir logs, and mulching with weed-free straw, and revegetation with appropriate native plants propagated from local genetic stock, and ensure that contractors are made aware of the presence of rare plants at the site and the importance to not disturbing areas outside of the approved building envelope; (3) participate in a certified seed banking program by allowing coastal bluff morning glory seeds to be collected at the site subject to protocols developed by CDFG; and (4) underwrite research funding into the ecology, demographics, or distribution and habitat characterization of coastal bluff morning glory.

CDFG concludes that if the above mitigation measures were to be undertaken onsite impacts to the rare plant habitat would be reduced to the same level as would result if the requisite buffer areas called for in the LCP had been applied around the habitat to justify authorizing development at the site. In addition to helping to offset the direct impacts of the development,

the mitigation plan would have a positive value in protecting coastal morning glory habitat throughout the entire region where it grows by increasing knowledge and awareness of the species and helping develop tools for its detection and conservation during the review of development projects. To assure that the program is carried out as proposed, the Commission attaches Special Condition No. 4. Special Condition No. 4 requires the applicants to provide the Executive Director with a copy of the executed rare plant mitigation plan agreement and sets participation in the mitigation program as a condition of approval of the authorized residential development. In addition, the Commission includes within the requirements of Special Condition No. 2 provisions that the erosion & runoff control and contractor training measures identified as part of the mitigation plan be included within the revised plans for the site.

d. Conclusion.

As conditioned to: (1) construct the development at a location determined in consultation to pose the least significant adverse impacts to rare plant resources on the site; (2) limit the size and sequester development activities to an authorized building envelope; (3) require implementation of the applicants' proposed rare plant mitigation plan agreement; and (4) include other specific mitigation measures to further protect the environmentally sensitive areas from the construction and uses associated with the residential development such as prohibiting the introduction or further spreading of invasive exotic species, the Commission finds that the project as proposed and conditioned will protect the ESHAs on the property consistent with LUP Policies 3.1-24 and 3.1-29 and with Coastal Zoning Code Sections 20.496.015 and 20.532.100 to the greatest extent possible without taking private property for public use.

F. Stormwater Runoff.

1. LCP Provisions

LUP Policy 3.1-25 states:

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

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

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

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

*(C) Areas of disturbed soil shall be reseeded and covered with vegetation as soon as possible after disturbance, but no less than one hundred (100) percent*

*coverage in ninety (90) days after seeding; mulches may be used to cover ground areas temporarily. In environmentally sensitive habitat areas, the revegetation shall be achieved with native vegetation...*

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

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

CZC Section 20.492.020 sets sedimentation standards and states in part:

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

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

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

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

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

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

### Discussion

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

As discussed above, the subject parcel is located on a sloping coastal terrace planned and zoned for low-density rural residential development. Runoff from open portions of the site flows southerly and westerly into drainage ditching along the access easement and County Road and eventually discharges onto the beach between Bourns Landing and Cook's Beach, approximately 1/4-mile to the west of the project site. Runoff originating from the development site that is allowed to drain off the site to the beach would contain entrained sediment and other pollutants that would contribute to degradation of the quality of coastal waters, including downstream marine waters. Sedimentation impacts from runoff would be of the greatest concern during and immediately after construction. Consistent with CZC Section 20.492.020(B), the Commission includes within attached Special Condition No. 2 a requirement that the applicants minimize erosion and sedimentation impacts from the proposed construction of the residence. Special Condition No. 2 requires that the applicants submit for the review and approval of the Executive Director revised site plans that include erosion and runoff control measures that would require that: (1) hay bales be installed to contain runoff from construction and demolition areas; (2) on-site vegetation be maintained to the maximum extent possible during construction; (3) any disturbed areas be replanted with noninvasive native plants obtained from local seed stock immediately following project completion and covered with jute netting, coir logs, and rice straw; and (4) runoff from roofs, decks and other impervious surfaces be collected and conveyed to an area on the site where it may infiltrate into the ground and undergo bio-filtration prior to entry into any drainage course or waterway. Consistent with CZC Section 20.492.025(E), Special Condition No. 2 requires that the applicants surface the proposed driveway with gravel to facilitate infiltration into the ground of greater amounts of runoff from the driveway.

The Commission finds that as conditioned, the proposed development is consistent with CZC Sections 20.492.015 and 20.492.020 because erosion and sedimentation will be controlled and minimized by (1) maintaining on-site vegetation to the maximum extent possible; (2) replanting or seeding any disturbed areas with native vegetation following project completion; (3) using hay bales to control runoff during construction, and (4) directing runoff from the completed development in a manner that would provide for infiltration into the ground. Furthermore, the Commission finds that the proposed development as conditioned to require these measures to control sedimentation from storm water runoff from the site is consistent with the provisions of LUP Policy 3.1-25 requiring that the biological productivity of coastal waters be sustained. Moreover, the Commission finds that the proposed development is consistent with CZC Section 20.492.025(E) because, as conditioned, runoff from the roofs will be directed in to vegetated areas and the driveway will be paved with pervious material to facilitate infiltration of runoff and minimize erosion and sedimentation from stormwater runoff.

**G. Visual Resources.**

1. LCP Provisions

LUP Policy 3.5-1 states in applicable part:

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

LUP Policy 3.5-3 states, in applicable part:

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

- *Portions of the coastal zone within the Highly Scenic Area west of Highway 1 between the south boundary of the City of Point Arena and the Gualala River as mapped with noted exceptions and inclusions of certain areas east of Highway 1...*

*In addition to other visual policy requirements, new development west of Highway One in designated 'highly scenic areas' is limited to one story (above natural*

grade) unless an increase in height would affect public views to the ocean or be out of character with surrounding structures... New development should be subordinate to natural setting and minimize reflective surfaces...[emphasis added].

LUP Policy 3.5-4 states, in applicable part:

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

Minimize visual impacts of development on hillsides by (1) requiring grading or construction to follow the natural contours; (2) resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; (3) designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; (4) concentrate development near existing major vegetation, and (5) promote roof angles and exterior finish which blend with hillside... [emphases added]

LUP Policy 3.5-5 states:

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

*In circumstances in which concentrations of trees unreasonably obstruct views of the ocean, tree thinning or removal shall be made a condition of permit approval. In the enforcement of this requirement, it shall be recognized that trees often enhance views of the ocean area, commonly serve a valuable purpose in screening structures, and in the control of erosion and the undesirable growth of underbrush.* [emphasis added]

Coastal Zoning Ordinance Section 20.376.045 provides the building height limit for Rural Residential (RR) zoning districts stating, in applicable part:

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

Coastal Zoning Ordinance Section 20.504.015(C) states, in applicable part:

- (1) *Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
- (2) *In highly scenic areas west of Highway 1, as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
- (3) *New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials shall be selected to blend in hue and brightness with their surroundings ...*
- (5) *Buildings and building groups that must be sited in highly scenic areas shall be sited: (a) Near the toe of a slope; (b) Below rather than on a ridge; and (c) In or near a wooded area.*
- (6) *Minimize visual impact of development on hillsides by the following criteria:*
  - (a) *Requiring grading or construction to follow the natural contours;*
  - (b) *Resiting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms;*
  - (c) *Designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites;*
  - (d) *Concentrate development near existing major vegetation, and*
  - (e) *Promote roof angles and exterior finish which blend with hillside.  
[emphasis added]*

Coastal Zoning Ordinance Section 20.504.035, entitled "Exterior Lighting Regulations, states, in applicable part:

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

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

2. Discussion.

The development is located in the Rhodes Subdivision, situated approximately 2½ miles north of the unincorporated town of Gualala. The property is situated within a designated highly scenic area as enumerated within the LCP and is designated as such on its LUP maps.

The project site consists of a roughly 225-ft.-long x 225-ft.-wide trapezoidal parcel of land situated between Highway One to the east and County Road No. 526 (former alignment of Highway 1) to the west. From the south to north, the lot slopes moderately to steeply from the highway side down westward toward the county road (20-35%). The eastern third of the site slopes more gently to the south. The site is vegetated with a variety of grassy and brushy plant species with scattered tree cover along its northern and eastern sides which forms a dominant visual feature of the subject parcel. Due to the location of the highway grade within an incised full-bench road cut to the east of the property, the site affords no coastal views to motorists traveling on Highway One. Views across the property from along County Road 526 or from public recreational areas around Cook's Beach are limited to lateral views of the scattered tree- and brush-covered coastal hillsides along the inland side of the county road.

The proposed project as revised for the Commission's *de novo* review, entails the construction of a 20-foot-average-height, 2,574-square-foot single-family residence, with a 460-square-foot attached garage, 100-square-foot deck paved walkways and patio areas, associated sewage disposal system, and utility extensions. A dark earthtone color scheme is being proposed for the exterior paint color, as well as for roofing and rock façade building materials (see Exhibit No. 5). The applicants propose to use cedar shake siding coated with a natural (clear) stain. The roof would be covered in gray/black composite shingles. Windows would be framed in either dark brown, black, or dark green, depending upon vendor availability. Portions of the house and garage would also be constructed with a rock façade with "hoplan gray" (darkish gray-brown) stonework. The proposed development also includes landscaping for screening and breaking up the visual bulk of the structures (see Exhibit No. 6).

Due to its location along a convex stretch of County Road 526, some tangential views along the coast are afforded through the project site's western half primarily to persons traveling northbound along this route. However, due to its route passing through a deep cut to the east of the property, the site is not visible to motorists traveling on Highway One. Consequently, there are no views of the site from Highway One or any other public thoroughfare to the east of the subject site. Development on the upper slope areas in the northeastern quarter of the property, especially if there were significant tree removal, would be visible from the north side of Cook's Beach and from the scenic blufftop overlook at the northern end of Bourne's Landing. Portions of the site may also be visible from public roads or public-assessable beach and blufftop locales

within the Robinson Point area or from watercraft in the Robinson Reef offshore area 1½ miles to the southeast.

The above listed visual resource protection policies set forth three basic criteria that development at the site must meet to be approved. First, LUP Policy 3.5-1 and CZC Section 20.504.010 require that development be sited and designed to protect views to and along the ocean and scenic coastal areas. Second, LUP Policy 3.5-3 and CZC Section 20.504.015(C)(2) generally require that new development in highly scenic areas be limited to one story and 18 feet in height. Finally, LUP Policies 3.5-1, 3.5-3, and 3.5-4 and CZC Section 20.504.015(C)(3) require that new development in highly scenic areas be subordinate to the character of its setting.

1. Protecting Views To and Along the Coast

LUP Policy 3.5-1 and CZC Sections 20.504.010 and 20.504.015(C)(1) require permitted development to be sited and designed to protect views to and along the ocean and scenic coastal areas from public areas including roads and trails.

No blockage of views to and along the ocean would result from the approved development. Because Highway One east of the site lies within a roadcut, no views to the ocean are affected through the property from the highway. All public views of the site are oriented away from the ocean. Although the development will be visible from County Road 526, Cook's Beach, the Redwood Coast Land Trust's blufftop overlook, and other public vantage points, the development won't directly obstruct views to and along the ocean and coastline from any of those vantage points. The views toward the development from public vantage points generally look away from the ocean.

2. Consistency with Height Requirements

According to the certified LCP provisions of LUP Policy 3.5-3, new development located in an area designated as highly scenic is limited to one story above natural grade unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. Likewise, according to CZC Section 20.504.015(C)(2) new development located in an area designated as highly scenic is limited to eighteen feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures. If these two criteria can be met, the building height can be raised to a maximum of twenty-eight feet and include two stories.

The residence is proposed at a height greater than 18 feet (20 feet average height). Although the garage would be constructed at a lower level than the rest of the house, the structure is technically one-story.

With respect to the approved building height exceeding 18 feet, as discussed above, no blockage of views to and along the ocean from public vantage points would result from the approved building and screening as viewing opportunities. Because Highway One east of the site lies within a roadcut, no views to the ocean are affected through the property from the highway. All public views of the site are oriented away from the ocean. Moreover, with regard to the

increased height being in character with surrounding structures, there are numerous one- to two-story single-family dwelling along Road 526 and within the Smuggler's Cove and Glen Glennen Subdivisions north of Cook's Beach and east across Highway One, respectively, that are similar to that proposed by the applicants.

Therefore, the Commission finds that because the 20-foot height of the proposed structure would (a) not affect views to the ocean, and (b) not be out of character with surrounding structures, the proposed development is consistent with the height limitations of LUP Policy 3.5-3 and CZC Section 20.504.015(C)(2).

### 3. Subordinate to the Character of the Setting

In addition to calling for the protection of views to and along the ocean and scenic coastal areas, LUP Policies 3.5-1, 3.5-3, 3.5-4, and Coastal Zoning Ordinance Section 20.504.015 provide that development in highly scenic areas must be subordinate to the character of its setting. The policies also provide guidance on how to ensure that new development is subordinate to its setting in highly scenic areas. LUP Policy 3.5-4 and Coastal Zoning Ordinance Section 20.504.015 provide that buildings and building groups that must be sited on hillsides in highly scenic areas shall be sited: (a) near the toe of a slope; (b) below rather than on a ridge; and (c) in or near a wooded area. These policies also state that the visual impacts of development on hillsides must be minimized by requiring grading or construction to follow the natural contours; re-siting or prohibiting new development that requires grading, cutting and filling that would significantly and permanently alter or destroy the appearance of natural landforms; designing structures to fit hillside sites rather than altering landform to accommodate buildings designed for level sites; concentrating development near existing major vegetation; and promoting roof angles and exterior finish which blend with the hillside. In addition, Policy 3.5-5 states that tree planting to screen buildings be encouraged. Furthermore, the County's Coastal Zoning Ordinance Section 20.504.010 states that permitted development shall be sited and designed to minimize the alteration of landforms. Coastal Zoning Ordinance Section 20.504.015(C)(3) requires that in highly scenic areas, building materials, including siding and roof materials, shall be selected to blend in hue and brightness with their surroundings.

As revised by the applicants for purposes of the Commission's *de novo* review, the residential structures have been relocated down off of the crest of the hillside and sited in a more mid-slope location on the parcel. In addition to lowering the overall hilltop profile of the development, the re-siting also shortens the driveway length, correspondingly lessens the amount of grading, and eliminates the need for removing trees along the northern property line. As noted previously, these trees are a prominent feature of the site and help define its visual character. Therefore siting the development to avoid removal of these trees contributes to keeping the development subordinate to the natural setting as required by CZC Section 20.504.015(C)(3). Although no longer proposed to be nestled directly within this tree cover, the structures in their new location would continue to be back-dropped and surrounded by this and other wooded cover on the parcel, consistent with the requirements of LUP Policy 3.5-4 and CZC Section 20.504.015.

Even with the relocation down the slope, the uppermost portions of the rear of the house would still be visible from Cook's Beach and the RCLT overlook vista point. Consequently, further

tree planting is needed to screen the development and make it subordinate to the character of its setting. According to the applicants' botanist, the existing Bishop pines on the hillcrest near the north property line are either dead, dying, or in declining health. Thus, replacement tree planting is needed even to ensure that the existing level of screening, albeit from dead, dying, or declining vigor vegetation, will be retained in the future. Thus, the Commission includes within attached Special Condition No. 2 requirements that the revised landscaping plan include the planting of a mixture of a minimum of ten Bishop pine, beach pine, and Douglas-fir trees along the north property boundary along the sightline between the house and Cook's Beach and its public vista overlook to ensure that the development will be subordinate to the natural appearance of its setting.

Development of the residence in the revised building site would not involve substantial alteration of natural landforms as a minimum of trees would be required to be removed, construction on steep slopes would be avoided and grading and excavation for the site improvements would not be inordinately extensive for the size and extent of the hillside development being proposed.

The proposed 3,034-square-foot, 20-foot-average height house and attached garage would be similar in size and height to other structures in its developed neighborhood area. Within the remainder of the Rhodes Subdivision and across Cook's Beach and inland from Highway One to the east, the Smuggler's Cove and Glen Glennen Subdivisions, respectively, structures are a mixture of one- and two-story, Craftsman/bungalow/ranch-style, wood-framed and clad dwellings having exteriors developed with either gabled, flat, or hip roofs, and featuring a variety of embellishments, including decks, patios, and bay or box windows such as that proposed by the applicants.

Similarly, the natural/neutral colors and materials proposed for the residential development would be in character with those of the neighboring structures in the area. The applicants have indicated that the exterior of the residence would have cedar shingle siding coated with a natural stain. The roof would have a relatively flat 4-in-12 pitch and be covered by composition shingles with a 40-year rating, gray/black in color. Trim colors would be either dark brown, dark green, or black around the main floor windows, and natural stained wood around the dormer windows. Hoplan gray stonework of a dark-gray color with earth-brown overtones would be utilized as a lower façade element around the house and garage.

To ensure that the building materials of the development as proposed, including siding and roof materials, continue to blend in hue and brightness with their surroundings and are subordinate to the character of its setting during the life of the structure, the Commission attaches Special Condition No. 3. This condition imposes design restrictions, including a requirement that all exterior siding and roofing of the proposed structure shall be of natural or natural-appearing materials of dark earthtone colors only. The special condition also requires that the current owner and any future owner not repaint or stain the house with products that will lighten the color of the house as approved without an amendment to the permit. In addition, all exterior materials, including roofs and windows, are required to be non-reflective to minimize glare. Furthermore, Special Condition No. 3 requires that all exterior lights, including any lights attached to the outside of the buildings, shall be the minimum necessary for the safe ingress and

gress of the structures, and shall be low-wattage, non-reflective, shielded, and have a directional cast downward such that no light will shine beyond the boundaries of the subject parcel.

To ensure that any future buyers of the property will be aware of the requirements of Special Condition Nos. 2 and 3 for tree planting, maintaining the dark colors, prohibiting the use of reflective glass and maintaining a certain kind and array of exterior lighting fixtures, the Commission imposes Special Condition No. 6. This condition requires that the applicant execute and record a deed restriction approved by the Executive Director against the property that imposes the special conditions of this permit as covenants, conditions, and restrictions on the use and enjoyment of the property. As conditioned, the proposed development would be subordinate to the character of its setting as required by LUP policy 3.5-1, 3.5-3, 3.5-4, and CZC Section 20.504.015(c)(3), as the development would not remove the trees at the crest of the property that form an important part of the visual character of the site, the proposed house is in keeping with the size and scale of other houses in the area, the development would not require major alterations of landforms, additional screening vegetation would be planted and maintained to ensure that the appearance of the development would be in keeping with the brushy and wooded nature of the property, and all exterior materials and colors will blend with the hue and brightness of the colors of its surroundings as required by CZC Section 20.504.015(c)(3).

#### 4. Conclusion

Therefore, for all of the above reasons, the Commission finds that the proposed development as conditioned will protect public views to and along the coast, conform to height requirements, and be subordinate to the character of its setting consistent with the visual resource protection provisions of the certified LCP.

#### H. California Environmental Quality Act (CEQA).

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

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

A-1-MEN-03-029

CLAIBORNE & SCHMITT

Page 45

environment. Therefore, the Commission finds that the proposed project can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

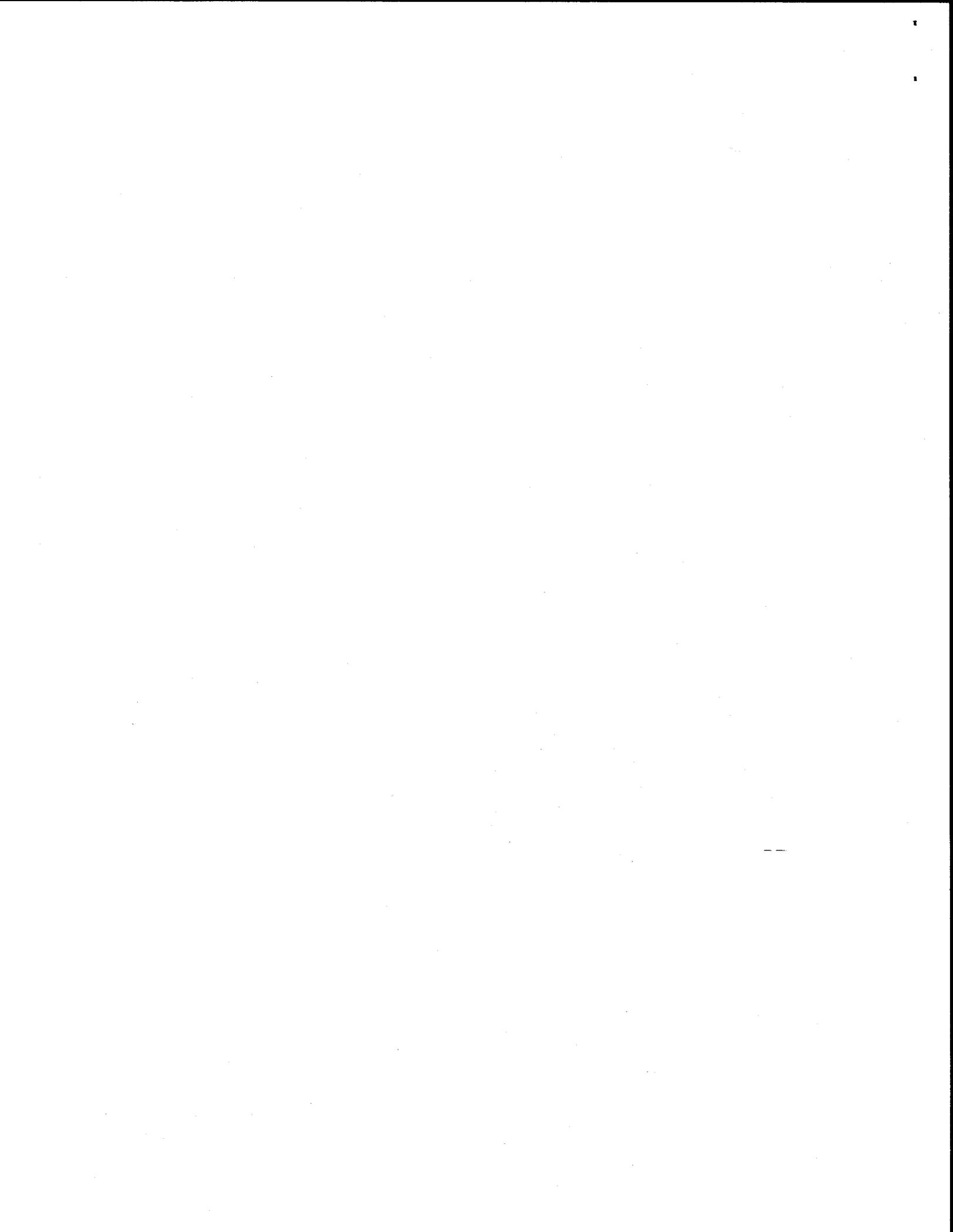
V. **EXHIBITS:**

1. Regional Location Map
2. Vicinity Map
3. Excerpt, Land Use Plan Map No. 31 – *Gualala*
4. Excerpt, Coastal Zoning Map No. 42-F
5. Site Plan, House and Garage Floor Layout & Exterior Elevations, and Landscaping Plans
6. Notice of Final Local Action
7. Appeal, filed May 9, 2003 (Fred and Susie Sedlacek)
8. Botanical Survey and Addendum (Jon Thompson)
9. Alternative Building Site Scenarios
10. Rare Plant Habitat Impact Analysis for Building Site Alternatives (Gordon McBride, PhD)
11. Grading and Drainage Design Recommendations (Kenneth E. Carr & Associates.)
12. Project Area Surroundings and Setting
13. Authorized Project Building Envelope
14. Reviewing Agency Correspondence

**ATTACHMENT A:**

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

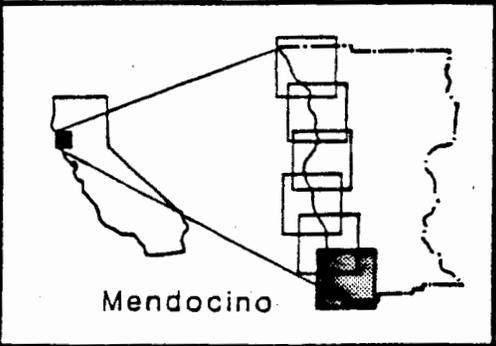


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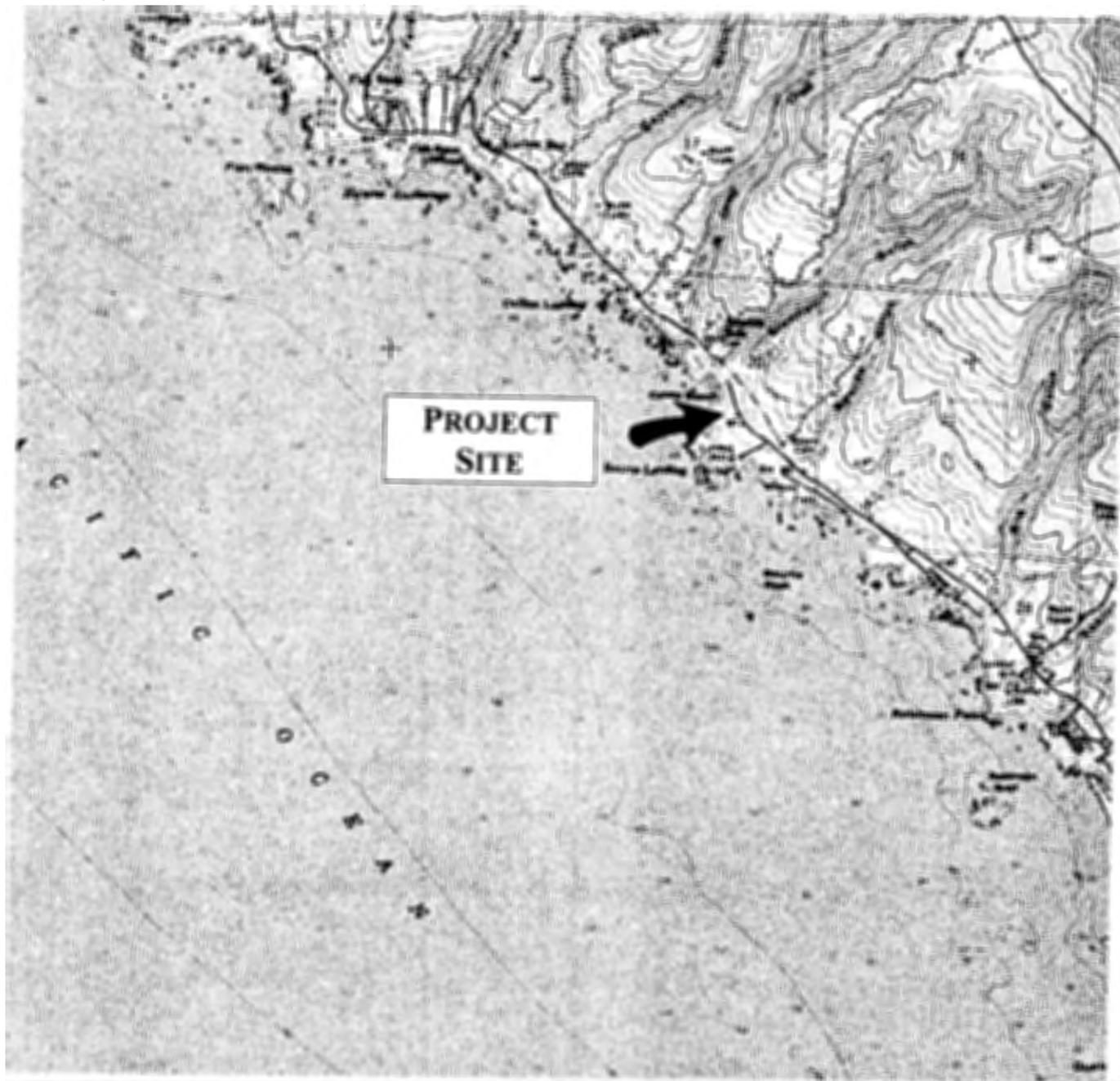


**EXHIBIT NO. 1**  
**APPLICATION NO.**  
 A-1-MEN-03-029  
 CLAIBORNE & SCHMITT  
 REGIONAL LOCATION  
 MAP

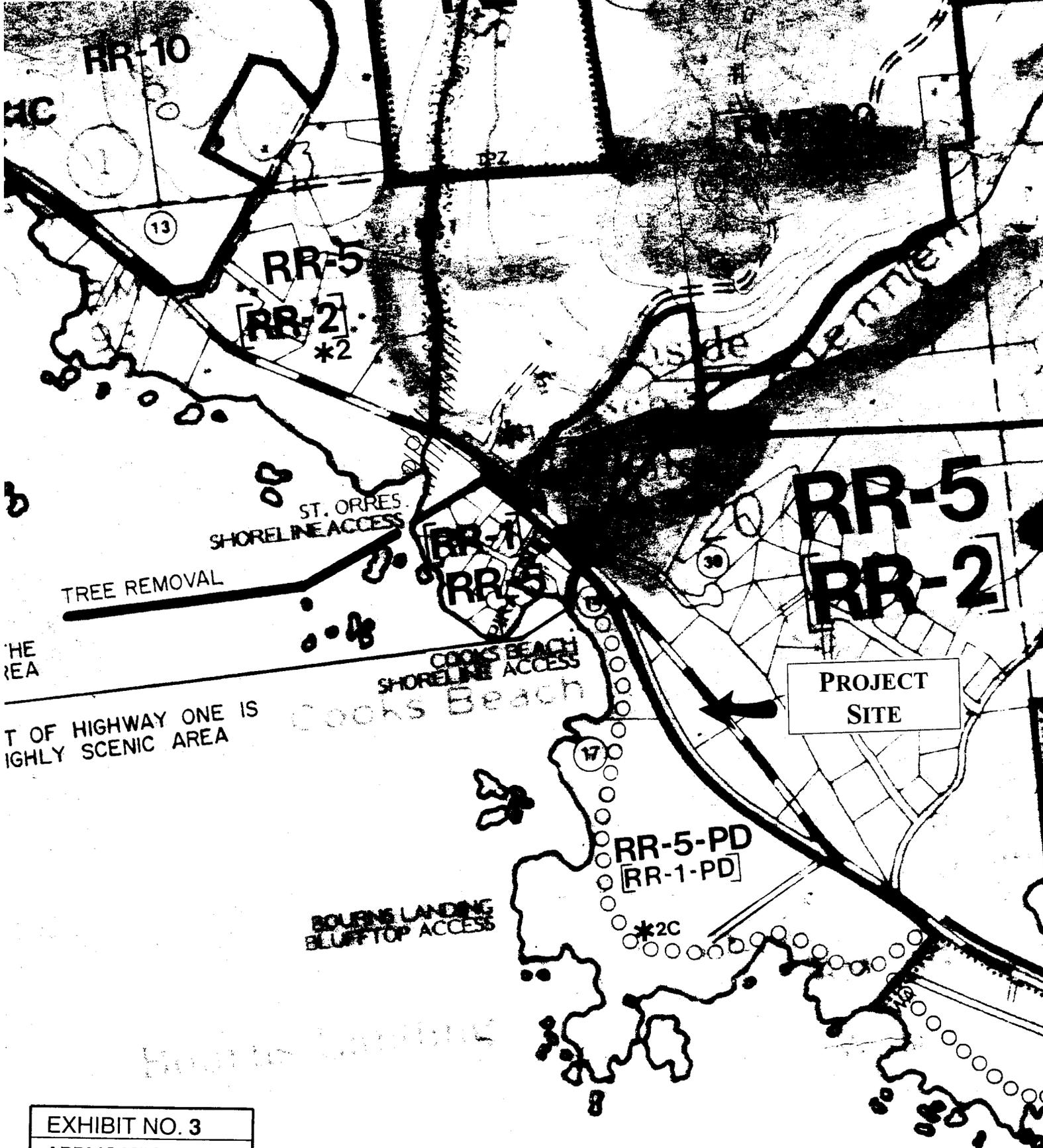


**PROJECT  
 SITE**





**EXHIBIT NO. 2**  
**APPLICATION NO.**  
A-1-MEN-03-029  
**CLAIBORNE & SCHMITT**  
**VICINITY MAP**



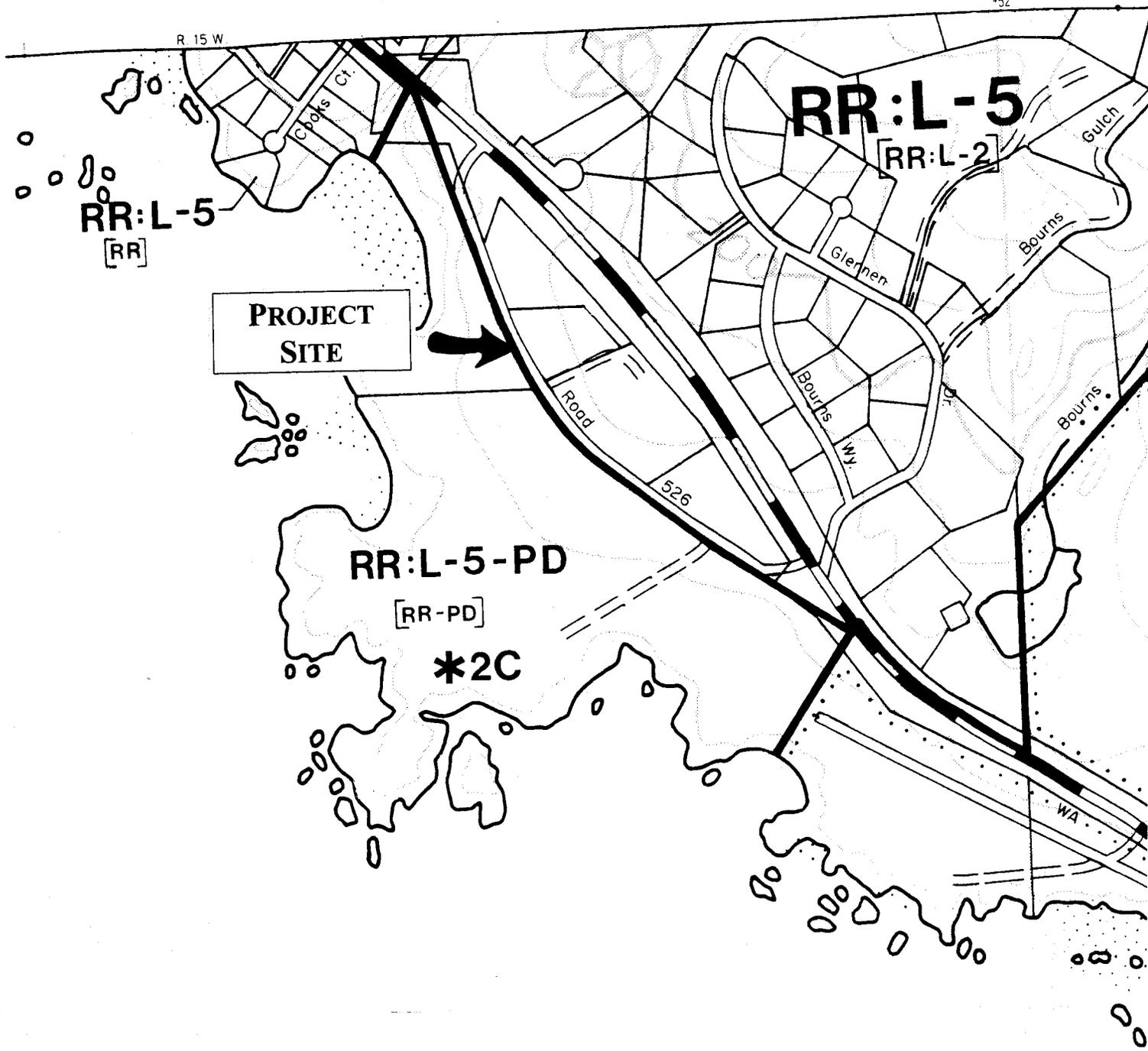
THE AREA WEST OF HIGHWAY ONE IS DESIGNATED A HIGHLY SCENIC AREA

EVERYTHING WEST OF HIGHWAY ONE IS DESIGNATED A HIGHLY SCENIC AREA

TREE REMOVAL

EXCLUDED FROM THE HIGHLY SCENIC AREA

**EXHIBIT NO. 3**  
**APPLICATION NO.**  
 A-1-MEN-03-029  
 CLAIBORNE & SCHMITT  
 EXCERPT, LAND USE  
 PLAN MAP NO. 31 -  
 GUALALA



**EXHIBIT NO. 4**

**APPLICATION NO.**  
A-1-MEN-03-029

CLAIBORNE & SCHMITT

EXCERPT, COASTAL  
ZONING MAP NO. 42-F

January 28, 2004

California Coastal Commission  
North Coast District Office  
710 E. Street, Suite 200  
Eureka, CA 95501-1865

Attn.: Jim Baskin

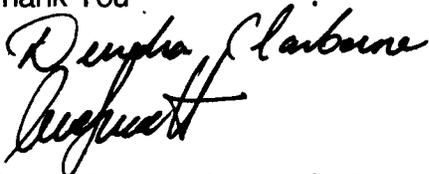
Re.: CDP # A-1-MEN-03-029, Deirdra Claiborne and Noren Schmitt, Applicants

Dear Jim,

After careful consideration of the resources of our property, and after further evaluation with the engineers and upon the recommendation of the California Coastal Commission staff, we hereby seek to amend our pending coastal development application, CDP # A-1-MEN-03-029, by moving the proposed house site to Site "C", located in the mid-slope position near the center of our property. This proposed relocation is approximately ten feet to the south and 25 feet to the west of the current site, with a slight turn of the southern corner of the house towards the west.

We reiterate our commitment to the mitigation plan agreed upon with the Department of Fish and Game and would like to incorporate the same mitigation plan for the new location.

Thank You



Noren Schmitt, Deirdra Claiborne  
62 Forbes Ave.  
San Rafael, CA 94901  
tel 415 455 9092  
fax 415 455 91182  
e-mail magmadesign@comcast.net

<b>EXHIBIT NO. 5</b>
<b>APPLICATION NO.</b> A-1-MEN-03-029 SITE PLAN, HOUSE & GARAGE FLOOR LAYOUT & EXTERIOR ELEVATIONS, & LANDSCAPING PLANS (1 of 5)

RECEIVED

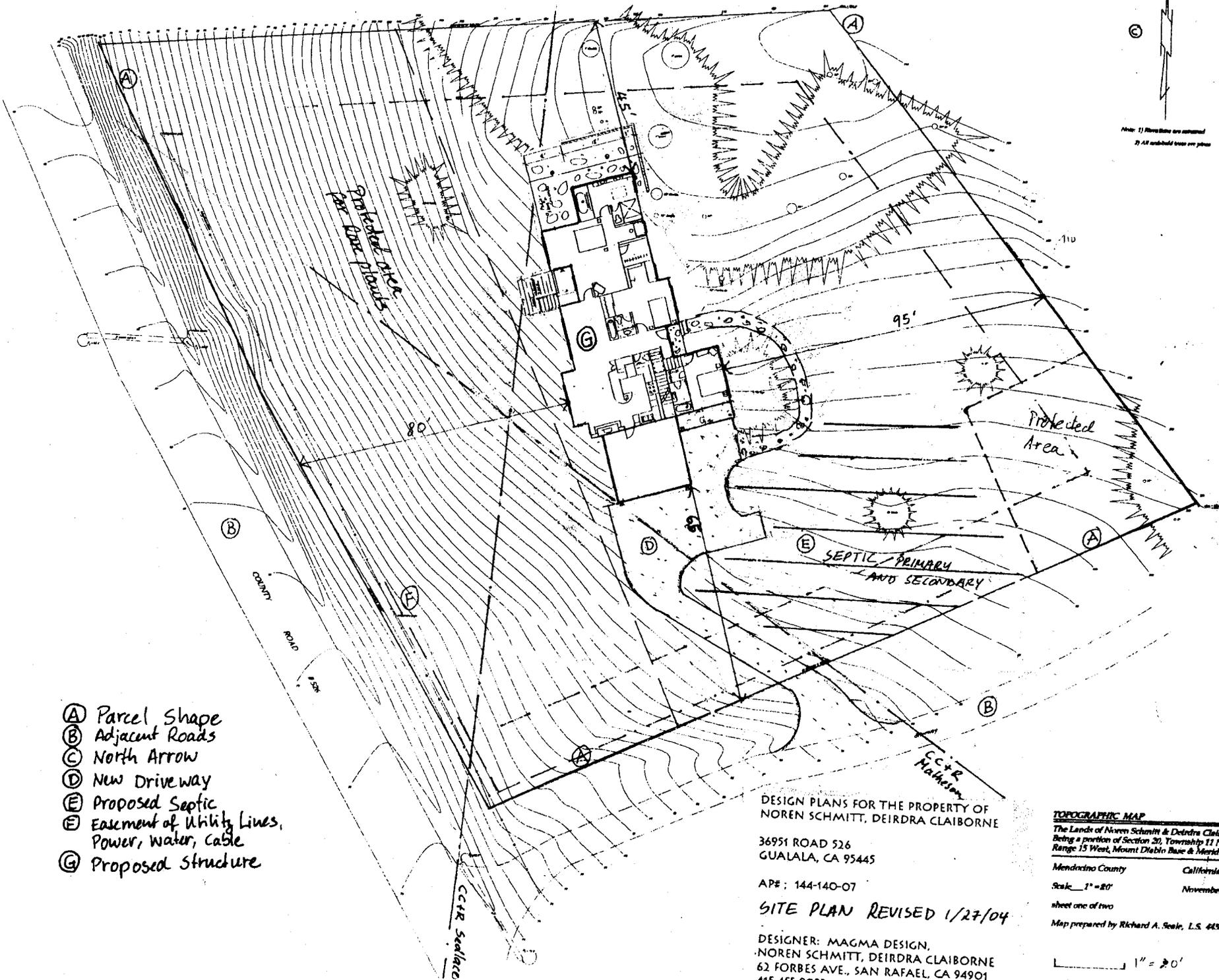
JAN 29 2004

CALIFORNIA  
COASTAL COMMISSION

295

Note: 1) Elevations are assumed  
2) All unshaded areas are pine

- (A) Parcel Shape
- (B) Adjacent Roads
- (C) North Arrow
- (D) New Driveway
- (E) Proposed Septic
- (E) Easement of Utility Lines, Power, Water, Cable
- (G) Proposed Structure



DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36951 ROAD 526  
 GUALALA, CA 95445

AP#: 144-140-07

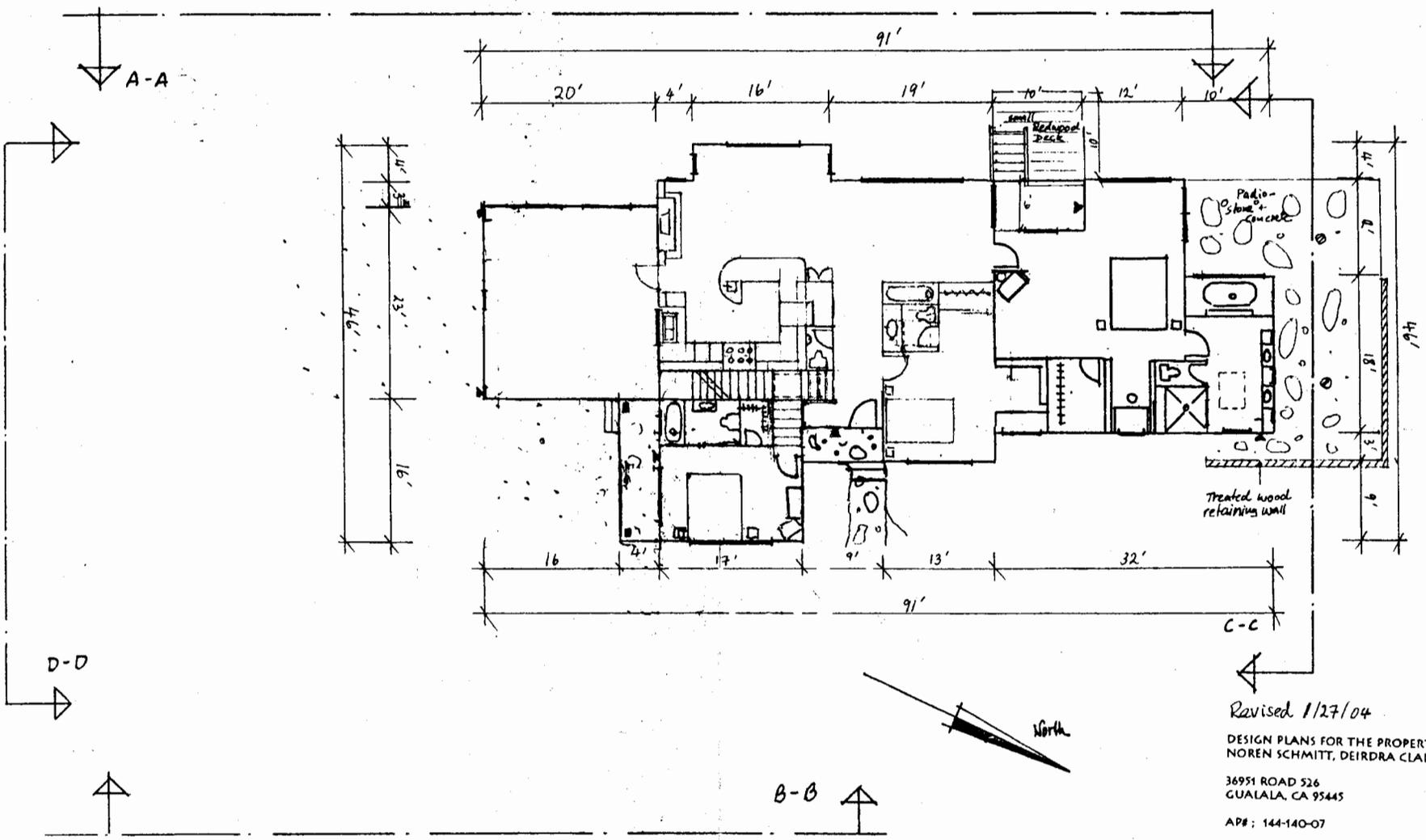
SITE PLAN REVISED 1/27/04

DESIGNER: MAGMA DESIGN,  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 62 FORBES AVE., SAN RAFAEL, CA 94901  
 415.455.0000

**TOPOGRAPHIC MAP**  
 The Lands of Noren Schmitt & Deirdra Claiborne  
 Being a portion of Section 20, Township 11 North  
 Range 15 West, Mount Diablo Base & Meridian.  
 Mendocino County California  
 Scale 1" = 80'  
 November, 20  
 sheet one of two  
 Map prepared by Richard A. Seale, L.S. 4655

1" = 80'

2 of 5



Rvised 1/27/04

DESIGN PLANS FOR THE PROPERTY OF  
NOREN SCHMITT, DEIRDRA CLAIBORNE

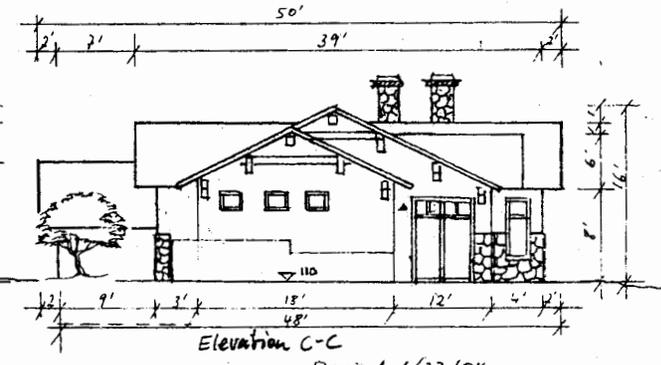
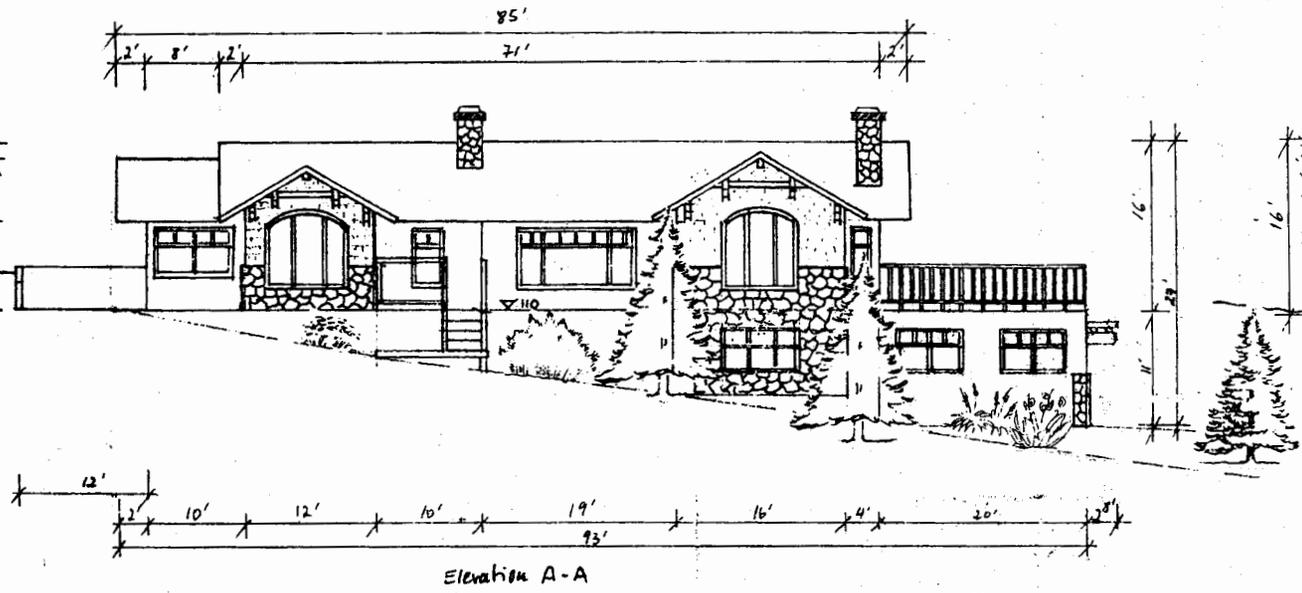
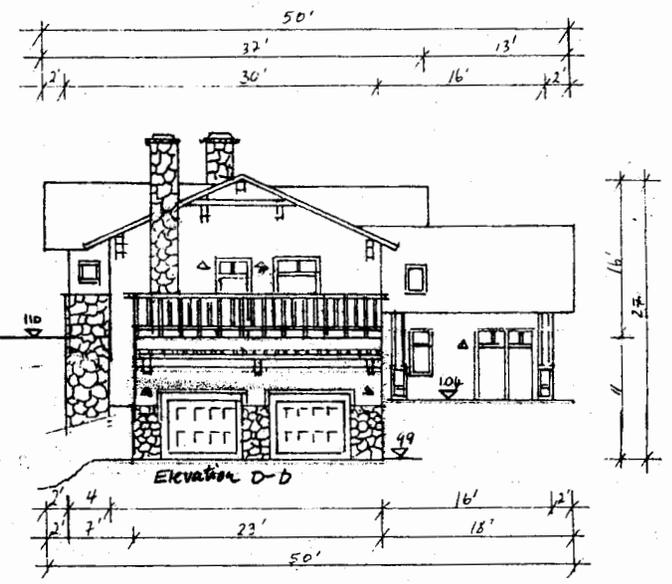
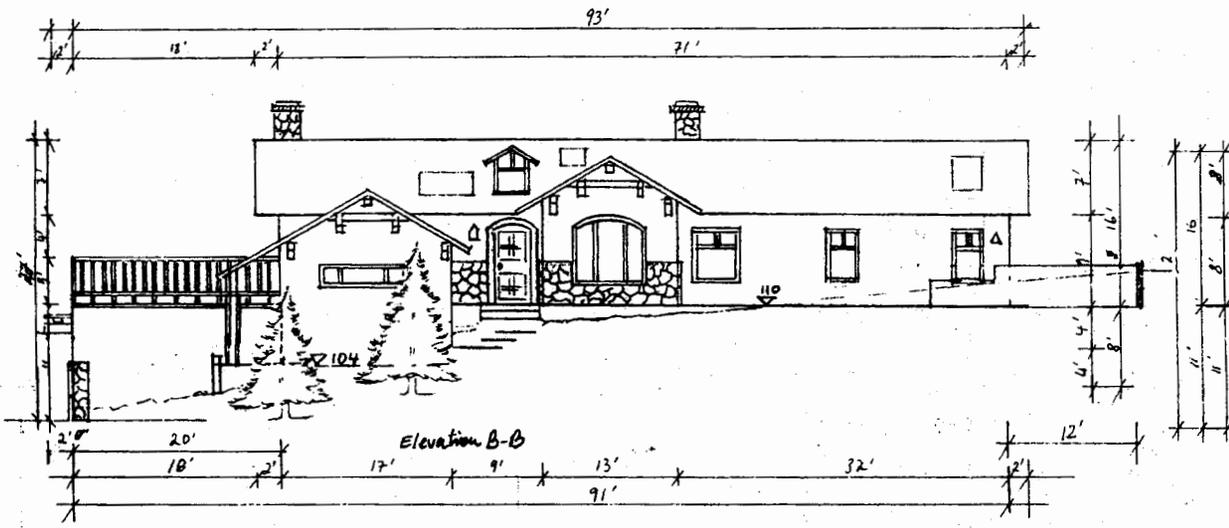
36951 ROAD 526  
GUALALA, CA 95445

AP# : 144-140-07

DESIGNER: MAGMA DESIGN,  
NOREN SCHMITT, DEIRDRA CLAIBORNE  
62 FORBES AVE., SAN RAFAEL, CA 94901  
415 455 9092

FLOORPLAN  
Scale 1" = 8'

495



Revised 1/27/04  
 DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36951 ROAD 526  
 GUALALA, CA 95445  
 APR: 144-140-07

DESIGNER: MAGMA DESIGN,  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 62 FORBES AVE., SAN RAFAEL, CA 94901  
 415 455 9092  
 Scale: 1" = 8'

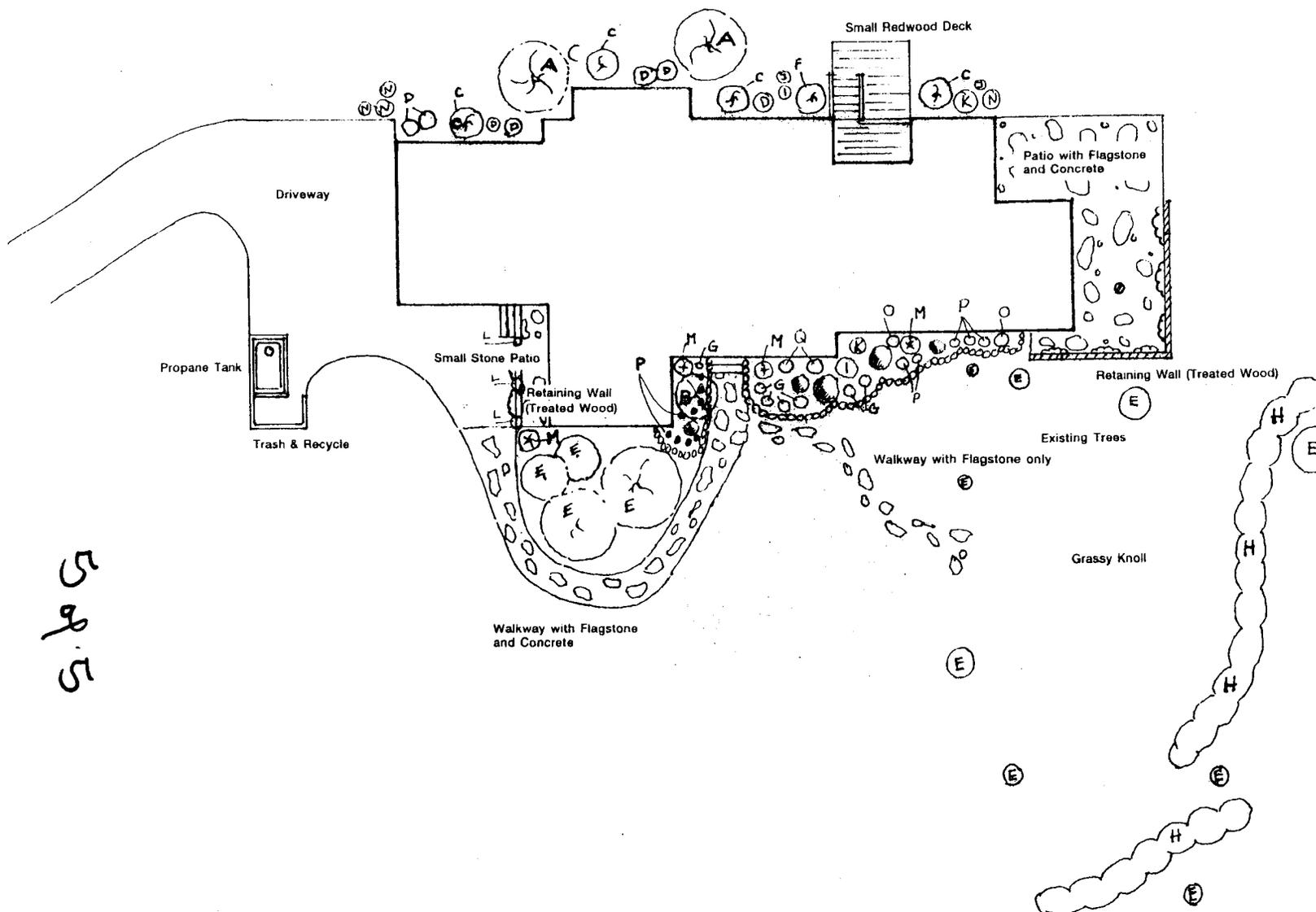
**LANDSCAPE PLAN**

1" = 8'

**LEGEND**

- A- *Cupressus macrocarpa* "Goldcrest"
- B- *Acer palmatum* var. *heptalobum*
- E- Existing trees
- C- *Lavandula angustifolia* "Hidcote"
- D- *Acanthus spinosus*
- F- *Genista hispanica*
- M- Iris
- G- *Adiantum venustum*
- H- *Ligustrum japonicum* "Texanum"
- I- Lavender
- J- Sage
- K- Rosemary
- L- *Geranium sanguineum* var. *stratum*
- N- *Lavandula stoechas*
- O- *Rhododendron* "Percy Wiseman"
- Garden Bolders
- P- *Zantedeschia aethiopica* "Crowborough"
- Q- *Rhododendron* "yakushimanum"

DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36951 ROAD 526  
 CUALALA, CA 95445  
 APE: 144-140-07  
 Revised 2/2/04  
 DESIGNER: MAGMA DESIGN,  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 43 FORBES AVE., SAN RAFAEL, CA 94901  
 415 455 9092



59.5



RAYMOND HALL  
DIRECTOR

TELEPHONE  
(707) 964-5379

COUNTY OF MENDOCINO  
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:  
790 SO. FRANKLIN  
FORT BRAGG, CA 95437

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APR 28 2003

CALIFORNIA  
COASTAL COMMISSION

April 24, 2003

CORRECTED NOTICE OF FINAL ACTION

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

**CASE#:** CDP #09-02  
**OWNER:** Deirdra Claiborne & Noren Schmitt  
**REQUEST:** Construction of a 2,574 square foot single-family residence with an attached 460 square foot garage. Structure to have a 20-foot average height as measured from natural grade. Installation of a driveway and septic system; connection to North Gualala Water Company and on-site utilities; temporary occupancy of travel trailer during construction; implementation of a rare plant mitigation program to offset potential impacts to rare plants.  
**LOCATION:** East of Bourns Landing, on the east side of County Road 526, approximately 1/8 mile north of its southern intersection with South Highway One at 36951 Road 526 (APN 144-140-07).  
**PROJECT COORDINATOR:** Doug Zanini  
**HEARING DATE:** February 27, 2003  
**APPROVING AUTHORITY:** Coastal Permit Administrator  
**ACTION:** Approved with Conditions.

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

The project was appealed at the local level. The Mendocino County Board of Supervisors heard this appeal on April 22, 2003. The appeal was **denied** on a vote of 5-0 and the Coastal Permit Administrator's approval was upheld.

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

<b>EXHIBIT NO. 6</b>
<b>APPLICATION NO.</b> A-1-MEN-03-029 CLAIBORNE & SCHMITT NOTICE OF FINAL ACTION (1 of 19)

**OWNER:** Deirdra Claiborne  
Noren Schmitt  
62 Forbes Ave.  
San Rafael, CA 94901

**REQUEST:** Construction of a 2,574 square foot single-family residence with an attached 460 square foot garage. Structure to have a 20-foot average height as measured from natural grade. Installation of a driveway and septic system; connection to North Gualala Water Company and on-site utilities; temporary occupancy of travel trailer during construction; implementation of a rare plant mitigation program to offset potential impacts to rare plants.

**LOCATION:** East of Bourns Landing, on the east side of County Road 526, approximately 1/8 mile north of its southern intersection with South Highway One at 36951 Road 526. APN 144-140-07.

**APPEALABLE AREA:** Yes, Highly Scenic Area, within 100 feet of an ESHA

**PERMIT TYPE:** Standard

**TOTAL ACREAGE:** 1.1 acre

**ZONING:** RR:L-5 [RR:L-2]

**GENERAL PLAN:** RR-5 [RR-2]

**EXISTING USES:** Vacant

**SUPERVISORIAL DISTRICT:** 5

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt, Class 3 (a)

**OTHER RELATED APPLICATIONS:** Septic permit 5800 (denied)

**PROJECT DESCRIPTION:** The applicant proposes to construct a 2,574 square foot single-family residence with an attached 460 square foot garage. The structure is proposed to have a 20-foot average height as measured from natural grade. The project includes the installation of a driveway, septic system and connection to North Gualala Water Company and on-site utilities.

This project was revised from a previous design. The project as originally designed was a taller structure located further to the west, which included a guest cottage. This project was redesigned from the original project description to address the location of rare plants and to address the concerns of the Gualala Municipal Advisory Council (GMAC). GMAC originally recommended denial of the project based on the fact that project exceeded the 18-foot height limit (originally 28 feet) and because the project created a "broad visual mass that would dominate rather than be subordinate to the setting and that it failed to satisfy requirements of the subdivision architectural review committee." The project was also rejected by the GMAC because a kitchen was proposed in the guest cottage.

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GMAC recommended approval of the revised project on November 11, 2002. (Note: the building height as measured as an average from natural grade using the County procedures is actually 20 feet not 18 as indicated when the GMAC reviewed the project. The additional height is due to the topography of the site and the location of the garage below the residence. However, the design of the building is exactly as reviewed and recommended for approval by GMAC.)

The project site contains two species of rare plants; coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) and Point Reyes ceanothus (*Ceanothus gloriosus* ssp. *gloriosus*). Approximately 300 to 400 plants of coastal bluff morning-glory are reported on the lot and more than 100 plants of Point Reyes ceanothus are reported. Additional plants of these species occur outside of the lot. On the lot, approximately 40 to 70 plants of coastal bluff morning-glory are expected to be directly impacted by construction activities and approximately 100 additional plants are expected to be impacted by future human activities. An extensive mitigation program is recommended by the botanist to offset the impacts to the rare plants. The mitigation program described below is incorporated into the project description to ensure that negative impacts to the rare plants are offset and so that the project can be found to be exempt from CEQA requirements.

**LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION:** The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below. A  indicates that the statement regarding policy consistency applies to the proposed project.

#### Land Use

The proposed residence is compatible with the zoning district and is designated as a principal permitted use.

Section 20.460.035 of the Coastal Zoning Code allows for the limited use of a trailer coach while constructing a residence. It states:

*The temporary use of a trailer coach for the following purposes may be permitted upon issuance of a Coastal Development Administrative Permit (Chapter 20.532):*

*(C) Occupancy While Constructing a Dwelling. The installation, use and occupancy of a trailer coach as a temporary dwelling by the owner of a lot or contiguous lot on which a dwelling is under construction or for which a building permit has been issued. Such administrative permit may be issued for the period required to complete construction of the facility, but not to exceed two (2) years unless renewed.*

Special Condition #1 ensures that the use of the trailer coach as a residence will cease upon completion of the new residence and ensures that the use of the trailer does not exceed the prescribed time limits.

The maximum permitted building height in the RR zoning district is required by Section 20.376.045 of the Coastal Zoning Code. It states:

*"Twenty-eight (28) feet above natural grade for non-Highly Scenic Areas and for Highly Scenic Areas east of Highway One. Eighteen (18) feet above natural grade for Highly Scenic Areas west of Highway One unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures..."*

The project site is in a designated Highly Scenic Area west of Highway One. Therefore, the building height maximum is 18 feet as measured from average natural grade. The height of the structure as an average of the high side and the low side equals 20 feet as measured by staff. The additional two feet of

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building height would only be perceived by looking at the residence from the south. The additional height is required since the residence and garage are proposed on a knoll, which places the garage below the floor of the residence thereby creating additional height. The residence has been sited to minimize the visual impact from Cook's Beach to the north and would not be visible from Highway One. At least two structures located on CR #526 to the south of the proposed structure are taller than the 20-foot proposed height. The additional two feet of building height would not affect public views to the ocean or be out of character with surrounding structures. Therefore, the proposal is consistent with the requirements of Section 20.376.045 of the Coastal Zoning Code. See the Visual Resources section below for additional discussion.

### Public Access

- The project site is located west of Highway 1, but is not a blufftop site and is not designated as a potential public access trail location on the LUP maps. There is no evidence of prescriptive access on the site.

### Hazards

- The site is located in a State Responsibility Area and potential hazards associated with fire protection on the subject property are addressed by CDF. A preliminary fire clearance form (#75-02) has been submitted by the applicant.
- There are no known faults, landslides or other geologic hazards in close proximity to the proposed development.

### Visual Resources

The subject parcel is within a designated highly scenic area and is subject to the visual policies within the Mendocino County Coastal Element in Chapter 3.5 and the visual regulations within Chapter 20.504 of the Coastal Zoning Code.

Policy 3.5-1 of the Mendocino County Coastal Element states:

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

Policy 3.5-3 states:

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

*"...In addition to other visual policy requirements, new development west of Highway One in designated highly scenic areas is limited to one-story (above natural grade) unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures...New development shall be subordinate to the setting and minimize reflective surfaces. Variances from this standard may be allowed for planned unit development(s) that provides clustering and other forms of meaningful mitigation."*

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Policy 3.5-5 states:

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

Colors/Materials: The materials/colors proposed for the exterior of the residence are:

Roof: Composition shingles – gray/black

Siding: Natural cedar shingles stained with transparent valley color stain and a hoplan gray stone wainscot

Trim: Dark brown with black or dark green window trim.

Sec. 20.504.015 (C) of the Coastal Zoning Code states:

1. *Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.*
2. *In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.*
3. *New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.*

**Discussion:** Originally the residence was proposed further to the west, which would increase its visibility from Cook's Beach, a public access point to the north. While the residence is proposed at the highest elevation on the property, it is in line with the siting of the adjacent residence to the north, therefore the prominence of the structure as seen from Cook's Beach is minimized. It does not appear that the structure would be visible from Highway One, as the elevated topography and the existing trees between the Highway and the proposed structure screen the building site. The residence and garage are designed to minimize the alteration of the natural topography. The garage is proposed to be constructed on the lower portion of the site while the residence is proposed on the relatively flat portion of the site. The design of the residence is one-story and is of minimal height given the change in topography, which requires the garage to be placed below the residence. The selected materials are all brown and grey earthtones with varied textures, which will help to diffuse reflected light and blend the structure with the natural surroundings. Special Condition #2 ensures that the colors and materials proposed do not change without further review by the Coastal Permit Administrator.

A preliminary landscape plan (Exhibit E) indicates the planting of six coastal pines (shore pines) to the west and south of the proposed residence and four shore pines to the north of the proposed residence to further screen the development from Cook's Beach. The plantings help to blend the structure within its surroundings. The design of the structure with the proposed plantings would bring the project into compliance with the visual resource policies of the Coastal Element and requirements of Section 20.504.015 of the Coastal Zoning Code. Staff recommends Special Condition # 3 to require the submittal

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of a final landscape plan. Specifications shall be included to indicate species, size, and establishment techniques, (e.g. irrigation, fertilization, etc.). All required landscaping shall be established prior to the final inspection of the dwelling, or occupancy, whichever occurs first, and shall be maintained in perpetuity.

Approximately five pine trees would be removed to implement the project. The remaining mature pines surrounding the proposed residence provide screening of the project and help minimize the dominance of the structure within its surroundings. Special Condition #4 is recommended ensuring that the existing trees surrounding the proposed residence are protected, replaced and are not removed or limbed without approval by the Coastal Permit Administrator.

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

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

*(1) No light or light standard shall be erected in a manner that exceeds either the height limit designated in this Division for the zoning district in which the light is located or the height of the closest building on the subject property whichever is the lesser. Where possible, all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.*

The submitted elevations indicate six exterior lighting fixtures. The applicant proposes two choices of exterior light fixtures. Choice "A" has an exposed bulb and does not comply with the shielding requirements of the Coastal Zoning Code. Choice "B" is Kichler model # 9044OB, which is a downcast and shielded light fixture in compliance with the code. Therefore, Special Condition #5 has been added to ensure that Choice "B" or other acceptable fixture is specified to comply with the exterior lighting regulations of Section 20.504.035 of the Zoning Code.

### Natural Resources

Two uncommon plants occur on the property, coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) and Point Reyes ceanothus (*Ceanothus gloriosus* ssp. *gloriosus*). The Coastal Zoning Code Section 20.308.040 (F) defines Environmentally Sensitive Habitat Areas 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 easily be disturbed or degraded by human activities or developments. In Mendocino County, environmentally sensitive habitat areas include, but are not limited to: anadromous fish streams, sand dunes, rookeries and marine mammal haul-out areas, wetlands, riparian areas, areas of pygmy vegetation that contain species of rare or endangered plants, and habitats of rare and endangered plants and animals."*

Section 20.496.020 A-1 of the Coastal Zoning Code regulates development criteria in or near ESHA's requiring a minimum of 50' wide buffer area. However, Section 20.496.020 A-4 addresses permitted development within the buffer area. Nearly the entire project site contains rare plants. Therefore, Section 20.496.020 (4) (a-f) would be the applicable code section where there are no alternatives to developing within the buffer area. The standards are as follows:

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- (a) *Development shall be compatible with the continuance of the adjacent habitat area by maintaining the functional capacity, their ability to be self-sustaining and maintain natural species diversity.*
- (b) *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel.*
- (c) *Development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas. The determination of the best site shall include consideration of drainage, access, soil type, vegetation, hydrological characteristics, elevation, topography, and distance from natural stream channels. The term "best site" shall be defined as the site having the least impact on the maintenance of the biological and physical integrity of the buffer strip or critical habitat protection area and on the maintenance of the hydrologic capacity of these areas to pass a one hundred (100) year flood without increased damage to the coastal zone natural environment or human systems.*
- (d) *Development shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity.*
- (e) *Structures will be allowed within the buffer area only if there is no other feasible site available on the parcel. Mitigation measures, such as planting riparian vegetation, shall be required to replace the protective values of the buffer area on the parcel, at a minimum ratio of 1:1, which are lost as a result of development under this solution.*
- (f) *Development shall minimize the following: impervious surfaces, removal of vegetation, amount of bare soil, noise, dust, artificial light, nutrient runoff, air pollution, and human intrusion into the wetland and minimize alteration of natural land forms.*

Coastal Zoning Code section 20.532.100 (A) (1) states that no development shall be allowed in Environmentally Sensitive Habitat Areas (ESHA's) unless the following findings are made:

1. *The resource as identified will not be significantly degraded by the proposed development.*
2. *There is no feasible less environmentally damaging alternative.*
3. *All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.*

On August 15, 2002, Mr. Gene Cooley, Associate Botanist with the Department of Fish and Game (DFG) conducted a site visit with Mr. Robert Dostalek of the Mendocino County Department of Planning and Building Services, Mr. Jon Thompson, and the landowners. An undated draft Botanical Survey prepared by Mr. Thompson was submitted to the Planning Division on October 21, 2002. Dean Schlichting, Consulting Botanist, prepared a review letter indicating concurrence with Mr. Thompson's draft on September 27, 2002 and Jon Thompson prepared a revised Botanical Survey on November 4, 2002 and submitted an addendum dated November 20, 2002.

Planning staff and DFG personnel reviewed the botanical reports. Mr. Thompson provided for extensive mitigation measures to offset impacts to two identified rare plants on the project site. Based on observed site conditions and the proposed mitigation measures the DFG recommends that the applicant enter into a Section 1802 agreement with DFG to implement the mitigations as recommended by Mr. Thompson (personal communication between Doug Zanini and Gene Cooley, January 10, 2003). The mitigation

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program contained within the CDP file provided by Mr. Thompson is incorporated into the project description to ensure no unmitigated negative impacts to botanical resource occur as a result of this project. DFG summarizes the site conditions and mitigation program as follows:

*"...Coastal bluff morning-glory was only recently recognized to be an uncommon plant with the January 2001 printing of DFG's California Natural Diversity Database (CNDDDB) Special Vascular Plants, Bryophytes, and Lichens List and the August 2001 publication of the sixth edition of the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California. Coastal bluff morning-glory is ranked by CNPS as 1B and Point Reyes ceanothus is ranked as 4. It is generally recognized that plants ranked 1B can be shown to meet the criteria for official State or Federal listing as endangered, threatened, or rare. The California Environmental Quality Act (CEQA) Guidelines Section 15380 provide that taxa that can be shown to meet the criteria for listing as endangered, threatened, or rare, will receive the consideration during CEQA review that they would receive if they were actually listed. Impacts to plants ranked 4 should be minimized when feasible. According to CNDDDB, coastal bluff morning-glory is known from approximately 13 occurrences in Mendocino, Sonoma, and Marin counties. According to CNPS, Point Reyes ceanothus is also known from Mendocino, Sonoma, and Marin counties.*

*Approximately 300 to 400 plants of coastal bluff morning-glory are reported from the lot and more than 100 plants of Point Reyes ceanothus are reported. Additional plants of these species occur outside of the lot. On the lot, approximately 40 to 70 plants of coastal bluff morning-glory are expected to be directly impacted by construction activities and approximately 100 additional plants are expected to be impacted by future human activities.*

*Providing adequate protection and mitigation for uncommon plants and their habitat on small lots is difficult. The botanical survey report proposes a variety of measures to mitigate for impacts to coastal bluff morning-glory:*

- Avoidance and minimization of impacts. The project has been redesigned to minimize impacts.*
- On-site protection. Two portions of the lot will be preserved in natural habitat. These two areas will protect a substantial portion of the coastal bluff morning-glory and Point Reyes ceanothus and their habitat on the lot. DFG prefers that conservation easements be used to protect areas as mitigation for permanent impacts to uncommon plants and their habitat. However, conservation easements are generally not feasible on small lots. DFG recommends that the two areas proposed for protection be protected with a deed restriction. The areas should be maintained in natural vegetation and the perimeter should be marked to prevent inadvertent disturbance. During construction, these protected areas and other natural habitat should be protected with high visibility boundary fencing. Contractors should be informed of the importance of preventing disturbance to these areas, and their actions should be monitored. Areas of natural habitat disturbed during construction should be stabilized with structural erosion control measures such as jute netting, coir logs, and certified weed-free straw, and revegetated with appropriate native plants propagated from local genetic stock.*
- Seed banking. Coastal bluff morning-glory seeds will be collected and deposited for long-term conservation storage at Rancho Santa Ana Botanic Garden seed bank or another seed bank certified by the Center for Plant Conservation. Funding for the long-term seed storage will be provided. In consultation with DFG, the guidelines of the seed bank for seed collection methodology and amount of seeds collected will be followed. In order to obtain a sufficient conservation collection, seeds may have to be collected in more than one year.*

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*Habitat data will be recorded and a voucher specimen for the seed collection will be collected and deposited at Rancho Santa Ana or another appropriate herbarium, in consultation with DFG.*

- *Research funding. Funding of research into the ecology, demographics, or distribution and habitat characterization of coastal bluff morning-glory will be provided in consultation with DFG. Increasing the knowledge of the species' basic biology and ecology such as habitat requirements, conditions for population establishment, population dynamics, and response to habitat succession will benefit the species by providing information necessary to develop species and habitat management guidelines and to formulate more effective mitigation strategies. Improving and documenting knowledge of the species' distribution will increase awareness of the species and its distribution. Refining the characterization of its habitat and microhabitat will improve the ability to successfully survey for the species. This knowledge will benefit the species by increasing the likelihood that the species will be detected during plant surveys, thus increasing the likelihood that impacts will be mitigated through the permitting process and that populations can be protected through proactive means. Population locations will be documented and submitted to CNDDDB. DFG will assist in facilitating this research."*

DFG has determined that if the mitigation measures outlined in the botanical survey report and as above are implemented, impacts to coastal bluff morning-glory will be adequately mitigated and the 100-foot buffer of the Environmentally Sensitive Habitat Area triggered by the presence of this species can be reduced to allow construction of the project as proposed. Special Condition # 6 requires that the Section 1802 agreement based on the mitigations recommended by Mr. Thompson be implemented prior to issuance of the Coastal Development Permit. This will ensure that the DFG has the ability to enforce and monitor the mitigation while allowing the CDP to be issued before the seed banking, research funding, etc. has been accomplished.

### Archaeological/Cultural Resources

This project was referred to the Northwest Information Center of the California Historical Resources Inventory at Sonoma State University (SSU) for an archaeological records search. SSU responded that the site has a possibility of containing archaeological resources and further investigation was recommended. The recommendation was referred to the Mendocino County Archaeological Commission on May 8, 2002. The Commission required that a survey be prepared. Thad Van Buren, ROPA, performed an Archaeological Survey on June 1, 2002. No archaeological or cultural resources were discovered. The Mendocino Archaeological Commission accepted the survey on November 13, 2002. The applicant is advised by Standard Condition #8 of the County's "discovery clause" which establishes procedures to follow should archaeological materials be unearthed during project construction.

### Groundwater Resources

The North Gualala Water Company, Inc. (NGWC) would serve the proposed development. NGWC stated that the property is within their service area and that water is available to serve the proposed project. Therefore, the project would not adversely affect groundwater resources.

- The proposed development would be served by a proposed septic system and would not adversely affect groundwater resources.

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Transportation/Circulation

- The project would contribute incrementally to traffic on local and regional roadways. The cumulative effects of traffic due to development on this site were considered when the Coastal Element land use designations were assigned. The Mendocino County Department of Transportation commented as follows:

*"Access to the subject property is from County Road 526. As determined from our site review, the existing driveway approach at County Road 526 appears to be adequate, and we have no recommended conditions... However, the applicant should note that any improvements to the existing driveway approach onto the County road, or other work within the County right-of-way, will require an encroachment permit from the Department of Transportation..."*

Zoning Requirements

- As discussed above, the project complies with all of the zoning requirements of Division II of Title 20 of the Mendocino County Code.

**PROJECT FINDINGS AND CONDITIONS:** Pursuant to the provisions of Chapter 20.532 and Chapter 20.536 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions.

**FINDINGS:**

1. The proposed development is in conformity with the certified Local Coastal Program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and
3. The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
4. The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development; and
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.
8. The resource as identified will not be significantly degraded by the proposed development.
9. There is no feasible less environmentally damaging alternative.

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10. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

**STANDARD CONDITIONS:**

1. This action shall become final on the 11<sup>th</sup> day following the decision unless an appeal is filed pursuant to Section 20.544.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and use of the property in reliance on such permit has been initiated prior to its expiration.

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 County 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 Division II of Title 20 of the Mendocino County Code.
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and that compliance therewith is mandatory, unless an amendment has been approved by the Coastal Permit Administrator.
4. That this permit be subject to the securing of all necessary permits for the proposed development from County, State and Federal agencies having jurisdiction.
5. The applicant shall secure all required building permits for the proposed project as required by the Building Inspection Division of the Department of Planning and Building Services.
6. This permit shall be subject to revocation or modification upon a finding of any one (1) or more of the following:
  - a. That such permit was obtained or extended by fraud.
  - b. That one or more of the conditions upon which such permit was granted have been violated.
  - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
  - d. A final judgment of a court of competent jurisdiction has declared one (1) or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one (1) 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

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the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of the Department of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

**SPECIAL CONDITIONS:**

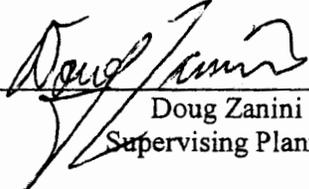
1. A permit is hereby granted for temporary occupancy of the travel trailer while constructing the single family residence, subject to the following conditions of approval:
  - (a) The term of this administrative permit is valid for the period required to complete construction of the primary dwelling, but shall not exceed two years unless renewed.
  - (b) The administrative permit shall be effective on the effective date of CDP #09-02 and shall expire two years henceforth.
  - (c) A valid building permit for a permanent dwelling on the premises must be in effect.
  - (d) Building and Health permits must be obtained prior to the set up and occupancy of the travel trailer.
  - (e) All utility connections to the travel trailer shall be disconnected and the trailer shall be removed from the property or placed in storage per Section 20.456.015(J) of the Code prior to the final building inspection or occupancy of the permanent dwelling, whichever comes first.
2. All exterior building materials and finishes shall match those specified in the coastal development permit application. Windows shall be made of non-reflective glass. Any change in approved colors or materials shall be subject to the review and approval of the Coastal Permit Administrator for the life of the project.
3. Prior to issuance of the Coastal Development Permit, the applicant shall submit, for the review and approval of the Coastal Permit Administrator, a final landscape plan based on the preliminary landscape plan in Exhibit E of this report. Specifications shall be included to indicate species, size, and establishment techniques, (e.g. irrigation, fertilization, etc.). All required landscaping shall be established prior to the final inspection of the dwelling, or occupancy, whichever occurs first and shall be maintained in perpetuity.
4. The existing evergreen trees surrounding the proposed residence that are not removed for construction of the residence provide a significant visual buffer from Highway One and Cook's Beach and shall be retained. No tree removal or limbing of the existing trees whose trunks are more than 15 feet from the footprint of the proposed residence shall occur without prior review and approval by the Coastal Permit Administrator. In the event that the screening trees die during the life of the project, they shall be replaced with similar species in the same location.

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5. The exterior light fixtures shall be Kichler model # 9044OB. Any change to the exterior light specifications is subject to the review and approval of the Coastal Permit Administrator.
6. Prior to issuance of the Coastal Development Permit, the applicant shall enter into a Section 1802 agreement with the Department of Fish and Game to implement DFG's accepted mitigation program as recommended by Mr. Jon Thompson's botanical survey dated November 4, 2002 including the November 20, 2002 addendum. A signed copy of said agreement shall be submitted to the Planning Division.

Staff Report Prepared By:

2/14/03  
Date

  
\_\_\_\_\_  
Doug Zanini  
Supervising Planner

Attachments: Exhibit A: Location Map  
Exhibit B: Site Plan  
Exhibit C: Floor Plan  
Exhibit D: Elevations  
Exhibit E: Landscape Plan  
Exhibit F: Lighting Fixtures

Appeal Period: 10 days  
Appeal Fee: \$645

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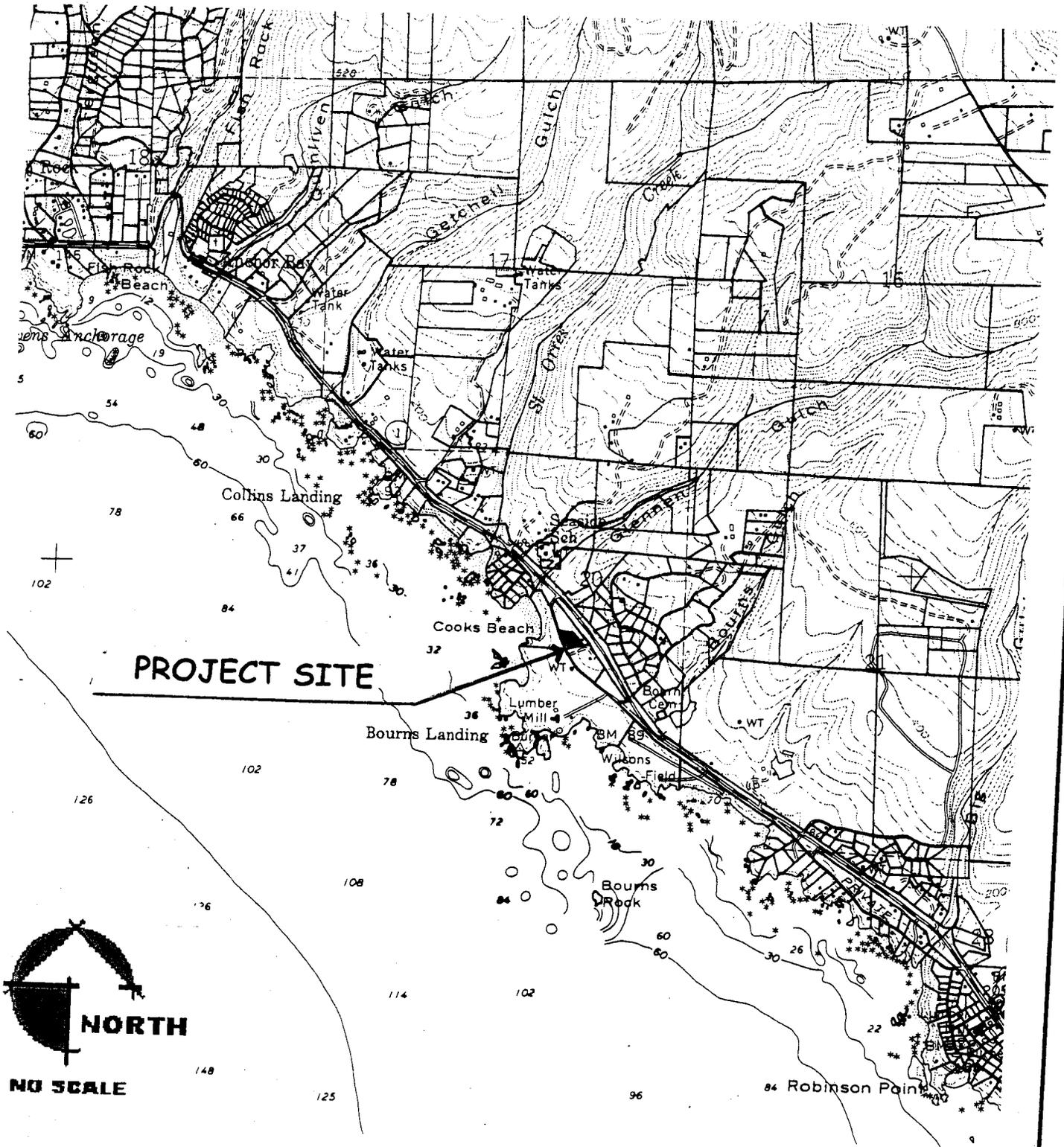


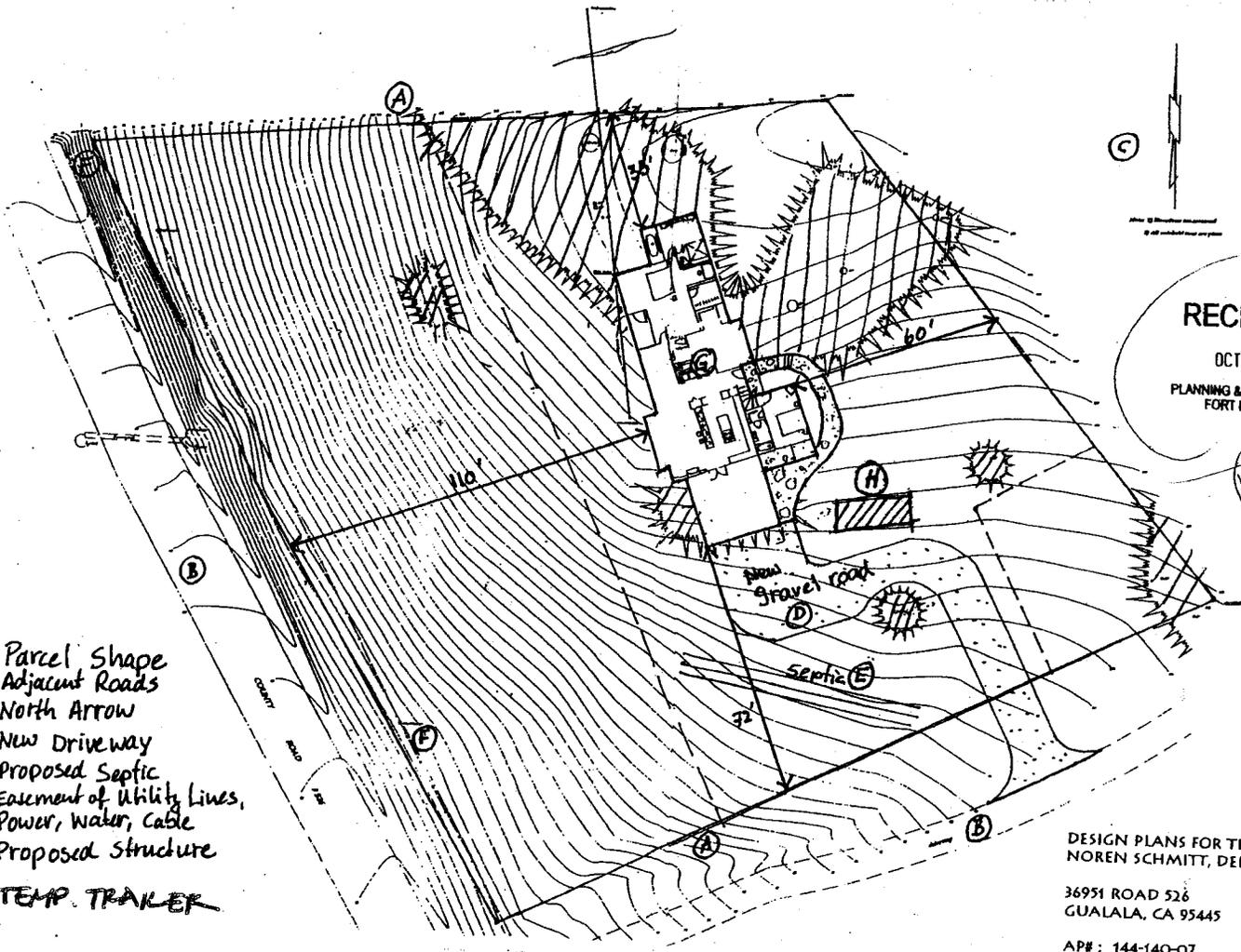
EXHIBIT A

LOCATION MAP

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- (A) Parcel Shape
- (B) Adjacent Roads
- (C) North Arrow
- (D) New Driveway
- (E) Proposed Septic
- (F) Easement of Utility Lines, Power, Water, Cable
- (G) Proposed Structure
- (H) TEMP. TRAILER



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 OCT 21 2002  
 PLANNING & BUILDING SERV  
 FORT BRAGG CA  
*Revised*

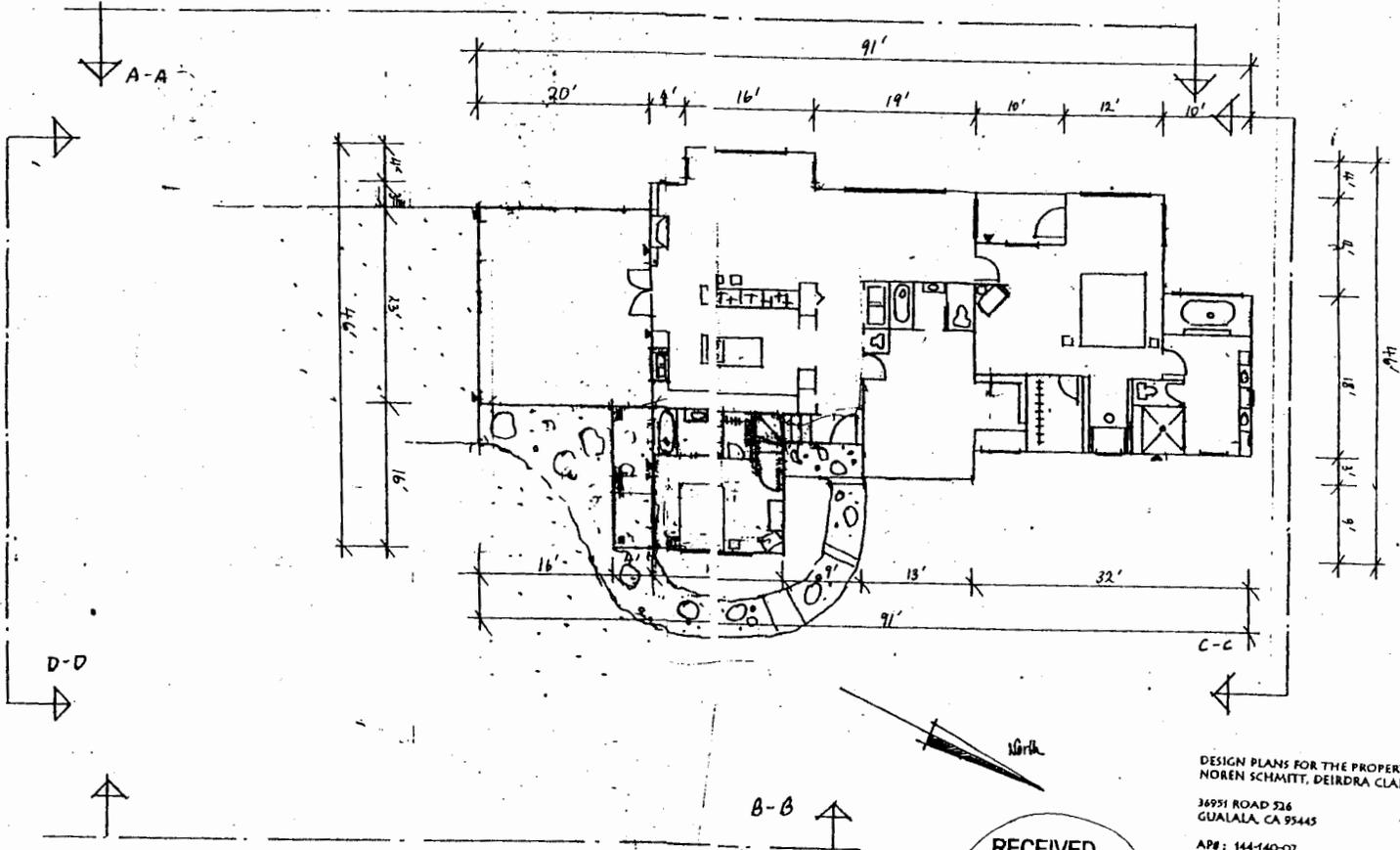
DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36951 ROAD 526  
 GUALALA, CA 95445  
 AP# : 144-140-07

CDP # 19-02  
 February 27, 2003

EXHIBIT C

FLOOR PLAN

16819

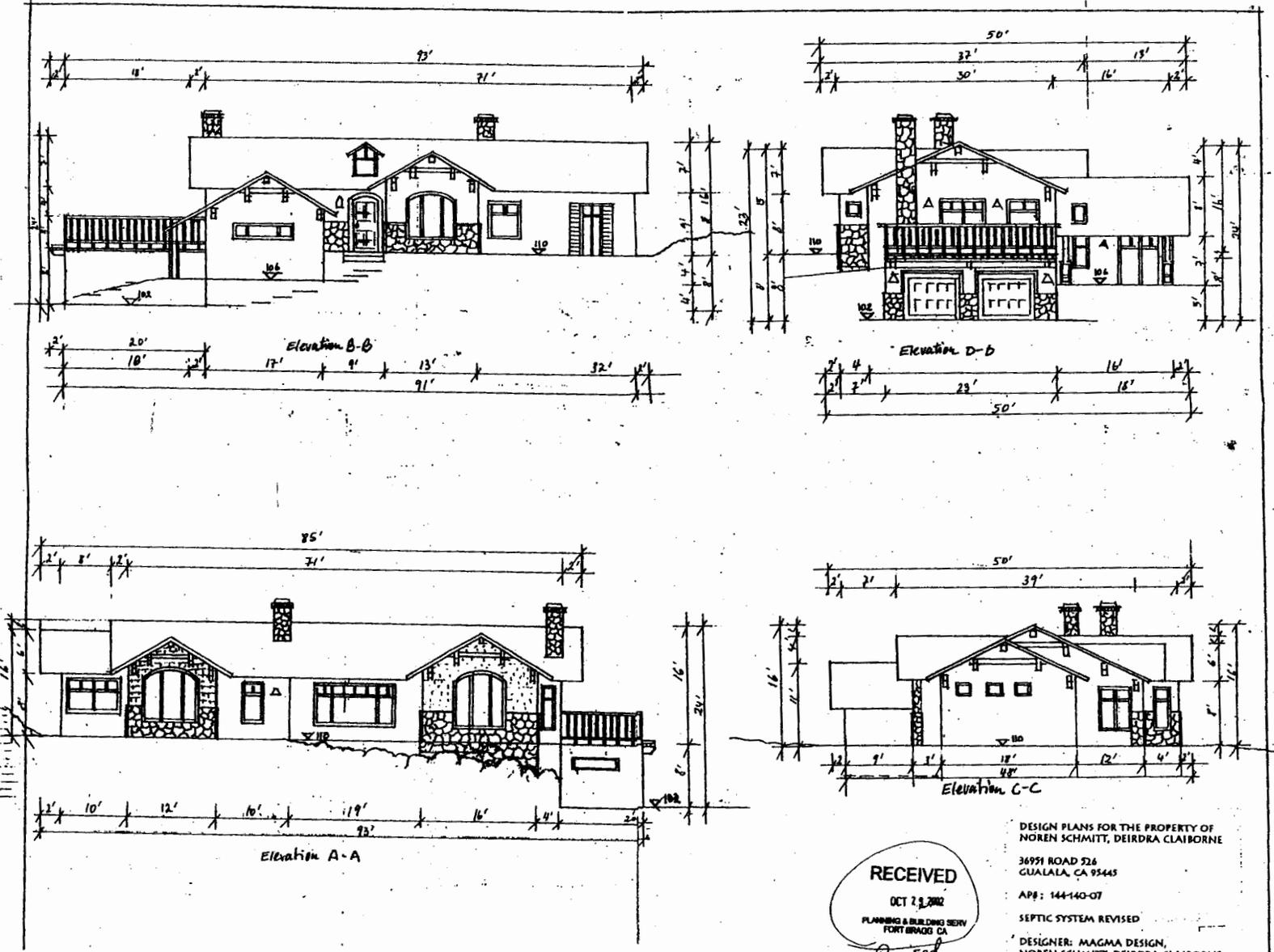


RECEIVED  
 OCT 29 2002  
 PLANNING & BUILDING DEPT  
 FORT BRAGG, CA  
*Revised*

DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36951 ROAD 526  
 GUALALA, CA 95445  
 AP# 144-140-07  
 SEPTIC SYSTEM REVISED.  
 DESIGNER: MAGMA DESIGN,  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 62 FORBES AVE. SAN RAFAEL, CA 94901  
 415 455 9092  
 FLOORPLAN

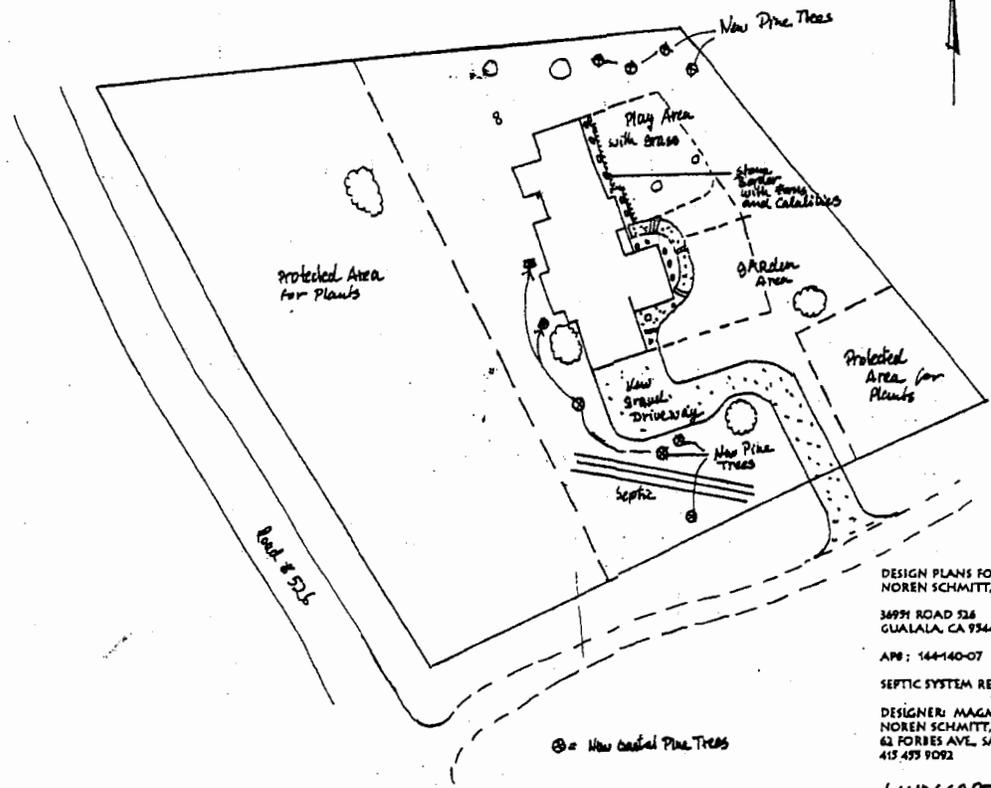
CDP # 19-02  
 February 27, 2003

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 OCT 28 2002  
 PLANNING & BUILDING SERV  
 FORT BRAGG, CA  
*Approved*

DESIGN PLANS FOR THE PROPERTY OF  
 NOREN SCHMITT, DEIRDRA CLAIBORNE  
 36991 ROAD 526  
 GUALALA, CA 95645  
 APP: 144-140-07  
 SEPTIC SYSTEM REVISED  
 DESIGNER: MAGMA DESIGN,  
 NOREN SCHMITT, DEIRDRA CLAIBORNE



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OCT 29 2002  
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⊗ = New Central Pine Trees

DESIGN PLANS FOR THE PROPERTY OF  
NOREN SCHMITT, DEIRDRA CLAIBORNE  
36991 ROAD 528  
GUALALA, CA 95445  
AP# : 144-140-07  
SEPTIC SYSTEM REVISED 5/17/2000  
DESIGNER: MAGMA DESIGN,  
NOREN SCHMITT, DEIRDRA CLAIBORNE  
62 FORBES AVE., SAN RAFAEL, CA 94901  
415 493 9092

**LANDSCAPE PLAN**  
Revised: 10/24/02

18419

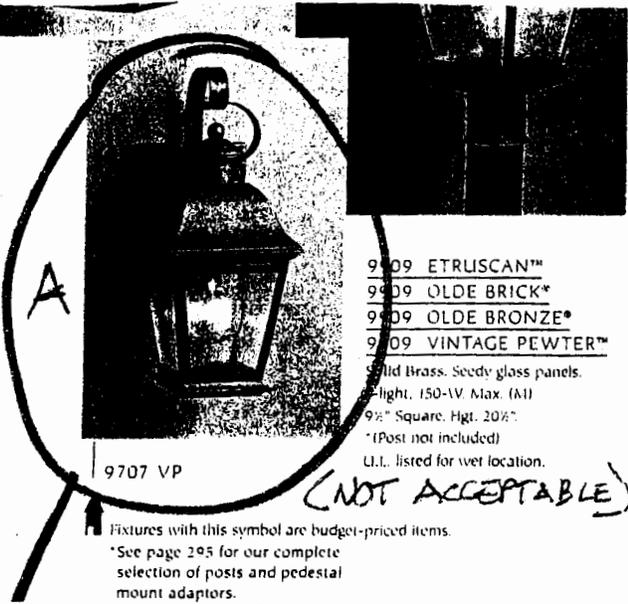
damp location.

- 9809 ETRUSCAN™
- 9809 OLDE BRICK®
- 9809 OLDE BRONZE®
- 9809 VINTAGE PEWTER™

Solid Brass. Seedy glass panels.  
1-light, 150-W. Max. (M) 9 1/2" Square.  
Body Hgt. 18 1/2". Overall 36 1/2".  
Extra lead wire 98".  
U.L. listed for damp location.

- 9707 ETRUSCAN™
- 9707 OLDE BRICK®
- 9707 OLDE BRONZE®
- 9707 VINTAGE PEWTER™

Solid Brass. Seedy glass panels.  
1-light, 100-W. Max. (M) Hgt. 12 1/2".  
Width 5 1/2". Extension 6 1/2". Hgt. from center of wall opening 4".  
U.L. listed for wet location.

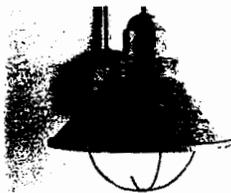


9707 VP

(NOT ACCEPTABLE)

Fixtures with this symbol are budget-priced items.  
\*See page 295 for our complete selection of posts and pedestal mount adaptors.

280 KICHLER®



- 9023 BRUSHED NICKEL
- 9023 OLDE BRICK®
- 9023 TUSCAN GOLD®
- 9023 WHITE

Aluminum or brass and stainless steel construction. 1-light, 150-W. Max. (M) (G-40 lamp rec.) Hgt. 14 1/2". Width 10 1/2". Extension 11 1/2". Hgt. from center of wall opening 7 1/2".  
U.L. listed for wet location.  
U.S. Patent No. Des. 383,239  
Canada Patent No. 78917  
Taiwan Patent No. ND-053495

- 9044 BRUSHED NICKEL
- 9044 OLDE BRICK®

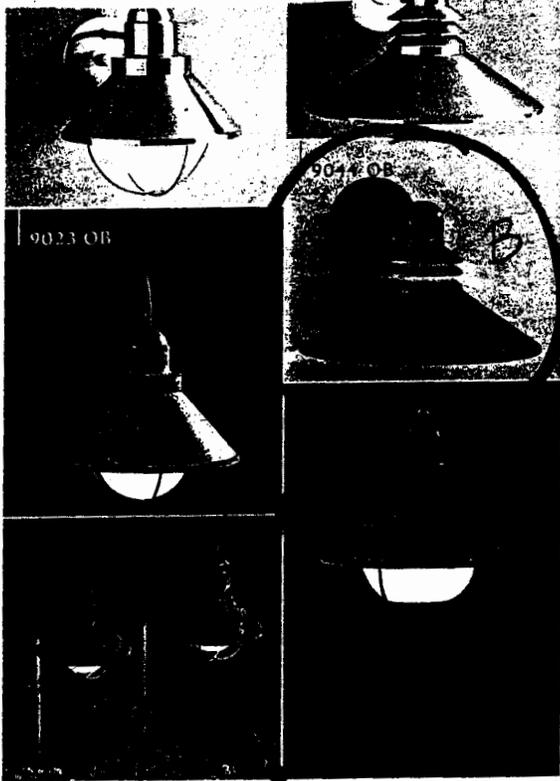
Aluminum construction. 1-light, 150-W. Max. (M) (G-40 lamp rec.) Hgt. 8". Width 11". Extension 11 1/2". Hgt. from center of wall opening 2 1/2". Can also be used indoors as a wall sconce. U.L. listed for wet location with shade/bulb in downward direction only.

- 2621 BRUSHED NICKEL
- 2621 OLDE BRICK®

Stem mounted mini-pendant. Aluminum and stainless steel construction. 1-light, 100-W. Max. (M) (G-40 lamp rec.) Dia. 8". Body Hgt. 9". Overall 47". Extra lead wire 105". 45" (12:12) Max. stem tilt.  
U.L. listed for damp location.

288 KICHLER®

All fixtures shown on this page are budget-priced items.



9023 OB

9044 OB

15038 OB

9923 OB

- 15038 OLDE BRICK®
- 15038 VERDIGRIS

See page 298 for complete information.  
U.S. Patent No. Des. 383,237

- 9923 OLDE BRICK®

Aluminum and stainless steel construction. White. 1-light, 100-W. Max. (M) (G-40 lamp rec.) Dia. 10 1/2". Hgt. 14 1/2". \* (Post not included)  
U.L. listed for wet location.  
Canada Patent No. 78917

choice (B)

19 of 19

CALIFORNIA COASTAL COMMISSION

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

MAILING ADDRESS:  
P. O. BOX 4908  
EUREKA, CA 95502-4908

RECEIVED



MAY 09 2003

APPEAL FROM COASTAL PERMIT  
DECISION OF LOCAL GOVERNMENT

CALIFORNIA  
COASTAL COMMISSION

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

SUSIE & FRED SEDLACEK  
151 EAST CREEK DRIVE, MENLO PARK, CA  
94025 650 743 5620  
Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: COUNTY OF MENDOCINO

2. Brief description of development being appealed: CONSTRUCTION OF 2,574 SQ FT SINGLE FAMILY HOME WITH ATTACHED 460 SQ FT GARAGE, WITH 20-FOOT AVERAGE HEIGHT FROM NATURAL GRADE

3. Development's location (street address, assessor's parcel no., cross-street, etc.): EAST OF BOURNS LANDING, ON THE EAST SIDE OF COUNTY ROAD 526, APPROXIMATELY 1/8 MILE NORTH OF ITS SOUTHERN INTERSECTION WITH SOUTH HIGHWAY ONE AT 36951 ROAD 526, APN 144-140-07

4. Description of decision being appealed  
a. Approval; no special conditions: \_\_\_\_\_  
b. Approval with special conditions:  IMPLEMENTATION OF RARE PLANT MITIGATION PROGRAM  
c. Denial: \_\_\_\_\_

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-1-MEN-03-029

DATE FILED: 5/9/03

DISTRICT: North Coast

EXHIBIT NO. 7  
APPLICATION NO.  
A-1-MEN-03-029  
CLAIBORNE & SCHMITT  
APPEAL, FILED MAY 9,  
2003 (SEDLACEK) (1 of 8)

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

a.  Planning director/Zoning Administrator

c.  Planning Commission

b.  City Council/Board of Supervisors

d.  Other \_\_\_\_\_

6. Date of local government's decision: \_\_\_\_\_

7. Local government's file number (if any): \_\_\_\_\_

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

DIERDRA CLAIRBORNE & NOREN SCHMITT  
62 FORBES AVENUE  
SAN RAFAEL, CA 94901

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

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

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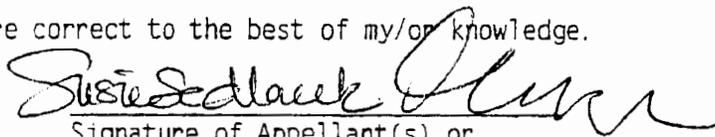
State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

PLEASE SEE ATTACHMENT FOR DETAILS, PROJECT IN VIOLATION OF;  
SEC 20.496.020 ESHA  
POLICY 3.5-1 MENDOCINO COUNTY COASTAL ELEMENT  
POLICY 3.5-3 " "  
SEC 20.504.015 HIGHLY SCENIC AREAS(C) DEVELOPMENT CRITERIA  
SEC 20.504.035 EXTERIOR LIGHTING REGULATIONS

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

SECTION V. Certification

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



Signature of Appellant(s) or  
Authorized Agent

Date MAY 9, 2003

Note: If signed by agent, appellant(s) must also sign below.

SECTION VI. Agent Authorization

I/We hereby authorize \_\_\_\_\_ to act as my/out representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date \_\_\_\_\_

3 of 8

**Attachment to Appeal Form (California Coastal Commission)**

**RE: CDP 19-02 Application for Coastal Development Permit**

We are requesting the denial of this permit as currently submitted by the applicants. Our request is based on the following criteria and violations of the Coastal Zoning Code and LCP.

<b>Sec. 20.496.020 ESHA -- Development Criteria.</b>	<b>Criteria for Requesting Denial</b>
<p><i>(A) Buffer Areas. A buffer area shall be established adjacent to all environmentally sensitive habitat areas. The purpose of this buffer area shall be to provide for a sufficient area to protect the environmentally sensitive habitat from degradation resulting from future developments and shall be compatible with the continuance of such habitat areas.</i></p>	
<p><i>(1) Width. The width of the buffer area shall be a minimum of one hundred (100) feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, and County Planning staff, that one hundred (100) feet is not necessary to protect the resources of that particular habitat area from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the Environmentally Sensitive Habitat Areas and shall not be less than fifty (50) feet in width. New land division shall not be allowed which will create new parcels entirely within a buffer area. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent Environmentally Sensitive Habitat Area.</i></p>	<p>The current plan provides for less than the 50' required buffer from an ESHA. While mitigation plans have been agreed to, it is our sincere belief that the lot is not large enough to accommodate the successful implementation of the mitigation plans together with the current building site, 20' trailer, building material supplies, etc. without significant impact to the ESHA during building and after.</p> <p>We request that the structure be reduced and the location be moved South and closer to the access road to reduce the disruption of the ESHA during and after building and that the 50' buffer be adhered to as required by the Coastal Zoning Code.</p>

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<b>Policy 3.5-1 Mendocino County Coastal Element</b>	<b>Criteria for Requesting Denial</b>
<p><i>The scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting.</i></p>	<p>The current proposed building site will require the unnecessary disruption of the land (and ESHA) in order to put in a driveway leading to the northern most point of the lot.</p> <p>The current proposed site also calls for the removal of 5 fully grown trees (30' plus in height).</p> <p>Moving the building site to the south will reduce the disruption to the land requiring less driveway, less disruption to ESHA and the need for removing any of the trees.</p> <p>We request that the structure be moved to the south of the lot and reduced in size if necessary.</p>

<b>Policy 3.5-3 Mendocino County Coastal Element</b>	<b>Criteria for Requesting Denial</b>
<p><i>The visual resource areas listed below are those which have been identified on the land use maps and shall be designated as "highly scenic areas," within which new development shall be subordinate to the character of its setting. Any development permitted in these areas shall provide for the protection of ocean and coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.</i></p>	<p>The current plans provide for a 24' high south side of the home with an average height of 20' in an area requiring a maximum height of 18'. The 24' high side of the home will be visible from the south access road to Cook's beach and from the proposed coastal bluff trail – public areas used for recreational purposes.</p> <p>The plan also calls for the removal of 5 fully grown trees on the building site. Today, these trees form a backdrop for our current home as viewed from Cook's beach. This backdrop reduces the visibility of our home and will also reduce the visibility of the new home if not removed. These 5 trees are 5 of 8</p>

5 of 8

	<p>fully grown trees. Removal of 5 will expose both our home and the new building site to the public on and around Cook's beach and will be a visual scar from Cooks beach and the access roads to the South and North of the beach.</p> <p>We request that the building site be moved away from the trees to the flat area that is also closer to the access road. This will provide for more coverage from Cook's beach and less disturbance to the ESHA and will also reduce the need for the 24' high building.</p>
--	---

<p><i>Sec. 20.504.015 Highly Scenic Areas (C) Development Criteria.</i></p>	
<p><i>(1) Any development permitted in highly scenic areas shall provide for the protection of coastal views from public areas including highways, roads, coastal trails, vista points, beaches, parks, coastal streams, and waters used for recreational purposes.</i></p>	
<p><i>(2) In highly scenic areas west of Highway 1 as identified on the Coastal Element land use plan maps, new development shall be limited to eighteen (18) feet above natural grade, unless an increase in height would not affect public views to the ocean or be out of character with surrounding structures.</i></p>	<p>The current plans provide for a 24' high south side of the home with an average height of 20' in an area requiring a maximum height of 18'. The 24' high side of the home will be visible from the south access road to Cook's beach and from the proposed coastal bluff trail – public areas used for recreational purposes.</p> <p>We request the building site be moved to the South reducing the need for a 24' high side. Moving the site will allow for an overall 18' high home consistent with Coastal Zoning requirements.</p>

<p><b>Sec. 20.504.015 Highly Scenic Areas (C) Development Criteria.</b></p>	<p><b>Criteria for Requesting Denial</b></p>
<p>(3) New development shall be subordinate to the natural setting and minimize reflective surfaces. In highly scenic areas, building materials including siding and roof materials shall be selected to blend in hue and brightness with their surroundings.</p>	<p><u>Color of Roofing and Exterior Stonework</u> - Gray roofing and graystone have been highlighted on the application – considering that gray is not an earthtone and therefore not in compliance of the coastal zoning requirements of dark earthtones, we would request the roofing be changed to black and the graystone (which is not particularly blending with the natural landscaping or topography) to be eliminated. This elimination will also ensure the new structure will match the exterior character of the community.</p>

<p><b>Sec. 20.504.035 of the Coastal Zoning Code - Exterior Lighting Regulations.</b></p>	
<p>(2) Where possible, all lights, whether installed for security, safety or landscape design purposes, shall be shielded or shall be positioned in a manner that will not shine light or allow light glare to exceed the boundaries of the parcel on which it is placed.</p>	<p>Elevation C-C shows 3 small windows that could act like 3 unshaded external lights violating the coastal zoning code (Section 20.504.035 Exterior Lighting Regulations). We request that these windows be eliminated from the plans or changed to be shielded or positioned so that light or light glare will not exceed its boundaries to be visible from Cook's beach (public area) or our property.</p>

<p><b>Other</b></p>	<p><b>Criteria for Requesting Denial</b></p>
<p>Questionable lot size</p>	<p>The archaeological survey of the applicants' lot by Thad Van Bueren, included in the staff file, indicates the lot size as "less than 1 acre." We have also been informed by another long-time resident of the subdivision that the lot had been</p>

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Submitted by: Susie & Fred Sedlacek

	<p>classified as .7 acres at one time. If the lot size is indeed different than the 1.1 acre indicated on all other documents, then many items become questionable, such as:</p> <ul style="list-style-type: none"><li>• Boundary lines and setbacks</li><li>• 50' buffer for ESHA</li></ul> <p>We are requesting clarification on the lot size to ensure setback requirements are within requirements.</p>
--	---

Submitted by:

Susie & Fred Sedlacek  
151 East Creek Drive  
Menlo Park, CA 94025

36901 Road 526  
Gualala, CA

*SFS*

May 9, 2003

5 of 5

Jon Thompson  
Landscaping /Botanical Surveys

EXHIBIT NO. 8
APPLICATION NO. A-1-MEN-03-029 CLAIBORNE & SCHMITT BOTANICAL SURVEY AND ADDENDUM (JON THOMPSON (1 of 16)

Date: 11/04/2002

(AP # 144-140-07)

To: Mendocino County  
Department of Building and Planning Services  
Attn: Robert Dostalek  
790 South Franklin  
Fort Bragg, CA 95437

CC: Deirdra Claiborne and Noren Schmitt  
62 Forbes Ave.  
San Rafael, CA 94901

From: Jon Thompson  
P.O. Box 1554  
Gualala, CA 95445  
(707) 884-4847



RECEIVED  
NOV 13 2002  
PLANNING & BUILDING SERV  
FORT BRAGG CA

Re: Botanical survey as required for Rare, Threatened and Endangered plants, as well as Environmentally Sensitive Habitat Area's on a 1.1 acre lot (AP # 144-140-07). For: Deirdra Claiborne and Noren Schmitt at 36951 Rd. 526. Approximately 1.3 mile south of Anchor Bay, Mendocino County.

• **PROJECT DESCRIPTION:**

Residential house construction including, driveway, Garage, play area and landscaped area as well as septic system.

• **AREA DESCRIPTION:**

The site is vegetated predominantly by coastal scrub and lies east of Bourns Landing.

The following plants were observed during the surveys (plants in bold type indicate rarity):

**Overstory vegetation:** Monterey pine (*Pinus radiata*), Bishop pine (*Pinus muricata*) and associated species.

**Midlevel vegetation:** California Coffeeberry (*Rhamnus californica*), California, Coyote Brush (*Baccharis pilularis*), Lupine (*Lupinus sp.*), Douglas fir (*Pseudotsuga menziessii*), grand fir (*Abies grandis*) and associated species.

**Groundcover vegetation:** Velvet Grass (*Holcus lanatus*), Sow Thistle (*Sonchus oleraceus*), flax (*linum perenne*), rattlesnake grass (*Briza maxima*), California blackberry (*Rubus urcinus*), false dandelion (*Hypochoeris radicata*), bracken fern (*Pteridium aquilina*), hedge nettle (*Stachys ajugoides* var. *rigida*), Douglass iris (*Iris douglassiana*), foxglove (*Digitalis purpurea*), bull thistle (*Cirsium vulgare*), goose grass (*Gallium aparine*), sheep sorrel (*Rumex acetosella*), brodiaea (*Brodiaea coronaria* var. *macropoda*), sweet vernal grass (*Anthoxanthum odoratum*), blue-eyed grass (*Sisyrinchium bellum*), sword fern (*Polystichum munitum*), Australian fire-weed (*Erechtites prenanthoides*) and (*Erechtites glomerata*), bee plant (*Scrophularia californica*), western dog violet (*Viola adunca*), purple cudweed (*Gnaphalium purpureum*), Salal (*Gualtheria shallon*), **Point Reyes ceanothus (*Ceanothus gloriosus* ssp. *gloriosus*)**, poison oak (*Toxicodendron diversilobum*) blue blossom (*Ceanothus thyrsiflorus*), golden aster (*Heterotheca sessiliflora* ssp. *bolanderi*), plantain (*Plantago lanceolata*), California poppy (*Eschscholzia californica* var. *maritima*), *Triphysaria* sp., reed grass (*Calamagrostis nutkaensis*), brome (*Bromus* sp.) *Cotoneaster pannosa*) *Lotus dubius*, *viola adunca*, *Elymus glaucus*, *Achillea tomentosa*, *Erigeron glauca*, *Trifolium* sp., *Solidago spatulata*, **Coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*)**, *Rumex acetocella*, *Calochortus tolmei*, *Bromus diandrus*, *Poa* sp., *Polygala californica*, *Zigadenus fremontii*, *Monardella villosa*, *Satureja douglassii*, *Carduus pycnocephalus*, *Sanicula crassicaulis*, *Panicum acuminatum* var. *acuminatum*, *Spergularia macrotheca*, *Gentiana affinis* var. *ovata* (and associated species).

- **SURVEY METHODOLOGY AND DATES:**

Preliminary research was conducted using the 6<sup>th</sup> edition California Native Plant Society's Electronic Inventory. This included a 9-quad search, which identifies all of the rare plants that have been located and documented in the California Department of Fish and Game's Natural Diversity Data Base within the quad that the project is located as well as the 8 surrounding quads. Rare plants that inhabit the specific habitat found on the lot (Coastal Scrub) were also queried. These methods resulted in a list of the rare plants that were searched for during the actual survey.

The site was surveyed on 5-18-2002, 6-6-2002 and 7-22-2002 (5 hours surveying). The survey was floristic in nature; All plants on the lot were identified to the extent necessary to determine rarity and listing status. The spacing of the three site visits throughout the growing season ensures a high degree of completeness of the survey. Transects were spaced approximately 15 feet apart and spanned the width of the lot where passable.

**Rare plants searched for on the site and their blooming times:**

*Agrostis blasedalei* May-July  
*Angelica lucida* May-Sept.  
*Blennosperma nanum* var. *robustum* Feb-Apr  
*Calamagrostis bolanderi* Jun-Aug  
*Calandrinia breweri* Mar- Jun  
*Calystegia purpurata* ssp. *saxicola*  
*Campanula californica* Jun-Oct May-Aug  
*Carex saliniformes* Jun  
*Castilleja affinis* ssp. *littoralis* June  
*Castilleja mendocinensis* Apr-Aug  
*Ceanothus gloriosus* ssp. *gloriosus* Mar-May  
*Clarkia amoena* ssp. *whitneyi* Jun-Aug  
*Erigeron supplex* May-Jul  
*Fritillaria roderickii* Mar-May  
*Gillia capitata* ssp. *chamissonis* May-Aug  
*Hemizonia congesta* ssp. *lecocephala* Jul-Nov  
*Hesperervax sparsiflora* var. *brevifolia* Mar-Jun  
*Horkelia bolanderi* Jun-Aug  
*Horkelia marinensis* May-Sep  
*Lasthenia macrantha* ssp. *bakeri* Apr-Oct  
*Lasthenia macrantha* ssp. *macrantha* Jan-Nov  
*Lillium maritimum* May-Jul  
*Malacothamnus mendocinensis* May, Jun  
*Microseris paludosa* Apr-Jun  
*Microseris borealis* Jun-Sep  
*Phacelia insularis* var. *continentis* Mar-May  
*Sidalcia calycosa* ssp. *rhizomata* Apr-Sep  
*Sidalcia malvaeflora* ssp. *patula* May?  
*Sidalcia malvaeflora* ssp. *purpurea* May

- **RESULTS AND DISCUSSION:**

Two rare plants were found to inhabit the lot; The coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) and Point Reyes Ceanothus (*Ceanothus gloriosus* ssp. *gloriosus*).

**The coastal bluff morning-glory**

Environmentally Sensitive Habitat Area's (ESHA's) include habitats of rare and endangered plants and animals. This plant is a CNPS list 1B (rare or endangered in California and elsewhere). This subspecies was recently added to the CNPS Rare and Endangered Plant List.

It is mandatory that CNPS List 1B plants be fully considered during preparation of environmental documents relating to the California Environmental Quality Act (CEQA).

It occurs throughout the majority of the lot. And its habitat exists throughout the entire lot. Therefore, the entire lot is considered to be an ESHA.

The U.S. Fish & Wildlife Service considers this plant a species of local concern or conservation importance (SLC). The coastal bluff morning-glory is not state or federally listed.

In the Jepson manual it's range is considered to be south and central North Coast and north San Francisco Bay. CalFlora Occurrence Data Base Query results for this plant indicates that it has been at least reported to exist in Sonoma, Mendocino, Contra Costa, Lake, Marin and Napa counties. Actual voucher specimens have been documented in Sonoma, Lake and Marin Counties.

This plant belongs to a very difficult genus. This subspecies exhibits extreme morphological variability and according to Dr. Frank Almeda Sr., Botanist and Curator of Botany at California Academy of Sciences), even Richard K. Brummitt who wrote the treatment for the genus *Calystegia* in the Jepson Manual has a hard time identifying it.

Several specimens that displayed a wide range of variability were collected from the lot, pressed and sent to Frank Almeda. Some were taken to Teresa Sholars, Botany and Biology Instructor at College of the Redwoods, Fort Bragg California. Both Botanists confirmed that the plant in question was indeed *Calystegia purpurata ssp. saxicola*.

According to George Snyder author of A Flora of the Vascular Plants of the Sea Ranch, Sonoma County, California "plants are variable but appear to belong to this ssp." (In reference to *Calystegia purpurata* spp. *Saxicola*).

This subspecies is located throughout more than 2/3 of the lot. Approximately 30 individual plants were observed within the boundaries of the currently proposed house, garage and driveway site with upward to 70 individuals being potentially impacted by related construction activities. An estimated, additional 200 to 300 individuals exist throughout the remainder of the lot.

Less than 30 individuals of this plant were observed in the area south-west of the currently proposed location of the house, within the area that has the highest concentration of Pt. Reyes Ceanothus (see attached map).

It should be noted that many individuals of the coastal bluff morning-glory currently inhabit, developed and undeveloped land in the vicinity, i.e. Bourns Landing and other adjacent properties. It is thought that Bourns Landing will be developed soon.

409<sup>4</sup>16

George Snyder stated that this species is common in coastal scrub and on the headlands of The Sea Ranch (a planned community in Sonoma County, south of Gualala).

I have inspected various locations ranging from Irish Beach in Mendocino County to The Sea Ranch and this plant has been found to be quite abundant in some areas, especially in coastal bluff, coastal bluff scrub, and coastal scrub communities. I estimate that thousands of this subspecies currently inhabit The Sea Ranch where much of the area is left in its natural state.

### **Pt. Reyes Ceanothus**

Pt. Reyes Ceanothus is a CNPS List 4 (plants of limited distribution – a watch list) and is found throughout approximately 1/2 to 2/3 of the lot. An estimated 100 plus individuals of this plant inhabit the lot. (See attached map for rare plant distributions within the lot).

CNPS list 4 plants are recommended by CNPS to be evaluated for consideration during preparation of environmental documents related to CEQA. The Mendocino County Department of Building and Planning (MDBP) does not afford protection for CNPS list 4 species.

- **IMPACT ASSESSMENT, ALTERNATIVES AND MITIGATION MEASURES**

#### **Impact assessment:**

##### **The coastal bluff morning-glory**

The current location of the proposed project would directly impact between 40 and 70 coastal bluff morning-glory plants (of an estimated 300 to 400 individuals that inhabit the entire lot). Direct impacts to this plant and its habitat associated with the project include trampling by construction workers and other people, vehicles, equipment, etc.

Approximately 100 individuals may be indirectly impacted in the future by various human activities

There is no location for the proposed structures, driveway, leach field and septic that would allow for a 100 or even a 50 foot buffer between the proposed structures and the environmentally sensitive habitat area as required by the Mendocino County Zoning Code Sec.20.496.020.

It is difficult to determine the long term impacts of this project on the coastal bluff morning-glory and it's habitat due to lack of information regarding its distribution, response to disturbance and recruitment potential.

This project (with the proposed mitigation and compensatory measures) alone would most likely not cause this subspecies to be state or federally listed.

Cumulative impacts to this subspecies and its habitat include other construction projects within its potential and actual habitat. There are numerous current and planned construction projects in the area as well as up and down the coast that should be evaluated or re-evaluated to determine potential impacts on this plant and its habitat.

### **Alternative to currently proposed location:**

According to Robert Dostalek, Mendocino County Planner and the owners of this lot, constraints imposed upon this project by the Gualala Municipal Advisory Committee (GMAC), Mendocino County regulations and a local neighborhood coalition have left no less impacting alternatives available. Therefore, the owners wish to abide by a series of mitigation and compensatory measures to help make up for the adverse effects to the coastal bluff morning-glory and it's habitat.

### **Mitigation and Compensatory Measures**

The types of mitigation alternatives, other than avoidance, that are listed in CEQA (Section 15370) are:

- Minimizing impacts by limiting the degree or magnitude of the action.
- Rectifying the impact by repairing, rehabilitating or restoring the impacted environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the project.
- Compensating for the impact by replacing or providing substitute resources or environments.

Under existing laws, a project applicant or a local lead agency such as the Mendocino County Department of Building and Planning services may have the responsibility of consulting with public regulatory agencies such as the California Department of Fish and Game on matters relating to project impacts on rare species. The magnitude of this situation warranted a collaboration of efforts from outside sources.

Fortunately, in this case, I was able to arrange an on-site visit and discussion with Gene Cooley; California Department of Fish and Game Botanist, Robert Dostalek; Planner for the Mendocino County Department of Building and

Planning Services as well as Noren Schmitt and Deirdra Claiborne; the owners of the lot.

The owners would like to build the house and associated structures in the location shown on the attached map. They wish to abide by the following possible mitigation and compensatory measures which Gene Cooley mentioned during this meeting:

- **Reducing impacts** - This has already been done. The original design included a 640 square foot guest cottage which has since been dropped from the plan so as to impact as few coastal bluff morning-glory plants as possible (less than 100 individuals) while retaining a large amount (approximately 100 to 200 individuals) of this plant as well as it's current, actual and potential habitat.
- **Protecting a large portion of the lot** – The sloped area that lies between the Currently proposed location of the house and road 526 is estimated to contain between 20 to 40 morning-glory plants. Gene Cooley thought that this was a very diverse and rich environment and should be left undisturbed.

An area of the lot that lies on the east side of the proposed driveway would also be preserved in it's natural state. This is a good portion of the area that contains the highest concentration of this rare plant.

These areas would be preserved in a natural state and would be protected from any significant adversely impacting disturbances.

Barriers would need to be installed along both sides of the driveway to prevent vehicle entrance and other possible disturbances from occurring to help facilitate the maintenance of a viable habitat for the coastal bluff morning-glory as well as the Pt. Reyes ceanothus.

Additionally, the protected areas would be left in its natural state; further construction of structures, roads etc. would be restricted. Any ground disturbance or vegetation removal associated with this project would be replanted with native plants obtained from local genetic stock. A grower may have to be contracted to ensure plants are derived from seeds and cuttings of plants found inhabiting the immediate area.

Plants in the landscaped garden area should be non-invasive species.

- **Seed Bank Deposition** – This compensatory measure is a technique of conservation involving the collection and deposition of coastal bluff morning-glory seeds in to a seed bank. The owners are willing to make a seed collection for Rancho Santa Ana Botanic Gardens with a first collection this year and, depending on their success maybe an additional collection next year. The number

7<sup>7</sup>  
7/29/16

of seeds require to be collected and deposited would be determined by the chosen facility.

Site location data would be documented from the area in which seeds are collected, such as type of habitat, other plant species in the area, and exact location of the plant population. A voucher specimen should be collected from each plant population from which seed is collected. The voucher specimen is a plant sample collected from within that specific population where the seed was collected and acts as a resource for plant identification for each group of seeds collected. The voucher specimen should include at least one flower. This plant would be pressed, mounted, and ultimately stored in a herbarium.

- **Research Funding** – This compensatory measure would allow the land owners to donate money to a school or other institution which would agree to use the funding specifically for research that would further the understanding of this plants demographics, distribution or ecology. Information derived from such studies could eventually help in the development of a management plan for this subspecies.

The owners of this lot are prepared to sponsor a research project for the distribution mapping of this rare plant, to identify reported locations as well as locations in Marin, Sonoma and Mendocino counties.

They have already contacted Prof. Dr. Heath J. Carney, of the Division of Environmental Studies, UC Davis, to find a suitable person for this program. UC Davis specializes in this type of study. Mr. Carney is nationally and internationally known for his environmental studies.

### **Pt. Reyes Ceanothus**

This plant is not currently afforded protection by the MDBP. However, it is recommended that direct and indirect impacts to it and it's habitat be minimal to ensure that it does not get up-listed to a higher ranking of rarity.

The plan currently desired by the owners would directly impact approximately less than 10 and possibly indirectly impact more that 10 individuals of the Pt. Reyes Ceanothus.

- **SUMMARY AND CONCLUSION:**

Because of the extent of the ESHA and other concerns, the owners have been left relatively few options for the house site and associated construction. They wish to create the least impact possible while at the same time preserving a large amount of the two rare plants and their habitat by providing an area where impacts are avoided and are permanently protected from disturbance. They also

wish to adhere to all of the measures mentioned under Mitigation and Compensatory Measures.

They have been very helpful and accommodating by reducing the size of the project to create the least impact possible to the pacific false morning glory and it's habitat while also taking into consideration other factors. These other factors include the neighbors concerns of the placement of the house and the visual concerns of the Mendocino County Department of Building and Planning.

Mr. Cooley did not recommend the "no-project" alternative; a mitigation measure that would prevent the project from occurring at all. Mitigation and compensatory measures may be of greater benefit to this subspecies and it's habitat in the long run for the following reasons:

- A large portion of potential and actual habitat of two rare plants on the lot could be protected in perpetuity.
- The funding of scientific research will increase the knowledge base of this rare plant and facilitate its future management.
- A seed bank will help perpetuate the unique genetics of a rare plant that would ideally be available in the case that its extinction in the wild occurs.

During construction, all efforts should be taken to prevent impacting as much habitat and as many individuals of the coastal bluff morning-glory, and Pt. Reyes ceanothus as possible. The north east corner and the south east corners of the lot (underneath the Monterey pines) would be the best location for storing building equipment and supplies, etc. due to the lower concentration this rare plant.

This report should be reviewed by a California Department of Fish and Game Plant Ecologist for approval of mitigation and compensatory measures.

**Additional note:** The California Native Plant Society holds that "Although the Society does not endorse significant net losses of rare plant numbers or habitat, we recognize that where such losses are allowed or are deemed unavoidable, off-site restoration, compensation, transplantation or other salvage methods should be attempted to enhance degraded populations or provide for partial survival of the sacrificed population. Such measures also provide additional knowledge of the species' horticultural and ecological requirements."

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[www.http://sacramento.fws.gov/es/spp\\_lists/plant\\_sp\\_concern.cfm#Code](http://sacramento.fws.gov/es/spp_lists/plant_sp_concern.cfm#Code)

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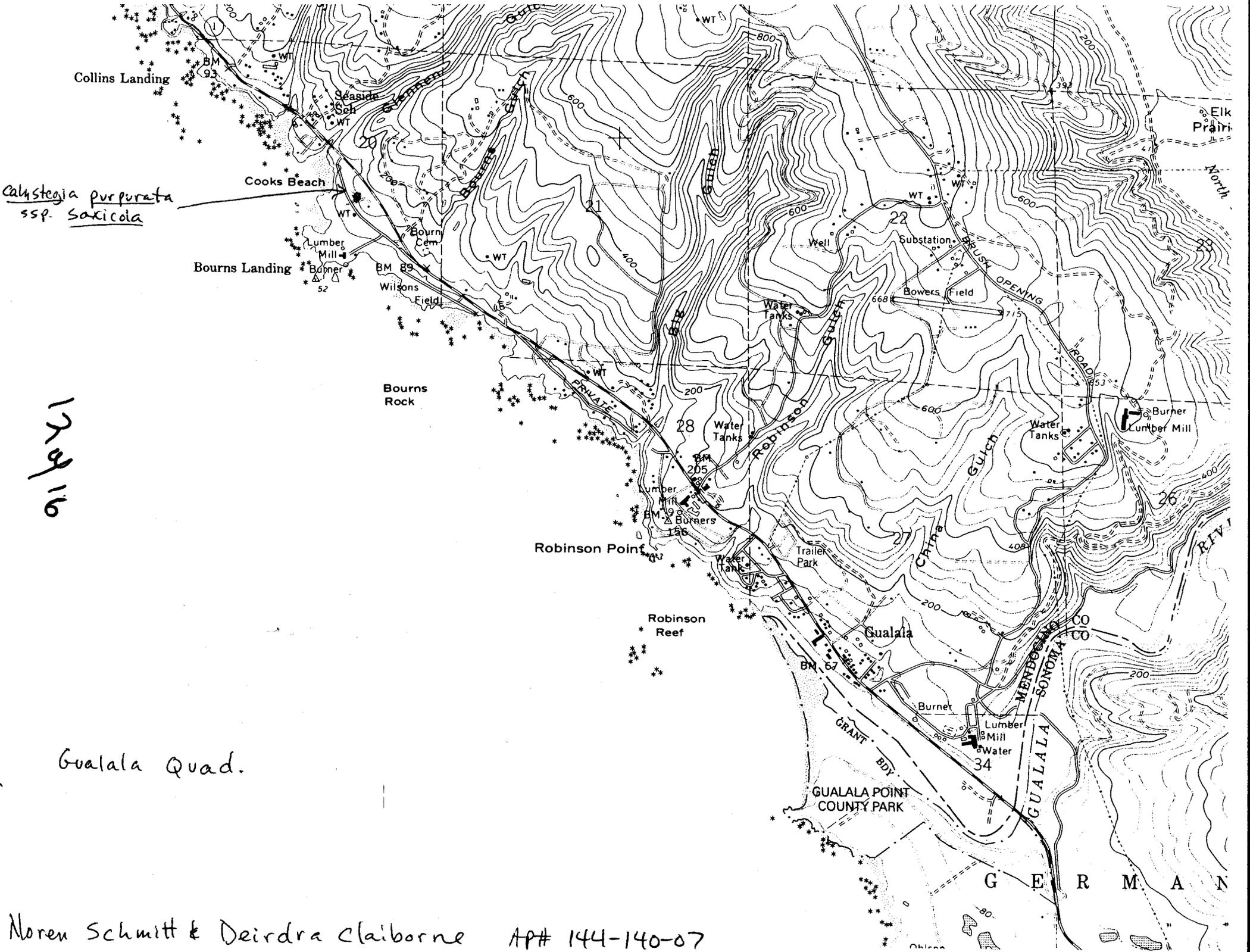
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Collins Landing

BM 93

Seaside Sch

Cooks Beach

Bourns Landing

Lumber Mill

Borner

52

BM 89

Wilson's Field

Bourns Rock

Robinson Point

Robinson Reef

Gualala

Burner

Lumber Mill

Water

34

GUALALA POINT COUNTY PARK

GUALALA RIVER

G E R M A N

*Calystegia purpurata*  
*ssp. saxicola*

17 of 16

Gualala Quad.

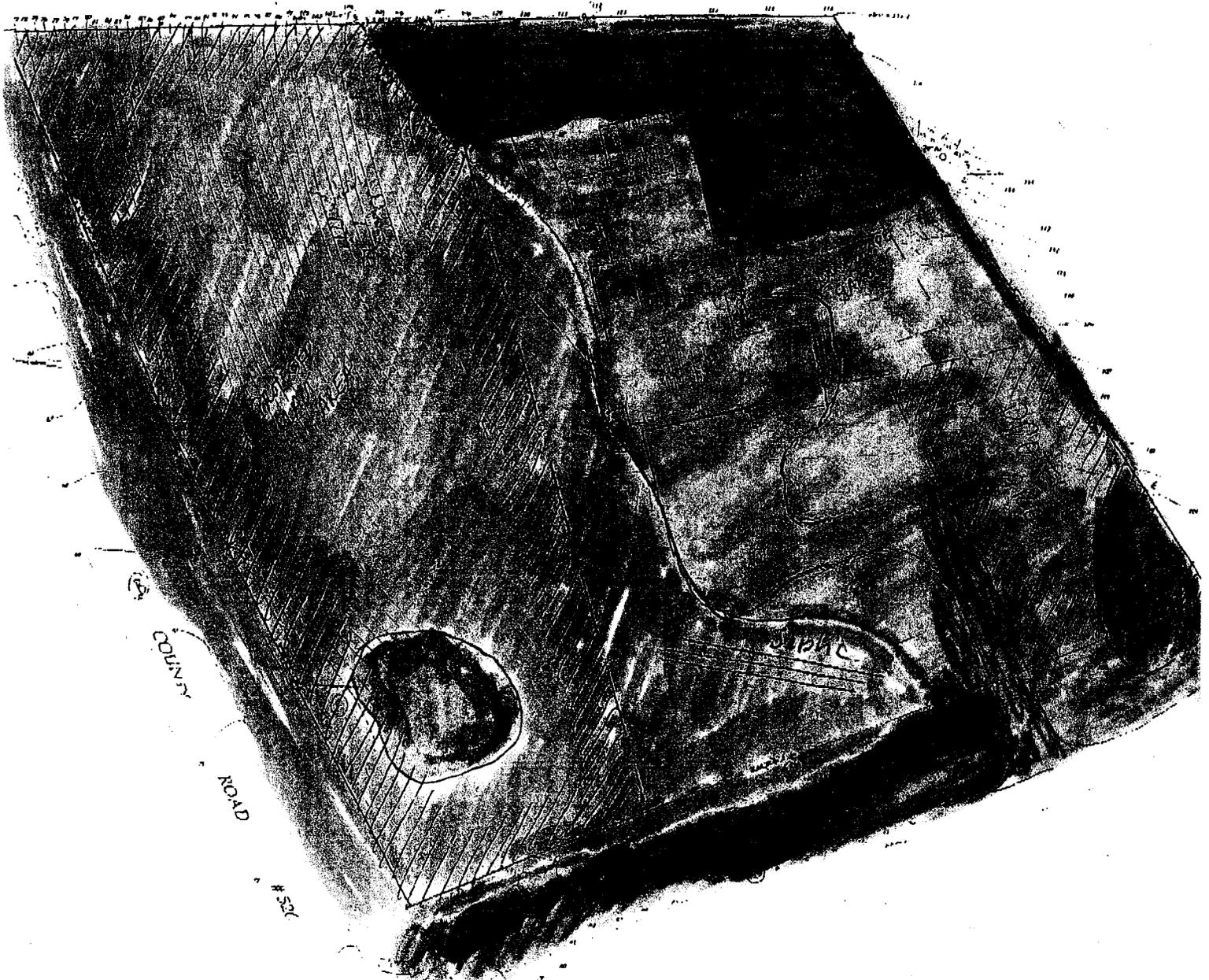
Noren Schmitt & Deirdra Claiborne AP# 144-140-07

CALYPTUS KURKUNDA  
SSP. SARCOSA

PROTECTED AREA V//A

HIGH CONC.   
LOW CONC.   
VERY LOW  
TO ABSENT 

CLAIBORNE & SCHMITT  
AP# 144-140-07



13 of 16

RECEIVED

NOV 25 2002

Jon Thompson  
Landscaping /Botanical Surveys

PLANNING & BUILDING SERV  
FORT BRAGG CA

Date: 11/20/2002

(AP # 144-140-07)

To: Mendocino County  
Department of Building and Planning Services  
Attn: Robert Dostalek  
790 South Franklin  
Fort Bragg, CA 95437

CC: Deirdra Claiborne and Noren Schmitt  
62 Forbes Ave.  
San Rafael, CA 94901

From: Jon Thompson  
P.O. Box 1554  
Gualala, CA 95445  
(707) 884-4847



Re: Addendum to Botanical survey (1/04/2002) as required for rare, threatened and endangered plants, as well as Environmentally Sensitive Habitat Area's on a 1.1 acre lot (AP # 144-140-07). For: Deirdra Claiborne and Noren Schmitt at 36951 Rd. 526. Approximately 1.3 mile south of Anchor Bay, Mendocino County.

• **PROJECT DESCRIPTION:**

Residential house construction including, driveway, Garage, play area and landscaped area as well as septic system.

All of original report (11/04/2002) remains the same except for the following additions:

**The coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*)**

• **MITIGATION AND COMPENSATORY MEASURES:**

Should the mitigation and compensatory measures mentioned in the original report be authorized, I recommend that a monitoring plan be implemented. The Mendocino County Department of Building and Planning Services should annually monitor these measures for at least five years to ensure that the landowners adhere to them.

In addition, the Mendocino County Department of Building and Planning Services It should ensure that the presence of the rare plants and the accepted mitigation and

14 of 16

compensatory measures be fully disclosed to any future potential and actual buyers of the property if the current owners decide to sell their property.

I also want to emphasize the importance of positive Identification of the coastal bluff morning-glory when collecting the seeds of this plant for seed bank deposition. All seeds should be collected from populations of this plant that have been positively identified and verified by a professional botanist. There are many look- alike species along the California Coast and elsewhere. Once again, I recommend that a voucher specimen be made of the population of plants from which seeds were collected. These voucher specimens should be sent along with the seeds to the Rancho Santa Ana Botanic Gardens to ensure that the seeds were collected from the intended subspecies.

- **SUMMARY AND CONCLUSION:**

**Additional note to the Mendocino County of Building and Planning Services and Mendocino County planners:**

This project has the potential to be precedent setting for mitigation and compensatory measures in relation to the coastal bluff morning-glory and other rare species in Mendocino County. I highly recommend that all future projects in Mendocino County involving proposed mitigation and/or compensatory measures be developed in consultation with the Department of Fish and Game, as was done in this case. This could help maintain a consistency in protocol and provide a higher degree of protection for environmentally sensitive habitat areas, rare plants and animals.

15.09.16

Jon Thompson  
P.O. Box 1554  
Gualala, CA  
95445

To whom it may concern:

I was asked to look at the trees that lie within the planned foot print of Noren Schmitt's and Deirdra Claiborne's proposed house site located at 36951 Rd. 526; Approximately 1.3 miles south of Anchor Bay, Mendocino County.

I observed that the Bishop pine that stands at the far north boundary of proposed house site is dead. The other pines are showing varying degrees of necrotic branches and all are exhibiting yellow to red unwilted tip needles and globose or pear shaped swellings (galls) on branches; symptomatic of western gall rust. Relatively sudden death can occur when secondary invaders such as fungi or insects infect the already stressed trees.

The tree with multiple trunks (south of dead pine) is showing relatively more necrotic branches indicating secondary pathogens are at work. It appears as though these trees may die soon.

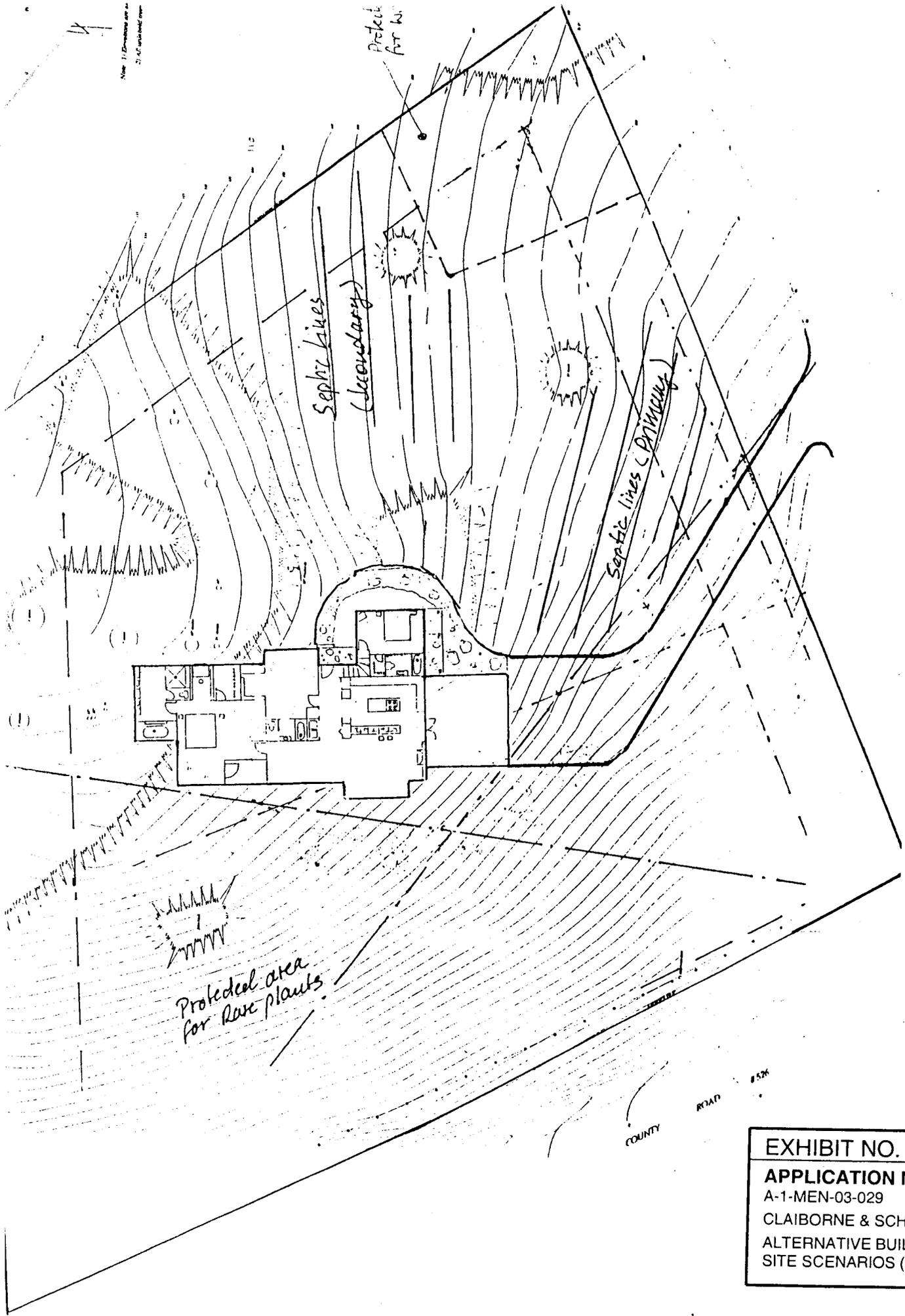
The Douglas fir within the house boundary is relatively healthy but showing signs of weathering from the wind.

Sincerely,

Jon Thompson  
Botanist

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Note: 1) Elevation area  
2) 1/2" = 100' contour



Re.: CDP # A-1-MEN-03-029, Deirdra Claiborne and Noren Schmitt, Applicants

a) The originally proposed building site (slightly adjusted to conform with other limitations and restrictions.)

<b>EXHIBIT NO. 9</b>
<b>APPLICATION NO.</b> A-1-MEN-03-029
CLAIBORNE & SCHMITT
ALTERNATIVE BUILDING SITE SCENARIOS (1 of 5)

Area 11  
27 of 100

Pte. for

all

Sephr lines  
(secondary)

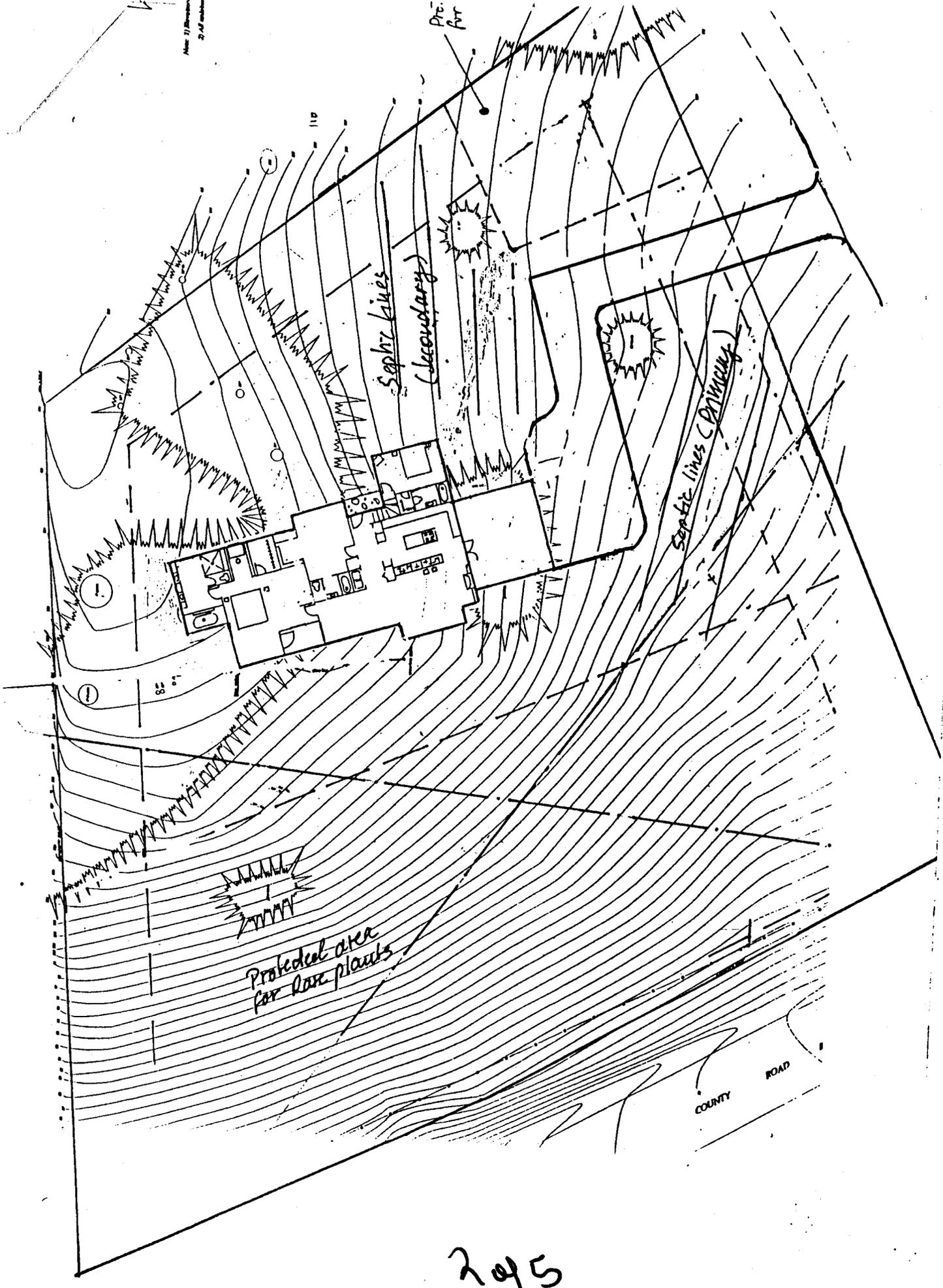
Sephr lines (primary)

Protected area  
for rose plants

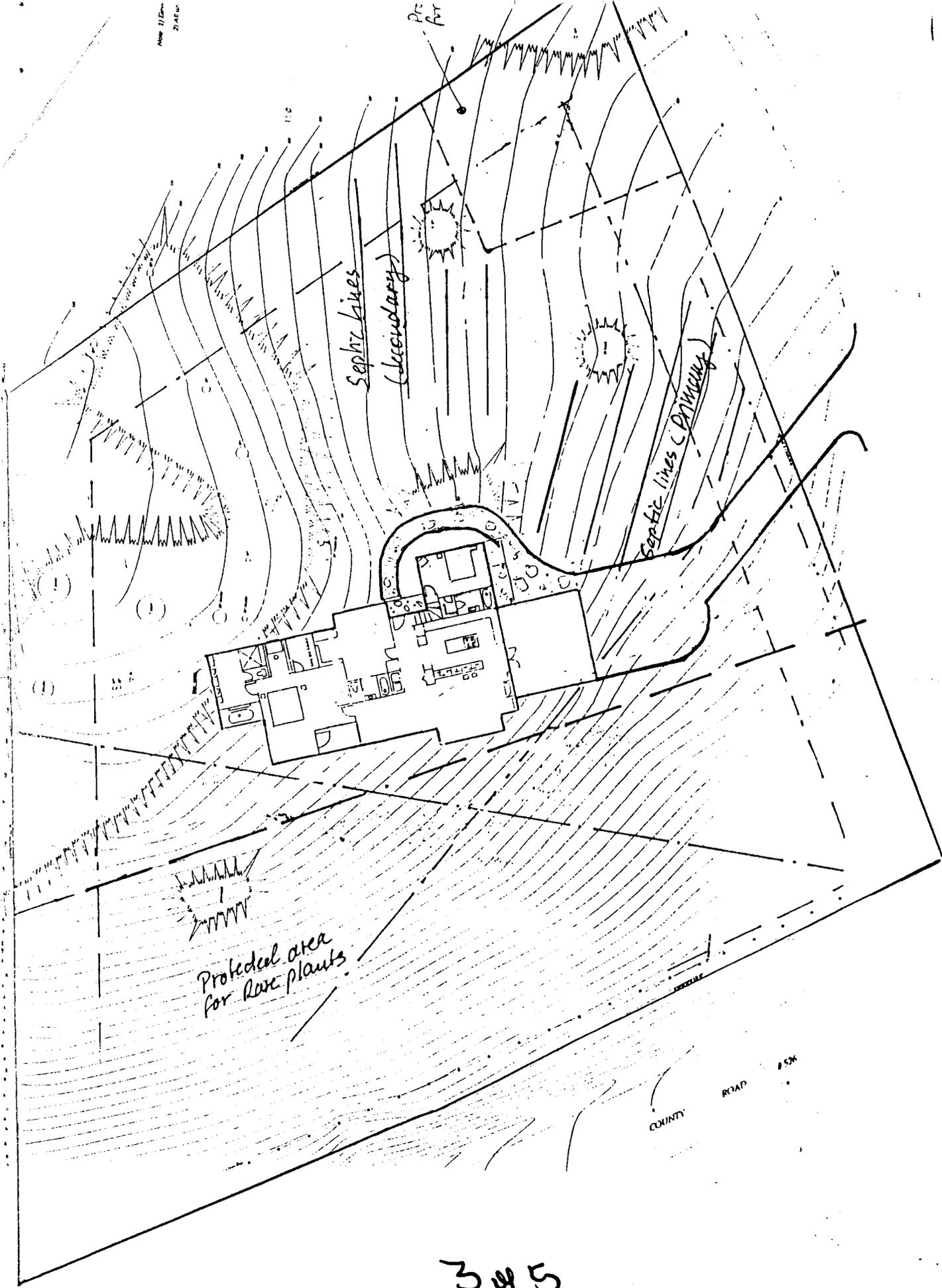
COUNTY ROAD

295

Re.: CDP # A-1-MEN-03-029, Deirdra Claiborne and Noren Schmitt, Applicants  
b) The current proposed building site



PC  
for



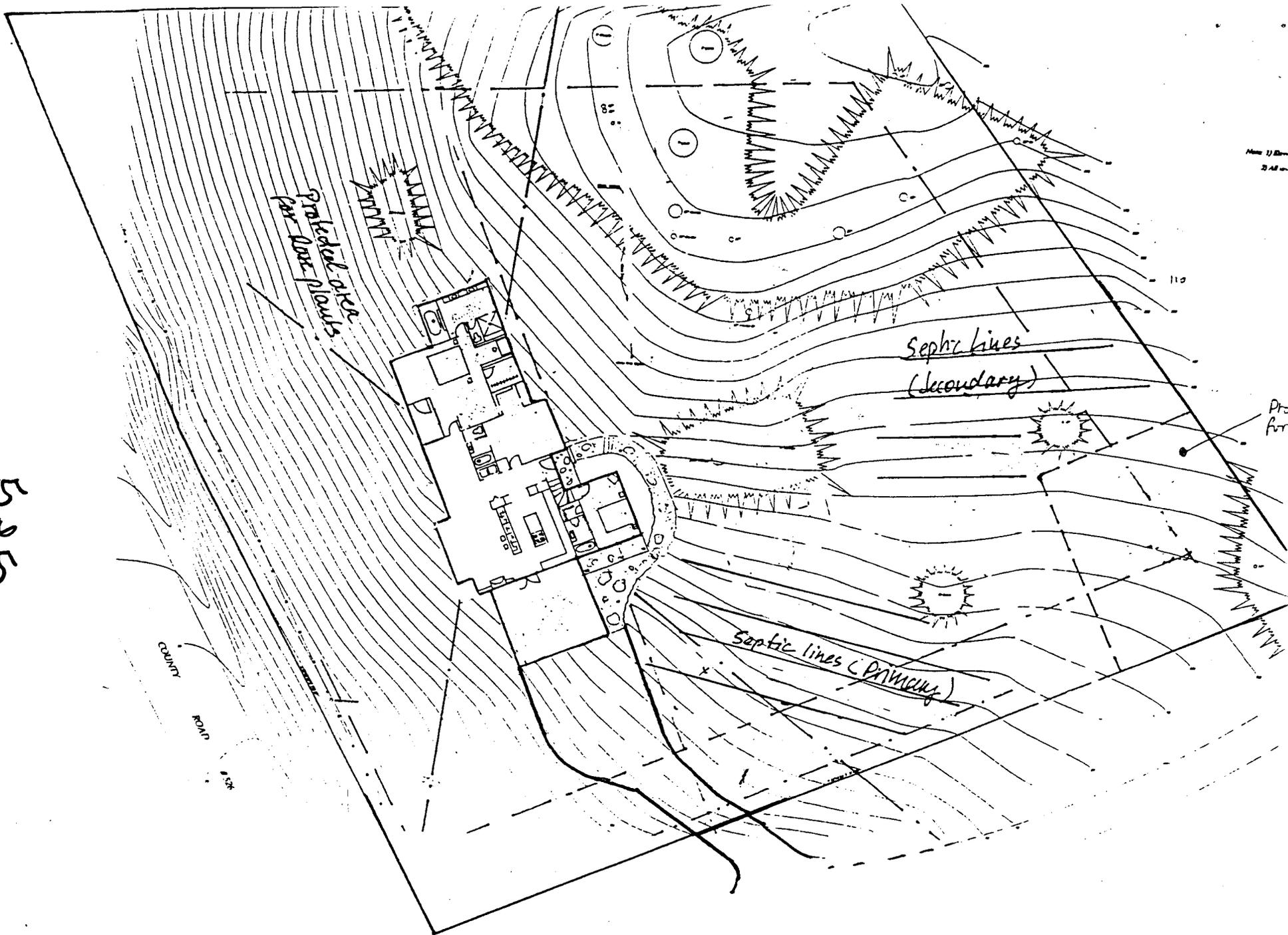
Re.: CDP # A-1-MEN-03-029, Deirdra Claiborne and Noren Schmitt, Applicants

c) Relocation to the mid-slope location near center of property.

345



595



Re.: CDP # A-1-MEN-03-029, Deirdra Claiborne and Noren Schmitt, Applicants  
e) Relocation to southwestern location of property.

*Botanical Surveys*  
**GORDON E. McBRIDE, Ph.D.**

July 30, 2003

Mr. Jim Baskin, Coastal Planner  
California Coastal Commission  
North Coast District Office  
710 E Street, Suite 200  
Eureka, CA 95501-1865

RECE

AUG 15 2003

CALIFORNIA  
COASTAL COMMISSION

EXHIBIT NO. 10

APPLICATION NO.

A-1-MEN-03-029  
RARE PLANT HABITAT  
IMPACT ANALYSIS FOR  
BUILDING SITE ALTERNATIVES  
(GORDON McBRIDE, PhD)  
(1 of 3)

RE. YOUR LETTER OF JULY 11, 2003 TO CLAIBORNE AND SCHMITT SITE AT  
36951 COUNTY ROAD 526, GUALALA, CDP A-1--MEN-03-029.

Dear Mr. Baskin:

On July 28, 2003 I visited the above referenced site to evaluate the relative abundance of the coastal bluff morning glory (*Calystegia purpurata ssp. saxicola*) on five potential building envelope locations on the site. This letter does not constitute a botanical survey, which was carried out during 2002 by another botanist.

The lettering system used in this letter corresponds to the lettering system used on the attached drawings of building envelope locations provided by Claiborne and Schmitt.

I did not use a quantitative or statistical technique to derive relative abundance estimates. The plant in question – coastal bluff morning glory – is, according to the Jepson Manual, a perennial from a woody caudex. A caudex is defined as a “short, sometimes woody, more or less vertical stem of a perennial, at or beneath ground level” (Jepson, glossary, pg. 15). That places a significant limitation on enumeration techniques. Specifically, that limitation is the difficulty of determining just exactly what is an individual. It is quite one thing to count individual redwood trees or buffalo, it is another thing to correctly enumerate a plant that grows from a caudex or a rhizome. A caudex of the coastal bluff morning glory can run underground for at least several feet, and maybe more. Numerous vertical vegetative shoots arise from such a caudex. But in order to determine with any professional accuracy the number of **individual** coast morning glory plants that are in a give area each woody caudex would have to be carefully dug up and counted. \* This would of course destroy the population and would defeat the purpose of protecting the plant. While visual estimates of population density do not provide quantitative figures the same purpose is served – to identify the areas where the coastal bluff morning glory is most abundant and recommend these areas for protection.

In addition, I would offer the observation that there are the elements of three plant communities on the site: coastal bluff scrub, coastal terrace prairie and closed cone coniferous forest. The coastal bluff morning glory is most abundant in the areas that have characteristics of coastal terrace prairie, it is less abundant in the coastal bluff scrub which is composed mostly of manzanita thickets. The coastal bluff morning glory is least abundant under the closed cone forest.

**Location a – Original Proposed Building Site.**

This location would impact mostly bluff scrub and some young Douglas fir trees, but would also impact some of the coastal terrace prairie (at least grassy areas) that are located along the southern portion of the site. While there is a little coastal bluff morning glory in the bluff scrub it is more abundant in the coastal prairie. Also the manzanita thickets, while not identified as sensitive habitat, do provide structural diversity on the site for small mammals, birds, reptiles and assorted invertebrates.

**Location b – Mendocino County approved building envelope.**

This location would impact mostly the area under the pine trees on the knoll near the northeast portion of the site. This location would impact the fewest coastal bluff morning glory plants. There are a few scattered coastal bluff morning glory vertical shoots growing under the pine trees but they are smaller and poorly developed compared to the plants growing in the coastal prairie. Shading by the pine overstory and accumulation of pine needle duff in the soil surface probably render this portion of the site less accommodating for the coastal bluff morning glory. Based on estimated cumulative impact to the coastal bluff morning glory on the site, this would be my recommendation as a building envelope.

**Location c – near the middle of the lot.**

This proposed location would be almost identical in impact to location a described above and the same comments apply.

**Location d – near the southeast corner of the lot.**

Identifying this portion of the site as a building envelope would clearly impact the greatest abundance of coastal bluff morning glory on the site. While exact numbers are not available for the above mentioned reasons, this area is literally carpeted with coastal bluff morning glory. It is scarcely possible to find a square foot of this area that does not support vertical shoots of the coastal bluff morning glory. If any area on the Claiborne/Schmitt site should be preserved to protect the coastal bluff morning glory, this is the area to preserve! This is also the area that has, taking into account both species of grasses and forbs present, the greatest plant species biodiversity.

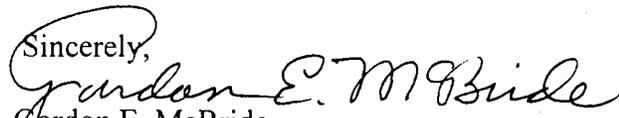
**Location e – near the southwest corner of the lot.**

This location would be almost identical in impact to location a described above and the same comments apply.

Baskin, Pg. 3

In summary, I would rank the proposed building envelope (b) on the knoll under the pine trees as the site that would least impact coastal bluff morning glory. Proposed building envelopes a, c and e would impact greater numbers of coastal bluff morning glory as well as the manzanita thickets. Proposed building envelope d would impact by far the greatest number of coastal bluff morning glories. I recommend that location d should be carefully preserved as the best and most vigorous of the population on the Claiborne/Schmitt site.

Please do not hesitate to contact me if you have questions.

Sincerely,  
  
Gordon E. McBride

\*I have collected and pressed one coastal bluff morning glory caudex with vertical shoots to illustrate this point. I can make it available for inspection of that would be of help.

393

September 19, 2003

Mr. Noren Schmitt  
Ms. Deirdra Claiborne  
62 Forbes Avenue  
San Rafael, California 94901

RECEIVED

OCT 06 2003

CALIFORNIA  
COASTAL COMMISSION

SUBJECT: Drainage Design and Recommendations, Job # 066-03-055

PROJECT: Schmitt / Claiborne Residence

ADDRESS: 36951 County Road 526, Gualala, California

AP#: APN 144-140-007

REFERENCES:

1. Botanical site evaluation, dated July 30, 2003, performed by Gordon E. McBride, Ph.D.
2. Coastal Development Permit Appeal A-1-MEN-03-029, dated July 11, 2003, prepared by Jim Baskin, Coastal Planner.
3. Botanical Survey, dated November 4, 2002, performed by Jon Thompson

EXHIBIT NO.11

APPLICATION NO.

A-1-MEN-03-029

GRADING AND DRAINAGE  
DESIGN RECOMMEN-  
DATIONS (KENNETH E. CARR  
& ASSOCIATES (1 of 15)

INTRODUCTION:

Kenneth E. Carr & Associates is pleased to submit this report and design which presents the results of our Civil Engineering design and evaluation of the proposed single-family home building site located at 36951 County Road 526, Gualala, Mendocino County, California. The approximate location of the site is shown on the Site Location Map, Plate 1. Our services have been conducted in accordance with our proposal for engineering services dated August 13, 2003. This report presents our professional opinions and recommendations regarding the civil engineering grading and drainage aspects of this home site.

PROJECT DESCRIPTION:

The subject parcel is part of a four-lot subdivision, located just west of State Highway One, and is the last lot to be developed. Based upon the topographic map prepared by Richard A. Seale, PLS 4455, dated November 2001, and information provided by you, the proposed project will consist of minor grading required to construct a single-family home. With the presences of rare and endangered plants located on the site, and pursuant to the recommendations contained within reference 1 and 3, we have prepared our design with a minimum impact on existing flora, utilizing best management practices, without ignoring design aesthetics and user-friendliness.

SCOPE OF SERVICES:

The purpose of this investigation is to evaluate the existing surface storm runoff conditions at the site and to develop a grading and drainage plan with recommendations to address the California Coastal Commission letter, reference 2. Specifically, the scope of our services consists of the following:

1. Locate and develop a building site that minimizes the alteration of natural landforms and evaluate the drainage impact of said site.
2. Analyze five alternate structure placement sites and evaluate these sites for grading and drainage as well as development impact on existing vegetation. (It should be noted that in the botanical site evaluation report, reference one, prepared by Dr. McBride outlines that development of four of the five sites would have moderate to severe impacts on the coastal bluff morning glory. Dr. McBride recommends the development of building envelope location "b" as having the least impact on this (coastal bluff morning glory) endangered plant. Upon our review of this report we contacted Mr. Baskin, Coastal Planner, (see reference 2) and requested that in lieu of evaluating five separate designs, that we concentrate our evaluation on the one remaining site, location "b" (Plate 2). Mr. Baskin has agreed and accommodated our request.)
3. Develop recommended modifications to the current design to decrease the amplitude of land alteration.
4. Prepare a drainage design, which incorporates the results of storm water runoff analysis and necessary erosion control measures. In order to complete our analysis of this drainage design we have created a grading plan that may be submitted for permits upon completion of this Commission mandated review.
5. Prepare this formal report summarizing our work on this project.

SITE CONDITIONS:

General – The site is located near Bourns Landing and Cooks Beach just North of Gualala. The site comprises 1.11 acre of land and is bounded by State Highway One to the East, County Road 526 to the West, the Lands of Sedlacek to the North and the Lands of Matheson to the South. This strip of land between County Road 526 and State Highway One is subdivided into four parcels and all but this parcel, Schmitt/Claiborne, has been developed into home sites. A private driveway, also used by the Sedlacek and Matheson properties accesses the site from County Road 526.

Topography – The site is located on a small hillside. According to the United States Geological Survey (USGS) Gualala, California, 7.5 Minute Quadrangle Map (Topographic) the site is situated near an elevation of

2 of 15

approximately 145 feet above mean sea level (MSL). The site generally slopes down and to the south west at natural gradients of approximately 25 horizontal to one vertical (25H:1V) near the north east property corner, increases to 5 horizontal to one vertical (5H:1V) near the middle of the lot and transitions to 3 horizontal to one vertical (3H:1V) at the lower one-third of the parcel. Relief across the site is approximately 46 feet, based on the topographic map prepared by Richard Seale. Site Drainage generally consists of sheet flow and surface infiltration that extends southwest and down slope to an existing drainage ditch that runs northerly along County Road 526, to an existing 24 -inch Corrugated Metal Pipe (CMP) culvert that traverses said County Road 526 and sheet flows to an existing swale that terminates at Cooks Beach.

#### RECOMMENDATIONS:

In our evaluation we determined that the house should be relocated slightly east and down slope (aligned with and placed on the existing ridge) to reduce grading fills. This placement is illustrated on plate 4. We have offered three possible alternatives to Mr. Schmitt and Ms. Claiborne, which will reduce the driveway profile to approximately a 7% grade. Three additional alternates are provided:

1. Alternate A - Provide a driveway approach to the garage and vehicle entry (to the garage) accessed from the east.
2. Alternate B - Construct a detached garage located east of the proposed house, possibly with an attached single car garage to facilitate the desired veranda.
3. Other recommendations to reduce grading impacts are to construct small landscaping retaining walls and construct the rear foundation wall with a dropped raised floor. Standard details of these suggestions are included for your review. (Plate 5 & 6)

#### GRADING:

Minor grading is required to provide a flat pad on which to construct a foundation. While different types of foundations can assist in reducing the quantities of engineered fill, the design criterion generally requires a geotechnical soils investigation. This firm strongly recommends a geotechnical investigation be performed prior to any residential project commencement. This investigation will provide the structural engineer with a soil bearing capacity, seismic near-source value, slope stability and any other necessary criteria for engineered fill slopes.

The Uniform Building Code (UBC) allows engineers to use a minimum design criteria, however it is our experience that the cost of over-design on foundations will always exceed the cost of the geotechnical report. To date, a geotechnical investigation has not been performed; as such we will be expressing our design using the UBC minimum requirements. The grading principle for this project is to cut the building pad to elevation 111.0' (all elevations herein are to be considered relative to the topography by R. Seale) with a deepened under-floor area to 109.83'. This deepened area will continue to the daylight contour. Cut material will be used to

3 of 15

provide a flat driveway near the 99' contour in front of the garage to a rough grade of 100.0' to 100.5', depending on the desired driveway finish. New grade slopes will be dropped at 2.5H:1V to catch existing grade. Landscaping walls from two to four feet in height should be employed upslope to maintain natural grades and provide user-friendly access around the home. A section is provided on plate 7, which illustrates this feature. The top 6" to 8" of soil should be stripped and stock piled for landscape fills. Topsoil is not suitable for use as engineered fill.

#### DRAINAGE:

Drainage shall continue to sheet flow across the non-altered site into existing drainage swales to the south and west. The roof rain leaders shall be tied to a closed circuit drainage system that will discharge into the drainage swale to the south, adjacent to the private driveway. A sub floor drainage system should be utilized under the kitchen/living room areas of the house and under the proposed attached garage floor slab. All final grades shall provide positive gradients away from the structures to allow rapid removal of surface water runoff to an adequate discharge point. Final grading should be complete enough to prevent ponding water above or adjacent to the structures.

#### EROSION CONTROL:

Erosion Control practices protect the soil surface and prevent soil particles from being detached by rainfall or wind. Sediment controls are generally passive systems that rely on filtering or settling soil particles out of water or wind that is transporting them. Erosion control treats soil as a resource with value and works to keep it in place. Generally speaking, erosion controls are both more efficient and more cost-effective than sediment control, and are preferred because they keep the soil in place and protect the resource. For an erosion control plan to be effective, it is essential that adequate best management practices (BMPs) be implemented before the rainy season begins. Provisions for both erosion and sediment controls should be implemented, such measures shall including:

- Silt fences
- Straw bales
- Straw wattles
- Stabilized construction entrance.
- Riprap energy dissipation systems
- Culvert inlet filter

The locations for these measures are shown on the grading and drainage sheet and exhibit details are available upon request. A recommend publication for erosion and sediment control is the *Erosion And Sediment Control*

4 of 15

*Field Manual* published by the California Regional Water Quality Control Board, San Francisco Bay Region, Third Edition.

#### HYDROLOGY:

Without a final approved design we found it necessary to perform a base hydrology and provide various drainage pipe sizes. We use the rational formula and *Flood Control Design Criteria Manual* published by the Sonoma County Water Agency to determine the quantity of water.

Rational formula:  $(Q=CIAk)$

Where runoff coefficient 'C' = 1.0 for the impermeable roof surface and .45 for grades less than 10%. (The home site located near the top of the parcel is located in the flat region of the parcel.)

Where Intensity 'I10' = 1.72" rainfall in 15 minutes during a 10 year storm event, and I100 (100-year storm event) = 2.42" of rainfall in 15 minutes.

Where Area 'A' = 3000sq. ft. / (43560 sq. ft./Acre) - the impermeable roof area. = 0.07 ac.

Where Area 'A' = 10000 sq. ft. / (43560 sq. ft. / Acre) - the area of the parcel located above the home site. = 0.23 ac.

Where K-factor coefficient 'k' = 1.65 for 47-inches of annual rainfall between Anchor Bay and Gualala, along State Highway One.

$$Q_{10} = 1.0 \times 1.72'' \times 0.07 \text{ ac.} \times 1.65 = 0.19866 = 0.20 + (0.45 \times 1.72'' \times 0.23 \text{ ac.} \times 1.65) = 0.20 + 0.29$$

$$Q_{10} = 0.49 \text{ cfs}$$

$$Q_{100} = (1.0 \times 2.42'' \times 0.07 \text{ ac.} \times 1.65) + (0.45 \times 2.42'' \times 0.23 \text{ ac.} \times 1.65) = 0.28 + 0.41$$

$$Q_{100} = 0.69 \text{ cfs}$$

The drainage sub-network design to be installed at this home site would include a closed circuit system to collect rainwater from the roof and interceptor drains to collect surface water and transport this water to an existing drainage swale.

- Calculate a standard sized pipe to accommodate the closed conduit drainage system for the rain leaders with a run-off coefficient of 1.0
- Calculate a standard sized pipe to accommodate the retaining wall back drains utilizing a run-off coefficient of .45, based upon the worst case sloped grade at the building site.

Results of the drainage sub-network is a 4" PVC pipe can handle the roof rain runoff during a 100-year storm with a duration of 15 minutes (2.42" rainfall). The total system flow is 0.17 cfs with a maximum capacity of the pipe at 0.66 cfs, or about 26% of pipe capacity. This pipe will terminate at a drop inlet catch basin. This catch basin will act as a junction box also collecting surface runoff and the retaining wall back drains. The surface

5/26/15

inlet and drainage catchments will transport the storm water in a 6" ADS corrugated pipe to daylight below and adjacent to the driveway interface. The selection of corrugated pipe will reduce the velocity of the water to less than six feet per second. The 6" ADS pipe will daylight in the existing drainage swale located just down grade from the proposed driveway interface and will have a riprap energy dissipater for erosion control. (Plate 8)

#### OFFSITE CONSIDERATIONS:

There are no additional offsite considerations, as the home site is located at the top of a knoll. However, this analyzed system operates at only 35% capacity during a 100-year storm event with duration of 15 minutes, leaving ample capacity should unforeseen conditions arise.

#### CALCULATIONS:

Calculations have been performed for both the 10-year and 100-year storm with a duration of 15 minutes, and are available upon request.

#### HYDROLOGY CONCLUSION:

The storm drainage system as shown on the improvement drawings submitted should function as designed considering the required design criteria, the current conditions of the project and of the adjacent properties.

#### CONCLUSIONS:

Based on the results of our study, it is our professional opinion that the evaluated site is viable for construction of a single-family residence provided the recommendations contained in this report are implemented. The generally accepted placement of the home site is located on the upper reaches of the lot and as such is located in the gentle sloping areas. The owners have set witness poles on site that were recorded in preparing the topographic map. These poles locate the westerly wall of the proposed home. It is anticipated that the grading of the proposed driveway to the garage will have the greatest impact of land modification. In order to have a relative flat parking area directly in front of the garage (approximately 5% slope) substantial fill is required to achieve the desired parking area. The fill material required would be imported and the resulting driveway approach would be approximately 30% slope (plate 3).

6 of 15

LIMITATIONS:

The data, information, interpretations and recommendations contained in this report are presented solely as bases and guides for the proposed single-family home structure to be located at 36951 County Road 526, Gualala, California. Kenneth E. Carr & Associates developed the conclusions and professional opinions presented herein in accordance with generally accepted engineering principles and practices. As with all reports, the opinions expressed here are subject to revisions in light of new information and design changes.

This report has been prepared solely for use by the owners of this project. It may not contain sufficient information for the purpose of other parties or other uses. If any changes are made in the project as described in this report, the conclusions and recommendations contained herein should not be considered valid unless the changes are reviewed by Kenneth E. Carr & Associates, and the conclusions and recommendations are modified and approved in writing. This report and the drawings contained herein are intended only for the design of the proposed project. They are not intended to act by themselves as construction drawings or specifications.

If you have any questions please feel free to contact us.

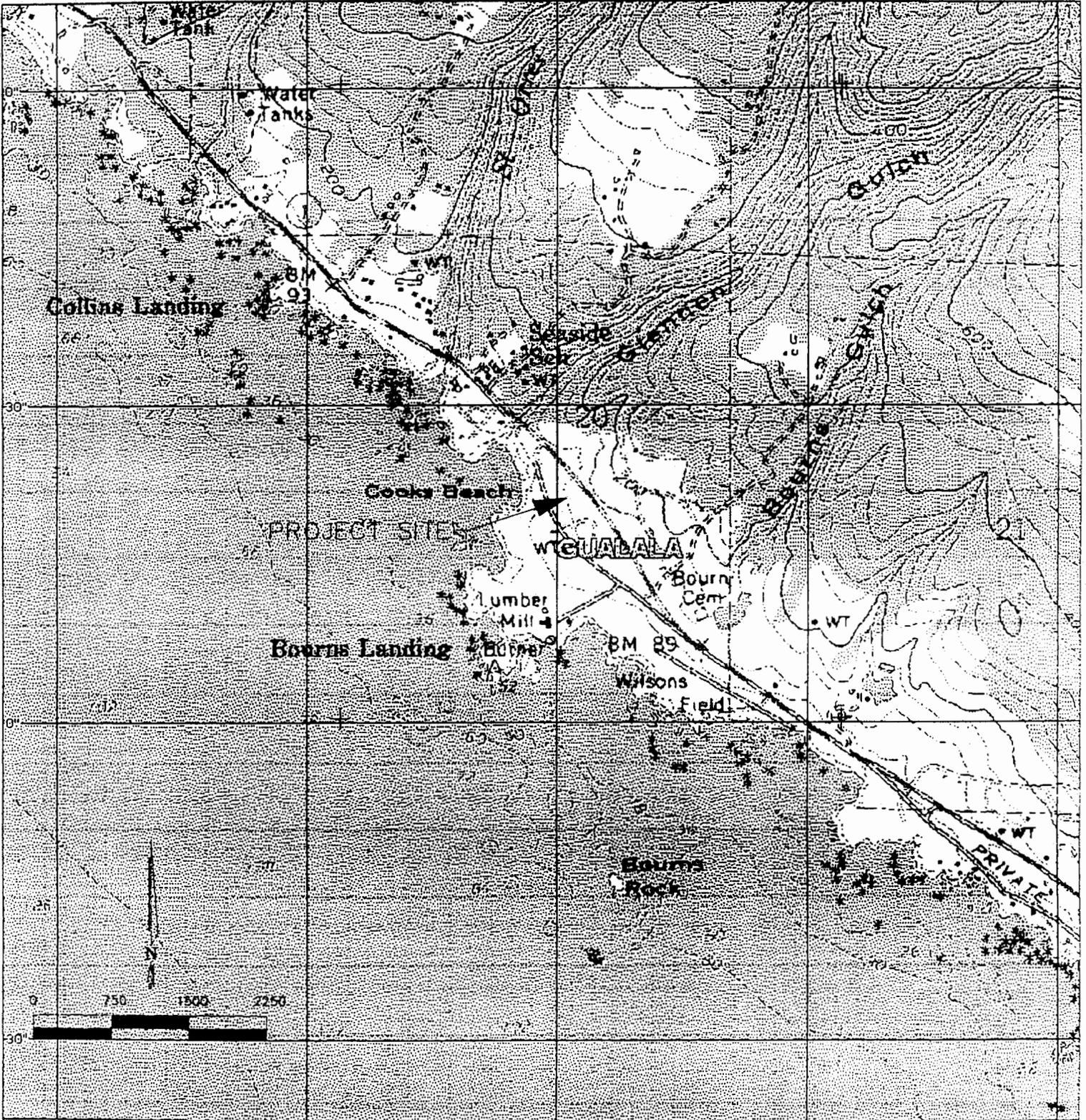
Sincerely,

Kenneth E. Carr  
Principal Engineer



7 of 15

REFERENCE: USGS QUADRANGLE  
SCALE: NTS



**Kenneth E. Carr**  
& associates

**civil engineering services**

JOB # 03-055

DATE 8/22/03

PLATE 1

R.C.E. 21184

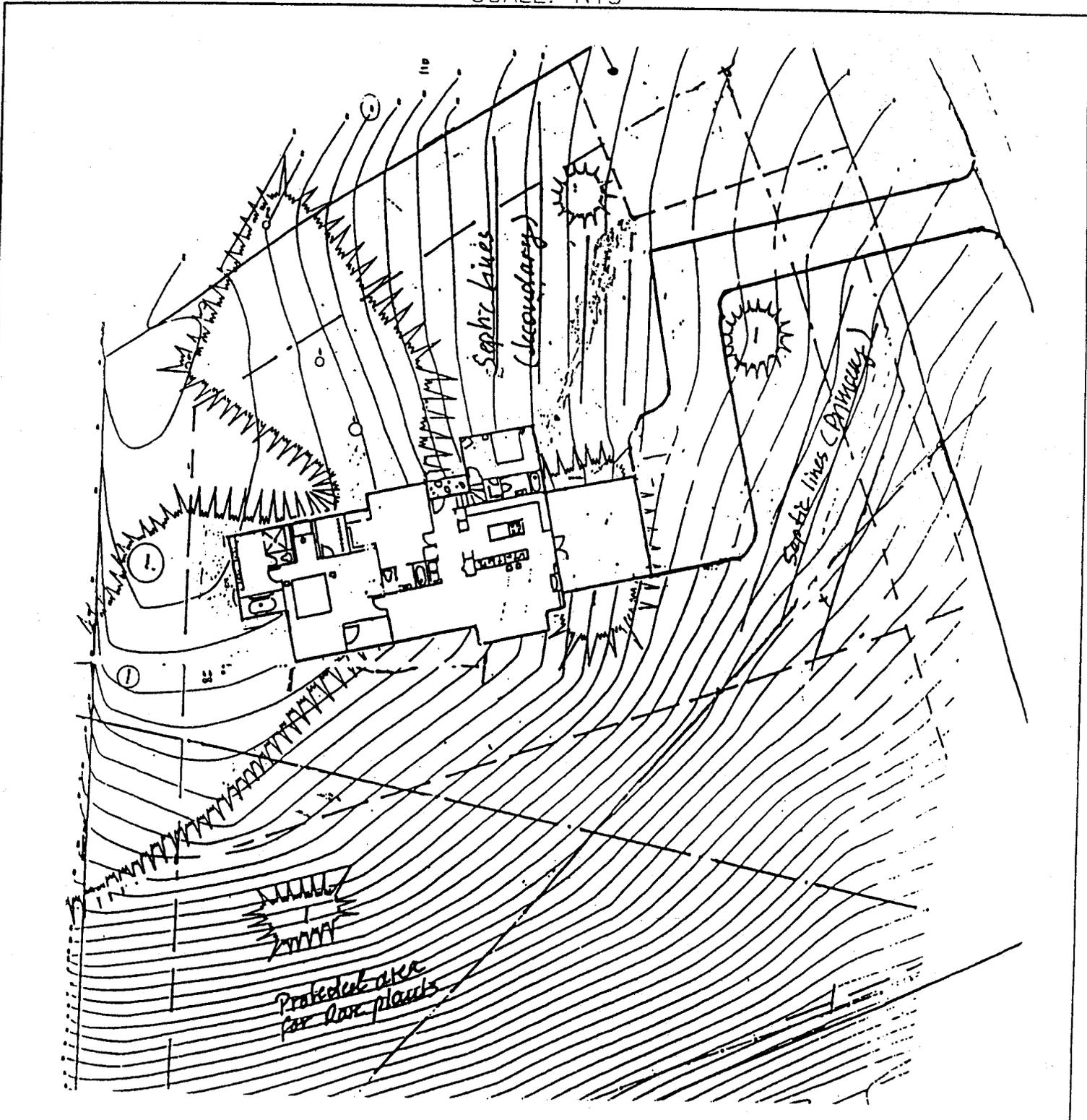
Land Surveying  
Structural Design  
Foundation Design  
Seismic Retrofit  
Topographic Maps

Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

701-A FOURTH ST  
SANTA ROSA, CA 95402  
(707) 527-6913 PHONE  
(707) 527-6914 FAX

8 of 15

REFERENCE: LOCATION "b" PROPOSED BUILDING SITE  
SCALE: NTS



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Foundation Design  
Seismic Retrofit  
Topographic Maps

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Site Grading and Drainage

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(707) 527-6913 PHONE  
(707) 527-6914 FAX

JOB # 03-055

DATE 8/30/03

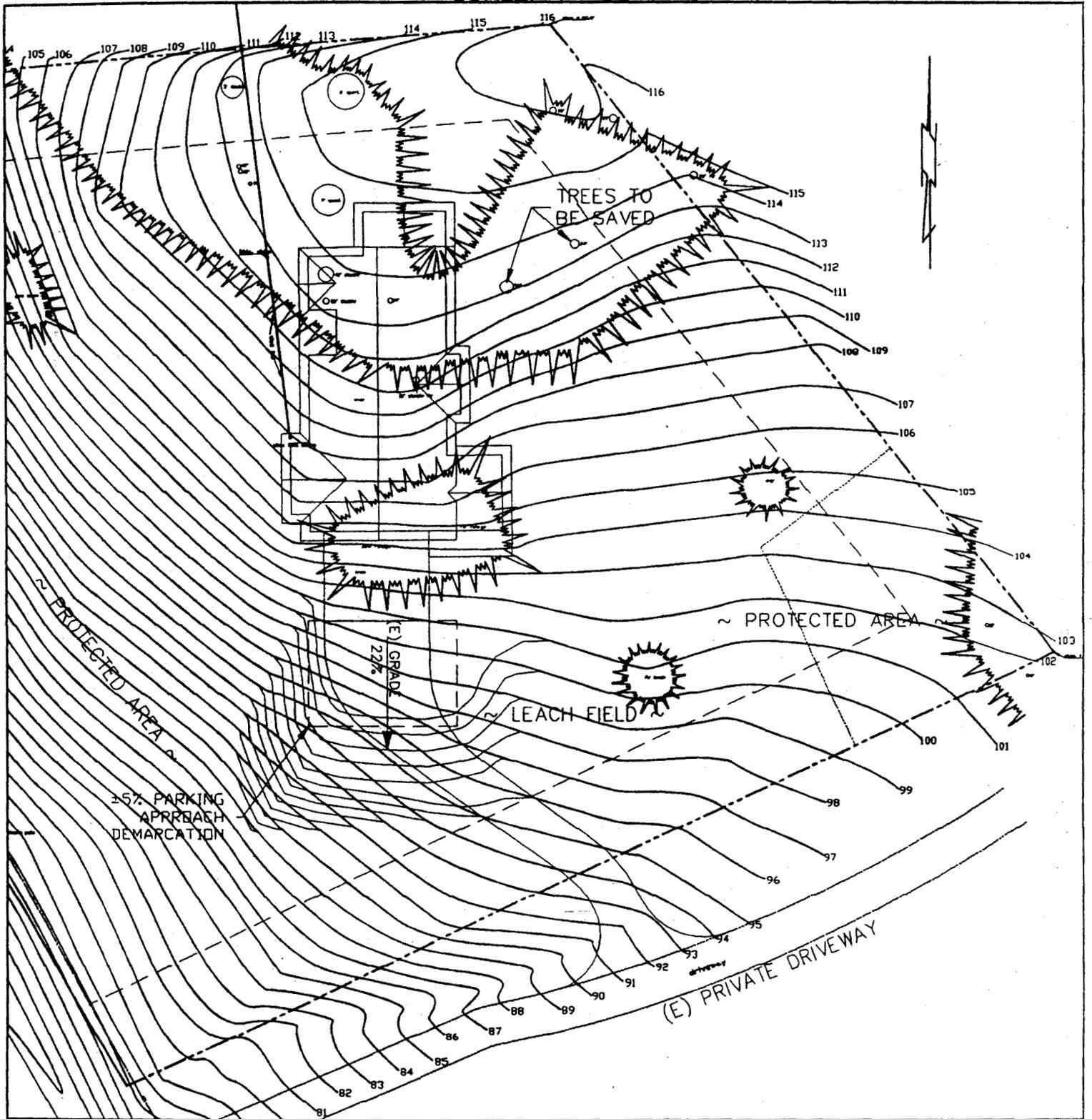
PLATE 2

**R.C.E. 21184**

9915

REFERENCE: LOCATION "b" PROPOSED BUILDING SITE

SCALE: 1"=30'



**Kenneth E. Carr**  
& associates

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JOB # 03-055

DATE 8/30/03

PLATE 3

**R.C.E. 21184**

Land Surveying  
Structural Design  
Foundation Design  
Seismic Retrofit  
Topographic Maps

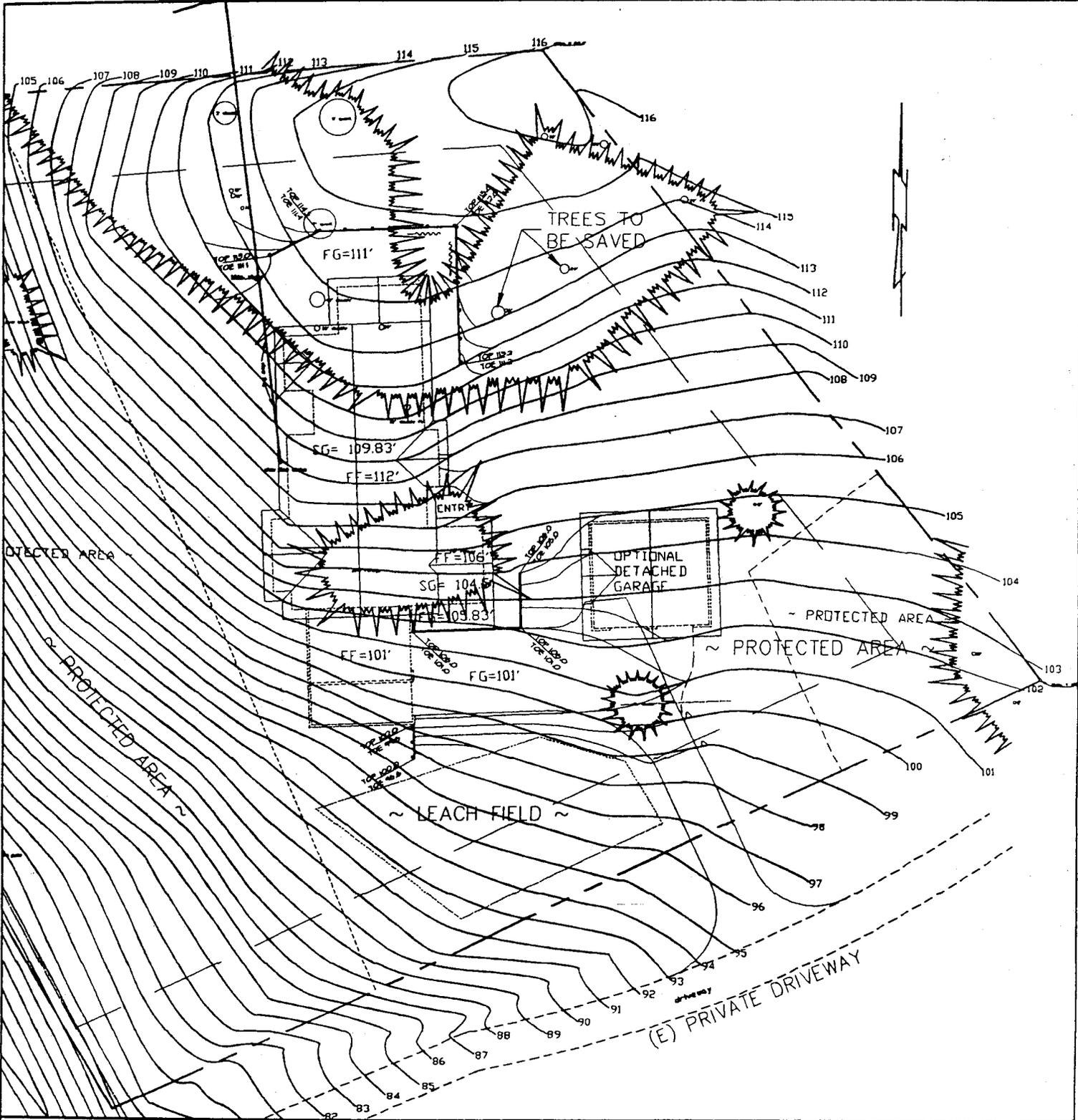
Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

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SANTA ROSA, CA 95402  
(707) 527-6943 PHONE  
(707) 527-6914 FAX

10415

REFERENCE: RECOMMENDED LOCATION, VARIATION OF "b".

SCALE: 1" = 30'



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& associates

**civil engineering services**

JOB # 03-055

DATE 8/30/03

PLATE 4

R.C.E. 21184

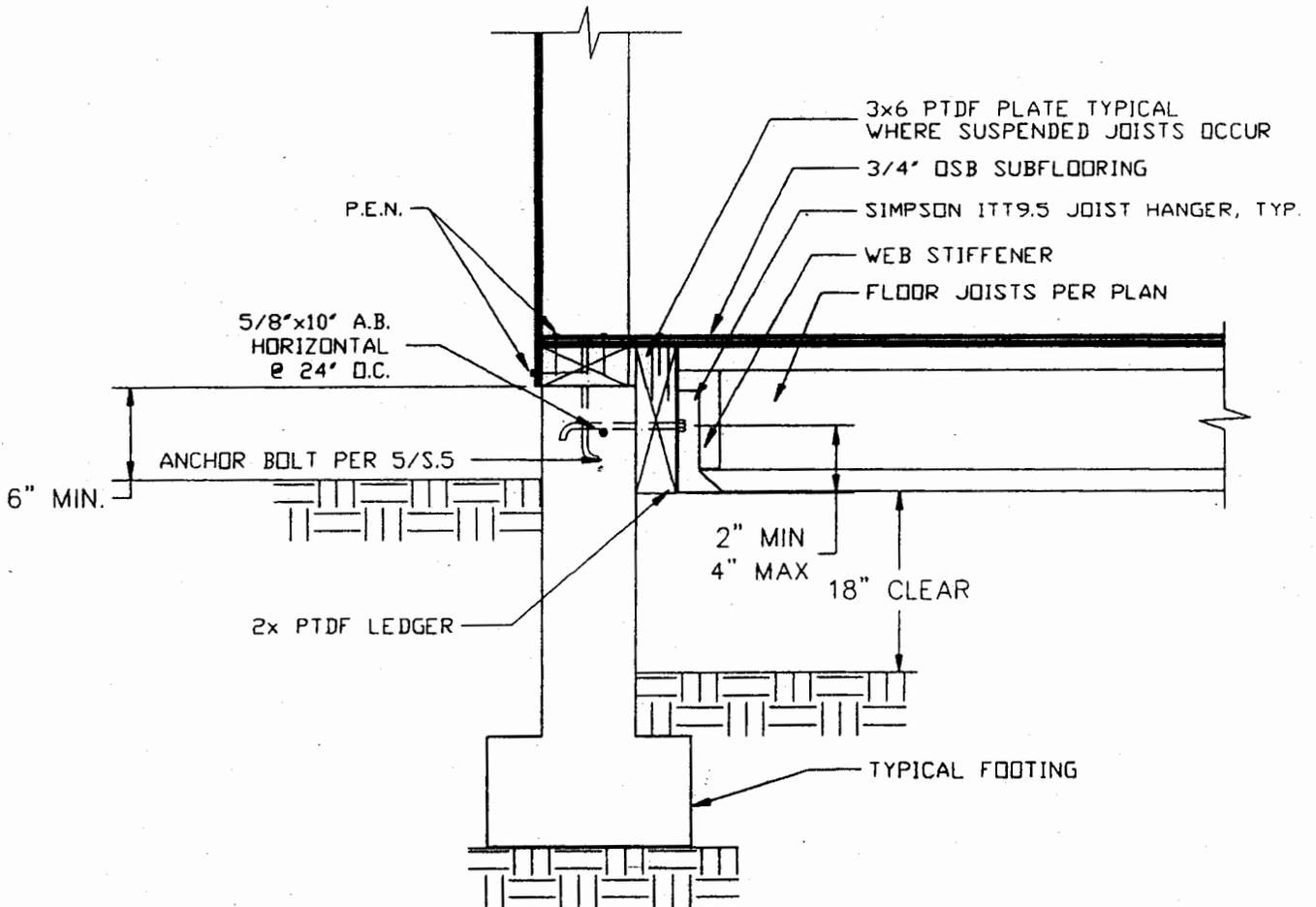
Land Surveying  
Structural Design  
Foundation Design  
Seismic Retrofit  
Topographic Maps

Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

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(707) 527-6914 FAX

11 of 15

REFERENCE: DROPPED FLOOR FOUNDATION  
 SCALE: 1" = 1'-0"



DROPPED FLOOR FOUNDATION

SCFA:12

FDN6-2

**Kenneth E. Carr**  
 & associates

**civil engineering services**

JOB # 03-055

DATE 8/30/03

PLATE 5

**R.C.E. 21184**

Land Surveying  
 Structural Design  
 Foundation Design  
 Seismic Retrofit  
 Topographic Maps

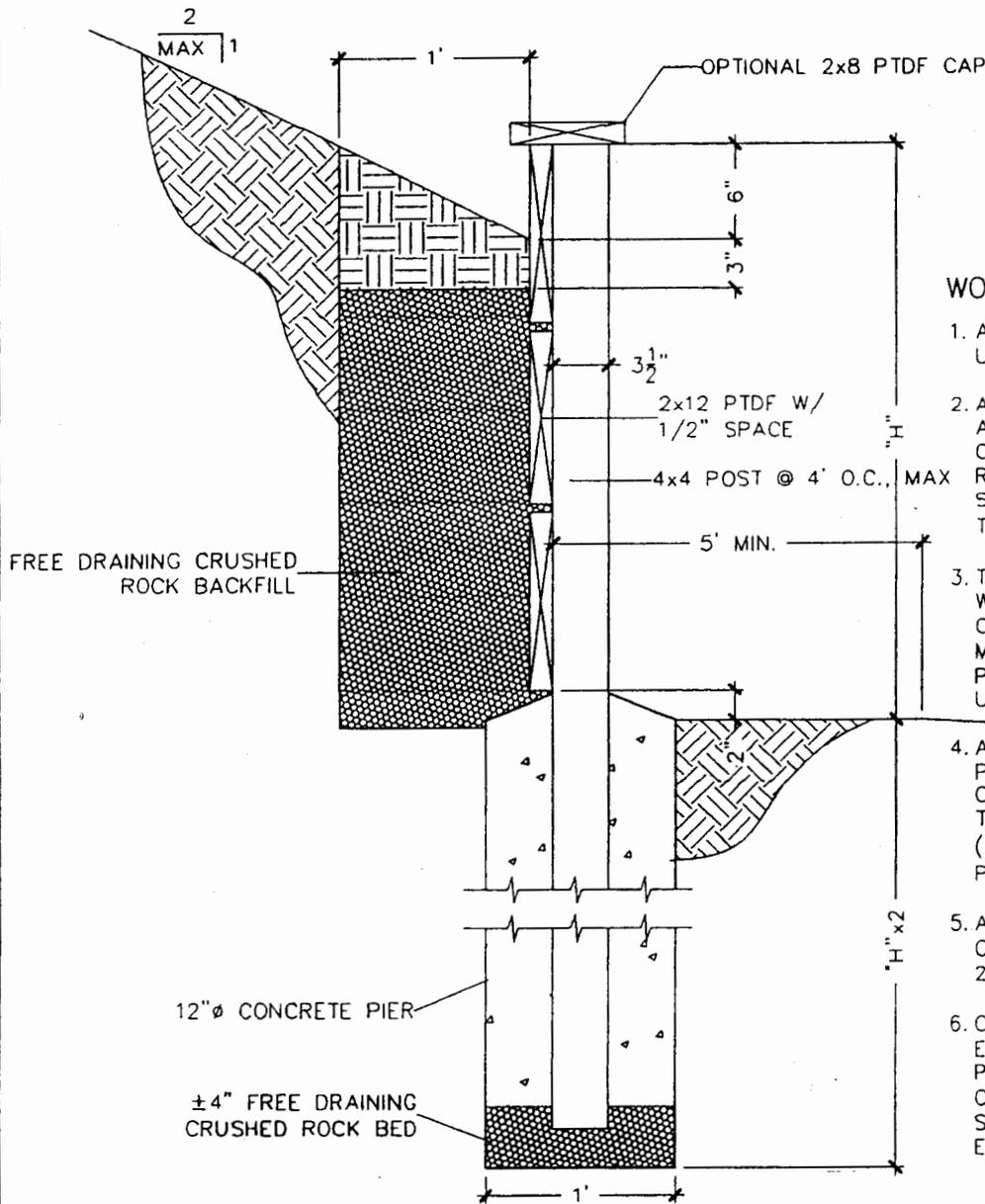
Septic Systems  
 Drainage Design  
 Construction Inspection  
 Construction Management  
 Site Grading and Drainage

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 SANTA ROSA, CA 95402  
 (707) 537-6913 PHONE  
 (707) 537-6914 FAX

12 of 15

REFERENCE: LANDSCAPING RETAINING WALL

SCALE: 1" = 1'-0"



WOOD RETAINING WALL NOTES:

1. ALL LUMBER SHALL BE DOUGLAS FIR #1, UNLESS OTHERWISE NOTED.
2. ALL WOOD SHALL BE TREATED PER AWPB STANDARD LP22 AND BE VISIBLY CLEAN AND FREE FROM SURFACE RESIDUE. ALL PIECES OF LUMBER SHALL BEAR THE AWPB STAMP WITH THE WORDS "GROUND CONTACT".
3. TREAT ALL CUT ENDS AND BOLT HOLES WITH A COPPER NAPHTHENATE SOLUTION CONTAINING NOT LESS THAN 2 % COPPER METAL. DIP, BRUSH, OR POUR THE PRESERVATIVE OVER THE EXPOSED AREAS UNTIL SATURATED.
4. ALL FABRICATION, USE, AND HANDLING OF PRESSURE TREATED LUMBER SHALL CONFORM TO THE RECOMMENDATIONS OF THE AMERICAN WOOD PRESERVERS ASSOC. (AWPA) AND THE WESTERN WOOD PRESERVERS INSTITUTE (WWPI).
5. ALL CONCRETE SHALL DEVELOP A MINIMUM COMPRESSIVE STRESS AT 28 DAYS OF 2500 PSI.
6. CONTRACTOR SHALL HAVE THE SOILS ENGINEER REVIEW AND APPROVE SITE PLANS AND FOUNDATION DETAILS FOR CONFORMANCE WITH DESIGN INTENT OF SOILS REPORT, IF ANY, PRIOR TO EXCAVATION.

LANDSCAPING RETAINING WALL

SCFA:12

FDN6-2

**Kenneth E. Carr**  
& associates

**civil engineering services**

JOB # 03-055

DATE 8/30/03

PLATE 6

**R.C.E. 21184**

Land Surveying  
Structural Design  
Foundation Design  
Seismic Retrofit  
Topographic Maps

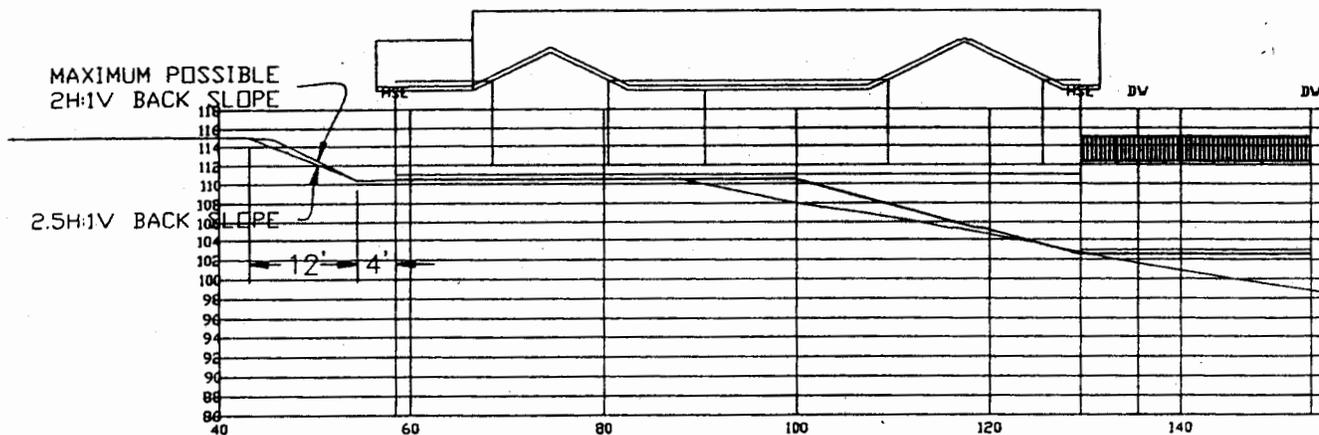
Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

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SANTA ROSA, CA 95402  
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13 of 15

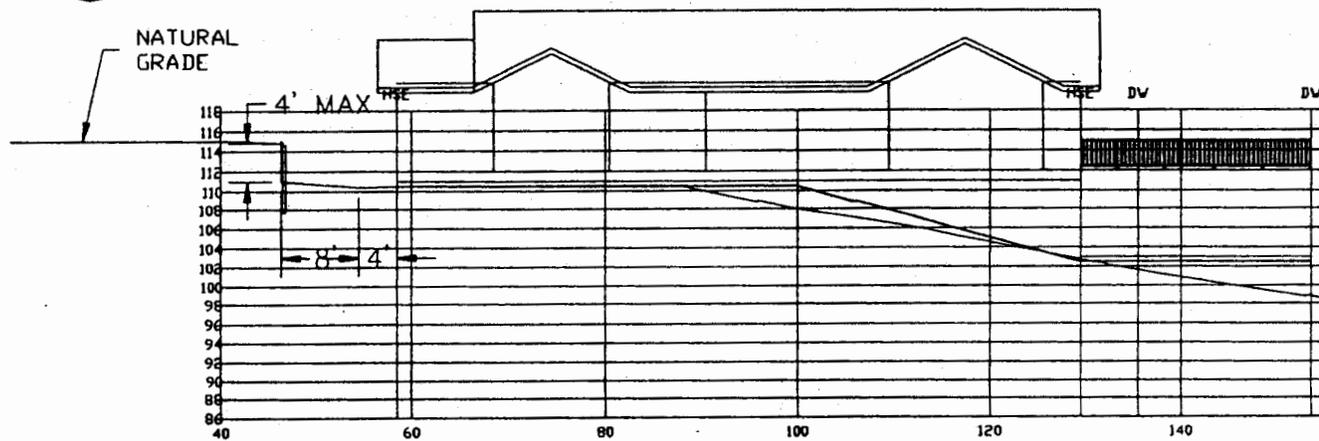
REFERENCE: CROSS SECTIONS

SCALE: 1" = 20'



CROSS SECTION W/O RETAINING WALL

SCFA:12 FDN6-2



CROSS SECTION W/ RETAINING WALL

SCFA:12 FDN6-2

**Kenneth E. Carr**  
& associates

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JOB # 03-055

DATE 8/30/03

PLATE 7

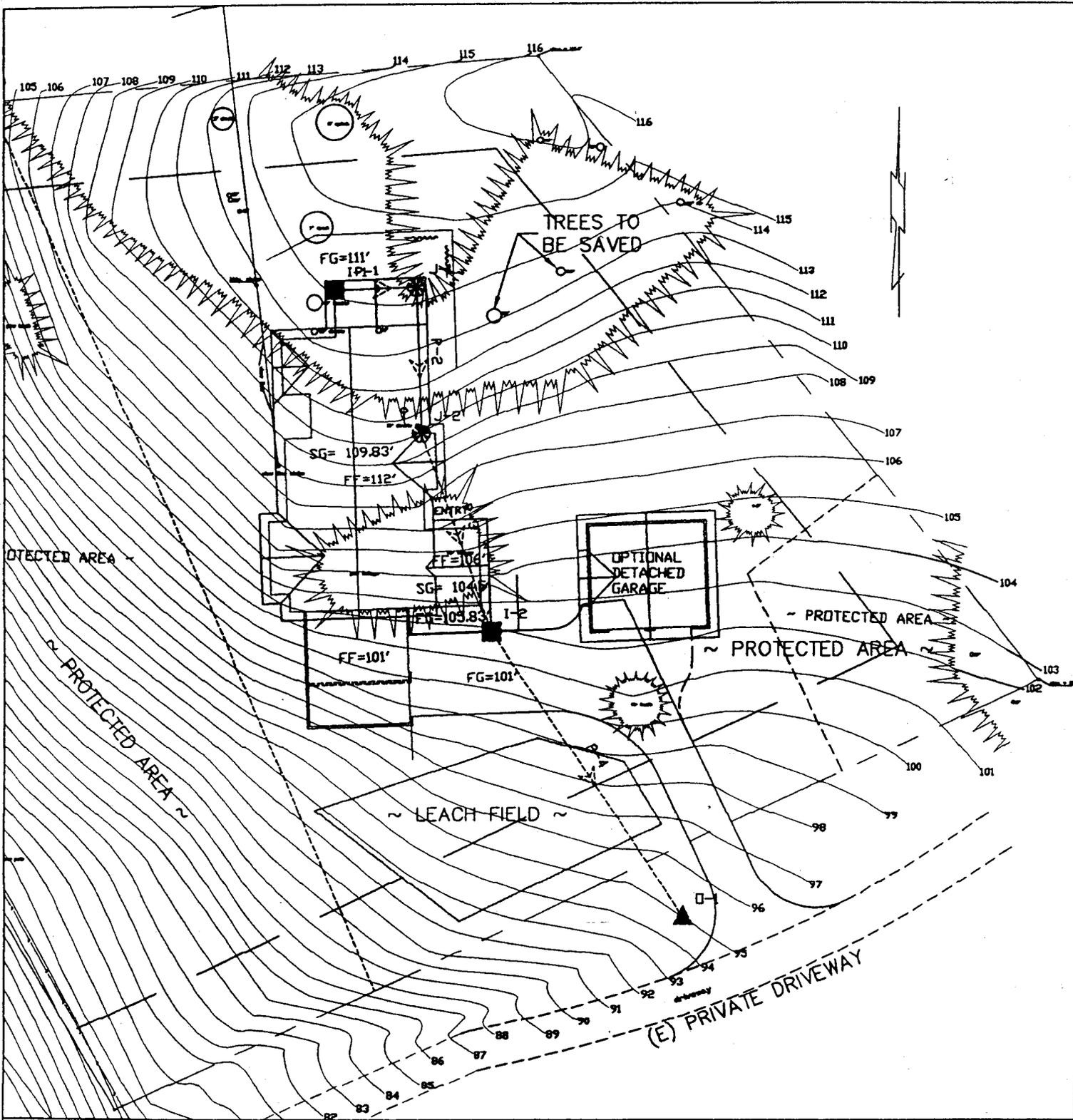
R.C.E. 21184

Land Surveying  
Structural Design  
Foundation Design  
Seismic Retrofit  
Topographic Maps

Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

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(707) 527-6914 FAX

14 of 15



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JOB # 03-055

DATE 8/30/03

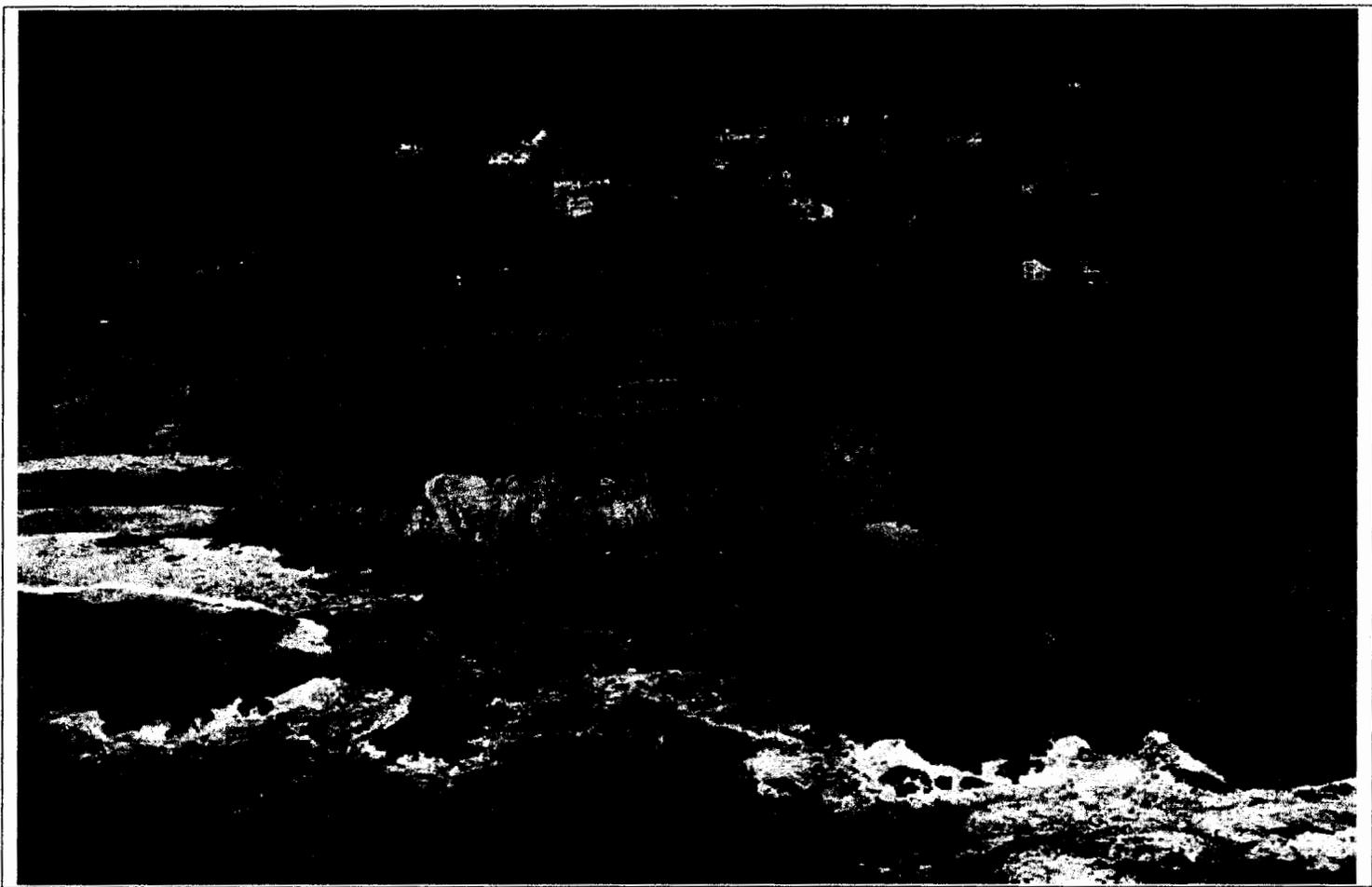
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Foundation Design  
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Septic Systems  
Drainage Design  
Construction Inspection  
Construction Management  
Site Grading and Drainage

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PLATE 8  
R.C.E. 21184

15 of 15



**Plate 1: Project Area Surroundings and Setting**

Oblique air photo looking east across Bourns Landing to Claiborne-Schmitt project site (upper mid-center). Cook's Beach and the RCLT blufftop overlook and vista point are visible at left-center. The area between Glennen and Bourns Gluches comprises a series of grass- and forb-covered uplifted coastal terrace prairies interspersed by scrub-shrub hillside slopes with scattered tree cover that transitions into a coastal closed-cone forest further inland. With the exception of the Bourns Landing headlands (foreground), the development pattern is rural residential in character, representing a selection of one-, two-, and three-story, single-family residences ranging from 1,500 to 3,000 square feet in size, developed on ½- to one-acre parcels. Source: Copyright © 2002-2004 Kenneth Adelman, California Coastal Records Project, [www.californiacoastline.org](http://www.californiacoastline.org)

**EXHIBIT NO. 12**

**APPLICATION NO.**

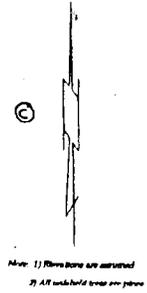
A-1-MEN-03-029

CLAIBORNE & SCHMITT

PROJECT AREA

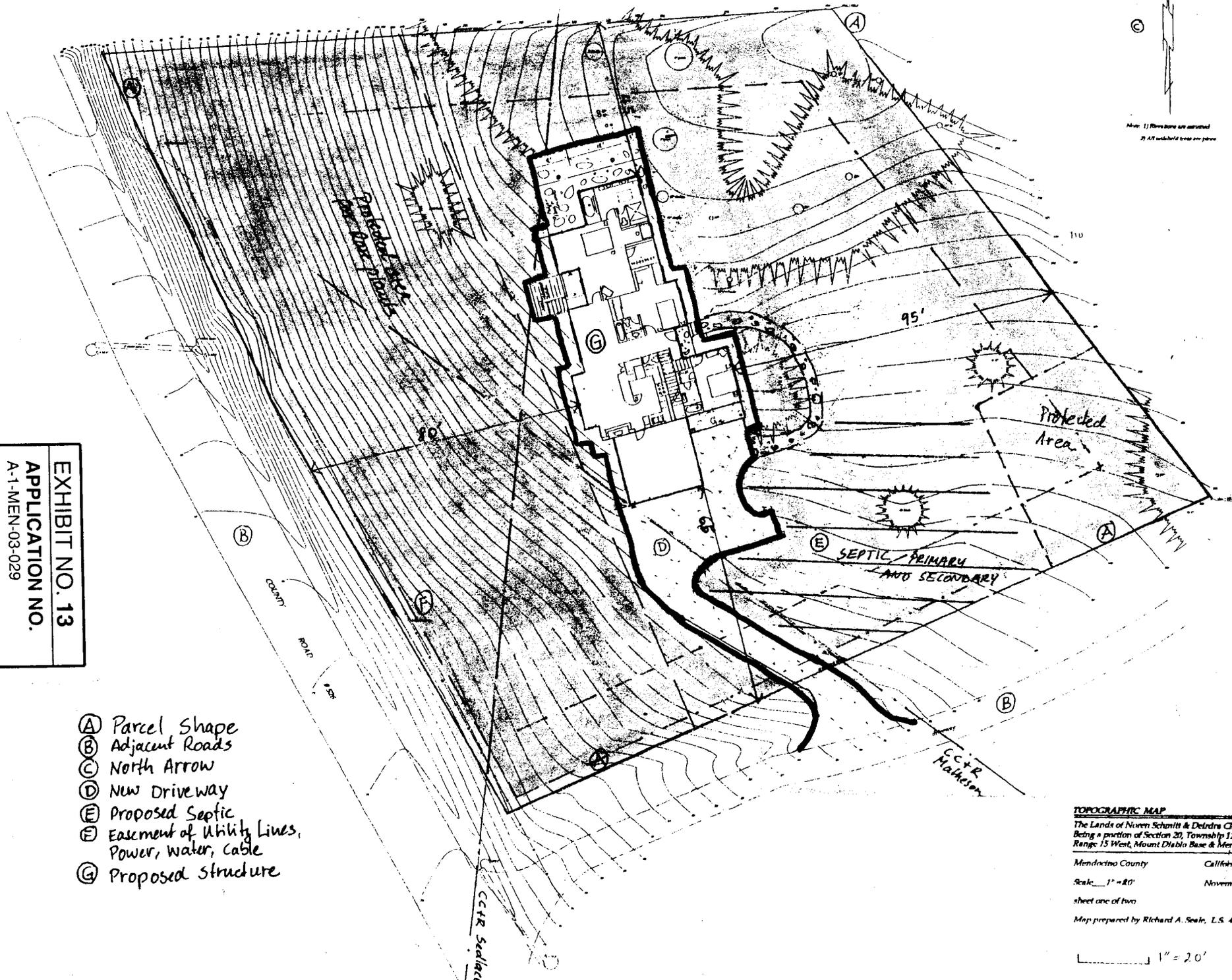
SURROUNDING AND

SETTING



**EXHIBIT NO. 13**  
**APPLICATION NO.**  
 A-1-MEN-03-029  
 CLAIBORNE & SCHMITT  
 AUTHORIZED PROJECT  
 BUILDING ENVELOPE

- (A) Parcel Shape
- (B) Adjacent Roads
- (C) North Arrow
- (D) New Driveway
- (E) Proposed Septic
- (F) Easement of Utility Lines, Power, water, cable
- (G) Proposed structure



**TOPOGRAPHIC MAP**  
 The Lands of Noren Schmitt & Detlra Claiborn  
 Being a portion of Section 20, Township 11 North  
 Range 15 West, Mount Diablo Base & Meridian.  
 Mendocino County California  
 Scale: 1" = 80'  
 November, 20  
 sheet one of two  
 Map prepared by Richard A. Seale, L.S. 4453

1" = 20'

## DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500

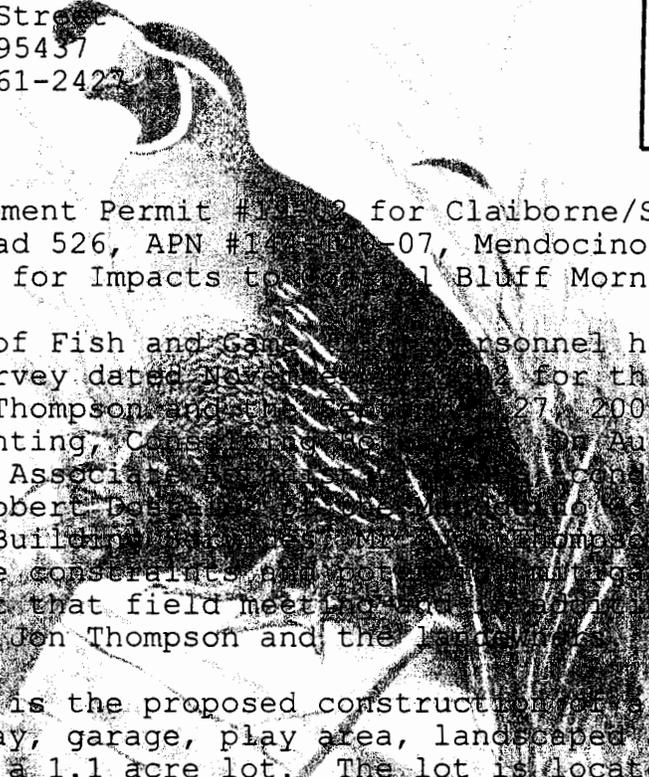
January 9, 2003

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JAN 13 2003  
PLANNING & BUILDING SERV  
FORT BRAGG CAMr. Doug Zanini  
Mendocino County  
Department of Planning and Building Services  
790 S. Franklin Street  
Fort Bragg, CA 95437  
Via Fax: (707) 961-2422

EXHIBIT NO. 14

APPLICATION NO.  
A-1-MEN-03-029  
CLAIBORNE & SCHMITT  
REVIEWING AGENCY  
CORRESPONDENCE  
(1 of 12)

Dear Mr. Zanini:

Coastal Development Permit #14-02 for Claiborne/Schmitt Parcel  
36951 Road 526, APN #14-007-07, Mendocino County  
Mitigation for Impacts to Coastal Bluff Morning-glory


Department of Fish and Game personnel have reviewed the Botanical Survey dated November 27, 2002 for the above project prepared by Jon Thompson and the August 27, 2002 review letter from Dean Schlichting, Coastal Bluff Morning-glory. On August 15, 2002, Mr. Gene Cooley, Associate Director, conducted a site visit with Mr. Robert Deane, Mendocino County Department of Planning and Building Services, Mr. Jon Thompson, and the landowners. Site constraints and mitigation measures were discussed at that field meeting. Additional discussions with Jon Thompson and the landowners

The project is the proposed construction of a house including driveway, garage, play area, landscaped area, and septic system on a 1.1 acre lot. The lot is located at 36951 Road 526, just northeast of Bourns Landing, approximately 1.3 miles south of Anchor Bay, Mendocino County.

Two uncommon plants occur on the property, coastal bluff morning-glory (*Calystegia purpurata* ssp. *saxicola*) and Point Reyes ceanothus (*Ceanothus gloriosus* ssp. *gloriosus*). Coastal bluff morning-glory was only recently recognized to be an uncommon plant with the January 2001 printing of DFG's California Natural Diversity Database (CNDDDB) Special Vascular Plants, Bryophytes, and Lichens List and the August 2001 publication of the sixth edition of the California Native Plant Society's (CNPS) Inventory of Rare and Endangered Plants of California. Coastal bluff morning-glory is ranked by CNPS as 1B and Point Reyes ceanothus is ranked as 4. It is generally recognized that plants ranked 1B can be shown to meet the criteria for official State or Federal listing as endangered, threatened, or rare. The

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your  
POWER

Mr. Doug Zanini  
January 9, 2002  
Page 2

California Environmental Quality Act (CEQA) Guidelines Section 15380 provide that taxa that can be shown to meet the criteria for listing as endangered, threatened, or rare, will receive the consideration during CEQA review that they would receive if they were actually listed. Impacts to plants ranked 4 should be minimized when feasible. According to CNDDDB, coastal bluff morning-glory is known from approximately 13 occurrences in Mendocino, Sonoma, and Marin counties. According to CNPS, Point Reyes ceanothus is also known from Mendocino, Sonoma, and Marin counties.

Approximately 300 to 400 plants of coastal bluff morning-glory are reported from the lot and more than 100 plants of Point Reyes ceanothus are reported. Additional plants of these species occur outside of the lot. On the lot, approximately 40 to 70 plants of coastal bluff morning-glory are expected to be directly impacted by construction activities and approximately 100 additional plants are expected to be impacted by future human activities.

Providing adequate protection and mitigation for uncommon plants and their habitat on small lots is difficult. The botanical survey report proposes a variety of measures to mitigate for impacts to coastal bluff morning-glory:

Avoidance and minimization of impacts. The project has been redesigned to minimize impacts.

On-site protection. Two portions of the lot will be preserved in natural habitat. These two areas will protect a substantial portion of the coastal bluff morning-glory and Point Reyes ceanothus and their habitat on the lot. DFG prefers that conservation easements be used to protect areas as mitigation for permanent impacts to uncommon plants and their habitat. However, conservation easements are generally not feasible on small lots. DFG recommends that the two areas proposed for protection be protected with a deed restriction. The areas should be maintained in natural vegetation and the perimeter should be marked to prevent inadvertent disturbance. During construction, these protected areas and other natural habitat should be protected with high visibility boundary fencing. Contractors should be informed of the importance of preventing disturbance to these areas, and their actions should be monitored. Areas of natural habitat disturbed during construction should be stabilized with structural erosion control measures such as jute netting, coir logs,

2012

Mr. Doug Zanini  
January 9, 2003  
Page 3

and certified weed-free straw, and revegetated with appropriate native plants propagated from local genetic stock.

Seed banking. Coastal bluff morning-glory seeds will be collected and deposited for long-term conservation storage at Rancho Santa Ana Botanic Garden seed bank or another seed bank certified by the Center for Plant Conservation. Funding for the long-term seed storage will be provided. In consultation with DFG, the guidelines of the seed bank for seed collection methodology and amount of seeds collected will be followed. In order to obtain a sufficient conservation collection, seeds may have to be collected in more than one year. Habitat data will be recorded and a voucher specimen for the seed collection will be collected and deposited at Rancho Santa Ana or another appropriate herbarium, in consultation with DFG.

Research funding. Funding of research into the ecology, demographics, or distribution and habitat characterization of coastal bluff morning-glory will be provided in consultation with DFG. Increasing the knowledge of the species' basic biology and ecology such as habitat requirements, conditions for population establishment, population dynamics, and response to habitat succession will benefit the species by providing information necessary to develop species and habitat management guidelines and to formulate more effective mitigation strategies. Improving and documenting knowledge of the species' distribution will increase awareness of the species and its distribution. Refining the characterization of its habitat and microhabitat will improve the ability to successfully survey for the species. This knowledge will benefit the species by increasing the likelihood that the species will be detected during plant surveys, thus increasing the likelihood that impacts will be mitigated through the permitting process and that populations can be protected through proactive means. Population locations will be documented and submitted to CNDDDB. DFG will assist in facilitating this research.

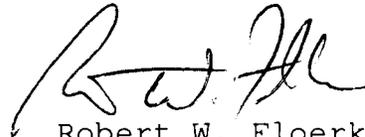
DFG has determined that if the mitigation measures outlined in the botanical survey report and this letter are implemented, impacts to coastal bluff morning-glory will be adequately mitigated and the 100-foot buffer of the Environmentally Sensitive Habitat Area triggered by the presence of this species can be reduced to allow construction of the project as proposed.

3912

Mr. Doug Zanini  
January 9, 2003  
Page 4

If you have any questions regarding this letter, please contact Mr. Cooley, at (707) 944-5524; or Mr. Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,



Robert W. Floerke  
Regional Manager  
Central Coast Region

cc: Ms. Deirdra Claiborne  
Mr. Noren Schmitt  
62 Forbes Avenue  
San Rafael, CA 94901

Mr. Jon Thompson  
Post Office Box 1544  
Gualala, CA 95445

Ms. Lori Hubbart  
California Native Plant Society  
Post Office Box 577  
Gualala, CA 95445

Ms. Teresa Sholars  
College of the Redwoods  
1211 Del Mar Drive  
Fort Bragg, CA 95437

4 of 12



**ARCHAEOLOGICAL COMMISSION ACTION SHEET**

**CASE NUMBER:** CDP 19-2002

**HEARING DATE:** November 13, 2002

**SURVEY REQUIRED (CONSULTANT LIST ATTACHED)**

Until a survey has been prepared, submitted to, and found to be complete by the Archaeological Commission, the time limits specified by State law relative to the processing of application are suspended.

**NO SURVEY REQUIRED (APPLICANT ADVISED OF THE DISCOVERY CLAUSE)**

**SURVEY ACCEPTED**

**RECEIVED**  
 NOV 22 2002  
 PLANNING & BUILDING SERV  
 FORT BRAGG CA

**Section 22.12.090 Discoveries. (Portion of)**

- (A) Any person who in the preparation for or in the process of excavating or otherwise disturbing earth, discovers any archaeological site shall take all of the following actions:
  - (1) Cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery;
  - (2) Make notification of the discovery to the Director of Planning and Building Services...

**Sec. 22.12.100 Discoveries of Human Remains. (Portion of)**

- (A) The provisions of this section shall apply in addition to the provisions of Section 22.12.090 of this Chapter whenever any human remains are discovered.
- (B) Any person who, while excavating or otherwise disturbing earth, discovers any bones or other human remains, whether or not as part of an archaeological site, shall immediately cease and desist from all further excavation and disturbance and shall immediately telephone or otherwise notify the Sheriff-Coroner of Mendocino County. If an archaeological site is involved, the Sheriff-Coroner shall thereupon notify a designated representative of the Commission and if the remains are considered to be those of a Native American Indian, the Sheriff-Coroner shall also make notification as required by Section 7050.5 of the California Health and Safety Code...

NOTE: The above-referenced code sections represent only a portion of the Archaeological Resources Chapter of the Mendocino County Code. Other sections address such matters as granting permission to authorized officials to enter onto lands containing discoveries, site disturbance restrictions, site protection methods, etc. Please contact the Department of Planning and Building Services for further information.

5912

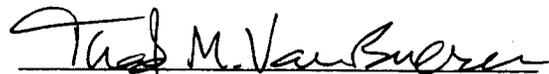
**Archaeological Survey of the  
Scmitt/Claiborne Property near Gualala,  
Mendocino County, California**

**36951 Road 526  
APN 144-140-07**

Prepared for:

Noren Schmitt and Deirdra Claiborne  
62 Forbes Avenue  
San rafael, CA 94901

Prepared by:



Thad M. Van Bueren, ROPA  
P.O. Box 326  
Westport, CA 95488

**RECEIVED**

OCT 21 2002

PLANNING & BUILDING SERV  
FORT BRAGG CA

June 1, 2002

*Original in County Arch. file  
6412*

## PROJECT LOCATION AND DESCRIPTION

An intensive archaeological survey was conducted within a parcel located at 36591 County Road 526 near Gualala, Mendocino County, California (Figures 1 and 2). The property contains slightly less than an acre of land in the east half of Section 20, Township 11N, Range 15W, Mount Diablo base meridian and is designated as Assessor's Parcel 144-140-07. It consists of moderately sloping land that overlooks a broad coastal terrace jutting out to Bourns Landing, so named for the lumber milling and shipping facility developed there in the early historic period. The parcel ranges from about 75 to 115 feet in elevation above mean sea level. Some scattered pines are present in the east half and low, dense brushy plants cover the northwestern quarter of the property.

The survey was requested by the property owners to support a coastal development permit for the construction of a single family residence and associated infrastructure including a detached garage, septic system, driveway, and utilities (CDP #19-02).

## BACKGROUND RESEARCH

Prior to initiating this survey, a record search was conducted at the Northwest Information Center of the California Historical Resources Information System at Sonoma State University. The record search was designed to ascertain the results of previous archaeological surveys in the immediate vicinity of the project and identify any suspected prehistoric or historic use of the area. Seven prior archaeological studies have been conducted within a one mile radius (Flaherty 1985, 1991; Holman 1976; Motl 1992; Peterson 1995; Psota 1991; Van Bueren 1999). Those surveys covered less than seven per cent of the surrounding terrain, indicating that little is known about the archaeological sensitivity of the immediate vicinity. However, work in surrounding coastal areas has shown a high potential for prehistoric activity areas along the coast and on protected hillside benches and ridgetop settings where water is available.

Only one archaeological resource has been recorded within a one mile radius of the project. That recorded site is a prehistoric shell mound thought to be the ethnographic Pomo village of *Ka'mli* (CA-MEN-2234). It is situated within 0.1 mile of the project. According to Barrett (1908:167), *ka'mli* is located a short distance north of Bowen's (Bourn's) Landing and consists of an old camp site that was abandoned by 1908.

No built historic properties have been officially listed within or adjacent to the project area based on an examination of the Historic Property Directory maintained by the California Office of Historic Preservation. That listing includes all properties included on National Register of Historic Places, California Register of Historic Resources, California Historic Landmarks, and California Points of Historical Interest. The Milano Hotel, O. W. Getchell House, and Bridge 10C-46 on Gualala Road are located in the general vicinity of the project and have been listed on the National Register of Historic Places. A review of various historical maps was also conducted. The following maps were examined:

- 1869 Government Land Office plat of T11N/R15W
- 1905 Map of Mendocino County, California by J. N. Lentell
- 1938 California Division of Forestry Map of Mendocino and Lake Counties

7912

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

Mendocino Unit  
17501 North Highway 101  
Willits, CA 95490  
707-459-7414



RECEIVED

OCT 21 2002

OCT 11 2002

PLANNING & BUILDING SERV  
FORT BRAGG CA

CDF FILE #	571-02
To be completed by CDF	

- OFFICE USE ONLY -

STATE FIRE SAFE REGULATIONS  
APPLICATION FORM

Please complete the following and submit to the California Department of Forestry and Fire Protection:

1. Name, Address and Phone Number of Property Owner:

Noren Schmitt and Deirdra Claiborne

62 Forbes Ave.

San Rafael, Ca 94901 Phone: (415) 454-2858

2. Name, Address and Phone Number of Agent or Applicant representing the Property Owner:

\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

3. Address/Location of proposed building site:

36951 Road 526

Gualala, CA 95445

APN # 144-140-07

Is it accessible, gated, locked? If so, gate combination or instructions: \_\_\_\_\_

Accessible

8912

## Owner/Agent Information

CDF File Number 571-02 Date 10/13/2002  
Owner's Last Name Schmitt Owner's First Name Noren  
Owner's Phone Number (415) 454-2858  
Owner's Mailing Address 62 Forbes Avenue San Rafael,  
CA 94901 Agent/Phone # None

## Project Information

Project Street # 36951 Project Street Name Road 526 Type of Project Residence  
Project City/Community Gualala Battalion 5 Boonville Finaled

## Conditions of Approval

With reference to the above case number, the California Department of Forestry and Fire Protection requires the following MINIMUM standards as set forth in Title 14, "Natural Resources; Div. 1.5, be adhered to in order to gain a "Final Clearance" and "Approval for occupancy" from this Department. Local agencies may have additional requirements that may be more restrictive.

**Address Standard**

California Code of Regulations, Title 14, Section 1274.01

Address must be posted at the beginning of construction and maintained thereafter. It shall be posted on BOTH sides of a mailbox or post at driveway entrance so it is visible from BOTH directions of travel. Minimum 3 inch letter height, 3/8 inch stroke. Reflectorized, contrasting with background color. Sequential numbering issued by Mendocino County will be utilized. Multiple Addresses will be on a single post.

**Driveway Standard**

California Code of Regulations, Title 14, Section 1273.10

Driveway will be minimum 10 feet wide, all weather surface. It shall be a maximum of 16 % grade, minimum 50 feet inside radius on turns, and have a minimum 15 feet vertical clearance. Driveways longer than 150 feet, but less than 800 feet require a turnout near the midpoint. Driveways longer than 800 feet require turnouts every 400 feet. Turnouts shall be a minimum 10 feet wide and 30 feet long with a 25 foot taper at each end. A 40 foot radius turnaround or 60 foot hammerhead "T" is required for driveways longer than 300 feet and must be within 50 feet of the building. Gates will be 2 feet wider than the traffic lane and located at least 30 feet in from the road.

**Road Standard**

California Code of Regulations, Title 14, Section 1273

Roads will have two-9 foot traffic lanes (18 ft. wide road surface), Minimum 40,000 lb. load capacity, and have an all weather surface. Roads will have a maximum grade of 16%, a minimum curve radius of 50 foot, and a minimum of 15 foot vertical clearance. Dead end roads shall not exceed: 800 ft for parcels 1 acre or less - 1320 ft. for parcels 1 to 4.99 acres - 2640 ft. for parcels 5 to 19.99 acres - 5280 ft. for parcels 20 acres or larger. Dead end roads are also required to have turnarounds every 1320 ft. and at terminus. Turnarounds shall be a minimum 40 ft. radius or 60 ft. hammerhead "T". Roads shall be officially recognized by Mendocino County with approved signs at each intersection and visible for 100 feet from both directions. The sign shall be minimum 3 inch letter height, 3/8 inch stroke, reflectorized and contrasting with background color. One Way Road Standards (if approved) are available from this office.

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**Bridge Standard**

California Code of Regulations, Title 14, Section 1273.07

Bridges shall have a minimum 40,000 lb. load capacity, minimum 15 foot vertical clearance. Appropriate signing including: Weight limits, Vertical Clearance, One Way Road, Single Lane conditions shall be posted. One lane bridges shall provide an unobstructed view from one end to the other with turnouts at both ends.

**Emergency Water Supply Standard**

California Code of Regulations, Title 14, Section 1275.01

Subdivisions shall meet or exceed either PUC Revised General Order #103, NFPA Standard 1231, or ISO Rural Class 8 Standard (local jurisdiction may require more as these are minimum standards). Fire Hydrant shall be 18 inches above grade, minimum 4 feet and maximum 12 feet from road or driveway. Hydrant shall be minimum 50 feet and maximum 1/2 mile from building it serves, and minimum 8 feet from flammable vegetation. Hydrant shall have 2 1/2 inch male National Hose fitting, suitable crash protection and located where Fire Apparatus using it will not block entry. Hydrant shall be identified with a 3 inch reflectorized blue dot on driveway sign, or placed within 3 feet of hydrant, or identified by blue highway marker as specified by State Fire Marshal.

**Defensible Space Standard**

California Code of Regulations, Title 14, Section 1276.01

All parcels 1 acre or larger shall provide a minimum 30 foot setback for all buildings from all property lines and/or center of a road. All parcels less than 1 acre shall provide for same practical effect by standards set forth by local jurisdiction.

**Maintaining Defensible Space**

Public Resources Code, Section 4291

Any person who owns, leases, or controls any property within the State Responsibility Area, shall at all times maintain around and adjacent to such building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants which are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

**CDF has granted the following exceptions:**

If you are removing any trees for this project a Harvest Document may need to be submitted to CDF prior to any tree removal in accordance with the California Forest Practice Act. You can consult with a Registered Professional Forester to determine if a Harvest Document is required.

Dan Matson  
Unit Chief

By: *Gianni Muschetto*

Reviewing Official Gianni Muschetto  
Fire Prevention Bureau

10912

**NORTH GUALALA WATER COMPANY, Inc.**  
**P.O. Box 1000**  
**Gualala, Ca. 95445-1000**  
**Ph #(707)884-3579**  
**Fax # 707-884-1620**

October 8, 2002

County of Mendocino  
Dept. of Planning & Building  
790 So Franklin  
Fort Bragg, Ca. 95437

RE: 36951 Old Coast Hwy

Dear Representative,

The above stated property is within the North Gualala Water Co. service area and water serve is available pursuant to the rules and regulations of the State Department of Health Services California Public Utilities Commission under whose jurisdiction we operate.

Please do not hesitate to contact the office if there are further questions.

Sincerely,



Jana M. Wareham  
Office Manager

JMW

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