

## CALIFORNIA COASTAL COMMISSION

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# Th8a

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Staff: Melissa B. Kraemer  
Staff Report: September 2, 2010  
Hearing Date: September 16, 2010  
Commission Action:

## STAFF REPORT: REGULAR CALENDAR

APPLICATION NO.: **1-10-014**

APPLICANT: **RONALD A. & GAYLA S. DIAS**

AGENT: Stephen G. Nesvold – Omsberg & Preston Engineering

PROJECT LOCATION: 3127 Mitchell Heights Drive, on the south side of Myrtle Avenue, approximately one mile east of Eureka, Humboldt County (APNs 017-152-011 and 402-301-011)

PROJECT DESCRIPTION: Merge and resubdivide two parcels totaling 33 acres, which are primarily within the CDP jurisdiction of Humboldt County, into 13 lots ranging in size from 1.25 acres to 4.51 acres. Only a small portion of the subject property (approximately 0.6-acre) is within the Commission's CDP jurisdiction.

GENERAL PLAN DESIGNATION: Rural Residential (RR)

ZONING DESIGNATION: Rural Residential Agriculture with a minimum lot size of 2.5-acres / Streams and

Riparian Corridors Protection Combining  
Zone (RA-2.5/R)

LOCAL APPROVALS RECEIVED:

Coastal Development Permit No. 03-12,  
Final Map Subdivision No. 03-02, Special  
Permit No. 03-16, and Street Name  
Assignment No. 03-01 (approved 6/15/06);

CDP Extension No. 03-12X, FMS Extension  
No. 03-02X, SP Extension No. 03-16X, and  
SNA Extension No. 03-01X (approved  
9/29/08).

OTHER APPROVALS RECEIVED:

None

OTHER APPROVALS REQUIRED:

None

SUBSTANTIVE FILE DOCUMENTS:

1) Final adopted Mitigated Negative Declaration  
dated May 12, 2006;

2) Humboldt County Local Coastal Program.

**SUMMARY OF STAFF RECOMMENDATION**

Staff recommends that the Commission approve with special conditions the coastal development permit for the proposed merger and resubdivision of two parcels totaling 33 acres, of which a small portion (approximately 0.6-acre) is within the Commission's retained jurisdiction.

The subject site is located at 3127 Mitchell Heights Drive, on the south side of Myrtle Avenue, approximately one mile east of Eureka in Humboldt County (Exhibit Nos. 1 and 2). Existing rural residential development borders the project parcel to the west, southwest, south, southeast, and northeast (Exhibit No. 3).

The subject property was the subject of a 33-acre subdivision approval granted by Humboldt County in 2006 (County CDP File No. 03-12) (see Exhibit No. 5). One of the two existing parcels involved in the subdivision approval, APN 017-161-021, is entirely within the existing CDP jurisdiction of Humboldt County. In addition, the majority of the other 24-acre parcel (approximately 23.4 acres) falls within the CDP jurisdiction of Humboldt County. Only a small portion of this second existing parcel (approximately 0.6-acre) falls within the Commission's retained jurisdiction. The parcel is a single parcel with two Assessor parcel numbers (APNs 017-152-011 and 402-301-011) and is currently undeveloped. The County approved the merger and resubdivision of the two parcels totaling 33 acres into 13 lots ranging in size from 1.25 to 4.51 acres. Only the northern end of proposed lot 10 and the northwestern "finger" of proposed lot 11 occur within the Commission's jurisdiction.

The approximately 0.6-acre area that falls within the Commission's jurisdiction consists mainly of riparian and wetland-oriented vegetation such as alders, willows, and blackberries that constitutes environmentally sensitive habitat.

Staff believes that the proposed parcel sizes of the lots to be created by the subdivision are consistent with the rural land division criteria of Section 30250(a) of the Coastal Act. Staff examined the parcel sizes of 77 parcels within a quarter-mile radius of the subject site and found both the median and mode parcel sizes of the surrounding parcels to be smaller than the proposed subdivided parcels. Additionally, staff believes that the proposed land division meets the developed parcel criteria of Section 30250(a), as over 50 percent of the surrounding parcels are developed. Moreover, staff believes that the proposed development is consistent with Coastal Act Section 30250(a) to the extent that it has adequate water and septic capability to accommodate it and it will not cause significant adverse effects, either individually or cumulatively, on coastal resources. Staff recommends Special Condition Nos. 1 and 2 to ensure that no aspects of future residential development encroach into the riparian ESHA or its necessary buffer area located on the portion of the subject property within the Commission's retained jurisdiction. Special Condition No. 1 would restrict use of the ESHA and ESHA buffer area on the subject property within the Commission's retained jurisdiction, as generally depicted on Exhibit No. 7, to open space. Special Condition No. 2 would require the applicants to record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that both the applicants and future purchasers of the property are notified of the prohibitions on development within the ESHA and buffer area established by Special Condition No. 1.

Staff believes that the proposed project, as conditioned, is consistent with all applicable Chapter 3 policies of the Coastal Act. **The Motion to adopt the Staff Recommendation of Approval with Conditions is on Page 4.**

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## **STAFF NOTES**

### **1. Standard of Review**

The subject site is bisected by the boundary between the retained coastal development permit (CDP) jurisdiction of the Commission and the CDP jurisdiction delegated to Humboldt County by the Commission through the County's certified local coastal program (LCP). The jurisdictional boundary line bisects the northern portions of proposed lots 10 and 11 near Myrtle Avenue as shown on Exhibit Nos. 3, 4, and 5.

Humboldt County has a certified LCP, and the County approved a CDP for the portion of the proposed subdivision within its jurisdiction on June 15, 2006. The County also approved an extension to its earlier approval on September 29, 2008. Neither the original permit nor the extension approved by the County were appealed to the Commission.

The portion of the project site within the Commission's jurisdiction is within an area shown on State Lands Commission maps over which the State retains a public trust interest. The standard of review that applies to the portion of the proposed subdivision within the Commission's retained jurisdiction is the Chapter 3 policies of the Coastal Act. The LCP is not the standard of review for the portion of the proposed subdivision within the Commission's retained jurisdiction, but the LCP may be used for guidance.

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## **I. MOTION, STAFF RECOMMENDATION & RESOLUTION**

The staff recommends that the Commission adopt the following resolution:

### **MOTION**

*I move that the Commission approve Coastal Development Permit No. 1-10-014 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 THE PERMIT**

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

## **II. STANDARD CONDITIONS: See Appendix A.**

## **III. SPECIAL CONDITIONS**

### **1. ESHA Buffer Open Space Area 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. 7, which includes all areas of the subject property within the Commission's retained jurisdiction, except for:

- 1). Removal of non-native vegetation.
- 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 of the ESHA buffer; removal of debris and unauthorized structures; and the installation of underground utilities.

- B. **PRIOR TO ISSUANCE BY THE EXECUTIVE DIRECTOR OF THE NOTICE OF INTENT TO ISSUE COASTAL DEVELOPMENT PERMIT NO. 1-10-014**, 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. 7 attached to this staff report.

**2. Deed Restriction**

**PRIOR TO ISSUANCE OF COASTAL DEVELOPMENT PERMIT NO. 1-10-014**, 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.

**IV. FINDINGS & DECLARATIONS**

The Commission hereby finds and declares as follows:

**A. Project Setting, Background, & Description**

The subject site is located at 3127 Mitchell Heights Drive, on the south side of Myrtle Avenue, approximately one mile east of Eureka in Humboldt County (APN 017-152-011) (Exhibit Nos. 1 and 2). The site is approximately a mile and a half inland from Humboldt Bay, and approximately three-quarters of a mile from the coastal zone boundary to the south.

Although the LCP is not the standard of review for the portion of the proposed subdivision in the Commission's retained jurisdiction and is used only for guidance, the subject property is located in a rural residential area on land locally designated "Rural Residential" (RR) and locally zoned "Rural Residential Agriculture with a 2.5-acre

minimum parcel size” (RA-2.5) under the Humboldt County LCP. Existing rural residential development borders the project parcel to the west, southwest, south, southeast, and northeast (Exhibit No. 3). Myrtle Avenue, a two-lane County road that links the cities of Eureka and Arcata, borders the subject parcel along its northern boundary. Diked former tidelands associated with the bay, which are used for livestock grazing today, lie across Myrtle Avenue from the property.

The subject property was the subject of a 33-acre subdivision approval granted by Humboldt County in 2006 (County CDP File No. 03-12) (see Exhibit No. 5). One of the two existing parcels involved in the subdivision approval, APN 017-161-021, is entirely within the existing CDP jurisdiction of Humboldt County. In addition, the majority of the other 24-acre parcel (approximately 23.4 acres) falls within the CDP jurisdiction of Humboldt County. Only a small portion of this second existing parcel (approximately 0.6-acre) falls within the Commission’s retained jurisdiction. The parcel is a single parcel with two Assessor parcel numbers (APNs 017-152-011 and 402-301-011) and is currently undeveloped. The County approved the merger and resubdivision of the two parcels totaling 33 acres into 13 lots ranging in size from 1.25 to 4.51 acres. Only the northern end of proposed lot 10 and the northwestern “finger” of proposed lot 11 occur within the Commission’s jurisdiction. The proposed division of land affecting proposed lots 10 and 11 qualifies under Section 30106 of the Coastal Act as “development” because it is a change in the density or intensity of use of land. The remainder of the subject property, including all areas proposed for future residential development, is within the CDP jurisdiction of the County. Special Condition No. 25 of the County’s CDP for the subdivision requires that the applicant secure a CDP from the Commission for the portion of the subdivision within the Commission’s retained jurisdiction. The approximately 0.6-acre area that falls within the Commission’s jurisdiction consists mainly of riparian and wetland-oriented vegetation such as alders, willows, and blackberries that constitutes environmentally sensitive habitat. The portion of the subject parcel within the County’s CDP jurisdiction consists of upland forest terrain, including some cleared forest areas, with trees, shrubs, and herbs common to redwood forests of the area (see Exhibit No. 3).

**B. Rural Land Divisions**

1. Applicable Coastal Act Policies & Standards

Coastal Act Section 30250 states, in applicable part, the following (emphasis added):

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30250(a) of the Coastal Act states in part that rural land divisions shall only be permitted where 50 percent of the usable parcels in the area have been developed, and the created parcels would be no smaller than the average size of surrounding parcels.

2. Consistency Analysis

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

Taking the second test first (i.e., the newly created parcels must be no smaller than the average size of the surrounding parcels), the Commission has normally considered “surrounding parcels” to include those within a quarter-mile radius. Consistent with the decision of a state court of appeal [Billings v. CCC (1980) 103 Cal.App.3rd 729], this radius may be modified where geographic or other features clearly distinguish some of the parcels within it from those surrounding the subject property. In this instance, a major distinguishing factor is the local zoning and land use of the surrounding area. Virtually all of the parcels within a quarter-mile radius of the subject site south of Myrtle Avenue, except for large agricultural parcels aligning Ryan Creek, are zoned Rural Residential Agriculture with a minimum parcel size of either 1 acre or 2.5 acres, whereas the parcels north of Myrtle Avenue are zoned Agriculture Exclusive with a 60-acre minimum parcel size (see Exhibit No. 6). Therefore, the Commission finds that it is appropriate to examine the average parcel size for those parcels within a quarter-mile radius of the subject site south of Myrtle Avenue only, excluding the large agricultural parcels aligning Ryan Creek, to evaluate the proposed subdivision’s consistency with the average parcel size requirements of Section 30250.

Of the 77 parcels included in the parcel size study area (Exhibit No. 6), the arithmetic mean of these parcels is 1.9 acres, the median parcel size (the value falling in the middle of the range) is 1.45 acres, and the mode (the value which occurs most frequently) is 0.9-1 acre ( $n = 5$  for each). Table 1 below summarizes the parcel size analysis, and Exhibit No. 6 shows the parcel size analysis study area.

**Table 1.** Analysis of surrounding parcel sizes for the proposed merger and resubdivision. See Exhibit No. 6 for a map of the parcel size analysis study area.

Parcel No.	Approx. Acreage	Developed (Yes or No)	Parcel No.	Approx. Acreage	Developed (Yes or No)
017-152-012	1.6	Yes	403-011-040	2.1	Yes
017-152-013	1	Yes	403-011-029	0.4	No
017-152-014	3.9	Yes	403-011-054	4.1	Yes
017-152-003	2.6	Yes	403-011-055	4.9	Yes
017-152-008	1	Yes	403-011-041	2	Yes
017-152-009	3.4	Yes	403-011-015	2.5	Yes
017-161-017	1	No	403-011-022	0.9	Yes
017-163-004	4	No	403-011-046	2.2	Yes

Parcel No.	Approx. Acreage	Developed (Yes or No)	Parcel No.	Approx. Acreage	Developed (Yes or No)
017-161-016	3.7	Yes	403-011-047	2.5	Yes
017-161-020	2.4	Yes	403-011-042	2	Yes
017-161-014	0.4	Yes	403-011-043	4.8	No
017-161-015	0.4	Yes	402-301-003	5.3	Yes
017-161-023	1.2	Yes	402-301-030	1	Yes
017-161-026	4.4	No	402-301-032	1.5	Yes
017-161-024	1.2	No	402-301-014	1.8	Yes
017-163-005	5.5	Yes	402-301-015	0.7	Yes
017-163-002	0.5	Yes	402-301-012	1.1	Yes
017-162-001	0.6	Yes	402-301-021	0.8	Yes
017-162-002	0.6	Yes	402-301-022	0.4	Yes
017-162-009	0.8	Yes	402-301-010	1.7	Yes
017-162-008	0.4	Yes	402-301-025	1.1	Yes
017-162-010	1.6	Yes	402-301-026	1.2	Yes
017-162-013	1.4	Yes	402-301-027	0.9	Yes
017-162-014	1.8	Yes	402-301-009	1	Yes
017-172-038	0.6	Yes	402-301-024	1.3	Yes
017-172-021	1.2	Yes	402-301-029	0.2	No
017-162-006	0.9	Yes	402-301-028	6.5	Yes
017-161-025	1.9	Yes	402-301-017	3.5	Yes
017-161-019	0.8	Yes	402-301-008	0.9	Yes
017-161-018	0.9	Yes	403-011-030	0.6	Yes
017-161-005	2.4	Yes	403-011-052	0.7	No
017-161-006	2.4	Yes	403-011-058	3.2	Yes
017-161-008	0.6	Yes	403-011-051	2.4	Yes
017-161-009	1.3	Yes	403-011-059	1.9	Yes
017-161-022	5.3	Yes	403-011-018	4	Yes
403-011-038	1.8	Yes	403-011-032	0.3	No
403-011-039	1.6	Yes	403-011-006	2.9	Yes
403-011-037	2.9	No	403-011-024	1.5	Yes
			403-011-031	0.3	Yes
<b>Mean Parcel Size = 1.9 acres (n = 77)</b>					
<b>Median Parcel Size = 1.45 acres</b>					
<b>Mode Parcel Size = n = 5 for both 0.9- and 1.0 acre</b>					

The court in Billings concluded that the Commission should identify the “typical” or “representative” parcel size. Where the presence of outlier parcels would skew the average, the median parcel size and mode provide a better picture of the typical parcel size in the area. This is the case for the above parcel size analysis, where, due to the presence a 6.5-acre outlier parcel, the arithmetic mean of surrounding parcels (1.9 acres) is larger than the smallest of the parcels proposed to be created (1.83 acres). However, this outlier parcel, which is an agricultural wetland parcel along Spears Creek, is a full acre larger than the next largest parcel size in the study area, and this spread is over twice as large as the next largest spread between parcel sizes in the study area (0.4-acre). Thus, the Commission finds that the average parcel size is significantly skewed, and it is appropriate to look at the median and mode parcel sizes rather than the arithmetic mean

to provide a better representation of the typical parcel size in this area. In this case both the median parcel size (1.45 acres) and the mode of surrounding parcels (five are less than 0.9-acre in size and five are less than 1 acre in size) are smaller than the proposed subdivided parcels of between 1.83 and 4.48 acres in size.

Therefore, the Commission finds that the proposed parcel sizes of the lots to be created by the subdivision are consistent with the rural land division criteria of Section 30250(a) of the Coastal Act.

The other test of the rural land division criteria of Section 30250(a) is whether 50 percent or more of the surrounding parcels are developed. In the case of the parcel analysis described above, 67 of the 77 surrounding parcels in the study area, or 87 percent, are developed. Therefore, the proposed land division meets the developed parcel criteria, as over 50 percent of the surrounding parcels are developed.

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

### **C. Locating & Planning New Development**

#### **1. Applicable Coastal Act Policies & Standards**

Coastal Act Section 30250 states, in applicable part, the following (emphasis added):

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

...

Section 30250(a) of the Coastal Act states in part 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.

#### **2. Consistency Analysis**

The proposed subdivision is located in a rural residential area on land locally designated "Rural Residential" (RR) and locally zoned "Rural Residential Agriculture with a 2.5-acre minimum parcel size" (RA-2.5). Principal uses permitted on land zoned RA under the County's certified LCP include Single Family Residential, Second Residential Unit, General Agriculture, Cottage Industry, and Minor Utilities to serve these uses. The

project site is bordered by lands planned and zoned for rural residential use to the east, west, south, northeast, and north. Lands planned and zoned for agriculture and natural resources uses lie north of a portion of the subject site, across Myrtle Avenue. The proposed subdivision, which will allow for single family residential development on each resultant lot, is consistent with the local zoning.

The County's approval utilizes the Lot Size Modification provision of the zoning regulations (Section 314-99.1.2), which allows for the minimum lot size to be modified down to a maximum of 50 percent, or 5,000 square feet, whichever is greater, provided that no lot created by the proposed subdivision shall exceed 1.8 times the applicable lot size. Due to the property's topographic constraints, including a gulch along the western boundary and slopes between 15 and 30 percent in this area, the flatter and more suitable home site areas are clustered around the center of the subject property along the proposed interior access road. The County, in its findings of approval of the proposed subdivision, determined that the proposed minimum parcel size of 1.25 acres is not less than 50% of the minimum parcel size of the zone (2.5 acres), and the largest proposed parcel size (4.5 acres) is not more than 1.8 times the applicable (2.5-acre) lot size. Thus, the County approved the lot size modification since the proposed subdivision (1) will not increase the development potential of the area, and (2) will allow for a more uniform and cohesive development pattern given the topography of the area.

The subject permit application proposes no development other than the subdivision of the subject property, only a small portion of which falls within the Commission's retained jurisdiction, as discussed above. The County approved a CDP for the subdivision in 2006 for the portions of the lots that fall within the County's jurisdiction. The County's approval authorized new residential construction on lots 1-3 only (entirely within the County's CDP jurisdiction). Any coastal development permit granted by the County for a new residence on the resulting lots of subject subdivided parcel (only portions of proposed lots 10 and 11 lie within the Commission's jurisdiction) could be appealed to the Coastal Commission if any development would occur within 100 feet of a wetland, as directed by Coastal Act Section 30603(a)(2). Therefore, the County, and potentially the Commission on appeal, will be able to review any future proposals for residential development within 100 feet of wetlands on the lots resulting from the proposed subdivision to ensure that such development does not adversely affect environmentally sensitive habitats.

The proposed resultant parcels will be provided adequate services to serve the uses facilitated by the proposed subdivision. Water service will be provided by the Humboldt Community Services District. The parcels will be served by on-site sewage disposal systems. A septic system evaluation report commissioned by the applicant located suitable sites for on-site septic systems on each proposed resultant lot. Therefore, the Commission finds that the proposed subdivision is located in an area able to accommodate the land use and future development facilitated by the proposed subdivision.

As described in the Findings below, the proposed project, as conditioned, will not have significant adverse impacts on coastal resources. Therefore, the Commission finds that the proposed development is consistent with Coastal Act Section 30250(a) to the extent that it has adequate water and septic capability to accommodate it and it will not cause significant adverse effects, either individually or cumulatively, on coastal resources.

**D. Environmentally Sensitive Habitat Areas (ESHA)**

1. Summary of Applicable Coastal Act Policies

Coastal Act Section 30107.5 defines "environmentally sensitive habitat area" as:

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

Coastal Act Section 30240 states in part that:

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

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

Section 30240(a) of the Coastal Act limits activities within environmentally sensitive habitat areas (ESHAs) to only uses that are dependent on the resources of the ESHA. In addition, ESHA must be protected against any significant disruption of habitat values. Section 30240(b) requires that development in areas adjacent to ESHA shall be sited and designed to prevent impacts which would significantly degrade the ESHA, and that development shall be compatible with the continuance of the adjacent ESHA.

2. Consistency Analysis

As discussed above, approximately 0.6-acre of the subject 33-acre property falls within the Commission's retained jurisdiction, and this area consists of riparian and wetland-oriented vegetation such as alders, willows, and blackberries, which constitutes ESHA. This vegetation lines both sides of a gulch, which lies on a separate parcel. The gulch serves as a water source for agricultural land downstream, across Myrtle Avenue. The area within the Commission's jurisdiction abuts Myrtle Avenue and is proposed to be subdivided into portions of lots 10 and 11, as shown in Exhibit No. 4. As approved by the County, access to lots 10 and 11 will be from a new street off of Mitchell Heights Drive called Rancho Vista Drive, and no access to the lots is proposed from Myrtle Avenue. It is conceivable, however, that future owners of lots 10 and 11 may choose to further subdivide the property in a way that would establish access to new (future subdivided) lots off of Myrtle Avenue. Such future development could impact environmentally sensitive habitat areas inconsistent with Coastal Act 30240.

To ensure that no aspects of future residential development encroach into the ESHA itself or its necessary buffer area, the Commission attaches Special Condition Nos. 1 and 2. **Special Condition No. 1** restricts use of the ESHA and ESHA buffer area on the subject property within the Commission's retained jurisdiction, as generally depicted on Exhibit No. 7, to open space. Special Condition No. 1 prohibits all development in the affected area except for the removal of non-native vegetation. In addition, the condition allows habitat restoration and the installation of underground utilities if approved by the Commission as an amendment to the permit. **Special Condition No. 2** requires the applicants to record a deed restriction that imposes the special conditions of the permit as covenants, conditions, and restrictions on the use of the property to ensure that both the applicants and future purchasers of the property are notified of the prohibitions on development within the ESHA and buffer area established by Special Condition No. 1.

Therefore, for the reasons discussed above, the Commission finds that the proposed development, as conditioned, is consistent with Coastal Act Section 30240 that ESHA shall be protected against any significant disruption of habitat values, and development in areas adjacent to ESHA shall be sited and designed to prevent impacts that would significantly degrade such areas.

**E. California Environmental Quality Act (CEQA)**

Humboldt County served as the lead agency for the project for CEQA purposes. The County Planning Commission adopted a final mitigated negative declaration for the project in June of 2006.

Section 13906 of the California Code of Regulation requires Commission approval of a coastal development permit application to be supported by findings showing that the application, as modified by any conditions of approval, is consistent with any applicable requirements of the CEQA. Public Resources Code 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 significantly lessen any significant effect that the activity may have on the environment.

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

conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

**V. EXHIBITS**

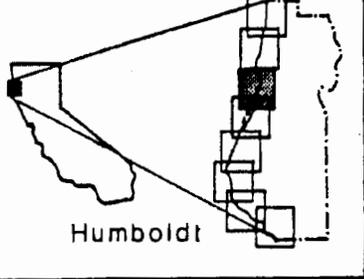
1. Regional Location Map
2. Vicinity Map
3. Aerial Photo (2009 NAIP imagery)
4. Proposed Subdivision Map (showing CDP jurisdictional boundary line)
5. Larger Subdivision Project as Approved by Humboldt County in 2006
6. Parcel Size Analysis Study Area
7. Areas Subject to Open Space Deed-Restriction Pursuant to Special Condition No. 1

## APPENDIX 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 of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

A B C D E F G H I J K L M N O



Humboldt

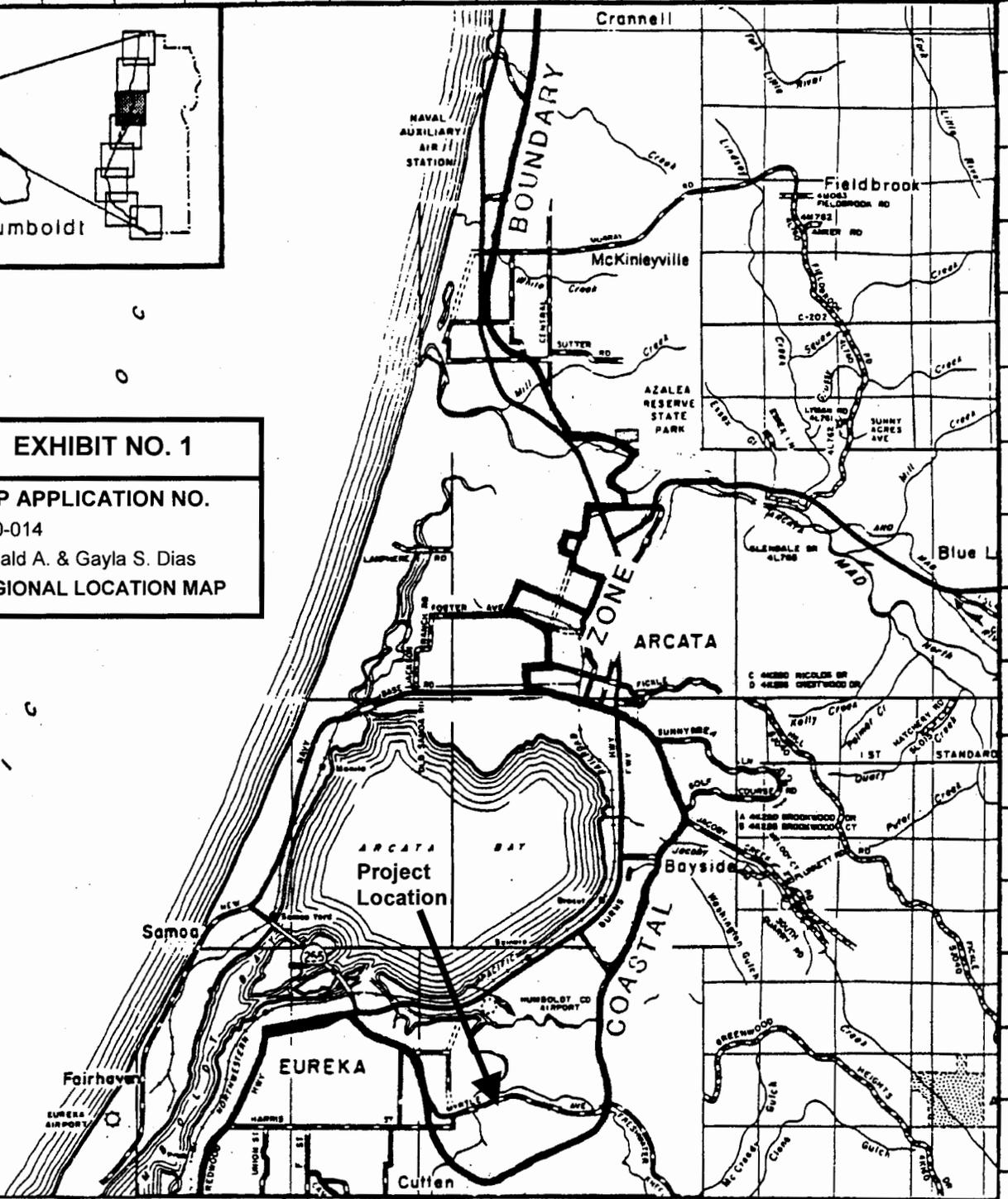
**EXHIBIT NO. 1**

**CDP APPLICATION NO.**

1-10-014

Ronald A. & Gayla S. Dias

**REGIONAL LOCATION MAP**



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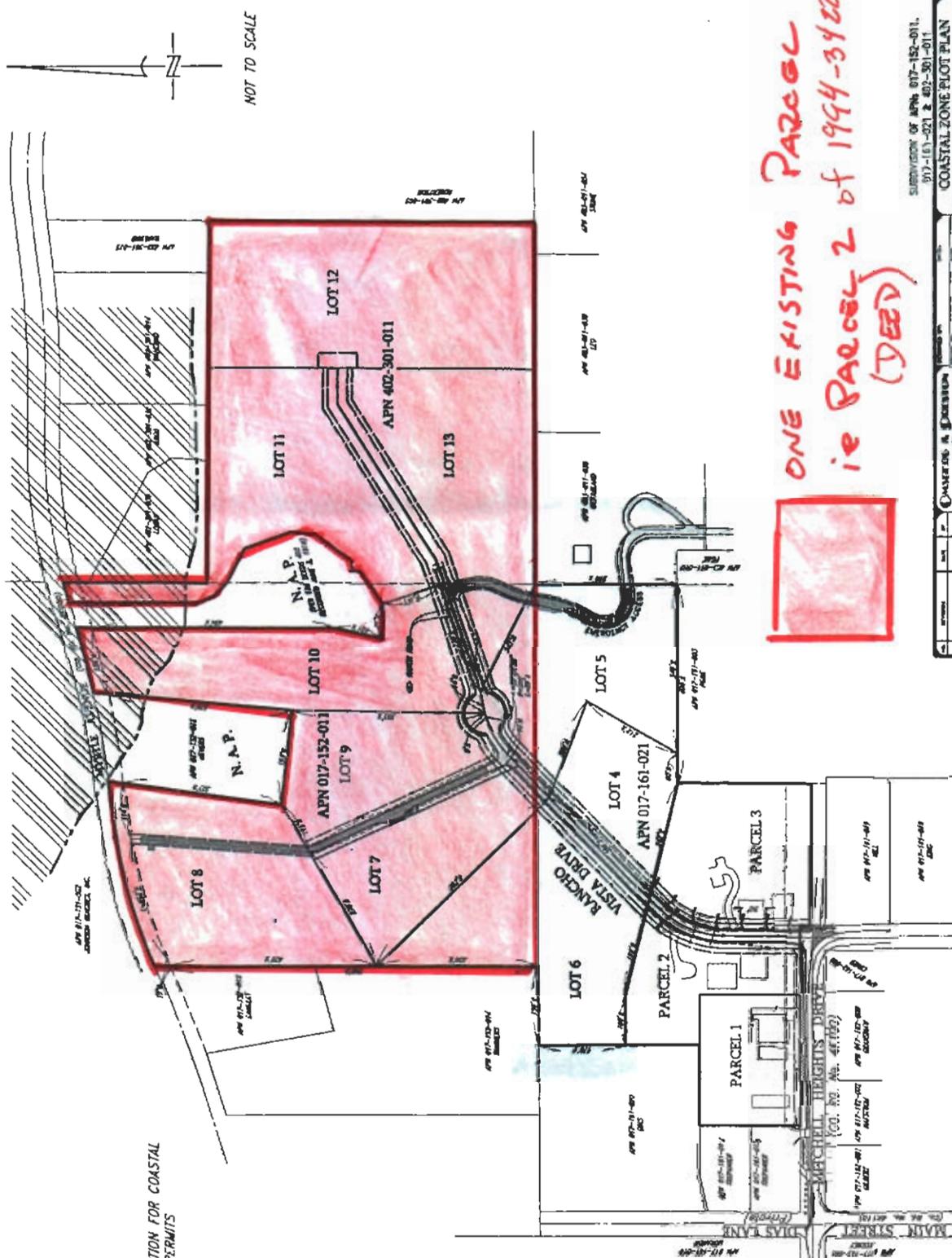
**LOCATION MAP**



County of Humboldt







NOT TO SCALE

STATE JURISDICTION FOR COASTAL DEVELOPMENT PERMITS

LEGEND



ONE EXISTING PARCEL  
ie PARCEL 2 of 1994-34822-4  
(DEED)



EXHIBIT NO. 4  
APPLICATION NO.  
1-10-014  
DIAS, RONALD A. & GAYLA S  
PROPOSED SUBDIVISION  
MAP (1 of 2)

SUBDIVISION OF APNs 017-152-011, 017-151-021 & 402-301-011  
COASTAL ZONE PLOT PLAN  
DIAS SUBDIVISION  
DIAS SUBDIVISION  
3 1/2" = 1' DISTANCE TO 152-011-011

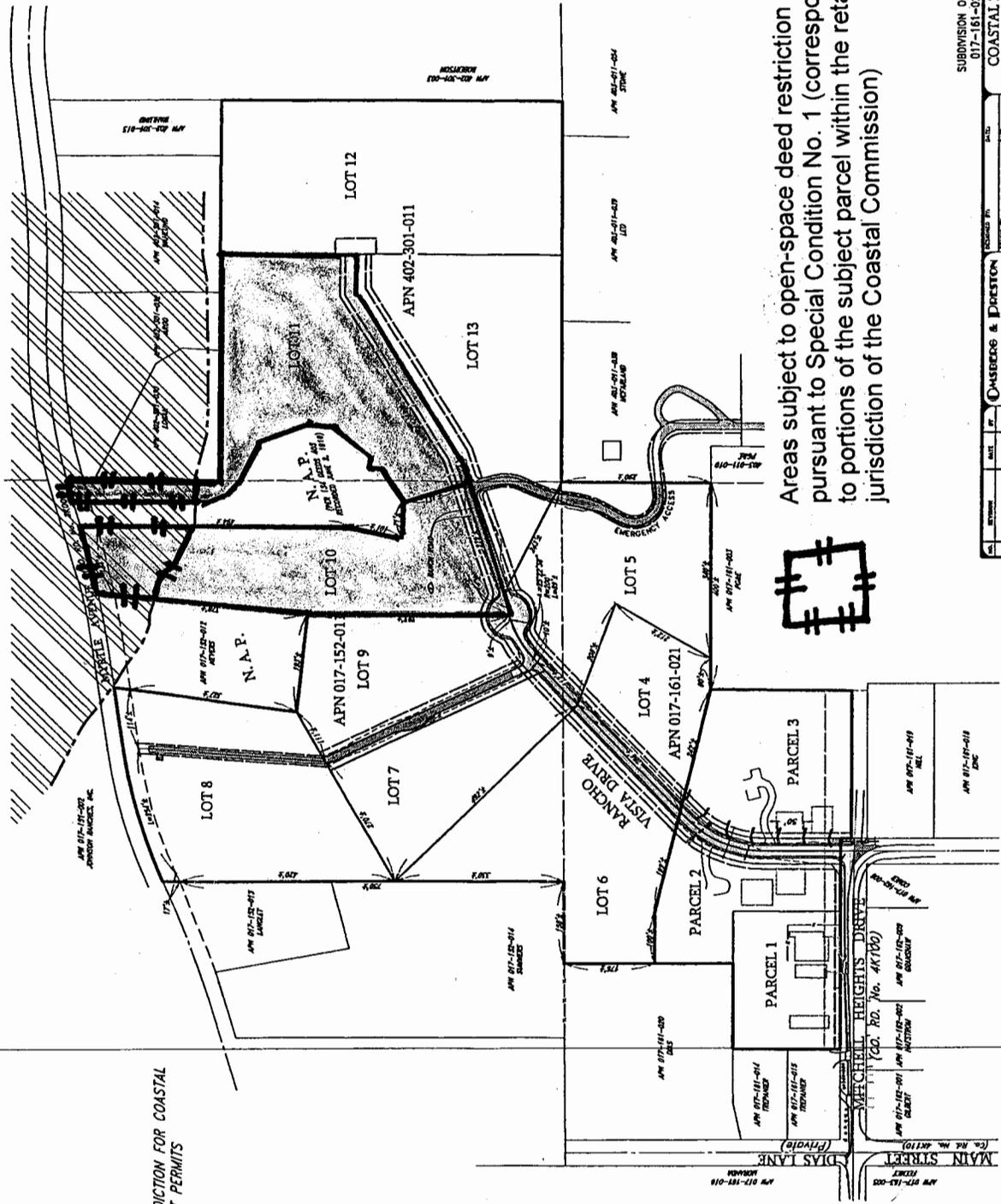
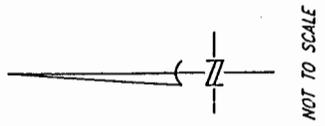
DATE	APPROVED BY	SCALE

CHANGING A DIVISION  
APPROVED BY: [Signature]  
DATE: [Date]









LEGEND



STATE JURISDICTION FOR COASTAL DEVELOPMENT PERMITS

**EXHIBIT NO. 7**

**APPLICATION NO.**  
 1-10-014 - DIAS, RONALD A. & GAYLA S.  
 AREAS SUBJECT TO OPEN SPACE DEED RESTRICTION PURSUANT TO SPECIAL CONDITION NO. 1

Areas subject to open-space deed restriction pursuant to Special Condition No. 1 (corresponds to portions of the subject parcel within the retained jurisdiction of the Coastal Commission)



SUBDIVISION OF APNs 017-152-011, 017-152-021 & 402-301-011  
**COASTAL ZONE PLOT PLAN**  
 DIAS SUBDIVISION  
 IN THE UNINCORPORATED AREA OF HUMBOLDT COUNTY  
 S 1/2 OF SECTION 30, T 34N., R 12E., N.M.

DATE	DATE	DATE	DATE
APPROVED BY	APPROVED BY	APPROVED BY	APPROVED BY
PROJECT NO.	PROJECT NO.	PROJECT NO.	PROJECT NO.
PROJECT NAME	PROJECT NAME	PROJECT NAME	PROJECT NAME
OWNER	OWNER	OWNER	OWNER
PREPARED BY	PREPARED BY	PREPARED BY	PREPARED BY
CHECKED BY	CHECKED BY	CHECKED BY	CHECKED BY
DATE	DATE	DATE	DATE



**OMBURG & PRESTON**  
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