

**CALIFORNIA COASTAL COMMISSION**

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# W15c

**DATE:** Prepared March 29, 2012 for the April 11, 2012 Meeting

**TO:** Coastal Commissioners and Interested Parties

**FROM:** Charles Lester, Executive Director  
Robert S. Merrill, North Coast District Manager  
James R. Baskin AICP, Coastal Planner

**SUBJECT:** **Appeal No. A-1-HUM-12-008** (Paul Cienfuegos, Modified Local Coastal Development/Special Permit Nos. CDP-03-31M/SP-03-74M), Appeal by Michael Fennell of decision by County of Humboldt approving modifications to a coastal development permit and special permit to Paul Cienfuegos to convert an existing residence to a 614-square-foot primary and 480-square-foot secondary residence. No new exterior construction is proposed. An exception to the off-street parking requirements and for a waiver to the total floor area for second units is required. The project is located at 1485 Peninsula Drive, Manila, Humboldt County (APN 400-151-02).

49<sup>th</sup> day: May 1, 2012; Appeal filed: March 13, 2012.

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## **I. Staff Recommendation**

Staff recommends that the Commission determine that **NO substantial issue** exists with respect to the grounds on which Appeal No. A-1-HUM-12-008 has been filed.

Staff recommends a **YES** vote on the following motion & resolution:

**Motion & Resolution.** I move that the Commission determine and resolve that Appeal No. A-1-HUM-12-008 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

Passage of this motion and resolution will result in a finding of no substantial issue and adoption of the following findings. The local action will become final and effective. The motion passes

only by an affirmative vote of the majority of the appointed Commissioners present.

## **II. Appeal Procedures**

Pursuant to Coastal Act Section 30603, this approval is appealable to the Commission because the approved development is located: (a) between the sea and the first public road paralleling the sea; and (b) within 100 feet of a wetland (see Appendix “A”). The grounds for an appeal are limited to an allegation that the approved development does not conform to the standards set forth in the certified local coastal program and, if the development is located between the first public road and the sea, the public access policies set forth in the Coastal Act.

Coastal Act Section 30625(b) requires the Commission to hear an appeal unless it determines that no substantial issue exists with respect to the grounds on which the appeal has been filed.<sup>1</sup> Commission staff has analyzed the County’s Final Local Action Notice for the development (Exhibit No. 6), the appellant’s claims (Exhibit No. 5), and the relevant requirements of the certified LCP (Appendix A) and is recommending that the Commission find that the appeal raises no substantial issue with respect to the grounds on which the appeal has been filed.

In this case, because the staff is recommending no substantial issue, the Commission will hear arguments and vote on the substantial issue question. Proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. The only persons qualified to testify before the Commission on the substantial issue question are the applicant, the appellant and persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. It takes a majority of Commissioners present to find that no substantial issue is raised.

If the Commission determines that the appeal does raise a substantial issue, the Commission would continue the *de novo* portion of the appeal hearing to a subsequent meeting.

## **FINDINGS:**

### **A. Background**

#### **Original Project Authorization**

On March 4, 2004, the Humboldt County Planning Commission approved Coastal Development Permit and Special Permit Nos. CDP-03-31 and SP-03-74 based on a plot plan showing a two-story, approximately 960-square-foot, single-family residence with an approximately 120-

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<sup>1</sup> The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: (a) the degree of factual and legal support for the local government’s decision; (b) the extent and scope of the development as approved or denied by the local government; (c) the significance of the coastal resources affected by the decision; (d) the precedential value of the local government’s decision for future interpretations of its LCP; and, (e) whether the appeal raises only local issues, or those of regional or statewide significance.

square-foot detached outbuilding. The total height of the main building was approved as 32 feet. Domestic water supply and wastewater treatment are to be provided by the Manila Community Services District. The project also included authorization of a reduced-width 50-foot wetland buffer, where 100 feet would normally be required, and the removal of one (1) eucalyptus tree greater than 12" diameter-at-breast height ("DBH") based on the findings and recommendations within an approved wetland delineation / biological assessment and development plan. In addition, the applicant was granted an exception to the County's off-street parking requirements to both reduce the number of required spaces from four to three, and allow two of the three spaces to be developed within a parking lane adjoining the travelled way of Peninsula Drive.

**B. Project and Site Description**

On February 2, 2012, the Humboldt County Planning Commission approved a CDP amendment authorizing the single family residence to single family residence with attached second dwelling unit that is the subject of this appeal. The development entails modifications to Coastal Development Permit No. CDP-03-031 and Special Permit No. SP-03-74 authorizing the conversion of an existing approximately 614 square-foot coverage, 1,094-square-foot floor area, two-story single family residence into a downstairs primary residence and an upper floor second dwelling unit (see Exhibit No. 4). The downstairs primary unit would be 614 square feet in floor area, and the upstairs secondary unit would 480 square feet in floor area. All of the modifications would be internal to the existing structure, requiring no additional grading or vegetation removal on the parcel. A parking exception (HCC Section 313-109.1.3.12) and a waiver of the total floor area requirement for second units (HCC Section 313-87.1.4.4) was also authorized and reflected in the CDP as approved.

The development site is located at 1485 Peninsula Drive within the unincorporated community of Manila in west-central Humboldt County (see Exhibit Nos. 1-3). The project parcel is approximately 3.5 acres in size with the majority of the parcel being comprised of scrub-shrub palustrine wetlands and dune hollows which are recognized in the LCP as Environmentally Sensitive Habitat Areas (ESHA). The original CDP authorized an ESHA setback reduction for the residence to approximately 50 feet from the upland edge of the wetland where typically 100 feet would be required. After excluding the sensitive habitat areas and the approximately 50 foot buffer, a triangular area of approximately 3,000 square feet was identified as available for development. This setback and development area was formulated based on setting the building area as far as possible from the wetlands while maintaining the prescribed minimum 20-foot width front yard setback from Peninsula Drive.

The approved amendment authorizes only interior work and does not entail any expansion of the building or encroachment into the wetland area or buffer. The parcel has a land use plan designation of "Residential Estates (RE)" and is zoned "Single Family Residential, 20,000 Square Foot Minimum Parcel Size, with Manufactured Home and Beach and Dunes Combining Zones," ("RS-20/M,B"). The parcel lies within the Urban Limit Line with water and sewer services being provided by the Manila Community Services District.

In authorizing the permit modifications, the County attached 13 special conditions to the approval. Many of these conditions were carried over from the original permit approvals and

address ongoing performance standards for the existing residential structure and onsite improvements. New conditions unique to the permit modifications relate primarily to requirements and development standards for the construction of a roadside parking lane for three of the required parking spaces supporting the principal and secondary dwelling units. These conditions required the applicant to:

- Construct one (1) parking space onsite, outside of the front yard setback and an additional three (3) spaces shall be accommodated within a parking lane along the parcel's frontage.
- Provide a pedestrian walkway along the 5 foot pedestrian easement with an asphalt-concrete dike to separate the walkway from the parking lane.
- Complete all parking lane development work as specified by, and to the satisfaction of, the Department of Public Works prior to issuance of the building permit.
- Clearly identify the prior-to-issuance construction of the parking lane on the plot plan for the building permit.
- Retain a cultural resources monitor, agreeable to the applicant and the Wiyot Tribe, to be present for any grading or excavation activities for work required as part of the parking lane construction, with provisions for a summary report to be submitted the Planning Division prior to the building permit being issued.
- If it is determined that the Humboldt Transit Authority (HTA) bus stop needs to be relocated as a result of parking lane construction, the applicant shall coordinate with HTA for the relocation and be responsible for all costs involved with the relocation.

One appeal was filed with the Commission's North Coast District Office on March 13, 2012 from Michael Fennell (Exhibit No. 5). The appeal was filed in a timely manner, within 10 working days of receipt by the Commission of the County's Notice of Final Action.

**C. Analysis of Appellant's Appeal Contentions**

Appellant Michael Fennell raises two grounds for appeal, claiming: (1) the County's issuance of the exceptions to the maximum floor area percentage of secondary dwelling unit development and off-street parking standards are inconsistent with the standards of the certified LCP with respect to the issuance of Special Permit authorizations; and (2) the applicant should have been required to develop all of the requisite number of parking spaces within the bounds of the project parcel (see Exhibit No. 5).

As set forth in Section 30603 of the Coastal Act, after certification of its local coastal program, an appeal of a local government-issued coastal development permit is limited to allegations made on the grounds that the approved development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. As discussed below, the Commission finds that the appeal raises no substantial issue of conformance of the approved development with respect to the policies of the certified LCP or the public access policies of the Coastal Act.

**Contention 1: The granted exceptions to the development standards for the location of required parking spaces and the maximum floor area of Secondary Dwelling**

**Units are inconsistent with the standards of the certified LCP with respect to the issuance of Special Permit authorizations.**

The approved development does not meet base zoning district standards with regard to (a) maximum floor area of the second unit as a percentage of the floor area of the primary unit, and (b) number of off-street parking spaces. The zoning code provides for exceptions to these standards if certain criteria are met and the County issues a Special Permit. Coincident with the inclusion of the reduced standards as conditions of approval of the CDP, the County found that the criteria for the exceptions were met by the project and granted the Special Permit.

The first contention asserts that the approved exceptions to development standards are inconsistent with the standards of the certified LCP with respect to the issuance of Special Permit authorizations.

The LCP's *General Provisions and Administration and Regulations that Apply in the Coastal Zone* chapters of its zoning regulations provide for several instances in which exceptions to prescriptive development standards may be authorized with "special permits" processed in tandem with the coastal development permit based upon the meeting of supplemental criteria and/or findings. These provisions include the following:

- A second residential unit exceeding 60% of the floor area of the primary residence may be permitted with a Coastal Development Permit in RS zones if certain specified development criteria can be met. These criteria require that: (a) adequate water supply and sewage disposal exists; (b) public access to and along the coast or public trails is not obstructed ; (c) public views from any public road, trail, or public recreation area to, and along the coast are not obstructed; (d) the development is either located no closer than 100 feet from the outer edge of an environmentally sensitive habitat area, or at the average setback of existing development immediately adjacent to the project site as determined by the "string line method;" and (e) development of the second unit does not occur on prime agricultural soils or, where there are no prime soils, the unit be sited so as to minimize impacts to ongoing agriculturally related activities. [Humboldt County Zoning Code (HCZC) Section 313-87.1.2]
- Exceptions to the number and/or location of required parking spaces may be allowed subject to securing a Special Permit. Such exceptions may be granted based upon the following factors: geographic location of site, site-specific topographic constraints, historically designated structures, proximity to urban built-up areas, and levels of anticipated use. [HCZC Section 313-109.1.3.12]

**Exception to Maximum Floor Area Standard for Secondary Dwelling Units**

- a. Zoning Code Section 313-87.1.4.4 directs that the total floor area of an attached second unit be no more than 1,000 square feet, or sixty (60) percent of the floor area of the principal dwelling, whichever is less. The conversion of the existing 1,094-square-foot floor area, two-story single family residence into a 614-square-foot downstairs primary residence and a 480-square-foot upper floor second dwelling unit would result in a

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second unit being 78% of the size of the primary dwelling. Therefore, the County applied the exception to the provisions of HCZC Section 313-87.1.2 noted above.

In considering the granting of the exception to the 60% maximum floor area percentage, the County stated the following:

The second unit requires a waiver to the floor area standard because it will be 78% of the principal dwelling. The code allows for a deviation from this standard where it can be determined that the second unit remains subordinate to the primary and is compatible with the development is compatible with the neighborhood.

In terms of compatibility, the structure already exists in the neighborhood. It is similar to other surrounding residences in terms of bulk and height. The house does have different building materials than the majority of neighboring homes. Many neighboring homes have redwood shingle siding and comp roofing where the subject residence has painted plywood for siding and a painted tin roof. [The County] believes the project can still be found compatible as no changes are proposed to the exterior of the structure and the neighborhood composition will not be altered by approval of the project.

The exterior look of the building will not change. There is only one door which faces the front yard. The residence will continue to look like a single family residence. Although resident of the second unit will enter from the front door, the actual unit will be up a flight of stairs. Staff finds the entrance subordinate.

Moreover, with specific regard to the findings referenced in HCZC Section 313-87.1.2 to allow for authorizing the deviation from the floor-area standard, the County noted that:

The parcel has access to community water and sewer through the Manila Community Services District. The parcel has adequate water supply and sewage disposal to support the proposed development...

The proposed development will not obstruct public access to and along the coast or public trails. There are no identified trails on the subject parcel...

The Second Unit is not located within an area providing Coastal views. (see discussion in General Plan section)...

There are sensitive habitats on the subject parcel. The original Coastal Development Permit allowed for a setback reduction to the adjacent wetland. At this time there are no new structures proposed nor any additional encroachments towards the wetlands. The conversion to a primary and secondary residence meets the "string-line method", as it does not put any development closer to the wetland than already exists...

The property is not an agricultural land. There are no prime soils on the property.

Thus the County's findings acknowledge that the structure already exists in the neighborhood and address how each of the five criteria of Zoning Code (HCZC) Section 313-87.1.2 that must be met to allow a second unit with a maximum floor area greater than 60% of the floor area of the primary unit are in fact met.

Location of Required Parking Spaces

Typically, pursuant to HCZC Section 313-109.1.4.1.1.1, a total of four off-street parking spaces, to be developed on the project parcel outside of the front yard setback, would be required for this type of development. However, Section 313-109.1.3.12 includes a provision for allowing exceptions to the number or location of required parking spaces. Exceptions may be granted by the Hearing Officer based upon the criteria noted above.

With respect to allowing three of the four required parking spaces to be developed in a parking lane rather than within the bounds of the parcel, the County noted in their analysis of the permit modification:

The applicant proposes a single [off-street] space on site with three spaces in the parking lane which will be developed. This requires an off-street parking exception. The parking lane will be long enough to accommodate three (3) cars. The requested parking exception does not reduce the total number of required spaces, but does alter the typical placement of the spaces.

Staff supports the exception because the overall number of required spaces will not be reduced and because the parcel is so constrained with sensitive habitat areas. Providing additional [off-street] on site parking would require additional encroachment into the wetland buffer. The surrounding parcels are large and are not expected to require large numbers of parking spaces. Additionally, the parcel is served by public transit and the floor area of the primary and second dwelling units are such that the household sizes will likely be limited.

Zoning Code (HCZC) Section 313-109.1.3.12 allows an exception to the minimum off-street parking spaces standard of the zoning code if any one of five criteria are met. The County's findings demonstrate that the approved development meets at least two of the five alternative criteria. First, the County demonstrated how the approved development meets the topographic constraint criteria in that the close proximity to the building of a topographical depression containing a wetland and the requirements of the LCP to maintain a buffer between the wetland ESHA and development make it very difficult to site off-street parking spaces on the property. Second, the County demonstrated how the approved development meets the level of anticipated use criteria in that the relatively small size of the structure that will contain the two residences will likely limit the number of people that can live in the two residences, resulting in a relatively low level of overall anticipated use.

In addition HCZC Section 312-41 requires that certain supplemental findings must be made for granting an exception must to approve the exceptions. These findings entail:

- There are special circumstances or conditions associated with the proposed development, use, or project site that support granting the exception; and
- The granting of the exception will not be detrimental to the public welfare; and

- The applicant has proposed alternative standards which conform with the established standard(s) as closely as feasible; and
- In the Coastal Zone, the granting of the exception will not have a significant adverse effect on environmentally sensitive habitats.

Given the factual evidence set forth as the basis by which the second unit floor area percentage and location of required parking could be granted pursuant to HCZC Sections 313-87.1.8 and 313-109.3.12, respectively, and taking into account the discussions between the County staff and Planning Commissioners at the February 2, 2012 hearing<sup>2</sup>, the Commission finds that, in considering the totality of the project record, the requisite findings of HCZC Section 312-41 were made for the following reasons:

- The majority of the project parcel is comprised of wetland and forested dune ESHA. Development of additional parking within the bounds of the parcel would necessitate the clearing and grading in environmentally sensitive habitat area or its buffers.
- As conditioned to include construction of a five-foot-wide walkway between the parking lane and the parcel, the development would mitigate the potential impacts to pedestrian safety that might be caused by the additional streetside parking.
- The overall prescribed number of parking spaces would be required to be provided, albeit in a combination of on-parcel and immediately adjoining roadside locations.
- The development of the parking lane, including its associated grading and paving, would not result in greater intrusion toward environmentally sensitive areas in the project vicinity.

Conclusion Regarding Contention No. 1:

The significance of the coastal resources affected by the decision to except the development from the 60% maximum floor area percentage standard is limited in that the already existing structural development: (a) is located within an urbanizing area with adequate domestic water supply and wastewater treatment community services available; (b) is not situated where public access or a trail would be obstructed or public views from any public road, trail, or public recreation area to, and along the coast would not be significantly obstructed; and (c) is limited to the conversion of a portion of an existing single-family residence for which no expansion of the structure would be required or further encroachment into adjacent environmentally sensitive areas or their buffers would result.

In addition, allowing three of the four required parking spaces to be developed off of the property in a streetside parking lane similarly does not affect coastal resources of significance, in that the project: (a) would avoid adjacent environmentally sensitive palustrine wetlands, and forested and open dune fields; (b) is located within an urbanizing area with available community services including nearby regional public transit bus service; and (c) entails the conversion of an

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<sup>2</sup> See [http://humboldt.granicus.com/MediaPlayer.php?view\\_id=4&clip\\_id=403](http://humboldt.granicus.com/MediaPlayer.php?view_id=4&clip_id=403) 2:06:15 through 2:38:05



existing residence where the anticipated level of use of the resulting two small dwelling units would not likely be significantly more intense than one large family occupying the existing residence. Furthermore, as detailed within the project record and discussed above, the County has offered factual and legal support in its findings that substantiate how the necessary criteria to allow for exceptions to the 60% maximum floor area percentage standard and the off-street parking standard are met by the approved development. Therefore, the Commission finds that the first contention of the appeal, regarding the granting of exceptions to the maximum floor area percentage of the secondary dwelling unit and the granting of the off-street parking exception raises no substantial issue regarding consistency of the approved development with the policies and standards of the certified LCP including the findings for the issuance of special permit authorizations.

**Contention 2: The applicant should have been required to develop the requisite number of parking spaces within the bounds of the project parcel.**

The second contention implies that the approved exception to allow for the construction of a streetside parking lane in which three of the four required parking spaces would be located is inconsistent with the zoning code's prescriptive standards for providing off-street vehicular parking facilities to support new development. Specifically cited in the appeal was HCZC Sections 313-109.1.1.3 and 313-109.1.12.<sup>3</sup> These sections comprise prefacing "purpose" statements that generally describe the intent and scope of the code section. For example, Section 313-109.1.3 indicates that the purpose of the parking requirements is to enhance public safety by providing for off-street motor vehicle parking to permit safe passage for vehicle passengers and pedestrians to and from their destinations. However, Section 313-109-1.2 provides a more specific development standard stating that the developer, owner, or operator of any specific use has the responsibility to "provide adequate off-street parking, even if the amount of such parking is in excess of the minimum requirements set forth in this section." "Adequate Off-Street Parking" is defined as "an amount of parking sufficient to meet the level of anticipated parking demand generated by the use for which the parking is required." [Emphasis added.]

The Appellant lists several specific concerns about the inadequacy of the parking provided with the approved project. In particular, the Appellant notes that Peninsula Drive has no sidewalks. As a result, pedestrians are forced to walk in the road and take to the roadsides when vehicles pass by. As more cars are parked along the road rather than within the bounds of the parcels, hazardous conditions for pedestrians become more acute. This is particularly problematic in proximity to the project parcel as lands on the other side of the road fall off at a steep grade down into wetlands. The appellant therefore contends that the applicant would not be providing adequate off-street parking for the project as approved because even currently, the cars of the residents of the house are parked along the road and force passing pedestrians "to walk in the road and squeeze to the side when vehicles come by." The appellant believes that adding more cars would make the situation more hazardous for pedestrians.

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<sup>3</sup> The filed appeal form actually states "313-109.1.12." However, as no such code section exists, and based on the wording of the subsequent quotation from the cited section, Commission staff believe the Appellant meant to state "313-109.1.1.2" instead of "313-109.1.12."

Although titled as “*Off-Street Parking*,” HCZC Section 313-109.1 envisions several circumstances<sup>4</sup> in which development of some or all of the required parking within streetside “parking lanes” may be allowed by Special Permit authorization of an exception to the location of the required number and/or location of spaces pursuant to HCZC Section 313-109.1.3.12. As discussed under the analysis of Contention 1, above, the County has presented factual evidence to support the approval of a CDP with conditions that authorizes locating three of the four required parking spaces in a streetside parking lane.

The development is required to provide adequate parking in general insofar as the requisite number of parking spaces would be developed, though not all off-street as would normally be required. Despite the development of the parking along the parcel’s roadside margins, the parking as approved will be less intrusive into the street than the current situation because no separate, discrete parking lane exists and a new parking lane that will be constructed will provide three of the four required spaces in a delineated location fully out of the traveled way of Peninsula Drive. The County has conditioned the permit modifications to ensure development of the parking lane prior to issuance of the building permit for the conversion of the building into primary and secondary residential units. Further, the County has required that a separate walkway be installed between the parking lane and the project parcel, to allow for safe passage of pedestrians well off of the roadway even when the on-street spaces are occupied

Conclusion Regarding Contention No. 2:

The County has offered factual and legal support for locating a portion of the requisite number of parking spaces within a streetside parking lane rather than within the bounds of the project parcel. In addition, as discussed above, the extent and scope of the development approved by the coastal development permit modification is relatively small. Furthermore, as also discussed above, the significance of the coastal resources affected by the project as approved is limited. Therefore, the Commission finds that approving the development without requiring all of the parking to be developed off-street raises no substantial issue regarding consistency of the approved development with the parking standards of the certified LCP including, but not limited to Humboldt County Zoning Code Sections 313-109.1.1 and 313-109.1.1.2.

For the reasons stated above, the Commission finds that Appeal Number A-1-HUM-12-008 does not raise a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency of the approved development with the certified Local Coastal Program and/or the public access policies of the Coastal Act.

**APPENDICES:**

APPENDIX “A:” Coastal Act and LCP Policies and Standards Cited in the Appeal and Substantial Issue Analysis

**EXHIBITS:**

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<sup>4</sup> See HCZC Section 313-109.1, subsections 3.4.1, 3.4.2, 4.1.1.3, 4.1.2.3, 1.2.4.1, 1.2.4.2, 1.3.1.1.3, and 1.3.1.2.3.

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1. Location Map
2. Vicinity Map
3. Site Aerial
4. Site Plan
5. Appeal Filed by Michael Fennell, February 13, 2012
6. *Notice of Final Local Action*, Modified Coastal Development and Special Permit Nos. CDP-03-031M and SP-03-78M

APPENDIX "A"

COASTAL ACT AND LOCAL COASTAL PROGRAM  
POLICIES AND STANDARDS CITED IN THE APPEAL AND SUBSTANTIAL ISSUE  
ANALYSIS

1. California Coastal Act

A. Public Access

**Section 30211**      **Development not to interfere with access**

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

**Section 30212**      **New development projects**

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

2. Humboldt Bay Area Plan

A. Public Access

3.50 Access...

C. ACCESS INVENTORY...

9. PENINSULA DRIVE – A trail extends northwest from Peninsula Drive into the dunes area over private property. Although this access had originally been deleted from the Humboldt Bay Area Plan, there has been renewed interest in seeing it redesignated a beach access.

RECOMMENDATION: Develop a pedestrian/equestrian trail with additional signing and interpretive improvements.

10. SAMOA DRIVE/PENINSULA DRIVE JUNCTION1 – These accessways have been deleted due to potential conflicts with sensitive dune habitat areas, and the presence of adequate access nearby.

B. Land Use

Chapter 4      STANDARDS FOR PLAN DESIGNATIONS...

A.      URBAN LAND USE DESIGNATIONS...

RE: RESIDENTIAL ESTATES

PURPOSE: to allow residential development of areas within Urban Limits where community objectives, including resource protection, limit density of potential development, but where urban services are required.

PRINCIPAL USE: detached single-family residences.

CONDITIONAL USES: [private institutions, private recreation facilities, and neighborhood commercial

1.      New neighborhood commercial development, which is conditionally permitted in urban residential land use designations, shall be restricted to locating along minor collectors or a higher order road classification (e.g. major collectors or arterials).
2.      Neighborhood commercial uses conditionally permitted in urban residential land use designations may be prohibited pursuant to rezoning procedures.]

GROSS DENSITY: 0-2 units per acre.

**3.      Humboldt County Code – Zoning Regulations Chapter 2: Administration, Procedures, Amendments and Enforcement**

A.      County-wide Development Standards for Secondary Dwelling Units

312-3    REQUIRED PERMITS AND VARIANCES

3.1      REQUIRED PERMITS

In addition to any other permits or approvals required by the County, including grading and building permits, any permit required by this Chapter shall be secured prior to the development of any lot in the unincorporated territory of Humboldt County. The following permits shall be required:

3.1.1    Special Permit (SP). A Special Permit must be secured, pursuant to all requirements of this Code, prior to the initiation, modification or expansion of a use or development that is permitted with a Special Permit...

312-25 SUPPLEMENTAL COUNTY-WIDE RESIDENTIAL USE TYPE FINDINGS

25.1      SECONDARY DWELLING UNIT

25.1.1    The secondary dwelling unit is subordinate to the principal residence and is compatible with the character of the neighborhood,...

**B. Exceptions to Prescriptive Development Standards**

**312-41 SUPPLEMENTAL COASTAL FINDINGS FOR GRANTING AN EXCEPTION**

**41.1 FINDINGS FOR EXCEPTIONS**

The Hearing Officer may grant exceptions, as authorized by this Chapter, if all of the following findings are made:

41.1.1 There are special circumstances or conditions associated with the proposed development, use, or project site that support granting the exception; and

41.1.2 The granting of the exception will not be detrimental to the public welfare; and

41.1.3 The applicant has proposed alternative standards which conform with the established standard(s) as closely as feasible; and

41.1.4 In the Coastal Zone, the granting of the exception will not have a significant adverse effect on environmentally sensitive habitats.

**4. Humboldt County Code – Zoning Regulations Chapter 3: Regulations that Apply in the Coastal Zone**

**A. Permissible Uses**

**313-6 RESIDENTIAL ZONE DISTRICTS**

**313-6.1 RS: RESIDENTIAL SINGLE FAMILY**

Principal Permitted Use	Residential Single Family
Conditionally Permitted Use	Use Type/Use  <u>Residential</u> Manufactured Home Park; subject to the Manufactured Home Park Regulations Guest House  <u>Civic</u> Essential Services Community Assembly Public Recreation and Open Space

	<p>Oil and Gas Pipelines; subject to the Oil and Gas Pipelines Regulations</p> <p>Major Electrical Distribution Lines; subject to the Electrical Distribution Lines Regulations</p> <p>Minor Generation and Distribution Facilities</p> <p><u>Commercial</u></p> <p>Bed and Breakfast Establishments; subject to the Bed and Breakfast Establishment Regulations</p> <p>Neighborhood Commercial</p> <p>Private Institution</p> <p>Private Recreation</p> <p><u>Commercial Timber</u></p> <p>Timber Production</p> <p><u>Industrial*</u></p> <p>Cottage Industry; subject to the Cottage Industry Regulations</p> <p>Extractive Use Type Surface Mining - 2; subject to the Surface Mining Regulations</p> <p>Natural Resource Use Type Fish and Wildlife Management</p> <p>Watershed Management</p> <p>Wetland Restoration</p> <p>Coastal Access Facilities</p> <p><u>Use Types Not Listed in This Table**</u></p> <p>Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the RS zone.</p>
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**B. Development Standards and Regulations for Coastal Zone Secondary Dwelling Units**

**313-87.1 SECOND RESIDENTIAL UNIT...**

87.1.2 Second Residential Units Permitted with Coastal Development Permit or Special Permit. A second residential unit use type, as defined in this Code, may be permitted with a Coastal Development Permit in RS and RA zones if all the criteria of subsection 313-87.1.4, Development Regulations and Standards, are met. A second residential unit that cannot meet all the criteria in subsection 87.1.4 may be permitted with a coastal development permit and Special Permit pursuant to subsections 313-87.1.7 through 313-87.1.10 so long as the second unit meets the criteria of section 87.1.4.8 – 87.1.4.12...

87.1.4 Development Regulations and Standards. The following development regulations and standards shall apply to all second residential units:

87.1.4.1 Utilities. Utilities may be shared in common with or separate from the main dwelling unit, whichever method may afford compliance with the applicable requirements of the County Code, including the currently effective versions of the Uniform Building Codes.

87.1.4.2 Building Site. The building site shall be shared in common with the main dwelling unit. The residences share a common building site when they are located no further than thirty (30) feet from each other and when they share a common driveway.

87.1.4.3 Minimum Lot Size. A second residential unit may be constructed or placed on a lot substandard to the zone.

87.1.4.4 Total Floor Area. The total floor area of any detached second dwelling unit, or in the case of an attached unit, the increase in floor area, shall be no more than 1,000 square feet, or sixty (60) percent of the principal dwelling, whichever is less.

87.1.4.5 Development Standards. The second dwelling unit shall conform to the development standards for the main dwelling of the zoning district in which it is located, including but not limited to, standards for front, rear and side yard setbacks, height and lot coverage.

87.1.4.6 Design Standards. The second dwelling unit shall be constructed in such a manner as to be compatible with the existing neighborhood in terms of form, height, material and landscaping. The height of the secondary dwelling unit shall not exceed the height of the principal unit by more than eight (8) feet.

87.1.4.7 Access. The subject lot shall have a minimum of fifty (50) feet of frontage on a road improved to a road category 4 or better, as specified in the Appendix to Title III, Division 2, of the Humboldt County Code.

87.1.4.8 Services. The applicant shall provide evidence of adequate services to serve the second residential unit including water supply and sewage disposal.

87.1.4.9 Public Access. Second residential units shall not obstruct public access to and along the coast or public trails.

87.1.4.10 Visual Resources. Second residential units shall not significantly obstruct public views from any public road, trail, or public recreation area to, and along the coast.

87.1.4.11 Environmentally Sensitive Habitat Areas and Wetlands. All development associated with second residential units shall be located no closer than 100 feet from the outer edge of an environmentally sensitive habitat area or the average setback of existing development immediately adjacent as determined by the "string line method".



87.1.4.12 Agricultural Lands. All development associated with second residential units shall be prohibited on prime agricultural soils and where there are no prime soils, be sited so as to minimize impacts to ongoing agriculturally related activities...

87.1.7 Waiver of Density Standards. Applicable density standards shall be waived for secondary dwelling units in RS zones and RA zones which are planned and zoned for minimum parcel sizes of five acres or less.

87.1.8 Waiver of Maximum Floor Area. The maximum floor area requirement may be modified or waived with a Special Permit where sufficient information is submitted with the application, including but not limited to, elevations and views of existing, proposed, and adjacent buildings, to enable the Hearing Officer to determine, after providing for public comment, that the secondary dwelling unit would be subordinate to the principal unit and that the development would be compatible with the existing neighborhood.

87.1.9 Waiver of Building Site Standards. With a Special Permit, the requirement that the building site be shared in common may be modified or waived where sufficient information is submitted with the application, including but not limited to, elevations and views of existing, proposed and adjacent buildings, to enable the Hearing Officer to determine, after providing for public comment, that the secondary dwelling unit would be subordinate to the principal unit and that the development would be compatible with the existing neighborhood.

87.1.10 Waiver of Road Category 4 Access Standards. The requirement that the subject lot be served by a road that at a minimum meets the Road Category 4 standard, may be modified or waived with a Special Permit where the subject property is served by a road design equivalent to a Road Category 4 or better that is acceptable to the California Department of Forestry and Fire Protection and the Humboldt County Department of Public Works.

E. Off-Street Parking Requirements

313-109.1 OFF-STREET PARKING...

1. Off-Street Parking

a. Responsibility

Section 109.1.1.2

It shall be the responsibility of the developer, owner or operator of any specific use to provide "adequate off-street parking," even if the amount of such parking is in excess of the minimum requirements set forth in this section. "Adequate Off-Street Parking" means an amount of parking sufficient to meet the level of anticipated parking demand generated by the use for which the parking is required.

b. Purpose

109.1.3 The purpose of these requirements is to enhance public safety by minimizing traffic congestion, by providing for off-street motor vehicle parking, and thereby permitting safe passage for vehicle passengers and pedestrians to and from their destinations. More off-street parking will allow on-street parking to be limited or prohibited to permit greater utilization of streets for moving traffic...

c. Development Standards

109.1.3.4 Requirements for Lots Fronting Unimproved Roads. Wherever the use for which off-street parking is required is served by a roadway not improved to a width of forty feet (40') with asphalt or gravel, the following provisions shall be applicable:

109.1.3.4.1 Additional improved off-street parking must be provided consistent with the standards of Section 313-109.1.4, or a parking lane may be constructed along the frontage of the lot in lieu of such additional parking requirements.

109.1.3.4.2 If the lot frontage exceeds 120 feet the parking lane shall not be required to accommodate more than three (3) vehicles. Construction standards for the parking lane shall be as specified by the Department of Public Works in accordance with the Appendix to Title III, Division 2 of this Code, establishing subdivision design and improvement standards...

109.1.3.12 Exceptions to the requirements for the number of off-street parking spaces may be allowed subject to securing a Special Permit. Exceptions may be granted by the Hearing Officer based upon the following factors: geographic location of site, site-specific topographic constraints, historically designated structures, proximity to urban built-up areas, and levels of anticipated use.

109.1.4 Parking Spaces Required. The number of off-street parking spaces required shall not be less than the following:

109.1.4.1 Residential Uses.

109.1.4.1.1 Single Detached and Duplex Building Types.

109.1.4.1.1.1 One (1) parking space for each dwelling unit containing not more than one (1) bedroom; two (2) parking spaces for each dwelling unit containing more than one (1) bedroom. The required parking shall be sited outside the front yard setback.

109.1.4.1.1.2 Except as provided in subsection 109.1.4.1.1.3, when a single family residence or duplex is proposed on a parcel that is served by a roadway not improved to a width of forty feet (40') with asphalt or gravel, parking spaces in addition to those required by subsection 109.1.4.1.1.1, shall be provided as follows:

**A-1-HUM-12-008 (CIENFUEGOS)**

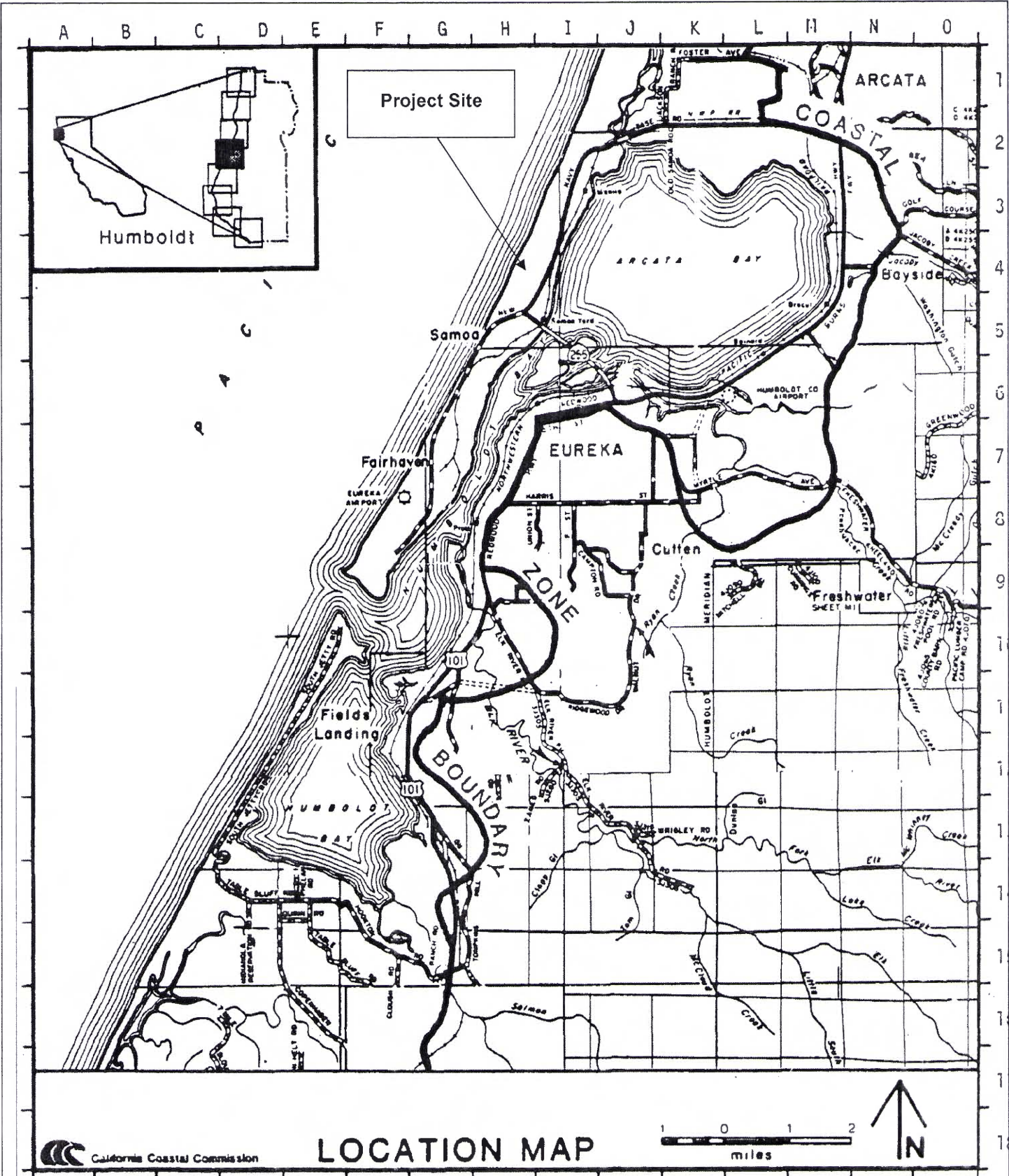
Page 19 of 19

109.1.4.1.1.2.1            One (1) space for each single family residence containing one bedroom or less;

109.1.4.1.1.2.2            One (1) space for each duplex unit;

109.1.4.1.1.2.3            Two (2) spaces for each single family residence containing two or more bedrooms.

109.1.4.1.1.3            Instead of providing the additional parking spaces required by subsection 109.1.4.1.1.2, a parking lane may be constructed along the frontage of the lot. The parking lane shall meet the standards required by subsection 313-109.1.3.4, Requirements for Lots Fronting Unimproved Roads.



Project Site

California Coastal Commission

LOCATION MAP



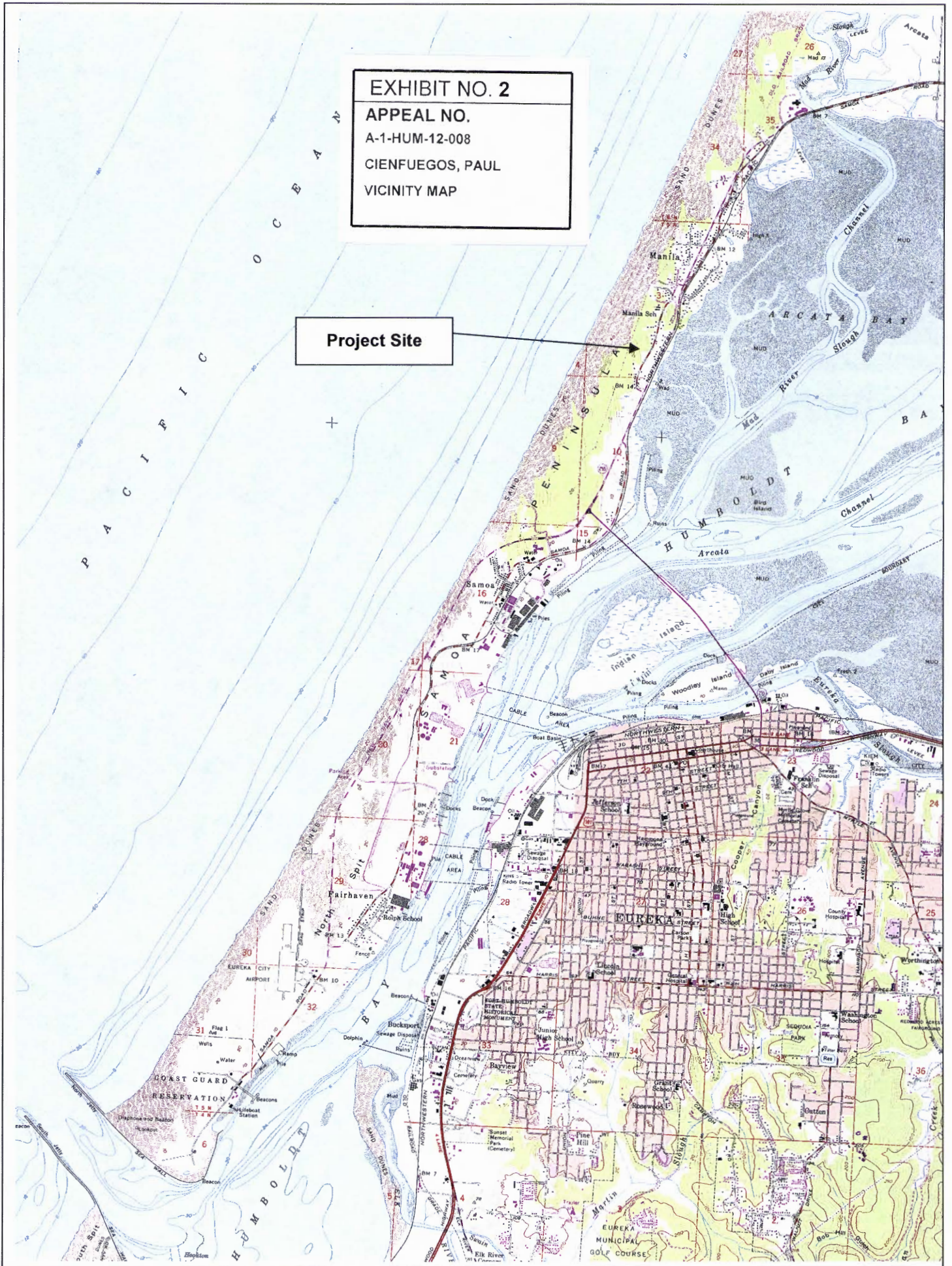
County of Humboldt

EXHIBIT NO. 1  
 APPEAL NO.  
 A-1-HUM-12-008  
 CIENFUEGOS, PAUL  
 LOCATION MAP



**EXHIBIT NO. 2**  
**APPEAL NO.**  
A-1-HUM-12-008  
**CIENFUEGOS, PAUL**  
**VICINITY MAP**

**Project Site**



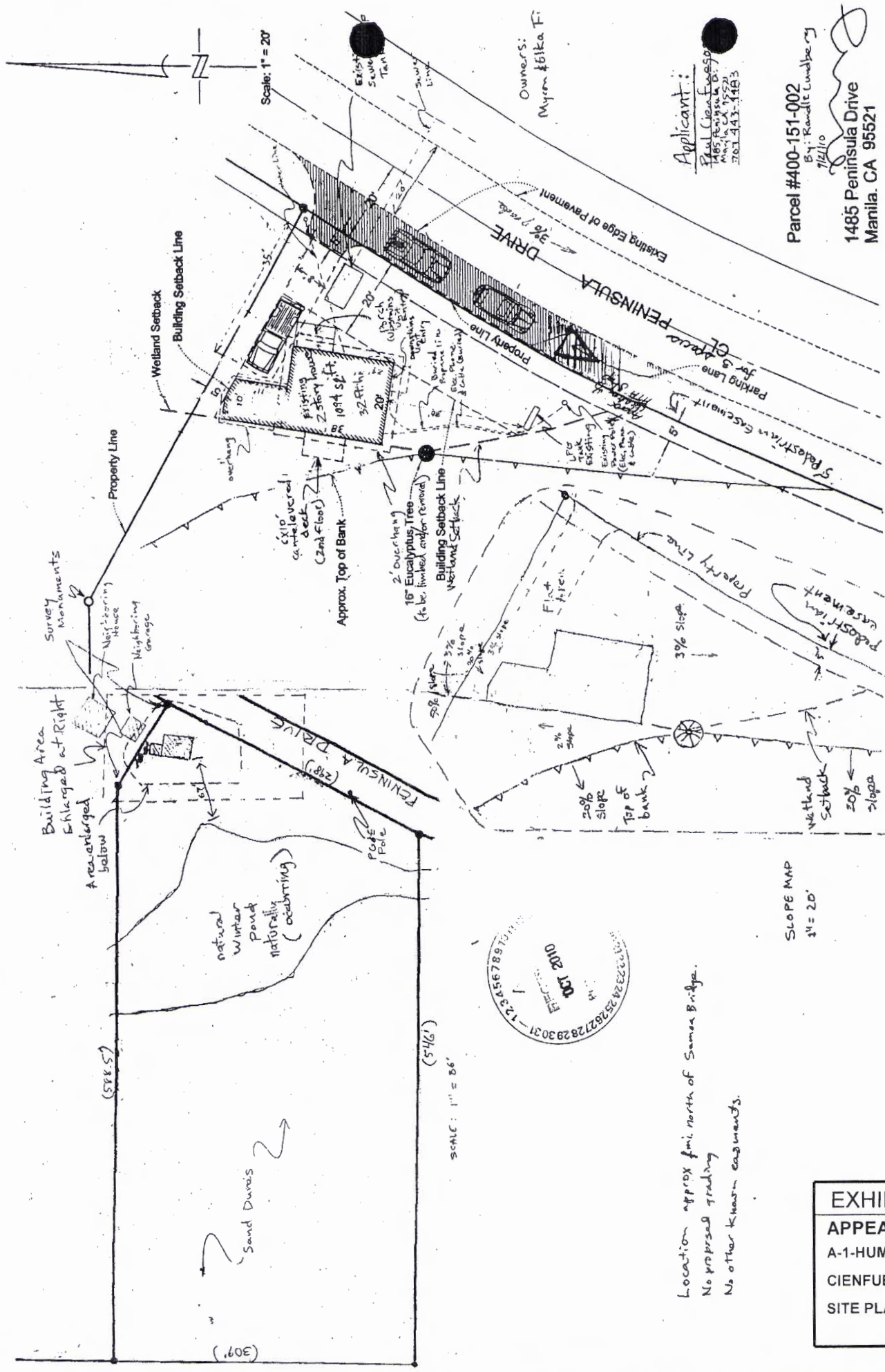




Project Site

EXHIBIT NO. 3
APPEAL NO.
A-1-HUM-12-008
CIENFUEGOS, PAUL
SITE AERIAL





Owners:  
Myron & Bika F.

Applicant:  
Paul Cienfuegos  
1485 Peninsula Drive  
Manila, CA 95521  
707.443.1463

Parcel #400-151-002  
By: Randall Lundberg  
7/21/10  
1485 Peninsula Drive  
Manila, CA 95521

SLOPE MAP  
1" = 20'

Location approx 1/4 mi. north of Samar Bridge.  
No proposed grading  
No other known easements.

**EXHIBIT NO. 4**  
**APPEAL NO.**  
A-1-HUM-12-008  
CIENFUEGOS, PAUL  
SITE PLAN

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE  
710 E STREET • SUITE 200  
EUREKA, CA 95501-6813  
VOICE (707) 445-7839  
FACSIMILE (707) 445-7877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

SECTION I. Appellant(s)

Name: MICHAEL FENNELL  
Mailing Address: 1480 PENINSULA DR  
City: MANILA Zip Code: 95521 Phone: 707-442-8228

SECTION II. Decision Being Appealed

1. Name of local/port government: HUMBOLDT COUNTY PLANNING COMMISSION

2. Brief description of development being appealed: CDP and SPECIAL PERMIT MODIFICATION TO CONVERT AN EXISTING RESIDENCE INTO TWO UNITS, A PRIMARY RESIDENCE AND A SECONDARY RESIDENCE

3. Development's location (street address, assessor's parcel no., cross street, etc.):

1485 PENINSULA DR APN# 400-151-02  
MANILA, CA 95521

4. Description of decision being appealed (check one.):

- Approval; no special conditions
- Approval with special conditions:
- Denial

RECEIVED  
MAR 13 2012  
CALIFORNIA  
COASTAL COMMISSION

Note: For jurisdictions 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-HUM-12-008

DATE FILED: 3/13/12

DISTRICT: North Coast

EXHIBIT NO. 5

APPEAL NO.  
A-1-HUM-12-008  
CIENFUEGOS, PAUL  
FILED APPEAL (1 of 4)



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

**SECTION V. Certification**

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

M Signature on File  
Signature of Appellant(s) or Authorized Agent

Date: 3/13/12

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

**Section VI. Agent Authorization**

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

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

Date: \_\_\_\_\_

3/8/12

To: Coastal Commission Staff and Commissioners  
Re: Case #CDP-03-31M/SP-03-74M

From: Michael Fennell  
1480 Peninsula Dr.  
Manila, Ca 95521  
707-442-8228

To all concerned,

I am appealing the Humboldt County Planning Commission decision made on Feb. 2, 2012 concerning APN# 400-151-02. The applicant wants to convert a single family residence into two units without having the on-site parking spaces required by the Humboldt Bay Area Plan, and was given a Special Permit for a parking exception and ignored the fact that the entire neighborhood is opposed to the project on the grounds of pedestrian safety.

This case was first heard last May and the community signed and delivered a petition to the Planning Commission explaining the reasons for opposing the project. It was signed by a dozen neighbors that surround the proposed project. When I testified on Feb. 2, 2012 and mentioned the petition against the project, I was stunned to find out that staff had left the petition out of the board packet, thus depriving the commissioners of that important public testimony. I was able to show the Commission a copy of the petition during my three minute testimony, but I believe the Commissioners' minds were made up already. There was no discussion or findings made concerning the impact on the neighborhood. The problem with this property is there isn't enough room for parking for the house as a single unit, never mind for a two unit complex and their visitors. Proper parking regulations are important in this case because our road has no sidewalks and pedestrians are forced to walk in the road and squeeze to the side when vehicles come by. The more cars that are parked along the road, (as opposed to parked on-site), the more hazardous it is for pedestrians. The other side of the road falls off at a steep grade (with a wetland at the bottom) and cannot be walked on or parked on safely.

The rules for issuing a Special Permit are supposed "to ensure that the project will not cause problems for the neighborhood". This rule was ignored by the Planning Commission.

Humboldt County Zoning Regulations 313-109.1.12 states it shall be the responsibility of the developer to provide "adequate off-street parking..."

313-109.1.1.3 states " The purpose of these requirements is to enhance public safety by minimizing traffic congestion, by providing for off-street motor vehicle parking, and thereby permitting safe passage for vehicle passengers and pedestrians to and from their destinations. More off- street parking will allow on-street parking to be limited or prohibited to permit greater utilization of streets for moving traffic". I believe the county decision is inconsistent with the HBAP/LCP parking and public safety code sections.

There is no reason why this property owner cannot enjoy the full use of his residence as it is. Please reverse this decision by the Planning Commission.

Sincerely

/ Signature on File \_\_\_\_\_

Michael Fennell

3 of 4

May 5, 2011

# PETITION TO PLANNING COMMISSION

We understand that the owners of 1485 Peninsula Dr, Manila, (parcel # 400-151-02) are applying to the Planning Commission to be allowed to create 2 living units out of the existing single family dwelling without having the required on-site parking necessary according to the Humboldt Bay Area Plan. The reason zoning rules require off-street parking is to reduce congestion and improve safety for pedestrians. Many people now walk this street every day. We, the undersigned neighbors, oppose this requested variance. Please deny this project, it is not a good fit for this street.

Name Address Signature

- | Name                  | Address            | Signature   |
|-----------------------|--------------------|-------------|
| 1. Signature on File  | 1480 Peninsula Dr  | [Signature] |
| 2. ROBERT WRIGHT      | 1500 Peninsula Dr  | [Signature] |
| 3. Amanda Moore       | 1520 Peninsula Dr. | [Signature] |
| 4. RACHAN GARDNER     | 1425 PENINSULA DR. | [Signature] |
| 5. Signature on File  | 1488 Peninsula     | [Signature] |
| 6. VIKI               | 1488 Peninsula     | [Signature] |
| 7. Signature on File  | 1425 Peninsula     | [Signature] |
| 8. Signature on File  | 1499 Peninsula     | [Signature] |
| 9. Signature on File  | 1499 Peninsula Dr. | [Signature] |
| 10. Signature on File | 1501 Peninsula Dr. | [Signature] |
| 11. [Signature]       | 1505 Peninsula Dr. | [Signature] |
| 12. Michael Fennell   | 1480 Peninsula Dr  | [Signature] |
| 13. MIKE SEBASTIAN    | 1405 PENINSULA DR  | [Signature] |
| 14.                   |                    |             |
| 15.                   |                    |             |
| 16.                   |                    |             |

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