

**CALIFORNIA COASTAL COMMISSION**

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# Th7b

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Hearing Date: 5/9/13

## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 1-12-035

**Applicant:** Rob McLaughlin

**Agent:** Paul Kraus

**Location:** 3365 Old Arcata Road in the unincorporated Indianola area between Arcata and Eureka, Humboldt County (APN 501-261-25).

**Project Description:** Divide an approximately 34.5-acre property into three separate lots of approximately 29.5 acres, 2.5 acres, and 2.5 acres in size.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMMENDATION

The applicant proposes to divide an approximately 34.5-acre property into three separate lots of approximately 29.5 acres, 2.5 acres, and 2.5 acres in size (**Exhibit 5**). The existing 34.5-acre property is currently developed with a 2,300-square-foot, two-story, single-family primary residence and a 1,400-square-foot, one-story secondary residence. Each residence has an associated on-site sewage disposal system including primary and reserve leach fields and septic tanks. There also is an existing garage/workshop, a water well that serves both residences on the property, and a separate water source for livestock on the pasture portion of the property.

Under the proposed land division, the proposed 29.5-acre lot (proposed “Parcel 3”) would be developed with one of the existing homes and septic systems and the existing garage/workshop, and one of the proposed 2.5-acre lots (proposed “Parcel 2”) would be developed with the other existing residence and septic system. The third proposed lot of 2.5 acres (proposed “Parcel 1”) would be undeveloped except for the existing well. Following the proposed land division approval, the applicant plans to apply to Humboldt County for a coastal development permit to construct a new single-family residence and septic system on proposed Parcel 1, which also would be served by the existing well on the proposed lot.

The major issues raised by this application include the project’s consistency with the rural land division criteria of Coastal Act Section 30250(a), the agricultural policies (Sections 30241 and 30242), and the visual resources protection policies (Section 30251) of the Coastal Act. Staff believes that the proposed land division is consistent with the rural land division criteria of Section 30250(a), because the proposed divided parcels will be no smaller than the median parcel size of parcels in the surrounding area. Furthermore, staff believes that the project is consistent with Sections 30241 and 30242 of the Coastal Act, as the proposed land division (1) will not diminish the productivity of prime agricultural land, (2) minimizes conflicts between agricultural and nonagricultural land uses, and (3) will not convert agricultural land to nonagricultural uses. Finally, staff believes that with conditions, the proposed land division will protect visual resources and is consistent with Section 30251. Staff recommends [Special Condition 2](#) to require the maintenance and replacement of certain trees on the property that screen development on the property from public views from Highway 101, a designated “Coastal View Area” under the Humboldt County LCP, and [Special Condition 3](#) to require the applicant to execute and record a deed restriction that imposes the special conditions of this coastal development permit, including the requirements of Special Condition 2, as covenants, conditions, and restrictions on the use of the property.

Commission staff recommends **approval** of CDP application 1-12-035, as conditioned.

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### EXHIBITS

Exhibit 1 – Regional location map

Exhibit 2 – Site photos

Exhibit 3 – Parcel size analysis study areas

Exhibit 4 – Vegetation to be protected pursuant to Special Condition 2

Exhibit 5 – Proposed project plans

## I. MOTION AND RESOLUTION

The staff recommends that the Commission adopt the following resolution:

### **Motion:**

*I move that the Commission approve coastal development permit 1-12-035 pursuant to the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. 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:**

*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 either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.*

## II. STANDARD CONDITIONS

This permit is granted subject to the following 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 amount of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation:** Any questions of intent of interpretation of any condition will be resolved by the Executive Director 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.

### III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Encroachment Permit.** PRIOR TO COMMENCEMENT OF DEVELOPMENT, the permittee shall submit a copy of an encroachment permit issued by Humboldt County, or evidence that no permit is required. The applicant shall inform the Executive Director of any changes to the project required by the County. Such changes shall not be incorporated into the project until the permittee obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Protection of Existing Vegetation.** No limbing or removal of the existing trees on the west and north sides of the subject property, as generally depicted in Exhibit 4 of the staff report for this coastal development permit, shall occur without a Coastal Commission approved amendment to this CDP. The trees on the subject property generally depicted in Exhibit 4 shall be maintained in good condition to screen development and future planned development sites on the property from public views from Highway 101. If any of the existing trees die or become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than December 1<sup>st</sup> of the next fall season in-kind or with another native evergreen species common to the coastal forests of Humboldt County that will grow to a similar or greater height.
3. **Deed Restriction.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the Executive Director's review and approval documentation demonstrating that the applicant has executed and recorded against the parcels 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 AND DECLARATIONS

The Commission hereby finds and declares as follows:

### **A. PROJECT DESCRIPTION**

The applicant proposes to divide an approximately 34.5-acre property into three separate lots of approximately 29.5 acres, 2.5 acres, and 2.5 acres in size (**Exhibit 5**). The existing 34.5-acre property is currently developed with a 2,300-square-foot, two-story, single-family primary residence and a 1,400-square-foot, one-story secondary residence. Each residence has an associated on-site sewage disposal system including primary and reserve leach fields and septic tanks. There also is an existing garage/workshop, a water well that serves both residences on the property, and a separate water source for livestock on the pasture portion of the property.

Under the proposed land division, the proposed 29.5-acre lot (proposed “Parcel 3”) would be developed with one of the existing homes and septic systems and the existing garage/shop, and one of the proposed 2.5-acre lots (proposed “Parcel 2”) would be developed with the other existing residence and septic system. The third proposed lot of 2.5 acres (proposed “Parcel 1”) would be undeveloped except for the existing well. The proposed land division map shows proposed access easements and utility easements for the existing water system on proposed Parcel 1 extending to proposed Parcels 2 and 3 and proposed to be granted to the two parcels through deeds. Following the proposed land division approval, the applicant plans to apply to Humboldt County for a coastal development permit to construct a new single-family residence and septic system on proposed Parcel 1, which also would be served by the existing well on the proposed lot.

In addition to the proposed division of land, the CDP application includes proposed improvements to the existing driveway that will serve the proposed three resultant lots. The County has required improvements including widening the existing driveway to 16 feet and paving the lower 50 feet of the existing gravel driveway. The County requires that an encroachment permit be obtained prior to construction for all work within the Old Arcata Road right-of-way.

### **B. ENVIRONMENTAL SETTING**

The subject site is located at 3365 Old Arcata Road (APN 501-261-025) between the cities of Arcata and Eureka, outside of the incorporated limits of each city. The approximately 34.5-acre irregularly shaped parcel borders Highway 101 to the northwest and extends across pastureland and the nose of a forested ridge to a small sliver of Old Arcata Road to the east (**Exhibits 1-2**). The coastal zone boundary is on the opposite side of Old Arcata Road from the property’s existing driveway entrance.

Although the County’s local coastal program (LCP) is not the standard of review for this CDP application, the Humboldt County LCP assigns two different land use designations and zoning districts to different portions of the subject property. Approximately 27 acres of the property is designated “Agricultural Exclusive” (AE), and approximately 7.5 acres is designated “Rural Residential” (RR). The AE portion of the property includes the low-lying seasonally grazed pasture area (diked former tidelands) adjacent to Highway 101 and the area extending southeastward up the forested hillside where the existing primary single family residence is

located. The RR portion of the property includes forested upland area that rises to an elevation of approximately 100 feet above mean sea level before descending to low-lying Old Arcata Road. The other existing single family residence is located at an approximately 100-ft elevation on this portion of the property. The existing private driveway on the property extends from Old Arcata Road and provides access to both existing residences.

Existing rural residential development borders the project parcel to the west, south, and, in part, to the east. Agricultural properties border the subject lot to the southwest and east. Land planned and zoned for commercial recreational uses under the County's LCP borders the property to the north. Various rural residential, multi-family residential and agricultural properties border Old Arcata Road across from the property entrance in the immediate area inland of the coastal zone.

The property is visible from Highway 101, but all of the existing structures on the property are screened from views from the highway, Old Arcata Road, and all other public vantage points by intervening evergreen forest vegetation. The property contains seasonal wetland habitat throughout the low-lying pasture area. No wetlands or other sensitive habitats occur in the higher, upland portion of the property where the existing structures are located and where the proposed resultant Parcel 1 would be located.

### **C. STANDARD OF REVIEW**

The property is bisected by the boundary between the retained CDP jurisdiction of the Commission and the CDP jurisdiction delegated to Humboldt County by the Commission through the County's LCP. The portions of the property within the Commission's retained jurisdiction include the western, low-lying, unforested, pastureland area. The remainder of property, including the eastern, elevated, upland forested area, is within the CDP jurisdiction of Humboldt County.

Section 30601.3 of the Coastal Act authorizes the Commission to process a consolidated coastal development permit application when requested by the local government and the applicant and approved by the Executive Director for projects that would otherwise require coastal development permits from both the Commission and from a local government with a certified LCP. In this case, the Humboldt County Board of Supervisors adopted a resolution, and both the applicant and the County submitted letters requesting consolidated processing of the coastal development permit application by the Commission for the subject project, which was approved by the Executive Director.

The policies of Chapter 3 of the Coastal Act provide the legal standard of review for a consolidated coastal development permit application submitted pursuant to Section 30601.3. The local government's certified LCP may be used as guidance.

### **D. OTHER AGENCY APPROVALS**

#### **Humboldt County**

The County issued a Parcel Map Subdivision approval for the "Minor Subdivision" project on February 26, 2013 (PMS 12-003).

## E. RURAL LAND DIVISIONS

Section 30250 of the Coastal Act 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.*

...

The subject property is located outside of the urban boundaries of Eureka and Arcata and is therefore subject to the rural land division criteria of Section 30250(a) of the Coastal Act. To meet the criteria, the proposed rural land division 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 previously 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. Because the subject property is split-zoned (agricultural and rural residential) under the County’s LCP, the three proposed resultant parcels will have different local zoning designations, as previously discussed. Proposed Parcel 1 and Parcel 2 will be in the Rural Residential (RA) (2.5-acre minimum parcel size) zoning district, and proposed Parcel 3 will bisect the zone boundary between the Agricultural Exclusive (AE) and RA zoning districts. Section 30250 instructs the Commission to conduct an average parcel size analysis for each of the newly created parcels. For proposed Parcels 1 and 2, the parcel size analysis compares those lots with the average parcel size of those existing lots in the surrounding area zoned RA. For proposed Parcel 3, the parcel size analysis compares the parcel with the average parcel size of those existing lots in the surrounding area designated AE.

### **Average parcel size relative to the RR parcels in the surrounding area**

The area bordered roughly by Old Arcata Road to the southeast, Indianola Cutoff to the southwest, and low-lying agricultural lands to the north represents a logical approximately 0.25-mi<sup>2</sup> neighborhood locally referred to as Indianola. Virtually all of the parcels in this neighborhood, except for a couple of commercially zoned parcels along Old Arcata Road, are planned and zoned RA with a minimum parcel size of 2.5 acres. The parcels north of this neighborhood are low-lying pasturelands planned and zoned AE with a 60-acre minimum parcel size. Parcels east of this neighborhood on the other side of Old Arcata Road are outside of the



coastal zone and planned and zoned for agricultural and multi-family residential uses. Parcels southwest of this neighborhood on the other side of Indianola Cutoff (e.g., Walker Point Road area) are of a different neighborhood character in that the residential parcels were subdivided and developed more recently than in the Indianola neighborhood and are visually separated from the Indianola area. Therefore, to evaluate the proposed land division's consistency with the average parcel size requirements of Section 30250, the Commission finds that it is appropriate to examine the average parcel size for those parcels within the 0.25-mi<sup>2</sup> Indianola neighborhood, which results in examining parcels located within an approximately one half-mile radius of the subject site, excluding the agriculturally zoned parcels north of the defined neighborhood and those east of Old Arcata Road outside of the coastal zone.

Of the 49 parcels included in the parcel size study area (**Exhibit 3**), the arithmetic mean of these parcels is 2.8 acres and the median parcel size (the value falling in the middle of the range) is 2.1 acres. The mode (the value which occurs most frequently) is not applicable, as there is no single parcel size mode in the study area. Table 1 below summarizes the parcel size analysis, and **Exhibit 3** shows the parcel size analysis study area.

**Table 1.** Analysis of parcel sizes in the surrounding rural residential neighborhood of the proposed rural land division. See Exhibit 3 for a map of the study area.

Parcel No.	Approx. Acreage	Parcel No.	Approx. Acreage
501-261-37	5.8	501-201-04	1.8
501-261-40	3.7	501-201-17	3.2
501-261-41	2.3	501-261-38	0.6
402-061-17	7.0	501-201-26	2.0
402-031-17	3.6	402-032-43	2.5
402-031-14	1.0	402-032-36	3.9
402-031-15	1.2	402-032-46	0.6
402-031-13	2.7	402-032-14	0.2
501-261-36	5.9	402-032-11	0.1
501-201-33	2.1	402-032-10	3.8
501-201-32	2.5	402-032-45	1.8
501-201-13	1.1	402-032-28	0.8
501-201-05	3.4	402-032-29	0.9
501-201-29	2.6	402-032-16	0.9
501-201-06	3.9	402-032-30	0.2
501-201-08	6.5	402-032-22	0.7
501-201-09	13.2	402-032-09	0.1
501-261-12	6.4	402-032-32	1.1
501-261-13	4.8	402-032-20	0.3
501-201-07	5.1	402-032-21	0.4
402-061-18	1.3	402-032-41	1.0
402-031-18	5.9	402-032-44	2.8
402-031-19	0.5	402-043-02	1.9
402-031-07	1.0	402-032-33	2.1
402-031-29	11.1		
Mean Parcel Size = <b>2.8 acres</b> ( <i>n</i> = 49)			
Median Parcel Size = <b>2.1 acres</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 of two outlier parcels (of 13.2 and 11.1 acres), the arithmetic mean of surrounding parcels (2.8 acres) is slightly larger than the smallest of the parcels proposed to be created (2.5 acres). One of these outlier parcels, the 11.1-acre parcel, is owned by a community grant foundation and developed with the foundation’s non-residential facilities. The 13.2-acre parcel is over 6 acres larger than the next largest parcel size in the study area (excluding the outlying 11.1-acre parcel). Thus, the Commission finds that it is appropriate to look at the median parcel size rather than the arithmetic mean to provide a better representation of the typical parcel size in this area. In this case the median parcel size (2.1 acres) is smaller than the proposed subdivided parcels of 2.5 acres size (proposed Parcels 1 and 2).

The above parcel-size analysis demonstrates that proposed Parcels 1 and 2, which will be in the rural residential zoning district, will be smaller than the median parcel size of existing rural residential parcels in the surrounding area.

**Average parcel size relative to the AE parcels in the surrounding area**

As discussed above, the Commission also must conduct a parcel size analysis for proposed Parcel 1, which will consist of approximately 27 acres of land in the Agricultural Exclusive zoning district and 2.5 of land in the RA zoning district, to determine if the proposed 29.5-acre parcel is consistent with the average parcel size requirements of Section 30250. The area bordered roughly by Highway 101 to the northwest, Bayside Cutoff to the north, and Indianola Cutoff to the southwest represents a logical approximately 0.25-mi<sup>2</sup> agricultural neighborhood that lies in an unincorporated Bracut area of the County immediately adjacent to, and between, the outer boundaries of the cities of Arcata and Eureka (**Exhibit 3**). Of the six parcels included in the parcel size study area, the arithmetic mean of these parcels is 24.5 acres, the median parcel size (the value falling in the middle of the range) is 14.1 acres, and the mode (the value which occurs most frequently) is not applicable (there is no mode). Table 2 below summarizes the parcel size analysis and shows that both the mean and median parcel sizes of agricultural parcels in the surrounding agricultural area are smaller than the proposed 29.5-acre parcel.

**Table 2.** Analysis of parcel sizes in the surrounding agricultural neighborhood of the proposed rural land division. See Exhibit 3 for a map of the study area.

Parcel No.	Approx. Acreage
501-091-02	9.2
501-181-01	10.0
501-181-09	41.9
501-261-14	18.1
501-201-25	9.5
501-261-39	58.1
Mean = <b>24.5 acres</b>	
Median = <b>14.1 acres</b>	

In summary, the Commission finds that the proposed parcel sizes of the proposed three new lots to be created by the land division 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. As summarized in Table 3 below, 43 of the 55 surrounding parcels in the overall study area, or 78 percent, are developed. Therefore, the proposed land division meets the developed parcel criteria, as over 50 percent of the surrounding parcels are developed.

**Table 3.** Percentage of usable parcels in the surrounding area that have been developed.

Parcel No.	Developed <sup>1</sup> (Yes or No)	Parcel No.	Developed (Yes or No)
501-261-37	Yes	501-201-26	Yes
501-261-40	Yes	402-032-43	Yes
501-261-41	Yes	402-032-36	Yes
402-061-17	Yes	402-032-46	Yes
402-031-17	Yes	402-032-14	Yes
402-031-14	No	402-032-11	Yes
402-031-15	No	402-032-10	Yes
402-031-13	Yes	402-032-45	No
501-261-36	Yes	402-032-28	Yes
501-201-33	Yes	402-032-29	Yes
501-201-32	Yes	402-032-16	Yes
501-201-13	Yes	402-032-30	Yes
501-201-05	Yes	402-032-22	Yes
501-201-29	Yes	402-032-09	Yes
501-201-06	Yes	402-032-32	Yes
501-201-08	Yes	402-032-20	Yes
501-201-09	Yes	402-032-21	Yes
501-261-12	Yes	402-032-41	Yes
501-261-13	Yes	402-032-44	Yes
501-201-07	Yes	402-043-02	Yes
402-061-18	No	402-032-33	Yes
402-031-18	Yes	501-091-02	No
402-031-19	Yes	501-181-01	No
402-031-07	Yes	501-181-09	No
402-031-29	Yes	501-261-14	No
501-201-04	No	501-201-25	No
501-201-17	No	501-261-39	No
501-261-38	Yes		
Total number of parcels: <b>55</b>			
Percent of parcels developed: <b>43/55=78%</b>			

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

<sup>1</sup> Development information from RealQuest ([www.realquest.com](http://www.realquest.com)).

## F. LOCATING AND PLANNING NEW DEVELOPMENT

Section 30250 of the Coastal Act states in applicable part (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.

As described above, the proposed land division is located in a well-developed rural residential area on land locally split-zoned for Rural Residential (RA) and Agricultural Exclusive (AE) uses. The project site is bordered by lands planned and zoned for rural residential uses to the west, south, and, in part, to the east and by lands planned and zoned for agricultural uses to the southwest and east. 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. Principal uses permitted on land zoned AE under the County's certified LCP include Single Family Residential, General Agriculture, Timber Production, Cottage Industry, and Minor Utilities to serve these uses.

The proposed land division is consistent with the local zoning in that two out of three of the resultant lots will be developed with existing single-family homes (which is allowed under the existing local zoning) and the third resultant lot to be located in the County's RA zoning district will be undeveloped but suitable for future residential development. The applicant has completed testing and developed a proposed design for a future on-site sewage disposal system on proposed Parcel 1, which has been preliminarily reviewed and approved by the County Division of Environmental Health. In addition, there is an existing well on the property that serves the two existing homes on proposed Parcels 2 and 3. According to volume testing completed at the appropriate time of year by a well drilling and pump servicing company commissioned by the applicant, the existing well has sufficient volume (15 gallons/minute) to also serve an additional single-family home developed in the future on proposed Parcel 1. The proposed subdivision map shows utility easements for the existing water system on proposed Parcel 1 extending to proposed Parcels 2 and 3 and proposed to be granted to the two parcels through deeds. The

proposed map also shows access easements for proposed Parcels 2 and 3 across proposed Parcel 1. The County's subdivision approval includes a condition requiring that the applicant submit a development plan for the County's review and approval and subsequent recordation which must show all proposed waterline and access easements as proposed. Thus, as the applicant has proposed water and access easements for both of the parcels that do not contain the existing well and driveway access, and the County is requiring the necessary easements be granted, adequate services will be provided to each of the parcels created by the proposed land division.

Finally, there are no wetlands or other environmentally sensitive habitats located on future undeveloped Parcel 1 that could constrain the future development of the property for residential use. For all of the above reasons, the Commission finds that the proposed land division 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.

## **G. FLOOD HAZARDS**

Section 30253 of the Coastal Act states, in applicable part:

*New development shall do all of the following:*

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

...

The northwestern portion of the subject property is located within the 100-year flood zone for Humboldt Bay as mapped by the Federal Emergency Management Agency (FEMA). This portion of the property is subject to flood hazards related to storm surge and the backing up of stormwater runoff behind the levees separating the area from the bay during severe storms. The site also is within mapped tsunami wave run-up areas, and future sea-level rise may exacerbate flooding concerns in the future. Under the proposed land division, resultant Parcel 3 will contain the mapped flood zone area. This proposed parcel is developed with an existing single-family residence and garage/shop located at an elevation of at least 78 feet above mean sea level, well above the tsunami wave-run up elevation predicted for the Samoa area (i.e., 32 feet) on the opposite side of Humboldt Bay. No additional development is proposed under this CDP application for proposed Parcel 3 (or for either other of the other two proposed parcels). If in the future the applicant were to seek CDP authorization for agricultural or residential improvements on proposed Parcel 3, the proposed lot includes ample upland acreage where future development could occur outside of the property's flood hazard areas. In addition, proposed Parcels 1 and 2

both occur entirely above and outside tsunami wave run-up and other flood hazard areas, at minimum elevations of over 100 feet.

Therefore, the Commission finds that the project as proposed will minimize risks to life and property in an area subject to high flood hazard and is consistent with Section 30253 of the Coastal Act.

## H. VISUAL RESOURCES

Section 30251 of the Coastal Act states, in applicable part:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas...*

The Humboldt County LCP gives special designation to the highway corridor in this area and surrounding areas visible from the highway as “Coastal View Areas” and “Coastal Scenic Areas.” The LCP contains various policies to ensure that all development visible from Highway 101 in such designated areas not block coastal views to the detriment of the public and be subordinate to the character of the designated area. In this case the character of the designated area is a forested hillside with few structures visible from the public roadway.

The low-lying pasture portion of the subject property is visible from Highway 101, though none of the existing structures on the property are visible from the highway due to the presence of intervening evergreen forest vegetation. Much of this vegetation is located on other properties between the subject property and the highway, but some of this vegetation is located on the applicant’s property. Likewise, proposed Parcel 1 and its future planned building site are not visible from the highway due to the presence of existing intervening vegetation.

The Commission finds that if in the future the forest vegetation between the proposed divided lots and the highway were to be cleared or substantially reduced, existing and potentially future structures to be developed on the proposed lots would be highly visible from the scenic highway corridor and would be out of character with the forested character of the area, inconsistent with Section 30251 and the visual resources protection policies of the LCP. The Commission notes that the applicant and future owners of the proposed parcels have no control over future vegetation removal that potentially could occur on other properties that lie between the subject property and the highway. However, to ensure the protection of the vegetation on the applicant’s property that contributes to the protection of public views from the scenic highway corridor, the Commission includes [Special Condition 2](#). This condition requires that all existing trees on the west and north sides of the subject property, as generally depicted in **Exhibit 4**, be maintained in good condition to screen development and future planned development sites on the property from public views from Highway 101. If any of the existing trees die or become decadent, rotten, or weakened by decay or disease, or are removed for any reason, they shall be replaced no later than December 1<sup>st</sup> of the next fall season in-kind or with another native evergreen species

common to the coastal forests of Humboldt County that will grow to a similar or greater height. The Commission attaches [Special Condition 3](#) to require the applicant to execute and record a deed restriction that imposes the special conditions of this coastal development permit as covenants, conditions, and restrictions on the use of the property. This condition will ensure that future owners of the subdivided lots will be aware of the vegetation restrictions imposed by Special Condition 2 since the terms and conditions of this CDP will run with the land.

Therefore, the Commission finds that the proposed project, as conditioned, will have no significant adverse impact on public visual resources and is consistent with Section 30251 of the Coastal Act.

## **I. ARCHAEOLOGICAL RESOURCES**

Section 30244 of the Coastal Act states:

*Where development would adversely impact archeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.*

The project area is located within the traditional territory of the Wiki division of the Wiyot Tribe. The tribe is understood to have been composed of three tribal divisions (Patawat, Wiki, and Wiyot), each associated with a water-related resource (the Mad River, Humboldt Bay, and the lower Eel River, respectively) and each speaking a common language (Selateluk). Settlements existed all around Humboldt Bay and along the banks of many of the streams and sloughs in this area.

According to the County staff report for the parcel map approval, representatives from the Blue Lake Rancheria, Bear River Band of the Rohnerville Rancheria, and Wiyot Tribe conducted a site visit to the subject property. It was thought that the site may have once had a trail running along the forested ridge. However, no evidence of a trail or any other cultural resources were located in the area. The tribal representatives recommended no further study.

As previously discussed, no physical development is proposed under this CDP application. However, as approval of the proposed land division will facilitate the future residential development of proposed Parcel 1, driveway improvements, and utility easements, it's possible that future ground-disturbing activities associated with these future developments could affect previously undiscovered archaeological resources that may be present in the soil on the property. For this reason, the County required as a condition of its approval that the applicant is required to submit a detailed development plan for County approval with detailed specifications as to the future development and improvement of the site, and the plan is required to have various specified notes including, in part, the following:

...

*The project site is not located within an area where known cultural resources have been located. However, as there exists the possibility that undiscovered cultural resources may be encountered during construction activities, the following mitigation measures are required under state and federal law:*

- *If cultural resources are encountered, all work must cease and a qualified cultural resources specialist contacted to analyze the significance of the find and formulate further mitigation...*

*The applicant and successors in interest are ultimately responsible for ensuring compliance with this condition...*

This language in the County's development plan condition imposes certain responsibilities on the applicant and successors in interest for monitoring for archaeological resources during future development of the subject property. Such future development will require a CDP, and the development plan language will also encourage the imposition of special conditions requiring monitoring during ground-disturbing activities and contingencies for the inadvertent discovery of archaeological resources

Therefore, the Commission finds that the proposed project is consistent with Coastal Act Section 30244, as the land division will include reasonable mitigation measures to ensure that future development associated with the approved land division will not result in significant adverse impacts to archaeological resources.

## **J. AGRICULTURAL RESOURCES**

Section 30241 of the Coastal Act states:

*The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the area's agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

*(a) By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban land uses.*

*(b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*

*(c) By permitting the conversion of agricultural land surrounded by urban uses where the conversion of the land would be consistent with Section 30250.*

*(d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*

*(e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

*(f) By assuring that all divisions of prime agricultural lands, except those conversions approved pursuant to subdivision (b), and all development adjacent to prime agricultural lands shall not diminish the productivity of such prime agricultural lands.*

Section 30242 of the Coastal Act states:



*All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

As cited above, Coastal Act Sections 30241 and 30242 require the protection of prime agricultural lands and set limits on the conversion of all agricultural lands to non-agricultural uses. Coastal Act Section 30113 defines “prime agricultural land” through incorporation-by-reference of paragraphs (1) through (4) of Section 51201(c) of the California Government Code:

*Prime agricultural land entails land with any of the follow characteristics: (1) a rating as class I or class II in the Natural Resource Conservation Service land use capability classifications; or (2) a rating 80 through 100 in the Storie Index Rating; or (3) the ability to support livestock used for the production of food and fiber with an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture; or (4) the ability to normally yield in a commercial bearing period on an annual basis not less than two hundred dollars (\$200) per acre of unprocessed agricultural plant production of fruit- or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years.*

The four different prongs of the definition of “prime agricultural land” relate to the value and utility of the land in terms of range of agricultural uses and productivity. The land use capability classification rates the utility of the land based on various physical factors (e.g., rock type, soil type, slope, erosion potential, etc.). The lower the rating the more utility the land is considered to have for various agricultural uses. The Storie Index Rating is based on soil characteristics that govern the land’s potential utilization and productive capacity (e.g., characteristics of the soil profile, surface texture, slope, drainage, nutrient level, acidity, alkalinity, etc.) independent of other physical or economic factors that might determine the desirability of growing certain plants in a given location. The third paragraph of the definition speaks to the number of “animal units” (AUs) the land can sustain. An AU is a standardized measure of animals used for various agricultural purposes. A 1,000-pound beef cow is the standard measure of an AU. The dry matter forage requirement of one AU is 26 pounds per day. Animal unit equivalents (AUE) are calculated for various other animals. For example, a 700-pound steer is 0.80-AU, a 1,300-pound horse is 1.20 AUs, and a 120-pound sheep is 0.20-AU. The amount of forage used by one AU in a month is an “animal unit month” (AUM). Finally, the fourth prong of the definition of prime agricultural land relates to the agricultural value of the land in terms of its capacity to generate a minimum commercial revenue of \$200 per acre. Land that meets any one of the four criteria in the definition is considered “prime” under the Coastal Act.

The parcel proposed to be divided currently contains approximately 27 acres of land planned and zoned for agricultural uses under the Humboldt County LCP. The remaining ~7.5 acres of the property are planned and zoned for Rural Residential uses under the County’s LCP. A small portion of the property’s low-lying pasture area meets the definition of “prime agricultural land”

in the government code cited above. The applicant currently leases the low-lying agricultural portion of the property to a rancher for intermittent livestock grazing. There is a water source for livestock in the pasture area that is separate from the domestic well on the ridge-top portion of the property, which serves the existing residences and which is planned to serve a future planned residence on proposed Parcel 1. There also is a separate access to the agricultural portion of the property via an easement that borders the highway from the property boundary to the Bracut intersection.

The proposed division will have no adverse effect on prime or nonprime agricultural land. As proposed, the land division will not diminish the productivity of prime agricultural land because the entirety of the property's 27 acres of agricultural land, including all of the prime agricultural land, will be contained on one parcel, proposed Parcel 3. As proposed, this parcel is already developed with the property's existing primary single-family residence and garage/workshop and will include an additional 2.5 acres of land planned and zoned for Rural Residential uses. This additional 2.5 acres of nonagricultural land will be available to support, if feasible, any additional agricultural or residential structures that may be proposed for development in the future so that such future structures can avoid displacing productive agricultural land.

In addition, the proposed project minimizes conflicts between agricultural and nonagricultural uses in various ways. First, separate access points will be maintained for agricultural uses (from the easement bordering Highway 101) and residential uses (from Old Arcata Road). Second, the agricultural portion of the property maintains a separate water source for livestock separate from the domestic well on the ridge-top portion of the property, which serves the existing residences and which is planned to serve a future planned residence on proposed Parcel 1. Third, as proposed, Parcels 2 and 3 are already developed with existing single family residences. Proposed Parcel 1, on which a future new home could be developed, is located on the opposite end of the property from, and approximately 100 feet higher in elevation than, the agricultural land on proposed Parcel 3 and will maintain a separate driveway access.

Finally, the project as proposed will not convert agricultural land to nonagricultural uses. As previously discussed, the entirety of the property's 27 acres of agricultural land will be placed on proposed Parcel 3, is already developed with an existing residence and garage/workshop, and no further development on this parcel is contemplated.

Therefore, the Commission finds that the project as proposed (1) will not diminish the productivity of prime agricultural land, (2) minimizes conflicts between agricultural and nonagricultural land uses, and (3) will not convert agricultural land to nonagricultural uses, and therefore is consistent with Sections 30241 and 30242 of the Coastal Act.

#### **K. 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 February of 2013.

Section 13906 of the Commission's administrative regulation requires Coastal Commission approval of coastal development permit applications to be supported by a finding showing the

application, as modified by any conditions of approval, is consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits approval of a proposed development if there are any feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect the proposed development may have on the environment.

The Commission incorporates its findings on Coastal Act consistency at this point as if set forth in full. As discussed above, the proposed project has been conditioned to be consistent with the policies of the Coastal Act. No public comments regarding potential significant adverse environmental effects of the project were received by the applicant as the lead agency during CEQA review of the project, nor were any public comments received by the Coastal Commission prior to preparation of the staff report. As specifically discussed in these above findings, which are hereby incorporated by reference, mitigation measures that will minimize or avoid all significant adverse environmental impacts have been required. As conditioned, there are no other feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impacts which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

**APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

- **Coastal Development Permit Application Materials**

Application file for Coastal Development Permit (CDP) Application No. 1-12-035, received 12/13/12.

- **Published Reports**

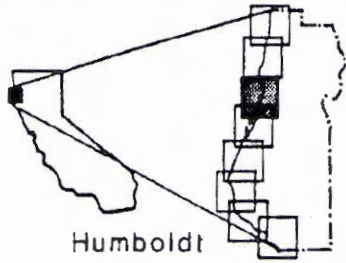
PMS 12-003. Staff Report by Humboldt County Planning Department for PMS 12-003 dated 12/28/12, approved by the Planning Commission 2/7/13

CDP 1-10-014. Staff report for CDP 1-10-014 (Ronald and Gayla Dias), 3127 Mitchell Heights Drive, dated 9/2/10, approved by the Commission on 9/16/10.

- **Miscellaneous**

County of Humboldt Local Coastal Program

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



Humboldt

EXHIBIT NO. 1

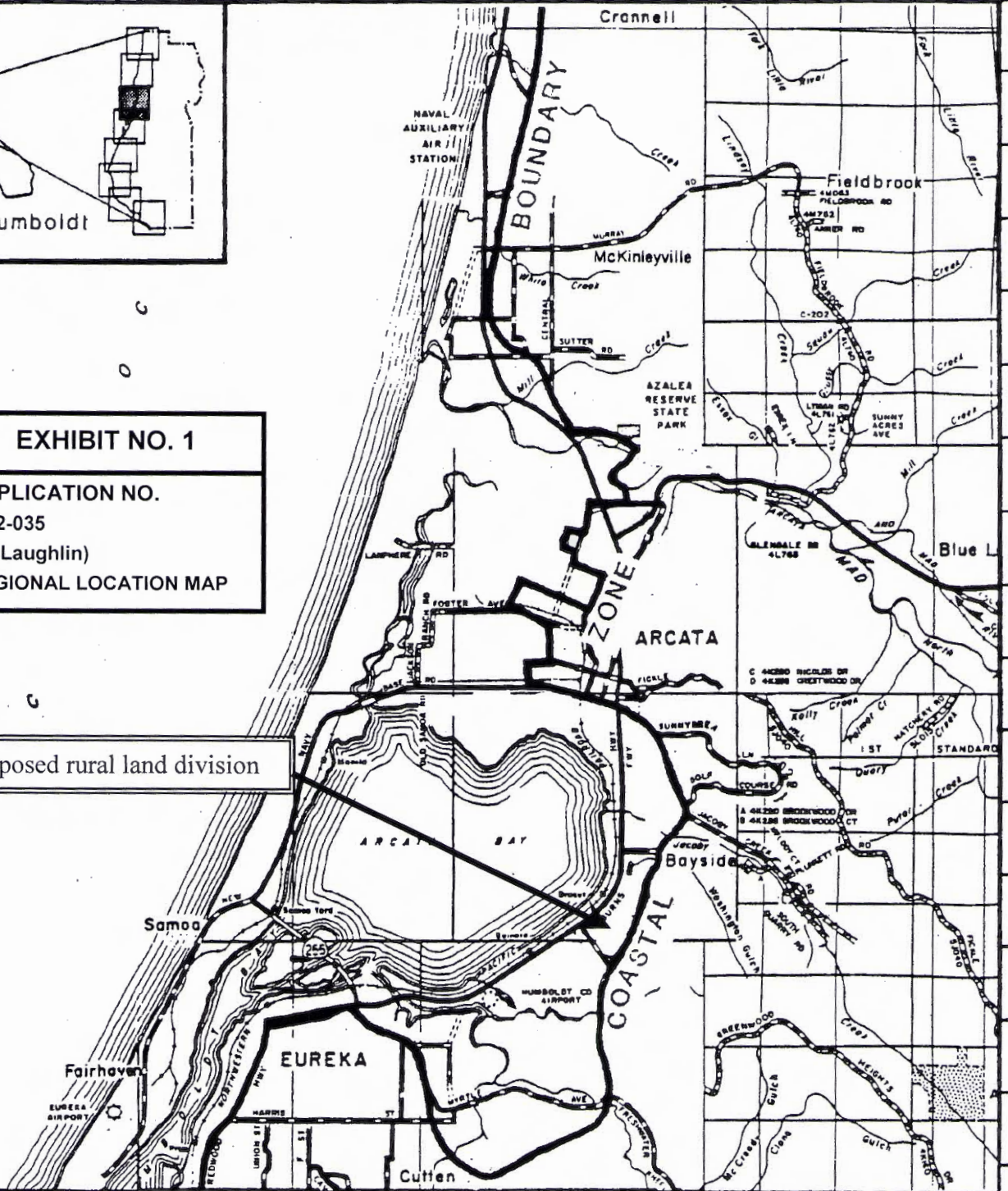
APPLICATION NO.

1-12-035

(McLaughlin)

REGIONAL LOCATION MAP

Proposed rural land division



LOCATION MAP



1  
2  
3  
4  
5  
6  
7  
8  
9  
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11  
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17  
18

County of Humboldt

View from future planned building site on proposed Parcel 1 looking west towards Highway 101 and Humboldt Bay. Most if not all of the trees in view are on an adjacent property.



03/07/2013

EXHIBIT NO. 2  
APPLICATION NO.  
1-12-035  
McLAUGHLIN  
SITE PHOTOS (1 of 4)

View of the existing secondary single-family residence on the property, which would be located on proposed Parcel 2.



2 of 4

View of the existing garage/workshop, which would be located on proposed Parcel 3.



344



View of the existing primary single-family residence on the property, which would be placed on proposed Parcel 3. The agricultural land associated with proposed Parcel 3 is not visible in this photo and is located down the hillside on the far side of the existing house. There is a separate accessway to the agricultural portion of the property located on the north end of the property near the highway. The driveway seen in this photo is the existing residential driveway that extends to all three proposed parcels from Old Arcata Road.



03/07/2013

4 of 4

Parcel size analysis study area (approximately delineated) for parcels planned and zoned for rural residential uses in the area surrounding the subject parcel (speckled). See Table 1 for list of parcels and sizes in the study area.

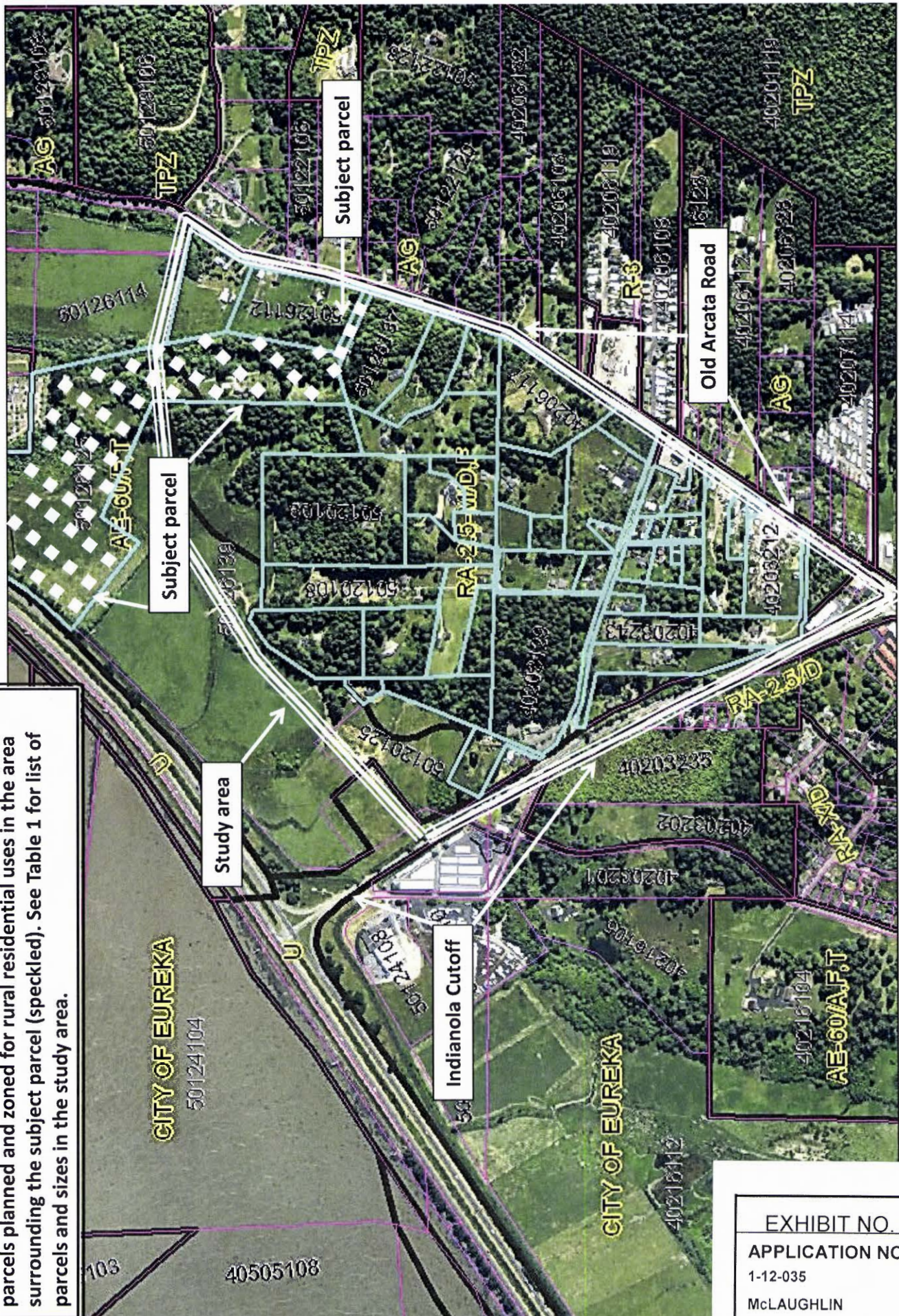
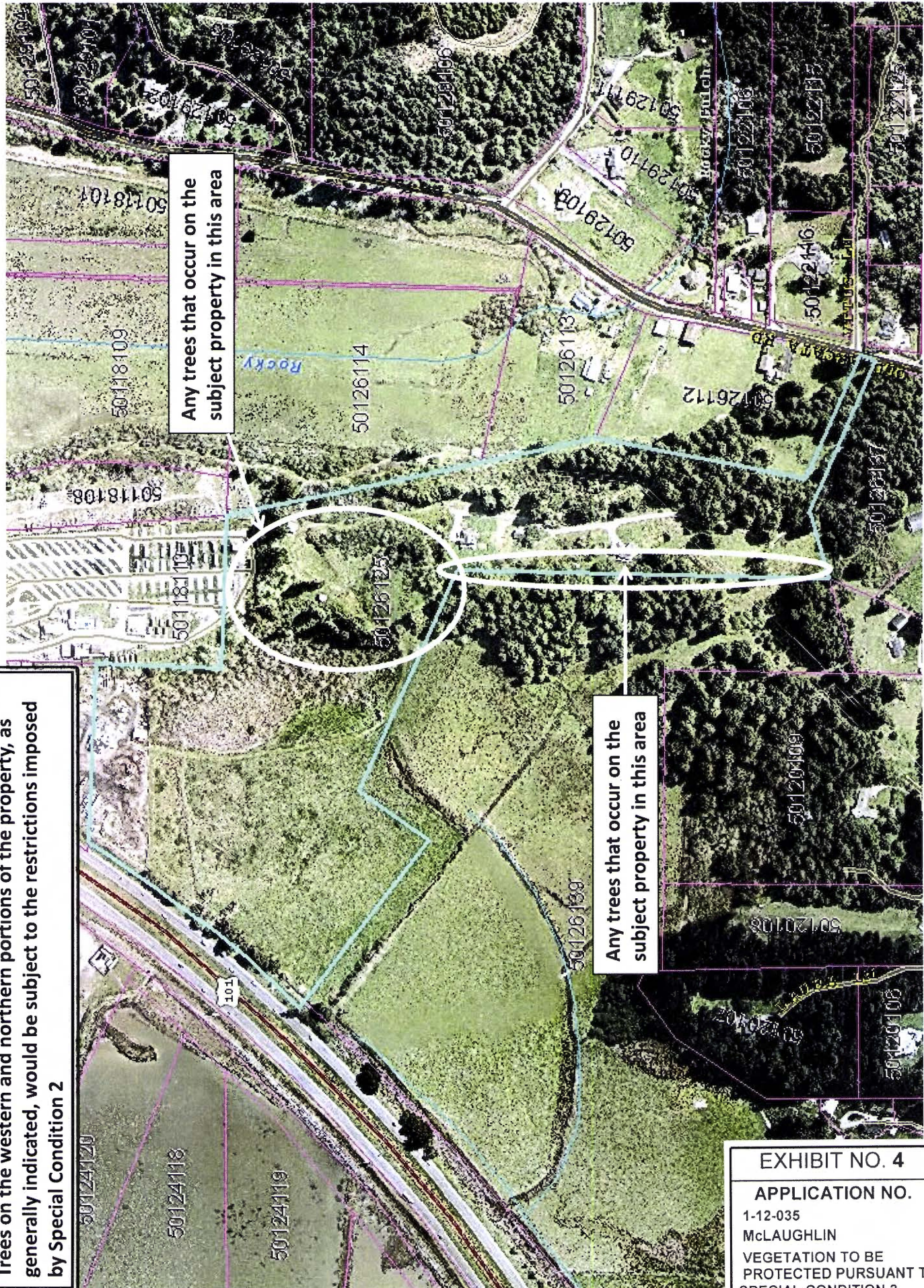


EXHIBIT NO. 3  
 APPLICATION NO.  
 1-12-035  
 McLAUGHLIN  
 PARCEL SIZE ANALYSIS  
 STUDY AREAS (1 of 2)



Trees on the western and northern portions of the property, as generally indicated, would be subject to the restrictions imposed by Special Condition 2



Any trees that occur on the subject property in this area

Any trees that occur on the subject property in this area

EXHIBIT NO. 4  
APPLICATION NO.  
1-12-035  
McLAUGHLIN  
VEGETATION TO BE  
PROTECTED PURSUANT TO  
SPECIAL CONDITION 2

# PROJECT INFORMATION:

OWNERS: ROBERT & TERESA McLAUGHLIN  
 DRAFTSPERSON: JASON BERRY  
 ENGINEER: PACIFIC AFFILIATES, TRAVIS SCHNEIDER  
 PROJECT ADDRESS: 3365 OLD ARCATA RD. ARCATA, CA 95524  
 APN #: 501-261-025  
 ZONING: AE-60 / RA-2.5  
 SEISMIC ZONE: IV  
 WIND EXPOSURE: B  
 WATER: NEW SERVICE, WELL - PARCEL 1  
 SEWER: NEW SERVICE, SEPTIC - PARCEL 1  
 GAS: NEW SERVICE, PROPANE - PARCEL 1  
 TELEPHONE: NEW SERVICE, AT#T - PARCEL 1  
 ELECTRICAL: NEW SERVICE, PG & E - PARCEL 1  
 CATV: NEW SERVICE, SUDDENLINK - PARCEL 1  
 TREES TO BE REMOVED: 0  
 CUT/FILL: NET 650 CY

NO KNOWN HISTORICAL BUILDINGS LOCATED ON SITE  
 NO KNOWN HAZARDOUS AREAS LOCATED WITHIN 400 FT OF SUBJECT SITE

ALL EASEMENTS OF RECORD ARE SHOWN ON THE TENTATIVE MAP AND SHALL BE SHOWN ON THE RECORDED MAP

## PROJECT DESCRIPTION:

THE APPLICANT IS PROPOSING TO SUBDIVIDE THE SUBJECT PARCEL INTO 3 PARCELS.



























## PROJECT NOTE:

THE ZONE BOUNDARY LINE SHOWN, SEPARATING AE-60 PROPERTY FROM THE RURAL RESIDENTIAL 2.5 ACRE MINIMUM (RA-2.5) IS RETRACED FROM HUMBOLDT COUNTY PLANNING DEPARTMENT MAPPING.

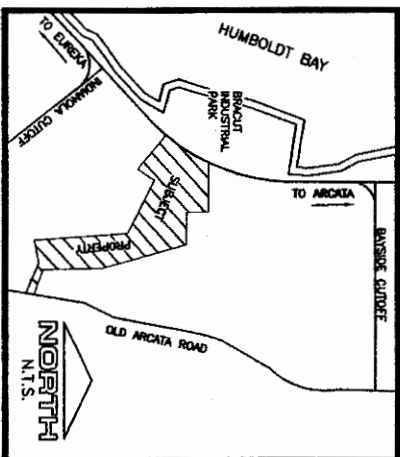
## ABBREVIATIONS

<E> EXISTING  
 <P> PROPOSED  
 R/W RIGHT OF WAY  
 EL. ELEVATION  
 FIN. FINISHED  
 F.F. FINISHED FLOOR  
 P.P. POWER POLE  
 TYP. TYPICAL  
 EDV EDGE OF VEGETATION  
 PUE PUBLIC UTILITIES EASEMENT  
 O.R. OFFICIAL RECORDS

## LEGEND

-  EXISTING DRAINAGE DIRECTION
-  FINISH DRAINAGE DIRECTION
-  EXISTING ELEVATION
-  FINISHED ELEVATION
-  UTILITY / POWER POLE
-  WATER VALVE
-  EXISTING SANITARY SEWER MANHOLE
-  FIRE HYDRANT (FH)
-  SURVEY MONUMENT
-  TEST WELL
-  BUILDABLE AREA
-  EXISTING PROJECT PROPERTY LINES
-  PROPERTY LINES TO BE ADDED
-  CENTER OF ROAD
-  EXISTING SIDEWALKS
-  EASEMENT LINE
-  STORM DRAIN
-  SANITARY SEWER
-  WATER LINE
-  GAS LINE
-  OVERHEAD ELECTRIC SERVICE
-  JOINT UTILITIES TRENCH
-  ELECTRIC CABLE / CONDUIT
-  FENCE
-  NEW GRAVEL ROADWAY
-  PARKING SPACE (8.5' x 20')

**EXHIBIT NO. 5**  
**APPLICATION NO.**  
 1-12-035  
 McLAUGHLIN  
 PROJECT PLANS (1 of 4)



**LOCATION MAP**

N.T.S.

**SHEET T-1**

SCALE: N.T.S.  
 DATE: 1-17-13

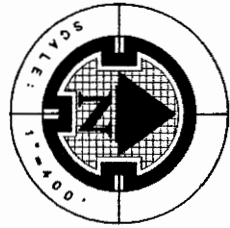
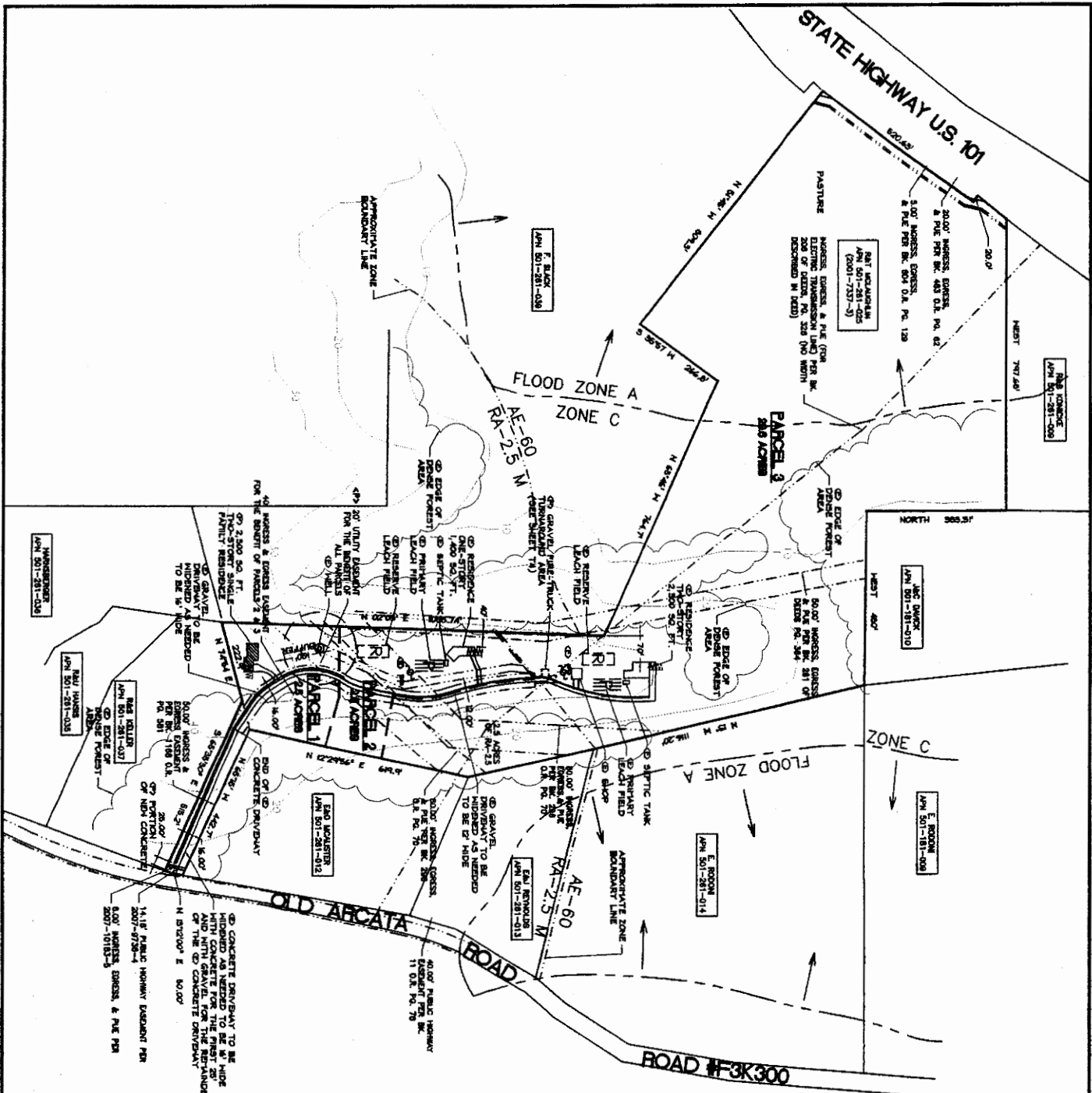
DRAWN BY: JB

**GENERAL NOTES & LEGEND**

**McLAUGHLIN SUBDIVISION**  
 3365 OLD ARCATA ROAD  
 ARCATA, CA 95524  
 APN 501-261-025



**PACIFIC AFFILIATES**  
 CONSULTING ENGINEERS  
 880 W. WATERFRONT DRIVE, EUREKA, CA 95501  
 TEL (707) 445-3001 • FAX (707) 445-3003



**SHEET T-2**

SCALE: 1"=400'  
DATE: 1-17-13

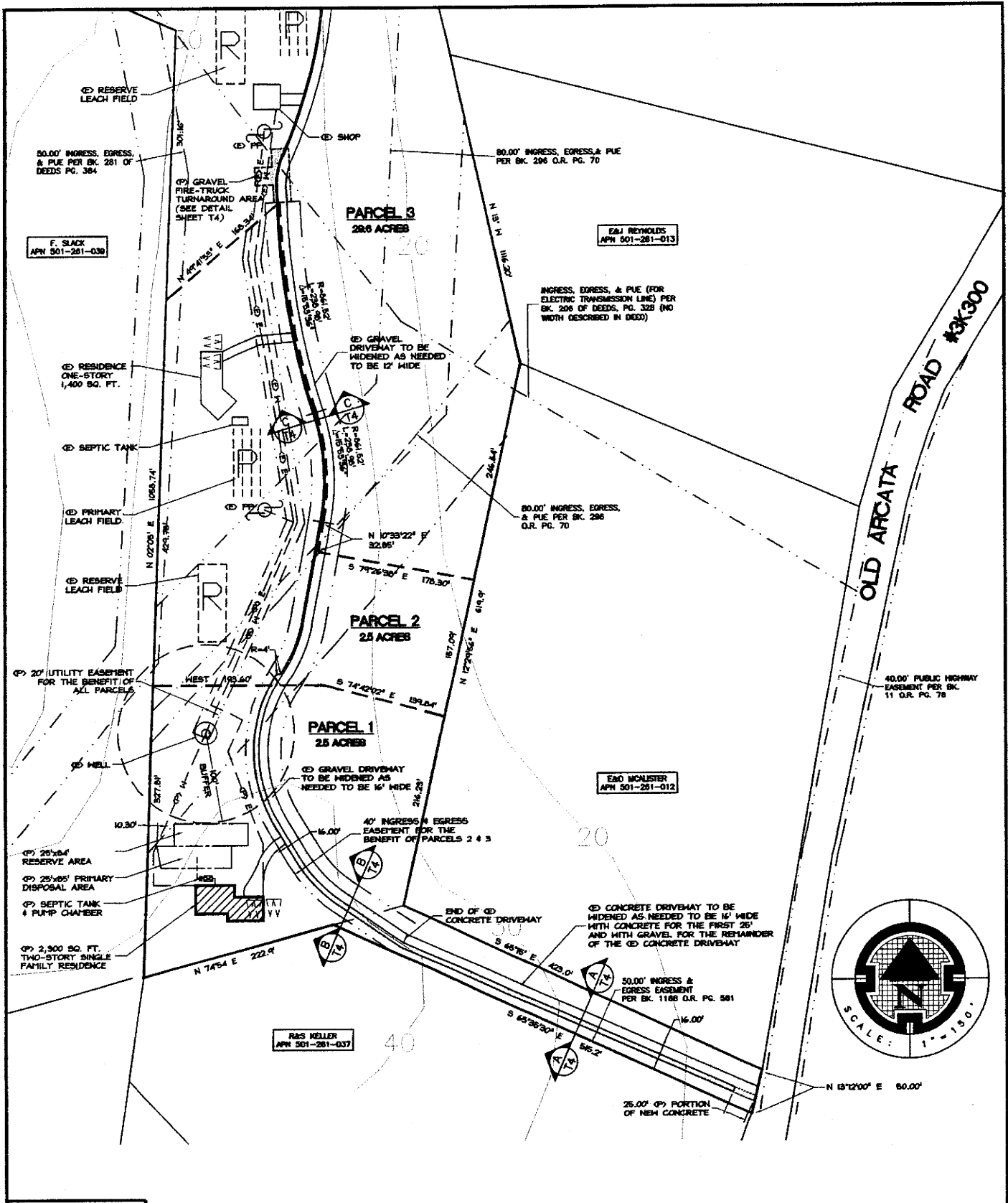
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**OVERALL  
TENTATIVE MAP**

**McLAUGHLIN SUBDIVISION**  
3365 OLD ARCATA ROAD  
ARCATA, CA 95524  
APN 501-261-025

**PA PACIFIC AFFILIATES**  
CONSULTING ENGINEERS  
990 W WATERFRONT DRIVE EUREKA, CA 95501  
TEL (707) 445-3001 • FAX (707) 445-3003

2 of 4



**SHEET T-3**

SCALE: 1"=150'  
DATE: 1-17-13

DRAWN BY: JB

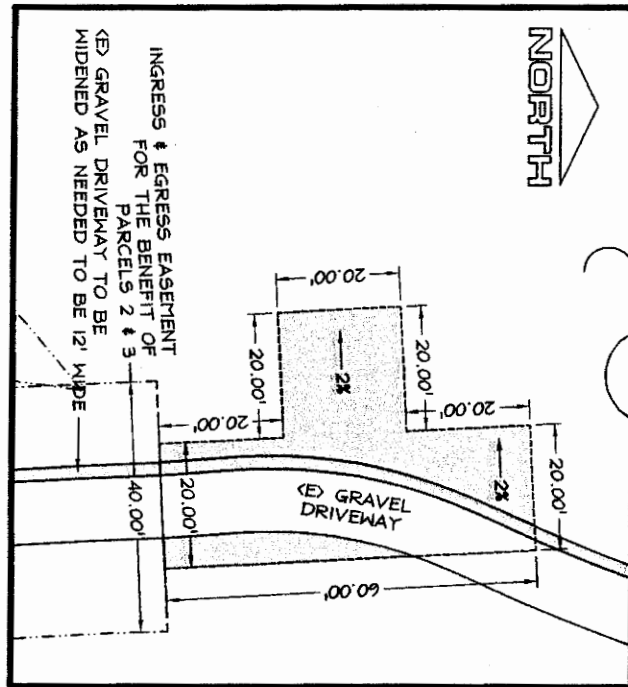
**TENTATIVE MAP**

**McLAUGHLIN SUBDIVISION**  
3365 OLD ARCATA ROAD  
ARCATA, CA 95524  
APN 501-261-025



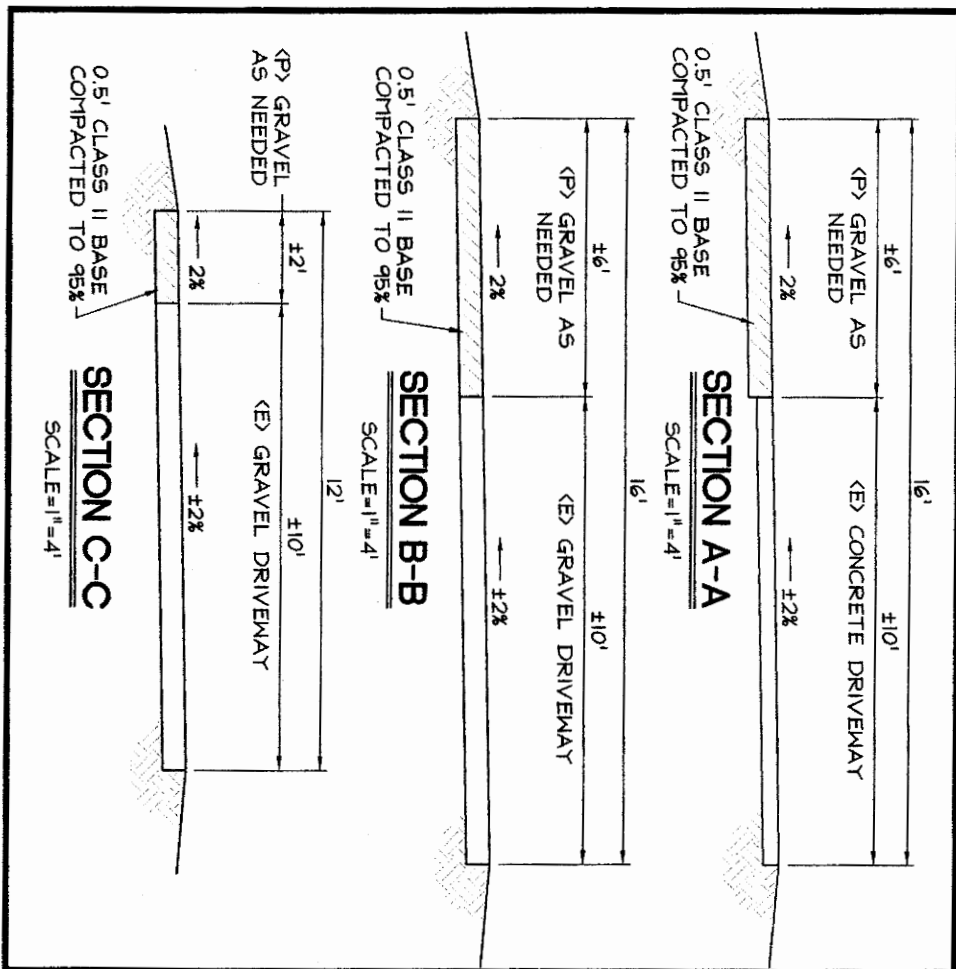
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TEL (707) 445-3001 • FAX (707) 445-3003

3 of 4



**FIRE-TRUCK TURNAROUND AREA**

SCALE: 1"=30'



**SECTION A-A**

SCALE=1"=4'

**SECTION B-B**

SCALE=1"=4'

**SECTION C-C**

SCALE=1"=4'

**SHEET T-4**

SCALE: AS NOTED

DATE: 1-17-13

DRAWN BY: JB

**DETAILS**

**McLAUGHLIN SUBDIVISION**  
 3365 OLD ARCATA ROAD  
 ARCATA, CA 95524  
 APN 501-261-025



**PACIFIC AFFILIATES**  
 CONSULTING ENGINEERS  
 590 W. WATERFRONT DRIVE, EUREKA, CA 95501  
 TEL (707) 445-3001 • FAX (707) 445-3003

4 of 4