

CALIFORNIA COASTAL COMMISSION

NORTH COAST DISTRICT OFFICE
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F4.5a

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270th day: 10/26/14
90-day ext. granted Yes
Staff: M. Kraemer-A
Staff Report: 9/26/14
Hearing Date: 10/10/14

ADMINISTRATIVE PERMIT

Application No.: 1-13-1172

Applicant: Katherine Maxwell

Agent: Thomas Hogan, Esq.

Location: 1090 Stagecoach Road, approximately one mile north of the incorporated limits of the City of Trinidad, Humboldt County (APN 515-231-012).

Project Description: (1) Reconstruct an approximately 300-foot-long portion of a 6-foot-tall, solid, vertical cedar board fence along Stagecoach Road and replace it with a visually permeable fence design that is compatible with the character of the surrounding area; (2) authorize the previous construction without benefit of a permit of the remaining 150-foot-long portion of the solid fence running perpendicular to the road along the northern property line; and (3) plant native landscaping vegetation along the portion of the fence adjacent to the roadway.

I. EXECUTIVE DIRECTOR'S DETERMINATION:

The findings for this determination and any special conditions appear on subsequent pages.

Note: Public Resources Code Section 30624 provides that this permit shall not become effective until it is reported to the Commission at its next meeting. If one-third or more of the appointed membership of the Commission so request, the application will be removed from the administrative calendar and set for public hearing at a subsequent Commission meeting. Our office will notify you if such removal occurs.

This permit will be reported to the Coastal Commission at the following time and place:

Friday, October 10, 2014 – 9:00 AM
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

IMPORTANT: Before you may proceed with development, the following must occur:

Pursuant to Title 14, California Administrative Code Sections 13150(b) and 13158, **you must sign the enclosed duplicate copy acknowledging the permit's receipt and accepting its contents, including all conditions, and return it to our office.** Following the Commission's meeting, and once we have received the signed acknowledgement and evidence of compliance with all special conditions, we will send you a Notice of Administrative Permit Effectiveness.

BEFORE YOU CAN OBTAIN ANY LOCAL PERMITS AND PROCEED WITH DEVELOPMENT, YOU MUST HAVE RECEIVED BOTH YOUR ADMINISTRATIVE PERMIT AND THE NOTICE OF PERMIT EFFECTIVENESS FROM THIS OFFICE.

The Executive Director hereby determines that the proposed development is a category of development which, pursuant to PRC Section 30624, qualifies for approval by the Executive Director through the issuance of an administrative permit. Subject to Standard and Special Conditions as attached, said development is in conformity with the policies of Chapter 3 of the California Coastal Act, including those policies regarding public access and coastal recreation opportunities, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act. If located between the nearest public road and the sea, this development is in conformity with the public access and public recreation policies of Chapter 3.

CHARLES LESTER
Executive Director

By: _____
MELISSA B. KRAEMER
Coastal Program Analyst

II. STANDARD CONDITIONS:

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgement.** 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. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
3. **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.
4. **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. **Plan Conformance.** The Applicant shall undertake reconstruction of the approximately 300-foot-long portion of the fence along Stagecoach Road in accordance with the approved final fence plan prepared by Jim Shaw of Yoshino/Shaw & Associates labeled “Final Fence Design #3” submitted via electronic mail on September 16, 2014 and proposed in writing via electronic mail by the Applicant’s agent in a supplement to the project proposal sent September 18, 2014. The approximately 150-foot-long portion of the fence that extends perpendicular to the road along the north property line may remain a 6-foot-tall, solid, vertical cedar board fence as constructed. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without an amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.
2. **Revegetation and Landscaping Requirements and Restrictions.**
 - A. The Applicant shall undertake the planting of replacement vegetation in accordance with the approved planting proposal described by the Applicant’s agent in a supplement to the project proposal sent via electronic mail on September 18, 2014, including planting native ferns, rhododendrons, and other native plants, but excluding the planting of nonnative plants such as foxglove and *Escallonia*, along the border between the fence on Stagecoach and the roadway. Planting shall be implemented in a manner that will achieve the following two goals: (i) revegetate roadside areas on the property with vegetation of similar type and density to roadside vegetation north and south of the subject property along Stagecoach Road, and (ii) plant approved replacement

vegetation such that the vegetation will serve to screen, at least in part, the portion of the fence along Stagecoach Road from public view (i.e., install plantings along the entire length of the portion of the fence along Stagecoach Road between the fence and the road, on approximately 2-foot centers for ferns and herbs and approximately 5-foot to 10-foot centers for shrubs and trees).

- B. Only regionally appropriate native plant species shall be planted on the property. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California, shall be employed or allowed to naturalize or persist on the site. No plant species listed as a “noxious weed” by the governments of the State of California or the United States shall be utilized within the bounds of the property.
 - C. All planting shall occur by December 31, 2014 to ensure the best chance of survival of the plantings.
 - D. All plantings shall be maintained in good condition throughout the life of the project. If any of the plantings die, become weakened by decay or disease, or are removed for any reason, they shall be replaced as soon as possible during the next planting season (spring or fall) in-kind or with another native species common to the Trinidad coastal area that will grow to a similar or greater height.
3. **Future Development Restriction.** This permit is only for the development described in coastal development permit (CDP) 1-13-1172. Pursuant to Title 14 California Code of Regulations (CCR) Section 13250(b)(6), the exemptions otherwise provided in Public Resources Code (PRC) Section 30610(a) shall not apply to the development governed by CDP 1-13-1172. Accordingly, any future improvements to the fence authorized by this permit shall require an amendment to CDP 1-13-1172 from the Commission or shall require an additional CDP from the Commission, unless the Executive Director determines that no amendment is legally required.
4. **Permit Expiration and Condition Compliance.** Because some of the proposed development has already commenced, this coastal development permit shall be deemed issued upon the Commission's approval and will not expire. Failure to comply with the special conditions of this permit may result in the institution of an action to enforce those conditions under the provisions of Chapter 9 of the Coastal Act.

IV. FINDINGS FOR EXECUTIVE DIRECTOR’S DETERMINATION:

A. BACKGROUND AND PROJECT DESCRIPTION

The subject property is a bluff-top rural residential lot located on the west side of Stagecoach Road developed with an existing single-family residence in a rural unincorporated part of Humboldt County approximately one mile north of the City of Trinidad (APN 515-231-012). On November 25, 2013, the Applicant submitted the subject CDP application proposing to retain the fence constructed without the benefit of a CDP along the northern and eastern property boundaries. The Applicant has cooperated with Commission staff to modify the fencing design along the public roadway to a design that is compatible with the character of the surrounding Stagecoach Road area, as described further below and in Finding IV-E below.

The Applicant proposes to (1) reconstruct an approximately 300-foot-long portion of a 6-foot-tall, solid, vertical cedar board fence along Stagecoach Road and replace it with a visually permeable fence design that is compatible with the character of the surrounding area, (2) retain and permit after-the-fact the remaining approximately 150-foot-long portion of the 6-foot-tall, solid, vertical cedar board fence constructed perpendicular to the road along the north property line, and (3) plant native landscaping vegetation along the length of proposed new fence between the fence and the roadway. Project plans are attached as **Exhibit 5**.

B. ENVIRONMENTAL SETTING

Stagecoach Road is an approximately 3-mile-long rural, narrow (mostly one-lane), winding, County road that serves a number of rural residences and commercial recreational lots north of the City of Trinidad (**Exhibits 1-2**). The road also provides primary access to popular coastal recreational areas, including Trinidad State Beach and “Secret Beach” (near Martin Creek).

Views of the ocean from the public roadway are limited due to the abundance of coniferous trees (redwood, Sitka spruce, grand fir, and others) and other forest vegetation lining the roadway and extending across the properties on either side of the road. The abundance and density of vegetation not only obscures ocean views from Stagecoach Road westward but also screens many of the existing homes and other structures on both sides of the road from public view. The abundance and density of trees surrounding and overhanging the narrow, winding road throughout much of its length creates the effect of travelling through a vegetated tunnel.

In addition to the forested character of the area, the Stagecoach Road area also has a rustic character. The structures and fences visible to the public traveling along the public roadway are mostly setback from the road, partially or entirely obscured by vegetation, and/or generally subordinate to the character of the surrounding forested area. The majority of existing fences fronting properties along Stagecoach Road are relatively low in height (e.g., under 4 feet) and/or open/visually permeable (e.g., split-rail, wire-stranded, or low picket). In addition, an abundance of natural vegetation typically lines the outside of existing fences between fences and Stagecoach Road, which further contributes to the area’s rustic character and the “vegetated tunnel” effect described above.

C. STANDARD OF REVIEW

Although Humboldt County has a certified local coastal program (LCP), the property is located in a non-certified area that includes all of the lots located on the west side of Stagecoach Road north of Trinidad State Beach, all of the lots located on the west side of Patricks Point Drive between its intersection with Stagecoach Road and Patricks Point State Park, and several other lots in the Moonstone, Sixth Avenue, and Scenic Drive areas of Westhaven. As a consequence, the Commission retains CDP jurisdiction over the site, and the standard of review for issuance of a CDP is whether the development is consistent with the Chapter 3 policies of the Coastal Act.

D. NEED FOR A PERMIT

Section 30610(a) of the Coastal Act exempts certain improvements to existing single-family residences from coastal development permit requirements. Section 30610 states in applicable part that:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

- (a) Improvements to existing single-family residences; provided, however, that the commission shall specify, by regulation, those classes of development which involve a risk of adverse environmental effect and shall require that a coastal development permit be obtained pursuant to this chapter.*

The proposed development is the kind of improvement to an existing single-family residence that the Commission, pursuant to Section 13250 of its administrative regulations (CCR Title 14 Division 5.5), has determined involves a risk of adverse environmental effect and shall require a permit. Section 13250 of the Commission's administrative regulations states in applicable part (emphasis added):

- (a) Pursuant to Public Resources Code Section 30610(a), the following classes of development require a coastal development permit because they involve a risk of adverse environmental effect:*

...

- (4) On property...that is located between the sea and the first public road paralleling the sea...any significant non-attached structure such as garages, fences, shoreline protective works, or docks...*

The project site is located between the sea and the first road paralleling the sea, and the proposed development, a fence, is specifically listed as a significant non-attached structure requiring a permit. Therefore, the improvement to an existing single-family residence is not exempt from permit requirements under Coastal Act Section 30610 (a).

E. PROTECTION OF VISUAL RESOURCES

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

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...

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

New development shall do all of the following:

...

- (e) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.*

Although the subject property is located in an Area of Deferred Certification, the Humboldt County LCP (Trinidad Area Plan and coastal zoning regulations) has been certified for Stagecoach Road and areas adjacent to the east of the property. The certified LCP designates the Stagecoach Road corridor as a “Coastal Scenic Area.” The LCP contains various policies to ensure that all development visible from Stagecoach Road be subordinate to the character of the designated area. In this case, as explained above, the character of the designated area is forested and rustic, with an abundance of trees and other coniferous forest vegetation lining and overhanging the narrow, winding roadway creating the effect for users of the road of travelling through a vegetated tunnel (**Exhibit 3**). The structures and fences visible to the public traveling along the roadway are mostly setback from the road, partially or entirely obscured by vegetation, and generally subordinate to the character of the surrounding forested area.

The proposed fencing will be compatible with the character of the surrounding area for several reasons. First, the Applicant proposes to modify the existing 6-foot-tall solid vertical 1”-x-6” cedar board fencing along Stagecoach Road (see **Exhibit 4**), which was constructed without the benefit of a CDP, to a visually permeable split-rail style design. The existing vertical fence boards along the length of the portion of the fence that runs adjacent (parallel) to Stagecoach Road will be removed and then some of the boards will be repositioned and reoriented horizontally into a maximum of four cross rows of horizontal 1”-x-6” cedar boards mounted onto existing 6-foot-tall 4”-x-4” posts. The reconstructed fence will have minimum 1-foot-wide openings between the horizontal cross rows of boards. A 2”-x-4” welded wire mesh screening will be stapled or screwed to the back (west) side of the 1”-x-6” boards. The reduced overall mass of the fence and the substantial openings between the horizontal boards will make the fence more transparent and increase the visibility of the forested vegetation that exists seaward of the fence. In addition, the Applicant proposes to plant various native plants, such as ferns, rhododendrons, and native perennials, on the outside (roadside) of the fence between the fence and the roadway. The overall effect of the changes to the fence design and the planting of additional native vegetation will be to allow forested vegetation to once again become the dominant feature of the views eastward from the road and ensure the development is visually compatible with the forested character of the surrounding area.

Special Conditions 1, 2, and 3 are imposed to ensure that the development is implemented in a manner that is visually compatible with the character of surrounding areas. [Special Condition 1](#) requires that the Applicant undertake fence reconstruction and revegetation in accordance with the approved final fencing design plans and the approved final planting plan. [Special Condition 2](#) imposes various revegetation and landscaping requirements and restrictions to ensure that the revegetation/landscaping achieves the goals of (i) revegetating roadside areas on the property with vegetation of similar type and density to roadside vegetation north and south of the subject property along Stagecoach Road, and (ii) planting approved replacement vegetation such that the vegetation will serve to screen, at least in part, the proposed eastern property fence along Stagecoach Road from public view. To ensure that the plantings will have the best chance of survival, Special Condition 2 requires that all planting occur by December 31, 2014. Planting in the fall and early winter after the rainy season begins will ensure that the new plantings will have sufficient moisture to take root and grow. [Special Condition 3](#) states that all future development on the subject parcel that might otherwise be exempt from CDP requirements requires a CDP amendment or a new CDP. This condition will enable future development to be reviewed by the

Commission, or the local government pursuant to a certified LCP, to ensure that future changes or improvements to the fence will remain compatible with the character of surrounding areas. Finally, the Executive Director finds that the portion of the proposed solid vertical cedar board fence constructed along the northern property line perpendicular to the roadway is consistent with the visual resources protection policies of the Coastal Act, because this stretch of fencing does not affect views from the public roadway and is not even readily visible from the road.

For the various reasons discussed above, the Executive Director finds that the proposed project, as conditioned, will be sited and designed to protect views to and along the ocean and scenic coastal areas, minimize the alteration of natural land forms, and be visually compatible with the character of surrounding areas, consistent with Section 30251 of the Coastal Act.

F. PUBLIC ACCESS PROTECTION

Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Coastal Act Section 30210 requires in applicable part that maximum public access and recreational opportunities be provided when consistent with public safety, private property rights, and natural resource protection. Section 30211 requires in applicable part that development not interfere with the public's right of access to the sea where acquired through use (i.e., potential prescriptive rights or rights of implied dedication). Section 30212 requires in applicable part that public access from the nearest public roadway to the shoreline and along the coast be provided in new development projects, except in certain instances, such as when adequate access exists nearby or when the provision of public access would be inconsistent with public safety. In applying Sections 30210, 30211 and 30212, the Commission is limited by the need to show that any denial of a permit application based on these sections or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential public access.

The subject lot is a bluff-top parcel with an existing single family residence located between the property and the steep, craggily bluff face. The closest public access point to the property is a vertical public trail along Martin Creek to "Secret Beach" located less than one quarter-mile south of the site. There is no evidence of public use of the subject property for public access, no evidence of trails on the property, and no indication from the public that the site has been used for public access purposes in the past. The proposed development will not significantly and adversely increase the demand for public access to the shoreline, as it involves development on an existing developed single family residential lot. For all of these reasons, the Executive Director finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act.

G. LOCAL COASTAL PROGRAM

Section 30604(a) of the Coastal Act states as follows:

(a) Prior to certification of the Local Coastal Program, a coastal development permit shall be issued if the issuing agency, or the commission on appeal, finds that the proposed development is in conformity with the provisions of Chapter 3 (commencing with Section 30200) of this division and that the permitted development will not prejudice the ability of the local government to prepare a

Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200). A denial of a coastal development permit on grounds it would prejudice the ability of the local government to prepare a Local Coastal Program that is in conformity with the provisions of Chapter 3 (commencing with Section 30200) shall be accompanied by a specific finding which sets forth the basis for such conclusion.

This section of the Act provides that the Commission shall issue a CDP only if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with the Chapter 3 policies of the Coastal Act. As described above, the area that includes the subject site and all of the lots located on the west side of Stagecoach Road north of Trinidad State Beach, as well as several other lots in the Patricks Point Drive, Moonstone, Sixth Avenue, and Scenic Drive areas of Westhaven, lacks a certified LCP. As conditioned, the proposed development will be consistent with Chapter 3 of the Coastal Act, and approval of the project will not prejudice the ability of Humboldt County to prepare a LCP for this area that is in conformity with the provisions of Chapter 3 of the Coastal Act.

H. VIOLATION

Although certain development has taken place at the project site without the benefit of a coastal development permit (including fence construction and major vegetation removal), consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to the alleged violations nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

I. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

The Executive Director incorporates its findings on conformity with the Chapter 3 policies of the Coastal Act at this point as if set forth in full. These findings address and respond to all public comments regarding potential significant adverse environmental effects of the project that were received prior to preparation of the staff report. As discussed above, the development has been conditioned to be found consistent with the policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, have been required as permit special conditions. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact that the activity may have on the environment. Therefore, the Executive Director finds that the development as conditioned to mitigate the identified impacts can be found to be consistent with the requirements of the Coastal Act to conform to CEQA.

ATTACHED EXHIBITS

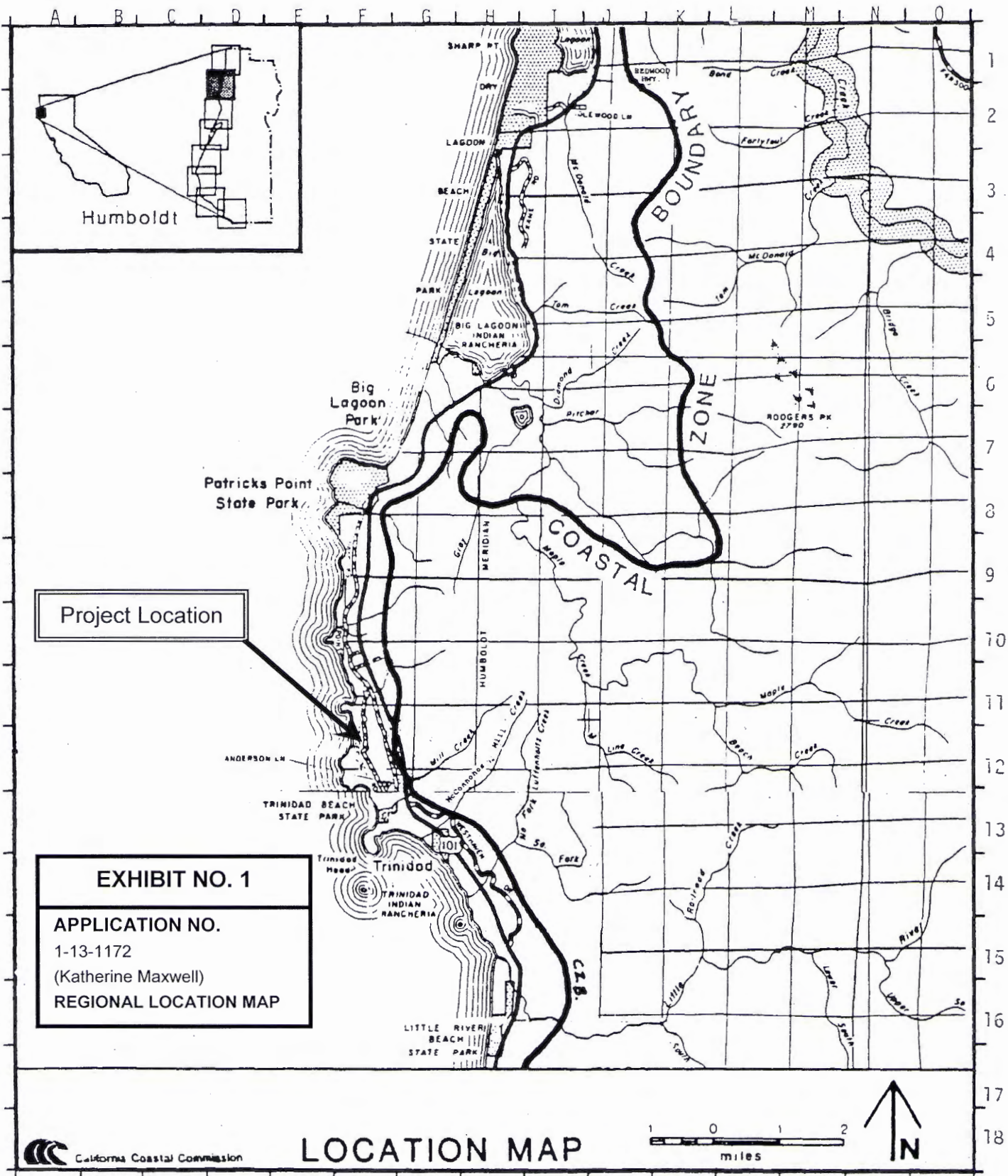
1. Regional location
2. Vicinity/parcel map
3. Street view prior to existing unpermitted fence construction
4. Existing fence to be partially removed and modified
5. Proposed fence along Stagecoach Road

ACKNOWLEDGEMENT OF PERMIT RECEIPT/ACCEPTANCE OF CONTENTS:

I/We acknowledge that I/we have received a copy of this permit and have accepted its contents including all conditions.

Applicant's Signature

Date of Signing





2011



EXHIBIT NO. 3
APPLICATION NO.
1-13-1172 - MAXWELL
STREET VIEW PRIOR TO
FENCE CONSTRUCTION

Google Street View from 2011 looking north along Stagecoach Road at the subject property (on the left) prior to construction of the unpermitted fence.

5-08-2013

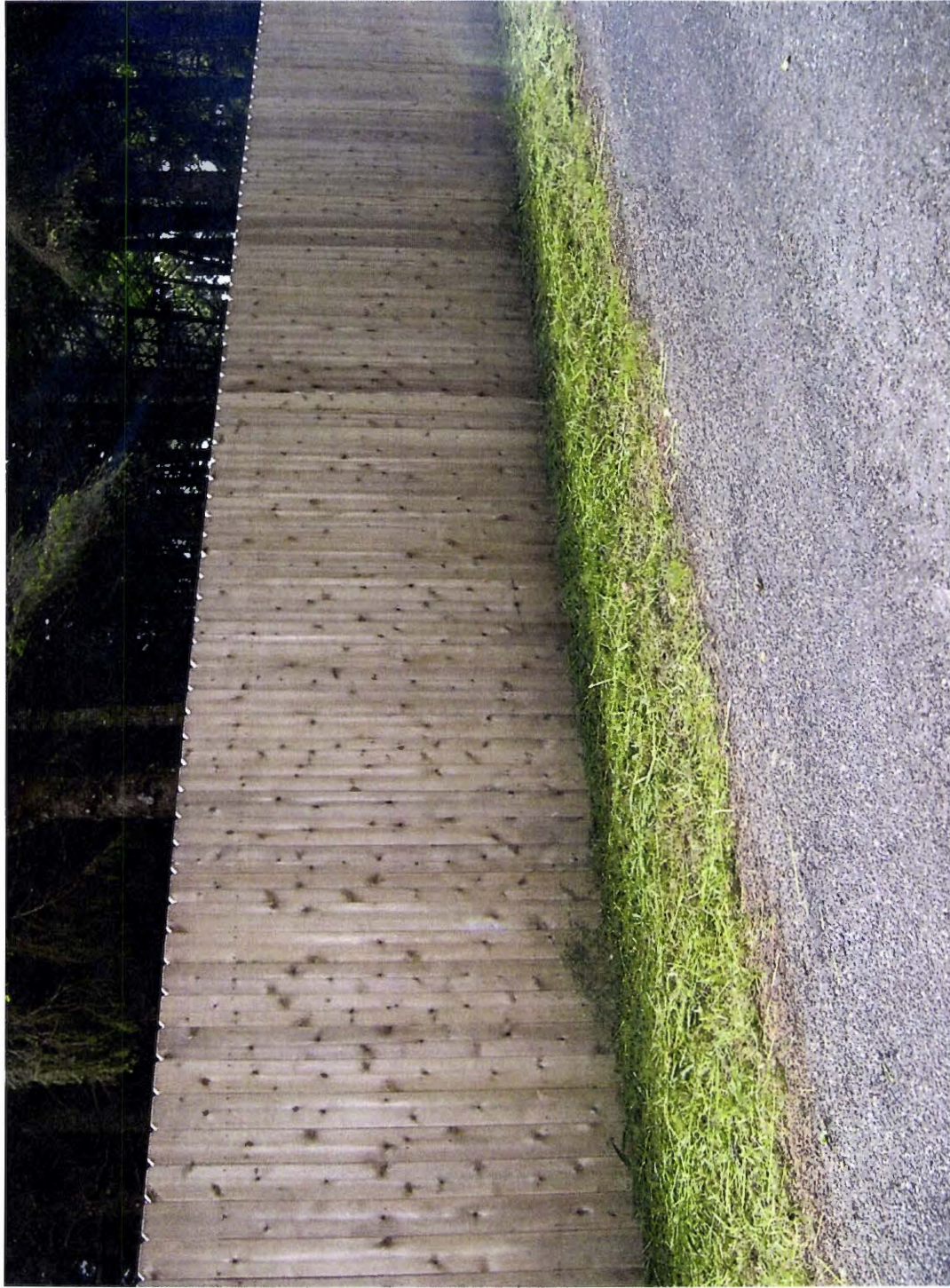


EXHIBIT NO. 4
APPLICATION NO.
1-13-1172 - MAXWELL
EXISTING UNPERMITTED
FENCE TO BE PARTIALLY
REMOVED & MODIFIED

View of a portion of the unpermitted fence along Stagecoach Road on the subject property. The fence is proposed to be modified under the subject CDP application to a design that is more compatible with the character of the surrounding area. Proposed revegetation with native plantings between the fence and the roadway also will ensure that the proposed new fence is compatible with and subordinate to the natural, rustic character of surrounding areas.

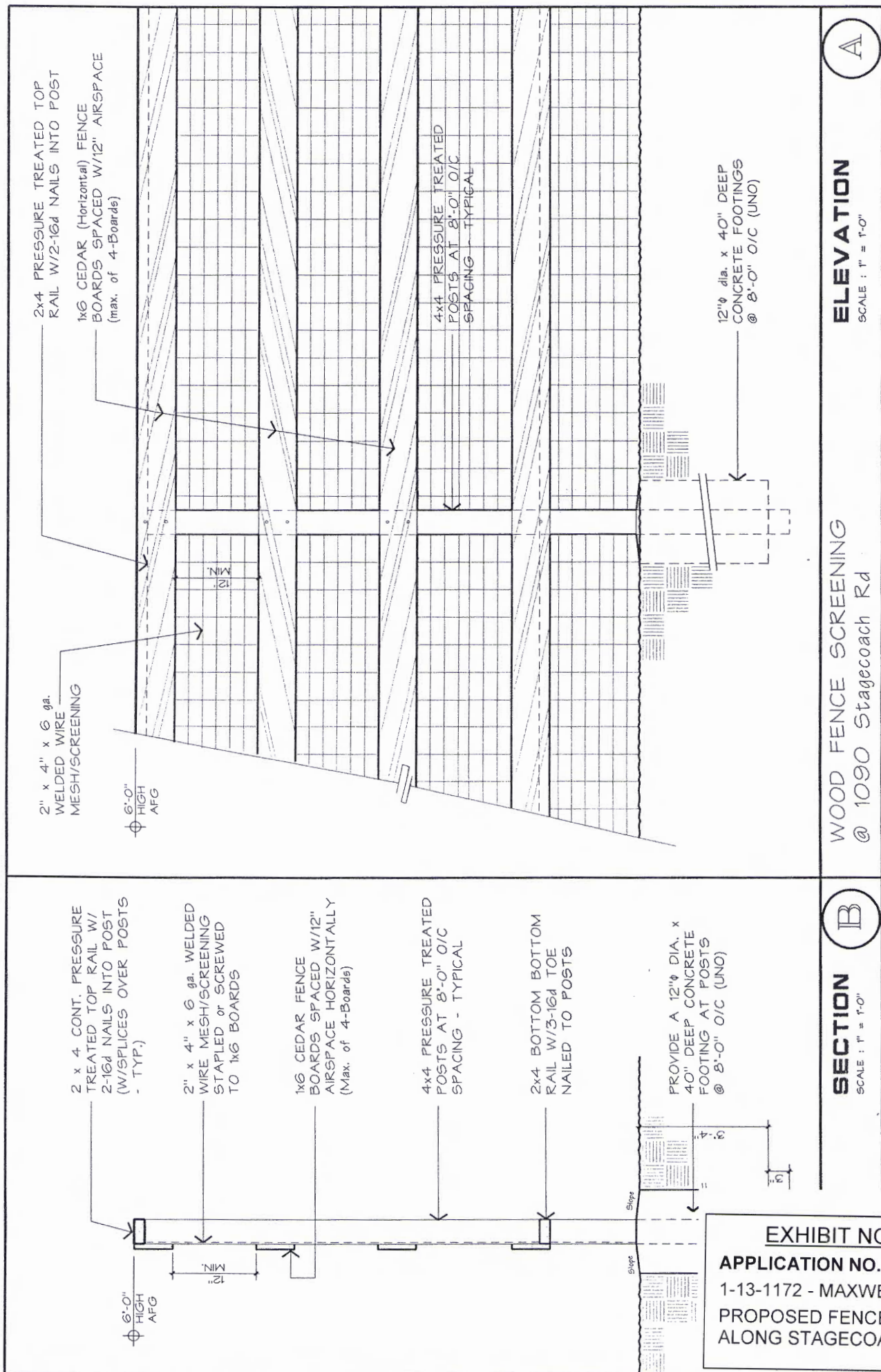


EXHIBIT NO. 5
APPLICATION NO.
 1-13-1172 - MAXWELL
 PROPOSED FENCE
 ALONG STAGECOACH RD.