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STATE OF CALIFORNIA—THE RESOURCES AGENCY

PETE WILSON, Governor

CALIFORNIA COASTAL COMMISSION
NORTH COAST AREA
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W 15a



Filed: November 14, 1995
49th Day: January 2, 1996
Staff: Jo Ginsberg
Staff Report: December 1, 1995
Hearing Date: December 13, 1995
Commission Action:

STAFF REPORT: APPEAL

LOCAL GOVERNMENT: Mendocino County
DECISION: Approved with Conditions
APPEAL NO.: A-1-MEN-95-65
APPLICANT: STEPHEN HOLMES/PHYLLIS HAUTALA
PROJECT LOCATION: 33501 Mill Creek Drive, approximately 3.5 miles north of Fort Bragg, Mendocino County, APN 069-300-14.
PROJECT DESCRIPTION: (1) Improving and resurfacing two existing driveways; (2) constructing two culverts; (3) constructing three curtain drains and one French drain; and (4) drilling four wells.
APPELLANT: Carl Hartzell
SUBSTANTIVE FILE DOCUMENTS: Mendocino County LCP; Mendocino County CDP #30-95 and CDMS #5-93.

STAFF NOTE:

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain

A-1-MEN-95-65
HOLMES AND HAUTALA
Page Two

kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea, or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or within 100 feet of any wetland, estuary, or stream. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in the Coastal Act.

The subject project is appealable to the Commission because the project is located between the sea and the first public road paralleling the sea. In addition, a portion of the project is within 100 feet of a stream.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to 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. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission conducts a de novo hearing on the permit application, the applicable test for the Commission to consider is whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, 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.

SUMMARY OF STAFF RECOMMENDATION:

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed for the following reason: The locally approved development conforms to the Mendocino County Certified Local Coastal Program.

A-1-MEN-95-65
HOLMES AND HAUTALA
Page Three

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Staff recommends a YES vote on the following motion:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-95-65 raises NO substantial issue with respect to the grounds on which the appeal has been filed.

To pass the motion, a majority of the Commissioners present is required. Approval of the motion means that the County permit is valid.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. APPELLANT'S CONTENTIONS

The Commission received an appeal for this project from Carl Hartzell, who owns property adjacent to the subject property. The appellant states that the development does not conform to the standards set forth in the Mendocino County General Plan, Coastal Element, and attaches a three-page discussion of what he believes are grounds for appeal of the project (attached as Exhibit No. 7). This discussion does not clearly address how the proposed project is inconsistent with the County's LCP, nor does it reference specific policies of the LCP with which the project conflicts. However, staff has attempted to summarize the appellant's points of contention, as noted below. The appellant appears to raise four main issues:

- * There are five major code violations:
 1. Soil conditions were not met for the installation of intercept or French drains.
 2. Installing French drains within 15 feet down gradient from proposed septic system drains.
 3. Installing septic system drains requiring Wisconsin Mounds as part of a new Land Division.
 4. Placing roadway fill without grading plans or a permit.
 5. No consideration for required setback for ponds and for seasonal wetlands on adjacent properties.

- * French drains were installed without soil investigations and are placed too close to the septic system-drains.

A-1-MEN-95-65
HOLMES AND HAUTALA
Page Four

- * Plans and an application for a grading permit should be submitted to the County.
- * The fill placed without a permit has interfered with the drainage from adjacent properties.

B. LOCAL GOVERNMENT ACTION

The project was approved with conditions by the Mendocino County Coastal Permit Administrator (CPA) on October 26, 1995 (Coastal Permit #CDP 30-95), and was not appealed at the local level. However, Section 13573 of the California Code of Regulations states that exhaustion of all local appeals shall not be required if the local government jurisdiction charges an appeal fee for the filing or processing of appeals. In this case, Mendocino County does charge an appeal fee, and so this appeal may properly be processed by the Coastal Commission.

In approving the project, the County imposed two special conditions. Special Condition No. 1 requires that within 60 days of issuance of the permit, the test well within the riparian area shall be closed and abandoned in accordance with permit procedures administered by the County of Environmental Health. Special Condition No. 2 requires that any disturbed area in the vicinity of the test well in the riparian area resulting from its construction or from its abandonment shall be restored to its former contour, and measures shall be implemented to achieve revegetation to its former condition within 30 days of abandonment. The County's final findings and conditions of approval are included as Exhibit No. 6.

The North Coast Area office of the Commission received notice of the County's final action on November 13, 1995. The local decision was appealed in a timely manner to this Commission by Carl Hartzell on November 14, 1995.

C. RELATED PREVIOUS PERMIT ACTION

In a related previous permit action, the Mendocino County Board of Supervisors, on appeal, approved a minor subdivision of the subject property (9 acres) into four parcels (CDMS 5-93) on June 27, 1994. The Board imposed a number of conditions, including a condition that reduced the number of parcels from four to three. Apparently the applicants had performed some work on the property without benefit of a coastal development permit, including driveway resurfacing and improvements, construction of culverts, and construction of curtain drains. One of the conditions of approval (Condition No. 16) of the minor subdivision required the applicants to submit plans and an application for a grading permit and coastal development permit for the grading and road construction that had taken place without permits. The subject permit is the result of the applicants attempting to meet that special condition. The

A-1-MEN-95-65
HOLMES AND HAUTALA
Page Five

subdivision was not appealed to the Coastal Commission, and thus the County's approval became final.

The appellant in this case appears to have some objections to matters that pertain to the minor subdivision approved in 1994, and includes these objections as grounds for his appeal of the current permit. These issues are not relevant to the subject permit, and should not be addressed at this time. For example, the appellant raises the issue that septic system drains requiring Wisconsin Mounds were installed as part of the new land division. He refers to information found in the Mendocino County Division of Environmental Health Land Division Requirements, which is attached as an Appendix to the County LUP: "The North Coast Regional Water Quality Control Board prohibits the use of Wisconsin Mounds as grounds for approval of new Land Division. No Land Division is to be approved on the basis of the use of a Wisconsin Mound." However, according to County Department of Health officials, these regulations have changed and it is now possible to approve a land division where Wisconsin mounds are required, pursuant to a recent County ordinance. (In fact, apparently only one of the three new parcels will need to use a Wisconsin mound for its primary leach field.)

In any case, the County Health Department reviewed the land division preliminarily, along with the curtain drains and proposed septic systems, and determined that the curtain drains and septic systems were consistent with County Health Department regulations. In addition, the California Regional Water Quality Control Board reviewed the site evaluation reports and groundwater monitoring reports which were prepared for the Mendocino County Health Department in conjunction with the subdivision, and concluded that the project was in compliance with the Regional Water Board's Policy on the Control of Water Quality with Respect to On-Site Waste Treatment and Disposal Practices.

The County Health Department will need to review the land division again when a parcel map is submitted for approval. At that time, the Department of Health will determine if the proposed septic systems are adequate to serve the subdivision, and will also review again the curtain drains and French drain at the same time, since they were installed to accommodate the future septic systems. The drains and septic systems will be reviewed for consistency with the current health department regulations, and will be approved only if they are found to be consistent. If the drains and septic systems are not found to be consistent with the current health department regulations, the Mendocino County Department of Environmental Health will not sign off on the land division. Therefore, the appellant's concerns regarding the curtain drains and septic systems will be more properly addressed at the time a parcel map is submitted pursuant to the previously approved minor subdivision, and are not relevant to the Commission's consideration of the specific project being appealed, which involves neither a land division nor the installation of septic systems.

The appellant also raises the issue that the applicant did not do soil profiles for parcels 1, 2, and 3, and did not submit plans and an application for a grading permit for the road construction done without a permit, as required in the final action for CDMS 5-93. If these allegations are true, and the applicants did not fulfill the special conditions attached to CDMS 5-93, then the County may need to investigate the matter as an enforcement or condition compliance matter. However, the allegations are again related to the previously approved land division, and are not the subject of this appeal.

The appellant also raises an issue concerning wetlands and ponds on adjacent properties, but does not explain or elaborate how the project approved by the County would affect the wetlands or ponds, or in what way the project is inconsistent with LCP policies regarding wetlands. The botanist indicated that the roads which were improved without a coastal permit did not appear to affect adversely any sensitive habitat.

D. PROJECT SETTING AND DESCRIPTION

As noted above, the County of Mendocino approved the following development: (1) Improvements to and resurfacing of two existing driveways (one at Fred Way and one at Holmes Way); (2) construction of two culverts; (3) construction of three curtain drains and one French drain; and (4) drilling four wells on the subject property, which consists of three parcels formed by a recent land division. The roadwork and drainage improvements had already taken place without a coastal permit. The property is located west of Highway One in Cleone, adjacent to MacKerricher State Park, and contains several areas of environmentally sensitive habitat, including sand dunes, riparian habitat, and wetland vegetation.

The subject property is designated in the County's LCP as Rural Residential-5 [Rural Residential-1] (RR-5 [RR-1]), meaning that there may be one parcel for every 5 acres, or one parcel for every one acre with proof of water, and that the property is designated for residential use. The subject property consists of three parcels of approximately 2.1 acres, 2.1 acres, and 4.8 acres respectively, constituting legal and conforming parcels.

E. SUBSTANTIAL ISSUE ANALYSIS

The Commission finds that no substantial issue exists because the locally approved project conforms to the certified LCP with respect to the areas of concern raised by the appellant, as discussed below.

1. Environmentally Sensitive Habitat Areas.

LUP Policy 3.1-7 states that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future development. Policy 3.1-10 states that areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. Policy 3.1-15 states that dunes shall be preserved and protected as environmentally sensitive habitats. Policy 3.1-4 states that development within wetland areas shall be limited to certain specific uses such as coastal-dependent industrial facilities, natural study, port facilities, etc. These policies are reiterated by Sections 20.496.020, 20.496.025, and 20.496.035 of the Zoning Code.

As noted above, the appellant raises a number of issues that are not relevant to the subject permit, but, rather to the minor subdivision previously approved by the County for the subject property, which is not under consideration at this time. The one area of concern that does relate to the subject permit is that of environmentally sensitive habitat. The appellant, while not specific about his objections, appears to find some inconsistency or problem with the way the drainage improvements have affected the ponds and drainage on adjacent properties, including his property. He states that there was "no consideration for required setback for ponds and for seasonal wetlands on adjacent properties." Commission staff is not certain what setback the appellant is referring to, or in what way he believes the project is inconsistent with the LCP. The County reviewed the botanical survey and addendum prepared by Dr. McBride prior to its approval of the subject project, and found that the project was consistent with the policies of the certified LCP based on the reports of the botanist. The Commission finds that the project, as approved by the County, is consistent with the certified LCP as the evidence in the record before the County indicates that the development has not had any significant adverse impacts on environmentally sensitive habitat areas.

Furthermore, as noted above, the California Regional Water Quality Control Board concurs with the Mendocino County Department of Environmental Health's preliminary approval of the curtain drains, and has determined that the project is in compliance with all relevant regulations regarding water quality. Further, the Mendocino County Department of Environmental Health will need to give final approval of the drains and proposed septic systems when the parcel map is submitted for approval. At that time, the effect of the drainage on wetlands on adjacent properties may be considered.

The subject property itself has several areas of environmentally sensitive habitat, including sand dunes, riparian habitat, and wetland vegetation (see

Exhibits No. 3 and 5). When the land division was approved by Mendocino County, 50-foot buffer areas around the sand dunes and riparian vegetation were established, as well as building envelopes that were outside the buffer areas. No buffer area around the wetland vegetation was established, although the botanist indicated that such a buffer area was recommended. It is unclear why the County did not require that a buffer area be established around the wetland vegetation in the northeast portion of the property at the time of the County's approval of the land division in 1994. However, as stated above, the previous subdivision permit action was not appealed to the California Coastal Commission and thus constitutes final local action not subject to the Coastal Commission's review. The roadwork that was done within 50 feet of the wetland habitat consisted of improvements to an existing road to meet certain safety standards required by the California Department of Forestry (CDF) and the County of Mendocino, rather than a new use. Thus, no new use was approved within or adjacent to a sensitive habitat area. In addition, the botanist, who examined the property both before and after the improvements were done, indicates that there does not appear to be any adverse impacts on the sensitive habitat resulting from the roadwork.

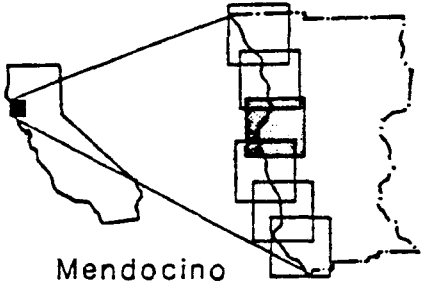
Therefore, the Commission finds that no substantial issue exists with regard to the development's conformance to the LCP policies and standards concerning the protection of environmentally sensitive habitat areas, as such areas on and off the site will be protected from any significant degradation, in conformance with the LCP policies.

2. Conclusion.

In summary, for the reasons stated above, the Commission finds that the project as approved and conditioned by the County of Mendocino is consistent with the County's certified LCP, and that no substantial issue exists with respect to the grounds on which the appeal has been filed.

F. ALLEGED VIOLATION

Certain development that is included in the application that has been appealed to the Commission, including the roadwork improvements, construction of two culverts, and construction of three curtain drains and one French drain, have taken place without benefit of a coastal development permit. Although development has taken place prior to submission of this permit appeal, the Commission's consideration of whether a substantial issue exists with respect to the grounds on which the appeal has been filed has been based solely upon the consistency of the project, as approved by the County, with the Mendocino County LCP policies and the public access policies of the Coastal Act. Consideration of this appeal does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.




Mendocino

EXHIBIT NO. 1

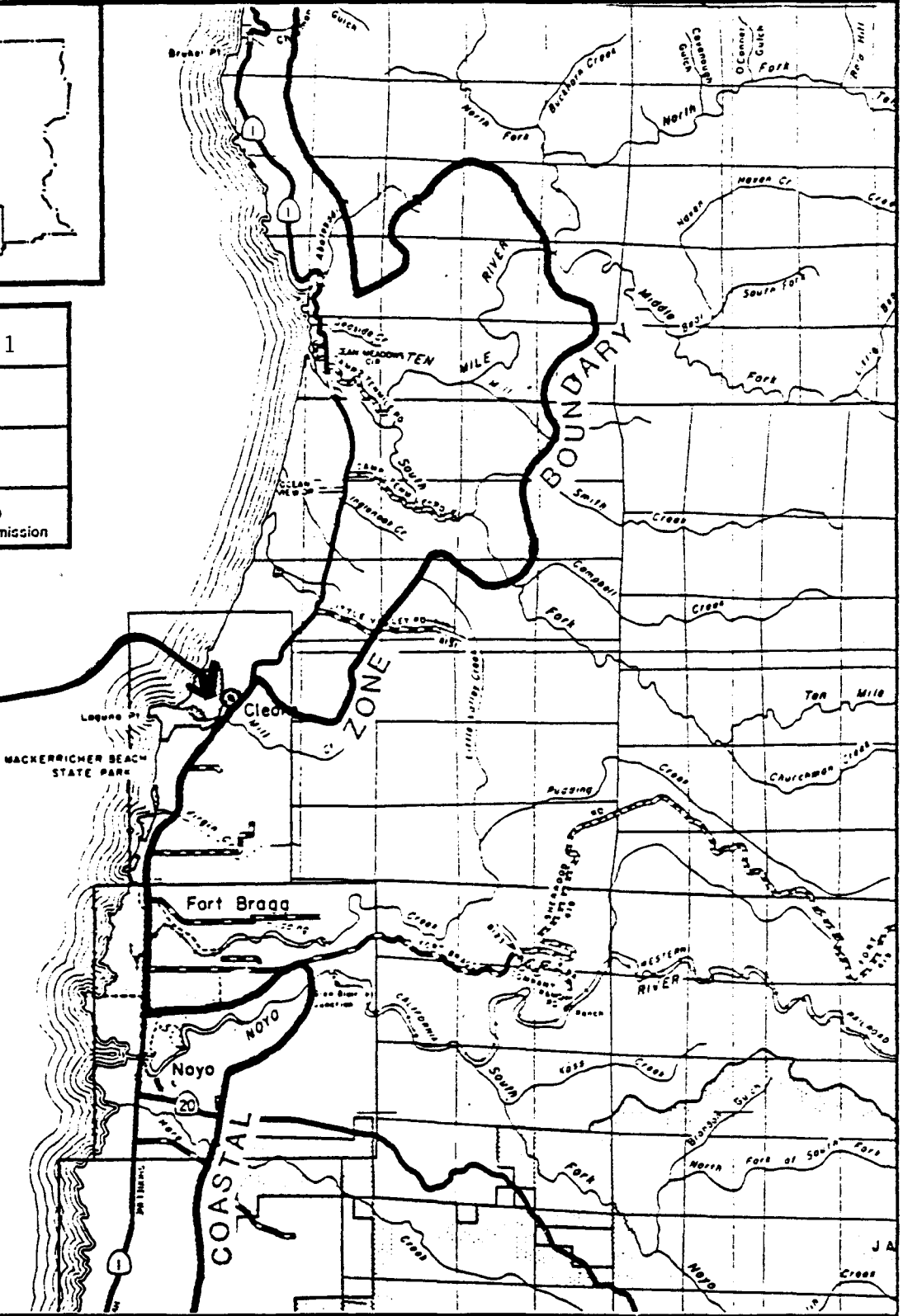
APPLICATION NO.
A-1-MEN-95-65

(HOLMES/HAUTALA)

 Location Map
California Coastal Commission

APPROXIMATE LOCATION

PACIFIC



California Coastal Commission

LOCATION MAP



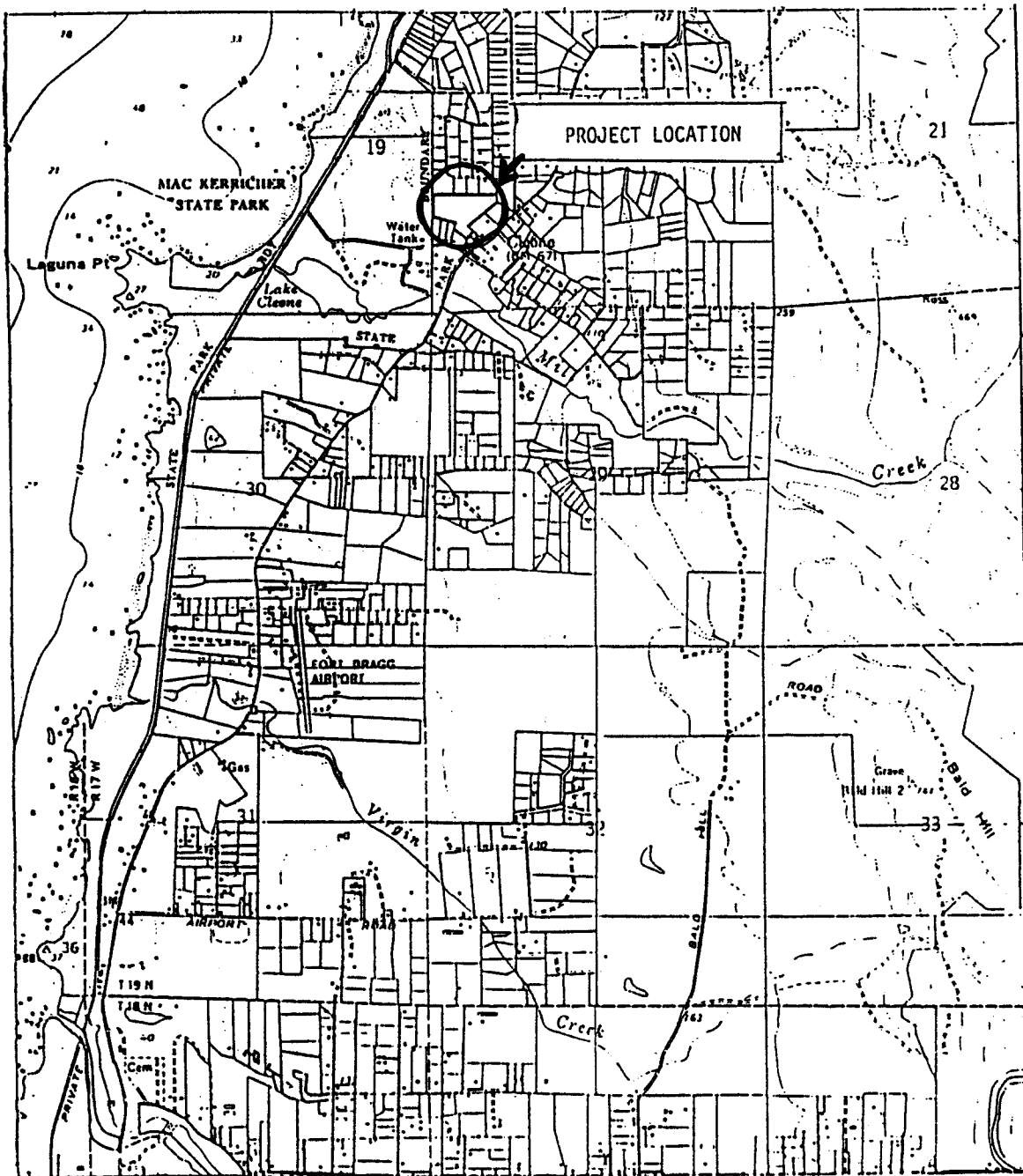



EXHIBIT A

LOCATION MAP

EXHIBIT NO. 2
APPLICATION NO. A-1-MEN-95-65
Vicinity Map
 California Coastal Commission

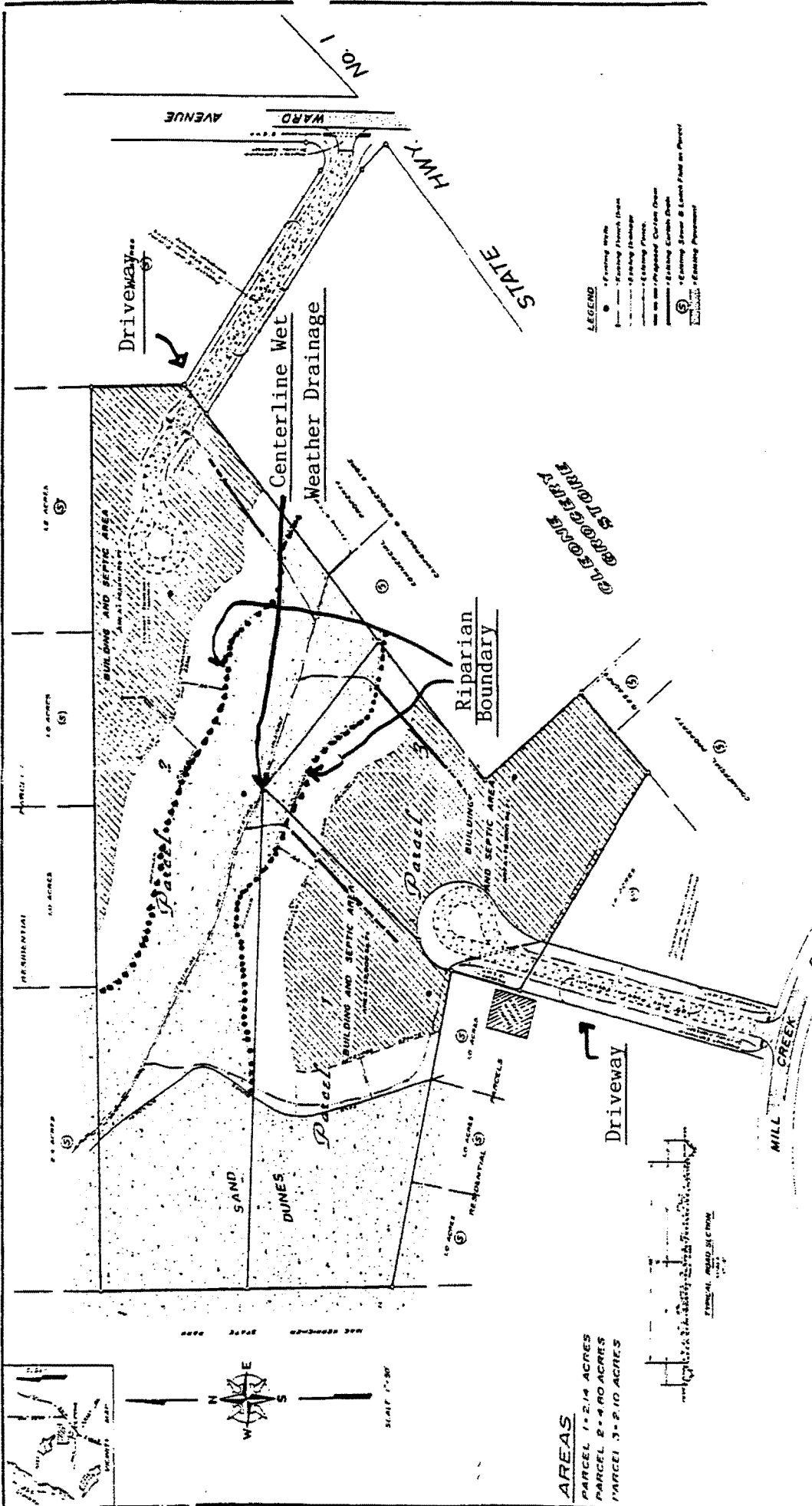


EXHIBIT NO. 3
APPLICATION NO.
 A-1-MEN-95-65
 Site Plan/Project

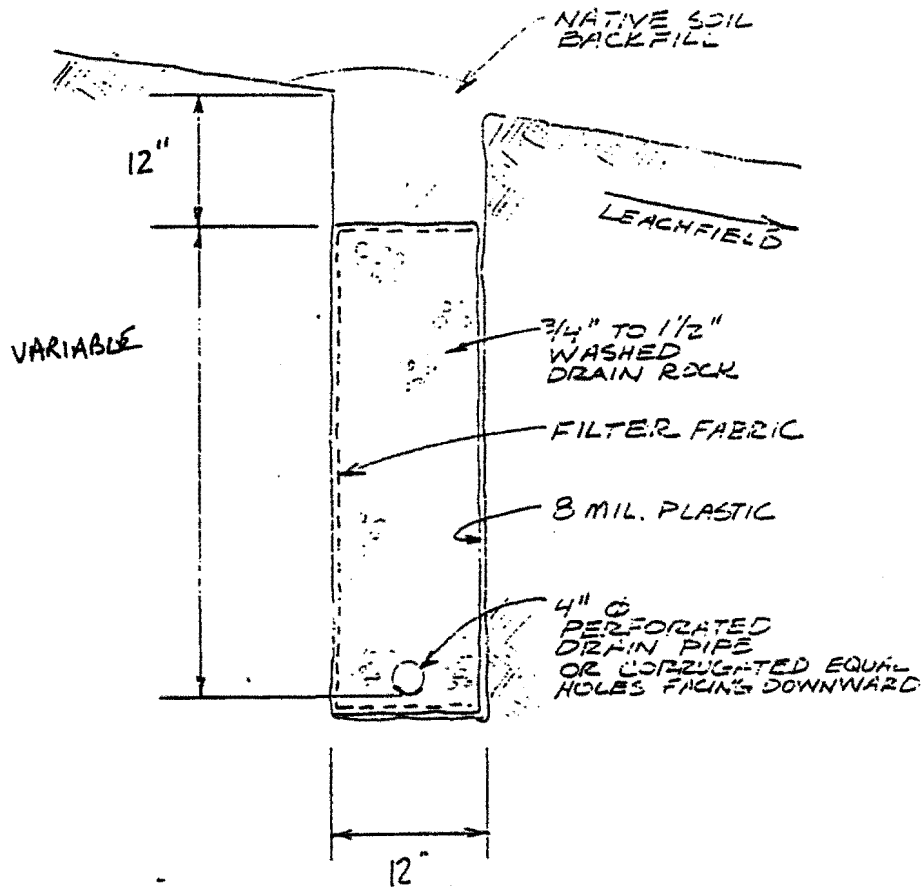
California Coastal Commission

PROPOSED
ROADWAY, GRADING & DRAINAGE PLAN & CURTAIN DRAIN INSTALLATION
 FOR
 [Illegible]
TENTATIVE PARCEL MAP, C.D.M.S. 3-93
 MAY, 1993

OWNER:
 [Illegible]
 [Illegible]
 [Illegible]
 [Illegible]

AREAS
 PARCEL 1 - 2.14 ACRES
 PARCEL 2 - 4.90 ACRES
 PARCEL 3 - 2.10 ACRES





CURTAIN DRAIN

NOT TO SCALE

DRAIN LENGTH
VARIES

EXHIBIT C

TYPICAL CURTAIN DRAIN SECTION

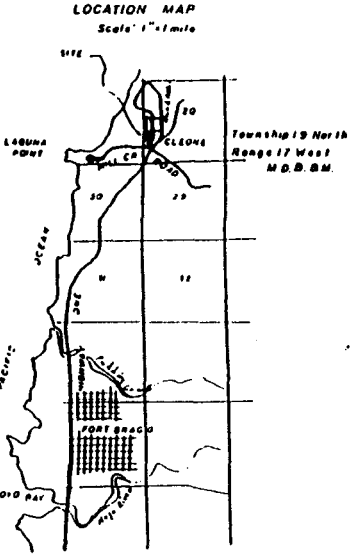
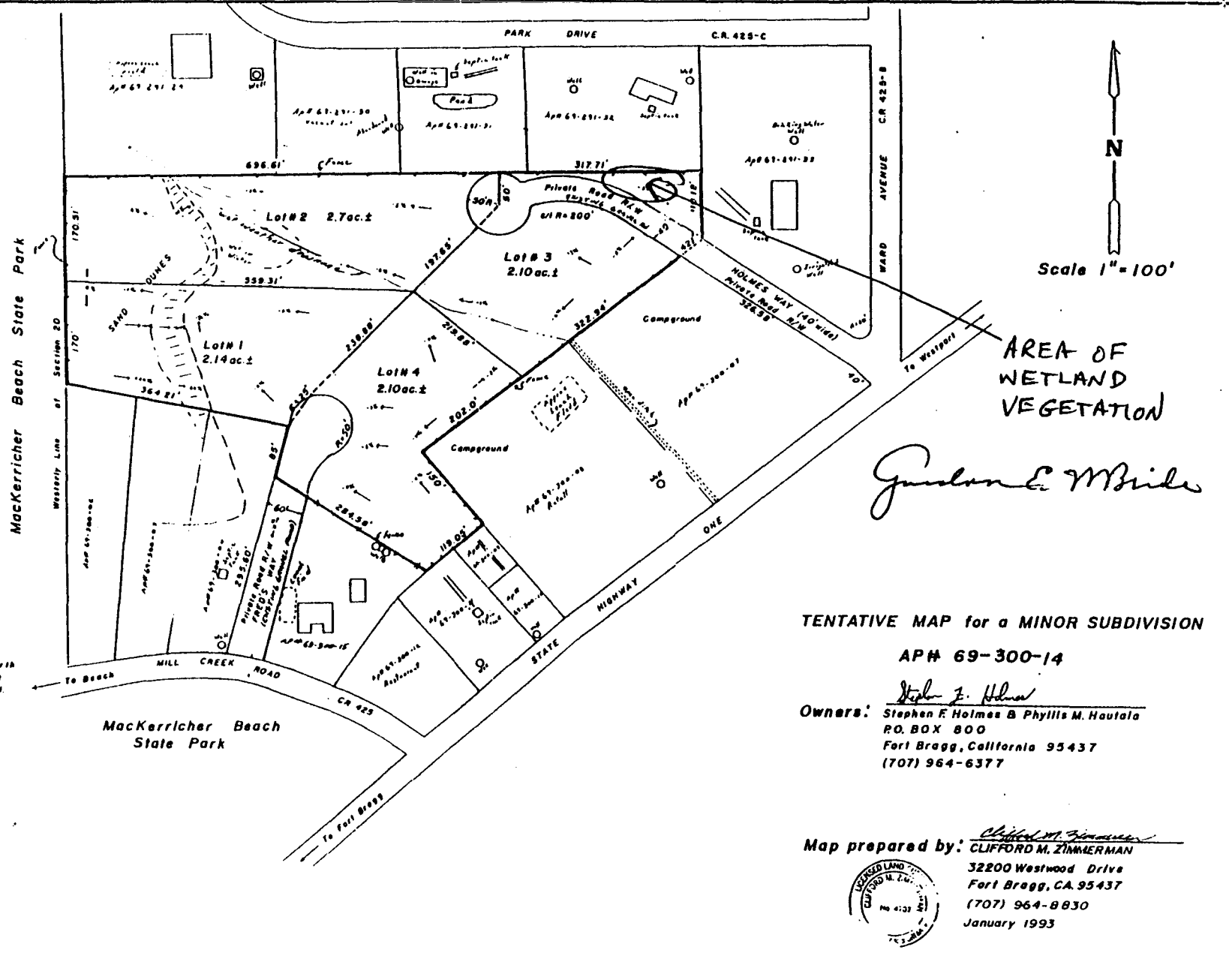
EXHIBIT NO. 4

APPLICATION NO.
A-1-MEN-95-65

Curtain Drain

EXHIBIT NO. 5
APPLICATION NO.
A-1-MEN-95-65
Area of Wetland
Vegetation

California Coastal Commission



AREA OF WETLAND VEGETATION

Jonathan E. White

TENTATIVE MAP for a MINOR SUBDIVISION

AP# 69-300-14

Owners: *Stephen F. Holmes*
 Stephen F. Holmes & Phyllis M. Haulala
 P.O. BOX 800
 Fort Bragg, California 95437
 (707) 964-6377

Map prepared by: *Clifford M. Zimmerman*
 CLIFFORD M. ZIMMERMAN
 32200 Westwood Drive
 Fort Bragg, CA 95437
 (707) 964-8830
 January 1993



The California Natural Diversity Data Base maps also indicate the possible presence of *Charadrius alexandrinus nivosus* (Western snowy plover), however, the nesting habitat of this bird is found on beaches approximately 1/2 mile westerly of this site. Therefore, this development should not affect that species.

The westerly portions of Parcels 1 and 2 show existing sand dunes. Sand dunes are identified by the Coastal Element as an Environmentally Sensitive Habitat Area (ESHA). The plans show a 50' buffer adjacent to this resource. Staff notes that on a residential property to the south, the sand dunes have shifted and created a situation requiring their periodic removal. This present Coastal Development Permit does not include any alteration to the existing sand dunes, and that should such be desired, a Coastal Development Use Permit would be required. The road and drainage improvements subject to this application do not affect the dunes.

Archaeological/Cultural Resources: In response to the review for CDMS 5-93, the Sonoma State University Archaeological Lab recommended that no archaeological study be prepared, and no study was required. A condition is recommended to ensure that should archaeological resources be found during the course of development of this site, appropriate actions are taken to ensure the proper handling of the discovery pursuant to Chapter 22.12 of the Mendocino County Code.

Groundwater Resources: The proposed road and drainage improvements will not affect groundwater resources. The plot plan submitted with the application indicates a well on each of the proposed three parcels and a fourth well within the riparian area on Parcel 2. These wells were test wells drilled in conjunction with the hydrological study prepared for CDMS 5-93, under Coastal Commission Waiver #1-90-285W. Conversion of the test wells to production wells will be subject to future permits. A condition is recommended that the well within the riparian area be abandoned in accord with Division of Environmental Health requirements, and that the disturbed area in the vicinity of the well be restored to its former condition.

Transportation/Circulation: The roadways subject to this application existed prior to the improvements made without permits. A declaration dated May 25, 1995 from the previous owner Fred C. Holmes, indicates that he had owned the property since 1948. He also declared that "In the 1950's, I personally put in both roads, cleared the brush, and with the use of equipment I smoothed off the surface to the extent that both roads were available for use by light-duty vehicles. I put some rock in the swale at the crossing area on the southerly road." Neither road extends into the riparian area on the parcel. No comments were received from Caltrans. The Department of Public Works stated that their concerns had been addressed in the conditions of CDMS 5-93, and that no additional conditions were recommended. The Department did point out that the entire turnaround bulb at the end of each road would need to be surfaced, and that a 125 foot minimum turn radius would need to be maintained on the north road. No adverse impacts are anticipated from the road improvements.

Zoning Requirements: The project complies with the zoning requirements for the District set forth in Sec. 20.376 et. seq., and with all other zoning requirements of Title 20 - Division II of the Mendocino County Code.

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

FINDINGS:

- (1) The proposed development is in conformity with the certified Local Coastal Program; and
- (2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and



EXHIBIT NO. 6
APPLICATION NO. A-1-MEN-95-65
County Findings and Conditions
 California Coastal Commission

EXHIBIT NO. 6
APPLICATION NO. A-1-MEN-95-65
County Findings and Conditions
 California Coastal Commission

- (3) The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Division II, and preserves the integrity of the zoning district; and
- (4) The proposed development, if constructed in compliance with the conditions of approval, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act; and
- (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource; and
- (6) Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
- (7) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

STANDARD CONDITIONS:

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

To remain valid, progress towards completion of the project must be continuous. The applicant has sole responsibility for renewing this application before the expiration date. The County will not provide a notice prior to the expiration date.

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

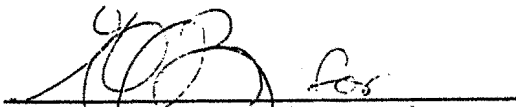
7. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
8. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the discovery to the Director of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. Within 60 days of issuance of this permit, the test well within the riparian area shall be closed and abandoned in accordance with permit procedures administered by the Division of Environmental Health.
2. Any disturbed area in the vicinity of the test well in the riparian area resulting from its construction or from its abandonment shall be restored to its former contour, and measures shall be implemented to achieve revegetation to its former condition within 30 days of abandonment.

Staff Report Prepared By:

Date: 10/11/95


Mary B. Stinson - Coastal Planner
Charles N. Hudson - Planner II

Attachments: Exhibit A - Location Map
 Exhibit B - Site Plan
 Exhibit C - Typical Curtain Drain Section
 Exhibit D - Botanical Survey Map

Appeal Period: 10 days
Appeal Fee: \$580

EXHIBIT NO. 6

APPLICATION NO.

A-1-MEN-95-65

County Findings and
Conditions

Summary of Grounds for Appeal:**Case No. CDMS 5-93**

In the hearing with the board of supervisors on June 27, 1994 there were five major code violations that were discussed but not resolved. These code violations were ignored in the Final Action dated 7/12/94.

Case No. CDP 30-95

In a hearing with the Mendocino County Coastal Permit Administrator on 10/26/95 the same five major code violations were stated with a written and oral presentation. The presentation was ignored in the granting of the permit at the end of the hearing and omitted from the summation. I have not yet seen a notice of Final Action.

In CDP 30-95 issues were brought up that involved the code violations. These were in items 3, 5, and 6 of the request.

There was no discussion or explanation of items 3, 5, and 6 by the applicant. From the "Public Notice, Standard Coastal Development Permit CDP 30-95", these items are:

- 3) resurfacing and improving an existing 18' wide driveway (Holmes Way)
- 5) three existing curtain drains and proposed extensions of those drains and one french drain,
- 6) review of the overall drainage plan for this site

The codes being violated are covered in the "Mendocino County General Plan, Coastal Element" (dated 1991); "The Policy on the Control of Water Quality with Respect to On Site Waste Treatment", California Regional Water Control Board; and the "Mendocino County Division of Public Health, Land Development Requirements." The violations are:

1. Soil conditions not met for the installation of intercept or French drains.
2. Installing French drains within 15 feet down gradient from proposed septic system drains.
3. Installing septic system drains requiring Wisconsin Mounds on new Land Division.
4. Placing roadway fill without grading plans or a permit. (Fill now interferes with drainage from the Menzie lot.)
5. No consideration for required setback for ponds and for seasonal wetlands on adjacent properties.

EXHIBIT NO. 7

APPLICATION NO.

A-1-MEN-95-65

Appellant's Grounds
for Appeal

Details and Historic

In September of 1991 an extensive drainage system was installed on the 9 acre Holmes property. I called Ed Bridges, in the Public Health Department of Mendocino County and asked about the drains. He told me that they were testing to see if they could drain the upper areas so that septic drain fields could be installed without using Wisconsin Mounds.

On November 12, 1992 extensive roadwork was being done on the Holmes 9 acre parcel. I visited Planning and Building Services in Ft. Bragg to see what permits had been issued for the roadwork. The only permits I found were for septic systems. I contacted Ed Bridges. He told me that the French drains had lowered the water in the upper soils and that he had issued permits to install septic drains without using Wisconsin Mounds.

I could not find any evidence that soil investigations had been made before the French drains were installed in 1991. The only soil profiles on record were made for the septic systems in the Spring of 1992, after the drains had been installed. These soil profiles do not show perched ground water above a hardpan or impermeable soil layer, which is the condition required for the use of French drains according to the "Mendocino County General Plan, Coastal Element".

There were a number of these drains installed, excavated with a back hoe. On the North side they extend from near the North property line running Southerly across the lot to the waterway which runs from East to West the length of the 9 acre parcel. The trenches were dug 3 or 4 ft. deep or to the water table. The trenches were then filled with crushed rock. At the East end of the 9 acre parcel drain pipe was installed but they were not able to drain the upper soils in that area.

The drains do drain the upper soils. They drain the upper soils on both the East side and the West side of each drain. So, obviously, the drains are down gradient from the surrounding soils. These drains cannot be placed within 50 feet of the septic effluent drains ("Mendocino County General Plan, Coastal Element".)

The upper soils on this parcel are windblown brown sand. Using accepted field testing techniques, I sampled the soils brought up while the French drains were being dug and I did not detect any clay. The samples taken by Carl Ritterman were not available to me.

In the Final Action for CDMS 5-93 the applicant was required to make soil profiles for parcels 1, 2 and 3. This has not been done. Wet weather testing is required. These soil profiles should be made as required before the applicant continues development of the parcel.

EXHIBIT NO. 7

APPLICATION NO.

A-1-MEN-95-65

Appellant's Grounds
for Appeal

Also required in the Final Action for CDMS 5-93 is the submission of plans and application for a grading permit for the road construction done without a permit. These plans and application for a grading permit should be made as required before the applicant continues development of the parcel.


The fill placed without permit has interfered with the drainage from the Menzie property. The Hartzell property and the adjacent undeveloped lot to the west both drain on to the Holmes property. All of the Holmes 9 acre parcel appears to drain onto the McDonell property. The grading plans must show how the natural runoff will be protected. The grading plans must also show the required setback for the wetlands and ponds on the properties. The McDonell and Hartzell properties both have ponds.

The pond on the Hartzell lot together with lot descriptions and owner's names are shown in the attached map, which was prepared by the applicant for a 4 parcel development, Case #CDMS-93. The 4 parcel development permit was denied by the Planning Commission on 4/7/94.

Attachments:

- Attachment 1) Permit Application Case #30-95.
- Attachment 2) Notice of Final Action CDMS 5-93.
- Attachment 3) Four pages showing soils profiles lots 1, 2, 3, 4.
- Attachment 4) Typical spacing for French drains and septic leachbed.
- Attachment 5) Two pages. Plot plans of nine acre parcel and adjacent properties.
- Attachment 6) Two pages showing codes for French drains, Wisconsin Mounds, and setback requirements.
- Attachment 7) Oral and written presentation given at the above hearing regarding standard Coastal Development Permit CDP #30-95

Carl D. Hartzell

EXHIBIT NO. 7
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Appellant's Grounds for Appeal
 California Coastal Commission

