

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

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Staff: Robert Merrill
Staff Report: September 20, 1996
Hearing Date: October 11, 1996
Commission Action:

STAFF REPORT: REQUEST TO DIRECT EXECUTIVE DIRECTOR TO ACCEPT PERMIT AMENDMENT
FOR PROCESSING

Coastal Commission Review of the Executive Director's
Decision to Reject Proposed Permit Amendment of
Permit No. 80-CC-122

APPLICATION NO.: 1-96-44-A (Original Permit No. 80-CC-122)

APPLICANTS: LARRY & MARILYN WAGNER, LUCIUS &
LUCILLE FITCH, WAYNE & JOYCE WERNER,
AND ROBERT & SONDR A DUTTON

AGENT: Jared G. Carter, Law Offices of Rawles, Hinkle,
Carter, Behnke, & Ogelsby

PROJECT LOCATION: Along Schoefer Lane, south of Fort Bragg, Mendocino
County.

DESCRIPTION OF PROJECT
PREVIOUSLY APPROVED: Four-way parcel minor subdivision of 29.1 acres

DESCRIPTION OF AMENDMENT: Termination of Offer of Dedication of Public
Access Easement made as condition to approval.

SYNOPSIS

On July 9, 1980, the North Coast Regional Commission granted Permit No. 80-CC-122 to Ernest & Miriam Schoefer for a minor subdivision of 29.1 acres into four parcels. The permit required the recordation of an offer to dedicate a public pedestrian access to the shoreline. On July 22, 1996, successors to the Schoefers submitted Amendment No. 1-96-44-A to delete the requirement for the offer to dedicate an access to the shoreline.

Applications for amendments to coastal development permits are governed in part by Section 13166(a)(1) of the Commission's administrative regulations which provide that the Executive Director shall reject the amendment if the proposed amendment would "lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted."

In a letter dated August 21, 1996, Commission staff informed Mr. Carter of the decision of the Executive Director to reject his clients' application to amend Permit No. 80-CC-122. The basis upon which the Executive Director rejected the application as mandated by Section 13166(a)(1) is described below.

The applicants subsequently requested that the matter be considered by the Commission, and requests that the Commission direct the Executive Director to accept the amendment for processing. Although not required to under the Commission's regulations, the Executive Director scheduled the matter for consideration by the Commission.

The staff believes the amendment request does not meet the standard set forth in Section 13166(a)(1) of the Commission's administrative regulations to allow the amendment to be accepted for processing. First, the proposed amendment lessens the intended effect of the previously approved permit by proposing to eliminate the offer to dedicate a public access easement that is currently required by the permit without demonstrating that the required alternative access is guaranteed in perpetuity pursuant to an agreement approved by the Executive Director. The amendment request does not demonstrate that 2 of the three circumstances required for termination which are specified in Special Condition No. 1 have occurred. First, the Executive Director has not approved an agreement providing public access in perpetuity across the Botanical Gardens. Second, an agreement providing public access in perpetuity across the Botanical Garden even in the event of change in ownership or use has not been recorded. To eliminate the offer to dedicate a public access easement required by Permit No. 80-CC-122 before all of the required criteria have been met would only lessen or avoid the intended effect of the permit as conditioned contrary to the mandates of 14 CCR 13166(a)(1).

Second, the amendment request does not identify newly discovered material information which could not have been discovered and produced before the permit was granted that would allow the Executive Director to accept the amendment request for processing even though the proposed amendment lessens or avoids the intended effect of the permit. The submitted amendment request notes that in 1981 and 1992, the Botanical Gardens were purchased by the Mendocino Coast Recreation and Park District and the District provides access. However, the access available through the Botanical Gardens is not guaranteed in perpetuity through any sort of recorded document, just as was the case when the Commission approved the original permit. Thus, the fact that the Botanical Gardens was purchased has not changed the situation over what existed in 1980; Access through the Botanical Gardens still exists and is still not guaranteed in perpetuity. Therefore, the sale of the property through the execution of grant agreements does not constitute newly discovered material information. The applicants also note that the LUP was certified after the original permit was approved. The LUP was certified with policies designating accessways including the accessway now proposed for deletion consistently implements the Commission's action on Permit No. 80-CC-122 and does not provide newly discovered material information that suggests that the offer to dedicate a public pedestrian access easement required by the permit should be eliminated. On the contrary, inclusion of the recorded offer as a proposed accessway in the LUP only supports retention of the recorded offer. Consequently, the proposed amendment request must be rejected.

Staff recommends that the Commission concur in the Executive Director's decision to reject the amendment application.

STAFF NOTES

1. Scope of This Proceeding

This proceeding is on the narrow issue of whether the Commission will elect to direct the Executive Director to reverse his decision to reject for processing the application to amend Permit No. 80-CC-122-A. This proceeding is not a hearing on the merits of the amendment request itself. A hearing on the merits of the amendment request will be held only in the event that the Commission elects to direct the Executive Director to reverse his decision to reject the amendment request, and only after the amendment application is determined to be complete for filing.

2. Numbering of Amendment Request.

The amendment request rejected by the Executive Director proposes to delete Special Condition No. 1 of Permit No. 80-CC-122, issued by the North Coast Regional Commission in 1980. The amendment request, 1-96-44-A, has a different application number because the Commission has changed its numbering system since the original permit was granted in 1980.

3. Supplemental Exhibit Packet.

In addition to the attached Exhibits 1-7, this staff report includes a supplemental exhibit packet that consists of a submittal from the applicants' representative.

I. STAFF RECOMMENDATION:

Staff recommends that, following a public hearing, the Commission adopt the following resolution and related findings:

The resolution is properly introduced by the following motion:

I hereby move that the Commission direct the Executive Director to reverse his determination to reject for processing under Section 13166(a)(1) of the Commission's administrative regulations proposed Amendment No. 1-96-44-A to Permit No. 80-CC-122.

Staff recommends a NO vote, which will result in the adoption by the Commission of the following resolution:

RESOLUTION

The Commission hereby finds that proposed Amendment No. 1-96-44-A to Permit No. 80-CC-122 (1) would "lessen or avoid the intended effect of" Permit No. 80-CC-122 and (2) is not based on "newly discovered material information," and therefore concurs in the determination of the Executive Director to reject the amendment application for processing under Section 13166(a)(1) of the Commission's Administrative Regulations.

II. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. Background on Permit No. 80-CC-122-A

On July 9, 1980, the North Coast Regional Commission of the California Coastal Commission granted Permit No. 80-CC-122 to Ernest & Miriam Schoefer for a minor subdivision of 29.1 acres into four parcels (see Exhibits 1-4). A copy of the approved permit with the adopted findings and conditions is attached as Exhibit 3. The subject property is located off of Schoefer Lane, west of Highway One, approximately 2.4 miles south of the City of Fort Bragg in Mendocino County (see Exhibits 1, 2 and 4). The 29.1 acres that were subdivided included an approximately 27-acre blufftop parcel fronting along approximately 800 lineal feet of the shoreline and extended some 800 feet south to Schoefer Lane, a private roadway, and approximately 2,000 feet to the east along the north side of Schoefer Lane (see Exhibit 4). The remaining 2.1 acres that were included in the subdivision consists of a noncontiguous parcel approximately 500 feet to the northeast of the 27-acre parcel.

The permit was granted with one special condition, a condition that required the recordation of an offer to dedicate an easement for public pedestrian access to the shoreline. Special Condition No. 1 states as follows:

"1. Access:

PRIOR TO ISSUANCE OF THE PERMIT the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be 25 feet wide located along the southern boundary of the property line and extend from the Ocean Drive (old Highway One) to the mean high tide line/bluff edge and shown herein as Exhibit II. Such easement shall be recorded free of liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

However, if the certified LCP includes a vertical and lateral access at the Botanical Garden property, AP#17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the above property even in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants property may be terminated." (emphasis added)

The location of the easement to be offered is shown in Exhibit 4. As indicated in the findings the Commission adopted when it approved Coastal Development Permit No. 80-CC-122, the Commission determined that the required offer to dedicate a vertical public access easement was necessary to find the project consistent with the coastal access policies of the Coastal Act. The findings for approval of CDP 80-CC-122 indicate that at the time the permit was approved, a fee vertical and lateral access had not been offered in perpetuity to the state as a public access, fee or otherwise. The Commission stated in the findings that there was a need for additional public access easements in the area of the subject property and that the intensification of land use resulting from the proposed development burdened public access in such a manner as to necessitate the requirement that an offer to dedicate a vertical public access easement to the shoreline be recorded.

The permit applicants, Ernest and Miriam Schoefer, accepted permit No. 80-CC-122 as conditioned and recorded the requisite offer to dedicate. The offer was recorded. A copy of the recorded parcel map is attached as Exhibit 5. The divided property was later acquired by others, including the applicants for the proposed amendment. One of the applicants for the amendment request, Marilyn Wagner, is the daughter of the original permittees. The applicants do not own all of the property involved in the subdivision authorized by Permit No. 80-CC-122. Therefore, the amendment request applies only to the portion of the property subject to Permit No. 80-CC-122 which the applicants own in fee.

The owner of approximately 13 acres of the eastern end of the property, Mr. Arthur Cody, has not joined as an applicant for the amendment request. Mr. Cody is currently involved in litigation with the Commission over his attempt to revoke unilaterally the portion of the offer to dedicate a public pedestrian access easement required by Permit No. 80-CC-122 that affects his property. The Superior Court for the County of Mendocino ruled that Mr. Cody was not entitled to revoke the offer to dedicate. (California Coastal Commission v. Arthur B. Cody, et al. (No. CV 71037)). An appeal of that decision is pending.

B. Proposed Amendment No. 1-96-44-A to Permit No. 80-CC-122-A

On July 22, 1996, Jared G. Carter, on behalf of Larry and Marilyn Wagner, Lucius and Lucille Fitch, Wayne and Joyce Werner, and Robert and Sondra Dutton, submitted application No. 1-96-44-A to amend the special condition of Permit No. 80-CC-122. The description of the proposed amendment stated on the application form is "Termination of offer of Dedication of Public Access Easement made as condition of approval. (see Letter submitted herewith.)." Page two of the letter reiterates this description, stating in applicable part at the top of page two, "This letter is an application to the Coastal Commission to amend Permit 80-CC-122 to delete that offer." A copy of the amendment request is included in the supplemental exhibit packet.

C. Regulation Governing Permit Amendments

Applications for amendment to coastal development permits are governed in part by Section 13166(a)(1) of the Commission's administrative regulations which provide:

"An application for an amendment shall be rejected if, in the opinion of the Executive Director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted."

Thus, in order for an application to be accepted by the Executive Director, the applicant must either (1) demonstrate that the proposed amendment would not "lessen or avoid the intended effect of a ...conditioned permit," or (2) present "newly discovered material information" which could not have, with reasonable diligence, been "discovered and produced before the permit was granted."

D. Executive Director's Decision and Analysis

In a letter dated August 21, 1996, Commission staff informed Mr. Carter of the decision of the Executive Director to reject his clients' application to amend Permit No. 80-CC-122. The basis upon which the Executive Director rejected the application as mandated by Section 13166(a)(1) is described below.

1. The proposed amendment request "Lessens the Intended Effect" of Permit No. 80-CC-122 contrary to Section 13166(a)(1) of the Commission's regulations.

The proposed amendment lessens the intended effect of the previously approved permit by proposing to eliminate the offer to dedicate a public access easement that is currently required by the permit without demonstrating that the required alternative access is guaranteed in perpetuity pursuant to an agreement approved by the Executive Director. The intended effect of Permit No. 80-CC-122 was to allow the four parcel subdivision of the 29-acre property of the original permittees as approved by Mendocino County provided that a

public access easement from Ocean Drive through the immediate area to and along the shoreline is guaranteed in perpetuity. The permit required that the applicants record an offer to dedicate such an easement along Schoefer Lane and through the property. The special condition does provide that the offer to dedicate the vertical public access easement "may be terminated if the certified LCP includes a vertical and lateral access at the Botanical Garden property, AP# 17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the Botanical Garden property even in the event of change in ownership or use has been recorded, ..." (Emphasis added).

Essentially, the condition sets forth three criteria that must be met before the offer to dedicate the vertical public access easement along Schoefer Lane "may be terminated." These criteria are as follows:

- a. The certified LCP must include a vertical and lateral access at the Botanical Gardens;
 - b. An agreement must have been recorded providing public access in perpetuity across the Botanical Garden property even in the event of change in ownership or use; and
 - c. The Executive Director or his successor must have approved the form and content of the agreement providing public access in perpetuity across the Botanical Garden property.
- a. LCP Designation of Access Through Botanical Gardens Property

As required by Special Condition 1, the certified LCP does designate access through the Botanical Gardens property. Policies 4.5-1 through 4.5-3 of the Certified LUP are access and recreation policies specific to the Botanical Gardens area. Policy 4.5-2 states as follows:

"The offers to dedicate easements to the public for access shall be accepted and additional offers of dedication for public access easements shall be obtained for those areas shown on the land use plan map consistent with Policy 3.6-5 in order to complete this trail system. Vertical access from Pacific Ocean Drive to blufftop access shall be limited to non-motorized use."

The certified Land Use Plan Map covering this area is Map No. 14, the relevant portion of which is shown in Exhibit 6. The map clearly shows an existing shoreline access (as delineated by a string of blackened circles) extending through the Botanical Gardens property. Therefore, the Commission finds that the first of the three criteria has been met. However, the other two criteria identified in the termination clause of Special Condition 1 have not been met.

- b. Executive Director Has Not Approved An Agreement Providing Public Access in Perpetuity Across the Botanical Garden Property

The submitted amendment request, its transmittal letter, and subsequent correspondence from the applicants' representatives make no showing that the Executive Director of the Commission has approved any agreement providing public access in perpetuity across the Botanical Garden Property. No such showing can be made because the Executive Director has never approved such an agreement for the Botanical Garden property.

- c. No recorded agreement providing public access in perpetuity across the Botanical Garden property even in the event of change of ownership or use exists

The Botanical Garden property is not subject to any recorded agreement that provides for public access in perpetuity across the property. The amendment request notes that the Mendocino Coast Recreation and Park District purchased the Botanical Gardens in 1982 and 1991, and that the Mendocino Coast Recreation and Park District (District), entered into grant agreements pursuant to which the California Coastal Conservancy (Conservancy) gave the District funds to purchase the Gardens. However, although the grant agreements were made subject to a number of conditions requiring a portion of the area subject to permit 80-CC-122 be used for public access, neither of the agreements guarantee public access in perpetuity.

i. Grant Agreement No. 81-033.

Grant Agreement No. 81-033 is the Agreement pursuant to which the District acquired the developed central portion of the Botanical Gardens, consisting of AP # 017-070-19 and 017-070-38, in fee, together with a five-acre easement over a portion of the adjoining coastal headlands (AP # 017-050-08) -- i.e., the area which encompasses much of the existing public accessway leading from the entrance of the Gardens to and along the coastal headlands. The Agreement covers only two of the three parcels identified in the termination clause of Special Condition 1 as the parcels which public access must be secured "in perpetuity" before the Offer "may be terminated." Although Agreement 81-033 contains a number of provisions limiting use of the property to which it applies to public access and park purposes, the Agreement itself "recognizes that the District might fail in its mission, and provides merely that, should this occur, the District shall be liable for repayment to the Conservancy of the grant amount." Thus, it cannot be said to secure to the public a right of access "in perpetuity" even across those of the parcels identified in the Offer to which it applies. To the contrary, grant agreement No. 81-033 recognizes the District could fail in its obligations in which case the District would be liable for repayment to the Conservancy of the grant amount.

ii. Grant Agreement No. 89-066

In 1988, the Conservancy granted the District up to an additional \$50,000 to prepare, in cooperation with the Corporation, a master plan for the future operation and development of the Gardens, with a particular eye toward evaluating the desirability of acquiring the remaining 35 acres necessary to return the Gardens to its original 47 acre size. The final plan, which was

adopted by the Conservancy in June of 1990, recommended, among other things, that the parcels remaining in private hands be promptly acquired in order to protect the natural and man-made resources of the Botanical Gardens, preserve public access, and expand recreational opportunities.

Consequently, on June 25, 1990, the Conservancy granted the District "a sum not to exceed two million (\$2,000,000)" to acquire such property -- specifically, Assessor Parcel Nos. 17-040-23, 17-040-50, 17-070-37, and 17-050-08 -- in order to "accomplish the purposes of the Mendocino Coast Botanical Gardens Restoration Plan," including the "preservation of public access."

The agreement specifically prohibits the District from making any use of the parcels inconsistent with the foregoing purposes and further requires that the District execute an "irrevocable offer" to dedicate the parcels to the accomplishment of such purposes, which the District promptly did. The offer provides, in pertinent part, as follows:

1. ACCEPTANCE OF OFFER. This offer may be accepted only if the Conservancy finds that the existence of the Offeror has been terminated or that the Offeror or its successor in interest in the real property has violated one or more of the . . . essential terms of agreement no. 89-066. . . [in which case] the Offer may be accepted by the Conservancy, or by another public agency or nonprofit organization designated by the Conservancy.

The applicants identify two reasons why they believe the permit amendment request should be accepted for filing: (1) that the covenant in the Offer to Dedicate recorded by the District pursuant to this Agreement which requires that the property be used in such a way as to preserve public access is binding upon any and all who might come into title; and (2) that in any event there's no reasonable likelihood the Gardens will ever pass out of public hands. However, both propositions are erroneous.

First, the termination clause of Special Condition 1 requires an agreement which secures public access not just across any portion of the Gardens but rather across certain, specifically designated parcels: "AP # 17-07-12 & 17-05-08" or, using today's APN's, across APN Nos. 17-070-37, 17-070-38, and 17-050-08. Grant agreement 89-066, however, applies only to APN Nos. 17-040-23, 17-040-50, 17-0070-37, and 17-050-08. That is, it applies to only a portion of the area referenced in the termination clause of Special Condition 1.

Parcels 17-070-37 and 17-050-08 do in fact stretch from Ocean Drive to and along the Coast. However, this is not where the developed public access runs. As shown on the map, it runs from Ocean Drive, at a point farther to the north, through the excluded parcel -- AP # 17-070-38 -- among others, to and along the coastal headlands comprising parcel 17-05-08. More importantly, the securing of access "in perpetuity" through Parcels 17-070-37 and 17-050-08 is not what is required as a precondition for termination of the Schoefer Offer. What is required is access through 17-070-37 and 17-070-38 and 17-050-08.

Second, although grant agreement No. 89-066 required the District to execute an irrevocable offer to dedicate title in fee to the State of California, the offer to dedicate is not an offer to dedicate a public pedestrian easement. Instead, the purpose of the offer to dedicate is to protect the public's interest in the Botanical Garden property, which was acquired with the assistance of State funds. The terms of the offer provide that the offer may only be accepted by the Conservancy if (1) the offeror has used the property for uses not approved by the Conservancy, (2) the offeror uses the property as security for debt without the Conservancy's approval, (3) the offeror transfers the property without the Conservancy's approval, or (4) the offeror does not use, manage, operate, and maintain the property in accordance with Agreement No. 89-066 between the Offeror and the Conservancy. Thus, the recorded offer provides a means for the Conservancy to take over the property in the event the purchasers of the Botanical Gardens fail to adhere to the grant agreement but does not expressly provide for a public pedestrian access easement guaranteed in perpetuity. Furthermore, the offer to dedicate does not by itself transfer title to the State. The State could only accept the offer if one or more of the circumstances noted above occurs.

Third, the District Offer provides that the burden of the District's Offer -- that is the "obligations, terms, conditions, and restrictions imposed by the Offer -- "shall be deemed covenants and restrictions running with the land and shall be effective limitations on the use of the real property . . . , and shall bind the Offeror and all its successors and assigns," to the benefit of the State of California. Paragraph 6 similarly provides that the "terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Offeror and the Conservancy, whether voluntary or involuntary."

Applicants suggest that in the event the District were terminated and the Conservancy were to exercise its power to accept the offer, the Conservancy or its successors would be required to hold the property open to the public. But this is not the case. All the provisions say is that any successor or assign of the Conservancy stands in its shoes under the terms of the offer. The terms requiring the property's use only for public access and park purposes apply only to the Offeror, not to the Conservancy. The Legislature has specifically declared that if, upon acquiring a property, the Conservancy concludes that the benefits of public use would be outweighed by the costs of development and maintenance, it "shall not be required to open any area for public use" For example, should the District fail in its obligations or cease to exist, one cannot be assured that the parcels covered by the instant agreement would not be sold to private parties or otherwise withdrawn from public use. This could occur if the Conservancy could not find another public agency or nonprofit to accept the District's offer to dedicate and declined to accept the offer itself or if, after accepting the offer itself, the Conservancy were to conclude that the benefits of public use would be outweighed by the costs and exercise its right to sell such property at market value.

Thus, Agreement 89-066 clearly cannot be said to secure to the public "in perpetuity" access through the Botanical Gardens to the coast. The amendment request, its transmittal letter, and subsequent correspondence submitted by the applicant's representative do not demonstrate that 2 of the three circumstances required for termination which are specified in Special Condition No. 1 have occurred. First, the Executive Director has not approved an agreement providing public access in perpetuity across the Botanical Gardens. Second, an agreement providing public access in perpetuity across the Botanical Garden even in the event of change in ownership or use has not been recorded. To eliminate the offer to dedicate a public access easement required by Permit No. 80-CC-122 before all of the required criteria have been met would only lessen or avoid the intended effect of the permit as conditioned contrary to the mandates of 14 CCR 13166(a)(1). Consequently, the proposed amendment request would lessen or avoid the intended effect of the conditioned permit by eliminating the required offer to dedicate a vertical public access easement through the applicant's property before a vertical and lateral public access easement has been guaranteed in perpetuity across the Botanical Gardens property. Therefore, the proposed amendment request must be rejected.

2. No "Newly Discovered Material Information" which could not have been discovered and produced before the permit was granted has been presented.

Even if the proposed amendment lessens or avoids one or more "intended effects" of a coastal development permit, the Executive Director may nevertheless accept an application to amend that permit if the applicant presents "newly discovered material information" which could not have been "discovered and produced before the permit was granted." (14 California Code of Regulations section 13166(a)(1).

The amendment request does not identify newly discovered material information which could not have been discovered and produced before the permit was granted that would allow the Executive Director to accept the amendment request for processing even though the proposed amendment lessens or avoids the intended effect of the permit. The amendment request does discuss, however, two events that occurred after the North Coast Regional Commission approved the original permit. These include (a) the fact that the Botanical Gardens were purchased by the Mendocino Coast Recreation and Park District who signed grant agreements with the Coastal Conservancy to provide access through portions of the property (although not in perpetuity and not approved by the Executive Director of the Coastal Commission) and (b) the Mendocino County LUP was certified in 1985 with a list of desired accessways and with a policy stating property owners may petition the Coastal Commission to relinquish offers when access points prescribed by the plan are assured.

- a. District Purchase of Botanical Gardens and Provision of Access

The submitted amendment request notes that in 1981 and 1992, the Botanical Gardens were purchased by the Mendocino Coast Recreation and Park District. As noted previously, the District entered into grant agreements pursuant to which the California Coastal Conservancy gave the District funds to purchase

the Gardens. However, although the grant agreements were made subject to a number of conditions requiring a portion of the area subject to permit 80-CC-122 be used for public access, neither of the agreements guarantee public access in perpetuity or guarantee public access over the entire area subject to permit 80-CC-122.

Moreover, it is important to note that at the time the North Coast Regional Commission acted on Permit Application No. 80-CC-122-A, public access through the Botanical Gardens property to the shoreline already existed. The findings adopted by the North Coast Regional Commission in 1980 for Permit No. 80-CC-122-A state in applicable part:

"Currently, a fee vertical and lateral access exists on the property immediately north of the subject parcel (the Botanical Gardens)..."

However, the access available through the Botanical Gardens at the time was not guaranteed in perpetuity through any sort of recorded document, just as the current access available through the Botanical Gardens is not guaranteed in perpetuity through any sort of recorded document. Thus, the fact that the Botanical Gardens was purchased has not changed the situation over what existed in 1980; Access through the Botanical Gardens still exists and is still not guaranteed in perpetuity. Therefore, the sale of the property through the execution of grant agreements does not constitute newly discovered material information. Consequently, the proposed amendment request must be rejected.

b. Certified LUP Policies.

Five years after approval of permit No. 80-CC-122, the Commission certified the Mendocino County Land Use Plan with certain policies relating to public access. The Certified LUP designated appropriate accessways and includes a policy (Policy No. 3.6-29) which states the following:

"Any proposed owner, who has recorded an offer to dedicate an easement to the public as condition of permit approval and the specific locations of the easement is not recommend in the land use plan for public access, may petition the Coastal Commission to amend the permit that required the offer to eliminate the conditions. It is the intent of the plan that those easements which are not recommended in the land use plan be extinguished by the Coastal Commission."

Page 83 of the certified LCP also provides:

"LCP studies show that some access offers required by the Coastal Commission are unnecessary or illogical in the context of the Land Use Plan proposals of adjoining properties. Some of these offers can be relinquished shortly after certification while others should be abandoned when access points prescribed by the plan are assured. Where existing offers of dedication are not essential to meet public access needs, the Access component specifies that they be relinquished...."

The applicants' representative claims that the offer to dedicate a public access easement required by Special Condition No. 1 of Permit No. 80-CC-122 is not designated in the LCP as an appropriate accessway. Presumably, the applicants believe this is material information that would allow the Executive Director to accept the amendment request even if the Executive Director believes the amendment request lessens or avoids the intent of the permit.

However, the applicants' representative's claim that the offer to dedicate a public access easement required by the North Coast Regional Commission is not designated in the LUP is false. Policy 4.5-1 through 4.5-3 of the LUP are access and recreation policies specific to the Botanical Gardens area. Policy 4.5-2 states as follows:

"The offers to dedicate easements to the public for access shall be accepted and additional offers of dedication for public access easements shall be obtained for those areas shown on the land use plan map consistent with Policy 3.6-5 in order to complete this trail system. Vertical access from Pacific Ocean Drive to blufftop access shall be limited to non-motorized use."

The certified Land Use Plan Map covering this area is Map No. 14, the relevant portion of which is shown in Exhibit 6. The map clearly shows a proposed shoreline access (as delineated by a string of unblackened circles) following the exact alignment of the offer to dedicate a public pedestrian easement recorded pursuant to Special Condition No. One of Permit No. 80-CC-122. The alignment of the recorded offer to dedicate is shown in Exhibit 4. The proposed shoreline access links with the existing access provided through the Botanical Gardens shown by the blackened circles to the north of the proposed shoreline access. Thus, Policy 4.5-2 of the certified LUP calls for acceptance of the offer to dedicate a public pedestrian easement recorded pursuant to Permit No. 80-CC-122.

Therefore, the Commission finds that certification of the LUP with policies designating accessways including the accessway now proposed for deletion consistently implements the Commission's action on Permit No. 80-CC-122 and does not provide newly discovered material information that suggests that the offer to dedicate a public pedestrian access easement required by the permit should be eliminated. On the contrary, inclusion of the recorded offer as a proposed accessway in the LUP only supports retention of the recorded offer. Consequently, the proposed amendment request must be rejected.

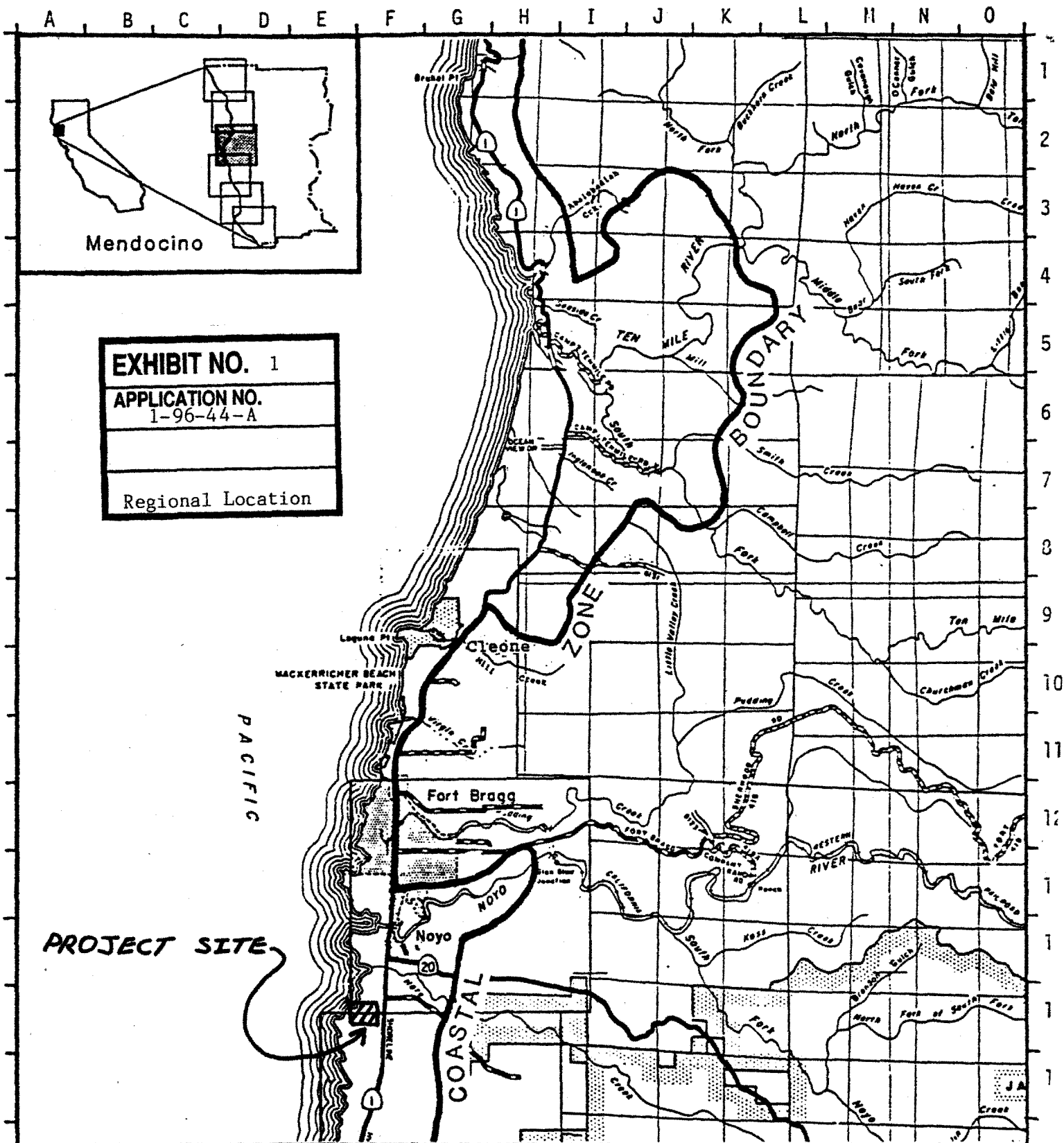
E. Commission's Analysis and Conclusion

The Commission has given careful consideration to the arguments advanced by the applicants and the Executive Director regarding whether the applicants' application to amend Permit No. 80-CC-122 should under the standards of Section 13166(a)(1) of the Commission's regulations be accepted for processing. Based on its evaluation of the record, the Commission believes that the Executive Director's position is persuasive and is consistent with the manner in which the Executive Director has in the past interpreted and applied the standards of Section 13166(a)(1).

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Therefore, for all the foregoing reasons identified by the Executive Director, the Commission finds that proposed amendment No. 1-96-44-A to Permit No. 80-CC-122 (1) would "lessen or avoid the intended effect of" Permit No. 80-CC-122, and (2) is not based on 'newly discovered material information.' The Commission therefore concurs in the determination of the Executive Director to reject under section 13166(a)(1) of the Commission's regulations the applicants' amendment request.

9025p



NOYO HARBOR →
(3+ MILES)

BOTANICAL GARDENS
PROPERTY →

PROJECT LOCATION →
80-CC-122
1-96-44-A

JUG HANDLE →
(2+ MILES)

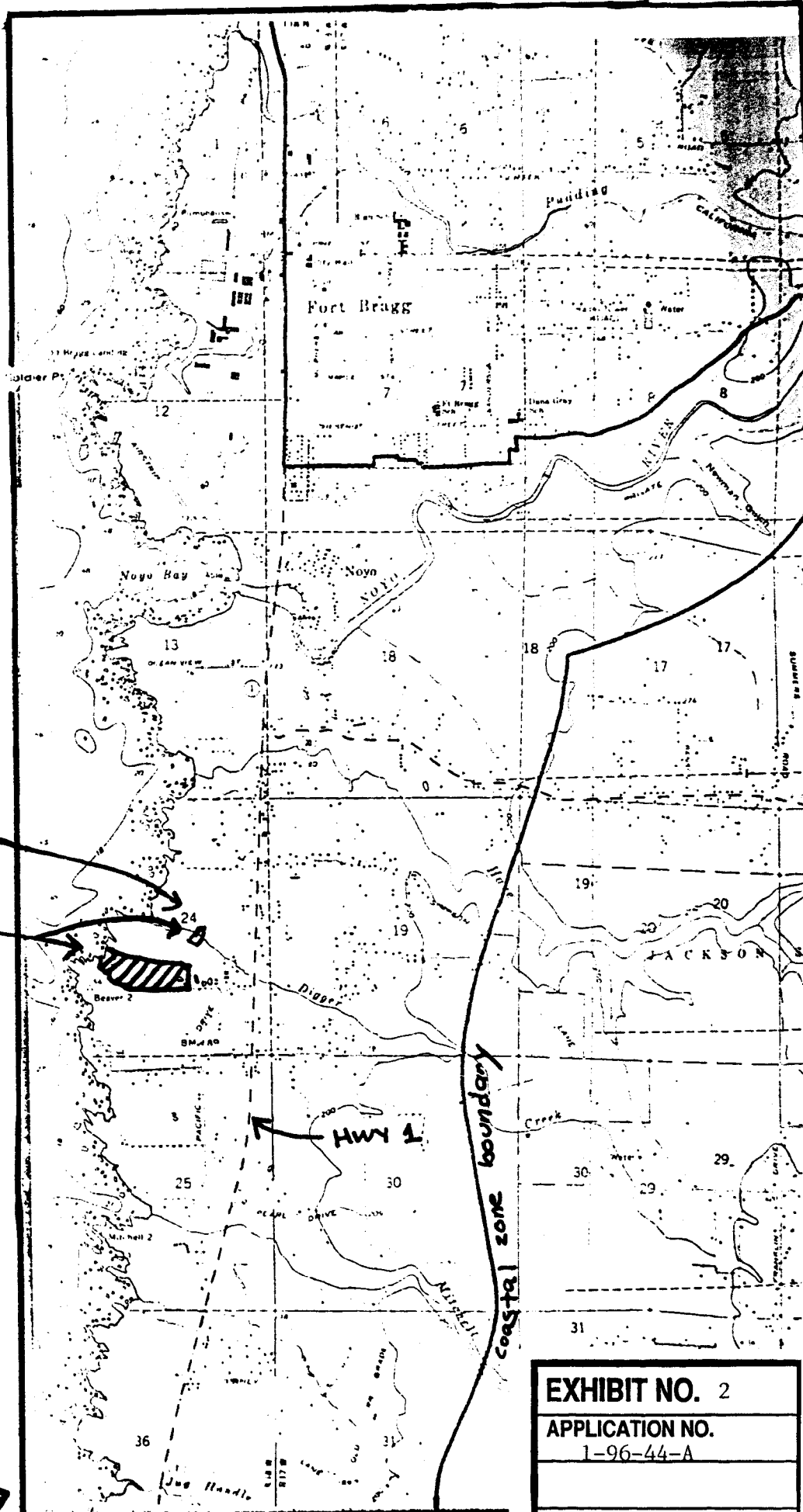


EXHIBIT NO. 2

APPLICATION NO.

1-96-44-A

Vicinity Map

CALIFORNIA COASTAL COMMISSION

NORTH COAST REGION

1655 UNION STREET, ROOM 150

P.O. BOX 4946

EUREKA, CALIFORNIA 95501

(707) 443-1623

July 25, 1980

EXHIBIT NO. 3

APPLICATION NO.

1-96-44-A

Permit No. 80-CC-122

(Original Permit)

(1 of 8)

Ernest & Miriam Schoefer
P.O. Box 860
Fort Bragg, CA 95437

Dear Mr. & Mrs. Schoefer:

RE: Permit 80-CC-122

On July 9, 1980, by a vote of 11 in favor, 0 opposed, the North Coast Region of the California Coastal Commission granted your application for a permit for the development described in the attached application summary and staff recommendation, which were adopted at the Commission meeting of July 9, 1980. This permit is limited to the above described development and is subject to the terms and conditions contained therein.

This permit will be in effect for a period of two years from the time of the Regional Commission's final action. If the final ~~xxx~~/development has not been ~~fixed~~/commenced by that date, application for any extensions must be made before expiration of the permit.

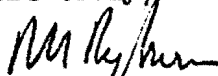
If you should determine that you wish to assign this permit to another party, you should contact the Regional Commission office for instruction in the appropriate procedure.

You will also find attached a "Notice of Completion" which should be returned when you have finished your project.

Please return to this office copy of this statement with your signature acknowledging that you have received it and understood its content.

All construction must occur in accord with the proposal as set forth in the application for permit, subject to any special conditions as set forth in the attachment. Any deviations from the approved plans must be reviewed by the Commission pursuant to California Administrative Code, Title 14, Sections 13164-13168.

Yours truly,



RICHARD G. RAYBURN
Executive Director

attachment
CC: Raymond & Stanton
County Assessor's Office
Building
Planning Department

The undersigned permittee acknowledges receipt of the California Coastal Commission Permit No. 80-CC-122, and fully understands its contents, including all conditions imposed.

Applicant: Ernest and Miriam Schoefer
P. O. Box 860
Fort Bragg, CA 95437

Agent: Raymond & Stanton
450 Main Street
Mendocino, CA 95460

Project Location: West of Highway One, 2.4 miles south of Ft. Bragg.

1. Parcel size: 27+- acres. 2.1+- acres
2. Slope: 0-10% X 10-30% X +30% X
3. Vegetation: Annual grasses and conifers
4. Between sea and first roadway: Yes X No
5. Developed Area: Yes No X; Name
6. Other (Access, wetlands, drainage, etc.):

1. Size of structure(s): N/A sq. ft.
2. Height (from average finished grade): N/A ft.
3. Water Supply: Community system X well
4. Sewage disposal: Community system X septic
5. Underground utility service: Yes X No
6. General Plan U-C Zoning R-E
7. Other: The project is located in the Fort Bragg Market and Expansion area.

Prior to issuance of the permit the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be 25 feet wide located along the southern boundary

of the property line and extend from the Ocean Drive (old Highway One) to the mean high tide line/bluff edge and shown herein as Exhibit II. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

However, if the certified L&P includes a vertical and lateral access at the Botanical Garden property, AP# 17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the above property even in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants property may be terminated.

III. FINDINGS AND DECLARATIONS:

The Commission finds and declares as follows:

- A. Project Discussion: The applicant proposes a parcel division creating 2.01, 5.0, 8.31, and 14.03 acre lots on property currently zoned R-E. The actual division is of an existing 27+/- acre parcel, split three-ways. In addition, the noncontiguous 2+/- acre parcel (existant) has been incorporated into the project by the county, creating in effect, a four-way division. Parcels in the immediate area vary in size from $\frac{1}{2}$ acre to 15 acres and the entire area is presently zoned R-E.

Parcels along the west side of Highway One are zoned C-1 and are currently in a building ban area being controlled by the Mendocino County Health Department. Although the proposed project is not in the existing ban area, the Health Department has noted some concerns with water and septic problems on adjacent properties that may be associated with this parcel.

The applicant proposes to offer a vertical 60 foot easement on the southern boundary of the parcel to the County of Mendocino Department of Public Works. The Department has stated they do not intend to accept this easement.

- B. Project History: Evidently the ownership of the 27+/- acre parcel was recorded with the County Assessor's Office under several assessors parcels of 2 to 5 acres in size. They then merged in 1973 requiring a subdivision for the creation of more than one buildable parcel.

On September 21, 1978 the subject division was conditionally approved by the Mendocino County Planning Commission. On Tuesday, April 10, 1979, Judge John Golden ruled in favor of Mr. Schoefer's application for exemption to the moratorium.

- C. Site History: On June 13, 1979 the Regional Commission conditionally approved a permit for the development of a single family residence on the subject 27+/- acre parcel (79-CC-83). The residence has been constructed and is located on the proposed parcel number two of this application (see Exhibit II). Conditions placed on the residential application consist of resubmission of landscaping plans, road improvement plans, exterior finish, and a lateral access easement.

D. Coastal Issues:

Access and Recreation: The subject property is located between the sea and the first public road, and as such, is subject to the following provisions:

Section 30212(a) states:

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

The Statewide Interpretive Guideline for access policies (adopted February 20, 1980) states, "... all new development resulting in any intensification of land use generates sufficient burdens on public access to require access conditions in conjunction with that development."

The approved permit for a single family residence (79-CC- 33) was conditioned with the offering of a public access easement as shown here on Exhibit III. It was determined at that time, the construction of a single family residence warranted only a lateral easement.

The guidelines further state, "... the applicant may also be required to dedicate additional accessways or areas. . . to balance the burdens to the public with the benefit to the applicant."

In determining where vertical access should be required, the Commission shall consider, the nature of the burden on public access created by the project and the public need to gain access to the shoreline in a given area nearest existing public access points in the area are located at Noyo Harbor to the north and Jug Handle State Park to the south.

The Commission finds that there currently exist a need in the area of the subject property for additional public access easements. The Commission further finds that the division of the subject property, creating two additional buildable parcels will result in the intensification of land use and, as such, to be found consistent with the access policies of the Coastal Act, a dedication of a vertical access is necessary.

Currently a fee vertical and lateral access exists on the property immediately north of the subject parcel (the Botanical Gardens). It has been suggested by staff and the current property owner that this access may be offered in perpetuity to the state as a public access, fee or otherwise. This access is contiguous to the applicant's lateral access easement currently offered to the State under 79-CC-83 (see Exhibit III). If the Botanical Gardens access is included in the certified LCP, the Commission would then be able to find that, indeed adequate access does exist nearby.

The Commission therefore finds the project, as conditioned, in conformance with Section 30212 of the 1976 Coastal Act.

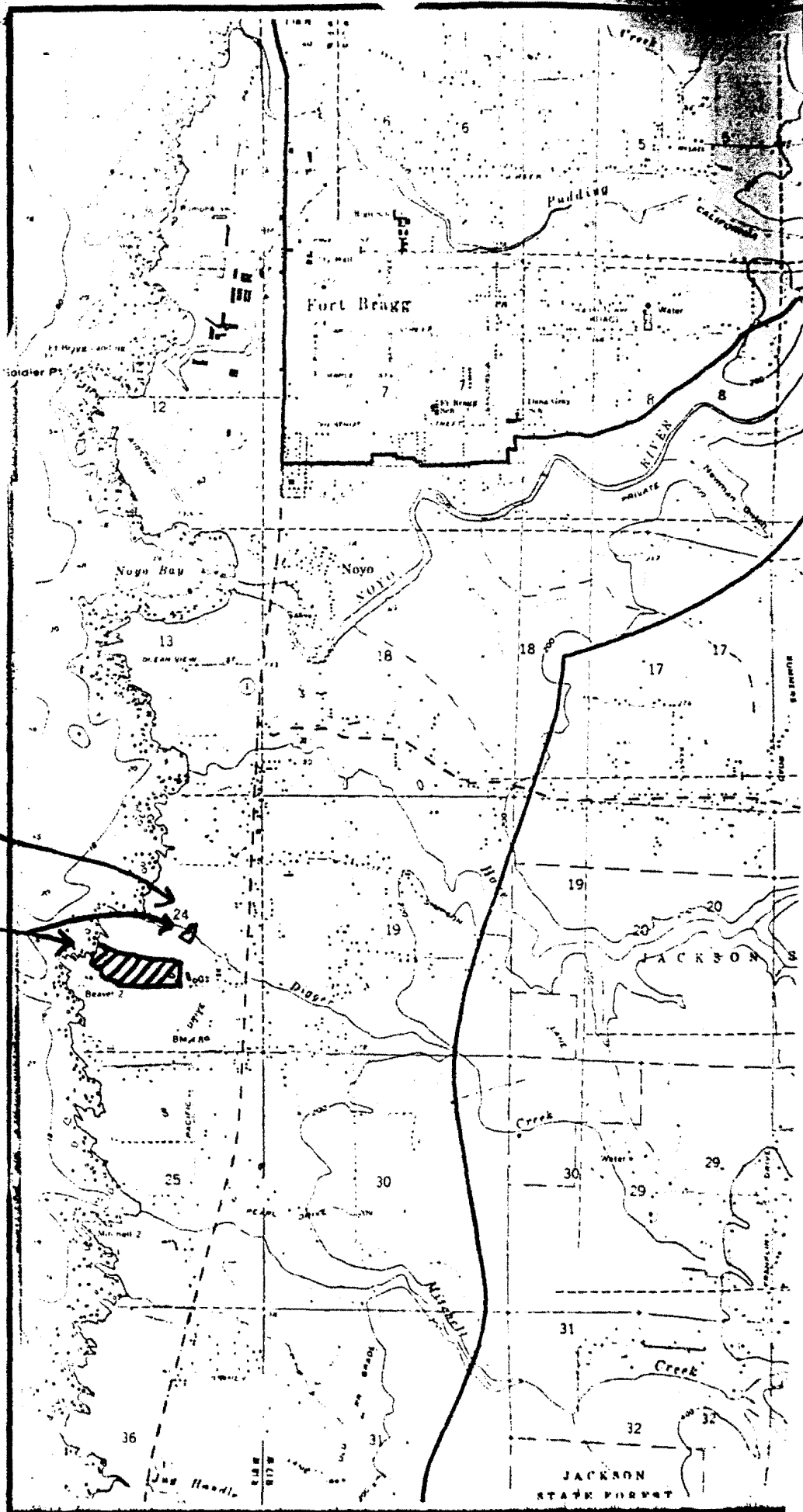
- E. CEQA: The project will not have any adverse environmental impacts within the meaning of the California Environmental Quality Act.
- F. L.C.P.: The project as conditioned, will not prejudice the ability to prepare a Local Coastal Program in conformance with the policies of Chapter 3 of the 1976 Coastal Act as it has been conditioned to enhance public access opportunities while maintaining all access possibilities for the area.

NOYO HARBOR →
(3⁺ MILES)

EXHIBIT I

BOTANICAL GARDEN
PROPERTY →
ERNEST SCHOEFER
PROJECT LOCATION →
80-CC-122

JUG HANDLE →
(2⁺ MILES)



2.4 MILES
SOUTH OF
FORT BRAAG

01

05

07

BOTANICAL
GARDENS

2

3

06

08

TREGONINS DRIVE

CR 4120

OCEAN DRIVE

HWY

15

16

17

31

32

CONDITIONAL
ACCESS LOCATION
80-CC-122
ERNEST SCHOEFER

EXHIBIT II

"Original Permit (7 of 8)"

P/C MEETING

FILE NO.

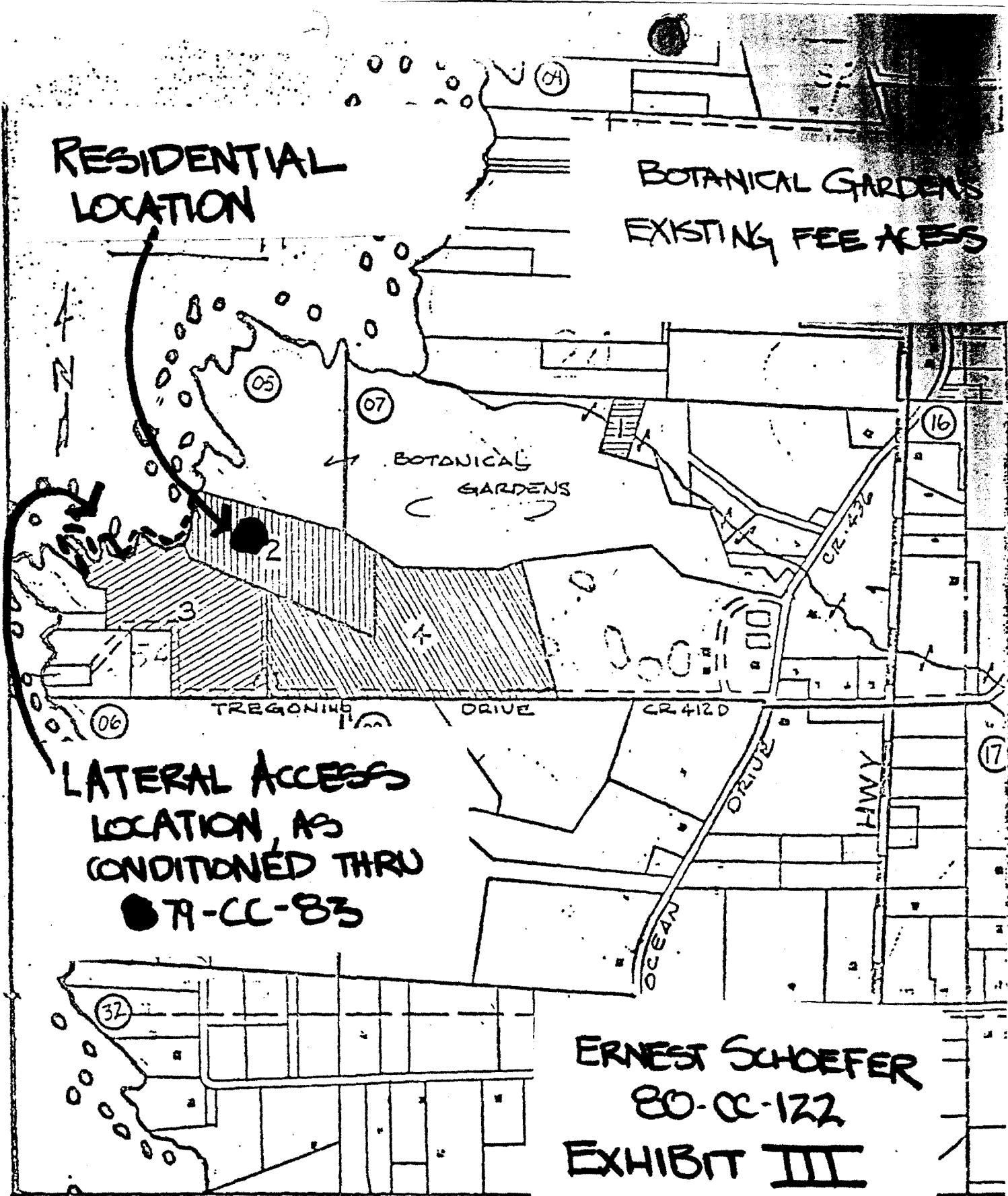
B/S ACTION

AGENDA

PAGE

ITEM

SCALE



OWNER	AGENT	P/C MEETING	FILE NO.
ERNEST SCHOEFER		SEPT. 21	MS 163-78
17-050-10, 12, 13, 15 & 16 17-070-25, 26, 27, 28		B/S ACTION	5 AGENDA 8 PAGE ITEM

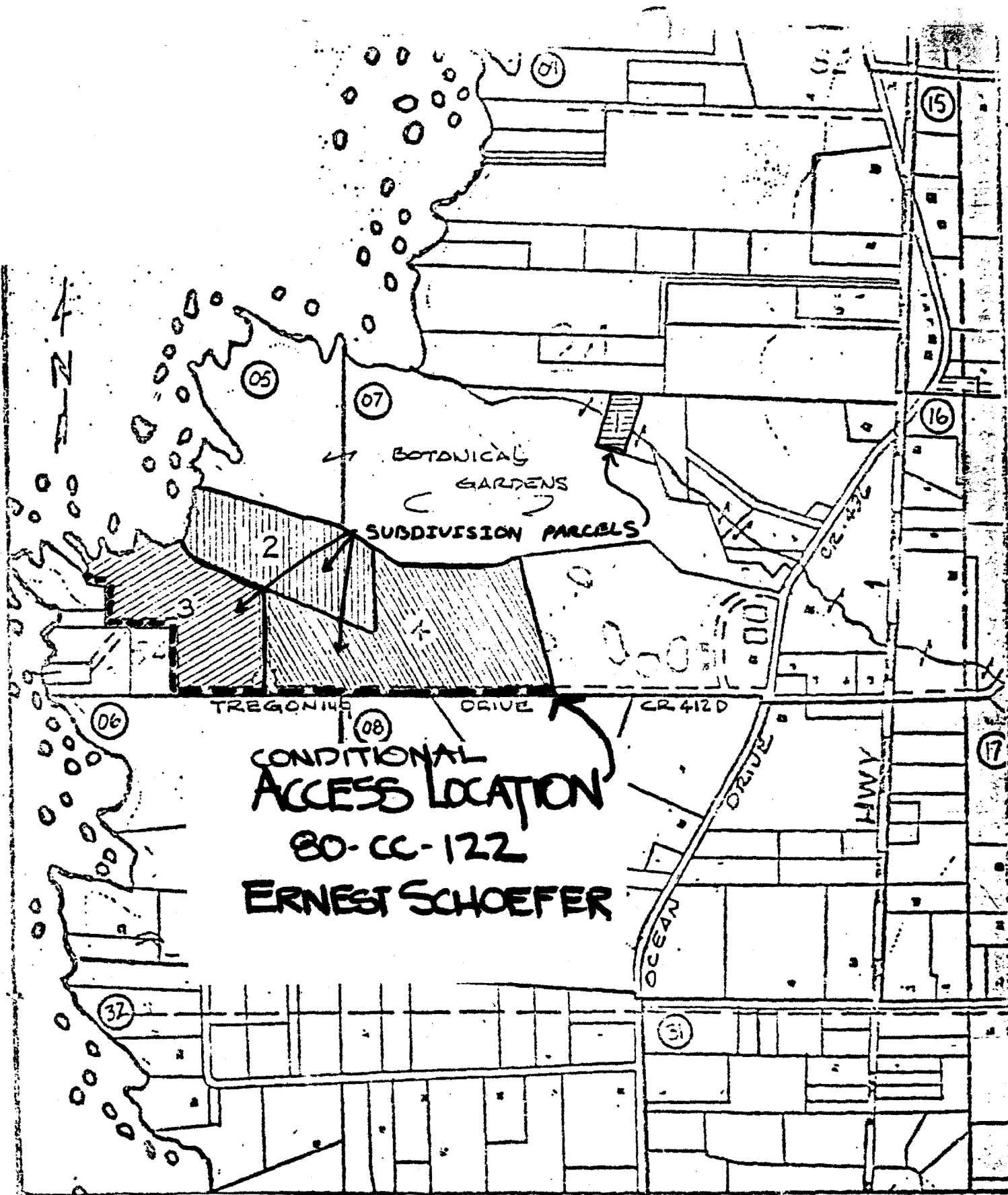


EXHIBIT NO. 4

APPLICATION NO.

1-96-44-A

Approved Subdivision

And Required Access

15601

RECORDED AT REQUEST OF
*Raymond Stanton*BOOK 1277 PAGE 220
OCT 7 2 37 PM '80OFFICIAL RECORDS
MENDOCINO COUNTY, CALIF.*W. B. Richardson*
Recorder*No Fee*

Recorded at the Request of

And When Recorded Return to:

State of California
California Coastal Commission
631 Howard Street
Fourth Floor
San Francisco, California 94105

IRREVOCABLE OFFER TO DEDICATE

WHEREAS, ERNEST SCHOEFER and MIRIAM SCHOEFER (hereinafter referred to as "owners") are the owners of record of that certain real property located at 17950 Ocean Drive, Fort Bragg, Mendocino County, California, which property is legally described as set forth in Exhibit "A", and attached hereto and incorporated herein by this reference and which is hereinafter referred as the "subject property"; and

WHEREAS, the CALIFORNIA COASTAL COMMISSION, NORTH COAST REGIONAL COMMISSION, (hereinafter referred to as "the Commission") is acting on behalf of the people of the State of California; and

WHEREAS, the people of the State of California have a legal interest in the land seaward of the mean high tide line for the Pacific Ocean; and

WHEREAS, pursuant to the California Coastal Act of 1976, owners applied to the Commission for a coastal development permit for a four (4) parcel minor division of the subject property; and

WHEREAS, a coastal development permit No. 80-CC-122 was granted on July 9, 1980, in accordance with the provisions of the Staff Recommendation and Findings which are marked Exhibit "B", attached hereto and hereby incorporated herein by this reference subject to the following condition:

"The applicants will execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to a public agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be twenty-five (25) feet wide located along the southern boundary

EXHIBIT NO. 5

APPLICATION NO.

1-96-44-A

Offer to Dedicate
Required by

80-CC-122

(1 of 7)

of subject property line and extends from Ocean Drive (Old Highway 1) to the mean high tide line/bluff edge as shown herein on Exhibit "II". Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

The offer shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or land owner. The offer of dedication shall be irrevocable for a period of twenty-one (21) years, such period running from the date of recording.

However, if the certified LCP includes a vertical and lateral access at the Botanical Garden property, AP# 17-07-12 and 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing for public access in perpetuity across the above property event in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants' property may be terminated."

WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Sections 30210 through 30212 of the California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW, THEREFORE, in consideration of the granting of permit N. 80-CC-122 to owners by the Commission, owners hereby offer to dedicate to the People of California an easement in perpetuity for the purposes of pedestrian access which shall be twenty-five (25) feet in width along the south boundary of the subject property as designated in Exhibit "B".

This offer of dedication shall be irrevocable for a period of twenty-one (21) years measured from the date of recordation and shall be binding upon the owners, their heirs,

assigns, or successors in interest to the subject property described above. However, if the certified local coastal program includes a vertical and lateral access at the Botanical Garden property, Mendocino County Assessor's Parcel No. 17-07-12 and 17-05-02, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the Botanical Garden property, binding upon the heirs, successors and assigns of the owners thereof, the offer of access provided for by this offer may be terminated. The People of the State of California shall accept this offer through the County of Mendocino, the local government and in whose jurisdiction the subject property lies, or through a public agency acceptable to the Executive Director of the Commission or its successor in interest.

The Public agency shall, as a condition precedent to permitting public use of the easement offered hereby, execute an agreement with offeror, their heirs, successors or assigns to be responsible for the maintenance of the easement including, but not limited to, the removal of all trash, and debris left on the easement or immediately adjacent thereto, by persons using the easement.

The Public agency shall, as a condition precedent to permitting public use of the easement offered hereby execute an agreement with owners, their heirs, successors in interest or assigns, to indemnify and hold owners, their heirs, successors in interest and assigns, free and harmless from liability for injury or harm to persons or property, including that of owners, occurring on or arising out of the use of the easement, including the payment of all attorney's fees and court costs incurred in the defense of any such claim or suit and the payment of any judgment which may be obtained.

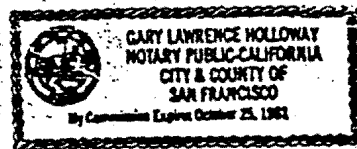
Acceptance of the offer is subject to a covenant which runs with the land providing that the first offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies acceptable to the Executive Director

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On 12 October 1980, 1980, before the under-
signed, a Notary Public in and for said State, personally appeared
Enrique L. Lopez, known to me to be the authorized
representative of the California Coastal Commission and known
to me to be the person who executed the within instrument on
behalf of said Commission, and acknowledged to me that such
Commission executed the same.

WITNESS my hand and official seal.

(Seal)



Gary Lawrence Holloway
Notary public in and for said State

ru-52311 mc

EXHIBIT "A"

The land referred hereto is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

TRACT ONE:

That portion of Section 24, township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly defined and lying with the following described boundaries:

COMMENCING at a point from which the Southeast corner of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, bears South 31° 00' East, 1909 feet, said point of commencement being the Northwest corner of that parcel of land conveyed by A. Polly and Olga E. Polly, his wife to Christopher I. Sallinan by deed dated October 27, 1909, recorded November 5, 1909 in Liber 154 of Deeds, Page 254, Mendocino County Records, thence from said point of commencement, South 3° 00' West, 316 feet to the Northerly line of land of Jacob Sering; thence West along the Northerly line of said Jacob Sering lands, 627.39 feet to the True Point of Beginning; thence from said True Point of Beginning and along the exterior boundaries of the parcel of land to be described as follows:

North 24° 15' West, 594.24 feet to a 2 inch diameter iron pipe; thence North 88° 21' 10" West, 595.65 feet to a 2 inch diameter iron pipe; thence South 26° 15' 20" West, 21.52 feet to a 2 inch diameter iron pipe; thence North 70° 37' 20" West, 556.33 feet to the most Northeasterly corner of that parcel described in the deed from DeWood Corporation to Lois E. Tracy and Mary Margaret Schmidbauer and recorded in Book 714, Page 699, of Official Records of Mendocino County; thence South 399.21 feet along the east boundary of said parcel; thence West along the South boundary of said parcel 300 feet; thence along the Westerly boundary of said parcel the following courses and distances; North 315 feet; thence East 30 feet; thence North 13° 00' East 55 feet; thence North 20° 45' West 149.58 feet to the most Northwestern corner of said parcel, said point being the most Northerly corner of the land described in the deed from William and Margie M. Glander to DeWood Corporation, recorded January 16, 1964 in Volume 648, Page 548 of Official Records of Mendocino County; thence along the line of mean high water of the Pacific Ocean the following general courses and distances, South 14° 00' West 180.00 feet; thence South 87° 00' West 610.60 feet; thence South 34° 45' West 9.52 feet to the most Northerly corner of a parcel of land described in deed from H. H. and Ilene Wonacott to B. H. and Wanda E. Murphy and recorded in Book 360, Page 4 of Official Records of Mendocino County; thence along the Northerly boundary of said Murphy parcel South 51° 26' East 145.66 feet; thence South 43° 30' East 110.81 feet; thence South 14° 19' East 38.02 feet; thence South 78° 26' East 68.88 feet; thence South 47.20 feet to the Northeast corner of that certain parcel of land described in deed from H. H. and Ilene Wonacott to Joseph Ogden Zink and Ila Fern Zink, recorded September 2, 1949 in Volume 254, Page 422 of Mendocino County Records; Continued...

EXHIBIT "A"

thence continuing South along the East boundary of said Zink parcel 60 feet to the Southeast corner of said parcel; thence East 270 feet; thence South 290 feet; thence 1806.11 feet to the True Point of Beginning.

17-050-10, 13, 15 & 16
17-070-26, 27 & 28

TRACT TWO:

That portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Meridian, more particularly defined and lying within the following described boundaries:

Beginning at the most Northerly corner of the parcel of land described in the Deed from William Olander and Margie M. Olander to De Wood Corporation recorded January 16, 1964 in Book 648 Official Records, Page 548, Mendocino County Records; thence from said point of beginning South 70° 37' 20" East along the Northerly line of said parcel of land 329.27 feet; thence South 399.21 feet to the centerline of a 50 foot easement, thence West along said centerline 300 feet; thence North 315 feet; thence East 30 feet; thence North 13° 00' East 55 feet; thence North 20° 45' West 149.58 feet to the point of beginning.

17-050-12

EXHIBIT "A"

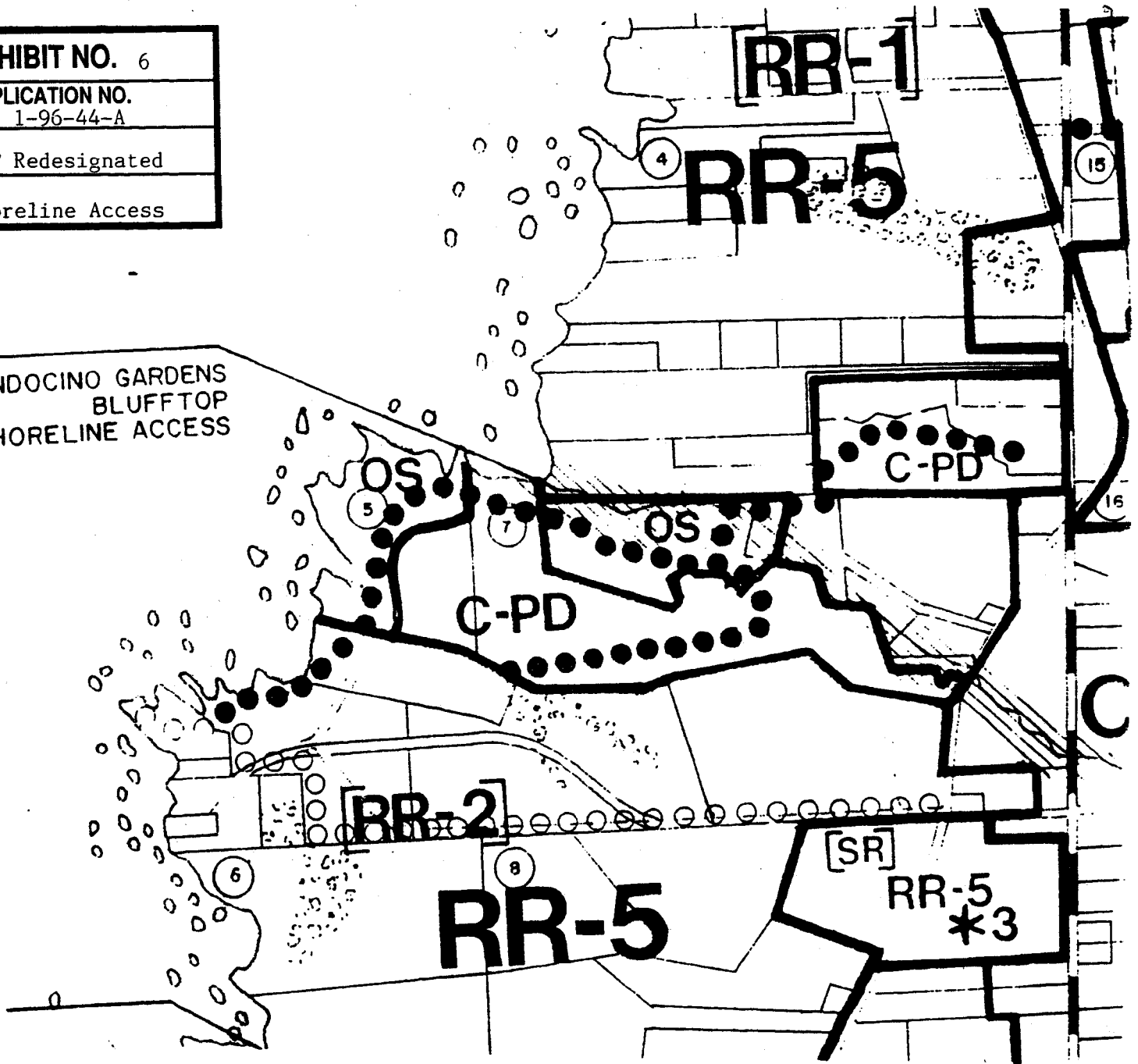
EXHIBIT NO. 6

APPLICATION NO.
1-96-44-A

LUP Redesignated

Shoreline Access

MENDOCINO GARDENS
BLUFFTOP
SHORELINE ACCESS



SHORELINE ACCESS

..... Shoreline Access
(Existing

oooooo Shoreline Access
Proposed

EXCERPT FROM

LUP MAP 14 "BEAVER"

Certified Nov. 20, 1985

EXHIBIT NO. 7

APPLICATION NO.

1-96-44-A

Botanical Gardens
Offer to Dedicate

(1 of 14)

9775

RECORDED AT REQUEST OF
REDWOOD EMPIRE TITLE COMPANY

BOOK 1910 PAGE 548

91 JUN -4 AM 10: 14

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF.
MARSHA A. YOUNG
RECORDER

Recording Requested By and
When Recorded Return to:

State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, CA 94612

Attn: Legal Counsel
Project: Mendocino Botanical Gardens

EXEMPT FROM RECORDING FEES -- GOVERNMENT CODE SECTION 6103

*no fee
14P*

"RECORDERS NOTE: Document may
not be sufficiently legible to repro-
duce readable photographic
record."

IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE

This IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE ("Offer") is made
this 13th day of MARCH, 1991, by the Mendocino Coast
Recreation and Park District ("Offeror"), a public entity.

Pertinent Facts

- A. Offeror is the legal owner of a fee interest in certain real property ("the real property") in the County of Mendocino, State of California (described in Exhibit A, which is incorporated by reference and attached) and conveyed to Offeror under a grant deed recorded concurrently with this Offer.
- B. Offeror is purchasing the real property using funds provided by the California State Coastal Conservancy ("the Conservancy") pursuant to the authority of the Conservancy under Division 21 of the Public Resources Code to provide grants to local public agencies for the acquisition of real property; and pursuant to unrecorded agreement no. 89-066, dated June 25, 1990, between Offeror and the Conservancy.
- C. Offeror's agreement with the Conservancy requires that Offeror make this Offer.

Irrevocable Offer to Dedicate

- D. Offeror intends through this Offer to bind itself and its assigns and successors in interest.
- E. Offeror is executing this Offer to comply with agreement no. 89-066, and to protect the public's interest in the real property, which was acquired with the assistance of state funds.

NOW, THEREFORE, in consideration of the Conservancy's grant to Offeror for the acquisition of the real property, and the preservation of the public's interest in the real property, Offeror hereby irrevocably offers to dedicate fee title to the real property to the State of California, acting by and through the Conservancy or its successor agency, as follows.

- 1. ACCEPTANCE OF OFFER. This offer may be accepted only if the Conservancy finds that the existence of the Offeror has terminated; or that the Offeror or its successor in interest in the real property has violated one or more of the following essential terms of agreement no. 89-066:
 - a. The Offeror has acquired the real property to accomplish the purposes of the Mendocino Coast Botanical Gardens Restoration Plan ("the Plan"), approved by the Conservancy on June 22, 1990, (and as it may be thereafter amended by action of the Conservancy); and no use of the real property that is inconsistent with these purposes shall be permitted, except by specific act of the Legislature.
 - b. The real property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Officer of the Conservancy or its successor.
 - c. The real property (including any portion of it or any interest in it) may not be transferred without the written approval of the State of California, acting through the Executive Officer of the Conservancy or its successor.
 - d. The Offeror shall use, manage, operate and maintain the real property as provided in agreement no. 89-066 between Offeror and the Conservancy.

Upon a finding by the Conservancy that any of the essential terms set forth above has been violated, or that the existence of the Offeror has been terminated for any reason, this Offer may be

Irrevocable Offer to Dedicate

accepted by the Conservancy, or by another public agency or nonprofit organization designated by the Conservancy and which has agreed to accept the obligations of the Offeror under this Offer, by recording in the Official Records of Mendocino County, a Certificate of Acceptance in substantially the form of the attached Exhibit B.

2. BENEFIT AND BURDEN. This Offer shall run with and burden the real property. All obligations, terms, conditions, and restrictions imposed by this Offer shall be deemed covenants and restrictions running with the land and shall be effective limitations on the use of the real property from the date of recordation of this document, and shall bind the Offeror and all its successors and assigns. This Offer shall benefit the State of California.
3. USE OF REAL PROPERTY AS SECURITY FOR DEBT. Offeror and its successors and assigns shall not use the real property as security for any debt without the written approval of the State of California, acting by and through the Executive Officer of the Conservancy or its successor.
4. TRANSFER OF REAL PROPERTY. Transfer of the real property shall be subject to the approval of the State of California, acting by and through the Executive Officer of the Conservancy or its successor, and the transferee shall be subject to all terms, conditions and restrictions contained in this Offer. In particular, but without limiting the restrictions provided above, the transferee shall use the real property only for the purposes of the Plan. If the Conservancy deems necessary, prior to the Conservancy's approval of any transfer of the real property, the transferee and the Conservancy shall enter into a new agreement sufficient to protect the interest of the people of California.
5. CONSTRUCTION OF VALIDITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.
6. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Offeror and the Conservancy, whether voluntary or involuntary.

Irrevocable Offer to Dedicate

7. TERM. This Offer shall be irrevocable, and upon recordation of an acceptance in the form of Exhibit B, this Offer shall have the effect of a grant of the real property to the State of California or other accepting entity designated by the Conservancy and having executed a substantially similar acceptance, as provided in this Offer.

Offeror executes this document on the date first written above.

MENDOCINO COAST RECREATION
AND PARK DISTRICT, Offeror

By: Charles A. Boise

Charles A. Boise
Print or type name

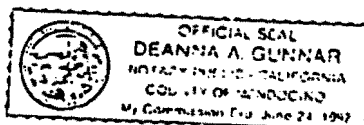
Administrator
Title

A C K N O W L E D G M E N T

STATE OF CALIFORNIA, COUNTY OF MENDOCINO:

On this 13th day of March, 1991, before me, the undersigned, a Notary Public in and for said County and State, personally appeared CHARLES A. BOISE, known to me to be the Administrator of the MENDOCINO COAST RECREATION AND PARK DISTRICT, a political subdivision, and proved to me on the basis of satisfactory evidence to be the person who executed said instrument on behalf of said political subdivision, and acknowledged to me that such political subdivision executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my Official Seal on the date hereinabove set forth.



Deanna A. Gunnar
NOTARY PUBLIC in and for said
County and State.

174287-BJ
D 258

EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

That portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly defined and lying within the following described boundaries:

COMMENCING at a point from which the Southeast corner of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, bears South 31° 00' East, 1909 feet distant; said point being the Northwest corner of that parcel of land conveyed from A. Polly and Olga Polly to Christopher L. Sallinen by Deed dated October 27, 1909 and recorded November 5, 1909, in Book 154 of Deeds, Page 254, Mendocino County Records; thence South 3° 00' West, 316 feet to the Northerly line of lands of Jacob Sering; thence East along said Northerly line of Sering, 140 feet to the center of the present County road, commonly known as the County Coast Road; thence North 10° 32' 10" East, along the center of said road, 385.88 feet to a point from which the Southeast corner of said Section 24, bears South 24° 54' 02" East, 1874.37 feet distant, said point being the true point of beginning for the parcel of land herein described; thence from said true point of beginning and along the exterior boundary lines of the parcel of land, described as follows:

Leaving the center of said county road, North 73° 30' 30" West, 442.22 feet; thence North 46° 30' 30" West, 108.29 feet; thence South 82° 39' 40" West, 75.86 feet; thence South 89° 35' West, 412.99 feet; thence South 74° 42' 50" West 94.56 feet; thence North 88° 21' 10" West, 595.65 feet; thence South 26° 15' 20" West, 21.52 feet; thence North 70° 37' 20" West, 875.60 feet to a one inch diameter iron pipe set in concrete on the bluff of the Pacific Ocean and from which pipe a United States Coast and Geodetic Survey triangulation station known as "BEAVER 2", bears South 25° 50' West 874.67 feet distant; said triangulation station being a standard bronze disk set in concrete; thence continuing North 70° 37' 20" West, 10 feet (more or less) to the line of ordinary high water of the Pacific Ocean; thence meandering said high water line by the following general courses and distances: North 31° 40' East, 85.00 feet; thence South 86° 20' West, 45.00 feet; thence North 52° 15' West, 75.00 feet; thence North 67° 30' East, 75.00 feet; thence South 60° 30' East, 45.00 feet; thence North 10° 45' East, 40.00 feet; thence North 34° 00' West, 70.00 feet; thence South 75° 30' East, 90.00 feet; thence South 55° 00' East, 105.00 feet; thence North 21° 15' East, 40.00 feet; thence North 43° 15' West, 150.00 feet; thence North 33° 00' West, 140.00 feet; thence North 4° 00' West, 115.00 feet; thence North 31° 45' East, 40.00 feet; thence South 49° 00' East, 125.00 feet; thence North 49° 30' East, 45.00 feet; thence North 13° 45' West, 140.00 feet; thence North 33° 00' East, 25.00 feet; thence South 26° 00' East, 40.00 feet; thence North 39° 10' East, 145.00 feet; thence South 87° 15' East, 110.00 feet; thence South 47°

(Cont'd)

(Exhibit "A" Cont'd)

45' East, 165.00 feet; thence South 13° 00' East, 90.00 feet; thence North 49° 00' East, 53.00 feet; thence South 68° 00' East, 165.00 feet; thence North 39° 10' East, 100.00 feet; thence South 79° 30' East, 65.00 feet; thence South 58° 30' East, 100.00 feet; thence South 89° 13' 20" East, 101.66 feet to an intersection with the center of a stream commonly known as Digger Creek; thence leaving the line of ordinary high water of the Pacific Ocean, North 81° 40' East along the center of said Digger Creek, a distance of 55.00 feet; thence continuing along the center of said Digger Creek, South 37° 00' East, 50.00 feet to an intersection with an old picket fence line; thence leaving the center of said Digger Creek, North 89° 04' 40" East, along said old picket fence which has been long recognized and accepted as the property line, a distance of 771.00 feet; thence leaving said fence line, South 15° 49' 50" West, 258.00 feet to the center of the aforementioned Digger Creek; thence along the center of said Digger Creek by the following general courses and distances: South 2° 24' West, 41.54 feet thence South 76° 45' East, 290.00 feet; thence South 17° 30' East, 155.00 feet; thence South 82° 15' East, 80.00 feet; thence South 24° 30' East, 270.00 feet; thence North 89° 30' East, 135.00 feet; thence South 14° 15' East, 80.00 feet; thence North 89° 20' East, 35.00 feet; thence North 40° 30' East, 22.00 feet; thence South 72° 21' 15" East, 42.95 feet to the center of the aforementioned County Coast Road; thence leaving the center of said Digger Creek; South 20° 53' 20" West, along the center of said County Road, 122.08 feet to the true point of beginning.

EXCEPTING THEREFROM that portion of the present County Coast Road now recognized as public way which lies within the above described parcel of land.

ALSO EXCEPTING therefrom the following described portion thereof as conveyed to Joseph L. Huddleson, et al, in Deed recorded November 21, 1974, in Book 983, Page 122, Mendocino County Records, and more particularly described as:

All that certain real property situated in the County of Mendocino, State of California and being a portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly described as follows:

All that real property lying Northerly and Easterly of the following described line:

Beginning at a 1 inch iron pipe at the intersection of Digger Creek and an old picket fence as shown and delineated on that certain Record of Survey map filed in Map Case 2, Drawer 1, Page 150, Mendocino County Records; thence along said picket fence South 85° 04' 40" West, 111.90 feet; thence angling away from said fence line, North 81° 31' 30" West, 78.20 feet to the intersection with an existing rail fence; thence along said rail fence and the projection thereof, North 10° 00' 00" East to a point on the Mean High Tide Line of the Pacific Ocean.

ALSO EXCEPTING THEREFROM any portion thereof lying within the bounds of the hereinafter described tract of land:

(Cont'd)

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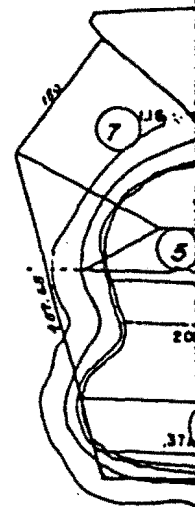
(Exhibit "A" Cont'd)

BEGINNING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of beginning along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet; thence leaving the Westerly line of State Highway One, South 85° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 32" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, 110.66 feet; thence South 2° 37' 37" West, 273.11 feet to a point in an old picket fence line; thence South 89° 04' 40" West, along said old picket fence 849.61 feet to its intersection with the center of Digger Creek; thence continuing South 89° 04' 40" West, 111.90 feet; thence North 81° 31' 30" West, 66.43 feet; thence South 8° 28' 30" West along a line that is approximately 10 feet Easterly of a small building which houses restrooms, 127.72 feet; thence South 48° 47' 00" East, 24.82 feet to a split rail fence; thence along the split rail fenceline South 3° 15' 40" East, 115.87 feet; thence leaving said split rail fenceline South 68° 58' 47" East, 226.91 feet; thence South 76° 51' 45" East, 351.67 feet; thence North 34° 15' 13" East, 54.71 feet; thence North 26° 48' 07" West, 120.48 feet; thence North 52° 44' 53" East, 110.40 feet; thence South 65° 14' 27" East, 48.52 feet; thence South 20° 26' 07" East, 70.16 feet; thence South 79° 07' 27" East, 142.77 feet; thence South 39° 22' 07" East, 138.06 feet; thence North 33° 32' 04" East, 131.41 feet to the center of Digger Creek; thence leaving the center of Digger Creek North 15° 49' 50" East, 318.50 feet; thence North 89° 05' 36" East, 935.61 feet to the point of beginning.

17-050-08
17-070-37

Lot 3 Sec. 24 T.

Pcl Map C2 D37 P17



18 N. R. 18 W. M. D. B. & M.

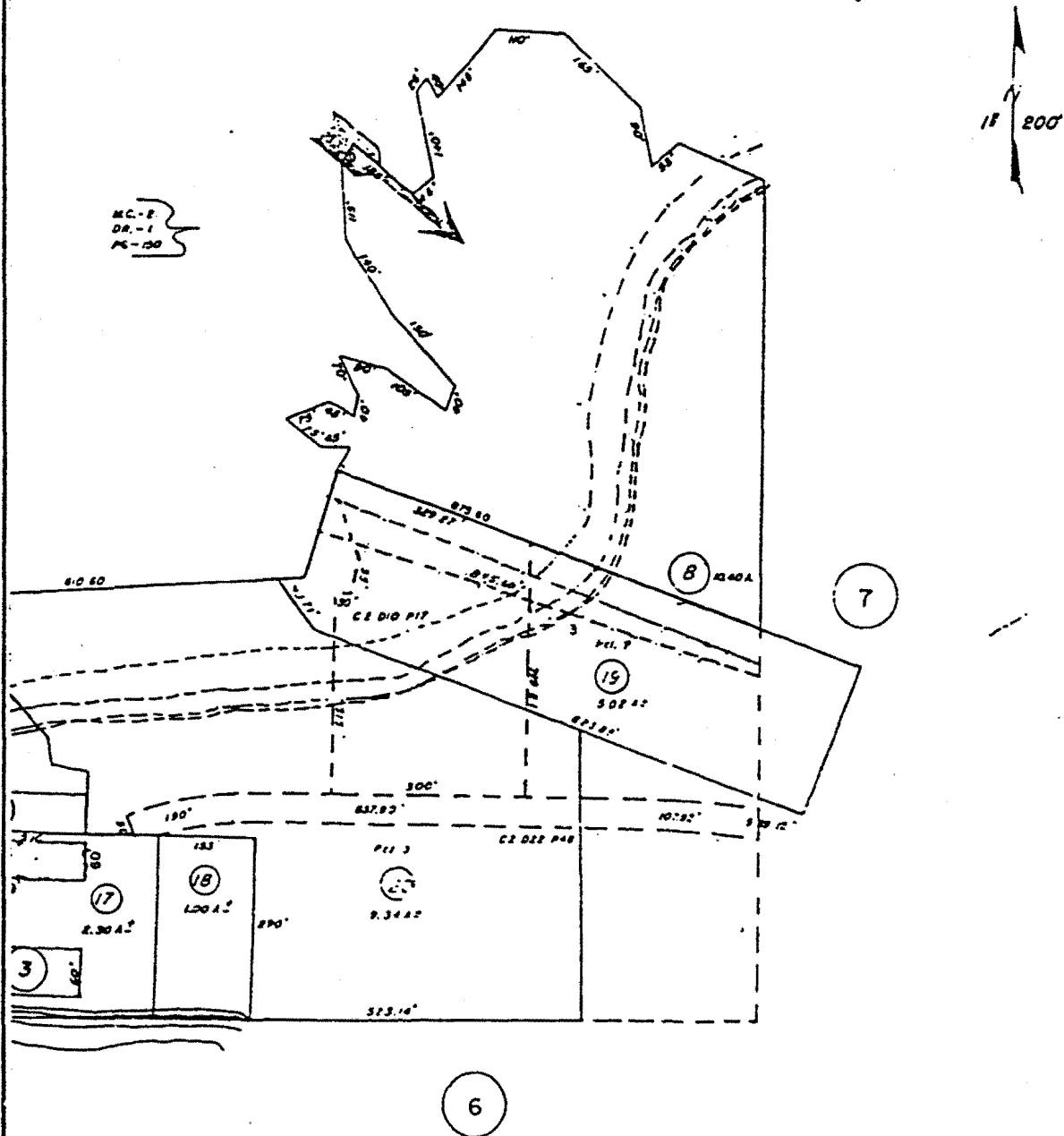


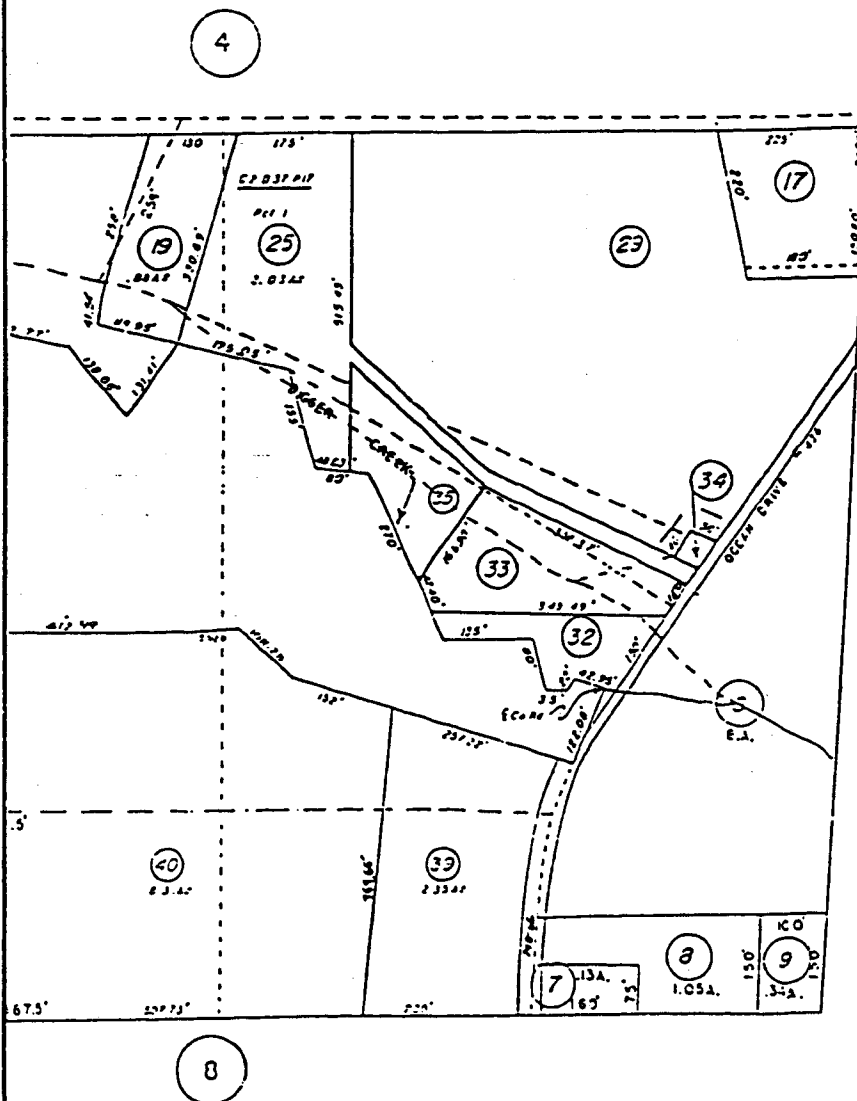
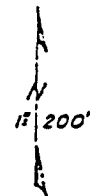
EXHIBIT "A" CON'T

18 N.R. 12W. M.D.B. & M.

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17-07



Assessor's Map
County of Mendocino, Calif.
REVISED 2-10-86 MAR 20 1986

174286-70
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EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

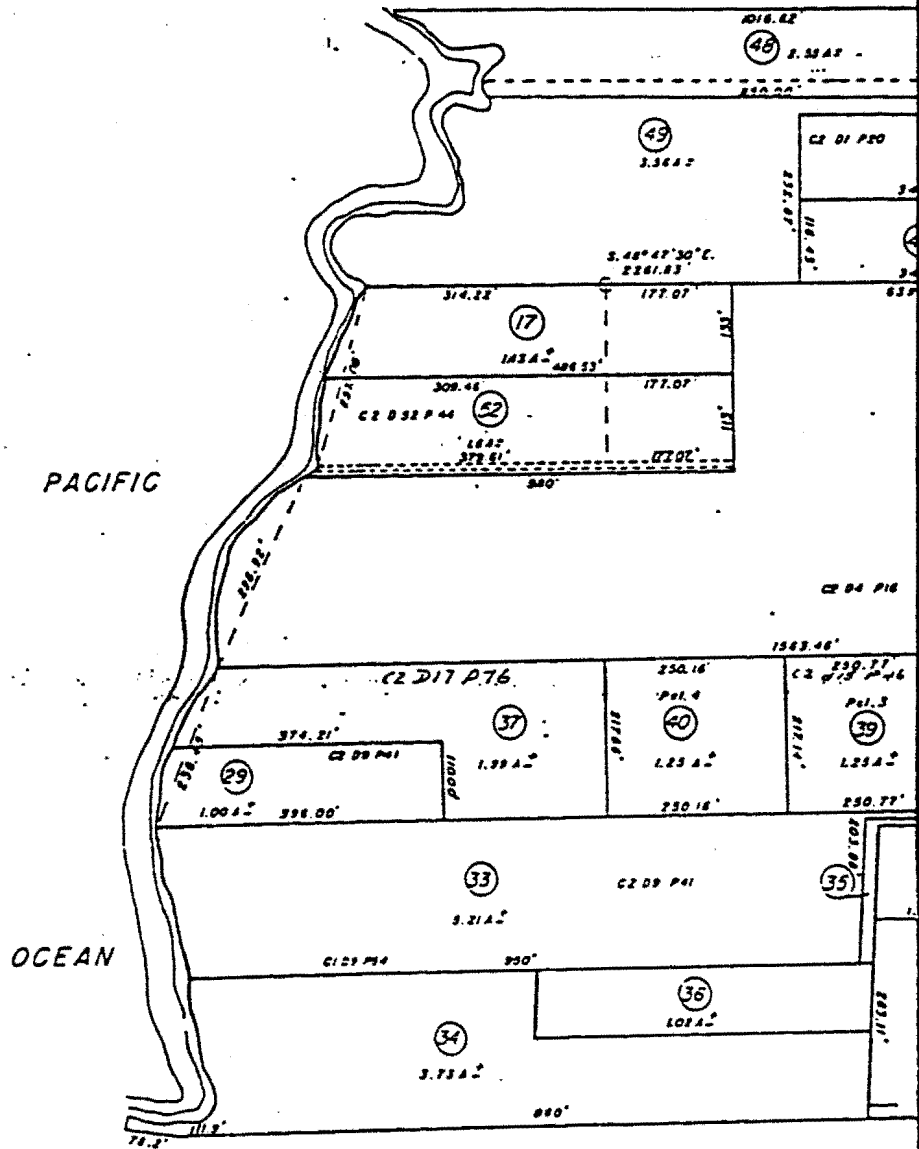
COMMENCING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of commencement along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet to the true point of beginning; thence from the point of beginning leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, to the West line of the lands described in a deed to James Hurst and Barbara Hurst recorded March 26, 1980 in Book 1252, Page 553, in Parcels Four and Five therein; thence North 2° 37' 37" East along said Westerly line to the Northwest corner of said Parcel Five; thence along the most Northerly line of lands described in said deed North 89° 20' 18" East 605.88 feet, and North 89° 35' 30" East 401.13 feet to the West line of State Highway One; thence South 2° 40' 30" West along said West line to the point of beginning.

17-040-23, 50

Exhibit "A"

Por. of N.E. 1/4 Sec. 24, T.18 N. R.18

Pct. Map C2 D27 P18



2-10-91

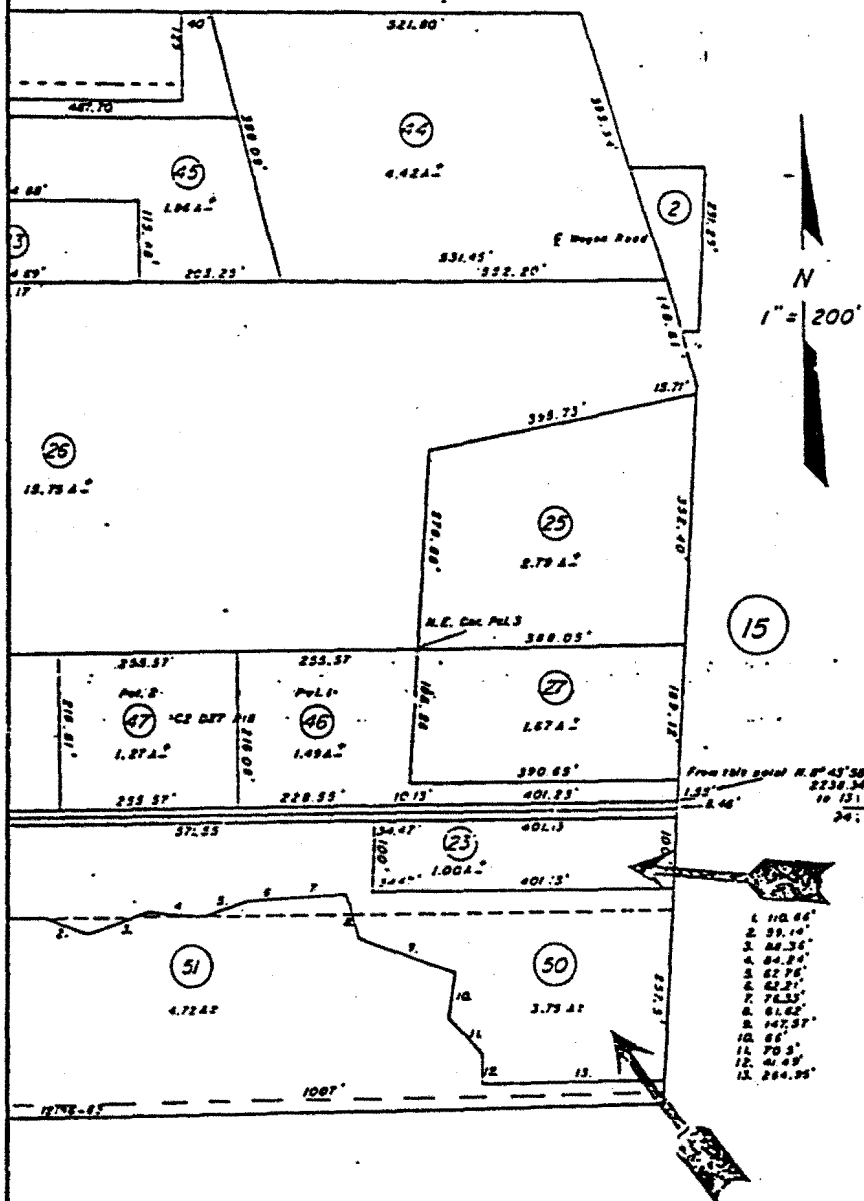
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Assessor's Map
County of Mendocino, Calif.
March, 1972

BOOK 1910 PAGE 561

9775

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

F 8



1 - 96 - 44 - A
SUPPLEMENTAL EXHIBITS

PACKET SUBMITTED BY APPLICANTS

1 RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY

A PROFESSIONAL CORPORATION

169 MASON ST., SUITE 300
POST OFFICE BOX 720
UKIAH, CALIFORNIA 95482

NEWELL RAWLES (1909-1976)
DONALD G. HINKLE (Retired)
JARED G. CARTER
JOHN A. BEHNKE
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MICHAEL D. MACOMBER
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COASTAL COMMISSION AGENDA/OCTOBER 8-11, 1996

September 17, 1996

Honorable Chairperson and Members
of the California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA. 94105-2219

Re: Hearing on Rejection of Amendment Request 1-96-044-A
[CDP #80-CC-122-A (MS 163-78) SCHOEFER]

Chairperson and Members of the Coastal Commission:

This office represents the Applicants Larry and Marilyn Wagner who own APN 017-05-19, Lucius and Lucille Fitch who own APN 017-05-20, Wayne and Joyce Werner who own APN 017-05-18, and Robert and Sondra Dutton who own APN 17-05-07.

On July 18, 1996, the Applicants submitted four applications to amend CDP #80-CC-122A. This coastal development permit was originally required as a result of approval of a minor subdivision in Mendocino County by Ernest and Miriam Schoefer in 1978. The proposed amendment, if approved, would terminate a recorded "Offer to Dedicate" a vertical public easement which over the private road serving this subdivision known as "Schoefer Lane." A copy of the applications and supporting documents are attached hereto as Exhibit "A" for your easy reference.

On August 22, 1996, the Applicants received notice from Robert Merrill (See, Exhibit "B"), Chief of Permits, that the amendment request was rejected by the Coastal Commission pursuant to 14 CCR 13166(a)(1) which provides that:

"An application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted."

As a result of this decision by the executive director, with which we disagree with, we have requested an appeal to the Commission of the decision to reject the amendment request. This amendment should not only be accepted, but approved, based on the arguments set forth in the applications, and on the following additional grounds:

I.
THE COASTAL COMMISSION HAS THE AUTHORITY AND A DUTY TO TERMINATE
THIS OFFER OF DEDICATION

A.
The LCP Mandates Extinguishment of the Offer of Dedication

The Mendocino County Local Coastal Plan ("LCP") was adopted by the Mendocino Board of Supervisor on November 5, 1985 and certified by the Coastal Commission on November 20, 1985. The LCP states that the Coastal Commission has required the recording of offers to dedicate on about 60 parcels in Mendocino County (See, Mendocino County LCP §3.6 Shoreline Access and Trail/Bikeway System, Pg. 83, attached hereto as Exhibit "C"). The LCP also provides:

"LCP studies show that some access offers required by the Coastal Commission are unnecessary or illogical in the context of the Land Use Plan proposals of adjoining properties. Some of these offers can be relinquished shortly after certification while others should be abandoned when access points prescribed by the plan are assured. Where existing offers of dedication are not essential to meet public access needs, the Access Component specifies that they be relinquished"
(See, LCP, Pg. 86; emphasis added).

Interestingly, the Schoefer Lane Offer of Dedication is not designated as existing or potential public access in the Mendocino Local Coastal Plan (See, LCP Table 3.6-1 attached as Exhibit "D"; LCP §4.5, South Fort Bragg Access Area attached as Exhibit "E"). However, the LCP designates the Mendocino Botanical Gardens Trail as a public access point (Table 3.6-1, No. 35).

The LCP designates 107 access easements within the Mendocino Coastal Zone (See, Ex. "D"). Section 3.6-30 provides:

"The accessways proposed by the Coastal Element are determined to be adequate in number and location to comply with the Coastal Act . . . "

Most important to the issue at hand, approval of this request for amendment is mandated under the Mendocino LCP at §3.6-29 which states:

"Any property owner, who has recorded an offer to dedicate an easement to the public as condition of permit approval and the specific locations of the easement is not recommended in the land use plan for public access, may petition the Coastal Commission to amend the permit that required the offer to eliminate the condition. It is the intent of the plan that these easements which are not recommended in the land use plan be extinguished by the Coastal Commission" (Ex. C, Pg. 94).

B.

The LCP Provides That Offers of Easements Held By Public Entities Shall be Accepted Before Those Held In Private Property

Under the "Access Selection Criteria" of the Mendocino LCP, sites in public ownership are favored over those in private ownership. The plan also provides that where sufficient sites in public ownership exist, additional private land easements, not shown on the land use plan maps should not be acquired or required without a plan amendment or as otherwise required by the County. (See. Ex. "C" Pgs.89,91).

As set forth in the application attached as Ex. "A," in 1982 and 1991, the Botanical Gardens were purchased by the Mendocino Coast Recreation and Park District. The LCP provides that "Mendocino Botanical Gardens Path" has been accepted as a public access point. Sufficient public access exists in this area of the coast providing for acceptance of this coastal development permit amendment pursuant to the LCP and §13166.

C.

Staff's Argument That the Botanical Garden Easement May Be Terminated Has No Merit

Staff's argument that because the termination clause in the Offer to Dedicate the Schoefer easement requires an easement in "perpetuity" across the Botanical Gardens, the Commission

is prevented from extinguishing this offer of dedication under §3.6-29 of the LCP. Applicants' assert that the Commission has the authority and to terminate the Schoefer Land Offer of Dedication, and that the offer's termination clause is no impediment to this result.

Moreover, the claim that maybe, perhaps in the future, the Mendocino Recreation and Park District will sell the Botanical Gardens, which may extinguish the easement across the Gardens, is speculative and is not evidence that would support a finding that would support continuation of this offer of dedication as a cloud over the Applicants' private property.

Georgia-Pacific Corp. V. California Coastal Commission (1982) 132 Cal. App. 3d 678 involved the challenge of several access easements across G-P's property in Fort Bragg, not too far from this easement. The Court of Appeal found that the requirement that an easement be dedicated on the express "finding" by the Commission that G-P "might at some future time" change its use of the land or vacate the site entirely was "not evidence." The Court held:

"It is clearly inferable from the Commission's reference to what Georgia-Pacific might do (or would "perhaps" do) that the body was speculating without evidence reasonably supporting an inference that the portended events would occur. Access conditions on the basis of such speculation could be exacted of any applicant for a coastal development permit at any place and any time. Nothing in section 30212, or elsewhere in the Coastal Act, authorizes the Commission to impose conditions on that basis. When it required dedication of the conditional lateral access easement in the present case, it accordingly abused its discretion by failing to proceed "in the manner required by law" within the meaning of Code of Civil Procedure section 1094.5 subd. (b). Georgia Pacific is entitled to relief in administrative mandamus with regard to this easement" (Id. at Pg.700).

Here, Staff's argument is no different than the Commission's in the preceding case. In fact, Staff's argument is even more absurd in that they are attempting to require two access easements, when the LCP states one in this area is adequate.

CONCLUSION

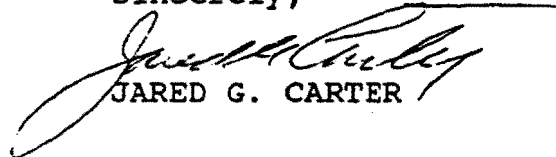
Under this Commission's past practices, offers of dedication required as a condition of a Coastal Development Permit, generally terminate in 21 years if the offer is not accepted.

Acceptance of each offer requires a public entity, or non-profit organization assuming the duties of the public entity, to provide an agreement for maintenance of the easement pursuant to PRC §30212, provide adjoining landowners an executed indemnity agreement pursuant to PRC §30212, and provide proof of insurance. Many of the extant offers for public easements expire in the early 2000's. Considering California's financial state, it is doubtful that it can afford to accept all of the easements designated in each local coastal plan, let alone expend additional monies for those offers not designated in these plans. This new Commission should reconsider the policies and practices that have led to the current state of affairs.

The Botanical Gardens is an easement that is already in the hands of a public entity, and zoned open space. This property will stay in public or quasi-public ownership for the indefinite future because it simply does not make any sense that a private person would purchase property that is undevelopable. Furthermore, any development of the property would be subject the permit process which would protect the public access that exists.

Based on the foregoing, the Commission should overturn Staff's rejection of Applicants' permit amendment, and order the permits affecting the Schoefer Lane property be amended to drop the offer of dedication or, if a further hearing is required, set this matter for hearing before the Commission.

Sincerely,



JARED G. CARTER

cc: Mr. & Mrs. Larry Wagner
Mr. & Mrs. Lucius Fitch
Mr. & Mrs. Wayne Werner
Mr. & Mrs. Robert Dutton

RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY

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(707) 462-6654
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(707) 462-7839

July 18, 1996

Steve Scholl
California Coastal Commission
45 Fremont St., Suite 2000
San Francisco, CA. 94105-2219

Ray Hall
Mendocino County Department
of Planning & Building
589 Low Gap Road
Ukiah, CA 95482

Re: Amendment to Coastal Development Permit No. 80-CC-
122 (MS 163-78) SCHOEFER

Dear Mr. Scholl and Mr. Hall:

This office represents Larry and Marilyn Wagner who own APN 017-05-19, Lucius and Lucille Fitch who own APN 017-05-20, Wayne and Joyce Werner who own APN 017-05-18, and Robert and Sondra Dutton who own APN 17-05-07. Marilyn Wagner is the daughter of Ernest and Miriam Schoefer who are former owners of several acres of property surrounding Schoefer Lane, including what is now the Mendocino Botanical Gardens. This letter concerns the termination of the Irrevocable Offer to Dedicate a public access easement attached as Exhibit "A" hereto, which was a condition to Coastal Development Permit 80-CC-122 (Schoefer). Each applicant has an interest in the termination of this dedication in that they are a successor in interest to the property originally subject to the offer and the offered public access easement would either pass over their property or burden an access easement to their property.

EXHIBIT A

Steve Scholl, Coastal Commission
Ray Hall, Department
of Planning & Building
July 18, 1996
Page Two:

This letter is an application to the Coastal Commission to amend permit 80-CC-122 to delete that offer. If the offer should also (or only) be made to the County, please inform me of the facts and law which you believe requires that result.

BACKGROUND

In 1978, Ernest and Miriam Schoefer made application for minor subdivision MS 163-78 which, because the property is located in the Coastal Zone, required a Coastal Development permit from the Coastal Commission.

As a condition to the approval of 80-CC-122, the Schoefers were required to offer to dedicate a public access easement across the subdivision property (See, Offer to Dedicate Ex. "A" and Map attached as Ex. "B" depicting the "Schoefer Vertical Access" and the Applicants' parcels). Paragraphs 2 and 3 on Page Two of the Irrevocable Offer to Dedicate provides in pertinent part:

"The offer shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or land owner. The offer of dedication shall be irrevocable for a period of twenty-one 21 years, such period running from the date of recording.

However, if the certificated LCP includes a vertical and lateral access at the Botanical Garden property, AP # 17-07-12 and 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing for a public access in perpetuity across the above property has been recorded, the offer of a vertical access across the applicants' property may be terminated." (Emphasis added)

¹ This application is without prejudice to applicants' position that the offer has been terminated, and abandoned, and is no longer of any force or effect. It is also without prejudice to applicants' position that the offer is legally invalid because the 21 year time period was and is inconsistent with other provisions of law. The application is made, to avoid all questions about exhaustion of administrative remedies, because members of the commission staff have refused to recognize that this offer has been terminated.

Steve Scholl, Coastal Commission
Ray Hall, Department
of Planning & Building
July 18, 1996
Page Three:

We have found no evidence that this condition was imposed by the County during approval of MS 163-78; and, accordingly, we assume this application is correctly directed only to the Commission.

In 1982 and 1991, the Botanical Gardens were purchased by the Mendocino Coast Recreation and Park District (See Documents attached as Ex. "C"). The "Mendocino Botanical Gardens Path," providing vertical and lateral coastal access across APN 17-07-12 and 17-05-08 has been accepted as a public access point to the coast (See, LCP Land Use Map attached as Ex. B, and Mendocino County Coastal Element, App. 13, No. 35 attached as "D"). The Schoefer access easement has not been formally accepted to date.

In 1993, James Larson, representing the Wagners, communicated with the Coastal Commission regarding the termination of the Schoefer easement under the grantor's reservation of right to terminate the offer upon acceptance of an access easement through the Botanical Gardens. Mr. Larson sent the Commission notice that the offeror had exercised their reserved right to terminate the offer of dedication (See, Ex. "E"); but the coastal staff said an application to amend the permit was required (Ex. "F"). Disagreeing with this opinion, Mr. Larson again wrote staff, terminating the offer (Ex. "G"). Counsel for the Coastal Commission then wrote Mr. Larson advising that in order to extinguish this condition, the Wagners must apply for an amendment to the Schoefer coastal development permit (See, Ex. "H").

"An offer is revoked by notice of revocation communicated by the offeror to the offeree" (C.C. 1587(1); Witkin, Sum. Vol.1, Contracts §168]. It is our opinion that the offer to dedicate was terminated by notice given by Mr. Larson to the Coastal Commission in 1993 pursuant to the termination clause contained in the offer. However, Coastal staff has a different opinion and without prejudicing our clients' rights, we want to bring this issue to the Commission's attention, give the Commissioners an opportunity to amend the permit, and exhaust all administrative remedies.

Government Code §66477.2, which became effective on March 1, 1975, provides in pertinent part:

Steve Scholl, Coastal Commission
Ray Hall, Department
of Planning & Building
July 18, 1996
Page Four:

"(b) In the case of any subdivision fronting upon the ocean coastline or bay shoreline, the offer of dedication of public access route or routes from public highways to land below the ordinary high watermark shall be accepted within three years after the approval of the final map . . .

(d) Offers of dedication which are not accepted within the time limits specified in subdivision (b) shall be deemed abandoned."

It is the applicants' position that pursuant to §66477.2, the offer to dedicate was abandoned on October 7, 1983. The Coastal act does not have any provision dealing with the time an offer to dedicate may stay in effect. Section 66477.2 is the only provision in either the Coastal Act or the Subdivision Map Act that deals with the case of a subdivision within the area between Highway 1 and the coast concerning dedication of public access from a public highway to the ocean. It is therefore unreasonable to argue that this section does not apply to dedications under the jurisdiction of the Coastal Commission.

This offer unnecessarily burdens our clients' property. The public has coastal access in this area over the botanical gardens. No valid purpose of which we are aware justifies keeping this offer in existence.

CONCLUSION

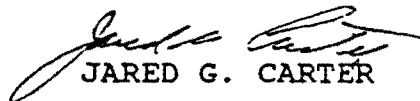
In March of this year, my Paralegal Linda LeVanway went to the Mendocino County Planning Dept. in Ukiah and was informed by a planner that we would have to file an amendment with the County prior to the Coastal Commission. On March 8, 1996, she contacted Jo Ginsberg at the North Coast Coastal Commission to verify this procedure. She was advised by Ms. Ginsberg that the Wagners are required to file an amendment to terminate the public access easement, but was not sure if this process would require an amendment to the minor subdivision, or if the amendment should be made directly to the Coastal Commission. Ms. Ginsberg also informed Ms. LeVanway that the issue of the easement on Schoefer Lane has already been determined and that the amendment would be denied.

Steve Scholl, Coastal Commission
Ray Hall, Department
of Planning & Building
July 18, 1996
Page Five:

As addressed, we believe that the offer to dedicate was terminated by Mr. Larson in 1993, and that as a matter of law pursuant to Gov. C. §66477.2(b)(d) it was terminated in 1981. Furthermore, based on Ms. Ginsberg's attitude, we believe that it would be inappropriate for her to work on the report to the Commission on this application. Enclosed is (i) a check in the amount of \$800 (a \$200 application fee for each applicant property owner); (ii) four (4) executed applications to the Coastal Commission for an amendment to Coastal Development Permit No. 80-CC-122 (MS 163-78) SCHOEFER acknowledging this office's representation (iii) and the list of owners adjacent to the subject easement and self addressed stamped envelopes to the same. Should you need any further information please contact me or Linda LeVanway of this office at (707) 462-6694. I look forward to hearing from you.

We will provide the Commission with more detailed legal and factual analysis supporting our clients' position prior to the Commission's hearing on this application.

Sincerely,


JARED G. CARTER

cc: Mr. & Mrs. Larry Wagner
Mr. & Mrs. Lucius Fitch
Mr. & Mrs. Wayne Werner
Mr. & Mrs. Robert Dutton

15601

RECORDED AT REQUEST OF
Raymond L. Landon

BOOK 1277 PAGE 220
OCT 7 2 37 PM '80

OFFICIAL RECORDS
MENDOCINO COUNTY, CALIF.
John Richardson

No Fee

Recorded at the Request of

And When Recorded Return to:

State of California
California Coastal Commission
631 Howard Street
Fourth Floor
San Francisco, California 94105

IRREVOCABLE OFFER TO DEDICATE

WHEREAS, ERNEST SCHOEFER and MIRIAM SCHOEFER (hereinafter referred to as "owners") are the owners of record of that certain real property located at 17950 Ocean Drive, Fort Bragg, Mendocino County, California, which property is legally described as set forth in Exhibit "A", and attached hereto and incorporated herein by this reference and which is hereinafter referred as the "subject property"; and

WHEREAS, the CALIFORNIA COASTAL COMMISSION, NORTH COAST REGIONAL COMMISSION, (hereinafter referred to as "the Commission") is acting on behalf of the people of the State of California; and

WHEREAS, the people of the State of California have a legal interest in the land seaward of the mean high tide line for the Pacific Ocean; and

WHEREAS, pursuant to the California Coastal Act of 1976, owners applied to the Commission for a coastal development permit for a four (4) parcel minor division of the subject property; and

WHEREAS, a coastal development permit No. 80-CC-122 was granted on July 9, 1980, in accordance with the provisions of the Staff Recommendation and Findings which are marked Exhibit "B", attached hereto and hereby incorporated herein by this reference subject to the following condition:

"The applicants will execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to a public agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be twenty-five (25) feet wide located along the southern boundary

of subject property line and extends from Ocean Drive (Old Highway 1) to the mean high tide line/bluff edge as shown herein on Exhibit "II". Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

The offer shall run with the land in favor of the people of the State of California, binding successors and assigns of the applicant or land owner. The offer of dedication shall be irrevocable for a period of twenty-one (21) years, such period running from the date of recording.

However, if the certified LCP includes a vertical and lateral access at the Botanical Garden property, AP# 17-07-12 and 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing for public access in perpetuity across the above property event in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants' property may be terminated."

WHEREAS, the subject property is a parcel located between the first public road and the shoreline; and

WHEREAS, under the policies of Sections 30210 through 30212 of the California Coastal Act of 1976, public access to the shoreline and along the coast is to be maximized, and in all new development projects located between the first public road and the shoreline shall be provided; and

WHEREAS, the Commission found that but for the imposition of the above condition, the proposed development could not be found consistent with the public access policies of Sections 30210 through 30212 of the California Coastal Act of 1976 and that therefore in the absence of such a condition, a permit could not have been granted;

NOW, THEREFORE, in consideration of the granting of permit N. 80-CC-112 to owners by the Commission, owners hereby offer to dedicate to the People of California an easement in perpetuity for the purposes of pedestrian access which shall be twenty-five (25) feet in width along the south boundary of the subject property as designated in Exhibit "B".

This offer of dedication shall be irrevocable for a period of twenty-one (21) years measured from the date of recordation and shall be binding upon the owners, their heirs,

assigns, or successors in interest to the subject property described above. However, if the certified local coastal program includes a vertical and lateral access at the Botanical Garden property, Mendocino County Assessor's Parcel No. 17-07-12 and 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the Botanical Garden property, binding upon the heirs, successors and assigns of the owners thereof, the offer of access provided for by this offer may be terminated. The People of the State of California shall accept this offer through the County of Mendocino, the local government and in whose jurisdiction the subject property lies, or through a public agency acceptable to the Executive Director of the Commission or its successor in interest.

The Public agency shall, as a condition precedent to permitting public use of the easement offered hereby, execute an agreement with offeror, their heirs, successors or assigns to be responsible for the maintenance of the easement including, but not limited to, the removal of all trash, and debris left on the easement or immediately adjacent thereto, by persons using the easement.

The Public agency shall, as a condition precedent to permitting public use of the easement offered hereby execute an agreement with owners, their heirs, successors in interest or assigns, to indemnify and hold owners, their heirs, successors in interest and assigns, free and harmless from liability for injury or harm to persons or property, including that of owners, occurring on or arising out of the use of the easement, including the payment of all attorney's fees and court costs incurred in the defense of any such claim or suit and the payment of any judgment which may be obtained.

Acceptance of the offer is subject to a covenant which runs with the land providing that the first offeree to accept the easement may not abandon it but must instead offer the easement to other public agencies acceptable to the Executive Director

of the Commission for the duration of the term of the original
offer to dedicate. The grant of easement once made shall run
with the land and shall be binding upon the owners, their heirs
and assigns.

Executed on this 24th day of September,
1980, at Mendocino, County of Mendocino, California.

Ernest Schaffer
ERNEST SCHAFER, Owner

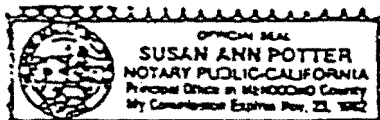
MIRIAM SCHOEFER, Owner

STATE OF CALIFORNIA)) ss.
COUNTY OF MENDOCINO)

On March 26, 1980, before me, the undersigned, a Notary Public in and for said State, personally appeared ERNEST SCHOEFER and MIRIAM SCHOEFER, known to me, to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

WITNESS My hand and official seal.

(Seal)



Lucia Ann Patton
Notary Public in and for said State

This is to certify that the offer of dedication set forth above dated 26 September, 1980, 1980, and signed by ERNEST SCHOEFER and MIRIAM SCHOEFER, owners, is hereby acknowledged by the undersigned office, on behalf of the California Coastal Commission pursuant to authority conferred by the California Coastal Commission when it granted Coastal Development Permit No. 80-CC-122 on July 9, 1980 and the California Coastal Commission consents to recordation thereof by its duly authorized officer.

Dated: 1 October 1980

CALIFORNIA COASTAL COMMISSION

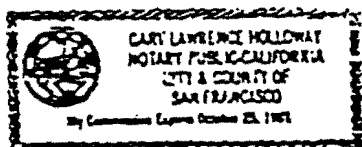
By Cynthia K Long
CYNTHIA K LONG
JESAL COUNSEL

STATE OF CALIFORNIA)
) ss.
COUNTY OF)

On 12th April 1980, 1980, before the under-
signed, a Notary Public in and for said State, personally appeared
Carl Lawrence Holloway, known to me to be the authorized
representative of the California Coastal Commission and known
to me to be the person who executed the within instrument on
behalf of said Commission, and acknowledged to me that such
Commission executed the same.

WITNESS my hand and official seal.

(Seal)



Carl Lawrence Holloway
Notary Public in and for said State

10-521100

EXHIBIT "A"

The land referred hereto is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

TRACT ONE:

That portion of Section 24, township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly defined and lying with the following described boundaries:

COMMENCING at a point from which the Southeast corner of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, bears South 31° 00' East, 1909 feet, said point of commencement being the Northwest corner of that parcel of land conveyed by A. Polly and Olga E. Polly, his wife to Christopher I. Sellinan by deed dated October 27, 1909, recorded November 5, 1909 in Liber 154 of Deeds, Page 254, Mendocino County Records, thence from said point of commencement, South 3° 00' West, 216 feet to the Northerly line of land of Jacob Sering; thence West along the Northerly line of said Jacob Sering lands, 627.39 feet to the True Point of Beginning; thence from said True Point of Beginning and along the exterior boundaries of the parcel of land to be described as follows:

North 24° 15' West, 594.24 feet to a 2 inch diameter iron pipe; thence North 88° 21' 10" West, 595.65 feet to a 2 inch diameter iron pipe; thence South 21° 15' 20" West, 21.52 feet to a 2 inch diameter iron pipe; thence North 70° 37' 20" West 556.33 feet to the most Northeasterly corner of that parcel described in the deed from DeWood Corporation to Lois E. Tracy and Mary Margaret Schmidhauer and recorded in Book 714, Page 699, of Official Records of Mendocino County; thence South 399.21 feet along the east boundary of said parcel; thence West along the South boundary of said parcel 300 feet; thence along the Westerly boundary of said parcel the following courses and distances; North 315 feet; thence East 30 feet; thence North 13° 00' East 55 feet; thence North 20° 45' West 149.58 feet to the most Northwestern corner of said parcel, said point being the most Northerly corner of the land described in the deed from William and Margie M. Olander to DeWood Corporation, recorded January 16, 1964 in Volume 648, Page 548 of Official Records of Mendocino County; thence along the line of mean high water of the Pacific Ocean the following general courses and distances, South 14° 00' West 100.00 feet; thence South 87° 50' West 610.60 feet; thence South 34° 45' West 9.52 feet to the most Northerly corner of a parcel of land described in deed from H. H. and Ilene Monacott to L. H. and Wanda E. Murphy and recorded in Book 360, Page 4 of Official Records of Mendocino County; thence along the Northerly boundary of said Murphy parcel South 51° 26' East 145.66 feet; thence South 43° 30' East 110.81 feet; thence South 14° 19' East 38.02 feet; thence South 78° 26' East 68.88 feet; thence South 47.20 feet to the Northeast corner of that certain parcel of land described in deed from H. H. and Ilene Monacott to Joseph Ogden Zink and Ila Fern Zink, recorded September 2, 1949 in Volume 254, Page 422 of Mendocino County Records; Continued...

EXHIBIT "A"

thence continuing South along the East boundary of said Link parcel 60 feet to the Southeast corner of said parcel; thence East 270 feet; thence South 290 feet; thence 1806.11 feet to the True Point of Beginning.

17-050-10, 13, 15 & 16
17-070-25, 27 & 28

TRACT TWO:

That portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Meridian, more particularly defined and lying within the following described boundaries:

Beginning at the most Northerly corner of the parcel of land described in the Deed from William Olander and Margie M. Olander to De Wood Corporation recorded January 16, 1964 in Book 648 Official Records, Page 548, Mendocino County Records; thence from said point of beginning South 70° 37' 20" East along the Northerly line of said parcel of land 329.27 feet; thence South 399.21 feet to the centerline of a 50 foot easement, thence West along said centerline 300 feet; thence North 315 feet; thence East 30 feet; thence North 13° 00' East 55 feet; thence North 20° 45' West 149.58 feet to the point of beginning.

17-050-12

Findings: 3,12,22,25
Hear Date: June 27, 1980

F.6

NORTH COAST REGIONAL COMMISSION
Consent Calendar Staff Report
for the meeting of

Applicant: Ernest and Miriam Schoefer
P. O. Box 860
Fort Bragg, CA 95437

Agent: Raymond A Stanton
450 Main Street
Mendocino, CA 95460

Proposed Development: Four-way parcel minor subdivision

Project Location: West of Highway One, 2.4 miles south of Ft. Bragg.

I. Project Description:

A. Site Characteristics:

1. Parcel size: 274± acres, 2.14± acres
2. Slope: 0-10% X 10-30% X +30% X
3. Vegetation: Annual grasses and shrubs
4. Between sea and first landway: Yes X No
5. Developed Area: Yes No X; Eros
6. Other (Access, wetlands, drainage, etc.):

Access: See below

B. Development Description:

1. Size of structure(s): N/A sq. ft.
2. Height (from average finished grade): N/A ft.
3. Water Supply: Community system X well
4. Sewage disposal: Community system X septic
5. Underground utility service: Yes X No
6. General Plan Zoning R-E
7. Other: The project is located in the Fort Bragg Market and Expansion area.

II. Conditions of Approval:

1. Access:

Prior to issuance of the permit the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public pedestrian access to the shoreline. Such easement shall be 25 feet wide located along the southern boundary

the property line and extend from the Ocean Drive (old Highway 1) to the mean high tide line/bluff edge and shown herein as Exhibit II. Such easement shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

However, if the certified LCP includes a vertical and lateral access at the Botanical Garden property, APN 17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the above property even in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants property may be terminated.

III. FINDINGS AND DECLARATIONS:

The Commission finds and declares as follows:

- A. Project Discussion: The applicant proposes a parcel division creating 2.01, 5.0, 8.31, and 14.03 acre lots on property currently zoned R-E. The actual division is of an existing 27+/- acre parcel, split three-ways. In addition, the noncontiguous 2+/- acre parcel (existant) has been incorporated into the project by the county, creating in effect, a four-way division. Parcels in the immediate area vary in size from 1/4 acre to 15 acres and the entire area is presently zoned R-E.

Parcels along the west side of Highway One are zoned C-1 and are currently in a building ban area being controlled by the Mendocino County Health Department. Although the proposed project is not in the existing ban area, the Health Department has noted some concerns with water and septic problems on adjacent properties that may be associated with this parcel.

The applicant proposes to offer a vertical 60 foot easement on the southern boundary of the parcel to the County of Mendocino Department of Public Works. The Department has stated they do not intend to accept this easement.

- B. Project History: Evidently the ownership of the 27+/- acre parcel was recorded with the County Assessor's Office under several assessors parcels of 2 to 5 acres in size. They then merged in 1973 requiring a subdivision for the creation of more than one buildable parcel.

On September 21, 1978 the subject division was conditionally approved by the Mendocino County Planning Commission. On Tuesday, April 10, 1979, Judge John Golden ruled in favor of Mr. Schoefer's application for exemption to the moratorium.

- C. Site History: On June 13, 1979 the Regional Commission conditionally approved a permit for the development of a single family residence on the subject 2+/- acre parcel (79-CC-83). The residence has been constructed and is located on the proposed parcel number two of this application (see Exhibit II). Conditions placed on the residential application consist of resubmission of landscaping plans, road improvement plans, exterior finish, and a lateral access easement.

Local Issues:

Access and Recreation: The subject property is located between the sea and the first public road, and as such, is subject to the following provisions:

Section 30212(a) states:

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

The Statewide Interpretive Guideline for access policies (adopted February 20, 1980) states, "... all new development resulting in any intensification of land use generates sufficient burdens on public access to require access conditions in conjunction with that development."

The approved permit for a single family residence (79-CC- 83) was conditioned with the offering of a public access easement as shown here on Exhibit III. It was determined at that time, the construction of a single family residence warranted only a lateral easement.

The guidelines further state, "... the applicant may also be required to dedicate additional accessways or areas ... to balance the burdens to the public with the benefit to the applicant."

In determining where vertical access should be required, the Commission shall consider, the nature of the burden on public access created by the project and the public need to gain access to the shoreline in a given area nearest existing public access points in the area are located at Noyo Harbor to the north and Jug Handle State Park to the south.

The Commission finds that there currently exist a need in the area of the subject property for additional public access easements. The Commission further finds that the division of the subject property creating two additional buildable parcels will result in the intensification of land use and, as such, to be found consistent with the access policies of the Coastal Act, a dedication of a vertical access is necessary.

Currently a fee vertical and lateral access exists on the property immediately north of the subject parcel (the Botanical Gardens). It has been suggested by staff and the current property owner that this access may be offered in perpetuity to the state as a public access, fee or otherwise. This access is contiguous to the applicant's lateral access easement currently offered to the State under 79-CC-83 (see Exhibit III). If the Botanical Gardens access is included in the certified LCP, the Commission would then be able to find that, indeed adequate access does exist nearby.

The Commission therefore finds the project, as conditioned, in conformance with Section 30212 of the 1976 Coastal Act.

Ernest & Miriam Schoefer

-4-

- E. CEQA: The project will not have any adverse environmental impacts within the meaning of the California Environmental Quality Act.
- F. L.C.P.: The project as conditioned, will not prejudice the ability to prepare a Local Coastal Program in conformance with the policies of Chapter 3 of the 1976 Coastal Act as it has been conditioned to enhance public access opportunities while maintaining all access possibilities for the area.

(DISTANCES)

EXHIBIT I

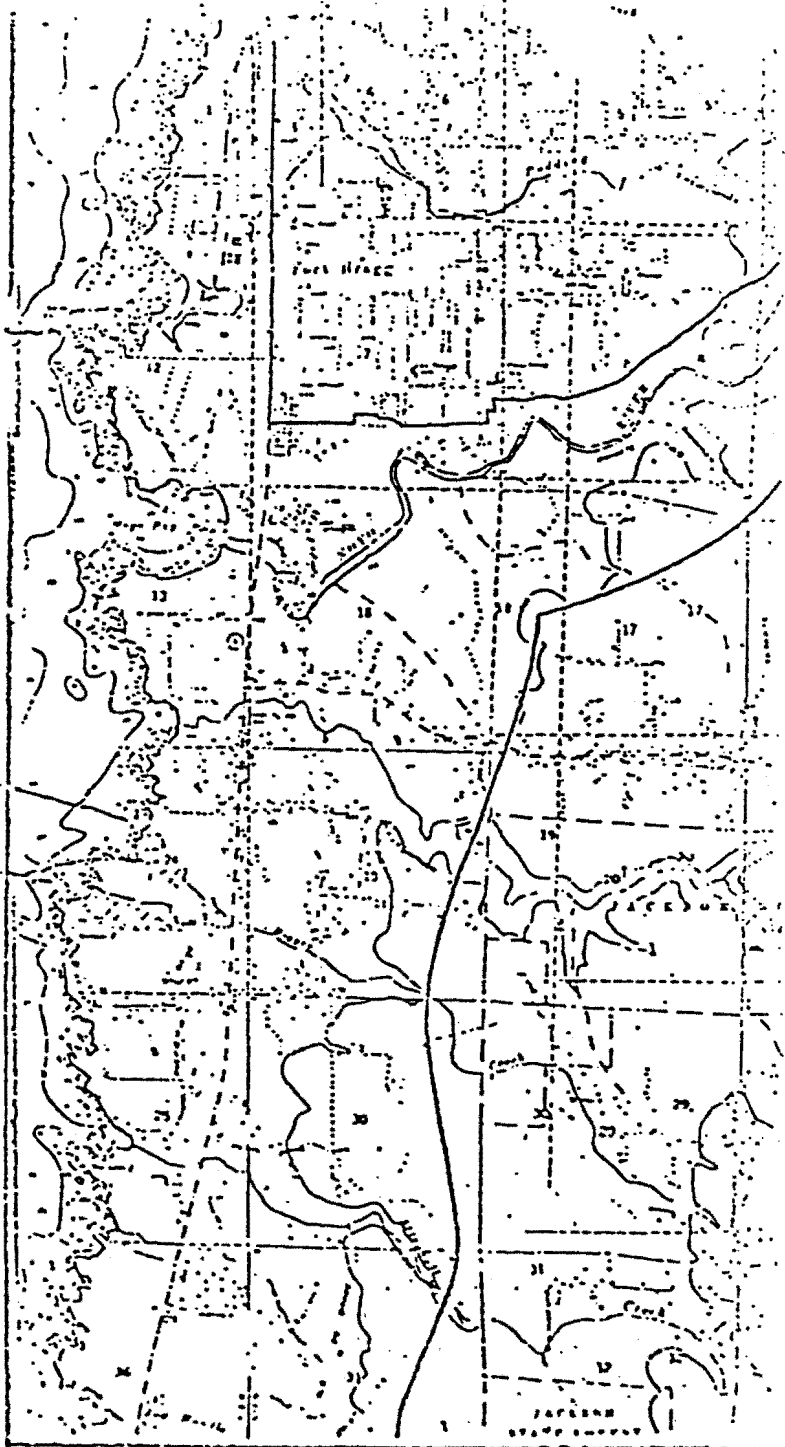
BOTANICAL GARDEN
PROJECT

ERNEST SCHNEIDER

PROJECT LOCATION

EO-CC-172

100 MILES
(20 MILES)



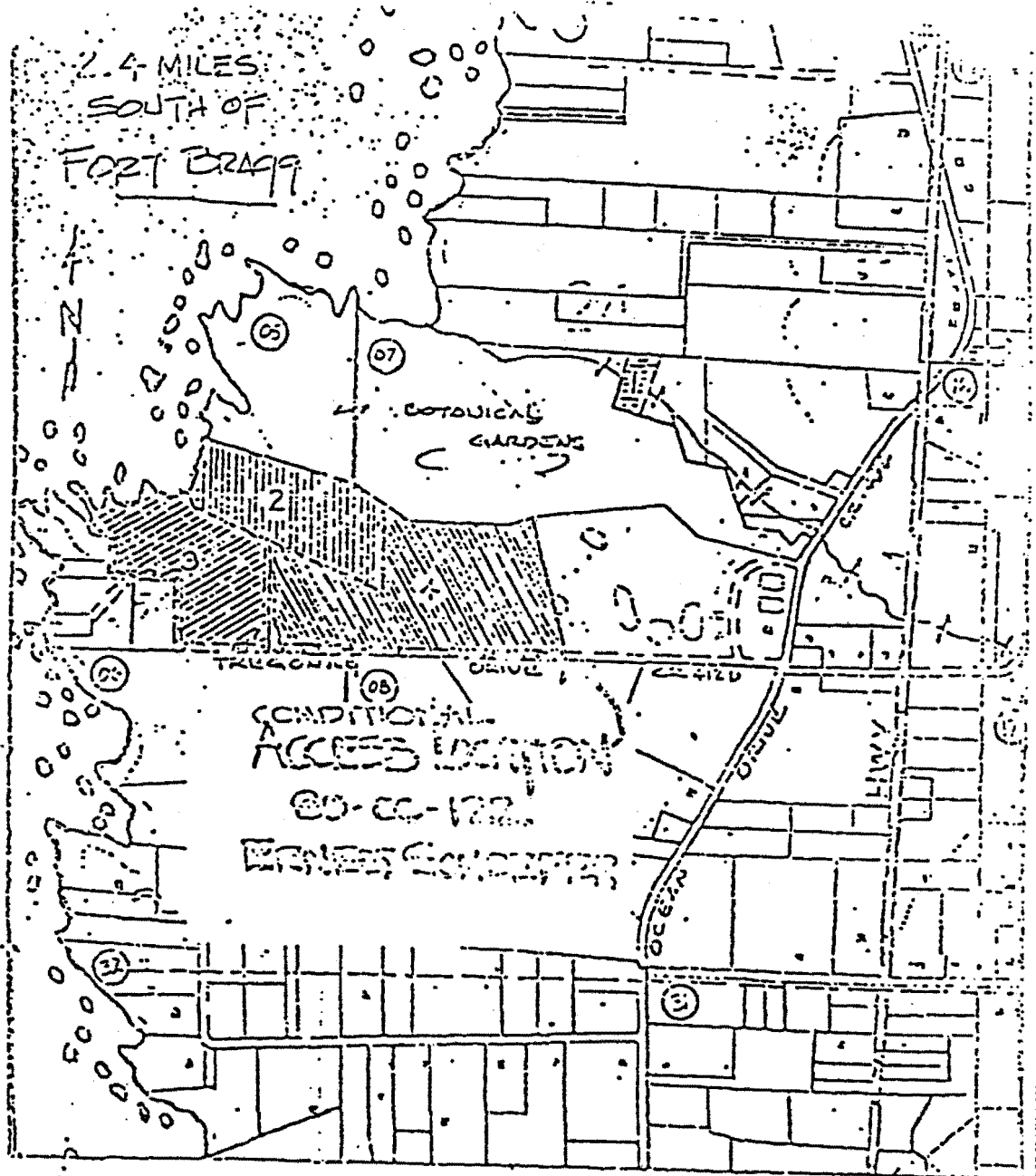


EXHIBIT I

EXHIBIT "B"

P/C MEETING

FILE NO.

11-6001	OWNER ERNEST SCHAEFER	AGENT	P/S MEETING SEPT. 21	FILE NO. MS 163-79
	17-050-10.17 A/ES 10.11.16		B/S ACTION	

Botanical Gardens Trail (Existing)

OS
APN

17-05-08

C:PD

- Former APN 17-07-12
Botanical Gardens

OS

C:PD

PR:L-5
[RR]

HWY.

HILL
LUMBER

FITCH

Schoefer Vertical Access
(Permit 80-CC-122)

Schoefer

[SR]

*3

Terco

PD

EXHIBIT A

LCP Land Use, 2.5 min. Series

Symbol	Land Use Type	Description
AG	Agriculture	Lands suited for and appropriately retained for crop production. Minimum parcel size 60 ac.
RL	Range Lands	Lands suited for and appropriately retained for grazing and forage for livestock and some timber producing areas. Minimum parcel size 160 ac.
FL	Forest Lands	Lands suited for and appropriately retained for growing and harvesting timber. Minimum parcel size 160 ac.
OS	Open Space	Lands not suited for development or lands most valuable in their undeveloped natural state. See text for other limiting factors.
RMR	Remote Residential	Lands having constraints for commercial agriculture, timber production or grazing which are more suitable for small scale farming and low density agriculture/residential uses. Minimum parcel size 20 or 40 ac. as mapped.
RR-	Rural Residential	Lands suited for local small scale agriculture. Minimum parcel size of 1, 2, 5, 10 ac. as mapped. See text for additional limiting factors.
RR-5 [RR-2]	Variable Density	Density may be increased to the bracketed land use type only upon proof of public water or a positive hydrological study. See policy 3.2-9 & 3.2-10
SR	Suburban Residential	Minimum parcel size in square feet varies with the availability of community water and/or sewage disposal systems, see text.
RV	Rural Village	Small community within which mixed residential and commercial development is consistent with village character. Text specifies principles for location of uses and intensity of development in each village.
FV	Fishing Village	Fishing related commercial and industrial uses; other commercial and residential uses as space permits.
PF	Public and Semi-Public Facilities	Schools, churches, cemeteries, community building, federal lands used for public purposes.
C	Commercial	Retail stores, services, and offices.
I	Industrial	Light manufacturing, processing, distribution.
*1	Visitor Accommodations and Services	Principal or existing use: Bed & Breakfast, Inn = *1, Inn, Motel, Motel = *2, Campground, RV, Hostel = *3, Restaurant, etc. = *4, Resort = *5. A "C" following any number identifies the use as conditional.
-PD	Planned Unit Development	One housing, commercial, or industrial, unit per minimum acreage specified, in accord with approved plan to retain open space character and resource protection.
-DL	Development Limitation	Slopes over 30 percent, bluff erosion, or landslides may prevent or limit development. A use is indicated should the parcel be determined developable.

Symbol	Description
— — — — —	Coastal Zone Boundary
— — — — — U A	Urban/Rural Boundary
.....WA.....	Williamson Act Boundary
.....TPZ.....	Timber Production Zone Boundary
o o o o o o o o	Shoreline Access Proposed
• • • • • • • •	Shoreline Access Existing
(View Turnout

NOTE: Timber and Agriculture Buffer Policies (3.3-9 & 3.2-13) will affect parcels adjacent to timber production zones (TPZ) and agriculture preserves (WA) and will be considered along with other policies of this plan prior to any further development.

5534

Order No.
Escrow No. Men 64574
Loan No.

WHEN RECORDED MAIL TO
MENDOCINO COAST RECREATION AND
PARK DISTRICT
213 E. Laurel Street
Fort Bragg, CA 95437

RECEIVED AT REQUEST OF
FIRST AMERICAN TITLE COMPANY

BOOK 1349 PAGE 485

APR 26 10 49 AM '82

OFFICIAL RECORDS
MENDOCINO COUNTY, CALIF.

W. L. Richardson
RECORDED

SPACE ABOVE THIS LINE FOR RECORDERS USE

MAIL TAX STATEMENTS TO

Same as above

DOCUMENTARY TRANSFER TAX \$ 73.65

XX Computed on the consideration or value of property conveyed. OR
Computed on the consideration or value less taxes or encumbrances

[Signature]

Signature of Officer or Agent Authorizing Use From Name
First American Title Company

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

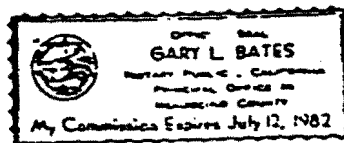
JAY FRANKSTON and MONIQUE FRANKSTON, husband and wife; JAMES HURST and BARBARA HURST, husband and wife; HERBERT LOGIN and EVELYN LOGIN, husband and wife; ARTHUR LOGIN, a single man and GARY RATHWAY and DEBORAH RATHWAY, husband and wife hereby GRANT(S) to

MENDOCINO COAST RECREATION AND PARK DISTRICT

the real property in the City of
County of Mendocino

State of California, described as

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF



Dated April 2, 1982

STATE OF CALIFORNIA
COUNTY OF

Mendocino

On April 2, 1982

before me, the undersigned, a Notary Public in and for said State, personally appeared HERBERT LOGIN
AND EVELYN LOGIN

I know to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that

WITNESS my hand and official seal

Signature *[Signature]*

[Signature]
JAY FRANKSTON
[Signature]
MONIQUE FRANKSTON
[Signature]
JAMES HURST
[Signature]
BARBARA HURST
[Signature]
HERBERT LOGIN
[Signature]
EVELYN LOGIN
[Signature]
GARY RATHWAY
[Signature]
DEBORAH RATHWAY
[Signature]
ARTHUR LOGIN BY HERBERT LOGIN, his attorney
in fact

(This area for official notary seal)

MAIL TAX STATEMENTS AS DIRECTED ABOVE

BOOK 1349 PAGE 485

ACKNOWLEDGEMENTS

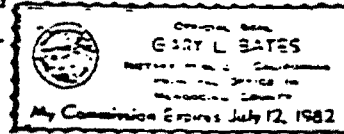
STATE OF CALIFORNIA

COUNTY OF MENDOCINO

On April 5, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES HEST, GARY RUTWAY and DEBORAH RUTWAY

known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same. WITNESS my hand and official seal.

Signature [Signature]
Name (Typed or Printed) GARY L. BATES



(Official Seal)

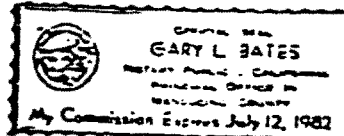
STATE OF CALIFORNIA

COUNTY OF MENDOCINO

On April 23, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Jay Francison, Monique Francison and Barbara Hest

known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same. WITNESS my hand and official seal.

Signature [Signature]
Name (Typed or Printed) GARY L. BATES



(Official Seal)

STATE OF CALIFORNIA

COUNTY OF MENDOCINO

On April 2, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared HERBERT LOGIN

y Public in

known to me to be the person whose name is subscribed to the within instrument as the Attorney in Fact of ARTHUR LOGIN

and acknowledged that he subscribed the name of ARTHUR LOGIN

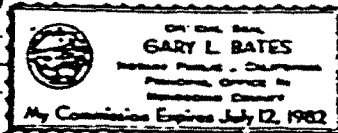
Power as principal and HIS

and acknowledged that he subscribed the name of ARTHUR LOGIN

WITNESS my hand and official seal.

Signature [Signature]

Name (Typed or Printed) GARY L. BATES



(This area for official record only)

al Seal)

Form 2004—(Attorney in Fact) First American Title Company

EXHIBIT "A"

DESCRIPTION

All those portions of the following described lands situate in the County of Mendocino, State of California and being a portion of Section 24, Township 18 North, Range 18 West, M.D. B. & M., and lying within the bounds of land described in Parcels One through Five in a deed to Jores Hurst and Barbara Hurst, recorded March 26, 1960 in Book 1252, Page 553, Official Records:

PARCEL ONE:

BEGINNING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-NEX-56-E; thence from the point of beginning along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet; thence leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, 110.66 feet; thence South 2° 37' 37" West, 273.11 feet to a point in an old picket fence line; thence South 89° 04' 40" West, along said old picket fence 849.61 feet to its intersection with the center of Digger Creek; thence continuing South 89° 04' 40" West, 111.90 feet; thence North 81° 31' 30" West, 66.43 feet; thence South 8° 23' 30" West along a line that is approximately 10 feet Easterly of a small building which houses restrooms, 127.72 feet; thence South 48° 47' 00" East, 24.82 feet to a split rail fence; thence along the split rail fence line South 3° 15' 40" East, 115.87 feet; thence leaving said split rail fence line South 68° 58' 47" East, 226.91 feet; thence South 76° 51' 45" East, 351.67 feet; thence North 34° 15' 13" East, 54.71 feet; thence North 28° 43' 07" West, 120.48 feet; thence North 52° 44' 53" East, 110.40 feet; thence South 68° 14' 27" East, 48.52 feet; thence South 20° 26' 07" East, 70.16 feet; thence South 79° 07' 27" East, 142.77 feet; thence South 39° 22' 07" East, 138.06 feet; thence North 33° 12' 04" East, 131.41 feet to the center of Digger Creek; thence leaving the center of Digger Creek North 15° 49' 50" East, 318.50 feet; thence North 89° 05' 36" East, 955.61 feet to the point of beginning.

SAVING AND EXCEPTING therefrom a 40 foot wide non-exclusive roadway and public utility easement, the exterior boundaries which are described as follows:

BEGINNING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's

Page 5

Order No. MEN 64574

Station 452.00 of a survey for California State Highway 1-MEN-56-2; thence from the point of beginning North 2° 40' 30" East, along the Westerly line of said State Highway, 40.08 feet; thence leaving the Westerly line of said State Highway South 89° 05' 36" West, 967.12 feet; thence North 2° 37' 37" East, 242.88 feet; thence South 89° 20' 18" West, 40.06 feet; thence South 2° 37' 37" West, 283.12 feet; thence North 89° 05' 36" East, 9.78 feet; thence South 15° 49' 50" West, 431.64 feet; thence North 33° 32' 04" East, 131.41 feet; thence North 15° 49' 50" East, 318.50 feet; thence North 89° 05' 36" East, 955.61 feet to the point of beginning.

PARCEL TWO:

A public access easement over the following described lands:

BEGINNING at a one inch diameter iron pipe set in concrete on the bluff of the Pacific Ocean from which a United States Coast and Geodetic Survey triangulation station known as "Beaver 2" bears South 25° 50' West, 874.67 feet; thence from the point of beginning North 70° 37' 20" West, 10 feet more or less, to the line of ordinary high water of the Pacific Ocean; thence meandering said high water line the following general courses and distances; North 31° 40' East, 85.00 feet; thence South 86° 20' West, 45.00 feet; thence North 52° 15' West, 75.00 feet; thence North 67° 30' East, 75.00 feet; thence South 60° 30' East, 45.00 feet; thence North 10° 45' East, 40.00 feet; thence North 34° 00' West, 70.00 feet; thence South 75° 30' East, 90.00 feet; thence South 55° 00' East, 105.00 feet; thence North 21° 15' East, 40.00 feet; thence North 43° 15' West, 150.00 feet; thence North 33° 00' West, 140.00 feet; thence North 4° 00' West, 115.00 feet; thence North 31° 45' East, 40.00 feet; thence South 49° 00' East, 125.00 feet; thence North 49° 30' East, 45.00 feet; thence North 13° 45' West, 140.00 feet; thence North 31° 00' East, 25.00 feet; thence South 26° 00' East, 40.00 feet; thence North 39° 10' East, 145.00 feet; thence South 87° 15' East, 110.00 feet; thence South 47° 45' East, 165.00 feet; thence South 13° 00' East, 90.00 feet; thence North 49° 00' East, 55.00 feet; thence South 68° 00' East, 165.00 feet; thence North 39° 10' East, 100.00 feet; thence South 79° 30' East, 65.00 feet; thence South 58° 30' East, 100.00 feet; thence South 89° 13' 20" East, 1.09 feet; thence leaving said high water line South 10° 00' West, 23.96 feet; thence South 81° 31' 30" East, 11.77 feet to the Northwest corner of the land described in the above Parcel One of this document; thence along the Westerly line of said Parcel One South 8° 28' 30" West, 127.72 feet thence South 48° 47' 00" East, 24.82 feet to a split rail fence; thence along the split rail fence line and the Westerly line of said Parcel One, South 3° 15' 40" East, 65.00 feet; thence leaving said Westerly line of said Parcel One, North 72° 03' 30" West, 477.12 feet; thence North 11° 10' East, 120.00 feet; thence South 85° 40' East, 225.00 feet to a point that is approximately 50 feet from the top of the bluff line; thence along a line following the top of the bluff but being fifty feet Easterly and Southerly from the top of the bluff the following courses: South 9° 15' East, 110.00 feet; thence South 62° 50' West, 100.00 feet; thence North 67° 20' West, 70.00 feet; thence South 27° 15' East, 77.00 feet; thence South 64° 55' East, 60.00

Page 4

Order No. MEN 64574

feet; thence South 34° 20' East, 270.00 feet; thence leaving said fifty foot line, South 73° 15' West, 185.00 feet to a point on the fifty foot line that lies Easterly and Southerly of the top of the bluff; thence continuing along said fifty foot line from the top of the bluff the following courses; North 31° 10' West, 65.00 feet; thence North 51° 00' West, 17.00 feet; thence South 15° 30' West, 20.00 feet; thence South 22° 10' East, 110.00 feet; thence South 12° 33' West, 58.00 feet to a point that is South 70° 47' 20" East, 130.00 feet from the point of beginning; thence North 70° 37' 20" West, 130.00 feet to the point of beginning.

EXCEPTING from said Parcels One and Two, any portion of the above described property along the shore below the line of natural ordinary high tide and also excepting any artificial accretions to said land seaward of said line of natural ordinary high tide.

PARCEL THREE:

An easement for Twenty-five (25) parking spaces as an appurtenance to Parcels 1 and 2 as described above. Said easement lying on the property described as follows:

All that certain real property situated in the County of Mendocino, State of California, conveyed by grant deed from Gilbert Roland Schoefer, et ux, to James Hurst, et al., recorded December 14, 1978 in Book 1184, Page 539, Mendocino County Records.

EXCEPTING therefrom all of Parcels 1 and 2 as described above.

Handwritten notes:
 25 parking spaces
 54
 O.K.

COPY

PROPERTY ACQUISITION AGREEMENT

AND

ESCROW INSTRUCTIONS

THIS AGREEMENT is made and entered into on February 27, 1991 ¹⁴⁹¹ ~~1990~~ CB
by and between MENDOCINO COAST RECREATION AND PARK DISTRICT,
hereinafter referred to as "DISTRICT", and ARTHUR LOGIN, HERB
LOGIN, JAMES C. HURST, GARY RATWAY, LARRY HEIT, CHARLES LEVINE,
and ARTHUR PFEIFFER, collectively doing business as the GARDEN
LAND PARTNERS, a general partnership, hereinafter referred to as
"GRANTOR". GRANTOR herein represents that they are a general
partnership and have the authority to enter into this Agreement
on behalf of said partnership. GRANTOR agrees to provide a copy
of the Partnership Agreement to DISTRICT prior to close of this
escrow.

THE PARTIES HERETO AGREE AS FOLLOWS:

(1) GRANTOR shall grant to DISTRICT in fee, by Grant Deed,
certain real property, located in Mendocino County, subject to
the terms and conditions of this Agreement. The real property,
Mendocino County Assessor's Parcels Nos. 17-050-08, 17-070-37,
17-040-23 and 17-040-50 (approximately 35 total acres), more
particularly described in Exhibit "A", which is incorporated by
reference and attached hereto, together with all easements
appurtenant to these parcels, is hereinafter referred to as the

Land Partners, Sellers herein, as Lessors and successors to HERBERT LOGIN, EVELYN LOGIN, GEOFFREY MOLFINO and BEVERLY MOLFINO as Lessees, covering a portion of the herein sold premises, commonly known as "The Gardens Restaurant". Said Lease is for a period of twelve (12) years beginning March 1, 1985 and terminating on February 28, 1997. Further, the restaurant referred to therein is the subject of an Agreement of Sale to Joe and Joseph Sells, dated March 1, 1989. DISTRICT acknowledges the existence of said Lease and agrees to take title subject to the rights of lessees and/or successors.

(5) GRANTOR represents that it holds the following appropriative water rights (applications, permits and licenses): Application No. 7176, Permit No. 3887, License No. 1481, being a one-half interest in right to Digger Creek currently shared with DISTRICT. GRANTOR shall execute and submit to escrow all documents necessary to effectuate the transfer to DISTRICT of all GRANTOR's interests in appropriative water rights.

(6) Acquisition of the PROPERTY by DISTRICT is conditioned on GRANTOR's removal and disposal of certain contaminants from the PROPERTY, to the satisfaction of DISTRICT. The specific contaminants are described in a report, attached to this Agreement as Exhibit "B", by Wenzler and Kelly Consultants and dated March 16, 1989. GRANTOR shall remove and dispose of all contaminants in accordance with all applicable federal, state and local laws and regulations. GRANTOR shall provide to DISTRICT

written evidence of the lawful removal and disposal of the contaminants in accordance with all applicable federal, state and local laws and regulations. GRANTOR shall provide to DISTRICT written evidence of the lawful removal and disposal of the contaminants not later than thirty-five (35) days from the date of this Agreement. DISTRICT and its delegates shall have access to the PROPERTY to inspect for the removal and to conduct any additional tests and examinations that DISTRICT deems appropriate. DISTRICT shall have seven (7) days from the date of receipt of GRANTOR's evidence to approve removal and disposal of the contaminants.

(7) DISTRICT shall deposit in escrow a signed Irrevocable Offer to Dedicate Title in Fee ("the OTD") meeting the requirements of the California State Coastal Conservancy's Grant Agreement #89-066 with the DISTRICT, dated June 25, 1990. The TITLE COMPANY shall record the OTD concurrently with recordation of the instrument(s) conveying title to the PROPERTY.

(8) Escrow shall close not later than forty-five (45) days from execution hereof.

(9) The TITLE COMPANY will shortly receive a State warrant for \$2,000,000, equal to the purchase price of the PROPERTY described in the Deed(s). The TITLE COMPANY is authorized to record the Deed(s) and the OTD, and thereafter to deposit the warrant and deliver the proceeds, subject to Paragraph (10) below, to the GRANTOR when the TITLE COMPANY can furnish a CLTA

percent (1½) of the unpaid balance, reconveyance fees, Trustees' or recording fees for any reconveyance of any Deed of Trust or releases of mortgage incurred in this transaction. Since all documents recorded at the request of DISTRICT may be recorded without charge (Government Code Section 6103), no recordation fees will be paid. No documentary transfer tax is to be paid in this transaction.

(13) Rents, if any, shall be prorated as of the close of escrow and all subsequent rents shall be paid to DISTRICT. If any rent has been or is collected by GRANTOR for any period beyond the date on which escrow closes, GRANTOR shall tender it to DISTRICT. GRANTOR shall repay to the tenants any cleaning, key or other deposits, excluding rent paid in advance, and save and hold DISTRICT harmless from any claim for these items.

(14) The parties hereto agree that as of the time of the execution of this Agreement, a member of GRANTOR, namely GARY RATWAY, is a Lessee of GRANTOR on the PROPERTY, under a Lease Agreement dated January 1, 1981 and amended January 5, 1983. By his signature hereon, GARY RATWAY hereby surrenders all rights with respect to the Lease Agreement referred to in this paragraph. In order to facilitate the removal of said GARY RATWAY's personal property from the PROPERTY, DISTRICT herein grants said GARY RATWAY ninety (90) days from close of escrow to remove all personal property from PROPERTY. In consideration therefore, said GARY RATWAY hereby waives any and all rights for

(19) This Agreement shall not merge into the instrument(s) of conveyance.

IN WITNESS WHEREOF, the parties hereto have set their hands
on the date hereinabove set forth.

THE GARDEN LAND PARTNERS:
Arthur Login
ARTHUR LOGIN

GARY RATWAY

CHARLES LEVINE

HERB LOGIN


"GRANTOR"

JAMES C. HURST

LARRY HEIT

ARTHUR PFEIFFER

AND PARK DISTRICT

By 

Title

Title Administrative

"DISTRICT"

sworn to before me this 15th day of
August 1990 by Arthur Login
~~Det. A. Rethy~~
my com exp 10.15.91

5010 to the attention of Escrow Officer B. J. Pacini.

(19) This Agreement shall not merge into the instrument(s) of conveyance.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date hereinabove set forth.

THE GARDEN LAND PARTNERS:

ARTHUR LOGIN

JAMES C. HURST

GARY RATWAY

LARRY HEIT

Charles Levine

CHARLES LEVINE

ARTHUR PFEIFFER

HERB LOGIN

"GRANTOR"

MENDOCINO COAST RECREATION
AND PARK DISTRICT

By _____

Title _____

"DISTRICT"

5010 to the attention of Escrow Officer B. J. Pacini.

(19) This Agreement shall not merge into the instrument(s) of conveyance.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date hereinabove set forth.

THE GARDEN LAND PARTNERS:

ARTHUR LOGIN

JAMES C. HURST

GARY RATWAY

LARRY HEIT

CHARLES LEVINE

ARTHUR PFEIFFER

Herb Login

HERB LOGIN

"GRANTOR"

MENDOCINO COAST RECREATION
AND PARK DISTRICT

By _____

Title _____

"DISTRICT"

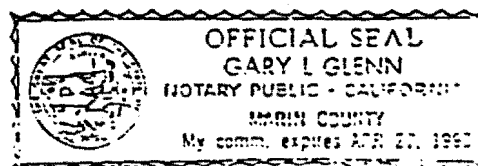
State of California SS.
County of Marin

On this 15 day of August, in the year 1996,
before me, Gary L. Glenn, the undersigned Notary Public,
personally appeared Herbert Herb B. Login,
personally known to me (or proved to me on the basis of satisfactory
evidence) to be the person x whose name is (are) subscribed to
this instrument, and acknowledged that he (she/they) executed it.

WITNESS my hand and official seal.

G. L. Glenn
Notary's Signature

L.S.



5010 to the attention of Escrow Officer R. J. Pacini.

(19) This Agreement shall not merge into the instrument(s) of conveyance.

IN WITNESS WHEREOF, the parties hereto have set their hands on the date hereinabove set forth.

THE GARDEN LAND PARTNERS:

ARTHUR LOGIN

GARY RATWAY

CHARLES LEVINE

HERB LOGIN

"GRANTOR"

JAMES C. HURST

LARRY HEIT

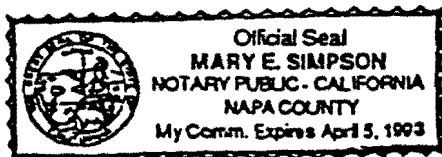
ARTHUR PFEIFFER

ATTACHMENT TO CONTRACT OF SALE

STATE OF CALIFORNIA

COUNTY OF Napa

On this 13th day of August, 1990, before me, Mary E. Simpson, a Notary Public, State of California, duly commissioned and sworn, personally appeared Larry Heit, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he executed it. IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal in the Town of Yountville, Napa County, on the date set forth above in this certificate.



This document is only a general form which may be proper for use in simple transactions and in no way acts or is intended to act, as a substitute for the advice of an attorney. The printer does not make any warranty, either express or implied as to the legal validity of any provision or the suitability of these forms in any specific transaction.

Mary E. Simpson
Notary Public, State of California
My commission expires April 5, 1993

9775

RECORDED AT REQUEST OF
REDWOOD EMPIRE TITLE COMPANY

BOOK 1910 PAGE 548

91 JUN -4 AM 10: 14

OFFICIAL RECORDS
MENDOCINO COUNTY CALIF.
MARSHA A. YOUNG
RECORDER

Recording Requested By and
When Recorded Return to:

State Coastal Conservancy
1330 Broadway, Suite 1100
Oakland, CA 94612

Attn: Legal Counsel
Project: Mendocino Botanical Gardens

EXEMPT FROM RECORDING FEES -- GOVERNMENT CODE SECTION 6103

*no fee
14P*

"RECORDERS NOTE: Document may
not be sufficiently legible to repro-
duce readable photographic
record."

IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE

This IRREVOCABLE OFFER TO DEDICATE TITLE IN FEE ("Offer") is made
this 13th day of MARCH, 1991, by the Mendocino Coast
Recreation and Park District ("Offeror"), a public entity.

Pertinent Facts

- A. Offeror is the legal owner of a fee interest in certain real property ("the real property") in the County of Mendocino, State of California (described in Exhibit A, which is incorporated by reference and attached) and conveyed to Offeror under a grant deed recorded concurrently with this Offer.
- B. Offeror is purchasing the real property using funds provided by the California State Coastal Conservancy ("the Conservancy") pursuant to the authority of the Conservancy under Division 21 of the Public Resources Code to provide grants to local public agencies for the acquisition of real property; and pursuant to unrecorded agreement no. 89-066, dated June 25, 1990, between Offeror and the Conservancy.
- C. Offeror's agreement with the Conservancy requires that Offeror make this Offer.

Irrevocable Offer to Dedicate

- D. Offeror intends through this Offer to bind itself and its assigns and successors in interest.
- E. Offeror is executing this Offer to comply with agreement no. 89-066, and to protect the public's interest in the real property, which was acquired with the assistance of state funds.

NOW, THEREFORE, in consideration of the Conservancy's grant to Offeror for the acquisition of the real property, and the preservation of the public's interest in the real property, Offeror hereby irrevocably offers to dedicate fee title to the real property to the State of California, acting by and through the Conservancy or its successor agency, as follows.

1. ACCEPTANCE OF OFFER. This offer may be accepted only if the Conservancy finds that the existence of the Offeror has terminated; or that the Offeror or its successor in interest in the real property has violated one or more of the following essential terms of agreement no. 89-066:
 - a. The Offeror has acquired the real property to accomplish the purposes of the Mendocino Coast Botanical Gardens Restoration Plan ("the Plan"), approved by the Conservancy on June 22, 1990, (and as it may be thereafter amended by action of the Conservancy); and no use of the real property that is inconsistent with these purposes shall be permitted, except by specific act of the Legislature.
 - b. The real property (including any portion of it or any interest in it) may not be used as security for any debt without the written approval of the State of California, acting through the Executive Officer of the Conservancy or its successor.
 - c. The real property (including any portion of it or any interest in it) may not be transferred without the written approval of the State of California, acting through the Executive Officer of the Conservancy or its successor.
 - d. The Offeror shall use, manage, operate and maintain the real property as provided in agreement no. 89-066 between Offeror and the Conservancy.

Upon a finding by the Conservancy that any of the essential terms set forth above has been violated, or that the existence of the Offeror has been terminated for any reason, this Offer may be

Irrevocable Offer to Dedicate

accepted by the Conservancy, or by another public agency or nonprofit organization designated by the Conservancy and which has agreed to accept the obligations of the Offeror under this Offer, by recording in the Official Records of Mendocino County, a Certificate of Acceptance in substantially the form of the attached Exhibit B.

2. BENEFIT AND BURDEN. This Offer shall run with and burden the real property. All obligations, terms, conditions, and restrictions imposed by this Offer shall be deemed covenants and restrictions running with the land and shall be effective limitations on the use of the real property from the date of recordation of this document, and shall bind the Offeror and all its successors and assigns. This Offer shall benefit the State of California.
3. USE OF REAL PROPERTY AS SECURITY FOR DEBT. Offeror and its successors and assigns shall not use the real property as security for any debt without the written approval of the State of California, acting by and through the Executive Officer of the Conservancy or its successor.
4. TRANSFER OF REAL PROPERTY. Transfer of the real property shall be subject to the approval of the State of California, acting by and through the Executive Officer of the Conservancy or its successor, and the transferee shall be subject to all terms, conditions and restrictions contained in this Offer. In particular, but without limiting the restrictions provided above, the transferee shall use the real property only for the purposes of the Plan. If the Conservancy deems necessary, prior to the Conservancy's approval of any transfer of the real property, the transferee and the Conservancy shall enter into a new agreement sufficient to protect the interest of the people of California.
5. CONSTRUCTION OF VALIDITY. If any provision of these restrictions is held to be invalid or for any reason becomes unenforceable, no other provision shall be thereby affected or impaired.
6. SUCCESSORS AND ASSIGNS. The terms, covenants, conditions, exceptions, obligations, and reservations contained in this Offer shall be binding upon and inure to the benefit of the successors and assigns of both the Offeror and the Conservancy, whether voluntary or involuntary.

Irrevocable Offer to Dedicate

7. TERM. This Offer shall be irrevocable, and upon recordation of an acceptance in the form of Exhibit B, this Offer shall have the effect of a grant of the real property to the State of California or other accepting entity designated by the Conservancy and having executed a substantially similar acceptance, as provided in this Offer.

Offeror executes this document on the date first written above.

MENDOCINO COAST RECREATION
AND PARK DISTRICT, Offeror

By:

Charles A. Boise

Charles A. Boise
Print or type name

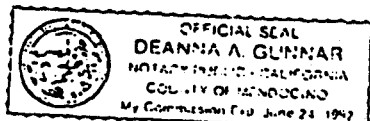
Administrator
Title

A C K N O W L E D G M E N T

STATE OF CALIFORNIA, COUNTY OF MENDOCINO:

On this 13th day of March, 1991, before me, the undersigned, a Notary Public in and for said County and State, personally appeared CHARLES A. BOISE, known to me to be the Administrator of the MENDOCINO COAST RECREATION AND PARK DISTRICT, a political subdivision, and proved to me on the basis of satisfactory evidence to be the person who executed said instrument on behalf of said political subdivision, and acknowledged to me that such political subdivision executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my Official Seal on the date hereinabove set forth.



P.O. BOX 13 FORT BRAGG, CA 95437

Deanna A. Gunnar
NOTARY PUBLIC in and for said
County and State.

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EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

That portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly defined and lying within the following described boundaries:

COMMENCING at a point from which the Southeast corner of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, bears South 31° 00' East, 1909 feet distant; said point being the Northwest corner of that parcel of land conveyed from A. Polly and Olga Polly to Christopher L. Sallinen by Deed dated October 27, 1909 and recorded November 5, 1909, in Book 154 of Deeds, Page 254, Mendocino County Records; thence South 3° 00' West, 316 feet to the Northerly line of lands of Jacob Sering; thence East along said Northerly line of Sering, 140 feet to the center of the present County road, commonly known as the County Coast Road; thence North 10° 32' 10" East, along the center of said road, 385.88 feet to a point from which the Southeast corner of said Section 24, bears South 24° 54' 02" East, 1874.37 feet distant, said point being the true point of beginning for the parcel of land herein described; thence from said true point of beginning and along the exterior boundary lines of the parcel of land, described as follows:

Leaving the center of said county road, North 73° 30' 30" West, 442.22 feet; thence North 46° 30' 30" West, 108.29 feet; thence South 82° 39' 40" West, 75.86 feet; thence South 89° 35' West, 412.99 feet; thence South 74° 42' 50" West, 94.56 feet; thence North 88° 21' 10" West, 595.65 feet; thence South 26° 15' 20" West, 21.52 feet; thence North 70° 37' 20" West, 875.60 feet to a one inch diameter iron pipe set in concrete on the bluff of the Pacific Ocean and from which pipe a United States Coast and Geodetic Survey triangulation station known as "BEAVER 2", bears South 25° 50' West 874.67 feet distant; said triangulation station being a standard bronze disk set in concrete; thence continuing North 70° 37' 20" West, 10 feet (more or less) to the line of ordinary high water of the Pacific Ocean; thence meandering said high water line by the following general courses and distances: North 31° 40' East, 85.00 feet; thence South 86° 20' West, 45.00 feet; thence North 52° 15' West, 75.00 feet; thence North 67° 30' East, 75.00 feet; thence South 60° 30' East, 45.00 feet; thence North 10° 45' East, 40.00 feet; thence North 34° 00' West, 70.00 feet; thence South 75° 30' East, 90.00 feet; thence South 55° 00' East, 105.00 feet; thence North 21° 15' East, 40.00 feet; thence North 43° 15' West, 150.00 feet; thence North 33° 00' West, 140.00 feet; thence North 4° 00' West, 115.00 feet; thence North 31° 45' East, 40.00 feet; thence South 49° 00' East, 125.00 feet; thence North 49° 30' East, 45.00 feet; thence North 13° 45' West, 140.00 feet; thence North 33° 00' East, 25.00 feet; thence South 26° 00' East, 40.00 feet; thence North 39° 10' East, 145.00 feet; thence South 87° 15' East, 110.00 feet; thence South 47°

(Cont'd)

174287-BJ
D 258

(Exhibit "A" Cont'd)

45' East, 155.00 feet; thence South 13° 00' East, 90.00 feet; thence North 49° 00' East, 55.00 feet; thence South 68° 00' East, 165.00 feet; thence North 39° 10' East, 100.00 feet; thence South 79° 30' East, 65.00 feet; thence South 58° 30' East, 100.00 feet; thence South 89° 13' 20" East, 101.66 feet to an intersection with the center of a stream commonly known as Digger Creek; thence leaving the line of ordinary high water of the Pacific Ocean, North 81° 40' East along the center of said Digger Creek, a distance of 55.00 feet; thence continuing along the center of said Digger Creek, South 37° 00' East, 50.00 feet to an intersection with an old picket fence line; thence leaving the center of said Digger Creek, North 89° 04' 40" East, along said old picket fence which has been long recognized and accepted as the property line, a distance of 771.00 feet; thence leaving said fence line, South 15° 49' 50" West, 258.00 feet to the center of the aforementioned Digger Creek; thence along the center of said Digger Creek by the following general courses and distances: South 2° 24' West, 41.54 feet thence South 76° 45' East, 290.00 feet; thence South 17° 30' East, 155.00 feet; thence South 82° 15' East, 80.00 feet; thence South 24° 30' East, 270.00 feet; thence North 89° 30' East, 135.00 feet; thence South 14° 15' East, 80.00 feet; thence North 89° 20' East, 35.00 feet; thence North 40° 30' East, 22.00 feet; thence South 72° 21' 15" East, 42.95 feet to the center of the aforementioned County Coast Road; thence leaving the center of said Digger Creek; South 20° 53' 20" West, along the center of said County Road, 122.08 feet to the true point of beginning.

EXCEPTING THEREFROM that portion of the present County Coast Road now recognized as public way which lies within the above described parcel of land.

ALSO EXCEPTING therefrom the following described portion thereof as conveyed to Joseph L. Huddleson, et al, in Deed recorded November 21, 1974, in Book 983, Page 122, Mendocino County Records, and more particularly described as:

All that certain real property situated in the County of Mendocino, State of California and being a portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly described as follows:

All that real property lying Northerly and Easterly of the following described line:

Beginning at a 1 inch iron pipe at the intersection of Digger Creek and an old picket fence as shown and delineated on that certain Record of Survey map filed in Map Case 2, Drawer 1, Page 150, Mendocino County Records; thence along said picket fence South 89° 04' 40" West, 111.90 feet; thence angling away from said fence line, North 81° 31' 20" West, 78.20 feet to the intersection with an existing rail fence; thence along said rail fence and the projection thereof, North 10° 00' 00" East to a point on the Mean High Tide Line of the Pacific Ocean.

ALSO EXCEPTING THEREFROM any portion thereof lying within the bounds of the hereinafter described tract of land:

(Cont'd)

174187-BJ
D 258

(Exhibit "A" Cont'd)

BEGINNING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of beginning along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet; thence leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, 110.66 feet; thence South 2° 37' 37" West, 272.11 feet to a point in an old picket fence line; thence South 89° 04' 40" West, along said old picket fence 849.61 feet to its intersection with the center of Digger Creek; thence continuing South 89° 04' 40" West, 111.90 feet; thence North 81° 31' 30" West, 66.43 feet; thence South 8° 28' 30" West along a line that is approximately 10 feet Easterly of a small building which houses restrooms, 127.72 feet; thence South 48° 47' 00" East, 24.82 feet to a split rail fence; thence along the split rail fenceline South 3° 15' 40" East, 115.87 feet; thence leaving said split rail fenceline South 68° 58' 47" East, 226.91 feet; thence South 76° 51' 45" East, 351.67 feet; thence North 34° 15' 13" East, 54.71 feet; thence North 28° 48' 07" West, 120.48 feet; thence North 52° 44' 53" East, 110.40 feet; thence South 65° 14' 27" East, 48.52 feet; thence South 20° 26' 07" East, 70.16 feet; thence South 79° 07' 27" East, 142.77 feet; thence South 39° 22' 07" East, 133.06 feet; thence North 33° 32' 04" East, 121.41 feet to the center of Digger Creek; thence leaving the center of Digger Creek North 15° 49' 50" East, 318.50 feet; thence North 89° 05' 36" East, 955.61 feet to the point of beginning.

17-050-08
17-070-37

Lot 3 Sec. 24 T.

Pct. Map C2 D37 P17

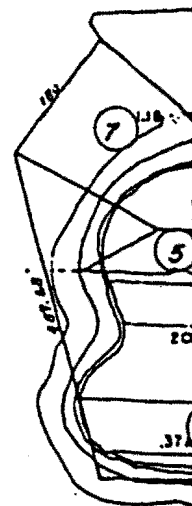


EXHIBIT "A" CONT

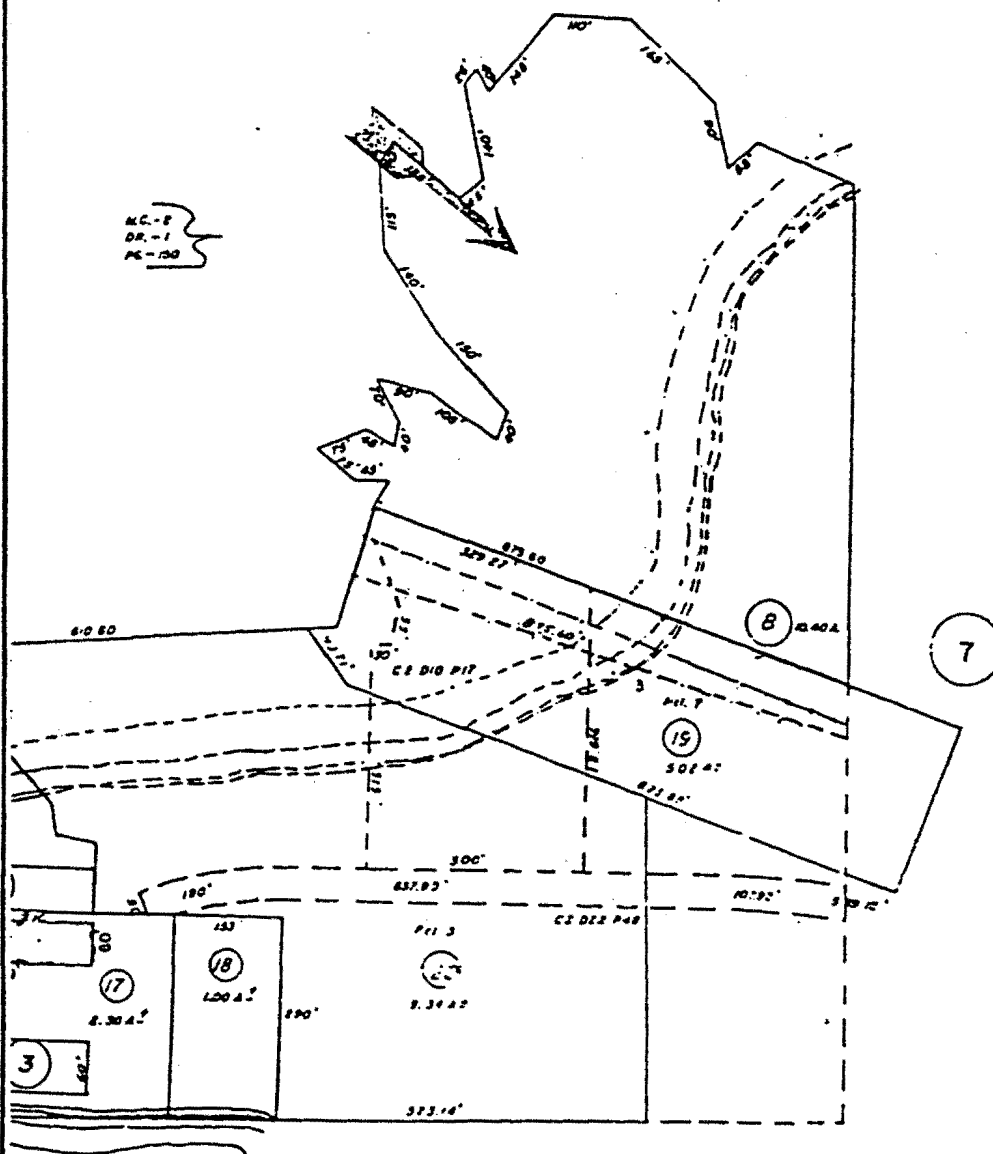
18 N.R. 18 W.M.D.B. & M.

R-E
Z

75-041

17-05

JAN 26 1981



6

Assessor's Map
County of Mendocino, Calif.
March, 1949

[illegible]

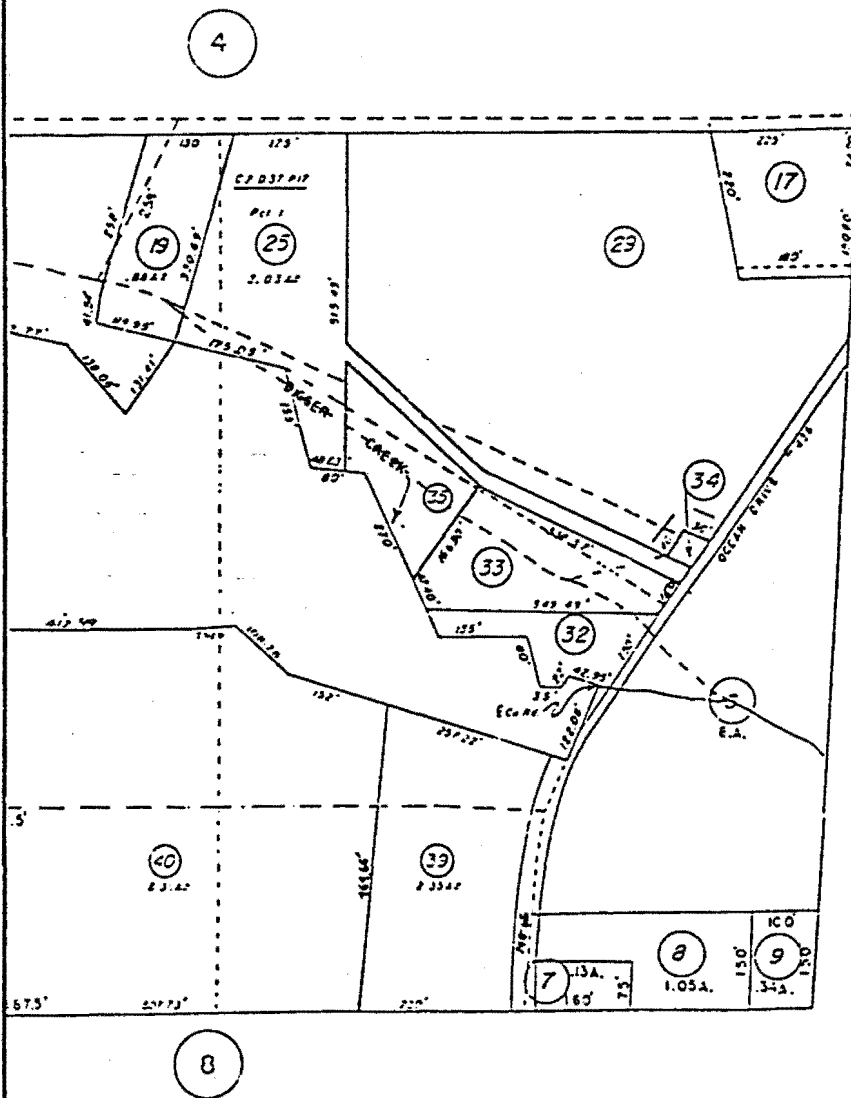
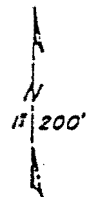
EXHIBIT "A" CONT

18 N.R. 18W. M.D.B. & M.

76-011

17-07

Z



Assessor's Map
County of Mendocino, Calif.
REVISED 2-10-86 MAR 20 1986

174286-70
D 258

EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

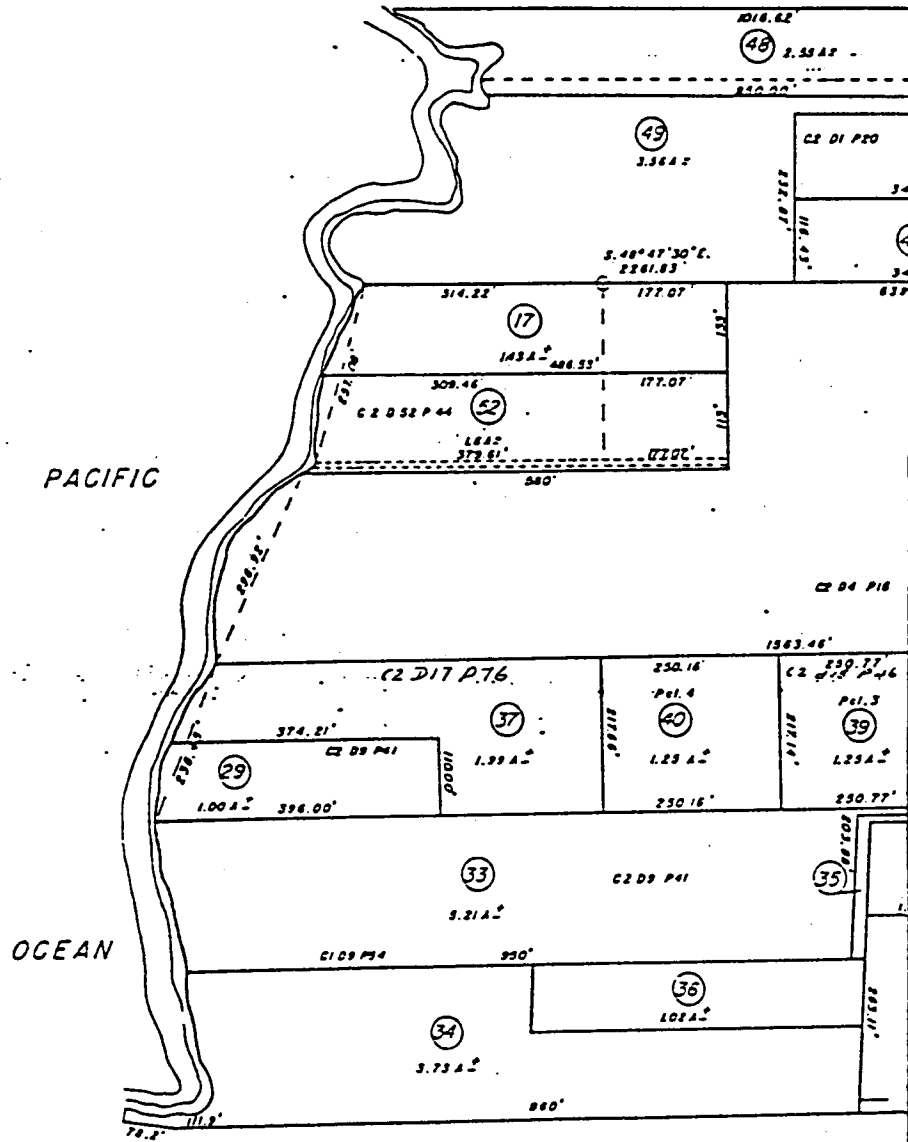
COMMENCING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of commencement along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet to the true point of beginning; thence from the point of beginning leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, to the West line of the lands described in a deed to James Hurst and Barbara Hurst recorded March 26, 1980 in Book 1252, Page 553, in Parcels Four and Five therein; thence North 2° 37' 37" East along said Westerly line to the Northwest corner of said Parcel Five; thence along the most Northerly line of lands described in said deed North 89° 20' 18" East 605.88 feet, and North 89° 35' 30" East 401.13 feet to the West line of State Highway One; thence South 2° 40' 30" West along said West line to the point of beginning.

17-040-23, 50

Exhibit "A"

Pct. Map C2 D27 P18

Por. of N.E. 1/4 Sec. 24, T.18N. R.18



2-19-91

9775

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME Mendocino Coast Recreation and
ADDRESS Park District
P. O. Box 10
CITY & STATE ZIP Fort Bragg, CA 95437
Attn: Charles Boise

	\$20.00 PAID
X	PCO FILED
X	Exempl

Title Order No. Enrow No. 174286-GW

9774
RECORDED AT REQUEST OF
REDWOOD EMPIRE TITLE COMPANY
BOOK 1910 PAGE 534
31 JUN -4 AM 10:14
OFFICIAL RECORDS
MENDOCINO COUNTY CALIF.
MARSHA A. YOUNG
RECORDER

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50 SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED

*no fee
14P*

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenement or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to MENDOCINO COAST RECREATION AND PARK DISTRICT,
a Political Subdivision of the State of California

the following described real property in the
county of Mendocino state of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: _____
Charles Levine, partner
by: _____
James C. Hurst, partner
by: _____
Art Logie, partner
by: _____
Herb Logie, partner
by: _____
Gary Ratway, partner
by: _____
Larry Heit, partner

Dated 6-16-90
by: _____
Arthur Pfeiffer

Staple

STATE OF CALIFORNIA
COUNTY OF Mendocino

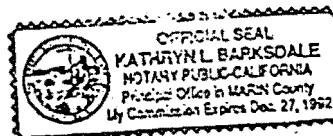
SS.

On this the 16 day of August, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared Herb Logie

_____ personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as _____ of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
WITNESS my hand and official seal.

Signature Kathryn L. Barksdale

FOR NOTARY SEAL OR STAMP



RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THE DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME _____
 ADDRESS _____
 CITY & STATE _____
 ZIP _____

Title Order No. _____ Escrow No. 174286-CW

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to **MENDOCINO COAST RECREATION AND PARK DISTRICT,**
 a Political Subdivision of the State of California

the following described real property in the
 county of **Mendocino** State of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: _____
 Charles Levine, partner
 by: _____
 James C. Hurst, partner
 by: Art Logie
 Art Logie, partner
 by: _____
 Herb Logie, partner
 by: _____
 Gary Ratway, partner
 by: _____
 Larry Helt, partner

Dated 8-20-90
 by: _____
 Arthur Pfeiffer

Staple

NEW MEXICO
 STATE OF CALIFORNIA
 COUNTY OF Bernalillo ss.
 On this the 20th day of August, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared Art Logie

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as _____ of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
 WITNESS my hand and official seal.

Signature Arthur A. Keith
my com exp
10/18/91

FOR NOTARY SEAL OR STAMP

(SEAL AFFIXED)

CAL-377 (Rev. 8-82) Ack. Partnership

Staple

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER
WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME
ADDRESS
CITY &
STATE
ZIP

Title Order No.

Form No. 174286-GW

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land,
tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to MENDOCINO COAST RECREATION AND PARK DISTRICT,
a Political Subdivision of the State of California

the following described real property in the
county of Mendocino State of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together
shall constitute one original.

GARDEN LAND PARTNERS

by: _____
Charles Levine, partner (Seal Affixed)
by: James C. Hurst, partner
by: AFE Login, partner
by: Herb Login, partner
by: Gary Ratway, partner
by: Larry Helt, partner

Dated August 16, 1990
by: Arthur Pfeiffer
Arthur Pfeiffer

STATE OF CALIFORNIA

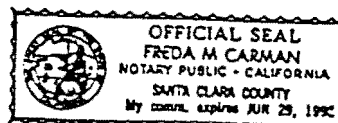
COUNTY OF Santa Clara

On this 16th day of AUGUST, 1990, before me, the undersigned, a Notary Public in and for
said State, personally appeared ARTHUR PFEIFFER

personally known to me or proved to
me on the basis of satisfactory evidence to be the person who
executed the within instrument as ONE MEMBER
of partners of the partnership that executed the within instrument, and
acknowledged to me that such partnership executed the same.
WITNESS my hand and official seal.

Signature Freda M. Carman

FOR NOTARY SEAL OR STAMP



CAL-777 (Rev. 8-82) Ack. Partnership

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME

ADDRESS

CITY &
STATE
ZIP

Title Order No.

Escrow No. 174286-GW

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to **MENDOCINO COAST RECREATION AND PARK DISTRICT,**
 a Political Subdivision of the State of California

the following described real property in the
 county of **Mendocino** state of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: Charles Levine, partner
 by: James C. Hurst, partner
 by: Art Login, partner
 by: Herb Login, partner
 by: Gary Ratway, partner
 by: Larry Helt, partner

Dated 8-16-90
 by: Arthur Pfeiffer

Staple

STATE OF CALIFORNIA

COUNTY OF _____

On this _____ day of _____ 19____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as _____ of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
 WITNESS my hand and official seal.

Signature _____

FOR NOTARY SEAL OR STAMP

CAL-377 (Rev. 8-82) Ack. Partnership

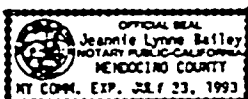
Staple

GENERAL ACKNOWLEDGMENT

NO. 201

State of CALIFORNIA
County of Mendocino } SS.

On this the 16th day of August, 1990, before me,
JEANNIE LYNN BAILEY
the undersigned Notary Public, personally appeared
JAMES C. HURST



☒ personally known to me
to be the person who executed the within instrument as one of
partners of the partnership that executed the within instrument,
and acknowledged to me that such partnership executed the same.

WITNESS my hand and official seal.

Jeannie Lynne Bailey
Notary's Signature

ATTENTION NOTARY: Although the information requested herein is OPTIONAL, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT:

Title or Type of Document GRANT DEED
Number of Pages FIVE Date of Document 8-16-90
Signer(s) Other Than Named Above CHARLES LEXIE, JR. L.G.D.

7120 172

NATIONAL NOTARY ASSOCIATION • 8235 Remmer Ave. • P.O. Box 7184 • Canoga Park, CA 91304-7184

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHERWISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME _____
ADDRESS _____
CITY & STATE _____
ZIP _____

Title Order No. _____ Escrow No. 174286-GW

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to MENDOCINO COAST RECREATION AND PARK DISTRICT,
a Political Subdivision of the State of California

the following described real property in the
county of Mendocino State of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: Charles Levine, partner

Date: 8-23-90

by: James C. Hurst, partner

by: Arthur Pfeiffer

by: Art Login, partner

by: Herb Login, partner

by: Gary Ratway, partner

by: Larry Heit, partner

Staple

STATE OF CALIFORNIA
COUNTY OF _____
On this _____ day of _____ 19____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____

ss.

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as _____ of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
WITNESS my hand and official seal.

Signature _____

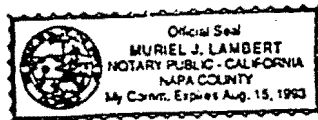
FOR NOTARY SEAL OR STAMP

CAL-377 (Rev. 8-82) Ack. Partnership

Staple

STATE OF CALIFORNIA

COUNTY OF ...Napa



This document is only a portion of form which may be printed for use in various jurisdictions, and is not
to be used as a substitute for the actual form or agency. The printer does not
warrant any accuracy, either expressed or implied as to the legal validity of any provision in the
fullness of these terms in any specific jurisdiction.

On this 23 rd day of August in the year 1990

sa. Muriel J. Lambert before me,

duly commissioned and sworn, personally appeared

*****LARRY HEIT*****
proved to me on the basis of satisfactory evidence to be the person who
executed the within instrument as one of the partners of the
partnership that executed the within instrument, and acknowledged ...
to me that such partnership executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal
in the Town of Yountville County of
Napa on the date set forth above
in this certificate.

Muriel J. Lambert

Notary Public, State of California

My commission expires 8/15/93

Cowdery's Form No. 32 — Acknowledgement to Notary Public — Individuals — (C.C. Sec. 1189) — (Rev. 1/83)

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME

ADDRESS

CITY &
STATE
ZIP

Title Order No.

Esetow No. 174286-GJ

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to **MENDOCINO COAST RECREATION AND PARK DISTRICT,**
 a Political Subdivision of the State of California

the following described real property in the
 county of **Mendocino**, state of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: Charles Levine, partner

Dated 8-20-90

by: James C. Hurst, partner

by: Arthur Pfeiffer

by: Art Login, partner

by: Herb Login, partner

by: Gary Ratway, partner

by: Larry Held, partner

STATE OF CALIFORNIA

COUNTY OF MENDOCINO

SS.

On this the 20th day of AUGUST, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared GARY RATWAY

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as PARTNER of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
 WITNESS my hand and official seal.

Signature David E. Paoli

FOR NOTARY SEAL OR STAMP



CAL-377 (Rev. 8-82) Adj. Partnership

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS DEED AND, UNLESS OTHER WISE SHOWN BELOW, MAIL TAX STATEMENTS TO:

NAME

ADDRESS

CITY & STATE

ZIP

Title Order No.

Escrow No. 174286-GW

SPACE ABOVE THIS LINE FOR RECORDER'S USE

A.P. No. 17-050-08/17-070-37/17-040-23/17-040-50

GRANT DEED

The undersigned declares that the documentary transfer tax is \$ NONE and is
☐ computed on the full value of the interest or property conveyed, or is
☐ computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale. The land, tenements or realty is located in
☒ unincorporated area ☐ city of _____ and

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
 GARDEN LAND PARTNERS, a general partnership

hereby GRANT(S) to MENDOCINO COAST RECREATION AND PARK DISTRICT,
 a Political Subdivision of the State of California

the following described real property in the
 county of Mendocino State of California:

FOR DESCRIPTION SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

The first page of this Deed is executed in 7 counter parts which together shall constitute one original.

GARDEN LAND PARTNERS

by: Charles Levine
 Charles Levine, partner

Dated 11-27-90

by: Arthur Pfeiffer

HEMANUJ ROY P. BHARUM
 Notary Public, State of New York
 No. 41-4908258
 Qualified in Queens County
 Commission Expires September 21, 1992

STATE OF CALIFORNIA NEW YORK
 COUNTY OF QUEENS
 On this the 27th day of November, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared Charles Levine

by: James C. Hurst, partner

by: Art Login, partner

by: Herb Login, partner

by: Gary Ratway, partner

by: Larry Helt, partner

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person _____ who executed the within instrument as _____ of partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
 WITNESS my hand and official seal.

Signature Hemanu Roy P. Bharum

HEMANUJ ROY P. BHARUM
 Notary Public, State of New York
 No. 41-4908258
 Qualified in Queens County
 Commission Expires September 21, 1992

FOR NOTARY SEAL OR STAMP

(SEAL AFFIXED)

CAL 377 (Rev. 8-82) Ack Partnership

PARCEL ONE:

EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

That portion of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, more particularly defined and lying within the following described boundaries:

COMMENCING at a point from which the Southeast corner of Section 24, Township 18 North, Range 18 West, Mount Diablo Base and Meridian, bears South 31° 00' East, 1909 feet distant; said point being the Northwest corner of that parcel of land conveyed from A. Polly and Olga Polly to Christopher L. Sallinen by Deed dated October 27, 1909 and recorded November 5, 1909, in Book 154 of Deeds, Page 254, Mendocino County Records; thence South 3° 00' West, 316 feet to the Northerly line of lands of Jacob Sering; thence East along said Northerly line of Sering, 140 feet to the center of the present County road, commonly known as the County Coast Road; thence North 10° 32' 10" East, along the center of said road, 385.88 feet to a point from which the Southeast corner of said Section 24, bears South 24° 54' 02" East, 1874.37 feet distant, said point being the true point of beginning for the parcel of land herein described; thence from said true point of beginning and along the exterior boundary lines of the parcel of land, described as follows:

Leaving the center of said county road, North 73° 30' 30" West, 442.22 feet; thence North 46° 30' 30" West, 108.39 feet; thence South 82° 39' 40" West, 75.86 feet; thence South 89° 35' West, 412.99 feet; thence South 74° 42' 50" West 94.56 feet; thence North 88° 21' 10" West, 595.65 feet; thence South 26° 15' 20" West, 21.52 feet; thence North 70° 37' 20" West, 875.60 feet to a one inch diameter iron pipe set in concrete on the bluff of the Pacific Ocean and from which pipe a United States Coast and Geodetic Survey triangulation station known as "BEAVER 2", bears South 25° 50' West 874.67 feet distant; said triangulation station being a standard bronze disk set in concrete; thence continuing North 70° 37' 20" West, 10 feet (more or less) to the line of ordinary high water of the Pacific Ocean; thence meandering said high water line by the following general courses and distances: North 31° 40' East, 85.00 feet; thence South 86° 20' West, 45.00 feet; thence North 52° 15' West, 75.00 feet; thence North 67° 30' East, 75.00 feet; thence South 60° 30' East, 45.00 feet; thence North 10° 45' East, 40.00 feet; thence North 34° 00' West, 70.00 feet; thence South 75° 30' East, 90.00 feet; thence South 55° 00' East, 105.00 feet; thence North 21° 15' East, 40.00 feet; thence North 43° 15' West, 150.00 feet; thence North 33° 00' West, 140.00 feet; thence North 4° 00' West, 115.00 feet; thence North 31° 45' East, 40.00 feet; thence South 49° 00' East, 125.00 feet; thence North 49° 30' East, 45.00 feet; thence North 13° 45' West, 140.00 feet; thence North 33° 00' East, 25.00 feet; thence South 26° 00' East, 40.00 feet; thence North 39° 10' East, 145.00 feet; thence South 87° 15' East, 110.00 feet; thence South 47°

(Cont'd)

(Exhibit "A" Cont'd)

45' East, 165.00 feet; thence South 13° 00' East, 90.00 feet; thence North 49° 00' East, 55.00 feet; thence South 68° 00' East, 165.00 feet; thence North 39° 10' East, 100.00 feet; thence South 79° 30' East, 65.00 feet; thence South 58° 30' East, 100.00 feet; thence South 89° 13' 20" East, 101.66 feet to an intersection with the center of a stream commonly known as Digger Creek; thence leaving the line of ordinary high water of the Pacific Ocean, North 81° 40' East along the center of said Digger Creek, a distance of 55.00 feet; thence continuing along the center of said Digger Creek, South 37° 00' East, 50.00 feet to an intersection with an old picket fence line; thence leaving the center of said Digger Creek, North 89° 04' 40" East, along said old picket fence which has been long recognized and accepted as the property line, a distance of 771.00 feet; thence leaving said fence line, South 15° 49' 50" West, 258.00 feet to the center of the aforementioned Digger Creek; thence along the center of said Digger Creek by the following general courses and distances: South 2° 24' West, 41.54 feet thence South 76° 45' East, 290.00 feet; thence South 17° 30' East, 155.00 feet; thence South 82° 15' East, 80.00 feet; thence South 2° 30' East, 270.00 feet; thence North 89° 30' East, 135.00 feet; thence South 14° 15' East, 80.00 feet; thence North 89° 20' East, 35.00 feet; thence North 40° 30' East, 22.00 feet; thence South 72° 21' 15" East, 42.95 feet to the center of the aforementioned County Coast Road; thence leaving the center of said Digger Creek; South 20° 53' 20" West, along the center of said County Road, 122.08 feet to the true point of beginning.

EXCEPTING THEREFROM that portion of the present County Coast Road now recognized as public way which lies within the above described parcel of land.

ALSO EXCEPTING therefrom the following described portion thereof as conveyed to Joseph L. Huddleson, et al, in Deed recorded November 21, 1974, in Book 983, Page 122, Mendocino County Records, and more particularly described as:

All that certain real property situated in the County of Mendocino, State of California and being a portion of Section 24, Township 18 North, Range 13 West, Mount Diablo Base and Meridian, more particularly described as follows:

All that real property lying Northerly and Easterly of the following described line:

Beginning at a 1 inch iron pipe at the intersection of Digger Creek and an old picket fence as shown and delineated on that certain Record of Survey map filed in Map Case 2, Drawer 1, Page 150, Mendocino County Records; thence along said picket fence South 89° 04' 40" West, 111.90 feet; thence angling away from said fence line, North 81° 31' 30" West, 78.20 feet to the intersection with an existing rail fence; thence along said rail fence and the projection thereof, North 10° 00' 00" East to a point on the Mean High Tide Line of the Pacific Ocean.

ALSO EXCEPTING THEREFROM any portion thereof lying within the bounds of the hereinafter described tract of land:

(Cont'd)

(Exhibit "A" Cont'd)

BEGINNING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of beginning along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet; thence leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, 110.66 feet; thence South 2° 37' 37" West, 273.11 feet to a point in an old picket fence line; thence South 89° 04' 40" West, along said old picket fence 849.61 feet to its intersection with the center of Digger Creek; thence continuing South 89° 04' 40" West, 111.90 feet; thence North 81° 31' 30" West, 66.43 feet; thence South 8° 28' 30" West along a line that is approximately 10 feet Easterly of a small building which houses restrooms, 127.72 feet; thence South 48° 47' 00" East, 24.82 feet to a split rail fence; thence along the split rail fenceline South 3° 15' 40" East, 115.87 feet; thence leaving said split rail fenceline South 68° 58' 47" East, 226.91 feet; thence South 76° 51' 45" East, 351.67 feet; thence North 34° 15' 13" East, 54.71 feet; thence North 28° 48' 07" West, 120.48 feet; thence North 52° 44' 53" East, 110.40 feet; thence South 68° 14' 27" East, 45.52 feet; thence South 2° 26' 07" East, 70.16 feet; thence South 79° 07' 27" East, 142.77 feet; thence South 39° 22' 07" East, 138.06 feet; thence North 33° 32' 04" East, 131.41 feet to the center of Digger Creek; thence leaving the center of Digger Creek North 15° 49' 50" East, 318.50 feet; thence North 89° 05' 36" East, 955.61 feet to the point of beginning.

17-050-08

17-070-37

(cont'd)

PARCEL TWO:

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

COMMENCING at a point in the Westerly line of California State Highway One, said point being South 2° 40' 30" West, 425.50 feet from a concrete monument in the Westerly line of said State Highway, marking Engineer's Station 452+00 of a survey for California State Highway 1-MEN-56-E; thence from the point of commencement along the Westerly line of State Highway One, North 2° 40' 30" East, 40.08 feet to the true point of beginning; thence from the point of beginning leaving the Westerly line of State Highway One, South 89° 05' 36" West, 264.95 feet; thence North 0° 54' 24" West, 41.49 feet; thence North 43° 22' 00" West, 70.50 feet; thence North 8° 14' 00" East, 66.00 feet to an old picket fence; thence along said picket fence North 70° 03' 04" West, 147.57 feet; thence North 15° 15' 52" West, 61.62 feet; thence South 85° 30' 13" West, 76.33 feet; thence leaving said picket fence South 86° 52' 46" West, 62.21 feet; thence South 70° 22' 23" West, 67.76 feet; thence North 86° 40' 27" West, 84.24 feet; thence South 71° 38' 03" West, 88.36 feet; thence North 70° 41' 15" West, 59.14 feet; thence South 89° 20' 18" West, to the West line of the lands described in a deed to James Hurst and Barbara Hurst recorded March 26, 1980 in Book 1252, Page 553, in Parcels Four and Five therein; thence North 2° 37' 37" East along said Westerly line to the Northwest corner of said Parcel Five; thence along the most Northerly line of lands described in said deed North 89° 20' 18" East 605.88 feet, and North 89° 35' 30" East 401.13 feet to the West line of State Highway One; thence South 2° 40' 30" West along said West line to the point of beginning.

17-040-23. 50

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in the real property conveyed by Grant Deeds dated 8/16 thru 11/27-1990 ^{inclusive} from GARDEN LAND PARTNERS, a general partnership to MENDOCINO COAST RECREATION AND PARK DISTRICT, a Political Subdivision of the State of California, is hereby accepted by Order of the Board of Directors of said District, by the undersigned Administrator of said MENDOCINO COAST RECREATION AND PARK DISTRICT, pursuant to authority conferred by Resolution of said District, adopted on the 27 day of February, 1991 and the Grantee consents to recordation of said Grant Deeds by its duly authorized Administrator.

DATED: March 1, 1991

MENDOCINO COAST RECREATION
AND PARK DISTRICT

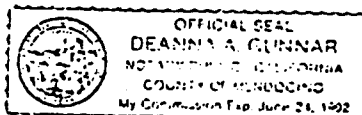
By *Charles A. Boise*
Charles A. Boise,
Administrator

A C K N O W L E D G M E N T

STATE OF CALIFORNIA, COUNTY OF MENDOCINO:

On this 1st day of March, 1991, before me, the undersigned, a Notary Public in and for said County and State, personally appeared CHARLES A. BOISE, known to me to be the Administrator of the MENDOCINO COAST RECREATION AND PARK DISTRICT, a political subdivision, and proved to me on the basis of satisfactory evidence to be the person who executed said instrument on behalf of said political subdivision, and acknowledged to me that such political subdivision executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my Official Seal on the date hereinabove set forth.



P.O. BOX 16 FORT BRAGG, CA 95437

Deanna A. Gunnar
NOTARY PUBLIC in and for said
County and State.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
* 35. Mendocino Botanical Gardens - Trail	Garden entrance is located west of Highway 1, north of Digger Creek	Extends from Highway 1 to the shoreline via developed network of paths.	Proposed loop trail to return to Pacific Ocean Drive south of Gardens.
36. Mitchell Creek Shoreline	West of Highway 1, south of Mitchell Creek adjoining Pine Beach Inn	Paved trail extends to cove and beach from motel	Not to acquire fee access for non-guests. DPR to develop adjacent access.
37. Jug Handle Area Trail	Jug Handle State Reserve and adjoining properties; Old Highway 1 at Pine Beach Inn to Jug Handle Creek	Primarily public ownership, loop trail provides bluff-top and shoreline access. Interpretive signs at southern entrance.	Day use and trail improvements in park.
38. Jug Handle State Reserve-North Access	North of Bromley Creek, west of Highway 1.	40 acres reached by 80 foot wide access from Old Highway 1.	Day use with parking near entrance.
39. Jug Handle Creek Shoreline	South of Jug Handle Creek, west of Highway 1.	Main entrance to Jug Handle Reserve and Ecological Staircase	Residence and interpretative center, trail to beach
40. Caspar Road Alternative Trail	Old Highway 1 through Caspar to Doyle Creek	Trail follows existing road, County Road 569, then unimproved trail along headlands to beach.	Acquire blufftop trail on headlands
41. Fern Creek Road-Caspar Orchard Road Inland Trail	East of Caspar: From Highway 1 east along County Road 410, then southeasterly along County Road 411A into Jackson State Forest.	Pedestrian, bicycle, and equestrian use	Designated by County Trails Plan.
42. Caspar-Little Lake Road Inland Trail (Road 409)	South of Caspar; Highway 1 southeasterly to its intersection with Little Lake Road (Road 408)	Pedestrian/bicycle/equestrian use. Connects with alternative trail to west along old Highway 1	Designated by County Trails Plan.
43. Caspar Headlands-State Beach Shoreline	Mouth of Doyle Creek	3 acre parcel; DPR beach parcel	Acquire additional beach and develop trail system
44. Caspar Headlands State Reserve	N. of Caspar Headlands South subdivision, south of Caspar Anchorage.	DPR: 4 non-contiguous parcels with subdivision of 10 vacant lots.	View and fishing area; acquire lots or trade to consolidate holding; develop for day use.
45. Point Cabrillo Alternative Coastal Trail	Old Highway 1 from Caspar Creek to Russian Gulch. (Now County Road 564)	Connects to Caspar-Little Lake Road and Cross-California Ecological Trail Corridor. Alternative to Highway 1 for bicyclists.	Post sign on Highway 1.

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260



13 August 1993

James Larson
P.O. Box 1369
Fort Bragg, CA 95437

RE: Request to Extinguish Offer to Dedicate Access on Schoefer Property
(Costal Development Permit No. 80-CC-122, Schoefer)

Dear Mr. Larson:

I am responding to your letter of 20 July 1993 regarding the Schoefer property. In your letter you request that the Offer to Dedicate a public access easement to the shoreline recorded by the Schoefers in 1980 pursuant to a condition of Coastal Development Permit No. 80-CC-122 granted for a four-lot subdivision be extinguished.

Although you did not specifically request a coastal development permit amendment, it appears that it is your client's intent to change a condition of the existing permit, and such a request is normally handled by processing an amendment to the coastal permit. I am therefore sending you an application for a permit amendment. Please fill out and return the application. If you are to act as Ms. Wagner's agent, she must authorize you as such. In addition, please note that you must obtain an LCP Consistency Review from the Mendocino County Planning Department in Fort Bragg.

Section 13166 of the California Administrative Regulations states that an application for an amendment shall be rejected if, in the opinion of the executive director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted. In the subject case, since the permit condition discusses circumstances under which the Commission may extinguish the required Offer of Dedication, we will accept a request to amend Coastal Permit No. 80-CC-122.

While we have determined that it is appropriate to accept an amendment request to delete the access offer, and your client is free to pursue this deletion, please be aware that Commission staff would most likely recommend denial of

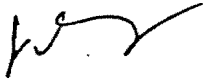
EXHIBIT F

Mr. Larson
Page Two

the amendment request as being inconsistent with Coastal Act policies and with the policies of the certified Local Coastal Program. The Commission has always found the provision and preservation of public access to be a top priority under the Coastal Act, and staff believes that it is not appropriate to extinguish the existing Offer to Dedicate public access. Recent permit actions along and near Schoefer Lane have brought to light the fact that there is substantial evidence of public prescriptive rights along and near Schoefer Lane, and it is the Commission's responsibility, under the Coastal Act, to protect these public rights. Coastal Act Section 30211 specifically states that "development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation."

If you have any questions, please don't hesitate to call. Thank you.

Sincerely,



JO GINSBERG
Coastal Planner

Enclosure

cc: Gary Berrigan

JAMES L. LARSON
Attorney at Law
311 N. MCPHERSON ST. P.O. BOX 1369
FORT BRAGG, CA 95437
707-964-6327
FAX 707-964-7559

August 23, 1993

California Coastal Commission
North Coast Area
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Attn: Joanne Ginsberg,

Re: Termination of offer to dedicate access
to Schoefer property
(Coastal Development Permit No.80-CC-122,Schoefer)

Dear Ms. Ginsberg:

I received your letter of August 13, 1993. We did not request a coastal development amendment application, as we do not feel an amendment is neccessary; a permit was granted and the property division was completed with three of the parcels sold. The fourth parcel is now owned by Marilyn Wagner, my client, who is the executrix of her mother's estate and the owner of the property.

The specific conditions for termination set forth on page three of the offer to dedicate have all been met. Nothing is said therein about any discretion on the part of the Commission to require an amendment application, which you say staff would recommend be denied.

Because all the conditions for termination have been met, we hereby terminate the offer in accordance with its terms.

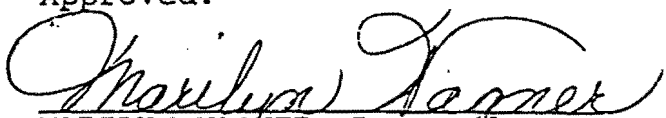
Please be advised that any efforts to accept this offer will be resisted and met with legal action. In order to remove the cloud on the title to the property, we again request that the commission execute an appropriate document to be placed on record in Mendocino County adknowledging the termination of the offer in accordance with its terms. If you believe there is any basis to continue to cloud the title to the property, please advise as to your reasons and the legal basis for them.

Very truly yours,


James L. Larson

EXHIBIT G

Approved:

A handwritten signature in cursive script, appearing to read "Marilyn Wagner". The signature is written in dark ink and is positioned above the typed name.

MARILYN WAGNER, Personal Representative
Estate of MIRIAM SCHOEFER

James L. Larson
ATTORNEY AT LAW
311 N. MCPHERSON ST. P. O. BOX 1369
FORT BRAGG, CA 95437

(707) 964-6327

July 20, 1993

Joanne Ginsberg
California Coastal Commission
631 Howard Street, Fourth Floor
San Francisco, CA 94105

Re: Offer to dedicate Schoefer property
17950 Ocean Drive (now 33450 Schoefer Lane)

Dear Ms. Ginsberg:

I represent Marilyn Wagner, executor of the estate of Miriam Schoefer, deceased. Mrs. Wagner is also the inheritor of the Schoefer property which was the subject of an offer to dedicate dated 10/1/80, recorded in book 1277, page 220, Mendocino County records. A copy of the offer is enclosed herewith.

We believe that the conditions for termination of this offer as particularly described on page 3, have been met. It is requested that you provide us with documentation verifying that the offer is terminated so that it may be placed on record in Mendocino County.

I reviewed the local coastal plan maps which indicate vertical and lateral access at the Botanical Gardens property, and I believe the form and content of the local coastal program was approved by the executive director. According to the terms of the offer to dedicate, the existence of these matters provides the basis for termination.

If you have any questions or need any information please do not hesitate to contact me. If there are any fees or other requirements to be met in order to effectuate termination, please advise.

Very truly yours,

James L. Larson

JLL:ds

EXHIBIT E

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



September 8, 1993

James L. Larson
Attorney at Law
P.O. Box 1369
Fort Bragg, CA 95437

RE: Request to terminate offer to dedicate accessway
(CDP No. 80-CC-122, Schoefer)

Dear Mr. Larson:

Your letter to Jo Ginsberg of August 23, 1993, has been referred to me. You have expressed the desire of your client, Marilyn Wagner, to extinguish the offer to dedicate vertical public access that was recorded as a condition of permit approval for Coastal Permit No. 80-CC-122 (Schoefer). Preliminarily, we note that Ms. Wagner is not the owner of all of the property involved in Permit No. 80-CC-122; we will interpret this request as one applying only to that part of the property that Ms. Wagner owns in fee.

You have stated that you have terminated the offer to dedicate on your client's property because all the conditions for termination have been met. You have also requested that we "remove the cloud" on the title to the property, and that the Commission execute an appropriate document to be placed on record in Mendocino County acknowledging the termination of the offer. You have expressed that you do not feel that an amendment request is necessary to pursue your client's objective.

We suggested that you apply for a permit amendment because an amendment application would provide a procedure which would allow the Commission to consider Ms. Wagner's request to terminate the offer to dedicate. Neither the Executive Director (and staff), nor the applicant, nor the applicant's successor in interest has the power to unilaterally terminate an irrevocable offer to dedicate running with the land in favor of the people of the State of California.

Only the Coastal Commission (or its successor in interest) has the authority to act on behalf of the people of the State of California to terminate this offer to dedicate. The Commission has the authority to amend permit conditions, and has the authority, in this case, to consider extinguishing this offer to dedicate, based on the language of the recorded instrument. In effect, the words of the condition and the recorded offer allow the Commission an opportunity to consider extinguishing the recorded offer in light of changed circumstances. The procedure of a hearing before the Commission would allow your client to make a showing that the specific conditions under which the offer may be terminated have been met, and to present information as to why the offer should be extinguished.

EXHIBIT H

As an example of how the procedure of applying for a permit amendment to extinguish an offer to dedicate can work, we have enclosed two staff reports on an application to extinguish an offer to dedicate which the Commission heard and acted on in 1988. We note that in that case, the staff recommended that the Commission amend the condition and extinguish the offer to dedicate, but the Commission declined to follow staff's recommendation, and denied the amendment. As we discussed in our earlier letter, we think that in this case the staff recommendation would most likely be for denial of the amendment, for the reasons previously discussed, including prescriptive rights. However, as the 1988 staff reports reflect, the Commission does not always agree with the staff's recommendation, and could decide the matter either way. The Commission has discretion to consider many factors in making its determination.

You appear to be of the opinion that the matter of terminating the offer to dedicate is not subject to the Commission's discretion. The language of the permit condition and of the recorded offer provide otherwise. The language of the condition and offer provide, in pertinent part, that "[I]f [certain events take place] the offer of a vertical access across the applicants' property may be terminated." [Emphasis added]. Your reading of that language seems to interpret the word "may" as if it meant "shall" and carried some mandatory meaning with it. However, the word "may" is a word that includes the concept of discretion within it. Many legal authorities set forth this concept. For example, Government Code Section 14 provides that: "'Shall' is mandatory and 'may' is permissive." In People v. Durbin, 218 Cal.App.2d 846, 32 Cal.Rptr. 569 (1963) the court stated that "...the ordinary meaning of 'may' is purely permissive in character." 218 Cal.App.2d at 849. In California Teachers Ass'n v Governing Bd., Etc., 70 Cal.App.3d 833, 139 Cal.Rptr. 155 (1977) the court cited this language from Durbin approvingly. There, the language in question provided that under certain circumstances a teacher "may be deemed to have declined employment." The court stated: "The use of the discretionary word 'may' gives the board authority to decide whether or not a finding that the teacher has declined employment is appropriate." 70 Cal.App.3d at 842. The court went on to explain that the discretion must be exercised in a reasonable way, exercising discriminating judgment. The court held that even though the language provided that a teacher "may" be deemed to have declined employment, the school board abused its discretion by deeming the employment declined under the facts of the case.

Similarly, in this case, the language provides that the recorded offer to dedicate may be terminated, but within the meaning of the word "may" is the possibility that the offer might not be terminated. Like the school board, the Commission is required to exercise its discretion in a reasonable way.

James L. Larson
September 8, 1993
Page 3

In summary, what your client wishes to accomplish requires an action on the part of the Commission. We invite you to submit an amendment application proposing the desired changes. Please feel free to contact me or Jo Ginsberg if you have any further questions.

Very truly yours,



LINDA J. MILLER
Staff Counsel

Enclosures

cc: Jo Ginsberg, Coastal Analyst

2788L

LIST OF APPLICANTS FOR AMENDMENT TO 80-CC-122
ISSUED BY COASTAL COMMISSION IN 1980 TO ERNEST AND
MIRIAM SCHOEFER

- ✓1. Larry and Marilyn Wagner
33400 Schoefer Lane
P.O. Box 860
Fort Bragg, CA 95437
(707) 964-5063
2. Lucius and Lucille Fitch
243 E. Clay St.
Colusa, CA 95932
(707) 964-1739
(916) 458-2072
3. Robert and Sondra Dutton
P.O. Box 330
Penryn, CA 95663-0330
(916) 663-4157
4. Wayne and Joyce Werner
26 Sherland Ave.
Mountain View, CA 94043
(415) 968-6737

MAR 15 1996

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPLICATION FOR AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Application for an amendment to a previously issued coastal development permit may be made by submitting this form, completed and signed, together with the materials described below and the application fee.

Pursuant to 14 Cal. Admin. Code Sections 13164 and 13168, materials to be submitted are:

1. Revised plans showing the proposed amendment; these must have been approved by the local planning agency. Please submit evidence of approval.
2. Stamped, addressed envelopes for renotification of all property owners and residents within 100 feet of the development and list of same.
3. An application fee of \$200.00. (If the amendment is determined by the Commission to be a major, rather than minor, change, the fee is 50% of the new permit application fee.)

Upon receipt of the above information, the Executive Director will determine whether the amendment request should be rejected on the basis that the proposed amendment would lessen or avoid the intent of a previously approved permit condition. 14 Cal. Admin. Code Section 13168. If the amendment request is filed, the Executive Director will then determine whether the amendment request is immaterial or material. If the Executive Director finds that the proposed amendment is immaterial, notification is sent to surrounding property owners and the site must be posted with a form which will be sent to you. If no objections are received, the amendment is approved, and you will be sent an amended permit. If objections are received, or if the amendment is determined by the Executive Director to be material, the request will be set for a public hearing. You have the right to request that the Commission make a determination of materiality independent of that previously made by the Executive Director. 14 Cal. Admin. Code Section 13166.

Please provide the information below and on the reverse. If you have any questions, contact this office.

APPLICANTNAME: SEE ATTACHED LIST

ADDRESS: _____

PHONE: _____

COASTAL PERMIT NUMBER: 80-CC-122DATE OF ISSUANCE: 1980APPLICANT'S REPRESENTATIVE (If any)JARED G. CARTER, ESQ.RAWLES, HINKLE, CARTER, BEHNKE &
OGLESBY169 Mason St., P.O. Box 720Ukiah, CA 95482 (707) 462-6694FOR OFFICE USE ONLY:

Date Received: _____

Date Filed: _____

Application Fee Received: _____

DESCRIPTION OF PROPOSED AMENDMENT: Termination of Offer of Dedication of
Public Access Easement made as condition to approval. (See Letter
submitted herewith.

CERTIFICATION

I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice.

I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.



Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize RAWLES, HINKLE, CARTER, BEHNKE
OGLESBY to act as my representative and bind me in all matters concerning this application.



Signature of Applicant(s)



APPENDIX D

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application, or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. 14 Cal. Admin. Code Section 13054(b).

As proof of posting, please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(b), I hereby certify that on July 14, 1996, I or my authorized
(date of posting)

representative posted the "Notice of Pending Permit" for application to obtain a coastal development permit for the development of Termination of Offer of Dedication of Public Access Easement
made as condition of approval to CDP 80-CC-122

(description of development)

Located at APN 017-05-19

(address of development or assessor's parcel number)

The public notice was posted at the intersection of Schoeter Lane
and the driveway to our home at 33450 Schoeter Lane (N.E. corner of intersection)
(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)

Larry Wagner
LARRY WAGNER

Marilyn Wagner
MARILYN WAGNER

(signature)

July 14, 1996

(date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS SIGNED AND RETURNED TO THIS OFFICE.

OFFICE USE ONLY

Permit No. _____

Received: _____

Declaration complete: _____

APPENDIX E - STANDARD CONDITIONS FOR APPROVED PERMITS

Below are standard conditions of approved permits that have been routinely applied by the Coastal Commission pursuant to its regulations. These conditions are required on all administrative, consent calendar, and regular hearing approved permits.

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

CALIFORNIA COASTAL COMMISSION

435 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

MEMORANDUM

December 28, 1992

TO: Coastal Development Permit Applicants

FROM: Coastal Commission

SUBJECT: Notice Concerning Important New Disclosure Requirements

Starting on January 1, 1993, a California new law requires that all persons who apply to the Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do three things. The first thing concerns question 2 on page 1 of the application, which requires that an applicant provide the "[n]ame, mailing address and telephone number of applicant's representative if any ..." When answering this question, an applicant should list all representatives who will communicate on his or her behalf, for compensation, with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, when submitting a completed application, an applicant should include a signed and dated copy of this notice.

Third, if an applicant determines after an application has been submitted that one or more people will be communicating on his or her behalf for compensation who were not listed on the completed application form, the applicant must provide a list in writing of those people and their addresses to the staff. The list must be received before the communication occurs.

By signing below, I indicate that I have read and understood this information.

March 13, 1996

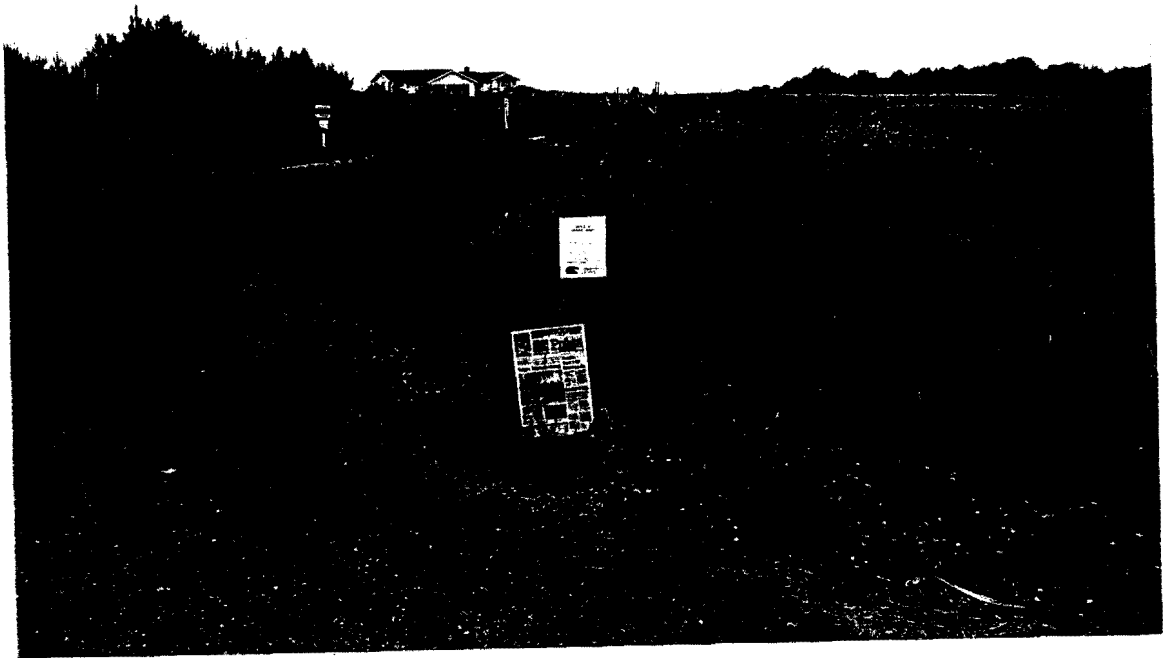
DATE

SIGNATURE

Larry Wagoner Marilyn Wagoner

2538L

WAGNER POSTING 7/14/96



LIST OF APPLICANTS FOR AMENDMENT TO 80-CC-122
ISSUED BY COASTAL COMMISSION IN 1980 TO ERNEST AND
MIRIAM SCHOEFER

1. Larry and Marilyn Wagner
33400 Schoefer Lane
P.O. Box 860
Fort Bragg, CA 95437
(707) 964-5063
- ✓ 2. Lucius and Lucille Fitch
243 E. Clay St.
Colusa, CA 95932
(707) 964-1739
(916) 458-2072
3. Robert and Sondra Dutton
P.O. Box 330
Penryn, CA 95663-0330
(916) 663-4157
4. Wayne and Joyce Werner
26 Sherland Ave.
Mountain View, CA 94043
(415) 968-6737

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPLICATION FOR AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Application for an amendment to a previously issued coastal development permit may be made by submitting this form, completed and signed, together with the materials described below and the application fee.

Pursuant to 14 Cal. Admin. Code Sections 13164 and 13168, materials to be submitted are:

1. Revised plans showing the proposed amendment; these must have been approved by the local planning agency. Please submit evidence of approval.
2. Stamped, addressed envelopes for renotification of all property owners and residents within 100 feet of the development and list of same.
3. An application fee of \$200.00. (If the amendment is determined by the Commission to be a major, rather than minor, change, the fee is 50% of the new permit application fee.)

Upon receipt of the above information, the Executive Director will determine whether the amendment request should be rejected on the basis that the proposed amendment would lessen or avoid the intent of a previously approved permit condition. 14 Cal. Admin. Code Section 13168. If the amendment request is filed, the Executive Director will then determine whether the amendment request is immaterial or material. If the Executive Director finds that the proposed amendment is immaterial, notification is sent to surrounding property owners and the site must be posted with a form which will be sent to you. If no objections are received, the amendment is approved, and you will be sent an amended permit. If objections are received, or if the amendment is determined by the Executive Director to be material, the request will be set for a public hearing. You have the right to request that the Commission make a determination of materiality independent of that previously made by the Executive Director. 14 Cal. Admin. Code Section 13166.

Please provide the information below and on the reverse. If you have any questions, contact this office.

APPLICANTNAME: SEE ATTACHED LIST

ADDRESS: _____

PHONE: _____

COASTAL PERMIT NUMBER: 80-CC-122DATE OF ISSUANCE: 1980APPLICANT'S REPRESENTATIVE (If any)JARED G. CARTER, ESQ.RAWLES, HINKLE, CARTER, BEHNKE &
OGLESBY
169 Mason St., P.O. Box 720Ukiah, CA 95482 (707) 462-6694FOR OFFICE USE ONLY:

Date Received: _____

Date Filed: _____

Application Fee Received: _____

DESCRIPTION OF PROPOSED AMENDMENT: Termination of Offer of Dedication of
Public Access Easement made as condition to approval. (See, Letter
submitted herewith.

CERTIFICATION

I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice.

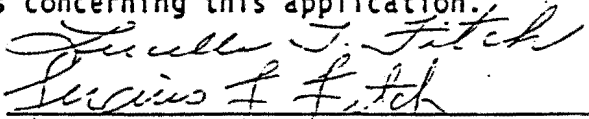
I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.



Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize RAWLES, HINKLE, CARTER, BEHNKE
ATTORNEYS to act as my representative and bind me in all matters concerning this application.



Signature of Applicant(s)

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

MEMORANDUM

December 28, 1992

TO: Coastal Development Permit Applicants

FROM: Coastal Commission

SUBJECT: Notice Concerning Important New Disclosure Requirements

Starting on January 1, 1993, a California new law requires that all persons who apply to the Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do three things. The first thing concerns question 2 on page 1 of the application, which requires that an applicant provide the "[n]ame, mailing address and telephone number of applicant's representative if any ..." When answering this question, an applicant should list all representatives who will communicate on his or her behalf, for compensation, with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, when submitting a completed application, an applicant should include a signed and dated copy of this notice.

Third, if an applicant determines after an application has been submitted that one or more people will be communicating on his or her behalf for compensation who were not listed on the completed application form, the applicant must provide a list in writing of those people and their addresses to the staff. The list must be received before the communication occurs.

By signing below, I indicate that I have read and understood this information.

DATE

3/14/96

SIGNATURE

APPENDIX D

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application, or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. 14 Cal. Admin. Code Section 13054(b).

As proof of posting, please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(b), I hereby certify that on 7-14-96, I or my authorized

(date of posting)

representative posted the "Notice of Pending Permit" for application to obtain a coastal development permit for the development of

Termination of Offer of Dedication of Public Access Easement
made as condition of approval to CDP 80-CC-122

Located at APN 017-05-20
(description of development)

(address of development or assessor's parcel number)

The public notice was posted at SCHAEFER LANE & DRIVEWAY
TO HOME

(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)

Lucius Fitch
-LUCIUS FITCH

Lucille Fitch
LUCILLE FITCH

(signature)

7-14-96

(date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS SIGNED AND RETURNED TO THIS OFFICE.

OFFICE USE ONLY

Permit No. _____

Received: _____

Declaration complete: _____

APPENDIX E - STANDARD CONDITIONS FOR APPROVED PERMITS

Below are standard conditions of approved permits that have been routinely applied by the Coastal Commission pursuant to its regulations. These conditions are required on all administrative, consent calendar, and regular hearing approved permits.

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

FITCH POSTING 7/14/96



LIST OF APPLICANTS FOR AMENDMENT TO 80-CC-122
ISSUED BY COASTAL COMMISSION IN 1980 TO ERNEST AND
MIRIAM SCHOEFER

1. Larry and Marilyn Wagner
33400 Schoefer Lane
P.O. Box 860
Fort Bragg, CA 95437
(707) 964-5063
2. Lucius and Lucille Fitch
243 E. Clay St.
Colusa, CA 95932
(707) 964-1739
(916) 458-2072
- ✓3. Robert and Sondra Dutton
P.O. Box 330
Penryn, CA 95663-0330
(916) 663-4157
4. Wayne and Joyce Werner
26 Sherland Ave.
Mountain View, CA 94043
(415) 968-6737

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPLICATION FOR AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Application for an amendment to a previously issued coastal development permit may be made by submitting this form, completed and signed, together with the materials described below and the application fee.

Pursuant to 14 Cal. Admin. Code Sections 13164 and 13168, materials to be submitted are:

1. Revised plans showing the proposed amendment; these must have been approved by the local planning agency. Please submit evidence of approval.
2. Stamped, addressed envelopes for renotification of all property owners and residents within 100 feet of the development and list of same.
3. An application fee of \$200.00. (If the amendment is determined by the Commission to be a major, rather than minor, change, the fee is 50% of the new permit application fee.)

Upon receipt of the above information, the Executive Director will determine whether the amendment request should be rejected on the basis that the proposed amendment would lessen or avoid the intent of a previously approved permit condition. 14 Cal. Admin. Code Section 13168. If the amendment request is filed, the Executive Director will then determine whether the amendment request is immaterial or material. If the Executive Director finds that the proposed amendment is immaterial, notification is sent to surrounding property owners and the site must be posted with a form which will be sent to you. If no objections are received, the amendment is approved, and you will be sent an amended permit. If objections are received, or if the amendment is determined by the Executive Director to be material, the request will be set for a public hearing. You have the right to request that the Commission make a determination of materiality independent of that previously made by the Executive Director. 14 Cal. Admin. Code Section 13166.

Please provide the information below and on the reverse. If you have any questions, contact this office.

APPLICANTNAME: SEE ATTACHED LIST

ADDRESS: _____

PHONE: _____

COASTAL PERMIT NUMBER: 80-CC-122DATE OF ISSUANCE: 1980APPLICANT'S REPRESENTATIVE (If any)JARED G. CARTER, ESQ.RAWLES, HINKLE, CARTER, BEHNKE &
OGLESBY
169 Mason St., P.O. Box 720Ukiah, CA 95482 (707) 462-6694FOR OFFICE USE ONLY:

Date Received: _____

Date Filed: _____

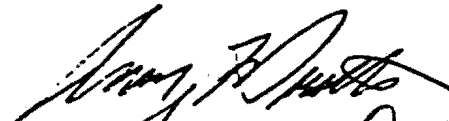
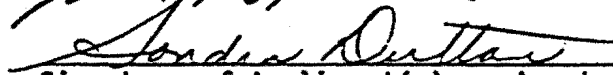
Application Fee Received: _____

DESCRIPTION OF PROPOSED AMENDMENT: Termination of Offer of Dedication of Public Access Easement made as condition to approval. (See Letter submitted herewith.)

CERTIFICATION

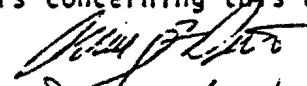
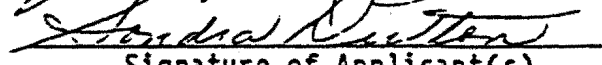
I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice.

I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.

 3/14/96

Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize RAWLES, HINKLE, CARTER, BEHNKE
ANDERSON OGLESBY to act as my representative and bind me in all matters concerning this application.



Signature of Applicant(s)

APPENDIX D

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application, or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. 14 Cal. Admin. Code Section 13054(b).

As proof of posting, please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(b), I hereby certify that on 7/14/96, I or my authorized

(date of posting)

representative posted the "Notice of Pending Permit" for application to obtain a coastal development permit for the development of

Termination of Offer of Dedication of Public Access Easement
made as condition of approval to CDP 80-CC-122

(description of development)

Located at APN 017-05-07

(address of development or assessor's parcel number)

The public notice was posted at SCHOLAR LANE

(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)

Robert Dutton
ROBERT DUTTON

Sondra Dutton
SONDRA DUTTON

(signature)

7/15/96
(date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS SIGNED AND RETURNED TO THIS OFFICE.

OFFICE USE ONLY

Permit No. _____

Received: _____

Declaration complete: _____

APPENDIX E - STANDARD CONDITIONS FOR APPROVED PERMITS

Below are standard conditions of approved permits that have been routinely applied by the Coastal Commission pursuant to its regulations. These conditions are required on all administrative, consent calendar, and regular hearing approved permits.

STANDARD CONDITIONS

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6. 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.
7. 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.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200

RECEIVED

MAR 18 1996

MEMORANDUM

December 28, 1992

TO: Coastal Development Permit Applicants

FROM: Coastal Commission

SUBJECT: Notice Concerning Important New Disclosure Requirements

Starting on January 1, 1993, a California new law requires that all persons who apply to the Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do three things. The first thing concerns question 2 on page 1 of the application, which requires that an applicant provide the "[n]ame, mailing address and telephone number of applicant's representative if any ..." When answering this question, an applicant should list all representatives who will communicate on his or her behalf, for compensation, with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

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By signing below, I indicate that I have read and understood this information.

DATE

3/14/96

SIGNATURE

DUTTON POSTING 7/14/96



LIST OF APPLICANTS FOR AMENDMENT TO 80-CC-122
ISSUED BY COASTAL COMMISSION IN 1980 TO ERNEST AND
MIRIAM SCHOEFER

1. Larry and Marilyn Wagner
33400 Schoefer Lane
P.O. Box 860
Fort Bragg, CA 95437
(707) 964-5063
2. Lucius and Lucille Fitch
243 E. Clay St.
Colusa, CA 95932
(707) 964-1739
(916) 458-2072
3. Robert and Sondra Dutton
P.O. Box 330
Penryn, CA 95663-0330
(916) 663-4157
- ✓ 4. Wayne and Joyce Werner
26 Sherland Ave.
Mountain View, CA 94043
(415) 968-6737

CALIFORNIA COASTAL COMMISSION

MAR 25 1996

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPLICATION FOR AMENDMENT TO COASTAL DEVELOPMENT PERMIT

Werner

Application for an amendment to a previously issued coastal development permit may be made by submitting this form, completed and signed, together with the materials described below and the application fee.

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3. An application fee of \$200.00. (If the amendment is determined by the Commission to be a major, rather than minor, change, the fee is 50% of the new permit application fee.)

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Please provide the information below and on the reverse. If you have any questions, contact this office.

APPLICANTNAME: SEE ATTACHED LIST

ADDRESS: _____

PHONE: _____

COASTAL PERMIT NUMBER: 80-CC-122DATE OF ISSUANCE: 1980APPLICANT'S REPRESENTATIVE (If any)JARED G. CARTER, ESQ.RAWLES, HINKLE, CARTER, BEHNKE &
OGLESBY169 Mason St., P.O. Box 720Ukiah, CA 95482 (707) 462-6694FOR OFFICE USE ONLY:

Date Received: _____

Date Filed: _____

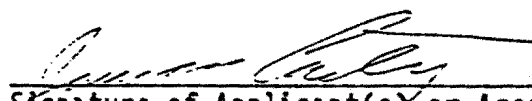
Application Fee Received: _____

DESCRIPTION OF PROPOSED AMENDMENT: Termination of Offer of Dedication of
Public Access Easement made as condition to approval. (See Letter
submitted herewith.

CERTIFICATION

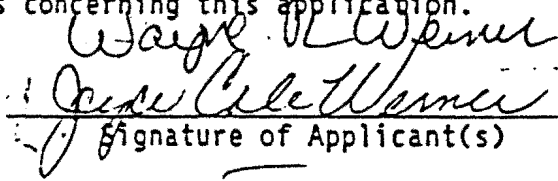
I hereby certify that I or my authorized representative will complete and post the "Notice of Proposed Permit Amendment" form furnished me by the Commission in a conspicuous place on the development property upon receipt of said notice.

I hereby certify that to the best of my knowledge the information in this application and all attached exhibits is full, complete, and correct, and I understand that any misstatement or omission of the requested information or any information subsequently requested may be grounds for denying the application, for suspending or revoking a permit issued on the basis of these or subsequent representations, or for the seeking of such other and further relief as may seem proper to the Commission.


Signature of Applicant(s) or Agent

NOTE: If signed by agent, applicant must sign below.

I hereby authorize RAWLES, HINKLE, CARTER, BEHNKE
OGLESBY to act as my
representative and bind me in all matters concerning this application.


Signature of Applicant(s)

APPENDIX D

DECLARATION OF POSTING

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public and as close as possible to the site of the proposed development, notice that an application for the proposed development has been submitted to the Commission. Such notice shall contain a general description of the nature of the proposed development. The Commission furnishes the applicant with a standardized form to be used for such posting. If the applicant fails to post the completed notice form and sign the Declaration of Posting, the Executive Director of the Commission shall refuse to file the application, or shall withdraw the application from filing if it has already been filed when he or she learns of such failure. 14 Cal. Admin. Code Section 13054(b).

As proof of posting, please sign and date this Declaration of Posting form when the site is posted; it serves as proof of posting. It should be returned to our office with the application.

Pursuant to the requirements of California Administrative Code Section 13054(b), I hereby certify that on July 14, 1996, I or my authorized

(date of posting)

representative posted the "Notice of Pending Permit" for application to obtain a coastal development permit for the development of

Termination of Offer of Dedication of Public Access Easement
made as condition of approval to CDP 80-CC-122

(description of development)

Located at APN 017-05-18

(address of development or assessor's parcel number)

The public notice was posted at INTERSECTION OF SCHOEFFER
LANE AND WERNER DRIVEWAY

(a conspicuous place, easily seen by the public and as close as possible to the site of the proposed development)

Wayne R. Werner
WAYNE WERNER

Joyce Collier Werner
JOYCE WERNER

(signature)

7/14/96
(date)

NOTE: YOUR APPLICATION CANNOT BE PROCESSED UNTIL THIS "DECLARATION OF POSTING" IS SIGNED AND RETURNED TO THIS OFFICE.

OFFICE USE ONLY

Permit No. _____

Received: _____

Declaration complete: _____

APPENDIX E - STANDARD CONDITIONS FOR APPROVED PERMITS

Below are standard conditions of approved permits that have been routinely applied by the Coastal Commission pursuant to its regulations. These conditions are required on all administrative, consent calendar, and regular hearing approved permits.

STANDARD CONDITIONS

1. Notice of Receipt and Acknowledgement. The permit is not valid and construction 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 construction has not commenced, the permit will expire two years from the date on which the Commission voted on the application, or in the case of administrative permits, the date on which the permit is reported to the Commission. Construction shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All construction must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director of the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the development during construction, subject to 24-hour advance notice.
6. 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.
7. 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.

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



MEMORANDUM

December 28, 1992

TO: Coastal Development Permit Applicants

FROM: Coastal Commission

SUBJECT: Notice Concerning Important New Disclosure Requirements

Starting on January 1, 1993, a California new law requires that all persons who apply to the Commission for a coastal development permit must provide to the Commission "the names and addresses of all persons who, for compensation, will be communicating with the Commission or Commission staff on their behalf." (Public Resources Code section 30319.) The law provides that failure to comply with the disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment. Additionally, a violation may lead to denial of the permit.

In order to implement this requirement, you are required to do three things. The first thing concerns question 2 on page 1 of the application, which requires that an applicant provide the "[n]ame, mailing address and telephone number of applicant's representative if any ..." When answering this question, an applicant should list all representatives who will communicate on his or her behalf, for compensation, with the Commission or the staff. This could include a wide variety of people such as lawyers, architects, biologists, engineers, etc.

Second, when submitting a completed application, an applicant should include a signed and dated copy of this notice.

Third, if an applicant determines after an application has been submitted that one or more people will be communicating on his or her behalf for compensation who were not listed on the completed application form, the applicant must provide a list in writing of those people and their addresses to the staff. The list must be received before the communication occurs.

By signing below, I indicate that I have read and understood this information.

DATE

March 22, 1994

SIGNATURE

Wayne R. Werner
Wayne R. Werner 3/22/94

WERNER POSTING 7/14/96



LIST OF OWNERS/RESIDENTS ADJACENT TO DEVELOPMENT

1. Sam and Anna Araki, 19519 Monte Vina, Los Gatos,
CA 95030 (17-060-09)
2. Arthur and Linda Cody, 2573 Pine Flat Rd., Santa
Cruz, CA 95060 (17-07-41)
3. Robert Hill, 631 Sunnyville Pl., Vacaville, CA.
95687 (17-07-17)

Envelopes sent to Coastal Commission.

RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY
A PROFESSIONAL LAW CORPORATION
P.O. BOX 720
UKIAH, CA 95482

WELLS FARGO BANK, N.A.
SANTA ROSA, CA 95401
11-24/1210 (8) - 635

49154

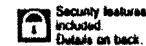
7/19/96

PAY TO THE ORDER OF California Coastal Commission

*****800.00

Eight Hundred and 00/100*****

DOLLARS



RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY

MEMO

⑈049154⑈ ⑆121000248⑆0535 12101⑈

RAWLES, HINKLE, CARTER, BEHNKE & OGLESBY / A PROFESSIONAL LAW CORPORATION
California Coastal Commission

7/19/96

49154

40000 Cl. Costs
40000 Cl. Costs
40000 Cl. Costs

JGC 960085 Wagner
Application fee for
amendment to CDP (4 applic)

800.00

10100 Checking

*****800.00

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

RECEIVED

AUG 22 1996



August 21, 1996

Jared G. Carter
Rawles, Hinkle, Carter
Behnke & Oglesby
169 Mason St., Suite 300
P.O. Box 720
Ukiah, CA 95482

SUBJECT: Request to Amend Coastal Development Permit No. 80-CC-122-A
(1-96-044-A): Schoefer Subdivision, Off of Ocean View Drive, 2.4
Miles South of Fort Bragg, Mendocino County

Dear Mr. Carter:

The staff has reviewed the request you submitted on behalf of your clients, Larry & Marilyn Wagner, Lucius & Lucille Fitch, Wayne & Joyce Werner, and Robert & Sondra Dutton to amend Coastal Development Permit No. 80-CC-122 to delete Special Condition No. 1, which required the dedication of an offer to dedicate a vertical public pedestrian access easement to the shoreline. We note that your clients are not the owners of all the property involved in Permit 80-CC-122; we will interpret this request as one applying only to that part of the property your clients own in fee. The amendment request was received in our office on July 22, 1996, and we have assigned the amendment request number 1-96-044-A. For the reasons discussed below, the Executive Director has determined that the amendment request must be rejected.

Section 13166(a)(1) of Title 14 of the California Code of Regulations specifically requires that an amendment application shall be rejected if, "in the opinion of the Executive Director, the proposed amendment would lessen or avoid the intended effect of a partially approved or conditioned permit unless the applicant presents newly discovered material information, which he could not, with reasonable diligence, have discovered and produced before the permit was granted. Special Condition No. 1 of Coastal Development Permit No. 80-CC-122 states as follows:

"1. Access:

PRIOR TO ISSUANCE OF THE PERMIT the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, an easement for public

EXHIBIT B

Letter to Jared G. Carter

SUBJECT: Request to Amend CDP permit No. 80-CC-122-A

August 21, 1996

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pedestrian access to the shoreline. Such easement shall be 25 feet wide located along the southern boundary of the property line and extend from the Ocean Drive (old Highway One) to the mean high tide line/bluff edge and shown herein as Exhibit II. Such easement shall be recorded free of liens except for tax liens and free of prior encumbrances which the Executive Director determines may effect the interest being conveyed.

The offer shall run with the land in favor of the People of the State of California, binding successors and assigns of the applicant or landowner. The offer of dedication shall be irrevocable for a period of 21 years, such period running from the date of recording.

However, if the certified LCP includes a vertical and lateral access at the Botanical Garden property, AP#17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the above property even in the event of change in ownership or use has been recorded, the offer of a vertical access across the applicants property may be terminated."

As indicated in the findings the Commission adopted when it approved Coastal Development Permit No. 80-CC-122, the Commission determined that the required offer to dedicate a vertical public access easement was necessary to find the project consistent with the coastal access policies of the Coastal Act. The findings for approval of CDP 80-CC-122 indicate that at the time the permit was approved, a fee vertical and lateral access had not been offered in perpetuity to the state as a public access, fee or otherwise. The Commission stated in the findings that there was a need for additional public access easements in the area of the subject property and that the intensification of land use resulting from the proposed development burdened public access in such a manner to necessitate the requirement that an offer to dedicate a vertical public access easement to the shoreline be recorded. Your clients' predecessor in interest, Ernest and Miriam Schoefer, accepted permit No. 80-CC-122 as conditioned and recorded the requisite offer to dedicate.

Consistent with Section 13166(a)(1) of the Commission's regulations, the Executive Director shall only accept an amendment request if (1) it does not lessen the intended effect of a partially approved permit or (2) the applicant presents newly discovered information which he could not have discovered and produced before the permit was granted. Your amendment request proposes to delete the required offer to dedicate. However, the amendment request does not establish how it would not lessen the intended effect of permit 80-CC-122 or present any newly discovered information which could not have been discovered and produced before the permit was granted.

As you note in your transmittal letter submitted with the amendment request, the special condition does provide that the offer to dedicate the vertical public access easement could be terminated "if the certified LCP includes a

Letter to Jared G. Carter

SUBJECT: Request to Amend CDPermit No. 80-CC-122-A

August 21, 1996

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vertical and lateral access at the Botanical Garden property, AP# 17-07-12 & 17-05-08, and an agreement, the form and content of which has been approved by the Executive Director or his successor, providing public access in perpetuity across the Botanical Garden property..." (Emphasis added). However, your transmittal letter provides no showing that the circumstances required for termination which are specific in Special Condition 1 have occurred.

We acknowledge that a subsequent purchaser of the Botanical Gardens property, the Mendocino Coast Recreation and Park District (District), entered into grant agreements pursuant to which the California Coastal Conservancy gave the District funds to purchase the Gardens. However, although the grant agreements were made subject to a number of conditions requiring a portion of the area subject to permit 80-CC-122 be used for public access, neither of the agreements guarantee public access in perpetuity. To the contrary, grant agreement No. 81-033 recognizes the District could fail in its obligations in which case the District would be liable for repayment to the conservancy of the grant amount. In addition, although grant agreement No. 89-066 required the District to execute an irrevocable offer to dedicate for public purposes, because the District could fail in its obligation, one cannot be assured that the parcels covered by the agreement would not be sold to private parties or otherwise withdrawn from public access use. Finally, both of the grant agreements cover only a portion of the Botanical Gardens identified in the termination clause.

Thus, the criteria under the special condition that must be met to allow the offer to be terminated have not been met, as access to the coast through the Botanical Gardens property still has not been guaranteed in perpetuity through an agreement approved by the executive director. Your statement in the amendment request that the Mendocino Coast Recreation and Park District purchased the Botanical Gardens in 1982 and 1991 in no way establishes that a vertical and lateral public access easement has been guaranteed in perpetuity across the Botanical Gardens property. Consequently, the proposed amendment request would lessen or avoid the intended effect of the conditioned permit by eliminating the required offer to dedicate a vertical public access easement through the applicant's property before a vertical and lateral public access easement has been guaranteed in perpetuity across the Botanical Gardens property. In addition, the proposed amendment request provides no newly discovered material information which could not have been produced at the time the original permit was granted that supports why the condition should be removed. Therefore, the Executive Director hereby rejects the proposed amendment application as required by Section 13166 of Title 14 of the California Code of Regulations, and is returning the application unfiled.

With this letter, we are returning the amendment application materials you have submitted. You will receive a refund check of your \$800 application fee under separate cover. Our rejection of the submitted amendment request does not preclude you from submitting a new amendment request at any time.

Letter to Jared G. Carter

SUBJECT: Request to Amend CDPermit No. 80-CC-122-A

August 21, 1996

Page 4

We note that your transmittal letter states that you disagree with the staff's position that the property owners do not have the right to terminate the offer to dedicate the public access easement unilaterally without a permit amendment approved by the Commission, and that you are submitting the amendment request without prejudicing your client's rights to contest the staff's determination. As you know however, the Mendocino Superior Court issued a declaratory judgment establishing that an adjacent property owner's attempted revocation of the offer to dedicate here at issue was void and of no legal effect. (No. CV 71037). Unless otherwise instructed by a court of law on appeal, the staff's position on this issue remains that articulated in the letter from Coastal Commission Counsel to James Larson, dated September 8, 1993.

We also note your transmittal letter quotes Government Code Section 66477.2 and questions the Coastal Commission's authority to require an offer to dedicate for a period of over three years. However, Government Code Section 66477.2, a section of the Subdivision Map Act, is applicable to local agencies regulating subdivisions pursuant to the Subdivision Map Act. Government Code Section 66477.2 does not control the California Coastal Commission in its review of coastal development permit applications. Commission decisions on coastal permit applications are made individually, based on the compliance of each application with requirements of the Coastal Act.

Finally, we received your letter dated August 18, 1996, in which you state that you assume that your application for the amendment is deemed complete and has been filed pursuant to Section 13056 of Title 14 of the California Code of Regulations. Your assumption is incorrect; the application has not been deemed complete and has not been filed. Section 13056 states that a permit application shall be deemed filed after having been received and found in proper order by the executive director. Applications for amendments that the Executive Director rejects pursuant to Section 13166(a)(1) are neither "deemed filed" or "found in proper order by the executive director." The regulation provides that such applications are simply rejected. By practice, those applications for amendment that the Executive Director rejects are returned by the staff to the applicant. To the extent that the five (5) working day time limit of Section 13056 applies to amendment requests, we note that the regulation provides for a longer than five (5) working day review if there are unusual circumstances. In this case, in your letter transmitting the application for the amendment request you specifically requested that the staff person on the North Coast staff assigned to process applications from Mendocino County not be assigned to the application. Consequently we have had to make special arrangements to have staff other than the staff person who would usually handle the application process the application. In addition, your letter raises factual and legal issues in addition to the amendment request standards delineated in Section 13166(a)(1) which staff also wished to

Letter to Jared G. Carter

SUBJECT: Request to Amend CDPermit No. 80-CC-122-A

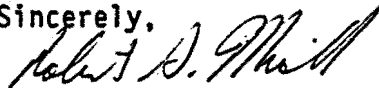
August 21, 1996

Page 5

respond. Therefore, there are unusual circumstances involved in the processing of your application for an amendment that warrant a longer than five (5) working day review.

If you have any questions, please don't hesitate to call.

Sincerely,



ROBERT S. MERRILL
Chief of Permits

Enclosures

cc: Larry & Marilyn Wagner, Lucius & Lucille Fitch,
Wayne & Joyce Werner, and Robert & Sondra Dutton
Ray Hall, Mendocino County Department of Planning & Building
Gary Berrigan, Mendocino County Department of Planning & Building

8951p

3.6 SHORELINE ACCESS AND TRAIL/BIKEWAY SYSTEM

Coastal Act Requirements

The public's right of access to the shoreline is guaranteed by the California Constitution. The Coastal Act further defines shoreline access policies:

Section 30005.5. Nothing in this division shall be construed to authorize any local government, or to authorize the commission to require any local government, to exercise any power it does not already have under the Constitution and laws of this state or that is not specifically delegated pursuant to Section 30519. (Added by Ch. 744, Stats. 1979.)

Section 30010. The Legislature hereby finds and declares that this division is not intended, and shall not be construed as authorizing the regional commission, the commission, port governing body, or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor. This section is not intended to increase or decrease the rights of any owner of property under the Constitution of the State of California or the United States.

Section 30210. In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211. Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212.5. Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30212(a). Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are required by Sections 66478.1 to 66478.14, inclusive, of the

Government Code and by Section 4 of Article X of the California Constitution.

Section 30214. (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- (1) Topographic and geologic site characteristics.
- (2) The capacity of the site to sustain use and at what level of intensity.
- (3) The appropriateness of limiting public access to the right to pass and repass depending on such factors as the fragility of the natural resources in the area and the proximity of the access area to adjacent residential uses.
- (4) The need to provide for the management of access areas so as to protect the privacy of adjacent property owners and to protect the aesthetic values of the area by providing for the collection of litter.

(b) It is the intent of the Legislature that the public access policies of this article be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Nothing in this section or any amendment thereto shall be construed as a limitation on the rights guaranteed to the public under Section 4 of Article X of the California Constitution.

(c) In carrying out the public access policies of this article, the commission, regional commissions, and any other responsible public agency shall consider and encourage the utilization of innovative access management techniques, including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs. (Amended by Ch. 919, Stats. 1979.)

Section 30500. (a) Each local government lying, in whole or in part, within the coastal zone shall prepare a local coastal program for that portion of the coastal zone within its jurisdiction. However, any such local government may request, in writing, the commission to prepare a local coastal program, or a portion thereof, for the local government. Each local coastal program prepared pursuant to this chapter shall contain a specific public access component to assure that maximum public access to the coast and public recreation areas is provided.

Section 30604 (c). Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that such development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

To implement the latter policy, the Coastal Commission has required permit applicants to record an offer to dedicate an access easement, usually valid for 21 years, on about 60 parcels in Mendocino County. Where the Commission has not required access, the reason has been the unsuitability of the access point rather than the burden that would have been imposed on the development.

The public cannot make use of new access rights until the offer is accepted by a public agency unless the landowner consents to public use. The accepting agency must assume responsibility for improvement, maintenance, and liability of the accessway before its opening. None of the access offers in Mendocino County have been accepted by a public agency.

In some instances, the North Coast Regional Commission has required offers of dedication in order to avoid limiting the options available for the LCP. The State Commission's supplemental guidelines on LCP access requirements (July 25, 1979) require that, if prior offers of dedication are not incorporated in the proposed LCP, specific findings must be made as to why the accessways were considered inappropriate.

California Constitution

Article X, Section 4: No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people.

The State Coastal Conservancy is the state agency authorized to acquire property needed for accessways and is authorized to... ..provide up to the total cost of the acquisition of interests in lands... (Reference Division 21, Public Resources Code, Chapter 9, Section 31400.2).

Subdivision Map Act

Sections 66478.1 to 66478.14 (summarized):

- No local agency shall approve coastal or oceanfront subdivisions, or subdivisions along navigable streams, public waterways, public lakes or public reservoirs, unless public access is provided by fee or easement from a public highway "to that portion of the bank or stream bordering or lying within the proposed subdivision," or to "land below the ordinary highwater mark on any ocean coastline or bay shoreline within or at a reasonable distance from the subdivision."
- Additionally, no local agency shall approve a subdivision that does not provide for dedication of a public easement, designed in extent, width, and character to achieve public use of the waterway, along a portion of the waterfront bordering or within the proposed subdivision.

- Reasonable access is to be determined by the local agency, considering: (1) mode of access; (2) size of subdivision; (3) common uses of bank or stream, or type and appropriate uses of coastline or shoreline; (4) likelihood of trespass and means of avoiding trespass. The subdivision need not be disapproved if access is not provided and the local agency finds that reasonable access is available nearby.
- The subdivider is not required to improve access route(s) that benefit non-residents of the subdivision. Access route(s) may be conveyed or transferred to other agencies.

Prior to 1974, the Subdivision Map Act did not specify that access had to be provided to the coastline or shoreline, but simply referred to access to public waterways, rivers, or streams.

Access Component. The Access Component of the LCP, required by Section 30500(a) of the Act and Section 13512 of the Commission's Administrative Regulations, consists of Table 3.6-1, listing access points, the policies in this chapter, the policies specific to each access point listed by planning area in Chapter 4, and the accessways shown on the Land Use Maps. (see Appendix 13 for Table 3.6-1)

Vertical Access. The location of vertical accessways shall reflect the rights of the public to reach the shoreline in specific areas and the need to protect specific coastal resources. The vertical accessway should usually be sited along the borders of a project site and should extend from the first public road to the shoreline (or bluff edge, if access is required to reach a bluff top viewing area.)

Blufftop Access. Where no beach area exists and a project is proposed along a shorefront bluff top lot, public access for public viewing of the shoreline may be required. Such accessways should run along the edge of the bluff and be of a width adequate to provide safe public access along the bluff edge of the property, as defined in Section 30604(c) of the Coastal Act.

Lateral Access. Lateral access dedications provide for public access and use along the shoreline. A minimum of 25-foot wide accessway along the dry sandy beach for passive recreational use has been established as the necessary width to allow reasonable use by the public of the state-owned tidelands.

Passive recreational uses. Passive recreational uses include those activities normally associated with beach use, such as walking, swimming, jogging, sunbathing, fishing, horseback riding and surfing.

Pass and repass. Where topographic constraints of the site make use of the beach dangerous, where habitat values of the shoreline would be adversely impacted by public use of the shoreline, or where the accessway may encroach closer than 20 feet to a residential structure, the accessway may be limited to the right of the public to pass and repass along the access area. Pass and repass is defined as the right to walk and run along the shoreline.

Access Issues

The 130 miles of coastline is formed by mountainsides, high and low bluffs, pocket beaches, long sandy beaches, stream outlets, and river estuaries. This varied environment makes access need more dependent on the suitability of the access points than on the distribution of population or the total capacity of access points. Conditions are much different than in some sections of Southern California, where a relatively uniform coastline and a relatively uniform demand from a fully developed coastal zone make access points at intervals of 500-feet logical. Yet there are significant mismatches between available public access and need on the Mendocino Coast. As an example, 17 percent of the shoreline is state parks, but there are no non-fee public access points now open in the 20 miles between Manchester State Beach and Gualala Point Regional Park at the north edge of Sonoma County.

Access to the shoreline is a key mandate of the Coastal Act. The term "maximum access" as used by the Act is intended to make the shoreline--a public resource--readily available to the public and to prevent it from becoming the private enclave of those fortunate or wealthy enough to own property on or near the shore. Access is also the issue that involves the most difficult balancing of public and private gains and losses and has been the subject of the sharpest debates.

The Access Component required in every LCP must contain policies concerning provision, maintenance, and management of public shoreline access and must designate existing and proposed accessways for public use. Access must be provided for viewing, active recreation and scientific research at the water's edge of the ocean and tidal rivers. The coast should be available to users of all transportation modes including drivers, bus riders, bicyclists, hikers, equestrians, and the handicapped. The Coastal Act's requirement for "maximum public access implies that all coastal environments capable of tolerating use at a reasonable risk to both humans and habitat be open.

Some points along the shoreline are not suited for recreational use because of potential hazards or the sensitivity of the habitat. For example, many cliffs and bluffs are steep, and unstable. Slides, rockfalls and slippages occur frequently. Habitats such as tidal pools, river wetlands and riparian areas, are vulnerable to disruption by access. Access must not adversely affect agriculture.

Perhaps the most controversial issue is provision of public access across private property. Access to any parcel of land or body of water is dependent on the right and ability to cross adjoining land. Until the last few decades, there were so few places on the Mendocino coast where access was restricted that no problem was recognized. This situation has changed as development increasingly limits both visual and physical access to ocean frontage for residents and visitors.

Prescriptive rights of access established by a court determination of historic public use of the property have been proven at some locations and probably exist at many others. In California, the court must find that the public has used the land for five years as if it were public land:

- without asking or receiving permission from the owner,
- with the actual or presumed knowledge of the owner,
- without significant objection or bona fide attempts by the fee owner to prevent or halt such use.

The rule that an owner may lose rights in real property if it is used without consent for the prescriptive, 5-year period derives from common law and has been supported in recent case law (*Gion vs. City of Santa Cruz*, 1970, 2 Cal. 3d 29.). It should be noted that if a property owner wishes to terminate public use of his or her land, those claiming a right to use it must initiate legal action to re-acquire access.

Property owners are protected by the California Civil Code, Sections 813, 1008, and 1009, which define the steps needed to prevent a prescriptive easement from being established, including posting signs along the property line or publishing a notice in the newspaper that right to pass is subject to permission and control of the owner. Despite this legal protection, some owners who once were willing to allow informal access to friends or to an occasional visitor have now become concerned about prescriptive rights and are no longer permitting access through their property. Thus, several informal access points along the Mendocino coast have been closed in recent years.

Dedication Offers, pursuant to Section 30212 of the Coastal Act, provide access to the shoreline as a condition of new development projects with specified exceptions. Although none of the accessways offered as a condition of permit approval in Mendocino has been opened to public use, many of the offers recorded are essential elements of the access component of the LCP. However, LCP studies show that some access offers required by the Coastal Commission are unnecessary or illogical in the context of the Land Use Plan proposals for adjoining properties. Some of these offers can be relinquished shortly after certification while others should be abandoned when access points prescribed by the plan are assured. Where existing offers of dedication are not essential to meet public access needs, the Access Component specifies that they be relinquished, listing the findings required by the Coastal Commission.

Trail/Bikeway System

The 1975 Coastal Plan called for a coastal trail system, and the hiking and equestrian trails element of the California Recreational Trails Plan proposes a trail in the Pacific Coast corridor defined as extending from Oregon to Mexico "within the sight and sounds of the Pacific Ocean." No more specific location is proposed and DPR has not funded any trail improvements in Mendocino County outside State Parks. Highway 1 is designated a Bikecentennial Route, but at the current level of funding it will be 10 years or longer before Caltrans can complete bike lanes even on the 25 percent of the route where the required widening probably would not be detrimental to the environment.

Hikers, bicyclists, and equestrians have different needs. Hikers can use all trails without limitations. Equestrians can share off-road trails with hikers but require more separation from vehicle traffic for safety. Equestrian use of public roads may be undesirable in heavily populated areas,

but few such areas exist on the Mendocino coast. Most hikers and equestrians are primarily interested in experiencing the destination. On the other hand, bicyclists, with the exception of those riding balloon-tire bicycles, require pavement. Many bicyclists are not casual sightseers, but travelers who prefer to use the most direct route, which in most cases is an existing road or highway. Their main concern is safety, ensured by having enough space for a bicycle lane along the road to provide a separation between themselves and automobiles.

Mendocino County has adopted an equestrian and hiking plan as an amendment to the Recreation Element of its General Plan (#147 Mendocino County). The trail plan resulted largely from the efforts of the Northern California Trails Council, a group concerned with availability of open space for riding and hiking and safety provisions along public roadways. The trails plan portrays a countywide system of trails connecting communities with each other as well as with recreational areas. However, funds have not yet been available to implement the plan's policies. Existing county trails presently are not heavily used, due to a lack of publicity and public knowledge as well as to a lack of facilities such as staging areas, campgrounds, and safe access points.

A continuous coastal trail through Mendocino County using little or no Highway 1 right of way would be costly and at some locations disruptive to existing development. Equally important, there is no reason to believe it would receive enough use as a continuous trail to justify the cost against alternative uses of the same funds for coastal preservation and enhancement.

During a typical summer day, 50 or more touring bicyclists use any segment of Highway 1. Provision of standard 4-foot bicycle lane along the entire length of the highway would have environmental effects at some locations that must be evaluated milepost by milepost.

The potential use of the entire length of an off-road coastal trail by hikers or equestrians is conjectural because no comparable experience exists in the western United States. The John Muir Trail in the Sierra Nevada is heavily used, but it provides the only access to a region.

The Land Use Maps show the coastal trail along Highway 1 and Usal Road. It includes all trails in the County's previously adopted trails element and adds numerous short trails to shoreline access points and several longer trails in State Parks. Table 3.6-1 lists trails designated. (see Appendix 13 for Table 3.6-1)

The trail designations are based on the following conclusions:

- Short coastal trails on the bluffs and beach (a few hundred yards to 10 miles) should be provided to offer hikers and equestrians opportunities to experience the shoreline without the sights and sounds of the highway. It is assumed that most users will be on trips of one day or less duration and that they will return to their point of origin.
- A continuous bicycle route other than a bike lane on Highway 1 would not justify the cost of improvement because it would be more difficult and would not attract usage from long distance bicyclists

who constitute the majority of users in rural areas. Bicycle use of designated trails on paved roads is assumed, but diversion of funds from Highway 1 bicycle lane improvements to other routes in the coastal zone is not warranted.

Managing and Maintaining Accessways

The Commission and California Coastal Conservancy have issued preliminary standards and recommendations on coastal access, including suggestions for managing and maintaining accessways (#23, California Coastal Commission). The two agencies revised and adopted their standards after public hearings in July and August 1980. The final draft recommends that access dedications first be offered to local governments, unless a particular offer is of overriding statewide importance. Concurrent with these initial offers to local government, private non-profit organizations (such as land trusts or service groups) should also be approached about assuming responsibility for operating and maintaining accessways. Where this occurs, the local government should retain legal control of the accessway, and the local non-profit group would arrange for operation and maintenance. The draft final report recommends that additional funds be sought from the California Coastal Conservancy, state tideland oil and gas revenues, user fees, and voluntary state income tax payments. If a dedication offer is not accepted by the local government or non-profit organization, it should be offered to a state agency selected as follows:

- All dedications of lateral access easements which are adjacent to tidelands and unconnected to vertical accessways, and for which no development is planned, should be offered to the State Lands Commission.
- All dedications and access facilities within five miles of a state park should be offered to the State Department of Parks and Recreation.
- All dedications of vertical access easements which are adjacent to a state highway right-of-way should be offered to the state Department of Transportation.
- All dedicated access easements which pass through or are close to an environmentally sensitive area should be offered to the state Department of Fish and Game, if a site analysis shows that unmanaged use of the easement will damage the natural resources.
- All dedicated access easements to existing or potential fishing areas should be offered to the Wildlife Conservation Board of the California Department of Fish and Game.
- All access easements which are within the boundaries of or close to areas under the jurisdiction of a federal agency should be offered to that agency.

Because the access program is mandated by the State, any costs of access maintenance which revert to the County shall be met by the State.

Access Selection Criteria

Access points shown on the Land Use Plan were selected by the following criteria:

Distribution to areas of current and expected resident and visitor demand. Heavily populated sections of the coast and those with spectacular views, good fishing or abalone diving, or highly varied environmental resources need enough access points to meet and distribute demand for access to prevent overuse.

Quality of site and variety of experience. The most attractive sites for each use on a given segment of the coast are proposed for public access where consistent with other criteria.

Ownership. Sites in public ownership are favored over those in private ownership. Where sufficient sites in public ownership exist, additional private land or easements over private land should not be acquired.

Concerns of nearby residents and property owners. Where alternative locations sufficient to meet the intent of the Coastal Act are available, the preferences of local residents weigh heavily in the choice of access points.

Compatibility of land uses. The potential for developing access points without undue infringement on privacy or disturbance of habitats was assessed. No right to pass and repass and no intensive use is proposed within 50 feet of any existing dwelling. A number of potential access points were eliminated from consideration because of proximity to sensitive wildlife habitats.

Development, management, and safety. Potential availability of parking, cost of constructing safe paths or stairs, ease of surveillance to prevent misuse, and avoidance of visually intrusive parking areas are important considerations in the choice of access points.

Coastal Element Policies: Shoreline Access

- 3.6-1 The Coastal Conservancy, State Parks & Recreation, and other appropriate agencies shall be requested to initiate, as a result of the Phase III access program, a public relations program for the protection and enhancement of coastal resources, particularly coastal access.
- 3.6-2 Mendocino County shall adopt an ordinance to ensure that public access be protected against vandalism and improper use.
- 3.6-3 Mendocino County may request temporary closure of any accessway for due cause, i.e., if the resources cannot be protected, if use is hazardous to the public and during periods of construction, storm damage to the accessway, or after finding continued use is not consistent with safety and/or environmental concerns, permanent closure or closure for more than 12 months shall require an amendment to the Coastal Element.

3.6-4 The County, in concert with State and Local agencies and volunteer organizations, shall develop a program, without obligation to fund same, to clean and maintain the various accessways that are opened to public use. The program may utilize work furlough programs for trustees and jail prisoners or volunteers as appropriate.

3.6-5 Acquisition methods such as bequests, gifts, and outright purchases are preferred by the County when obtaining public access from private landowners. Other suitable voluntary methods such as a non-profit land trust may be helpful and should be explored in the future. If other methods of obtaining access as specified above have not occurred, developers obtaining coastal development permits shall be required prior to the issuance of the coastal development permit to record an offer to dedicate an easement for public access purposes (e.g. vertical, lateral, parking areas, etc.) where it is delineated in the land use plan as a condition of permit approval. The offer shall be in a form and content approved by the Commission and shall be recorded in a manner approved by the Commission before the coastal development permit is issued.

Vertical accessways from the sites of all existing ocean front visitor accommodations and services and from all sites in which visitor accommodations and services are designated as the principal permitted use shall be considered to be designated as such in the Land Use Plan, and appropriate provisions implementing this policy shall be required in conjunction with all new or expanded developments on such sites. (For the purpose of this section, the blufftop area is that area between Highway 1 and the beach or ocean.)

3.6-6 Shoreline access points shall be at frequent rather than infrequent intervals for the convenience of both residents and visitors and to minimize impacts on marine resources at any one point. Wherever appropriate and feasible, public access facilities, including parking areas, shall be distributed throughout the coastal area so as to mitigate against the impacts, social or otherwise, of overcrowding or overuse by the public of any single area. Specific proposals of this plan reflect this goal.

3.6-7 All access easements required by this Land Use Plan to be offered for dedication to public use shall be a minimum of 25 feet wide. However, the passageway within the easement area may be reduced to the minimum necessary to avoid: (1) adverse impacts on habitat values identified in the plan; or (2) encroachment closer than 20 feet from an existing residence; or (3) hazardous topographic conditions. The right of public use may be limited to pass and repass only when an accessway is specifically identified in the plan as having habitat values which would be adversely impacted by public use or adverse topographic conditions which would make beach use dangerous, or when the accessway would encroach closer than 20 feet to a residential structure. In specified areas identified in Chapter 4 or on the Land Use Plan maps, offers to dedicate public parking areas may be required as a condition of permit approval.

Such offers shall be obtained in a manner consistent with Policy 3.6-5 and shall contain language consistent with the requirements of Policy 3.6-28. In areas where adequate parking is not available, at the time of development the need for additional parking to serve public access to the coast shall be considered in the permit review process.

- 3.6-8 Easements for lateral shoreline accessways shall extend landward 25 feet from mean high tide or to the toe of the bluff or the first line of terrestrial vegetation if the width of the beach is greater than 25 feet. Lateral blufftop accessway easements shall be at least 25 feet in width. However, the passageway within the easement area may be reduced to the minimum necessary to avoid: (1) adverse impacts on habitat values identified in the plan; or (2) encroachment closer than 20 feet from an existing residence; or (3) hazardous topographic conditions. Bluff retreat (erosion) shall be considered and provided for the life of the development when planning lateral accessways.
- 3.6-9 Offers to dedicate an easement shall be required for all areas designated on the land use plan maps. Where sufficient sites in public ownership exist, additional private lands or easements over private lands beyond those shown on the land use plan maps shall not be required without a plan amendment or as otherwise required by the County. When considering such an amendment sites for shoreline access in public ownership shall be favored over those in private ownership.
- 3.6-10 All accessways shall be located and designed to minimize the loss of privacy or other adverse impacts on adjacent residences and other land uses.
- 3.6-11 Visitor accommodations and services on parcels adjoining the shoreline as identified on the public access maps shall provide public access to the blufftop and/or the shoreline. The access, to be required as a condition of permit approval or other methods as described in policy 3.6-5, shall be available to the public at large as well as to guests. In the event that the use is changed to a use other than visitor accommodations or services, an irrevocable offer to dedicate an easement for public access shall be made available to a public entity for acceptance and management. If the accessway is reopened, it shall remain available to the public free of entrance charge.
- 3.6-12 Vertical accessways not shown on the Land Use Maps or required by these policies shall not be required as a condition of permit approval unless the plan shall have been amended to change the intensity of use, or to delete an access point shown on the plan and serving a similar need.
- 3.6-13 The County may seek agencies to accept accessways as prescribed in this section under "Managing and Maintaining Accessways". Dedicated accessways shall not be required to be opened to public

use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

- 3.6-14 New and existing public accessways shall be conspicuously posted by the appropriate agency and shall have advance highway signs except those for which specific management provisions have been made and specified in Chapter 4. Additional signs shall designate parking areas and regulations for their use, and shall include regulations for protection of marine life and warning of hazards, including high tides that extend to the bluffs. Access shall not be signed until the responsibility for maintenance and liability is excepted and management established.

All accessways shall be designed and constructed to safety standards adequate for their intended use. Hazardous bluffs shall be marked or, if lateral access use is intended, shall have a cable or other clear barrier marking the trail or limit of safe approach to the bluff edge. The County of Mendocino shall seek to implement this policy where appropriate by requesting CalTrans, or other responsible agencies to maintain and sign such accessways.

- 3.6-15 The Department of Fish and Game, Department of Parks and Recreation and appropriate county departments and agencies should be requested to monitor public access to sensitive coastal resource areas such as wetlands, dunes, riparian areas, tide pools, rocky intertidal areas, and other wildlife habitats, whether or not these areas are designated as access points on the Land Use Maps. DFG should, in consultation with the operating agency at each access point, prepare regulations governing use which shall be prominently posted. DFG should determine whether use of specific access points should be controlled to avoid degradation and allow resource recovery by limiting the number of users, by requiring supervision of users, or by closing the access point seasonally or periodically. (Policies regulating scientific access at Inglenook Fen and Havens Neck are listed in Chapter 4.)

- 3.6-16 Access to the beach and to blufftop viewpoints shall be provided for handicapped persons where parking areas can be close enough to beach or viewing level to be reachable by wheelchair ramp. The wheelchair symbol shall be displayed on road signs designating these access points where the means of access is not obvious from the main road.

- 3.6-17 Caltrans shall be required to improve or construct view turnouts designated on the Land Use Maps as a part of adjoining highway improvement projects when such improvements involve widening or improvements of the highway. (This would exclude rehabilitation type projects).

- 3.6-18 Along sections of the highway where development intensity will result in pedestrian use, or where this is the siting of the County designated coastal trail, a 15-foot accessway measured from the right-of-way of Highway 1 shall be offered for dedication as a

condition of permit approval if the topography is deemed suitable for pathway development. Coastal trail includes trails identified in Table 3.6-1 and portions of Highway 1 and Usal Road that are necessary to connect these trail segments. All such access offers that have been recorded shall be offered to Caltrans for acceptance. Prevailing acquisition methods for acquiring public right-of-way by Caltrans shall apply to this section.

- 3.6-19 Along intensively developed sections of Highway 1, (such as between Cleone and Albion or in Gualala) Caltrans shall be requested to build a separate pedestrian, equestrian path parallel to the highway where pedestrian traffic warrants and physical conditions permit.
- 3.6-20 Paved 4 foot shoulders should be provided by Caltrans along the entire length of Highway 1 wherever construction is feasible without unacceptable environmental effects.
- 3.6-21 The County of Mendocino coastal trail shall be integrated with the coastal trails in the cities of Fort Bragg and Point Arena, and with Humboldt County to the north and Sonoma County to the south so as to provide a continuously identifiable trail along the Mendocino County coast.
- 3.6-22 In carrying out the coastal access policies of this Coastal Element, the county or other appropriate designated management agency shall consider and encourage the utilization of innovative access management techniques including, but not limited to, agreements with private organizations which would minimize management costs and encourage the use of volunteer programs.
- 3.6-23 Public fishing access for such craft as canoes, rowboats or small boats utilizing trolling-type motors shall be maintained, protected and encouraged at Ten Mile River, Noyo River, Big River, Albion River, Navarro River, and Gualala River and efforts to obtain public access shall be continued at Big River.

Where needed, stream improvement projects within the coastal zone, including the removal of snags and debris, shall be encouraged in order to improve fishing and recreational boating access to these coastal streams.

- 3.6-24 The coastal access program shall be implemented in a manner that ensures coordination among and the most efficient use of limited fiscal resources by federal, state, county agencies, and private organizations responsible for acquisition, development, and maintenance of public coastal accessways.
- 3.6-25 Public access policies shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:

- topographic and geologic site characteristics;
- capacity of the site to sustain use and at what level of intensity;
- fragility of natural resource areas and proximity to residential uses;
- need to provide for management of the access;
- balance between the rights of individual property owners and the public's constitutional rights of access;

- 3.6-26 Prior to the opening, advertising or use of any accessway, the responsible individuals or agency shall prepare a management plan for that accessway, which is acceptable to the County of Mendocino, sufficient to protect the natural resources and maintain the property.
- 3.6-27 No development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights". Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval. Development may be sited on the area of historic public use only if: (1) no development of the parcel would otherwise be possible, or (2) proposed development could not otherwise be sited in a manner which minimizes risks to life and property, or (3) such siting is necessary for consistency with the policies of this plan concerning visual resources, special communities, and archaeological resources. When development must be sited on the area of historic public use an equivalent easement providing access to the same area shall be provided on the site.
- 3.6-28 New development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement, as required by other policies in this Chapter, for public use. Such offers shall run for a period of 21 years and shall be to grant and convey to the people of the State of California an easement for access over and across the offeror's property.
- 3.6-29 Any property owner, who has recorded an offer to dedicate an easement to the public as condition of permit approval and the specific locations of the easement is not recommended in the land use plan for public access, may petition the Coastal Commission to amend the permit that required the offer to eliminate the condition. It is the intent of the plan that these easements which are not recommended in the land use plan be extinguished by the Coastal Commission.

3.6-30 The accessways proposed by the Coastal Element are determined to be adequate in number and location to comply with Coastal Act intent at this time. When this plan undergoes future review its adequacy to meet the public need for access, as required by the Coastal Act, will be re-evaluated and modified accordingly.

TABLE 3.6-1 SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM^a

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
1. Briceland Road Coastal Trail	County Road 435 from Four Corners to (north of) Bear Harbor paralleling the coast through Sinkyone State Park.	6 miles of County road, suitable for hikers, equestrian. Potential trails connect to shoreline.	unpaved; complete to Bear Harbor.
2. Whale Gulch Shoreline	Sinkyone Wilderness State Park. 3 miles south of Humboldt County line, 1 mile southwest of Four Corners.	Sandy beach used for fishing and diving. Reached from Briceland Road from Low Gap Creek.	Undeveloped campground; non-vehicular access from Low Gap Creek
3. Bear Harbor Shoreline	Sinkyone Wilderness State Park. 6 miles south of Humboldt County line, 6.2 miles southwest of Four Corners	Access via Four Corners-Usal Creek Trail. Beach used for fishing and diving.	Undeveloped campground; non-vehicular access for able-bodied persons from end of Briceland Road
4. Jackass Creek Shoreline	14 miles north of Usal Road turn-off from Highway 1.	Private 500 foot sand beach bordered by rocky shore and cliffs. Access via Four Corners-Usal Creek Trail or Usal Road.	Undeveloped campground; acquire as part of DPR Usal Ranch Project.
5. Little Jackass Creek Shoreline	13 miles north of Usal Road turn-off from Highway 1.	300 foot sand beach bordered by rocky shore and cliffs. Sensitive marine habitat area. Access via Four Corners-Usal Creek Trail or Usal Road.	Undeveloped campground; acquire as part of DPR Usal Ranch Project.
6. Usal Creek Shoreline	6 miles north of Usal Road turn-off from Highway 1.	Private 1/2 mile long beach, 5 acre lagoon and large level area suitable for car camping. Access from Usal Road or Four Corners-Usal Trail.	Undeveloped campground; DPR Usal Ranch Project, Car campground; restroom facilities.
7. Usal Road Coastal Trail	Humboldt County Line to Highway 1, 3 miles north of Rockport	Approximately 30 miles of County maintained road, suitable for hikers and equestrians. Potential trails connect to shoreline.	Designated by County Trails Plan.
8. Lost Coast Trails	Briceland Road, Portions of Usal Road and State Highway 1 north of Rockport.	Utilizing portions of existing roads and trails to encourage hike-in recreation.	Non-vehicular access to coastal trails for hiking and equestrian access to coastal beaches.
9. Rockport Bay/Cottlaneva Creek Shoreline	3/4 mile west of Highway 1 at Rockport	Large beach used for fishing and diving, old mill site suitable for RV campground. Access from Highway 1. Private ownership.	Primitive camping; RV campground; entry fee may be charged.

^a This table summarizes information presented in greater detail in Chapter 4. See Policies 4.1-1 to 4.12-13.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
10. Westport-Union Landing State Beach	1 to 4 miles north of Westport	Narrow strip west of Highway 1. provides outstanding views.	Uncontrolled overnight use. Day use and improved camping.
11. Branscomb Road Inland Trail	1 mile north of Westport, Highway 1 northeasterly to Laytonville	East-west dirt road unsuitable for most bicyclists.	Designated by County Trails Plan; high priority as major access from Highway 101.
12. Wages Creek Shoreline	Area west of Highway 1 at Wages Creek	Private 175 unit campground adjacent to DPR lands.	Fee access for non-guests; room for greater development.
13. Westport-Union Landing State Beach-Pete's Beach	.3 miles north of Westport, west of Highway 1	Trail to blufftop and beach, large parking area along Highway 1. Major beach for Westport residents.	Day use only.
14. Caltrans Scenic Easement (Chadbourn Gulch)	West of Highway 1 extending 0.5 mile north and 0.7 mile south of Chadbourn Gulch.	Short unpaved road to small pocket beach (Chadbourn Gulch). Beach accessible to handicapped. Blufftop trail. Unimproved.	Day use; Parking area and trail to beach at Bruhel Point.
15. Chadbourn Gulch to Newport	West of Highway 1 from 0.7 mile south of Chadbourn Gulch to approx. 1.75 miles north of Ten Mile River.	Blufftop lateral access provides long range scenic views.	Acquire vertical and lateral access for blufftop trail.
16. South Kibesillah Gulch Fishing Access Shoreline	West of Highway 1, .5 mile north of Abalobadiah Creek	Shoreline access from steep bluff. Wildlife Conservation Board ownership; County Management.	Day use; maintain restrooms, picnic tables, improve trail to beach.
17. Seaside Creek Shoreline	1 mile north of Ten Mile River bridge	Beach adjoins Highway 1, providing access to handicapped; possible prescriptive rights.	Acquire accessway and develop parking area.
18. Seaside Creek to Pudding Creek Trail	North of Fort Bragg from Seaside Creek-Ten Mile River to Pudding Creek	Hiking/equestrian trail parallel to beach for 8 miles. Usable from Seaside Creek in summer and from Ten Mile Bridge and Pudding Creek year round. Alternative trail for non-vehicles.	Existing public accessway at Ocean Meadows, coastal trail segmented at mouth of Ten Mile River.
19. Ten Mile River River Access	Mackerricher State Park, west of Highway 1, south bank of river	Unimproved boat access from G.P. haul road, open weekends and some winter months. Also access to north end of State Park.	Improve boating access; Power boats prohibited, except for out board trolling motors.
20. Inglenook Grange Trail	Mackerricher State Park acquisition area, .5 miles north of Little Valley Road	Undeveloped trail to Inglenook Fen.	Acquire scientific access easement across private property to DPR acquisition area.
21. Ward Avenue Shoreline	Cleone, Mackerricher State Park	Equestrian/hiking underpass to beach. Limited parking.	No access sign to beach installed along Highway 1.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
22. Mill Creek Drive Shoreline	MacKerricher State Park, Cleone	County road provides uncontrolled access to park and large parking area.	Maintain free public access to shoreline parking area.
23. Main Entrance Shoreline	MacKerricher State Park, south of Mill Creek Drive	Camping and day use	Add 50 campsites.
24. Virgin Creek Shoreline	MacKerricher State Park, .1 mile north of Virgin Creek	State park parcel connecting to Highway 1	Maintain undeveloped nature
25. Georgia-Pacific Haul Road Access	.5 mile north of Pudding Creek	Open to Ten Mile River on weekends, holidays and some winter months.	Highway sign including regulations.
26. Pudding Creek Shoreline	MacKerricher State Park; north boundary of Fort Bragg, north side of creek.	Sandy beach; swimming in creek, parallel road for parking.	Improve day use facilities.
27. Noyo Bay Shoreline	North side of Noyo Bay	600 foot beach; dirt dredge spoils storage, parking area	Maintain existing access, improvements by Noyo Harbor District.
28. Noyo Harbor Fishing Access	Private boat ramp on north; 2 public ramps on south side	Developed boat launching areas.	Maintain existing access, more public viewing points.
29. North Harbor Drive Shoreline and River Access	Immediately north of Noyo Harbor Bridge, east of Highway 1 transversing east then south to Noyo Fishing Village then to shoreline.	Northern portion is in City limits. Passes through Noyo Fishing Village on County Road 415A	Paved, except for large parking area west of bridge; improve parking at harbor entrance
30. South Harbor Drive River Access	East of Highway 1, transversing north from Highway 20 into Noyo Fishing Village (south bank)	Major road into Noyo Fishing Village (south bank). County maintained-road 415.	Large improved parking area at terminus.
31. Todd's Point Blufftop	Todd Subdivision, south side of Noyo Bay.	View area at entrance to Noyo Bay, prescriptive rights may exist.	Acquire viewpoint and trail, parking area at Chicken Point.
32. Ocean View Drive Shoreline	West of Highway 1, just south of Noyo Harbor Bridge, extending .5 miles to blufftop.	Existing accessway to Todd Subdivision transversing on County Road 439 to blufftop and outstanding views to ocean and Noyo Bay.	Development of Chicken Point.
33. Hare Creek	North side of Hare Creek	Access to Hare Creek Beach.	Proposed trail from CR 439A to Hare Creek Beach.
34. Hare Creek	South side of Hare Creek	Creekside Trail	Existing pathway

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
*35. Mendocino Botanical Gardens - Trail	Garden entrance is located west of Highway 1, north of Digger Creek	Extends from Highway 1 to the shoreline via developed network of paths.	Proposed loop trail to return to Pacific Ocean Drive south of Gardens.
36. Mitchell Creek Shoreline	West of Highway 1, south of Mitchell Creek adjoining Pine Beach Inn	Paved trail extends to cove and beach from motel	Not to acquire fee access for non-guests, DPR to develop adjacent access.
37. Jug Handle Area Trail	Jug Handle State Reserve and adjoining properties; Old Highway 1 at Pine Beach Inn to Jug Handle Creek	Primarily public ownership, loop trail provides bluff-top and shoreline access. Interpretive signs at southern entrance.	Day use and trail improvements in park.
38. Jug Handle State Reserve-North Access	North of Bromley Creek, west of Highway 1.	40 acres reached by 80 foot wide access from Old Highway 1.	Day use with parking near entrance.
39. Jug Handle Creek Shoreline	South of Jug Handle Creek, west of Highway 1.	Main entrance to Jug Handle Reserve and Ecological Staircase	Residence and interpretative center, trail to beach
40. Caspar Road Alternative Trail	Old Highway 1 through Caspar to Doyle Creek	Trail follows existing road, County Road 569, then unimproved trail along headlands to beach.	Acquire blufftop trail on headlands
41. Fern Creek Road-Caspar Orchard Road Inland Trail	East of Caspar: From Highway 1 east along County Road 410, then southeasterly along County Road 411A into Jackson State Forest.	Pedestrian, bicycle, and equestrian use	Designated by County Trails Plan.
42. Caspar-Little Lake Road Inland Trail (Road 409)	South of Caspar; Highway 1 southeasterly to its intersection with Little Lake Road (Road 408)	Pedestrian/bicycle/equestrian use. Connects with alternative trail to west along old Highway 1	Designated by County Trails Plan.
43. Caspar Headlands State Beach Shoreline	Mouth of Doyle Creek	3 acre parcel; DPR beach parcel	Acquire additional beach and develop trail system
44. Caspar Headlands State Reserve	N. of Caspar Headlands South subdivision, south of Caspar Anchorage.	DPR: 4 non-contiguous parcels with subdivision of 10 vacant lots.	View and fishing area; acquire lots or trade to consolidate holding; develop for day use.
45. Point Cabrillo Alternative Coastal Trail	Old Highway 1 from Caspar Creek to Russian Gulch. (Now County Road 564)	Connects to Caspar-Little Lake Road and Cross-California Ecological Trail Corridor. Alternative to Highway 1 for bicyclists.	Post sign on Highway 1.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
46. Point Cabrillo Light House Shoreline	1 mile south of Doyle Creek along Point Cabrillo Drive, then 1 mile west on public road to Light House.	Blufftop at USCG Light Station and adjoining private land to the south.	Limited public access at no fee; picnicking, viewing and historic site tours; day use only.
47. Cross-California Ecological Inland Trail Corridor	From Russian Gulch State Park to Colusa and North Lake Tahoe Corridor	Hiking/equestrian trail exists in Russian Gulch State Park	Designated by DPR Hiking and Equestrian Trails Plan
48. Russian Gulch Blufftop	Russian Gulch State Park	Well developed and heavily used State Park	Addition of 100 campsites east of Highway 1. New parking area.
49. Mendocino Town Alternative Coastal Trail	Lansing Street to Heeser Dr, to Main Street to Big River-Mendocino Headlands State Park	Bluff access and viewing areas	Trail and parking area improvements.
50. Jack Peters Creek View Access	Intersection of Highway 1 and Lansing St. (County Road 500).	Bluff access for views; shoreline access at Jack Peters Creek	Improve and enlarge view turn-out
51. Little Lake Road Inland Trail	From Highway 1 at Mendocino, County Road 408 transverses northeasterly to intersection of Caspar-Little Lake Road (Road 409) to Highway 20.	Pedestrian, bicycle, and equestrian use.	Designated on County Trails Plan
52. Big River Beach and River Access	North shore of Big River, east of Highway 1 right-of-way	Unpaved parking area with access to river.	Improve parking area, allow small trolling motor boats.
53. Mendocino Headlands State Park	Unit divided into 3 separate areas: West end and shoreline of Mendocino Town peninsula; funded acquisition, east of Highway 1, north bank of Big River; and east of Highway 1, south of Comptche-Ukiah Road.	Trail, blufftop and shoreline access.	General Development Plan requested from DPR.
54. North Brewery Gulch Road Shoreline Access	South of Big River mouth, west of Comptche-Ukiah Road intersection with Highway 1	Wide bluff area with access to rocky intertidal area.	Accept offer of dedication by McMillen
55. Comptche-Ukiah Road Inland Trail	From Highway 1 southeasterly to Orr Springs and Low Gap Roads.	Pedestrian, bicycle and equestrian use on County maintained road.	Designated on County Trails Plan.
56. Mendocino Bay Alternative Coastal Trail	Old Highway 1, south of Big River mouth (Brewery Gulch Road).	Turn-outs with spectacular views of Mendocino and bay.	Maintain existing access.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
57. Van Damme State Park Trail	West of Highway 1; north of Gordon Lane to north of Little River	Blufftop trail	Develop parking area, trail, and shoreline access.
58. Van Damme State Park	Along Little River, west of Highway 1.	Handicapped access to large sandy beach.	Improved parking at beach relocation of group camp.
59. Little River Blowhole Vista Point	West of Highway 1; north of Little River Cemetery.	Private.	Vertical access trail to the blufftop.
60. Little River-Airport Road Inland Trail	From Highway 1 at Little River, northeasterly to Comptche-Ukiah Road.	Pedestrian, bicycle, and equestrian use	Designated by County Trails Plan
61. Highway 1 Bicycle Easement	North of Schoolhouse Gulch; Stillwell Point	Offer for easement for future use as bicycle trail	Accept offer to connect with future offers.
62. Buckhorn Cove Shoreline	North side of Buckhorn Cove, south of Little River	Rocky cove with sandy beach; private ownership	Acquire accessway and parking area
63. Heritage House Shoreline	North of Dark Gulch at Smith Creek	Beach on inn property. No fee public access in accord with deed restriction	Maintain.
64. Dark Gulch to Albion Trail	South of Dark Gulch; West of Highway 1	Private; spectacular ocean and harbor views.	Proposed blufftop trail from Dark Gulch to Albion Harbor.
65. Albion-Little River Road Inland Trail	Northeasterly of Highway 1 at Albion to Little River-Airport Road.	Pedestrian/bicycle/equestrian use.	Designated by County Trails Plan.
66. Albion Harbor County Road 403A	North side of Albion Harbor at terminus of County Road 403A	Private, river access at entrance to campground	Unimproved parking, gas
67. Albion Harbor under Highway 1 bridge	North side of Albion River at shoreline	Private, walking access through campground	Unimproved parking at beach;
68. Albion Harbor south of "The Pond"	North side of Albion River, east of County Road 403A	Private, river access	Boat launching, boat parking; maintain.
69. Albion Harbor Schooner's Landing	North side of Albion River, east of harbor	Private, numerous river access points	Residential trailers, camping, boat parking; maintain
70. Albion Harbor Field Station	South side of Albion River at Mendocino Biological Field Station	Private, pedestrian, fishing, and boat launching access	Maintain.
71. Albion South Bluff Trail	West of Highway 1 at Spring Grove Road to blufftop, then north-westerly to most western point of headland before termination.	Blufftop trail to views of coastline.	Acquire vertical and lateral access for blufftop trail.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
72. Salmon Creek	Old Highway 1 behind Gregory's Restaurant; north side of Salmon Creek, west of Highway 1	Private, old road leads to sandy beach, blufftop trail	Maintain. Acquire accessway along Spring Grove (CR# 401) south to Salmon Creek as a cond. of permits.
73. Navarro Ridge Road Inland Trail	From Highway 1 north of Navarro River, south-easterly to Highway 128.	Pedestrian/bicycle/equestrian use.	Designated by County Trails Plan.
74. Navarro Headland	West of Hwy 1, South of intersection with Navarro Ridge Road.	Blufftop trail westerly to bluff then south to view point overlooking the Navarro River.	Acquire access as indicated on land use map consistent with Policy 3.6-5.
75. Navarro River Shoreline Fishing Access	South bank, between bridge and river mouth	Large sandy beach. Wildlife Conservation Board ownership; road crosses private land on which prescriptive rights have been proven.	Secure agreement on improvement and maintenance of road.
76. Highway 1. Bicycle Easement	North of Cavanaugh Grade.	Offer of easement for future use of non-motorized traffic.	Accept offer to connect with future offers.
77. Cavanaugh Gulch Shoreline	2.2 miles north of Elk	200 foot sandy beach reachable from moderately sloping bluff.	Vertical access to be developed from Caltrans turnout.
78. Cufley's Point	1 mile north of Elk west side of Highway 1.	Superb view of coast across Greenwood Cove. No shoreline access.	Turnout and parking area, picnic tables. Caltrans to upgrade.
79. Greenwood Elk State Park	West of Highway 1 from center of Elk to south side of Greenwood Creek Beach.	Headlands and beach, recently acquired by DPR; undeveloped.	Prepared plan, provide parking area and trails; open for day use.
80. Elk Creek Shoreline	2 miles south of Elk	40 acres west of Highway 1 loop includes 500 foot sandy beach and 3 acre lagoon.	Acquire and develop for day use only.
81. Irish Gulch	Second parcel south of Irish Gulch	Private; pedestrian access to beach.	Acquire vertical access to join with shoreline access. Potential for parking area.
82. Irish Beach-Manchester Alternative Coastal Trail	Irish Beach to Stoneboro Road; Manchester State Beach.	Trail along sandy beach with non-vehicular access at Irish Beach, Alder Creek Beach Road, Kinney Road and Stoneboro Road	Acquire accessway adjoining mean high tide.
83. Alder Creek Beach Road Shoreline	2 miles north of Manchester, north end of Manchester State Beach	North entrance to State Beach (County Road 515)	Post sign at Highway 1, park-area improvements, restore abandoned houses.
84. Kinney Road Shoreline	1 mile north of Manchester, west of Highway 1	Marked entrance to Manchester State Beach & BOA campground.	Maintain.

SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

	<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
85.	Stoneboro Road Shoreline	.7 mile south of Manchester, west of Highway 1	County Road leading to southern entrance to Manchester State Beach; unsigned	Post sign at Highway 1 accessway to beach trail.
86.	Manchester Beach/ Garcia River	West of Hwy 1 south of Stoneboro Road.	Sandy beach & dunes west of grazing lands.	Beach trail extension to northside of Garcia River mouth, acquire easements as a condition of permit approval.
87.	Garcia River River access	End of Minor Hole Road, south bank of Garcia River	County road to fishing access open at no fee with conditions by private owner.	Post regulation signs along road; maintain.
88.	Point Arena Light Station Blufftop	3 miles northwest of City of Point Arena, end of Lighthouse Road	Improved road to USCG light station; viewing area. Light-house not open to public.	Request public access; construct and maintain view-turnouts along Lighthouse Road.
89.	Mendocino-Lake Community College Field Station	1.0 mile northwest of City of Point Arena	Blufftop view point with vehicular access.	Owned by Mendocino-Lake Community College District.
90.	P G & E Road	Existing road along northern boundary of the City of Point Arena.	Existing road used as vertical accessway to blufftop.	Acquire vertical accessway to connect to proposed lateral accessway at blufftop.
91.	Point Arena to Whiskey Shoals Trail	Along coast from Point Arena south to Whiskey Shoals	Blufftop trail and shoreline	Acquire accessway
92.	Mote Creek (Whiskey Shoals)	2.3 miles south of Point Arena; forms northern boundary of Whiskey Shoals subdivision.	Owned by Coastal Conservancy in 72-lot subdivision	Accessway and lateral blufftop trail shall be acquired for public use.
93.	Ross Creek Shoreline	2.5 miles south of Point Arena; adjoins Whiskey Shoals subdivision	Private beach access	Acquire accessway.
94.	Schooner Gulch/ Bowling Ball Beach-Shoreline/ Blufftop	3.3 miles south of the City of Point Arena	Path from highway turnout leads to sandy beach, unique bowling ball rocks on beach, blufftop and beach access.	DPR to acquire and develop for day use. Parking area to be developed east of Highway 1.
95.	Hearn Gulch Shoreline	4.5 miles south of the City of Point Arena at milepost 10.08.	Short trail to small cove and sandy beach	Acquire accessway; purchase parking area.
96.	Island Cove Shoreline	5 miles south of the City of Point Arena, south of Iverson Road.	700 foot sand beach on sheltered cove, reached by trail from parking area.	Potential for public access. No highway signing.
97.	Bayview Point Limited Scientific	1.5 miles north of Gualala, 10 acre peninsula parcel 1,100 feet west of Highway 1	Remnant of exceptional beauty with unusual plant species and wind-sculptured	Acquire right of scientific access.

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SUMMARY OF DESIGNATED COASTAL ACCESS POINTS AND TRAIL SYSTEM

<u>Name</u>	<u>Location</u>	<u>Characteristics</u>	<u>Existing/Potential Development</u>
98. Fish Rock Observation Point and Trail	West side of Highway 1, .25 miles north of Fish Rock Road	Private; vacant parcel with ocean and cliff views.	Potential for public access for view point. No highway signing until adequate parking is developed.
99. Fish Rock Road Inland Trail	2.8 miles north of Gualala from Highway 1 northeasterly to Highway 128.	Pedestrian and equestrian use.	Designated on County Trails Plan.
100. Anchor Bay Shoreline	Fish Rock Gulch, north of Anchor Bay town.	Sandy beach at campground.	Assure fee access for non-guests.
101. Getchell Gulch Blufftop/Shoreline	.5 mile south of Anchor Bay.	Short trail from Getchell Gulch across small headlands.	Acquire accessway.
102. Serenisea Shoreline	.5 mile south of Anchor Bay	Short trail to beach serves same beach as Getchell Gulch.	Assure fee access for non-guests.
103. St. Orres Creek Shoreline	1.1 mile south of Anchor Bay	200 foot cove.	Acquire vertical and lateral accessway. Off-street parking.
104. Cooks Beach Shoreline	1.3 miles south of Anchor Bay	500 foot sandy beach on south side of Glennen Gulch.	Acquire vertical and lateral accessway
105. Burns Landing	1.5 miles south of Anchor Bay	Open bluff with long views of shoreline, small beaches	Blufftop trail and shoreline access to be acquired.
106. Gualala Trail	Central Gualala to Gualala River bridge	Trail along bluff and Highway 1	Accept dedication offer.
107. Gualala River Bridge River Access	North bank of Gualala River, west of Highway 1.	Unimproved road to river, boat launching	Acquire accessway as indicated on land use map consistent with Policy 3.6-5.

4.5 HARE CREEK TO JUG HANDLE CREEK PLANNING AREA (South Fort Bragg)

South of Hare Creek, the Coastal Zone boundary is located approximately one and one-half miles east of Highway 1 thus including residential neighborhoods as far as two miles away from the coast.

A commercial zone on both sides of Highway 1 between Hare Creek and Boice Lane contains a building supply store, two equipment rental businesses, neighborhood grocery stores, a dairy, two motels, several campgrounds, and other highway-oriented and neighborhood commercial businesses.

Residential areas on either side of the commercial area along tributary roads such as Simpson Lane and Boice Lane are largely built out with one acre per single family dwelling parcel size predominating. Away from the tributary roads, parcel size may be five acres or larger. Although some of the larger parcels are used for agriculture, mainly grazing, the Rural Residential land use classification would encourage these uses to continue. Few parcels of 20 acres or larger exist between Hare Creek and Jug Handle Creek in the Coastal Zone.

Between Hare Creek and Boice Lane, Highway 1 has a median turn lane and bike lanes are planned in the future. The intersections of Highway 1 with Simpson Lane and Boice Lane are the sites of numerous vehicle accidents. Caltrans is considering installing a signal at the Simpson Lane intersection. Because Simpson Lane is heavily used by pedestrians, bicyclists, and equestrians, the North Central Coast CAC and the Northern California Trails Council have recommended that the 2.5 miles of Simpson Lane between Highway 1 and Mitchell Creek Drive be included in the County Trails Plan and have a high priority for road shoulder improvement.

A high water table and moderately intensive commercial development have caused septic system failures along Highway 1. Visitor facilities, including two heavily-used trailer parks, have contributed to these problems. Although the commercial zone needs sewer service, area residents strongly oppose annexation to the City of Fort Bragg which has designated Suburban Residential densities for the area. Residents of the area value the rural atmosphere and oppose high density development. Additional development would depend on provision of water and sewage disposal on each property or on the extension of Fort Bragg systems.

Designated Access Points and Recreation Areas

Policies for all access points, trails, and recreation areas are in Sections 3.6 and 3.7. Policies specific to locations in this planning area are listed below in geographic order from north to south. Each access point (other than fee access where designated) will need to be acquired by acceptance of an offer of dedication or by purchase by an appropriate public agency or private organization as described in Section 3.6:

Mendocino Gardens

Location: Garden entrance is located west of Highway 1 north of Digger Creek. The Garden extends to the shoreline via developed network of paths.

Ownership: Private and public. Of 47 acres, 12 acres were purchased in 1982 with State Coastal Conservancy funds and now managed by the Mendocino Coast Recreation and Park District.

Existing Development: Botanical garden developed with paths, concert area and blufftop and beach access. Restaurant at gate entrance.

Policy:

4.5-1 The Mendocino Coast Botanical Gardens shall be recognized in this Coastal Element as an important visitor service and public access facility. The Open Space and Planned Development designations shown on the Land Use Map for this property provide for viable land uses which will sustain public use of the gardens, the access trail and ocean view areas.

The entire property shall be evaluated by the County at the time of any proposed development, to assure that public access is maintained and improved.

Policy:

4.5-2 The offers to dedicate easements to the public for access shall be accepted and additional offers of dedication for public access easements shall be obtained for those areas shown on the land use plan map consistent with Policy 3.6-5 in order to complete this trail system. Vertical access from Pacific Ocean Drive to blufftop access shall be limited to non-motorized use.

Policy:

4.5-3 The Rapatz offer of access dedication, 25 feet wide along 210 feet of blufftop between Hare Creek and Digger Creek, shall be relinquished because there is no connecting vertical access nor plans for a coastal trail in this area.

Mitchell Creek

Location: West of Highway 1, south of Mitchell Creek, adjoining Pine Beach Inn to the south.

Ownership: Private

Existing Development: Paved trail from motel leads to 250-foot protected cove with sand beach. Offers of 25-foot accessway from mean high tide along the bottom of the bluff have been obtained from two adjoining lot owners, Day and Booth.

Policy:

4.5-4 An offer to dedicate public access to Mitchell Creek Beach for pedestrian use shall be required as a condition of permit approval for those areas delineated on the land use plan map. The California Department of Parks and Recreation should develop a public parking area on State property and develop a trail from the parking area to the beach.

Policy:

4.5-5 The offers to dedicate beach access by Booth and Day shall be accepted for these properties adjoining Mitchell Creek Beach. Access offers shall be required as a condition of permit approval from the other property owners surrounding Mitchell Creek Beach for the portion of the properties below the toe of the bluff, including all of the beach portions of the properties.

Jug Handle Area Trail

Location: Jug Handle State Reserve and adjoining properties; Old Highway 1 at Pine Beach Inn to then west across DPR parcel, then south to Jug Handle Creek.

Ownership: Primarily California State Department of Parks and Recreation (DPR). DPR owns a conservation easement on a large parcel south of Jefferson Way (Seitz) and a right of first refusal to purchase. DPR also owns three parcels in Jefferson Subdivision constituting a 3/14 interest in the subdivision and therefore a 3/14 interest in the recreational parcel in common, allowing public use of the shoreline parcel held in common by lot owners. In addition, DPR owns the adjoining land south of Jefferson Subdivision which has a deeded right of its owners to use this same recreational parcel.

Characteristics: Trail shown on Land Use Plan provides access to bluff top and shoreline from Old Highway 1 at north edge of Reserve and at the interpretive center south of Jug Handle Creek and at a point just north of the Seitz property driveway. The State Park parcels may be connected by a beach trail below the bluff westerly of the Jefferson Subdivision.

Policy:

4.5-6 Existing offers of dedication of access on a common, fractionally owned parcel from lot owners in Jefferson Subdivision shall be accepted.

Jug Handle State Reserve North Access

Location: West of Highway 1, between Mitchell Creek and Bromley Creek.

Ownership: DPR, Jug Handle State Reserve; 40 acres reached by 80-foot wide access from old Highway 1.

Characteristics: Unimproved trail to headlands and beach. Part of Jug Handle Area Trail.

Potential Development: Day use with parking near entrance.

Policy:

4.5-7 The Department of Parks and Recreation should prepare a management plan for the Jug Handle State Reserve. As indicated on the Land Use Maps, a hiking trail should be developed through State Department of Parks and Recreation

property. Identified entrances, with adequate off-street parking and limited day-use facilities, strategic locations to provide access to the trail system.

Areas of Jug Handle State Reserve east of Highway 1 in the Gibney Lane area should be considered for park status so that low impact, walk-in campsites may be developed.

An equestrian trail east of Highway 1 parallel to the highway and a trail connecting Highway 1 with Jackson State Forest should be designated.

The Department of Parks and Recreation should be required to institute a brush management program to remove Gorse and Scotch Broom in conjunction with County efforts (as directed by Policy 3.1-20) which have become a fire hazard and a threat to adjacent private lands.

Jug Handle Creek

Location: Jug Handle Creek.

Ownership: DPR, Jug Handle State Reserve.

Existing Development: Residence and interpretive center; trail to beach and Ecological Staircase. Part of Jug Handle Area Trail.

Potential Development: DPR proposes to relocate parking south of residence. The State Department of Parks and Recreation will provide, in their management plan, for a safe access and egress to the beach at the mouth of Jughandle Creek.

Visitor Accommodations and Services: Visitor accommodations and services are designated as a principal permitted use in the Hare Creek to Jug Handle Creek Planning Area at the following locations:

Pomo Campground	existing campground
Woodside Trailer Park	existing campground
Pine Beach Inn	existing motel and restaurant

In addition, many visitor accommodations and services are available along the commercial strip of Highway 1, but have not been designated on the land use map. These include the Mendocino Botanical Gardens, the Coast Motel, the Shoreline Motel and Hidden Pines Campground.