

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

15 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

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RECORD PACKET COPY

October 30, 1997

TO: ALL COMMISSIONERS AND INTERESTED PARTIES

FROM: Peter Douglas, Executive Director

SUBJECT: Appeal No. A-1-97-67 (Warner Bros., Mendocino Co.)

The late delivery of the attached report is highly unusual and is not a practice staff intends to repeat often in the future. However, there are unusual circumstances surrounding this project that warranted a creative and flexible approach in order to allow this project to be heard at the Commission's November meeting. Staff was informed and believes that if the Commission were not to hear this matter at the November meeting, the project would be terminated or, if carried out at all in California, would not be carried out in Mendocino. To avoid the possible demise of a project with significant economic ramifications for Mendocino, the staff took the initiative and assumes responsibility for the use of this highly unusual procedure to execute the processing of this matter at the November meeting. Staff apologizes for the lateness of the report but under the circumstances, it was a matter of either providing you with a report at the last minute or the project not going forward at all.

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Filed:	October 22, 1997
49th Day:	December 10, 1997
Staff:	Jo Ginsberg
Staff Report:	October 30, 1997
Hearing Date:	November 7, 1997
Commission Action:	

STAFF REPORT: APPEAL

LOCAL GOVERNMENT:	Mendocino County
DECISION:	Approval with Conditions
APPEAL NO.:	A-1-MEN-97-67
APPLICANT:	WARNER BROTHERS
AGENT:	Michael Walbrecht
PROJECT LOCATION:	Mendocino Headlands State Park, south of the Ford House on Main Street, near the coastal bluffs, Town of Mendocino, Mendocino County, APN 119-240-01.
PROJECT DESCRIPTION:	Construction (and demolition) of three temporary sets for filming a motion picture entitled "Practical Magic," including a 38-foot-high, 2,500-square-foot main house, gardens, a carriage house, a cottage, stone and gravel paths, fence with gated entry, and gravel access road.
APPELLANT:	CHARLES PETERSON
SUBSTANTIVE FILE DOCUMENTS:	Mendocino County Local Coastal Program; Mendocino County CDP #57-97.

SUMMARY OF STAFF RECOMMENDATION:

1. SUMMARY OF STAFF RECOMMENDATION: SUBSTANTIAL ISSUE

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellant has raised a substantial issue with the local government's action and its consistency with the certified LCP.

Mendocino County approved with conditions a coastal permit for construction and demolition of a temporary film set on the Mendocino headlands in the Town of Mendocino. The project initially had a completion date of April 1, 1998, by which time the set was to be completely removed from the State Park property. The Board of Supervisors revised the findings for the project, and removed this final date, stating that all improvements will be removed from the site as determined by State Parks.

The appellant contends that it was the temporary nature of the project (with a deadline of April 1, 1998) that allowed the County to find the project consistent with the natural resource, public access, and visual policies of the certified LCP and the access policies of the Coastal Act, and now that the final completion date has been deleted from the project by the Board of Supervisors, concerns about the project's impacts on public access and natural and visual resources are raised.

Commission staff agrees that it is the temporary nature of the project which allows it to be found consistent with many LCP policies, and that without a final completion date, there is no assurance that the project will be finished prior to the season of heavy public use, when impacts on public access and visual resources will be significant. Commission staff thus believes the project, as approved by the County, raises a substantial issue with regard to conformance with the public access and visual resource policies of the County's LCP, and with the public access policies of the Coastal Act.

The appellant also contends that since State Parks, as the lead agency for the project under CEQA, based their finding of categorically exempt, in part, on the April 1, 1998 deadline for project completion, the County, as responsible agency, cannot change the project description without further environmental review by State Parks. Furthermore, the appellant asserts that the final date of project completion was incorporated into the Mendocino Historical Review Board (MHRB) permit for the project, and that the applicant has not received a MHRB approval for the revised project approved by the Board of Supervisors, pursuant to the Mendocino County Zoning Code. However, staff believes that

the appellant's contentions regarding State Parks' obligations toward CEQA review are not a valid grounds for appeal, as they do not pertain to the project's conformance with the certified LCP or the public access policies of the Coastal Act. In addition, staff believes that while the appellant's contentions concerning MHRB approval is a valid grounds for appeal, it does not raise a substantial issue as the LCP does not require that the MHRB conduct follow-up reviews of projects originally approved by the MHRB that have been modified by the Board of Supervisors.

The Motion to adopt the Staff Recommendation of Substantial Issue is found on Page 5.

2. SUMMARY OF STAFF RECOMMENDATION DE NOVO: APPROVAL WITH CONDITIONS

The staff recommends that the Commission approve with conditions the coastal development permit for the proposed project on the basis that, as conditioned by the Commission, it is consistent with the County's certified LCP and with the public access and public recreation policies of the Coastal Act.

Staff believes that with a condition attached to the permit establishing a final completion date of the project prior to the start of the tourist season, and with other conditions similar to those imposed by the County, the project will be consistent with the County's LCP. Due to its temporary nature and to the terms and mitigations imposed by State Parks, the project, as conditioned, will not have any significant adverse impacts on visual resources, public access, or sensitive habitat, and will conform to the policies of the certified LCP. The project, as conditioned, will be sited and designed to minimize visual impacts; public access will be restricted only for brief periods and only within a small portion of the State Park; no development will take place within any sensitive habitat; and the site will be completely restored upon completion of the filming.

The Motion to adopt the Staff Recommendation of Approval with Conditions is found on Page 15.

STAFF NOTES:

1. Appeal Process.

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

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff.

Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP. Finally, developments which constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access and public recreation policies set forth in the Coastal Act.

The subject development is appealable to the Commission because the proposed development is located between the sea and the first public road paralleling the sea, and is also within 300 feet of the mean high tide line and the top of the seaward face of a coastal bluff.

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission would continue with a full public hearing on the merits of the project, which may occur at a subsequent meeting. If the Commission were to conduct a de novo hearing on the appeal, because the proposed development is between the first road and the sea, the applicable test for the Commission to consider would be whether the development is in conformity with the certified Local Coastal Program and with the public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, appellants, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

2. Filing of Appeal.

The appellant filed an appeal to the Commission in a timely manner on October 22, 1997, subsequent to the County's issuance of the Notice of Final Action, which was received in the Commission's offices on October 21, 1997.

3. Possible Additional Appeals.

Staff has received a letter from an additional interested party (see Exhibit No. 17) indicating that another appeal will be filed within the appeal period, which runs until November 4, 1997. Staff will address the concerns raised in the anticipated appeal and in the letter attached as Exhibit No. 17 in an addendum to be hand-delivered to the Commission as soon as it is available.

PART ONE - SUBSTANTIAL ISSUE

I. STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeal has been filed. The proper motion is:

MOTION:

I move that the Commission determine that Appeal No. A-1-MEN-97-67 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.

Staff recommends a NO vote. To pass the motion, a majority vote of Commissioners present is required. Approval of the motion means that the County permit action is final.

II. Findings and Declarations.

The Commission hereby finds and declares:

A. APPELLANTS' CONTENTIONS

The Commission received from Charles Peterson an appeal of the County of Mendocino's decision to approve the project. The project as approved by the County consists of the construction and demolition of three temporary film sets that includes a 38-foot-high, 2,500-square-foot main house, a 900-foot two-story cottage, an 800-square-foot carriage house, stone and gravel paths, gardens, a 10-foot-wide gravel access road, prefabricated bridge, turnaround, fence with gated entry, possible removal and reconstruction of a water tower, and use of an existing garage as a construction office.

The appellant's contentions involve inconsistency with the County's LCP policies regarding visual resources, specifically LUP Policies 3.5-1 and 3.5-2; with the County's LCP policies regarding natural resources and environmentally sensitive habitat areas, specifically Zoning Code Sections 20.496.010, 20.496.050, and 20.496.020 and LUP Policies 3.1-24, 3.1-2, and 3.1-7; with the Coastal Act's public access policies, specifically Coastal Act Section 30210; with CEQA compliance by State Parks; and with inadequate approval by the Mendocino Historical Review Board (MHRB). The appellant's contentions are summarized below, and the full text of the contentions are also included in Exhibit Nos. 9 and 10.

1. Visual Resources.

The appellant asserts that it is the temporary nature of the project that makes it consistent with the visual policies of the certified LCP, as the project was initially to have a final completion date of April 1, 1998 so that all materials would be gone in time for the season of heavy public use. The project approved by the Board of Supervisors does not have a final completion date, and, thus, the project is inconsistent with the visual resource policies of the LCP.

2. Public Access.

The appellant asserts that the lack of a completion date for the project as approved by the Board of Supervisors makes the project also inconsistent with the public access policies of the LCP and the Coastal Act, as the project is no longer guaranteed to be completed prior to the season of heavy public use of the site.

3. Natural Resources/Environmentally Sensitive Habitat Areas.

The appellant asserts that the elimination of the April 1 final completion date for the project creates a situation where there is a legitimate concern that natural resources and ESHA could be impacted to an unacceptable degree.

4. CEQA Compliance

The appellant contends that since State Parks, as the lead agency for the project under CEQA, based their finding of categorically exempt, in part, on the April 1, 1998 deadline for project completion, the County, as responsible agency, cannot change the project description without further environmental review by State Parks.

5. Mendocino Historical Review Board (MHRB) Permit.

The applicant was required to obtain an MHRB permit for the project. The MHRB permit issued for the project incorporates an April 1, 1998 deadline for project completion. The appellant contends that the applicant needs to obtain additional MHRB approval for the revised project approved by the Board of Supervisors, which has no final completion date required. Thus, the appellant believes the project as approved by the Board of Supervisors is inconsistent with the County's Zoning Code, which requires an MHRB permit for development in the Mendocino Historic District.

B. LOCAL GOVERNMENT ACTION

The project was approved by the Mendocino County Coastal Permit Administrator on September 25, 1997 with four special conditions (see Exhibit Nos. 12 and 13). Special Condition No. 1 required that during construction and removal of the access road and bridge adjacent to and over sensitive habitat areas, work shall be monitored by staff of the Department of Parks and Recreation to assure that the siting of the road, laying of fabric and rocks, and placement of bridge support members shall avoid all sensitive habitat. Special Condition No. 2 required that temporary debris barriers shall be placed adjacent to the drainage during road and bridge construction to prevent excess material from accidentally falling into sensitive habitat areas. Special Condition No. 3 required that Warner Brothers shall, prior to filming, hold a public meeting in Mendocino to inform the community of filming schedule, conditions required, road closures, and contact persons. Special Condition No. 4 required that within 30 days of removal of the film set, the applicant, in cooperation with the Department of Parks and Recreation, shall submit a site restoration assessment. If the assessment indicates that unanticipated impacts occurred that will require a greater amount of State resources, the applicant shall provide additional compensation to the State to achieve full restoration.

The Mendocino Headlands and Village Defense, represented by Beth Bosk, appealed this approval to the Board of Supervisors. The Board denied the appeal, upholding the action of the Coastal Permit Administrator, but also revised two findings, added an additional finding, and revised Special Conditions No. 3 and 4 (see Exhibit Nos. 10 and 11).

Finding No. 2 initially stated that all improvements will be removed from the site by April 1, 1998. Finding No. 2 was revised to state that all improvements will be removed from the site as determined by State Parks. Finding No. 4 initially stated that the proposed development, if constructed in compliance with the conditions of approval of the permit and the permit

from the Department of Parks and Recreation, will not have any significant adverse impacts on the environment within the meaning of CEQA because the use is temporary, all improvements will be removed by April 1, 1998, and the site will be restored with native vegetation. Finding No. 4 was revised to state that all improvements will be removed as determined by State Parks.

An additional finding was added to say that the Board understands the biological impacts that are vital have been thoroughly analyzed through the State Parks CEQA process, and the Board feels that State Parks will adequately protect the environment at whatever date set for removal of the temporary structures and restoration of the site.

Special Condition No. 3, as revised, requires that Warner Brothers shall, prior to and during filming, issue regular public notices in the Town of Mendocino of the filming schedule, conditions required, road closures, and contact persons. Special Condition No. 4, as revised, states that within 30 days of removal of the film set, the applicant, in cooperation with the Department of Parks and Recreation, shall submit a preliminary site restoration assessment and within 270 days shall submit a final assessment. If the assessment indicates that unanticipated impacts occurred that will require a greater amount of State resources, the applicant shall provide additional compensation to the State to achieve full restoration.

Notice of the County's final action was received by the Coastal Commission on March 21, 1997, and the project was then appealed to the Coastal Commission in a timely manner on March 22, 1997, within the 10-working day appeal period (see Exhibit Nos. 8 and 9).

C. PROJECT SETTING, DESCRIPTION, AND HISTORY.

1. Project and Site Description.

The subject site consists of approximately a one-acre portion of the 376-acre Mendocino Headlands State Park in the Town of Mendocino, south of Main Street, approximately 600-800 feet south of the Ford House, near the coastal bluffs.

There is no environmentally sensitive habitat in the specific area of the temporary set. The ecologist from the Department of Parks and Recreation who examined the site indicates that the site has suffered much disturbance in the past, and contains a number of non-native plant species. An environmentally sensitive habitat area consisting of a seasonal drainage and associated wetlands is located between the Ford House and the set location.

The project as approved by the County consists of the construction and demolition of three temporary film sets that includes a 38-foot-high, 2,500-square-foot main house, a 900-foot two-story cottage, an 800-square-foot

carriage house, stone and gravel paths, gardens, a 10-foot-wide gravel access road, prefabricated bridge, turnaround, fence with gated entry, possible removal and reconstruction of a water tower, and use of an existing garage as a construction office (see Exhibit No. 4). Set construction will occupy approximately a half-acre portion of the site. According to the project description, set construction is anticipated to occur between October and January 1; filming scheduled from January 1 to March 1; and set removal is scheduled to occur between March 1 and April 1. Site restoration (planting of native plant materials) would take place after April 1, 1998.

2. Project History.

The State Department of Parks and Recreation owns the subject property, and has granted a permit to Warner Brothers to use a portion of the Mendocino Headlands State Park for the proposed project. State Parks is requiring that Warner Brothers adhere to a number of terms and conditions during the construction and demolition of the film set to ensure that there will be no significant adverse impacts resulting from the proposed development (see Exhibit No. 14).

D. SUBSTANTIAL ISSUE ANALYSIS.

Section 30603(b)(1) of the Coastal Act states:

The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.

1. Appellants' Contentions That Are Related to LCP Policies or Chapter 3 Access Policies (Valid Grounds for Appeal).

Several of the contentions raised in the appeal present potentially valid grounds for appeal in that they allege the project's inconsistency with policies of the certified LCP or with the public access policies of the Coastal Act. In two of these cases, the Commission finds that a substantial issue is raised.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

"With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603."

A-1-MEN-97-67
WARNER BROTHERS

Page Ten

As discussed above, the grounds identified in section 30603 for an appeal of a local government action are limited to whether the action taken by the local government conforms to the standards in the LCP and the public access policies found in the Coastal Act. The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." (Cal.Code Regs., tit. 14, section 13115(b).) Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

a. Visual Resources.

The appellant contends that it is the temporary nature of the project that makes the project compatible with the visual policies of the certified LCP. The project was initially to have a final completion date of April 1, 1998 so that all materials would be gone in time for the season of heavy public use. The project approved by the Board of Supervisors does not have a final completion date, and thus, the project is inconsistent with the visual resource policies of the LCP, as the park's visual resources may be impacted to an unacceptable degree.

Discussion: LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

LUP Policy 3.5-2 states that the Town of Mendocino is designated as a "special community," and that development in the Town shall maintain and enhance community character, as defined in the Mendocino Town Plan. Mendocino Town Plan Policy 4.13-1 states that new development shall protect the special community of Mendocino which, because of its unique characteristics, is a popular visitor destination point for recreational uses.

Zoning Code Section 20.504.020 designates the Town of Mendocino as a "special community," and includes development criteria within this special community. Section 20.504.020(C) states that the scale of new development shall be within the scope and character of existing development in the surrounding

neighborhood, and that new development shall be sited such that public coastal views are protected.

The proposed project consists of development of a temporary film set on the coastal bluffs of the Mendocino Headlands State Park in the Town of Mendocino. As initially proposed, all improvements would be removed by April 1, which marks the approximate beginning of the "tourist season," when large numbers of visitors come to the scenic Town of Mendocino and visit, among other things, the State Park. While the structures and other development proposed by the project are not improvements that would be approved for permanent development on the site, as the site is a state park designated for Open Space, given the temporary nature of the project and its removal prior to the start of tourist season, the visual impacts will be minimal. According to County staff, the change to the finding regarding removal of all improvements had the effect of amending the project description to delete the proposed April 1 completion deadline. To the degree that the completion date has actually been deleted from the project description, it can no longer be concluded that the project as approved will not create visual impacts during the time of high visitor use, and will be sited and designed to protect public coastal views, be visually compatible with the character of the area, and protect the special community of Mendocino. As the project site is a popular state park that attracts many thousands of visitors each year from around the world, the coastal resource that is affected by the County's decision--visual and scenic resources--is of greater than local significance.

Thus the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP policies regarding visual and scenic resources.

b. Public Access.

The appellant asserts that since the project approved by the Board of Supervisors no longer has a final completion date, and is no longer guaranteed to be completed prior to the season of heavy public use of the site, the project is inconsistent with the public access policies of the LCP and the Coastal Act, as the project will have adverse impacts on public access.

Discussion: Coastal Act Policy 30210 states that maximum access 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. The County's LCP also contains a number of policies regarding provision of public access.

Although the public access trails that border the set location will remain open to the public for the most part, they will be restricted from use when the cameras are rolling, for up to twenty minutes at a time (as required by State Parks). The temporary nature of the project as initially proposed by the applicant makes the project consistent with the public access policies of the LCP and the Coastal Act, as the restrictions on public access use would be minor, would affect only a very small portion of the State Park, and would only occur during the "off-season." However, without a final completion date, the public access impacts would be significant, as public access may be adversely affected during the period of high visitor use, and, overall, for an unacceptably long period of time. As the subject site is a state park that attracts large numbers of visitors from all over the world, the coastal resource that is affected by the County's decision--public access--is of greater than local significance.

Thus the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LCP and Coastal Act policies regarding public access.

c. Mendocino Historical Review Board (MHRB) Permit.

The appellant contends that the applicant was required to obtain an MHRB permit for the project, and the MHRB permit incorporates the April 1, 1998 deadline for project completion. The applicant has not received MHRB approval for the revised project approved by the Board of Supervisors (with no final completion date required). Thus, the project as approved by the Board of Supervisors is inconsistent with the County's Zoning Code which requires an MHRB permit for development in the Mendocino Historical District.

Discussion: Section 20.720.025(D) of the Mendocino Town Zoning Code states that any coastal development permit application must include verification that the proposed development has met or is exempt from the requirements of Chapter 20.760, Mendocino Historical District. Section 20.760 of the Mendocino Town Zoning Code requires that an MHRB permit for development within the Town's Historical Preservation District be obtained, subject to established standards.

The applicant asserts that the Mendocino Historical Review Board approved a permit for a project with a final completion date, and that it did not review the revised project, which had no final completion date. However, the County's LCP does not require that the MHRB conduct follow-up reviews of projects originally approved by the MHRB that are subsequently modified by the Coastal Permit Administrator, Planning Commission, or Board of Supervisors. Thus, the Commission finds that the project as approved by the County raises no substantial issue with respect to conformance of the approved project with the LCP policies regarding MHRB permits.

d. Natural Resources.

The appellant asserts that the elimination of the April 1 final completion date for the project creates a situation where there is a legitimate concern that natural resources could be impacted to an unacceptable degree, inconsistent with Zoning Code Section 20.496.

Discussion: LUP Policy 3.1-24 states that any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some development under mitigating conditions but would assure the continued protection of the resource. Zoning Code Section 20.496.050 states that State Parks are considered designated resource areas, and that any development within designated resource areas shall be reviewed and established in accord with conditions which could allow some development under mitigating conditions but which assures the continued protection of the resource area.

The Mendocino Headlands are designated in the LUP as a "natural area." Mendocino Headlands State Park, because it is a state park, is also designated as a "resource area." The project as approved includes mitigating conditions that will assure protection of the resource area consistent with Zoning Code Section 20.496.050, whether or not the project ends April 1 or after some longer, but still temporary period. Mitigations imposed by State Parks and required by the County include the placement of barrier fabric to separate the native soil from imported materials; the placement of a temporary bridge to span the drainage swale; the stockpiling of removed soil and native plants; complete restoration of all disturbed areas including replanting of native plants and trees; monitoring by State Parks personnel, etc., to protect the site's habitat consistent with the policies of the LCP.

Furthermore, since there are no rare or endangered plant or animal species on the development site, and no development is proposed directly within the drainage swale, which is the only environmentally sensitive habitat area within the project area, the LCP policies regarding protection of ESHA do not apply.

Thus the Commission finds that the project as approved by the County raises no substantial issue with respect to conformance of the approved project with the LCP policies regarding natural resources.

2. Appellants' Contentions That Are Not Valid Grounds for Appeal:

One of the contentions raised in this appeal is not a valid grounds for appeal because it is not supported by any allegation that the development is not consistent with the County's certified LCP or with the public access policies of the Coastal Act. This contention is discussed below.

a. CEQA Compliance

The appellant contends that since State Parks, as the lead agency for the project under CEQA, based their finding of categorically exempt, in part, on the April 1, 1998 deadline for project completion, the County, as responsible agency, cannot change the project description without further environmental review by State Parks.

Discussion: This contention is not a valid ground for appeal. The Commission's appellate jurisdiction is limited to the types of development described in Public Resources Code Section 30603(a) and the grounds described in Section 30603(b). Consequently, on appeal, the Commission considers only whether the appeal raises issues of consistency with the certified Local Coastal Program or the public access and recreation policies of the Coastal Act. The certified LCP contains no policy or requirement addressing CEQA review. Thus, the Commission finds that the appellants' above-referenced contention, even if true, does not constitute a valid basis for appeal of the project.

3. Conclusion.

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the visual and scenic resource policies of the LCP, and with the public access policies of the LCP and the Coastal Act.

PART TWO - DE NOVO ACTION ON APPEAL

Notes

1. Procedure.

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP or the public access and public recreation policies of the Coastal Act, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

2. Incorporation of Substantial Issue Findings.

The Commission hereby incorporates by reference the Substantial Issue Findings above.

I. STAFF RECOMMENDATION DE NOVO:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions:

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that the development, as conditioned, is in conformance with the certified Mendocino County LCP, is located between the sea and first public road nearest the shoreline and is in conformance with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions: See attached.

III. Special Conditions:

1. Final Plans for Temporary Bridge.

PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF THE PROPOSED TEMPORARY BRIDGE, the applicant shall submit for the review and approval of the Executive Director final construction plans for the bridge and pathways in the vicinity of the drainage swale.

The plans shall incorporate the following elements: (a) the bridge shall completely span the drainage swale and shall be constructed without any supporting structure to be placed within the swale; (b) the bridge shall be supported by timber sleepers in accordance with the requirements of the Department of Parks and Recreation; (c) all leveling shall be done by the placement of imported material rather than by excavation; (d) fabric shall be placed under all imported material; and (e) a temporary debris barrier shall be in place adjacent to the drainage during road and bridge construction to prevent excess material from falling into the wetland. All development shall proceed in accordance with the plans as approved by the Executive Director. Any deviation from the plans must be approved by the Executive Director prior to the change being made.

2. Final Date of Completion.

All proposed improvements shall be removed from the site by April 1, 1998. The Executive Director may extend the removal date to as late as May 1, 1998, if at least one week prior to April 1, the applicant provides written evidence that the Department of Parks and Recreation has authorized continued use of the site up to the requested extension date.

3. Minimize Disturbance to Public Access.

The applicant shall minimize the closure of trails to public access use during the construction, use, and removal of the film set consistent with public safety needs. During the period of use of the set, public access on the trails shall be restricted only during active filming.

4. Construction Restrictions.

Except where foundation piers are needed for structural integrity, all construction shall take place above ground level. Except where trees must be planted, all landscaping shall take place above ground level. Except where fence posts need to be buried for structural integrity, all fencing shall be done above ground. All road, trail, and landscaping construction shall include the laying down of appropriate fabric to separate the native soil from imported materials.

All soil removed as a result of excavation at the project site shall be stockpiled and shall be used to fill in any holes left at the end of the project.

5. Archaeological Monitoring.

In all cases where digging will take place on park property, a qualified archaeological monitor must be on-site. In the event that historical or

archaeological artifacts are uncovered, all digging will cease until the archaeological monitor can assess the significance of the exposed material. If the monitor determines that continued digging at the site would threaten significant park cultural resources, digging must be moved to an alternate location that is acceptable to the archaeological monitor.

6. Public Notice.

The applicant shall, prior to and during filming, issue regular public notices in the Town of Mendocino of the filming schedule, conditions required, road closures, and contact persons.

7. Night Lighting.

Any nighttime security lighting that is necessary shall be down cast, shielded, and cast away from the Town of Mendocino.

8. Site Restoration.

Upon completion of the project, the site shall be restored to its previous condition. All structures, the temporary bridge, access improvements, all imported materials, barrier fabrics, construction scrap, hardware, litter, and debris shall be completely removed and disposed of in a lawful manner. The applicant shall ensure that ground contours are restored to their original condition and that denuded areas are revegetated in accordance with the requirements of the Department of Parks and Recreation. The required removal of items shall be completed by the removal date specified in Special Condition No. 2.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares as follows:

1. Project and Site Description:

As noted in the Substantial Issue portion of this report, the subject site consists of approximately a one-acre portion of the 376-acre Mendocino Headlands State Park in the Town of Mendocino, south of Main Street, approximately 600-800 feet south of the Ford House, near the coastal bluffs.

There is no environmentally sensitive habitat in the specific area of the temporary set. The State Parks ecologist indicates that the site has been disturbed in the past, and contains many non-native plant species. An environmentally sensitive habitat area consisting of a seasonal drainage and associated wetlands is located between the Ford House and the set location.

The project as approved by the County consists of the construction and demolition of three temporary film sets including a 38-foot-high, 2,500-square-foot main house, a 900-foot two-story cottage, an 800-square-foot carriage house, stone and gravel paths, gardens, a 10-foot-wide gravel access road, prefabricated bridge, turnaround, fence with gated entry, possible removal and reconstruction of a water tower, and use of an existing garage as a construction office (see Exhibit No. 4). Site restoration (planting of native plant materials) would take place after removal of the set.

2. Planning and Locating New Development:

Policy 3.9-1 of the Mendocino County LUP states that new development shall be located in or in close proximity to existing areas able to accommodate it, and shall be regulated to prevent any significant adverse effects, either individually or cumulatively, on coastal resources. Policy 3.8-1 of the LUP requires consideration of Highway One capacity and availability of water and sewage disposal when considering applications for Coastal Development Permits. The intent of this policy is to channel development toward more urbanized areas where services are provided and potential impacts to resources are minimized.

The subject property, which is owned and managed by State Parks as the Mendocino Headlands State Park, is designated Open Space (OS) in the Mendocino Town LCP. In part, the district is applied to "lands in public ownership for recreational use and to lands most valuable in their undeveloped natural state such as those lands which contain rare and endangered species and habitat, riparian vegetation zones, sites of historic or archaeological significance, or scenic areas..." The State Park is used by over 900,000 visitors annually for recreation, ocean access, and spiritual purposes. As pointed out by County staff, over the years, it has also been the site for temporary public gatherings and events of a political, environmental, or social nature, including demonstrations, presidential rallies, film and television production, the annual music festival, and personal gatherings to commemorate the loss of loved ones or to celebrate new life, new unions, or personal passages. The use of the headlands is as varied as each of its visitors.

Principal permitted uses in the OS district allow for a variety of open space and passive recreational uses. Film production is not specifically provided for in this or other zoning districts in the town. Chapter 20.704 (Accessory Use Regulations) and 20.708 (Temporary Use Regulations) of the Zoning Code, however, do address other types of uses that are necessarily and customarily associated with principal uses or that are temporary in nature.

Section 20.704.010(A) of the Mendocino Town Zoning Code provides, in part, that

In addition to the principal uses expressly included in the zoning districts each use type shall be deemed to include accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses. When provided by these regulations, it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based on the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use...

The Planning Director has determined that the proposed film set qualifies as an accessory use in the OS zoning district. The Commission also considers the temporary and limited nature of the proposal to be accessory to the current use of the State Park, and finds that it is consistent with prior uses of the State Park for film production.

The specific reference to film production as a use is found in Section 20.708.010(F) of the Mendocino Town Zoning Code, which provides:

Film Production. The temporary use of a building, structure or property for the purposes of film production. If film production activities constitute development as defined by Section 20.608.023(C), a Coastal Development Permit shall be required.

As did the County, the Commission interprets the presence of this section in the code, together with the fact that film production is not specifically listed in the Zoning Ordinance in any zoning district, to mean that film production is allowed as an accessory use in any zoning district, subject to obtaining a coastal permit (as opposed to a use permit).

The proposed development includes temporary construction of a 38-foot-high main house as part of a film set. There is no maximum height limit for structures in designated Open Space districts as there is in the residential, commercial, and other districts within the Town of Mendocino. Thus the 28-foot-high structure proposed for temporary construction is not inconsistent with any height limitations in the LCP.

The temporary project will not affect groundwater resources in the project vicinity, as any water needed for the site will be provided by a local water hauled, and the public restrooms near the Ford House will be used by the production crew.

The Commission thus finds that the proposed project is consistent with LUP Policies 3.9-1 and 3.8-1 to the extent that the parcel is able to accommodate the proposed development and that adequate services are available, and is consistent with the Town Plan's Open Space designation of the subject parcel.

3. Visual Resources:

LUP Policy 3.5-1 states that the scenic and visual qualities of Mendocino County coastal areas shall be considered and protected as a resource of public importance, and that permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually degraded areas.

LUP Policy 3.5-2 states that the Town of Mendocino is designated as a "special community," and that development in the Town shall maintain and enhance community character, as defined in the Mendocino Town Plan. Mendocino Town Plan Policy 4.13-1 states that new development shall protect the special community of Mendocino which, because of its unique characteristics, is a popular visitor destination point for recreational uses.

Zoning Code Section 20.504.020 designates the Town of Mendocino as a "special community," and includes development criteria within this special community. Section 20.504.020(C) states that the scale of new development shall be within the scope and character of existing development in the surrounding neighborhood, and that new development shall be sited such that public coastal views are protected.

The proposed project consists of development of a temporary film set on the coastal bluffs of the Mendocino Headlands State Park in the Town of Mendocino. Improvements include construction and demolition of a 38-foot-high, 2,500-square-foot main house, a 900-foot two-story cottage, and an 800-square-foot carriage house. The originally proposed location for the film set was Portuguese Point at the southwestern point of the headlands (see Exhibit No. 3), and included higher and larger set structures. This location is in the most visually prominent part of the park, and the proposal generated a significant amount of public opposition. The applicants reduced the height and size of set structures and agreed with State Parks on an alternate location, at the proposed site. This location is less visually prominent from locations in town, and has received approval from the Mendocino Historical Review Board.

In its current location, the proposed development will be visible from various locations in Town, along Highway One, within the State Park, and access points across Mendocino Bay. Were the film set to be permanent, it would not be

consistent with various visual policies of the LCP. For example, the development would interrupt a view of a scenic coastal area, inconsistent with LUP Policy 3.5-1. However, if the proposed development was sufficiently temporary in nature and was to be removed prior to periods of heavy visitor use of the area ("tourist season"), the impacts on visual resources would be so insignificant that the proposed development would not conflict with the visual policies of the LCP.

As originally proposed, the project had a final completion date of April 1, 1998. It is unclear whether the project in its current form, as modified by the Board of Supervisors to change a finding to eliminate referral to the April 1 completion date, has a final completion date or not. The Commission, therefore, attaches Special Condition No. 2, which requires that all proposed improvements shall be removed from the site by April 1, 1998, unless the Executive Director extends the removal date to no later than May 1, 1998 subsequent to written approval from the Department of Parks and Recreation.

To further reduce the impacts of the proposed development on visual resources, the Commission attaches Special Condition No. 7, which requires that any nighttime security lighting that is necessary shall be down cast, shielded, and cast away from the Town of Mendocino.

The Commission thus finds that the project, as conditioned, is consistent with LUP Policies 3.5-1, 3.5-2, and 4.13-1, and Zoning Code policy 20.504.020, as the visual impacts of the project will be minimized, and the temporary nature of the project will protect the visual character and scenic resources of Mendocino.

4. Public Access:

Projects located within the coastal development permit jurisdiction of a local government are subject to the coastal access policies of both the Coastal Act and the LCP. Coastal Act Sections 30210, 30211, and 30212 require the provision of maximum public access opportunities, with limited exceptions. Section 30210 states that maximum access and recreational opportunities shall be provided 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 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. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, adequate access exists nearby, or agriculture would be adversely affected. The County's LCP also contains a number of policies regarding the provision of public access.

In its application of these policies, the Commission is limited by the need to show that any denial of a permit application based on these sections, or any decision to grant a permit subject to special conditions requiring public access, is necessary to offset a project's adverse impact on existing or potential public access.

The subject site is located west of the first public road and sits atop a steep coastal bluff within the Mendocino Headlands State Park. The project will temporarily restrict public access within a small portion of the State Park. The set location is bordered on two sides by existing trails, but no construction will occur over these trails. The trails will remain open for the public to continue using, and will be restricted from use only when cameras are actually rolling. State Parks is requiring a number of terms and conditions regarding public access (see Exhibit No. 14). State Parks requires that all trails, in general, will remain open for public use during set construction, and that trails may only be closed with the knowledge and written permission of State Parks. During active filming, public access and egress on the trails adjacent to the project site may be halted for up to 20 minutes. State Parks also limits construction to daylight hours and prohibits filming on holidays and holiday weekends.

The project was initially approved with a final completion date of April 1, 1998, but was later revised to remove this date. To ensure that the project is completed by April 1, 1998 (or by May 1 if approved by State Parks), so that public access is not impeded during the heavy tourist season, the Commission attaches Special Condition No. 2, requiring that the project be completed by April 1, 1998, or by May 1, 1998 if extended by the Executive Director subsequent to approval by State Parks. To ensure that public access is disrupted as little as possible during the project, the Commission attaches Special Condition No. 3, requiring that public access use of the trails be restricted only during active filming or as needed for public safety purposes during construction and removal of improvements.

Since the proposed development, as conditioned, will have minimal and temporary impacts on existing public access, and since the project will affect only a one-acre portion of the 376-acre State Park and will be in place only during the "off-season," the Commission finds that the proposed project, as conditioned, will not have any significant adverse impact on public access and is consistent with the public access policies of the Coastal Act and the County's LCP.

5. Natural Resources/Environmentally Sensitive Habitat Areas.

LUP Policy 3.1-24 states that any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some

development under mitigating conditions but would assure the continued protection of the resource. Zoning Code Section 20.496.050 states that state parks are considered designated resource areas, and that any development within designated resource areas shall be reviewed and established in accord with conditions which could allow some development under mitigating conditions but which assures the continued protection of the resource area.

Policy 3.1-10 states that areas where riparian vegetation exists are environmentally sensitive habitat areas that shall be protected against any significant disruption of habitat values by requiring mitigation for those uses which are permitted. Zoning Code Section 20.496.020(A) states in part that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to provide for a sufficient area to protect the ESHA from degradation. Section 20.496.020(A)(4) states that development permitted within the buffer area shall comply with a number of standards, including that development shall be compatible with the continuance of the adjacent habitat area, that structures will be allowed within the buffer area only if there is no other feasible site available on the parcel, and that development shall be sited and designed to prevent impacts which would degrade adjacent habitat areas.

Section 20.496.035 states in part that no development or activity which could degrade a riparian area or diminish its value as a natural resource shall be permitted in the riparian corridor or in any area of riparian vegetation except for, among others, road and trail crossings when no less environmentally damaging alternative route is feasible.

Policy 3.1-7 of the LUP requires establishment of a buffer area adjacent to all environmentally sensitive habitat areas to protect the sensitive habitat from significant degradation resulting from development. Developments permitted within a buffer area shall generally be the same as those uses permitted in the adjacent environmentally sensitive habitat area and must be sited and designed to prevent impacts which would significantly degrade such areas; shall be compatible with the continuance of such habitat areas by maintaining their functional capacity and their ability to be self-sustaining and to maintain natural species diversity; and structures will be allowed with the buffer area only if there is no other feasible site available on the parcel.

The Mendocino Headlands are designated in the LUP as a "natural area." Mendocino Headlands State Park, because it is a state park, is also designated as a "resource area." While there is no Environmentally Sensitive Habitat in the specific area of the temporary set, some native plants have been identified in that area, and an environmentally sensitive habitat area consisting of a seasonal drainage with associated wetlands is located between the Ford House and the set location. An existing access trail runs through

this area which is proposed to be widened and used for vehicular access to the set. The access road will be approximately 10 feet in width, and placed over the existing grade. The road construction will be achieved by placing a layer of geotextile (separation fabric) on the ground, and then placing an aggregate rock layer on the fabric. As the trail approaches the existing drainage (near an existing footbridge), a prefabricated bridge will be placed which will span the wetlands. The bridge will cross over the sensitive habitat, but no fabric, rock, or bridge supports will be placed on or in the wetlands themselves.

As noted above, Zoning Code Section 20.496.035(A)(2) allows roads and trails in areas within riparian vegetation if there is no less environmentally damaging alternative. Even if the proposed trail and bridge development actually extended into the ESHA, which it does not, it would be allowable under this section as there will be no adverse environmental impacts resulting from the development, and there is no other feasible, less environmentally damaging alternative available on the site. The drainage swale must be crossed to get from the nearest roadway to the film site. Thus, the proposed bridge and road expansion are allowable within the buffer area, pursuant to Zoning Code Section 20.496.020(A)(1), which states that "developments permitted within a buffer area shall generally be the same as those permitted in the adjacent ESHA." Since the bridge and roadway expansion could be permitted in this ESHA, they can be permitted in the buffer area.

Furthermore, pursuant to LUP Policy 3.1-7 and Zoning Code Section 20.496.020(A)(4), the proposed bridge and roadway expansion are allowable since there is no feasible less environmentally damaging alternative, and since the project has been mitigated to avoid or minimize all impacts to the adjacent ESHA.

To ensure that there are no significant adverse impacts to sensitive habitat or natural resources, the Commission attaches a number of special conditions. The Commission attaches Special Condition No. 1, which requires that prior to the commencement of construction of the proposed temporary bridge, the applicant shall submit for the review and approval of the Executive Director final construction plans for the bridge and pathways in the vicinity of the drainage swale, and that the plans shall incorporate the following elements: (a) the bridge shall completely span the drainage swale and shall be constructed without any supporting structure to be placed within the swale; (b) the bridge shall be supported by timber sleepers in accordance with the requirements of the Department of Parks and Recreation; (c) all leveling shall be done by the placement of imported material rather than by excavation; (d) fabric shall be placed under all imported material; and (e) a temporary debris barrier shall be in place adjacent to the drainage during road and bridge construction to prevent excess material from falling into the wetland. Such review of the final plans will ensure that there will be no encroachment into the wetlands.

The Commission also attaches Special Condition No. 4, which requires that wherever possible, all construction, landscaping, and fencing shall be done above ground, and that all soil removed as a result of excavation at the project site shall be stockpiled and shall be used to fill in any holes left at the end of the project. Finally, all road, trail, and landscaping construction shall include the laying down of appropriate fabric to separate the native soil from imported materials.

The Commission also attaches Special Condition No. 8, which requires site restoration to its previous condition, including removal of all structures, the temporary bridge, access improvements, all imported materials, barrier fabrics, construction scrap, hardware, litter, and debris, and restoration of all disturbed areas, in accordance with the requirements of the Department of Parks and Recreation.

The Commission thus finds that as conditioned, the proposed project is consistent with LUP Policies 3.1-24, 3.1-7, and 3.1-10, and Zoning Code Sections 20.496.050, 20.496.020, and 20.496.035, as natural resources and sensitive habitat will be protected, there will be no development within any areas of sensitive habitat, and the project will be in place only temporarily.

6. Archaeological/Cultural Resources:

LUP Policy 3.5-10 requires the County to review all development permits to ensure that proposed projects will not adversely affect existing archaeological and paleontological resources, and that a field survey should take place prior to approval of any proposed development within an area of known or probable archaeological or paleontological significance. The policy also requires that proposed projects incorporate reasonable mitigation measures so the development will not adversely affect existing archaeological/paleontological resources.

Conditions imposed upon the applicant by the Department of Parks and Recreation will limit the potential for any impacts to archaeological resources. No grading or scraping of the soil is allowed for the access road, paths, landscaping, or buildings. The applicant will be allowed to dig holes for foundation piers (no concrete) to support the buildings, for temporary landscaping, and where fence posts need to be buried for structural integrity. The area of proposed use has been reviewed by an archaeologist on the staff of the Department of Parks and Recreation. The site is not considered archaeologically sensitive, except for the area in the vicinity of the Ford House, which is not proposed for development. However, in all cases where any excavation or digging occurs, the activity will be monitored by a state parks archaeological monitor. In the event resources are encountered, all digging must cease, and the site will be evaluated.

To ensure no impacts to archaeological resources, the Commission attaches Special Condition No. 5, which requires that in all cases where digging will take place on park property, an archaeological monitor must be on-site, and that in the event that historical or archaeological artifacts are uncovered, all digging will cease until the archaeological monitor can assess the significance of the exposed material. If the monitor determines that continued digging at the site would threaten significant park cultural resources, digging must be moved to an alternate location that is acceptable to the archaeological monitor.

To minimize the potential for disturbance, the Commission further attaches Special Condition No. 4, which requires that, whenever possible, all construction, landscaping, and fencing shall be done above ground, and that all road, trail, and landscaping construction shall include the laying down of appropriate fabric to separate the native soil from imported materials.

The Commission finds that the proposed project, as conditioned, is consistent with LUP Policy 3.5-10, as archaeological resources will be protected from disturbance.

7. Mendocino Historical Review Board Permit.

Section 20.760.030 of the Town Zoning Code lists types of development activities within the Mendocino Historic Zone A which require approval of the Mendocino Historical Review Board (MHRB). The proposed development, which is located within Historic Zone A, requires approval from the MHRB. Pursuant to the regulations, the applicant did obtain approval from the Mendocino Historical Review Board. The Commission finds, therefore, that the proposed project is consistent with Town Zoning Code Section 20.760.030.

8. California Environmental Quality Act (CEQA).

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

The proposed project has been conditioned to be found consistent with the policies of the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures have been imposed to minimize all adverse environmental impacts. These measures include the following: (1) that prior to the commencement of construction of the proposed

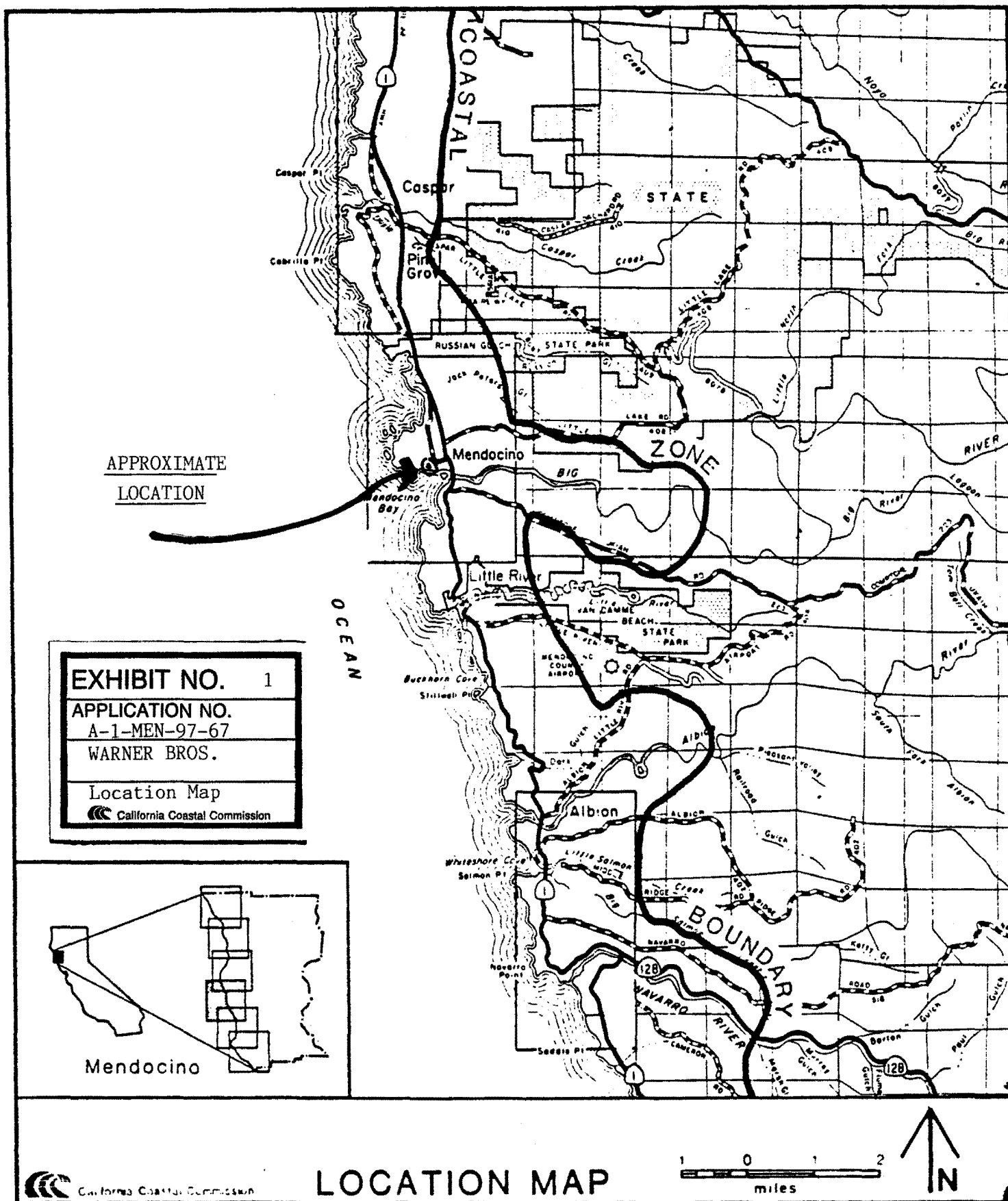
temporary bridge, the applicant shall submit for the review and approval of the Executive Director final construction plans for the bridge and pathways in the vicinity of the drainage swale; (2) that all proposed improvements shall be removed from the site by April 1, 1998; (3) that the applicant shall minimize the closure of trails to public access use during the construction, use, and removal of the film set consistent with public safety needs, and that during the period of use of the set, public access on the trails shall be halted only during active filming; (4) that except where foundation piers are needed for structural integrity, all construction shall take place above ground level; except where trees must be planted, all landscaping shall take place above ground level; and except where fence posts need to be buried for structural integrity, all fencing shall be done above ground, and all road, trail, and landscaping construction shall include the laying down of appropriate fabric to separate the native soil from imported materials; (5) that a qualified archaeological monitor must be on-site during excavation; (6) that the applicant shall, prior to and during filming, issue regular public notices in the Town of Mendocino of the filming schedule, conditions required, road closures, and contact persons; (7) that any nighttime security lighting that is necessary shall be down cast, shielded, and cast away from the Town of Mendocino; and (8) that upon completion of the project, the site shall be completely restored to its previous condition in accordance with the requirements of the Department of Parks and Recreation.

As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act and to conform to CEQA.

ATTACHMENT A

Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development 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 of interpretation of any condition will be resolved by the Executive Director or 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.



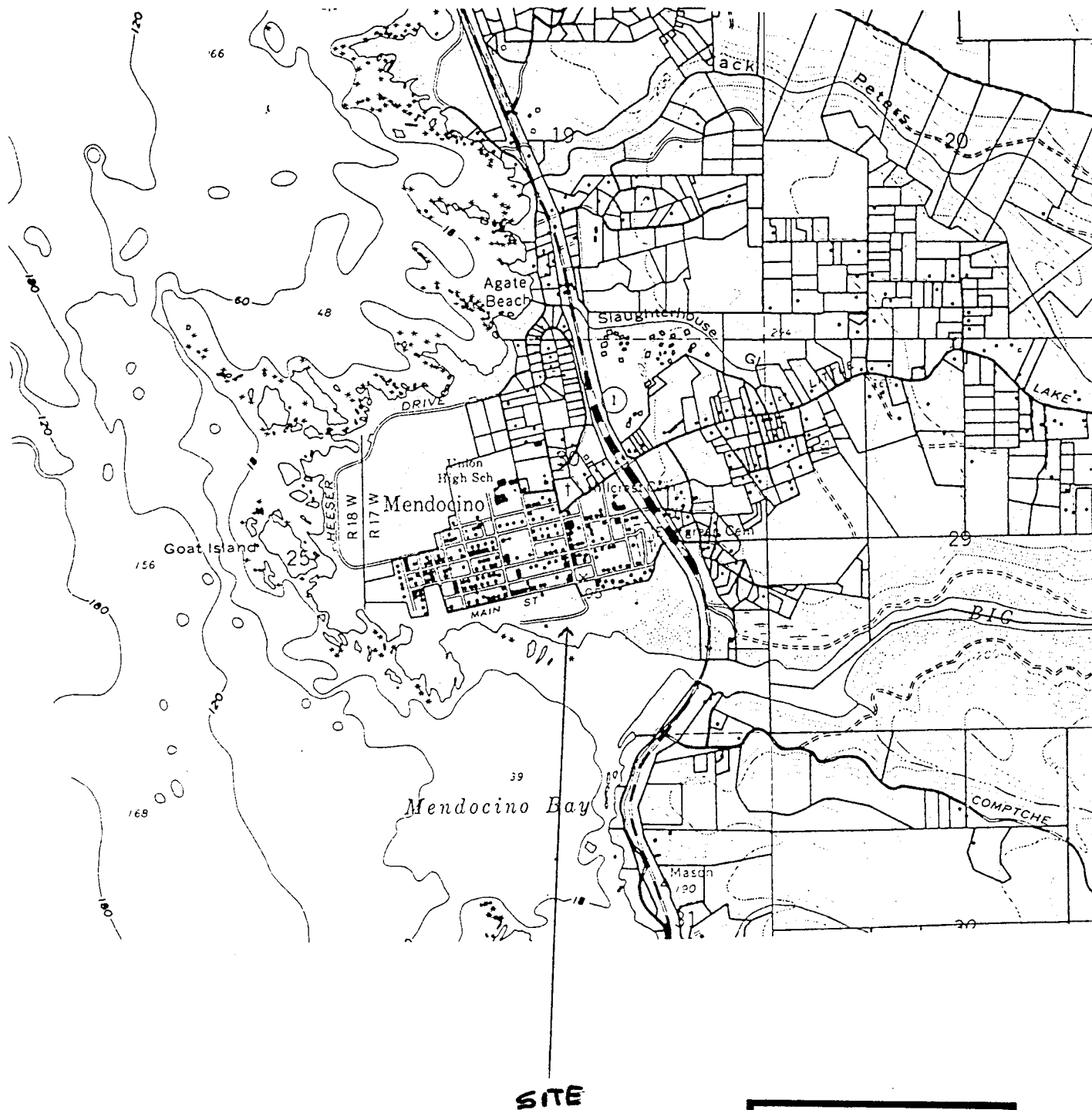



EXHIBIT NO.	2
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
Vicinity Map	
 California Coastal Commission	



ORIGINAL
PROPOSAL

PROPOSED
SITE

EXHIBIT NO. 3

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Proposed Site

California Coastal Commission

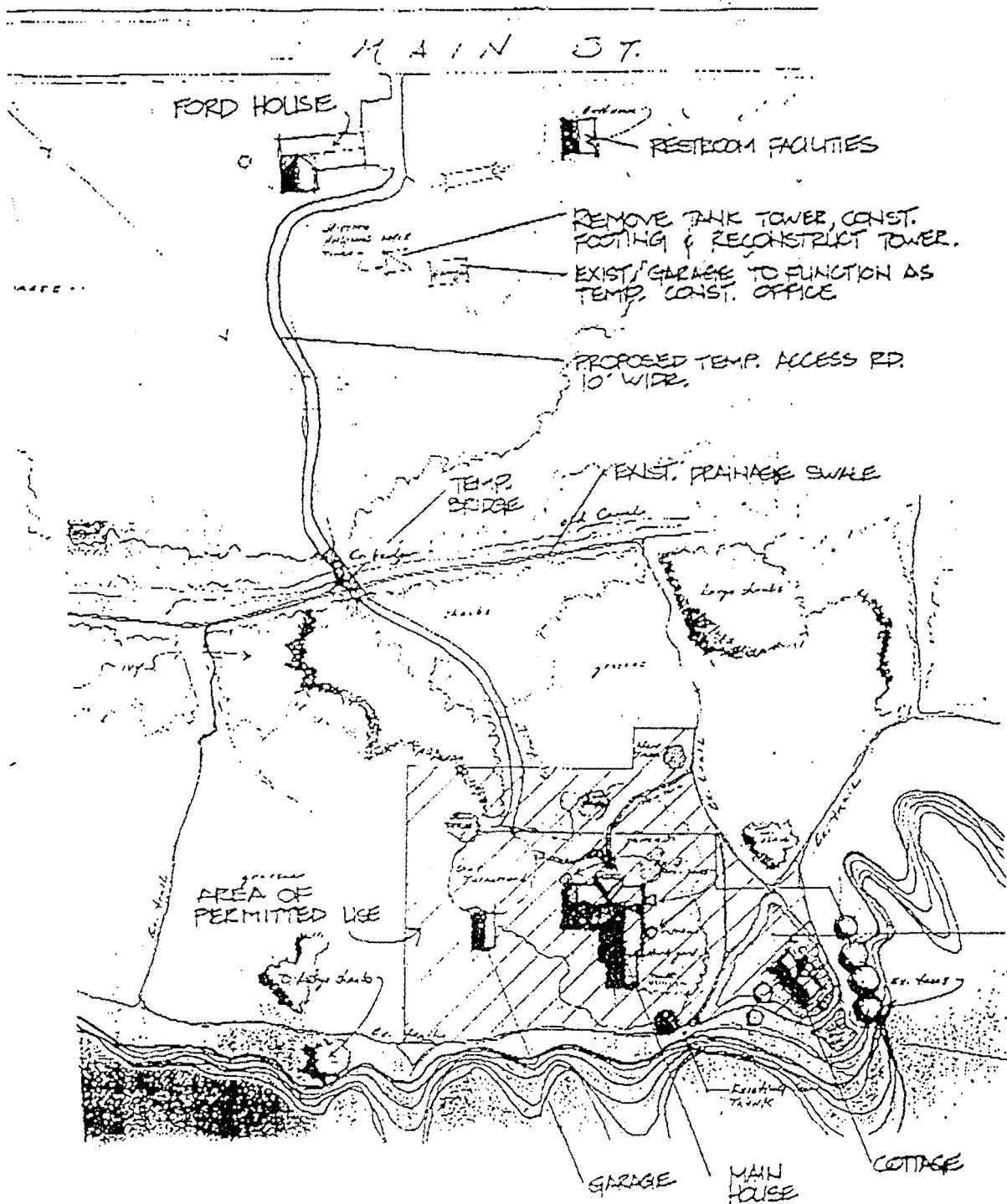


EXHIBIT NO. 4

APPLICATION NO.
A-1-MEN-97-67

WARNER BROS.

Site Plan

California Coastal Commission

MAIN HOUSE

HTS.

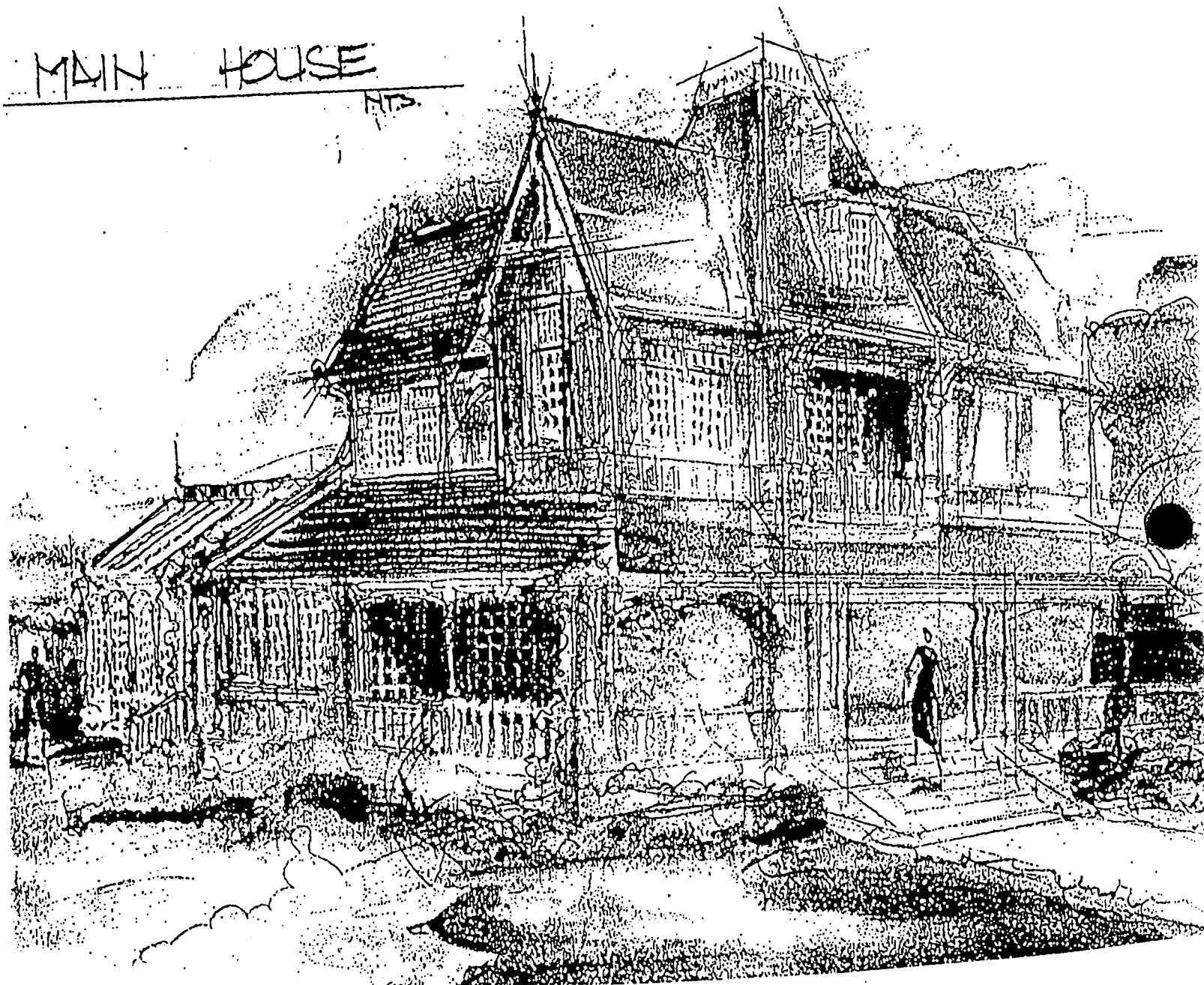


EXHIBIT NO. 5

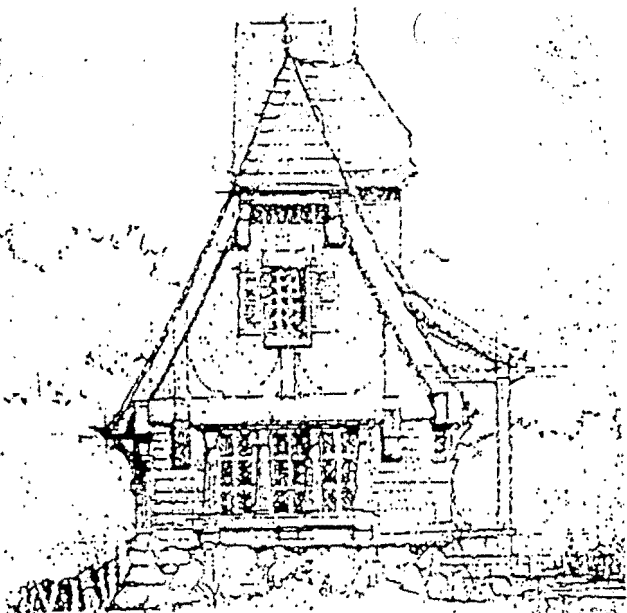
APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Main House Set

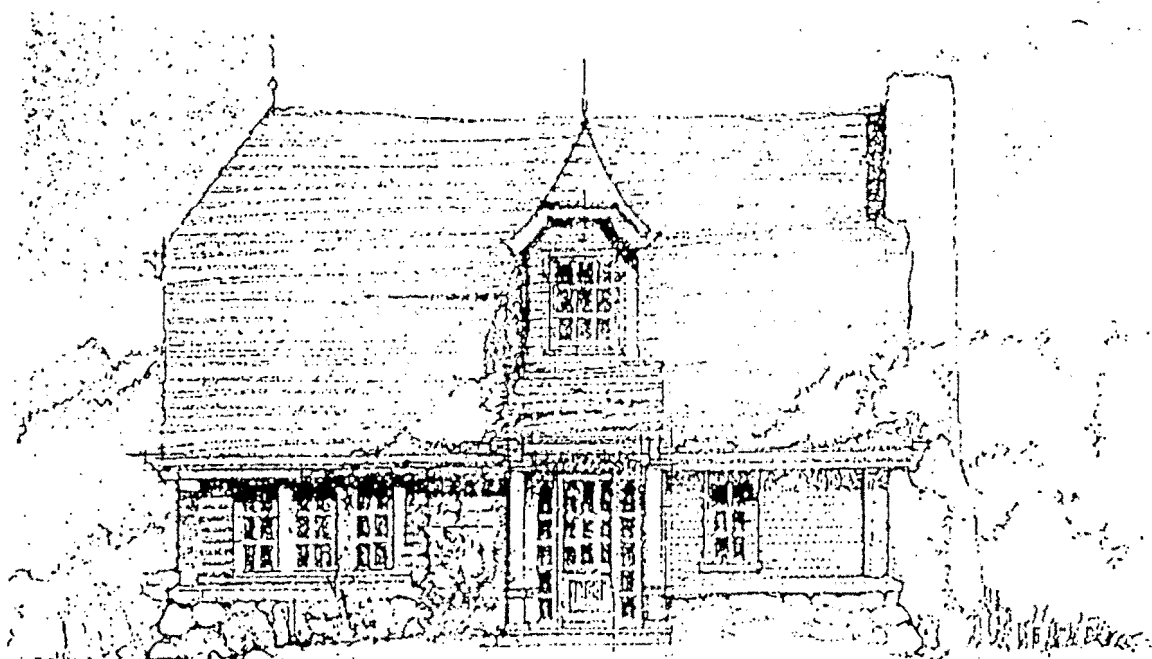
California Coastal Commission



FRONT

C

COTTAGE



SIDE

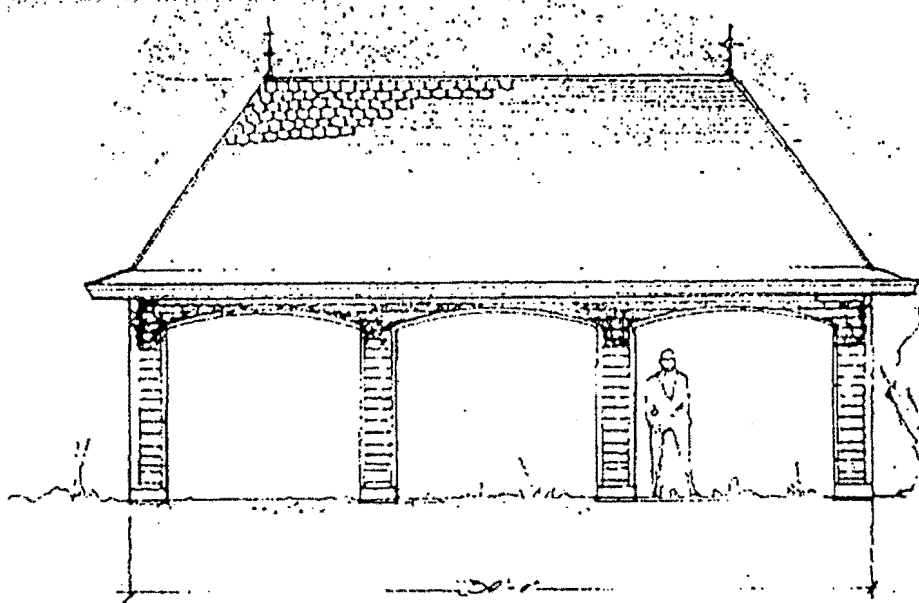
EXHIBIT NO. 6

APPLICATION NO.
A-1-MEN-97-67

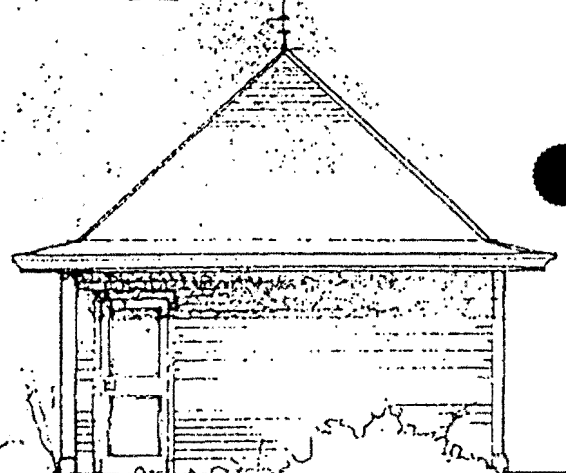
WARNER BROS.

Cottage Set

California Coastal Commission




FRONT VIEW



SIDE VIEW

GARAGE

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
Garage Set	
 California Coastal Commission	

CALIFORNIA COASTAL COMMISSION

NORTH COAST AREA

45 FREMONT, SUITE 2000

SAN FRANCISCO, CA 94105-2219

(415) 904-5260

APPEAL FROM COASTAL PERMIT
DECISION OF LOCAL GOVERNMENT

Fax 915/904-5400

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

SECTION I. Appellant(s)

Name, mailing address and telephone number of appellant(s):

Charles Peterson: 501 Low Gap Road, Room 1090, Ukiah, CA 95482

Fax: (707) 463-4245; Phone: (707) 463-4221

Home Address: P O Box 646, Point Arena, CA 95468; (707) 882-2646 and
(707) 463-6646 Zip Area Code Phone No.SECTION II. Decision Being Appealed1. Name of local/port
government: Mendocino County2. Brief description of development being
appealed: See Attached, #CDP 57-97 Warner Brothers3. Development's location (street address, assessor's parcel
no., cross street, etc.): Situated at Mendocino Headlands State Park,
South of the Ford House on Main St., near the coastal bluff, Mendocino APN 119-240-01.

4. Description of decision being appealed:

a. Approval; no special conditions: _____

b. Approval with special conditions: ☒ _____

c. Denial: _____

Note: For jurisdictions with a total LCP, denial
decisions by a local government cannot be appealed unless
the development is a major energy or public works project.
Denial decisions by port governments are not appealable.TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

H5: 4/88

EXHIBIT NO. 8

APPLICATION NO.
A-1-MEN-97-67

WARNER BROS.

Appeal (1 of 6)

California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- a. Planning Director/Zoning Administrator c. Planning Commission
b. X City Council/Board of Supervisors d. other

6. Date of local government's decision: October 21, 1997.

7. Local government's file number (if any): #CDP 57-97.

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:
Warner Bros. Attn: Michael Walbrecht, 4000 Warner Blvd., Bldg. 13, Suite 1016
Burbank, CA 91522

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) SEE ATTACHED LIST.

(2)

(3)

(4)

SECTION IV. Reasons Supporting This Appeal

Note: Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section, which continues on the next page.

EXHIBIT NO. 8

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Appeal (2 of 6)

California Coastal Commission

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

State briefly your reasons for this appeal. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)

See Attached.

Note: The above description need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

SECTION V. Certification

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

Charles Polson
Signature of Appellant(s) or
Authorized Agent

Date 10/22/97

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

Section VI. Agent Authorization

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

EXHIBIT NO. 8

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Appeal (3 of 6)

California Coastal Commission

Signature of Appellant(s)

Date

CHARLES PETERSON
Supervisor
FIFTH DISTRICT



COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 LOW GAP ROAD, ROOM 1090
UKIAH, CALIFORNIA 95482

Telephone:
Office: (707) 483-4221
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APPEAL OF COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Appeal Section II. Decision Being Appealed: Number 2:

Construction (and demolition) of three temporary sets for filming of a motion picture entitled "Practical Magic". Proposed improvements include a main house of approx 38 ft high and approx 2,500 sq ft, gardens, a carriage house, a cottage, stone and gravel paths, fence with gated entry, gravel access road. Construction to begin October 1997, filming to begin January 1998, and demolition of the site to be completed by a date determined by State Parks.

Appeal Section III. Identification of Other Interested Persons (a) and (b):

Previously sent. See attached list of additional names and addresses.

Appeal Section IV. Reasons Supporting This Appeal:

On October 21, 1997, the Board of Supervisors' denied an appeal by project opponents and approved CDP 57-97 (Warner Bros.) with modifications to the project description and conditions approved by the Coastal Permit Administrator.

State Parks' film permit imposed an April 1, 1998 deadline for Warner Bros. to vacate the project site for the temporary film sets at Mendocino Headlands State Park. The deadline was part of a mitigation plan and was intended to confine the filming to a time which minimizes conflicts with visitor-use of the Park and potential impacts to native flora and fauna, and allows for initiation of site restoration activities during the spring growing period. The Board's action yesterday eliminated the April 1, 1998 deadline in the coastal permit and inserted the language leaving the date open-ended, and at the discretion of State Parks.

As approved, the project raises several substantive issue which are the basis for this appeal:

1. (CEQA) California Environmental Quality Act Compliance: State Parks was the Lead Agency and the activities authorized by the film permit issued by State Parks constitute the "project" under CEQA. State Parks determined the project to be Categorically Exempt (Class 4e) based, in part, on the April 1, 1998 deadline. Can the County, as a Responsible Agency, change the project description without further environmental review, and possible modifications of the Notice of Exemption, by State Parks?

EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-97-67
	WARNER BROS.
Appeal (4 of 6)	
California Coastal Commission	

2. (MHRB) Mendocino Historical Review Board Permit: Under Chapter 20.760 of the Mendocino Zoning Code, the applicant was required to obtain an MHRB Permit for construction of the temporary film sets. The permit granted by the MHRB incorporates the April 1, 1998 deadline. The applicant has not received MHRB approval for the revised project approved by the Board of Supervisors as required by Sec. 20.720.025(D) of the Code.
3. Land Use: Some opponents of the project have argued that "commercial" development should not be allowed on State Parkland, even as a temporary use, and that the project is inconsistent with the definition of Open Space in the Mendocino Town Plan and Chapter 20.636 of the Code.
4. Public Access: Some opponents believe the project will restrict public access on trails in the immediate vicinity of the temporary sets for intermittent periods during filming. Concerns have also been raised about public safety if inclement weather results in structural failure of the temporary set(s).
5. Visual Resources: While the MHRB determined that the project complied with the Historic Ordinance, some opponents have argued that the project would adversely affect scenic coastal resources, especially views from Highway 1 per LCP Policies 4.13-11 and 4.13.13 and Section 20.692.020 of the Code.
6. Natural Resources: Development of the temporary sets and proposed access improvements may adversely impact existing vegetation, compact the soils, and reduce the habitat value of the nearby wetland area (defined as an ESHA per Chapter .01 of the Coastal Element and Chapter 20.496 of the Code). Concerns have been raised about the length of time it will take to effectively complete site restoration activities.

It is important that the Commission understand that my appeal is based on two things.

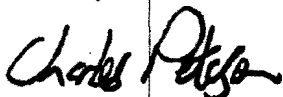
First, items 1 and 2 above are my personal basis for appeal. I believe that maintaining the April 1, 1998 deadline as a condition of the County Permit is important for the sake of the environment and equally important for the sake of the applicant. I believe that changing the April 1, 1998 date will cause delays in approval which would kill this project. I believe that Warner Brothers can make the effort necessary to complete filming in time. Items 3-6 are the major issues that have been brought up by project opponents during the various levels of the approval process. It is important for the Commission to make its decision after having considered all of the various reasons for opposition not just those with which I am concerned.

The second reason for my appeal is that, with the addition of the April 1, 1998 deadline, I am fully committed to supporting this project. I want to see it approved. I believe that the project opponents are prepared to delay appealing this permit to the

Commission until the last possible minute. By waiting until the last minute, they would preclude you from hearing this appeal in November. If you had to wait until your December hearing the delay alone would have prevented the project from happening. I know that it is imperative that this decision be made based on the facts and the evidence, rather than a defacto solution through a manipulation of the process. Hence, here is my timely appeal. I reiterate that I am asking you to, in the end, support this project after having dealt with all of the pertinent issues involved and after reinstating the April 1, 1998 deadline.

As a final point, It is possible that my duties as Chairman of the Mendocino County Board of Supervisors will preclude me from being able to participate at the hearing on this issue. I ask for your forgiveness and will appreciate your thorough discussion of this project.

Sincerely,



Charles Peterson
Fifth District Supervisor

CP/kvp


EXHIBIT NO. 8

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Appeal (6 of 6)

 California Coastal Commission

CHARLES PETERSON
Supervisor
FIFTH DISTRICT



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Home Coast: (707) 882-2848

COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 LOW GAP ROAD, ROOM 1080
UKIAH, CALIFORNIA 95482

October 24, 1997

California Coastal Commission
Attn: Jo Ginsberg
45 Fremont St., Suite 2000
San Francisco, CA 94105-2219

Re: Addendum to Appeal of Coastal Development Permit CDP# 57-97.


Dear Ms. Ginsberg:

Relative to my appeal of CDP 57-97, I offer the following information as an addendum.

I know that the temporary nature of the project allowed the County to find that it is compatible with natural and visual resources and public access. Elimination of the April 1 date creates a situation where there is legitimate concern that visual and natural resources and/or public access could be impacted to an unacceptable degree. I refer to Land Use Plan (LUP) Policies 3.5-1 and 3.5-2, Zoning Code Section 20.496 and Coastal Act Section 30210 for additional consideration by the Commission regarding this issue.

Also, please see the attached sheet for a discussion of other citations that relate to the need to protect natural areas and resources other than those determined to be environmentally sensitive.

I ask that as a part of your staff report you refer to other relative Coastal Act Sections and Mendocino County Code Sections and Policies known to you that are appropriate, especially regarding impacts on natural resources, which is the basis of my appeal as stated in my letter of October 22, 1997.

EXHIBIT NO. 9
APPLICATION NO. A-1-MEN-97-67
WARNER BROS. Addendum to Appeal
(1 of 3)
 California Coastal Commission

October 24, 1997
Page 2

I reiterate that the elimination of the April 1 deadline is the basis of my appeal.
Thank you for your attention to this matter.


Sincerely,

Charles Peterson

Charles Peterson
Fifth District Supervisor

cc: Board of Supervisors
Ray Hall, Planning and Building Director
Beth Bosk
Joan Curry

CP/kvp

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
Addendum to Appeal	
(2 of 3)	
 California Coastal Commission	

Section 30240(b) of the Coastal Act states:

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Mendocino Headlands State Park is identified as a "Resource Area" on page 41 of the Coastal Element under the headings of "State Parks and Reserves" and "Natural Areas".

Section 20.496.010 of the Zoning Code establishes the Purpose of the regulations protecting "environmentally sensitive habitat and other designated resource areas listed on Pages 39, 40 and 41 of the Coastal Element" (emphasis added).

LUP Policy 3.1-24 states:

Any development within designated resource areas, if not specifically addressed by other policies, shall be carefully reviewed and established in accord with conditions which could allow some development under mitigating conditions but would assure the continued protection of the resource.

Section 20.496.050 of the Zoning Code reiterates this, stating:

(A) Other designated resource areas as identified on Pages 39, 40 and 41 of the Coastal Element dated November 5, 1985 include: State parks and reserves, underwater parks and reserves, areas of special biological significance, natural areas,...

(B) Any development within designated resource areas shall be reviewed and established in accord with conditions which could allow some development under mitigating conditions but which assures the continued protection of the resource area.

In addition to the above policies and Code sections which apply throughout Mendocino Headlands State Park, LUP Policies 3.1-2 and 3.1-7 address development in and adjacent to environmentally sensitive habitat areas (including wetlands) and the establishment of buffer areas to protect ESHAs.

Zoning Code Section 20.496.020 provides standards for development within ESHA buffer areas. Sec. 20.496.020(A)(1)(b) requires the width of a buffer to be based, in part, on the sensitivity of species to disturbance including "nesting, feeding, breeding, resting, or other habitat requirements of both resident and migratory fish and wildlife species." Sec. 20.496.020(A)(4) establishes standards for development within ESHA buffer areas and requires mitigations for impacts to ESHAs resulting from development in buffer areas.

attachment *Charles Peterson*

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
Addendum to Appeal	
(3 of 3)	
California Coastal Commission	



RAYMOND HALL
DIRECTOR

TELEPHONE
(707) 964-5379

COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

MAILING ADDRESS:
780 SO. FRANKLIN
FORT BRAGG, CA 95437

NOTICE OF FINAL ACTION

Date Sent: October 21, 1997

Action has been completed by the County of Mendocino on the below described project located within the Coastal Zone.

CASE#: CDP #57-97
DATE FILED: August 15, 1997
OWNER: State of Calif Department of Parks & Recreation
APPLICANT: Warner Brothers
REQUEST: Construction (and demolition) of three temporary sets for filming of a motion picture entitled "Practical Magic". Proposed improvements include a main house of approximately 38 feet high and approximately 2,500 square feet, gardens, a carriage house, a cottage, stone and gravel paths, fence with gated entry and gravel access road. Construction to begin October 1997, filming to begin January 1998, and demolition of the site to be completed by April 1, 1998.

LOCATION: Situated at Mendocino Headlands State Park, south of the Ford House on Main Street, near the coastal bluff, Mendocino (APN 119-240-01).

PROJECT COORDINATOR: Gary Berrigan

HEARING DATE: September 25, 1997

APPROVING AUTHORITY: Coastal Permit Administrator

ACTION:

 X APPROVED WITH CONDITIONS


See staff report for the findings and conditions in support of this decision.

The project was appealed at the local level. The appeal was considered and subsequently rejected by the Mendocino County Board of Supervisors at a public hearing held on October 21, 1997.

The project is:

 X Appealable to the Coastal Commission pursuant to Public Resources Code, Section 30603. An aggrieved person may appeal this decision to the Coastal Commission within 10 working days following Coastal Commission receipt of this notice. Appeals must be in writing to the appropriate Coastal Commission district office.

Note: See attached for revised findings & conditions


EXHIBIT NO. 10
APPLICATION NO. A-1-MEN-97-67
WARNER BROS. County Notice of Final Action
 California Coastal Commission

JOYCE A. BEARD
CLERK OF THE BOARD



Telephone:
(707) 463-4221
FAX: (707) 463-4245

**COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 LOW GAP ROAD, ROOM 1090
UKIAH, CALIFORNIA 95482**

EXHIBIT NO. 11
APPLICATION NO. A-1-MEN-97-67
WARNER BROS.
Revised Findings and Conditions
 California Coastal Commission

October 21, 1997

Upon motion by Supervisor Pinches, seconded by Supervisor Campbell, and carried, (4-1, with Supervisor Peterson dissenting), IT IS ORDERED that the Board of Supervisors hereby denies the appeal, upholding the action of the Coastal Permit Administrator, thereby approving CDP 57-97 modifying the following conditions:

Finding No. 2 will read as follows: "The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities within the project area, and all improvements will be removed from the site as determined by the State Parks".

Finding No. 4 will read as follows: "The proposed development, if constructed in compliance with the conditions of approval of this permit and the permit from the Department of Parks and Recreation, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act because the use is temporary, all improvements will be removed as determined by State Parks and the site will be restored".

Special Condition No. 3 will read as follows: "Warner Brothers shall, prior to and during filming, issue regular public notices in the Town of Mendocino of the filming schedule, conditions required, road closures and contact persons".

Special Condition No. 4 will read as follows: "Within 30 days of removal of the film set, the applicant, in cooperation with the Department of Parks and Recreation, shall submit a preliminary site restoration assessment and within 270 days will submit a final assessment. If the assessments indicates unanticipated impacts occurred that will require a greater amount of State resources, the applicant shall provide additional compensation to the State to achieve full restoration".

Additional Finding:

The Board understands the biological impacts that are vital and contained in the staff report and have been thoroughly analyzed through the State Parks CEQA process and the Board feels that the State Parks will adequately protect the environment at whatever date set for the removal of the temporary structures and restoration of the site.

THE BOARD OF SUPERVISORS

MICHAEL M. DELBAR
FIRST DISTRICT

RICHARD SHOEMAKER
SECOND DISTRICT

JOHN PINCHES
THIRD DISTRICT

PATRICIA A. CAMPBELL
FOURTH DISTRICT

CHARLES F. PETERSON
FIFTH DISTRICT

COASTAL PERMIT ADMINISTRATOR ACTION SHEET

Case Number: CDP #57-97 Hearing Date: 9/25/97

Owner: State of California

Applicant: Warner Brothers

ENVIRONMENTAL CONSIDERATIONS:

☒ Categorically Exempt

☐ Negative Declaration

☐ EIR

PROJECT DESCRIPTION: During the public hearing it was noted that:

1. Security lighting is not a part of the project;
2. Restoration of the site will occur after April 1, 1998;
3. Demolition of the water tower is not mandatory. It may be dismantled, removed, relocated or replaced.

FINDINGS:

☐ Per staff report

☒ Modifications and/or additions --

Finding #4 was revised to read:


The proposed development, if constructed in compliance with the conditions of approval of this permit and the permit from the Department of Parks and Recreation, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act because the use is temporary, and improvements will be removed by April 1, 1998, and the site will be restored with ~~native vegetation~~; and

ACTION:

☒ Approved

☐ Denied

☐ Continued _____

EXHIBIT NO. 12
APPLICATION NO. A-1-MEN-97-67
Coastal Permit Administrator
Action Sheet(1 of 2)
 California Coastal Commission

CONDITIONS:


_____ Per staff report
__X__ Modifications and/or additions --

All conditions adopted per the staff report plus the following special conditions 3 and 4:

3. Warner Brothers shall, prior to filming, hold a public meeting in Mendocino to inform the community of filming schedule, conditions required, road closures and contact persons.

4. Within 30 days of removal of the film set, the applicant, in cooperation with the Department of Parks and Recreation, shall submit a site restoration assessment. If the assessment indicates unanticipated impacts occurred that will require a greater amount of State resources, the applicant shall provide additional compensation to the State to achieve full restoration.


Signed _____ Coastal Permit Administrator

EXHIBIT NO.	12
APPLICATION NO.	A-1-MEN-97-67
Coastal Permit Administrator	
Action Sheet(2 of 2)	
 California Coastal Commission	

OWNER: State of California
Dept. of Parks and Recreation
P.O. Box 440
Mendocino, CA 95460
ATTN: Brian Hickey

APPLICANT: Warner Bros.
4000 Warner Bvd
Bldg. 13, Suite 1016
Burbank, CA 91522
ATTN: Michael Walbrecht

REQUEST: Construction (and demolition) of three temporary sets for filming of a motion picture entitled Practical Magic. Proposed improvements include a main house, a cottage, a carriage house, gardens, stone and gravel path, fencing, temporary landscaping, gravel access road and temporary bridge, relocation and replacement of an existing water tower, and security lighting. Construction to begin in October 1997, filming to begin in January 1998, and demolition and restoration of the site to be completed by April 1, 1998.

LOCATION: Situated at Mendocino Headlands State Park, south of the Ford House on Main Street, near the coastal bluffs, Mendocino (APN 119-240-01).

APPEALABLE AREA: Yes

PERMIT TYPE: Standard

TOTAL ACREAGE: Approximately 1 acre for film set

ZONING: Open Space (MOS)

ADJACENT ZONING: North: MPF/MC
East: MOS/MFL
South: Pacific Ocean
West: MOS/Pacific Ocean

GENERAL PLAN: Open Space

EXISTING USES: Mendocino Headlands State Park

SURROUNDING LAND USES: State Park/Commercial

SUPERVISORIAL DISTRICT: 5

GOVT CODE 65950 DATE: March 12, 1998

ENVIRONMENTAL DETERMINATION: Categorically Exempt, Class 4 (e), minor temporary use of land having negligible or no permanent effects on the environment. Exemption determination made by the Department of Parks and Recreation, the lead agency under CEQA.

OTHER RELATED APPLICATIONS: MHRB# 97-34; California Film Commission permit

EXHIBIT NO.	13
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
County Staff Report	
(1 of 7)	
California Coastal Commission	

PROJECT DESCRIPTION: The applicant proposes a temporary film set that would include the construction of a main house (approximately 2,500 sq.ft., 38 ft. in height), a two story cottage (900 sq. ft.), a carriage house (800 sq.ft.), and set design features and improvements for the purpose of filming a motion picture entitled "Practical Magic". Use of the area for the motion picture would be begin in October 1997. All construction and materials would be removed by April 1, 1998. The location of the proposed set is in Mendocino Headlands State Park, south of Main Street, approximately 600-800 feet south of the Ford House, near the ocean bluffs (see Exhibit B). The total area that would be used for the film is approximately one acre (see Exhibit C).

In addition to construction of the set buildings, improvements include stone and gravel paths, gardens, a 10 foot wide gravel access road, prefabricated bridge, turnaround, fencing, removal and reconstruction of a water tower, security lighting, and use of an existing garage as a construction office. Set construction is anticipated to occur between October and January 1; filming is scheduled from January 1 to March 1; and set removal is scheduled to occur between March 1 and April 1. Site restoration (planting of native plant materials) would take place after April 1, 1998.

LOCAL COASTAL PROGRAM CONSISTENCY RECOMMENDATION: The proposed project is consistent with the applicable goals and policies of the Local Coastal Program as described below.

Land Use: The Mendocino Headlands State Park is designated Open Space (OS) in the Mendocino Town LCP. In part, the district is applied to "lands in public ownership for recreational use and to lands most valuable in their undeveloped natural state such as those lands which contain rare and endangered species and habitat, riparian vegetation zones, sites of historic or archaeological significance, or scenic areas...". The State Park is used by over 900,000 visitors annually for recreation, ocean access and spiritual purposes. Over the years, it also has been the site for temporary public gatherings and events of a political, environmental or social nature, including Whale War demonstrations, presidential rallies, film and television production, the annual music festival, and personal gatherings to commemorate the loss of loved ones or to celebrate new life, new unions, or personal passages. The use of the headlands is as varied as each of its visitors.

Principal permitted uses in the OS district allow for a variety of open space and passive recreational uses. Film production is not specifically provided for in this or other zoning districts in the town. Chapters 20.704 (Accessory Use Regulations) and 20.708 (Temporary Use Regulations) of the County Code, however, do address other types of uses that are necessarily and customarily associated with principal uses or that are temporary in nature.

Section 20.704.010(A) of the County Code provides, in part, that:

"...accessory uses which are necessarily and customarily associated with, and are appropriate, incidental, and subordinate to, such principal uses. When provided by these regulations, it shall be the responsibility of the Director to determine if a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to the principal use, based upon the Director's evaluation of the resemblance of the proposed accessory use to those uses specifically identified as accessory to the principal uses and the relationship between the proposed accessory use and the principal use..."

The temporary and limited nature of the proposal could be considered as accessory to the current use of the state park. It would be consistent with prior uses of the state park for film production. The Director will be acting as the Coastal Permit Administrator at the public hearing for this item, and will make the necessary determination at that time.

The specific reference to film production as a use is found in Section 20.708.010(F) of the County Code which provides:

"Film Production. The temporary use of a building, structure or property for the purposes of film production. If film production activities constitute development as defined by Section 20.608.023(C), a Coastal Development Permit shall be required."

EXHIBIT NO.	13
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	County Staff Report
(2 of 7)	
California Coastal Commission	

As written, staff interprets this section to mean that film production is allowed as a use in any zoning district, subject to obtaining a coastal permit (as opposed to a use permit). The temporary construction activities do meet the definition of development, the site is located in an appealable area, and the application is therefore being considered as a standard coastal development permit.

The specific set location is in an area that has not been used previously for film production or other large gatherings, and represents an expansion of these types of uses in the state park. While the appropriateness of this activity at this location is certainly debatable, the State of California apparently has a policy which encourages use of state parks for film production, and the proposal has received approval from the Department of Parks and Recreation. Additionally, the LCP does not contain any specific policies which would prohibit this type of use.

Public Access: The project will temporarily restrict public access within a portion of the state park. The set location is bordered on two sides by existing trails, but no construction will occur over these trails. The trails will remain open for the public to continue using, and will be restricted from use only when cameras are rolling. A condition of the state parks permit provides that the trails adjacent to the project site may be restricted from public use for up to 20 minutes. Additional restrictions placed upon the applicant that will assure that public access and recreation opportunities are protected as much as possible include:

- *Between the start of construction through the Thanksgiving weekend, construction may only take place Monday through Friday, 6 am to 6 pm
- *Construction will be extended to include Saturdays after Thanksgiving weekend
- *No construction may occur on holidays and holiday weekends
- *Filming is permitted Monday through Saturday, 6 am to 6 pm during January and February
- *No filming is permitted on holidays and holiday weekends
- *No weekend filming is allowed in March without written approval of the Park Superintendent

The proposal would have a periodic, temporary impact on public use of this portion of the state park for those periods during filming, but long term loss of access will not occur.

Visual Resources: The original proposal for the film set was Portuguese Point at the southwestern point of the headlands, and included higher and larger set structures. This would have been in the most visually prominent part of the park, and it generated a significant amount of public opposition. The applicants reduced the height and size of set structures and, after considering alternative locations that still met script requirements, the applicant and State Parks agreed on the currently proposed site. This location is less visually prominent from locations in town, and has received approval from the Mendocino Historical Review Board.

The applicability of LCP visual policies in this instance is less stringent due to the temporary nature of the proposal, and because the site is not designated "Highly Scenic" in the LCP. Given the MHRB approval and alternative location of the set, the proposal appears to be consistent with Sections 20.504.020(C) and (D) of the County Code which state:

"(C) Development Criteria.

- (1) The scale of new development (building height and bulk) shall be within the scope and character of existing development in the surrounding neighborhood.
- (2) New development shall be sited such that public coastal views are protected.

EXHIBIT NO. 1
APPLICATION NO. A-1-MEN-97-67
WARNER BROS. County Staff Report
(3 of 7)
California Coastal Commission

- (3) The location and scale of a proposed structure will not have an adverse effect on nearby historic structures greater than an alternative design providing the same floor area. Historic structure, as used in this subsection, means any structure where the construction date has been identified, its history has been substantiated, and only minor alterations have been made in character with the original architecture.
- (4) Building materials and exterior colors shall be compatible with those of existing structures.
- (D) The scenic and visual qualities of Mendocino County Coastal Areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas and, where feasible, to restore and enhance visual quality in visually downgraded areas. New development in highly scenic areas designated by the County of Mendocino Coastal Element shall be subordinate to the character of its setting."

Natural Resources: An environmental review has been conducted by staff of the Department of Parks and Recreation. No environmentally sensitive habitat or rare or endangered species have been identified in the specific area of the temporary set, although some native plants are in this area. State parks will monitor set construction activities, and any impacted native plants will be removed, potted and used for site restoration. Native plants will be used for revegetation and restoration of the entire area after the set and temporary improvements have been removed. The restoration work will be paid for by the applicant and the work performed by state park's staff.

An environmentally sensitive habitat area (seasonal wetlands) is found between the Ford House and the set location. An existing access trail runs through this area which is proposed to be widened and used for vehicular access to the set. The access road will be approximately 10 feet in width, and placed over the existing grade. The road construction will be achieved by placing a layer of geotextile (separation fabric) on the ground, and then placing an aggregate rock layer on the fabric. As the trail approaches the existing drainage (near an existing foot bridge), a prefabricated bridge will be placed which will span the wetlands. State park's environmental review notes that the proposed road and other activities will avoid all wetland areas. The bridge will be over the sensitive habitat, but no fabric, rock or bridge supports will be placed on or in the wetlands themselves. State Park's staff considered alternate routes to access the site, but determined that bridging the wetlands was the least environmentally damaging. As proposed, the bridging will avoid direct impacts to environmentally sensitive areas, and no additional mitigation measures are necessary. Special Conditions 1 and 2 are proposed to assure avoidance is achieved during construction and removal.

Archaeological/Cultural Resources: Conditions imposed upon the applicant by the Department of Parks and Recreation will limit the potential for any impacts to archaeological or historical resources. No grading or scraping of the soil is allowed for the access road, paths, landscaping or buildings. The applicant will be allowed to dig holes for foundation piers (no concrete) to support the buildings, for temporary landscaping, and where fence posts need to be buried for structural integrity. The area of proposed use has been reviewed by an archaeologist on the staff of the Department of Parks and Recreation. Except for the area in the vicinity of the Ford House, it is not considered archaeologically sensitive. However, in all cases where any excavation or digging occurs, the activity will be monitored by a state parks archaeological monitor. In the event resources are encountered, all digging must cease, and the site will be evaluated. Given these provisions, the project will be carried out in a manner that will avoid significant impacts to archaeological or cultural resources.

Groundwater Resources: The project will not effect groundwater resources in the project vicinity, in that any water needed for the site will be provided by a local water hauler.

Transportation/Circulation: Vehicular access to the site will be via the existing ingress and egress point at the Ford House off Main Street. There would be a limited increase in traffic activity at the site as a result of set construction and removal, but these would be of limited duration. There will be the standard delays and inconveniences that accompany filming on location in and around Mendocino. Impacts to public roads will be temporary and not significant.

Zoning Requirements: The project complies with the zoning requirements for the District set forth in Sec 20.672.005 et.seq., Sec. 20.740.005 et.seq., and with all other zoning requirements of Title 20 - Division III of the Mendocino County Code, and Title 20 - Division II of the Mendocino County Code as applicable.

PROJECT FINDINGS AND CONDITIONS: Pursuant to the provisions of Chapter 20.720 of the Mendocino County Code, staff recommends that the Coastal Permit Administrator approve the proposed project, and adopt the following findings and conditions:

FINDINGS:

- (1) The proposed development is in conformity with the certified Local Coastal Program, in that the project is for a temporary use of limited duration, and no permanent impacts will occur; and
- (2) The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities within the project area, and all improvements will be removed from the site by April 1, 1998; and
- (3) The proposed development is consistent with the purpose and intent of the applicable zoning district, as well as all other provisions of Divisions II and III, and preserves the integrity of the zoning district; and
- (4) The proposed development, if constructed in compliance with the conditions of approval of this permit and the permit from the Department of Parks and Recreation, will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act because the use is temporary, all improvements will be removed by April 1, 1998, and the site will be restored with native vegetation; and
- (5) The proposed development will not have any adverse impacts on any known archaeological or paleontological resource, and potential impacts will be avoided by the limited scope of soils work and by on site archaeological monitors; and
- (6) Other public services, including but not limited to, solid waste and public roadway capacity and proof of an adequate water supply have been considered and are adequate to serve the proposed development.
- (7) That the proposed development is in conformance with the design standards of Section 20.760.050, in that the project has been approved by the Mendocino Historical Review Board under MHRB permit number 97-34.
- (8) The wetland resources will not be significantly degraded by the proposed development, in that the project will avoid all wetland areas; and
- (9) The project includes mitigation measures imposed by the Department of Parks and Recreation that make the proposal a feasible less environmentally damaging alternative project by avoiding impacts to an environmentally sensitive habitat area; and
- (10) The mitigation measures imposed by the Department of Parks and Recreation will reduce or eliminate project related impacts by

EXHIBIT NO. 13

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

County Staff Report

(5 of 7)



California Coastal Commission

requiring restoration and revegetation of effected areas upon completion of the temporary use; and

- (11) The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and Coastal Element of the General Plan.

STANDARD CONDITIONS:

1. This action shall become final on the 11th day following the decision unless an appeal is filed pursuant to Section 20.728.015 of the Mendocino County Code. The permit shall become effective after the ten (10) working day appeal period to the Coastal Commission has expired and no appeal has been filed with the Coastal Commission. The permit shall expire and become null and void at the expiration of two years after the effective date except where construction and or use of the property in reliance on such permit has been initiated prior to its expiration.

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

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

6. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.

7. If any archaeological sites or artifacts are discovered during site excavation or construction activities, the applicant shall cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery, and make notification of the

EXHIBIT NO. 13

APPLICATION NO.

CA-1-MEN-97-67

WARNER BROS.

County Staff Report

(6 of 7)

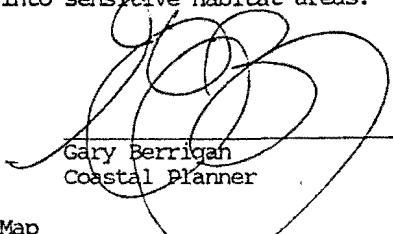
California Coastal Commission

discovery to the Director of Planning and Building Services. The Director will coordinate further actions for the protection of the archaeological resources in accordance with Section 22.12.090 of the Mendocino County Code.

SPECIAL CONDITIONS:

1. During construction and removal of the access road and bridge adjacent to and over sensitive habitat areas, work shall be monitored by staff of the Department of Parks and Recreation to assure that the siting of the road, laying of fabric and rocks and placement of bridge support members shall avoid all sensitive habitat.
2. Temporary debris barriers shall be placed adjacent to the drainage during road and bridge construction to prevent excess material from accidentally falling into sensitive habitat areas.


Staff Report Prepared By:

Date: 9-18-97
Gary Berrigan
Coastal Planner


Attachments: Exhibit A - Area Map
Exhibit B - Location Map
Exhibit C - Site Plan
Exhibit D - Set Drawings

Appeal Period: 10 days

Appeal Fee: \$635

EXHIBIT NO.	13
APPLICATION NO.	A-1-MEN-97-57
WARNER BROS. County Staff Report	
(7 OF 7)	
 California Coastal Commission	

Practical Magic - Warner Bros.
DPR 245a - Terms and Conditions

EXHIBIT NO.	14
APPLICATION NO.	A-1-14EN-97-67
WARNER BROS. -State	
Parks Terms and	
Conditions(1 of 10)	
 California Coastal Commission	

I. Permits Required:

- Motion Picture Activity Information Form (DPR 245a)
- California Environmental Quality Act (CEQA) Review
- Standard Coastal Development Permit
- California Film Commission Permit

II. Summary:

Construction dates: October 6th through January 15th.

Film dates: January 5th through March 14th.

Strike dates: March 15th through March 31st.

Film Activities: Actors in and around the sets; dialogue interior/exterior; fog, rain, smoke and wind effects using machinery; driving shots along entry road; crane shots (elevated shots); night lighting – interior and exterior; walk and talk shots outside the project area is permitted if the camera is carried or on a tripod (placement subject to monitor approval). Any other film activity will need to be approved in advance in writing by the Sector Superintendent or his/her designee.

III. Terms of Permit:

Warner Bros. shall:

Have a valid Filming Permit, (California Film Commission Permit, CEQA and DPR 245a) in effect during October 6th through March 31st and is responsible to be in compliance with all permits listed above in paragraph 1 and the Russian River/Mendocino Film Policy (attachment to the DPR 245a) or the project will be terminated.

Establish and adhere to the duration, times and dates of permits.

Comply with all laws, policies, rules and regulations, terms and conditions. All fines, penalties, liens caused by Warner Bros. activities shall be paid in full by Warner Bros.

Upon breach by Warner Bros. of any state permits, the State may terminate this agreement by written notice, specifying the nature of the alleged breach and any information relevant or necessary to cure said breach. Warner Bros. will be given seven days from its receipt of notice to rectify the breach. If the breach creates an emergency situation which poses an immediate threat of harm to the health and/or safety of any person or immediate threat of damages to the State's natural or cultural resources, all filming/construction activities will cease upon notice, oral or written, by the State representative of the threat or conditions and activities will not resume until the threat/conditions are cured or resolved.

Reimburse State Parks for all administrative review costs incurred during the permit preparation process. Warner Bros. will be billed at 1.599 times the hourly salary of the park employee. The cost reflects the time spent by the Park Superintendent, State Archeologist, Resource Ecologist, Park and Recreation Specialist, Engineer, Maintenance Chief and Supervising Ranger to review the variously propose film locations, to prepare the CEQA document, to attend permit, film and public review meetings and to prepare the park film permits and associated documents. Warner Bros. will be billed separately for these expenses which are in addition to the expenses listed below. (All affected State employees will submit DPR 511's for their time to the California Film Commission).


Reimburse State Parks for all monitor, administrative review, park fees and staff costs associated with this film project. Warner Bros. will pay for a film monitor for every day of construction, filming and striking. The cost of the monitor will be 2.252 times the hourly salary of the monitor for every hour the monitor works on the project site. Warner Bros. will pay a \$175 administrative park review fee (which covers all additional park personnel associated with filming who are on state time) for every day a park film monitor works on the project site. Warner Bros. will pay a \$100 event fee for every day of set construction, a \$150 event fee for every day of filming and a \$100 event fee for every day of set striking. Warner Bros. also agrees to pay \$15,000 for the restoration of all park property impacted by the above filming/construction activities. Such restoration will be the sole responsibility of State Parks and overseen by the park Resource Ecologist. Restoration measures will be

EXHIBIT NO. 14

APPLICATION NO.
A-1-MEN-97-67

WARNER BROS.-State
Parks Terms and

Conditions(2 of 10)

 California Coastal Commission

taken over a two-year period to revegetate and rehabilitate the entire project site using native plants grown from local seed stock.

Agrees to deposit with the State Film Commission, prior to the start of filming, the entire event fee for the construction dates, the entire sum of restoration moneys, one third of the administrative review fee and one third of the total monitor fees. On December 1st Warner Bros. will deposit a second third of the film's total monitor fees and the administrative review fee and the entire event fee for the film dates. On February 1st Warner Bros. will pay the final third of the monitor fees and the administrative review fee and the entire event fee for the strike dates. Upon a complete and clean striking of the set (including all buildings, roads, trails, landscaping etc.) any moneys remaining in Warner Bros. account, for which State Parks has not submitted or intends to submit a claim, will be returned to Warner Bros.

- a) Construction: October 6th through December equals approximately 60-12 hour working days. Rangers I and II will be primarily used as monitors. Their hourly salary times the compensation rate equals between \$42.70 and \$47.00 per hour. For each 12-hour workday monitor costs will be between \$512.40 and \$564 (or about \$540 per day on average). The approximate monitor costs for construction will be \$32,400. The approximate park administrative review fee will be \$175 x 60 days or \$10,500. The special event fee of \$100 per day will equal \$6000. The park restoration fee of \$15,000 will be payable upon the beginning of construction.
- b) Filming: January 5th through March 14th equals approximately 50-12 hour days or nights of filming. Monitor costs will be approximately \$27,000. The park administrative review fee will be \$8750, and the special event fee of \$150 per day will be approximately \$7500.
- c) Set Striking: March 16th through March 31st equals 12-12 hour working days. Monitor costs will be about \$6480. The park administrative fee will be \$2100, and the special event fee will be \$1200.
- d) Total park costs will be approximately \$117,000 (\$65,900 monitor costs, \$21,350 administrative review fee, a \$14,700 special event fee and \$15,000 in restoration costs). Warner Bros. agrees to deposit \$50,150 (\$22,000 in monitor costs,

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.-State Parks Terms and Conditions(3 of 10)	
California Coastal Commission	

\$7,150 in review costs, \$6,000 in event costs and \$15,000 in restoration costs) with the California Film Commission at the start of construction, October 6th, 1997; \$36,600 will be deposited with the Commission on December 1st, 1997 (\$22,000 in monitor costs, \$7,100 in review costs and \$7,500 in event costs); and \$30,200 will be deposited on February 2nd, 1998 (\$21,900 in monitor costs, \$7,100 in review costs and \$1200 in event costs). If additional days of filming, construction or striking are added, the appropriate charges will be borne by Warner Bros.

Construction of the Warner Bros. set (including all buildings, roads, fences, trails, landscaping, etc.) will generally take place Monday through Friday over a 12-hour day generally from 6 AM to 6 PM from the start of construction through Thanksgiving weekend. Construction will generally take place Monday through Saturday after Thanksgiving weekend until completion. No construction will be permitted on holidays and holiday weekends. Exceptions to construction dates and times may only be granted by the Park Superintendent or his/her representative.

Film activities will generally take place Monday through Saturday during January and February from 6 AM to 6 PM. Night shoots will be permitted Monday through Saturday over various nighttime hours during January and February. No filming will be permitted on holidays and holiday weekends. No weekend filming will be permitted during March without written approval of the Park Superintendent. Exceptions to filming dates and times may only be granted by the Park Superintendent or his/her representative.

Prior to the beginning of each week of operation (Monday), the location manager will provide a schedule for shooting/construction activities for that week to the park film liaison.

Prior to each day's operations, a company representative will provide the park film monitor with a description of the day's activities and notice of any proposed changes in the week's shooting/construction schedule.

Provide plans and/or details governing all set construction; excavation; landscaping; bridge, road, path, and fence construction; lighting; special effects; use of landscaping and construction materials; placement of all

EXHIBIT NO. 14

APPLICATION NO.
A-1-MEN-97-67

WARNER BROS.-State
Parks Terms and

Conditions(4 of 10)

California Coastal Commission

heavy equipment is subject of park review (including generators, wind, rain machines, etc.); material and tool storage; and vehicle use and parking. All the above activities are subject to the review and approval of State Parks and compliance with the conditions and terms is the responsibility of the park film monitor, film liaison, location manager and Park Superintendent.

- a) Except where foundation piers are needed for structural integrity, all construction will take place above ground level.
- b) Except where trees must be planted, all landscaping will take place above ground level.
- c) Except where fences posts need to be buried for structural integrity, all fencing will be done above ground.
- d) In all cases where digging takes place on park property, an archeological monitor will be on-site. In the event that historical or archeological artifacts are uncovered, all digging will cease until the archeological monitor can assess the significance of the exposed material. If continued digging at the site would threaten significant park cultural resources, digging must be moved to an alternate location that is acceptable to the archeological monitor.
- e) All soil removed as a result of excavation at the project site will be stockpiled, at Warner Bros. expense, at a site off State Park property and will be used to fill in any holes left at the end of the project. A state park resource management representative will on-site during excavation to salvage a representative sample of the native plants being disturbed. These plants will be cared for over the course of the project and replanted within the project site at project end.
- f) All road, trail and landscaping construction will include the laying down of appropriate fabric to separate the native soil from imported materials. At the end of the project, all imported materials and the barrier fabrics will be completely removed.
- g) At Warner Bros. expense and with park design approval, a temporary bridge will be brought in to span the drainage swale between the Ford House and the construction site. Timber sleepers will be used to support the bridge. All leveling will be done by the importing of material rather than excavation. Fabric will be laid under all imported materials. Care will be taken to keep all sediment out of the drainage channel. This

EXHIBIT NO. 14

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.-State
Parks Terms and

Conditions(5 of 10)

California Coastal Commission

bridge will be removed and all imported material will be removed and the ground contour restored to its original condition at the end of this project.

- h) At Warner Bros.' expense for all the below, the water tower adjacent to the Ford House will be lowered, dismantled and moved to a location mutually agreed to by Warner Bros. and State Parks. Warner Bros. agrees to construct a foundation of park design at the original location. At the end of the project the water tower will be reassembled the new foundation. If the water tower is damaged in this process, Warner Bros. will restore the water tower to its original condition.
- i) At Warner Bros.' expense, representative samples of native plants impacted by this film project will be dug up and cared for for the duration of the project. These plants will be replanted on-site during the restoration operations. The holes created by removing plants will be filled in with native soil from the stockpiled soil referred to above.
- j) Any trees that must be removed as a result of this project will be dug up and cared for for the duration of the project. Every effort will be made to replant these trees in their original location. The holes created by removing plants will be filled in with native soil from the stockpiled soil referred to above. Any construction material stored on State Park property will be stored within the project area. Warner Bros. will make every effort to minimize the amount of material stored on park property. Generally, this material will be stored on the east side of the main structure or on the foot print of the carriage house. Exceptions may only be granted by the Park Superintendent or his/her representative.
- k) Generally, all vehicles will remain on the gravel road, trails and turnaround constructed on-site. Any vehicle or piece of heavy equipment taken or driven off the gravel surface will be on weight dispersing material such as plywood, metal plates or level timber. Exceptions may only be granted by the Park Superintendent or his/her representative.
- l) Warner Bros. will limit the number of vehicles parked at the construction/film site to the minimum needed for the on-going work. Parking will be restricted to the gravel surfaces and may not block emergency vehicle access to the site. No vehicles may be stored over night on the site except those necessary to

EXHIBIT NO. 14

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.-State
Parks Terms and

Condition(6 of 10)


California Coastal Commission

maintain a security presence or those needed during nighttime filming operations.

- m) Warner Bros. will use existing restroom facilities and will not bring sanitary facilities.
- n) Warner Bros. will make every effort to minimize the impact of set lighting on the community. Wherever possible lighting will be flagged to shield the community from the lighting source. No lighting will be left on overnight except where needed for filming or set security. All security lighting will be down cast, shielded and cast away from the community.

Provide details on all hazardous/toxic materials including: composition and toxicity information (MSD sheets) on all chemicals, paints, stains, dyes, fog, smoke, pyrotechnics and fuel to be used on state park property; the nature, date and time of use; details on application, containment, storage and cleanup of materials.

- a) Warner Bros. agrees not to stockpile and/or store overnight any of the above material judged by park personnel to be hazardous or toxic, based on the above criteria and information, at the project site. At no time will these materials remain on site beyond a 24-hour period.
- b) Warner Bros. will provide personnel trained and equipped to deal with all hazardous/toxic materials it brings onto state park property. This person or persons will be trained in the labeling, handling, cleanup and disposal of all materials that fall into these categories. Appropriate cleanup equipment and absorption material will be on-site when these materials are in use.
- c) In the event of a hazardous material spill that involves exposure to soil, Warner Bros. will call Mendocino County Environmental Health to deal with the situation.
- d) In every case possible, impermeable fabric will be laid down to cover the entire area where these materials are in use.
- e) The film monitor will review the use of these materials. If the monitor deems that the materials pose a threat to park resources, the use of these materials will cease until the situation can be resolved.
- f) Water used in the rain machine, or dispersed for any reason, will not be chlorinated.


EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.-State Parks Terms and Conditions(7 of 10)	
 California Coastal Commission	

Provide details/plans for the removal of all imported material. All expenses incurred for the restoration of state park property will be paid for by Warner Bros. according to sub-paragraph b.

- a) State Parks will be responsible for developing and implementing a project site revegetation plan. Parks will use a combination of native plants removed from the project site and plants grown from local seed stock to revegetate the site. Revegetation will take place in the Fall of 1998. Resource Ecologist Renee Pasquinelli and the park resource management staff will oversee the above project.
- b) Warner Bros. will deposit \$15,000 with the State Film Commission to pay for all aspects of the above plan.

Provide details on security personnel to be used on state park property. Identify plans for training security staff in representing State Parks and in maintaining positive public relations with park visitors/local citizens.

- a) State Park staff will meet with the security personnel to discuss State Parks' public relations philosophy and park expectations on how the public is to be contacted and treated during the course of this project.
- b) In the event of a conflict between the public and a member of the security staff, the state park monitor and state park liaison will be immediately notified.
- c) Warner Bros. will be responsible for the security of all the buildings, vehicles, equipment and tools stored on State Park property. State Parks assumes no liability for property of the permittee that may be lost, stolen or vandalized during the course of this permitted event. The speed limit for all vehicles used during this project is 15 MPH while they are being operated on State Park property.

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.-State Parks Terms and Conditions(8 of 10)	
 California Coastal Commission	


Provide a plan for interpreting this film project to park visitors and local citizens. Investigate the potential for using interpretive panels, brochures, and local media to carry Warner Bros. message on the "Practical Magic" project to the public.

Provide details/plans for restricting or redirecting pedestrian access during shooting and/or construction. It is the intent of both Warner Bros. and State Parks to minimize the restrictions on public use of park property during this project.

- a) In general, all trails will remain open for public use during set construction. Trails may only be closed with the knowledge and written permission of State Parks.
- b) During active filming, public access and progress on the trails adjacent to project site may be halted for up to 20 minutes.

Provide information on construction practices; public/employee safety and emergency medical response plans, policies and measures; fire safety and suppression plans; plans for disposing of construction scrap, hardware, trash and litter; plans for the use, control and disposal of smoking materials; and a company policy and plan for controlling the use of alcohol and drugs at the construction/shooting site.

- a) Prior to the beginning of construction, the construction coordinator for Warner Bros. will meet with the Park Superintendent and park staff to discuss construction techniques and conditions contained in this permit, construction safety, fire safety, site protection, material and hardware storage, handling and management, vehicle and heavy equipment storage and use, hazardous material use, storage and precautions, daily cleanup and public relations.
- b) During fire season (as determined by the California Department of Forestry) Warner Bros. will provide, on standby at the local Fire Station or on location as conditions dictate, a fire truck of 1000 gal. capacity or higher equipped with a minimum of 100 ft. of 1 ½ inch hose and nozzle and a trainer firefighter who must be familiar with pumper operation.
- c) Warner Bros. will maintain fire extinguishers at appropriate locations on the project site.
- d) The State Park film monitor will have a 5 gallon backpack fire pumper on scene at all times.
- e) Warner Bros. will provide personnel trained in emergency medical care during all construction and filming activities.

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.-State Parks Terms and Conditions(9 of 10)	
 California Coastal Commission	

PRACTICAL MAGIC

10

- f) Warner Bros. will provide a construction and filming supervisor on scene during all construction and filming activities.
- g) Warner Bros. will remove all construction scrap, hardware, litter and debris at the end to this project.
- h) Warner Bros. agrees to provide litter containers and to dispose of all litter at the end of each workday.
- i) Warner Bros. will sweep the entire project area with a magnet and metal detector to assure all metal debris is removed from the project site by the end of the project.
- j) Warner Bros. agrees to maintain an alcohol and drug free workplace at all times.
- k) Warner Bros. agrees to restrict smoking to designated areas, to ensure that all smoking material is properly extinguished, and to dispose of all smoking materials and debris at the end of each workday.


This permit may be amended based on a substantial change of the scope or activities associated with this project.

Brian P. Hickey 9/12/97


Brian P. Hickey
Acting Superintendent
Russian River/Mendocino District

Michael Walbrecht 9/12/97

Michael Walbrecht
Director of Production and
Studio Affairs
Warner Bros., ~~Inc.~~ A TIME Warner
Entertainment Company, L.

EXHIBIT NO. 14
APPLICATION NO. A-1-MEN-97-67
WARNER BROS.-State Parks Terms and Conditions(10 of 10)
 California Coastal Commission

BARRY W. CUSICK
P. O. Box 24
Mendocino, California 95460

EXHIBIT NO.	15
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	
Correspondence	
 California Coastal Commission	

October 27, 1997

OCT 28 1997

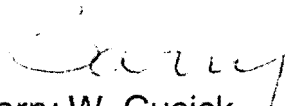
California Coastal Commission
North Coast Area Office
45 Fremont, Suite 2000
San Francisco, California 94105-2219

RE: A-1-Men-97-067
Warner Brothers - Support For

Dear Sirs,

As a resident who lives very close to, and owns property adjacent to where the filming is proposed, I am writing in full support of the filming of Practical Magic. My observation of past filmings is they have left no long term impact on the subject or surrounding properties.

Sincerely,


Barry W. Cusick

BWC:kco

OCT 23 1997

27 Oct 97

EXHIBIT NO. 16

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Correspondence

California Coastal Commission

California Coastal Commission
Permit # A-1-Men-97-067 Warner Bros.
Item # F-8a

As a twenty year resident located less than one block away from the proposed construction - and one who will be directly affected by it,

I would like to support "Warner Bros." application.

I would also ask the CCC to allow an extension of an additional 30 days to their permit from 1 Apr 98 to 1 May 98 - as they had not expected to have their original permit approvals appealed.

The "Music Festival" is held yearly on the same spot, with its construction of a huge stage and tent. Thousands of folks walk, sit and enjoy the events without any damage being done.

I think the proposed construction will have less impact than everyday tourist traffic.

Sincerely

ALAN SUSSEX

707-937-0193

45270 Min St

PO Box 340 Mendocino Co.

Mendocino Co 95461

October 28, 1997

Re: A-1-MEN-97-67

California Coastal Commission

by FAX: 415-904-5400

Dear Commissioners:

EXHIBIT NO. 17

APPLICATION NO.

A-1-MEN-97-67

WARNER BROS.

Correspondence

(1 of 2)

California Coastal Commission

1

We, the Committee to Protect the Integrity of the Mendocino Headlands, intend to appeal the Mendocino County Board of Supervisors' final action on Warner Brothers' application to build a movie set on the Mendocino Headlands State Park (CDP-57-97).

We assert that the procedural due process in this matter has been subverted and that we have been denied equal protection and fairness in the following manner:

1) The Coastal Commission staff has accepted as legitimate the last-minute appeal of Supervisor Charles Peterson without requiring Mr. Peterson to comply with all of the requirements of filing an appeal, in particular, the notification (and provision of copies of his appeal) to persons interested in the project being appealed which includes persons who have given both written and spoken testimony. (14 Cal. Admin. Code Section 13111 (c).) This is was apparently done in order to speed his appeal onto the November docket, disregarding due process.

2) Coastal Commission staff has urged us to file our appeal prematurely. Appellants are given 10 working days to file an appeal by law. Compliance with correct procedures is a lengthy process, and very often arguments and facts pertinent for Coastal Commission considerations were not relevant to other governing bodies through which any particular application or project might have previously proceeded. We are entitled to have the full time the law allows other good faith appellants, and to have the staff do a full-scale investigation and report based on *our* issues, not Charles Peterson's.

The very nature of the scrutiny required by an appellant to the Coastal Commission, may lead to arguments that have not surfaced before, as is true in our case.

Please be advised of the following additional facts:

1) Each of us involved in this appeal is a novice with respect to the LCP, the County Zoning Code, the Mendocino Town Plan and Zoning Code, and Commission procedures. Many of us have full time work, and require the full ten days to research and write our appeal as mandated.

2) The legal deadline to file an appeal in this matter is November 4, at 5p.m., one full day into your hearings.

3) We do not expect to be ready with our appeal before this. We need the full ten days to convene and refine new factual data we have uncovered and to process the displays we plan to present. And we should not be pushed to short-circuit your protocol. To do so deprives us of our rights and fair treatment.

4) The appeal that triggered the special treatment you are providing Charles Peterson's appeal, is *not* a good faith appeal. Charles Peterson's only interest in appealing this project is to insure the movie occurs. The basis of his action, by his own admission, is

to preempt our appeal and force it onto your November calendar. Peterson filed the appeal only after an appeal planned by Warner Bros. to the Commission was, ironically, aborted by the Board of Supervisors' decision to grant Warner Bros. request to eliminate all the conditions imposed by Coastal Permit Administrator, Ray Hall (conditions previously agreed to by Warner Bros.)

5) Each appellant has been given different deadline dates pertaining to the November calendar. Peterson was given one by Jo Ginsberg, and our committee was given another by Bob Merrill. These ambiguities are obstructions to fair process.

6) Given that we are not filing our appeal until November 4, your staff will not be able to fully investigate our appeal and prepare a staff report for your consideration on our separate and legitimate appeal. We are entitled to a good faith, in depth staff report like everyone else.

7) You, as Commissioners, will not have adequate time to study the merits of our appeal.

CONCLUSION

Since Staff tells us they have no discretion in continuing this item, we request that you, as fair-minded public servants, carry over this item until December, after you are in a position to do a good faith, comprehensive review of the appeal filed by the Committee to Protect the Integrity of the Mendocino Headlands.

Bending of the rules gives the impression of partiality to a large corporation at the expense of local residents and an exquisite state park. This is contrary to the spirit of the Coastal Act and the Constitution.

The Coastal Commission is precious. The one thing it can not stand to lose is its reputation for utmost fairness. It is important that the public does not see you, the Commissioners as yielding to the lure of glamour and money in order to achieve a particular result.

We urge you to uphold the impeccable honor of your office and continue this hearing to December.

Respectfully



Joan Curry


Beth Bosk


Gigela Linder


Betsy Holliday

for: The Committee To Protect the Integrity of the Mendocino Headlands

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-97-67
WARNER BROS.	Correspondence
(2 of 2)	
 California Coastal Commission	

RECEIVED
OCT 30 1997

CALIFORNIA
COASTAL COMMISSION

P.O. Box 555
Albion, Ca.
95410
28 Oct. 97.


Calif. Coastal Commission
45 Fremont, Suite 2000
San Francisco, Ca. 94105-2219

Dear Sirs:

I urge you to allow Warner Bros. to film
the movie "Practical Magic" on the Mendocino
Headlands.

I remember when Jessie Jackson was scheduled
to speak on the headlands about 10 years
ago, when several hundred peoples trampled
all over the area and no one protested! The
headlands survived. Some of these same people
who are protesting Warner Bros - was there
at the Jessie Jackson rally. No protests
were heard!!

Mendocino desperately needs the income
that Warner Bros will leave here!
Please vote yes for "Practical Magic."

EXHIBIT NO.	18
APPLICATION NO.	7-1-MEN-97-67
WARNER BROS.	
Correspondence	
 California Coastal Commission	

Sincerely,
Mary Kunkel

