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Commission Action:	

STAFF REPORT: PERMIT AMENDMENT

APPLICATION NO: **1-83-208-A3**

APPLICANTS: **DAVID AND MARCELLE MAHAN**

PROJECT LOCATION: 2608 Knox Cove Drive, McKinleyville, Humboldt County, APNs 510-431-24 & 510-27-07.

DESCRIPTION OF PROJECT PREVIOUSLY APPROVED: A major subdivision creating 29 parcels as a phased project: Phase I, three parcels; Phase II, twelve parcels; and Phase III, fourteen parcels; and including paving of interior roads, underground utility installation, installation of fence along the east property line and a locked gate near the northern entrance to the subdivision, dedication of access and open space easements.

DESCRIPTION OF AMENDMENT: Install a french drain on the bluff top at the property located at 2608 Knox Cove Drive and install a drainage pipe to the toe of the bluff.

LOCAL APPROVALS: No local discretionary approvals required.

SUBSTANTIVE FILE DOCUMENTS: Humboldt County Local Coastal Program

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends approval of the proposed amendment with conditions. The proposed drainage improvements will convey runoff and ground water from portions of the original subdivision down to the base of the bluff. The original permit required similar drainage facilities to help prevent drainage from the subdivision from contributing to erosion and geologic instability, consistent with Section 30253 of the Coastal Act. Thus, the purpose of the

drainage improvements currently proposed is consistent with the intent of the Commission's action on the original permit, Section 30253 of the Coastal Act, and with the certified LCP policies that incorporate Section 30253. To prevent the drainage improvements themselves from contributing to erosion, Special Condition No. 3 would require that the applicants carry out their proposal to install an energy dissipater at the downhill end of the pipeline. To mitigate adverse effects on the riparian habitat along the bluff face in a manner consistent with the LCP riparian corridor protection policies, staff is recommending two additional special conditions. Special Condition No. 2 would require the pipeline to be routed so as to avoid snags and trees that might provide nesting habitat, and Special Condition No. 1 would require the submittal for the review and approval of the Executive Director of a revegetation plan for revegetating areas disturbed by construction of the drainage improvements. As conditioned, staff believes that the proposed development with the proposed amendment is fully consistent with the policies of the certified LCP and with the coastal access policies of the Coastal Act.

STAFF NOTES

1. PROCEDURE AND BACKGROUND: Section 13166 of Title 14 of the California Code of Regulations states that the Executive Director shall reject an amendment request if it lessens or avoids the intent of the approved permit unless the applicant presents newly discovered material information, which he or she could not, with reasonable diligence, have discovered and produced before the permit was granted.

The Coastal Commission granted Coastal Development Permit No. 1-83-208 to California Pacific Ranch, Inc. in June of 1984 for the 29-parcel residential subdivision known as the Knox Cove Subdivision, located along Knox Cove Drive on a coastal terrace adjacent to the Mad River, in the unincorporated area of McKinleyville in Humboldt County (see Exhibits 1-3). The proposed amendment request was submitted by David & Marcelle Mahan, the subsequent purchasers of Lot 6 of the original subdivision which now had been developed with a single family residence (see Exhibit 3). The amendment seeks authorization to install certain drainage improvements, including a French drain and a down drain down the side of the bluff face in response to landslide activity along the bluff caused in part by surface and subsurface runoff.

In its action to approve the original permit, the Commission imposed five special conditions. These conditions include requirements for providing and offering to dedicate certain public access improvements (Special Condition No. 1); maintaining landscaping on lots fronting on an existing public access trail (Special Condition No. 2); recordation of an assumption of risk deed restriction because of the geologic, erosion and seismic hazards associated with developing the subdivision on the bluff top property (Special Condition No. 4); the submittal of drainage plans (Special Condition No. 5); and the recordation of an offer to dedicate an open space easement over the edge of

the bluff top and the portion of the bluff face on the applicant's property (Special Condition No. 3).

In its findings to approve the original project subject to this and the other conditions, the Commission indicates that drainage facilities are important for ensuring long term bluff stability. The findings state, in applicable part, the following:

"In addition to the potential erosion hazard due to river migration and possible seismic hazards, the geologic report pointed out that three areas of gully erosion caused by concentrated runoff from the project site. One of these areas is located along the abandoned railroad grade east of proposed parcel number one...The geologic report further states:

'A second area of concern is located near the bluff edge near parcel numbers six and seven. Runoff is concentrated by a linear swale located east of a relatively large sand dune remnant. During high rainfall periods, runoff from the gently sloping terrace surface appears to concentrate in this swale and flow to the northwest where it discharges over the bluff edge...'

The geologic report suggests that increased concentrated runoff could result in accelerated erosion near the bluff edge and on the bluff slope. The report recommends that concentrated runoff be collected in a drain pipe system where it can be discharged to the base of the bluff, that the outlets should include energy dissipation structures and that natural drainage ways that are presently eroding should also be discharged to the base of the bluff slope through drain pipe systems.

Because specific drainage plans had not yet been fully developed and reviewed by the time the Commission acted on the application, the Commission imposed Special Condition No. 5. The condition was intended to ensure that the drainage improvements would be installed in an appropriate manner. Therefore, it was the Commission's intent to allow appropriate drainage facilities to be installed along the bluff.

The Commission intent to allow drainage improvements is also evident in the findings adopted on Environmentally Sensitive Habitat Areas. These findings state, in applicable part, that:

Proposed drainage improvements in a 15-foot-wide drainage easement at the southwest and northwest portions of the property, include the placement of culverts over the bluff, emptying into an energy dissipator at the base of the bluff adjacent to the Mad River estuary. Conditions of approval require that drainage plans incorporate design and construction techniques that minimize the erosion hazards to the bluff, base of the bluff, gulches, trail, and trail crossing. As conditioned, the revised drainage plans will minimize erosion hazards and will minimize the possible loss of habitat and natural resource areas.

Thus, the Commission's intent was to allow drainage facilities specifically to protect habitat areas along the bluff face.

Further evidence that the Commission intended that drainage facilities be allowed to be installed along the bluff is provided by Special Condition No. 3. Special Condition No. 3 required that the applicant record an offer to dedicate an easement approved by the Executive Director for open space over the western edge of the bluff top residential parcels. The affected area includes a portion of the top of the bluff, and the portion of the bluff face on the applicant's property. The condition provides that the offer to dedicate shall:

"...not permit development of structures, nor the removal, trimming, or topping of vegetation. 'Structures,' in this instance, is not defined to include approved drainage facilities and improvements."

The wording clearly allows for drainage facilities to be installed along the bluff face.

Therefore, the Executive Director determined that the proposed amendment would not result in a lessening or avoidance of the intent of the approved permit and accepted the amendment request for processing.

2. Standard of Review:

The standard of review for this amendment request is the certified LCP of Humboldt County and the public access policies of the Coastal Act. At the time the original permit application was approved by the Coastal Commission, the Humboldt County LCP was not yet certified and the standard of review for the application was the Coastal Act. The McKinleyville segment of the Humboldt County LCP was effectively certified in February of 1986. Pursuant to Coastal Act requirements, after effective certification, the standard of review for all coastal permits and permit amendments for developments located between the first public road and the sea is the certified LCP and the public access policies of the Coastal Act.

I. MOTION, STAFF RECOMMENDATION AND RESOLUTION:

The staff recommends that the Commission adopt the following resolution:

1. Motion:

I move that the Commission approve the amendment to Coastal Development Permit No. 1-97-208 subject to conditions:

2. Staff Recommendation of Approval:

Staff recommends a **YES** vote and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

3. Resolution to Approve Permit Amendment:

The Commission hereby approves the amendment to the coastal development permit, subject to the conditions below, on the grounds that the proposed development with the proposed amendment is consistent with the provisions of the Humboldt County Local Coastal Program, is located between the sea and the 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 Attachment A.

III. Special Conditions.

1. Revegetation Plan:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, a revegetation plan prepared by a qualified professional with expertise in the fields of landscaping or botany, such as a landscape architect or botanist. The plan shall provide for revegetation of all areas disturbed by construction with ground covers and shrubs that include riparian plant species. Revegetation shall be accomplished as soon as practical after construction activities are completed. All areas of bare soil shall be planted, mulched, or otherwise treated to reestablish vegetative cover. Any disturbed area where a complete vegetative cover has not reestablished within one year of the initial attempts to revegetate the site shall be replanted at that time.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. Proposed changes to the approved final plans shall not occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

The applicant shall notify the Executive Director in writing when the disturbed areas have been revegetated, and Commission staff shall verify the revegetation via a site visit or by examining photographs submitted by the applicant.

2. Routing of Down Drain:

The down drain to be installed down the face of the bluff shall be routed so as to avoid disturbance of existing trees and snags.

3. Installation of Energy Dissipator:

The approximately 16-square-foot rock energy dissipator proposed by the applicant shall be installed at the bottom end of the down drain to prevent erosion at the toe of the bluff.

IV. Findings and Declarations.

The Commission hereby finds and declares as follows:

1. Site Description.

The subject site is the 29-parcel residential subdivision known as the Knox Cove Subdivision, located along Knox Cove Drive on a coastal terrace adjacent to the Mad River, in the unincorporated area of McKinleyville in Humboldt County (see Exhibits 1-3). The proposed amendment would amend Coastal Development Permit No. 1-83-208, granted by the Commission in June of 1984 to California Pacific Ranch, Inc. for the original subdivision. The specific property within the subdivision affected by the amendment request is the bluff top parcel known as 2608 Knox Cove Drive. The amendment also affects an adjoining parcel at the base of the bluff next to the river.

The subdivision rises up from near the bottom of the bluff face within sand dunes and riparian habitats adjacent to the Mad River to the top of a relatively level terrace approximately 60 feet above sea level. From the top of the bluff, the triangular-shaped subdivision extends eastward to the Hammond Trail, a public access trail that has been built within an old railroad right of way (see Exhibit 3). To date, approximately 13 homes have been built within the 29-parcel subdivision. The terrace portion of the subdivision has been cleared and the undeveloped parcels are covered with grasses. Pine trees have been planted along the Hammond Trail side of the subdivision. The bluff face is vegetated with riparian and upland trees and plant species. Surrounding land uses include single family residential development with up to two dwelling units per acre, the Hammond Trail, and a sewage treatment plant. The subdivision is between the first public road and the sea, and is accessed from Highway 101 via Murray and Kelly Road. Knox Cove Drive, the entry drive to the subdivision, intersects with Kelly Road.

2. Original Permit

Permit No. 1-83-208 approved division of the approximately 24-acre property into 29 separate parcels in three phases, as well as paving an interior road, installing underground utilities, and installing a fence along the east property line. The subdivision was approved as a locked gate subdivision with the gate approved near the entrance to the subdivision, at its northern end.

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The permit was granted with a number of special conditions (See Exhibit 6). Special Condition No. 1 required certain public access enhancements involving extending the Hammond Trail, an upland trail built along an old railroad right of way that provides a key link in the Coastal Trail between the northern end of Humboldt Bay and McKinleyville. At the time the Commission considered the permit application, the Hammond Trail extended from the south along the eastern edge of the parcel to be subdivided to a point near the northern end of the proposed subdivision. The trail ended where the applicant proposed that the entry road to the proposed subdivision, Knox Cove Drive, cross the old railroad right of way before accessing the residential parcels to be created. Special Condition No. 1 required that the applicant record an offer to dedicate the remainder of the old railroad right of way through the applicant's ownership to allow for an extension of the Hammond Trail to Murray Road to the north. In addition, the condition required the applicant to guarantee pedestrian, equestrian, bicyclist, and vehicular access from the end of Kelly Road, the nearest public road, to the beginning of the new section of the Hammond Trail that was to be dedicated. Furthermore, the condition required the applicant to develop a vista point along the west side of the Hammond Trail extension.

Special Condition No. 2 required that existing landscaping on all of the lots with frontage on the old railroad grade be maintained and that plans for the fence approved along the Hammond Trail right of way be reviewed and approved by the Executive Director.

Special Condition No. 3 required that the applicant record an offer to dedicate an easement approved by the Executive Director for open space over the western edge of the bluff top residential parcels. The affected area includes a portion of the top of the bluff, and the portion of the bluff face on the applicant's property. The offer did not include the very bottom of the bluff face, nor the area between the bluff and the river, as this area is under separate ownership and was not part of the subdivision. The applicant had proposed as part of the project description to offer to dedicate as open space the area west of the break-in slope or the area designated in the McKinleyville Area Plan as Natural Resources. The condition provides that the offer to dedicate shall:

"...not permit development of structures, nor the removal, trimming, or topping of vegetation. 'Structures,' in this instance, is not defined to include approved drainage facilities and improvements."

The offer was recorded in 1984, but the offer has not yet been accepted by any party.

Special Condition No. 4 required the applicant to record an assumption of risk deed restriction to be reviewed and approved by the Executive Director, because of the geologic, erosion and seismic hazards associated with developing the subdivision on the bluff top property.

Finally, Special Condition No. 5 required the the submittal of drainage plans as approved by the Humboldt County Public Works Department and subject to he approval of the Executive Director that minimize erosion hazards to the bluff, the base of the bluff, gulches, and the trail and trail crossing

The current amendment request is the first amendment request to amend this coastal development permit that the Commission has heard. Amendments A-1 and A-2 are pending amendment requests for other development along the bluffs of the subdivision.

3. Proposed Amendment

The proposed amendment request was submitted by the current owners of one of the residential parcels of the original subdivision, David and Marcelle Mahan. The amendment request seeks authorization to install drainage improvements on the lot that would extend down to the bottom of the bluff on to an adjacent parcel which is owned by the applicants together with other parties. The applicants have submitted written authorization from the other owners of the lower parcel to construct the portion of the proposed drainage improvements that will be built there. The drainage improvements are proposed in response to landslide activity along the face of the bluff on the subject parcel that developed after record rainfall amounts from December 30, 1996 to January 1, 1997. According to the applicants' submitted geotechnical evaluation, the landslide activity was due to over-saturation of the soils above and along the bluff face together with ground water flow. The proposed French drain and the other drainage improvements are proposed as a means of collecting and conveying away surface and ground water near the bluff edge before it has a change to contribute to bluff failure.

The applicant proposes to install various drainage improvements that feature a French drain across the terrace portion of the lot, approximately 10-20 feet back from the bluff edge. The French drain would be constructed by excavating a six to seven foot-deep trench, lining the trench with filter fabric, and placing a minimum six inch diameter perforated pipe at the bottom. The trench would be back filled with rain rock to within four to six inches of ground level, where it would be capped with filter fabric and a sod/grass layer. Water would be conveyed from the French drain via an above ground drainage pipe (down drain) that would extend down the bluff face to the toe of the bluff. A smaller pipeline would convey drainage from the roof of the existing house to the down drain as well. A 1.5-foot-high earthen berm would be built along the top edge of the bluff to prevent surface flow from washing over the top of the bluff. Additional drains would convey the surface water retained by the berm to the down drain. An energy dissipater consisting of an approximately 16-square-foot bed of 25 lb rock will be installed at the end of the pipe to protect the bluff toe against erosion from the discharge from the drainage pipe.

The proposed drainage improvements would be consistent with the terms of the offer to dedicate an open space easement recorded pursuant to Special Condition No. 3 of the original permit.

4. Protection of Environmentally Sensitive Habitat Areas.

Section 30240 of the Coastal Act has been specifically incorporated into the certified LCP, as have many other policies of the Coastal Act. Section 30240 provides, in applicable part, that environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and that development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts that would significantly degrade such areas.

Policy 3.41F.5 of the McKinleyville Area Plan (LUP) states in applicable part:

New development within riparian corridors shall be permitted when there is no less environmentally damaging feasible alternative, where the best mitigation measures feasible have been provided to minimize adverse environmental effect,...

Policy 3.41F.6 of the McKinleyville Area Plan (LUP) states in applicable part:

Mitigation measures for development within riparian corridors shall, at a minimum, include replanting disturbed areas with riparian vegetation (including such species as redwood, sitka spruce, alders, etc.), retaining snags within the riparian corridor unless felling is required by CAL-OSHA, or permitted by California Department of Forestry forest and fire protection regulations, and retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons or egrets.

Policy 3.41G. of the McKinleyville Area Plan (LUP) states in applicable part:

Storm water outfalls, culverts, gutters, and other drainage control improvements which discharge into natural drainage courses shall be dissipated, and where feasible, screened.

Section A314-63G.2 of the Coastal Zoning Ordinance (IP) states in applicable part:

(2) New development within riparian corridors shall be limited to:

- (a) Maintenance dredging for flood control and drainage purposes consistent with the Transitional Agricultural Land regulations;
- (b) Maintenance of flood control structures, roads, fences, drainage channels, levees, flood gates, and tide gates, including replacement;

- (c) Wells in rural areas;
- (d) Replacement or construction of roads, bridges, pipelines, electrical utility lines, municipal water systems, incidental public service purposes, provided that the length of the facilities within the riparian corridor shall be minimized, where feasible, by rights of way which cross streams at right angles and do not parallel streams within the riparian corridor;
- (e) Removal of trees for disease control, or public safety purposes, or for firewood for personal use;
- (f) New fences, as long as they do not impede natural drainage or would not adversely affect the stream environment or wildlife.
- (g) Timber management activities,...

Section A314-63I of the Coastal Zoning Ordinance (IP) states in applicable part:

Required Mitigations. The best feasible measures to mitigate adverse environmental effects of development within riparian corridors shall be provided, and shall, at a minimum, include the following:

- (1) Replanting of disturbed areas with riparian vegetation; or posting of a performance bond guaranteeing reestablishment of natural vegetation within two (2) years, to the satisfaction of the Hearing Officer.
- (2) Retaining snags, unless removal is required by CAL-OSHA regulations or for stream bank protection;
- (3) Retaining live trees with visible evidence of current use as nesting sites by hawks, owls, eagles, osprey, herons or egrets.

Section A315-16I.4 of the Coastal Zoning Ordinance (IP) states in applicable part:

- (4) Coastal Streams and Riparian Areas (CZ).
 - (a) There are no significant adverse affects on habitat areas;
 - (b) There is no less environmentally damaging feasible alternative; and
 - (c) The best mitigation measures feasible have been provided to minimize adverse environmental effects.

The western most portion of the Knox Cove Subdivision has been designated as Natural Resources (NR) in the McKinleyville Area Plan in recognition of the riparian habitat growing along the bluff face. The riparian habitat extends from the bluff to the river. Portions of the area are part of a riparian corridor along the Mad River that is considered to be an environmentally sensitive habitat area.

Section 30240 of the Coastal Act and the LCP policies greatly restrict the development that is allowed within environmentally sensitive habitat areas and riparian corridors in particular. For example, Section 30240 generally restricts the uses allowed in an ESHA to uses that are dependent on the resources of the environmentally sensitive habitat area. However, Section A314-63(d) of the Coastal Zoning Ordinance specifically allows the "...construction of pipelines...", provided that the length of the facilities within the riparian corridor shall be minimized..." As the proposed down drain and its energy dissipator are part of a pipeline, and as the proposed alignment of the down drain is at right angles to the corridor, thereby providing the shortest possible route to the base of the bluff, the proposed drainage facilities are an allowable use within the riparian corridor pursuant to Section A314-63(d) of the Coastal Zoning Ordinance.

The LCP policies further restrict any development of an allowable use within riparian corridors and ESHA by requiring that feasible mitigation measures be provided. Policy 3.41F.6 of the LUP states that mitigation measures for development within riparian corridors shall include replanting disturbed areas with riparian vegetation and retaining snags and live trees with visible evidence of use as nesting sites. Policy 3.41G of the LUP states that at a minimum, mitigation measures for development with riparian corridors shall include replanting of disturbed areas with riparian vegetation. Similarly, Section A314-63I states that the best feasible measures to mitigate adverse environmental effects of development with riparian corridors shall be provided and shall include replanting of disturbed areas with riparian vegetation or posting of a bond guaranteeing reestablishment of natural vegetation, and retaining snags and live trees with visible evidence of current use of nesting sites. In addition, Policy 3.41G.2 of the LUP requires that outfalls and other drainage control improvements which discharge into natural drainage courses shall be dissipated.

Construction of the proposed down drain and energy dissipator down the face of the bluff could result in disturbance of the soil. In addition, depending on the exact alignment chosen for the down drain, the proposed development could disturb existing trees that could support bird nests. Furthermore, given that the water conveyed through the drainage improvements will ultimately discharge to the Mad River, a natural drainage course. Therefore, to minimize the adverse impacts of development of the proposed drainage improvements on the riparian habitat, and to ensure consistency with the requirements of the above described policies, the Commission imposes Special Conditions 1, 2, and 3.

Special Condition No. 1 requires that the applicants submit a revegetation plan for the review and approval of the Executive Director that provides for revegetating areas disturbed by installation of the pipeline. The condition specifically requires that riparian species be used in the replanting plan. By providing for the replanting of disturbed areas, the proposed project as conditioned will be consistent with the pertinent requirements of Policy 3.41G of the LUP and Section A314-63I of the Coastal Zoning Ordinance that disturbed areas be replanted with riparian vegetation.

Special Condition No. 2 requires that the applicants route the down drain in a manner that avoids existing trees and snags. By requiring such routing, the condition will ensure that any snags and live trees that might be nesting sites will be retained, consistent with the applicable provisions of Policy 3.41F.6 of the LUP and Section A314-63I of the Coastal Zoning Ordinance.

Finally, Special Condition No. 3 requires that the rock energy dissipator proposed by the applicants be constructed at the end of the down drain as proposed by the applicants. This condition will ensure that the authorized dissipator is actually installed and will serve its intended purpose of dissipating the discharge from the pipeline to prevent erosion, consistent with Policy 3.41G.2 of the LUP.

The Commission finds that with the requirements of Special Conditions 1, 2, and 3, the best feasible measures to mitigate adverse environmental effects of development within the riparian corridor will be provided, consistent with Policy 3.41F.5 of the McKinleyville Area Plan (LUP) and Section A315-16I.4 of the Coastal Zoning Ordinance

Therefore, the Commission finds that the proposed drainage improvements, as conditioned, are consistent with the riparian corridor protection policies of the certified LCP. The Commission further finds that the proposed development with the proposed amendment is consistent with the certified LCP, including Section 30240 of the Coastal Act, Policies 3.41F.5, 3.41F.6, and 3.41G of the McKinleyville Area Plan, and Sections A314-63G.2, A314-63I, and A314-16I.4 of the Coastal Zoning Ordinance.

5. Hazards.

The Humboldt County LCP includes policies requiring that new development assure structural integrity, minimize risks to life and property in areas of high flood hazard, and not create erosion.

Section 30253 of the Coastal Act has been specifically incorporated into the certified LCP. Section 30253 states in applicable part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Policy 3.28.C of the McKinleyville Area Plan (LUP) states in applicable part:

3. The developments permitted in the hazard areas shall be sited and designed to assure stability and structural integrity for their expected economic life spans while minimizing alteration of related storm run-off, foot traffic, site preparation, construction activity, irrigation, waste water disposal and other activities and facilities accompanying such development) shall not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding geologically hazardous areas.
4. Alteration of cliffs and bluff tops, faces, or bases by excavation or other means shall be minimized. Cliff retaining wall shall be allowed only to stabilize slopes.

Section A315-16.H of the Coastal Zoning Ordinance states, in applicable part:

(2) Coastal Geologic Hazard (CZ).

- (a) The development will be sited and designed to assure stability and structural integrity for the expected economic life span while minimizing alteration of natural landforms;
- (b) Development of bluffs and cliffs (including related storm runoff, foot traffic, site preparation, construction activity, irrigation, wastewater disposal and other activities and facilities accompanying such development) will not create or contribute significantly to problems of erosion or geologic instability on the site or on surrounding areas; and
- (c) Alteration of cliffs and bluff tops, faces, or bases by excavation or other means will be minimized. Cliff retaining walls shall be allowed only to stabilize slopes.

The subject property is located on a gently sloping, uplifted terrace approximately sixty feet above sea level. Both the soil mantle and underlying geology consist of sedimentary deposits. The bluff face of the property descends steeply (approximately 85% to 90% slope) to a gently sloping, narrow, alluvial plain that separates the base of the bluff from the Mad River.

A geologic report submitted with the original permit application points out that gully erosion caused by concentrated runoff from the terrace has affected the bluff face in the past. One of the locations where the geologic report noted that gully erosion has occurred is along the bluff edge near parcel number six and seven. The parcel where the drainage improvements are proposed by the amendment request is Parcel No. 7, the parcel owned by the applicants for the amendment request. The original geologic report suggested that increased concentrated runoff could result in accelerated erosion near the bluff edge and on the bluff slope. The report recommended that concentrated runoff be collected in a drain pipe system and discharged to the base of the bluff, that the outlets should include energy dissipation structures, and that water from the natural drainage ways should also be discharged to the base of the bluff slope through drain pipe systems. In approving the original permit, the Commission included a condition requiring the submittal of drainage plans as approved by the Humboldt County Public Works Department and subject to the approval of the Executive Director. Among other findings, the Commission found in its approval of the original permit that:

"Conditions of approval require that drainage plans incorporate design and construction techniques that minimize the erosion hazards to the bluff, base of the bluff, gulches, trail and trail crossing. As conditioned, the revised drainage plans will minimize erosion hazards and will minimize the possible loss of habitat and natural resource areas."

The amendment request proposes certain drainage improvements to address landslide activity along the face of the bluff on the subject parcel that developed after record rainfall amounts from December 30, 1996 to January 1, 1997. The applicants hired Walter B. Sweet, Civil Engineer, to perform a geotechnical evaluation of the landsliding activity. According to the submitted geotechnical evaluation, the landslide activity was due to over-saturation of the soils above and along the bluff face together with ground water flow. The proposed French drain and the other drainage improvements are proposed as a means of collecting and conveying away surface runoff from portions of the subdivision development and ground water near the bluff edge before these waters have a chance to contribute to bluff failure. By conveying erosive water away from the bluff face, the proposed drainage improvements will help ensure that a portion of the originally approved subdivision development will not contribute to erosion in a manner consistent with both the Commission's original action on the original permit and consistent with the LCP policies.

The current geotechnical report includes one recommendation designed to prevent the drainage improvements themselves from creating an erosion hazard. The report states:

"Rip rap or an energy dissipater should be placed at the drain exit to prevent surface erosion at the toe of the bluff from collected concentrated drainage runoff."

The amendment request proposes that an energy dissipater consisting of an approximately 16-square-foot bed of 25 lb rock be installed at the end of the pipe. To ensure that the authorized energy dissipater is actually installed and will serve its intended purpose of dissipating the discharge from the pipeline to prevent erosion, the Commission imposes Special Condition No. 3 to require its installation. As conditioned, the Commission finds that the proposed drainage improvements will not contribute to a geologic hazard or erosion consistent with the policies of the certified LCP, including Section 30253 of the Coastal Act, Policy 3.28C of the McKinleyville Area Plan, and Section A315-16.H of the Coastal Zoning Ordinance. The Commission further finds, that the proposed development with the proposed amendment is consistent with these same LCP policies.

6. Public Access.

Projects located within the coastal development permit jurisdiction of a local government that are located between the nearest public road and the sea are subject to the coastal access policies of both the Coastal Act and the LCP. Sections 30210, 30211 and 30212 require that maximum public access be provided, that new development not interfere with the public's right of access to the sea, and that public access from the nearest public roadway to the shoreline be provided in new development. The certified LCP incorporates these policies and includes additional policies regarding the manner in which lateral and vertical access easements should be established and accepted.

In applying the public access policies of the Coastal Act and the LCP, the Commission is limited by the need to show that any denial of a permit application based on this section, or any decision to grant a permit subject to special conditions requiring public access is necessary to avoid or offset a project's adverse impact on existing or potential access.

The original permit required various public access improvements that augmented then existing public access improvements adjacent to the site. As noted previously, Special Condition No. 1 required certain public access enhancements involving extending the Hammond Trail, an upland trail that provides a key link in the Coastal Trail between the northern end of Humboldt Bay and McKinleyville and which extended from the south part way along the eastern edge of the proposed subdivision. Special Condition No. 1 required that the applicant record an offer to dedicate the remainder of the old railroad right of way through the applicant's ownership to allow for an extension of the Hammond Trail to Murray Road to the north. The offer was accepted by Humboldt County and the trail has been built. Special Condition No. 1 also required the applicant to guarantee pedestrian, equestrian, bicyclist, and vehicular access from the end of Kelly Road, the nearest public road, to the beginning of the new section of the Hammond Trail that was to be dedicated. Furthermore, the condition required the applicant to develop a vista point along the west side of the Hammond Trail extension. In approving the original permit, the Commission found that the project as conditioned is in conformance with the public access policies of the Coastal Act.

The proposed amendment will not result in any adverse impacts on existing public access. The proposed drainage improvements will not be located near the Hammond trail or any other public access area. The parcel is within the locked gate portion of the subdivision where no public access is provided. As the proposed drainage improvements are proposed to serve existing development at the site, the proposed amendment will not lead to greater density and intensity of use of the property, and thus will not increase in any way the demand for public access in the area. Therefore, the Commission finds that the proposed development with the proposed amendment, which does not include any additional provisions for public access, is consistent with the public access policies of the Coastal Act and the Humboldt County Local Coastal Program.

7. California Environmental Quality Act (CEQA).

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

As discussed above, the amended project will not have any significant adverse effect on coastal resources or on the environment. Therefore, the Commission finds that the proposed project with the proposed amendment can be found consistent with the requirements of the Coastal Act 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.



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

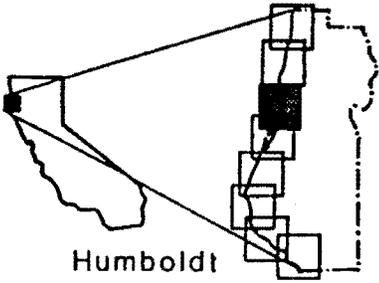
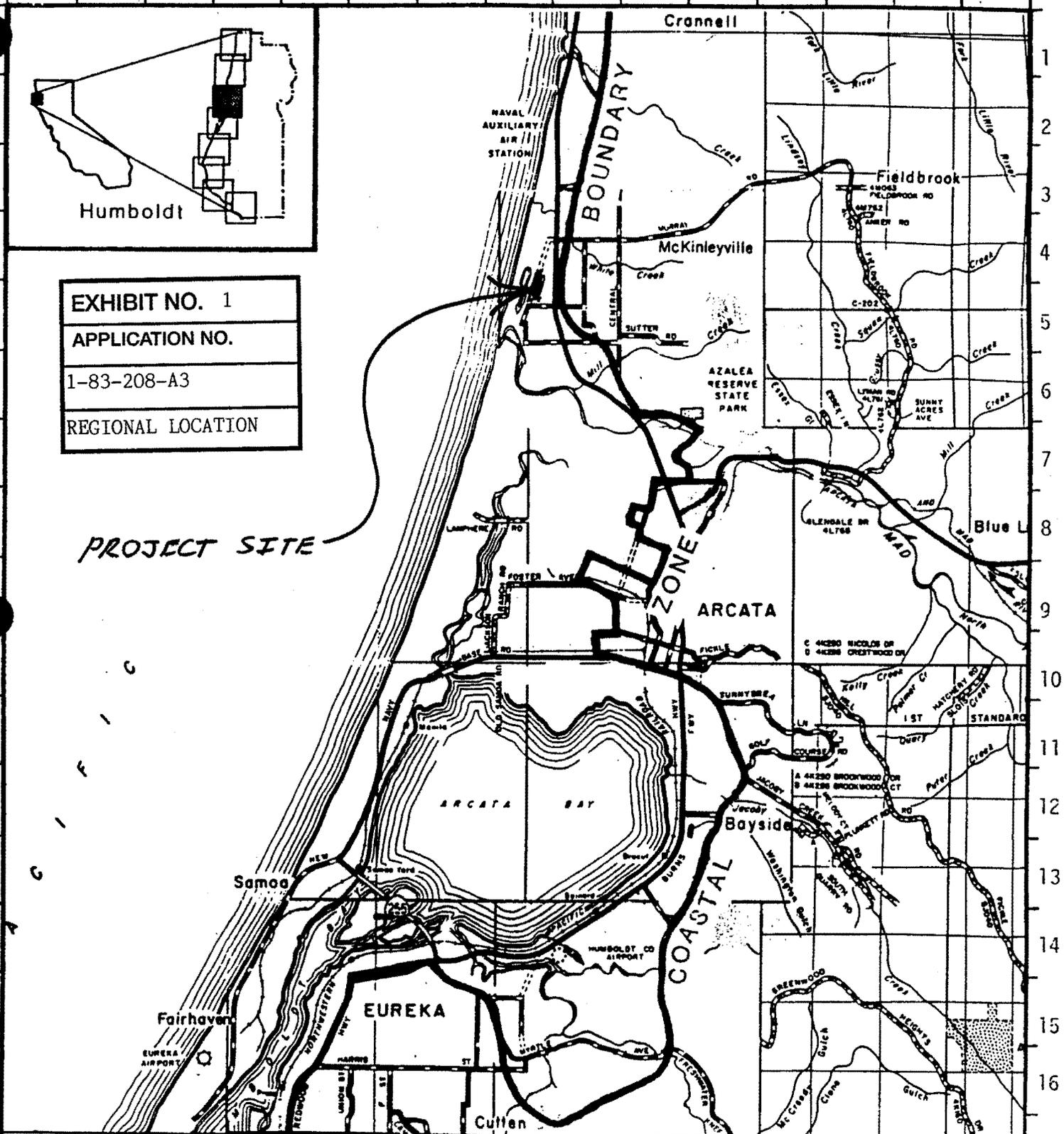


EXHIBIT NO. 1
APPLICATION NO.
1-83-208-A3
REGIONAL LOCATION

PROJECT SITE



California Coastal Commission

LOCATION MAP

KNOX COVE
SUBDIVISION

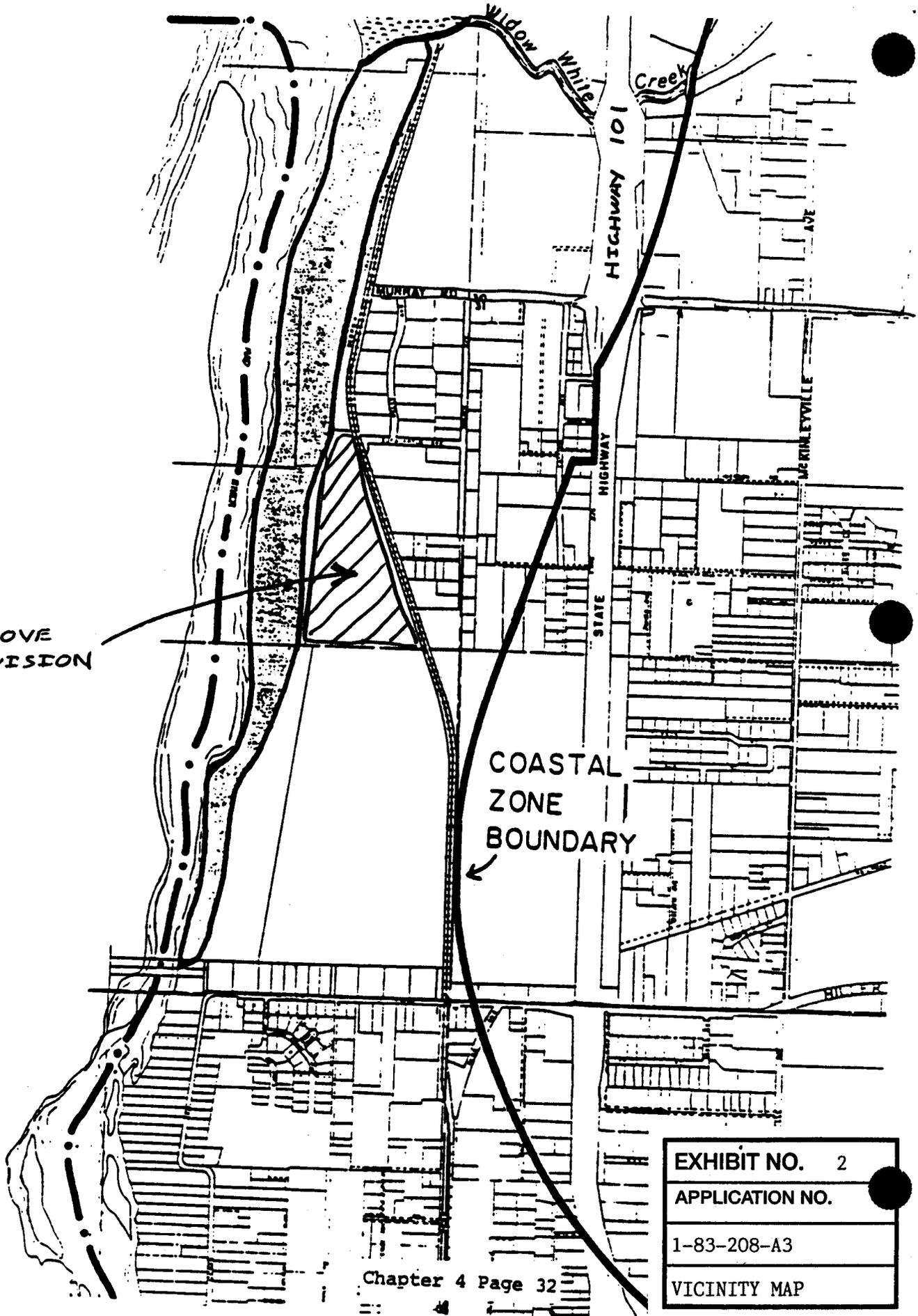
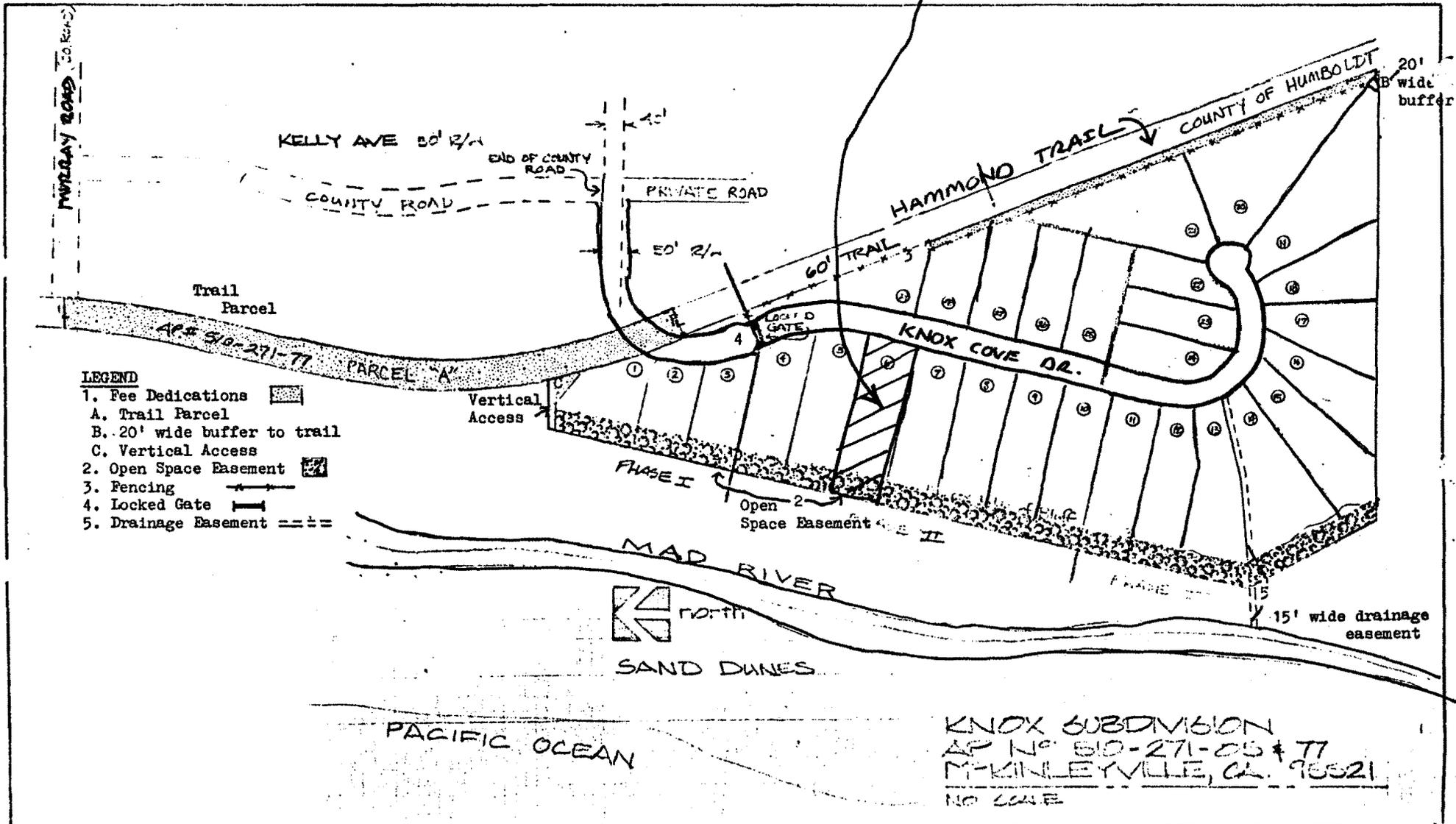


EXHIBIT NO.	2
APPLICATION NO.	
	1-83-208-A3
VICINITY MAP	

EXHIBIT NO.	3
APPLICATION NO.	
1-83-208-A3	
SUBDIVISION PLAN	



KNOX SUBDIVISION
 AP No 510-271-05 & 77
 McKinleyville, CA 95521
 NO CURE

Walter B. Sweet
CIVIL ENGINEER

P.O. BOX 636 ARCATA CALIFORNIA 95518
(707) 822-2436 FAX (707) 822-2463

SIGNED J.B.

DATE 10-28-

TITLE SITE PLAN

DRAWN S.B.

SHEET 1 OF 2

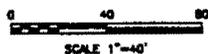
SCALE 1"=40'

CHECKED J.B., W.B.S.

DWG. NO. 4473ST.DWG

JOB NO. 97-4473

KNOX COVE DRIVE



APN 510-431-24

APN 510-431-24 &
510-271-07

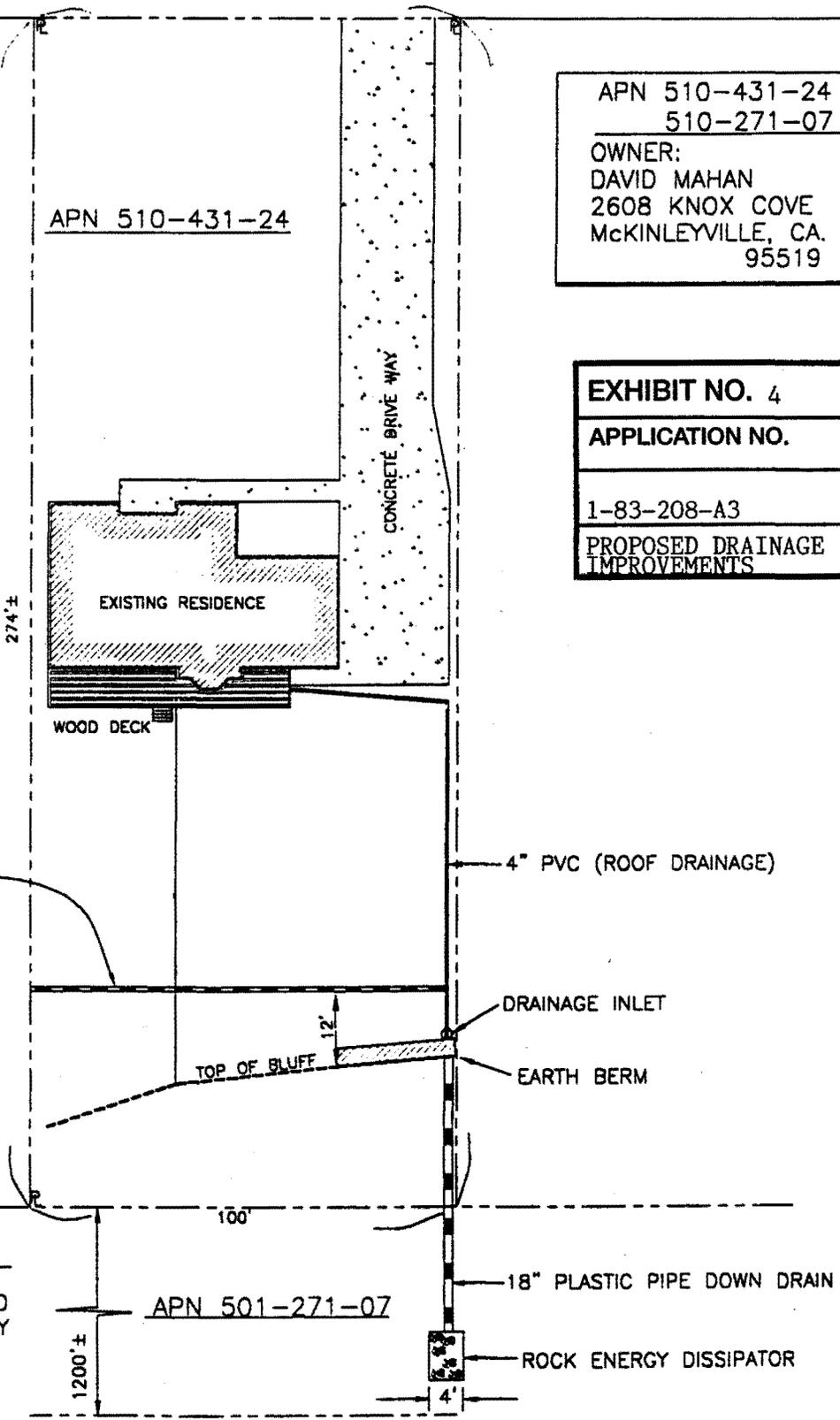
OWNER:
DAVID MAHAN
2608 KNOX COVE
McKINLEYVILLE, CA.
95519

EXHIBIT NO. 4

APPLICATION NO.

1-83-208-A3

PROPOSED DRAINAGE
IMPROVEMENTS



NOTE:
THE PERFORATED
PLASTIC PIPE IS DESIGNED
TO ALLOW CONNECTION BY
ADJACENT PARCELS.

Walter B. Sweet

CIVIL ENGINEER

P.O. BOX 536 ARCATA CALIFORNIA 95518
(707) 822-2436 FAX (707) 822-2463

DESIGNED J.B.

DATE 10-28-

TITLE SECTION

DRAWN S.B.

SHEET 2 OF 2

SCALE NTS

CHECKED J.B., W.B.S.

DWG. NO. 4473SEC

JOB NO. 97-4473

APN 510-431-24 &
510-271-07

OWNER:
DAVID MAHAN
2608 KNOX COVE
McKINLEYVILLE, CA.
95519

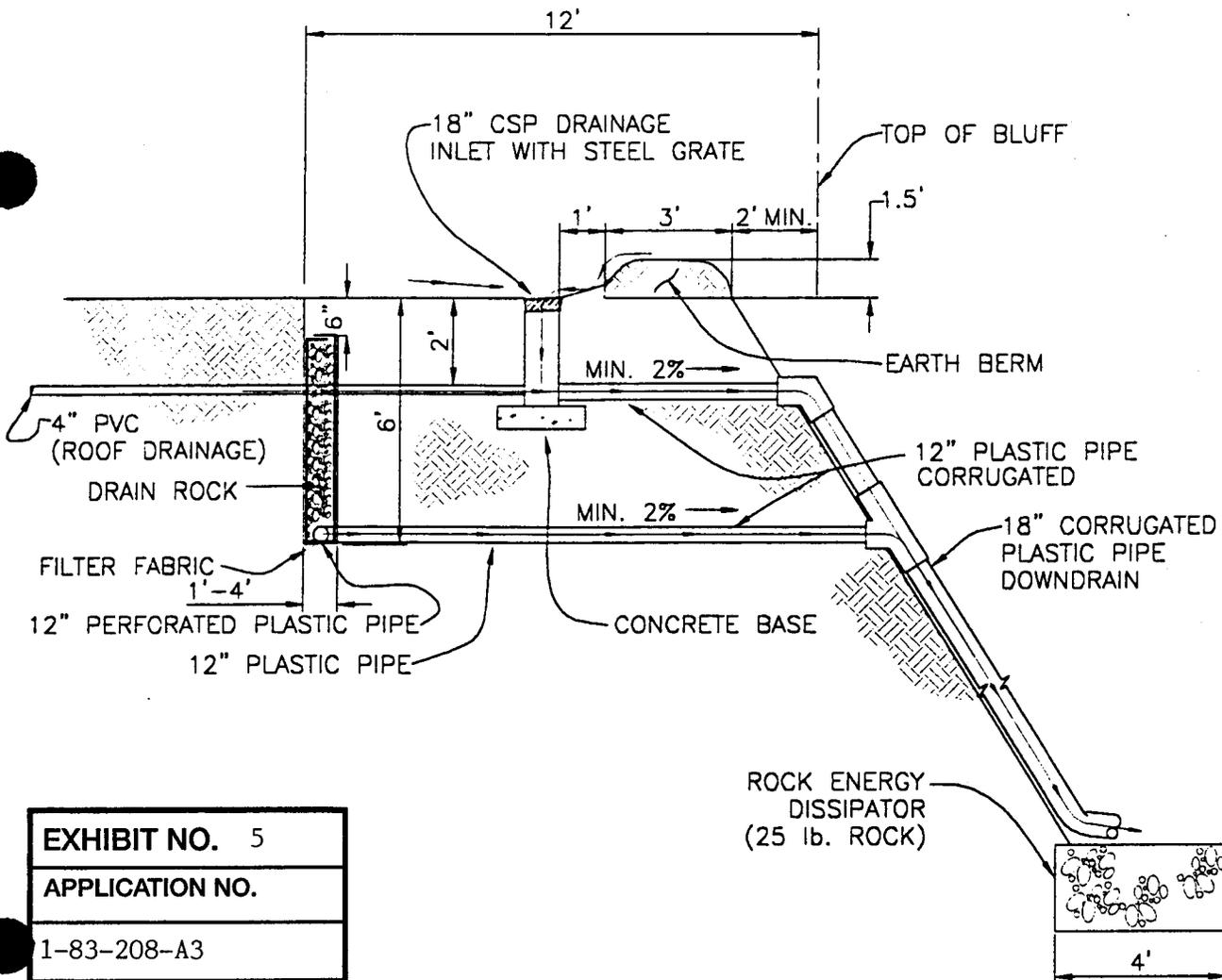


EXHIBIT NO. 5

APPLICATION NO.

1-83-208-A3

PROPOSED DRAINAGE
IMPROVEMENTS

California Coastal Commission
North Coast District
1656 Union Street, Room 150
Eureka, California 95501
(707) 443-1623

49th Day: Waived
180th Day: October 8, 1984
Staff: Linda G. Evans/jp
Staff Report: June 13, 1984
Hearing Date: June 28, 1984

PC DD

COASTAL PERMIT: REGULAR CALENDAR

STAFF REPORT AND PRELIMINARY RECOMMENDATION

APPLICATION NO. 1-83-208

APPLICANT: California Pacific Ranch, Inc.

AGENT: Vroman Engineering and Construction

EXHIBIT NO. 6
APPLICATION NO.
1-83-208-A3
ORIGINAL STAFF REPORT (1 of 13)

PROJECT DESCRIPTION

PROJECT LOCATION: Southwest of the end of Kelly Avenue, McKinleyville

PROJECT DESCRIPTION: A major subdivision creating 29 parcels as a phased project: Phase I, three parcels; Phase II, twelve parcels; and Phase III, fourteen parcels; and including paving of interior roads, underground utility installation, installation of fence along the east property line and a locked gate near the northern entrance to the subdivision, dedication of access and open space easements.

LOT AREA 24+ acres ZONING R-1

BLDG. COVERAGE NA (LCP) PLAN DESIGNATION RE, Residential Estates

PAVEMENT COVERAGE 89,250 sq.ft. PROJECT DENSITY 2 du/acre

LANDSCAPE COVERAGE NA HEIGHT ABV. FIN. GRADE NA

LOCAL APPROVALS RECEIVED: Humboldt County Board of Supervisors

SUBSTANTIVE FILE DOCUMENTS: McKinleyville Area Plan, Statewide Interpretive Guidelines, 1-82-126.

SYNOPSIS OF STAFF RECOMMENDATION

Approval with Conditions

The proposed major subdivision raises issues with Coastal Act policies and McKinleyville Area Plan policies. Conditions of approval including the provision of public access dedications and improvements, visual and natural resource protection, minimizing geologic and erosion hazards are recommended in order to mitigate impacts of the development and to bring the project into conformance with both Coastal Act and Local Coastal Program policies.

Staff Report: California Pacific Ranch, Inc.
1-83-208

STAFF RECOMMENDATION: Staff recommends that the Commission adopt the following resolution:

A. Approval with Conditions

The Commission hereby grants a permit for the proposed development, subject to the conditions below, on the grounds that, as conditioned, the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a local coastal program conforming to the provisions 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.

B. Special Conditions

1. Access: Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied.

a. Vertical Access. The applicant shall comply with one of the following:

(1) The applicant shall provide to the Executive Director written verification from Humboldt County that assures that public pedestrian, equestrian, bicycle and vehicular access shall be provided and maintained for public use along the westerly extension of Kelly Road to the Hammond Trail;

or

(2) The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency approved by the Executive Director, a road for public pedestrian, equestrian, bicyclist and vehicular access to the Hammond Trail. Such road or easement shall be located from the southern end of Kelly Road westerly to the Hammond Trail and shall provide on-street parking for the public as illustrated in Exhibit 3. Such dedication shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

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

EXHIBIT NO. 6

APPLICATION NO.

1-83-208-A3

ORIGINAL STAFF REPORT (2 of 13)

b. Vista Point: A vista point shall be improved adjacent to the Hammond Trail as shown on Exhibit 4.

Prior to the transmittal of the permit, the applicant shall submit final plans for vista point construction in the area shown on Exhibit 4. The plans shall be reviewed and approved

by the Executive Director in consultation with the Humboldt County Parks and Recreation Department. The plans shall provide for sufficient space for the Hammond Trail improvements east of the vista point, within the Hammond Trail right-of-way.

Improvements shall consist of, at a minimum: (1) 60 feet in length of a low fence along the bluff edge; and (2) one picnic table with benches. The fence, table and benches shall be durable and adequately secured to the site. These requirements shall be addressed in the plan. The improvements shall be installed at the applicant's expense prior to sale of any newly created parcels.

If Humboldt County will not assume maintenance and liability of the vista point and the improvements (as determined during the Humboldt County Parks and Recreation Department's review and approval of the vista point improvement plans), the applicant shall make an in lieu fee contribution, at an equivalent value to the materials and labor construction costs of making the approved vista point improvement, to Humboldt County into an account approved by the Executive Director that ensures the fee will be utilized only for McKinleyville vista point improvements.

c. Trail/Lateral Access: The applicant shall execute and record a document in a form and content approved in writing by the Executive Director of the Commission irrevocably offering to dedicate to a public agency or a private association approved by the Executive Director, a dedication of land for pedestrian, equestrian and bicyclist public access and passive recreational use along the Hammond Trail. Such land shall be 60 feet wide and located along the planned Hammond Trail as illustrated in Exhibit 4 otherwise known as Humboldt County Assessor's Parcel number 510-271-77. Such land dedication shall be recorded free of prior liens except for tax liens and free of prior encumbrances which the Executive Director determines may affect the interest being conveyed.

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

2. Visual Resources: The landscaping of all lots having frontage on the old railroad grade shall be maintained and shall remain in place. Prior to the transmittal of this permit, the applicant shall submit design plans of the fence along the Hammond Trail subject to the review and approval of the Executive Director. Approved fence plans shall be implemented with this permit.

3. Natural Resource Protection: Prior to the transmittal of the permit, the Executive Director shall certify in writing that the following condition has been satisfied. The applicant shall execute and record a document, in a form and content approved by the Executive Director of the Commission, irrevocably offering to dedicate to an agency or private association approved by the Executive Director, an easement for open space to be located as illustrated in Exhibit 5. The document shall include legal descriptions of both the applicant's entire parcel and the easement area and shall limit the use of

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1-83-208

the easement area to natural resources protection and shall not permit development of structures, nor the removal, trimming, or topping of vegetation. "Structures" in this instance, is not defined to include approved drainage facilities and improvements.

4. Geologic Resources: Prior to the transmittal of a coastal development permit, the applicant shall submit to the Executive Director, a deed restriction for recording free of prior liens except for tax liens, that binds the applicant and any successors in interest. The form and content of the deed restriction shall be subject to the review and approval of the Executive Director. The deed restriction shall provide for lots 1-15 and for drainage easements and improvements as follows:

a. (1) that the applicants understand that the site may be subject to extraordinary hazard from high water during storms, from erosion, and from landslides, and the applicants assume liability from those hazards;

(2) the applicants unconditionally waive any claim of liability on the part of the Commission or any other public agency for the damage from such hazards; and

(3) the applicants understand that construction in the face of these known hazards may make them ineligible for public disaster funds or loans for repairs, replacement, or rehabilitation of the property in the event of storms, landslides and/or erosion.

b. A geologic study (Johnson, Northcoast Geotechnical Incorporated, 12/15/83, 1/27/84 and 2/23/84) has been prepared on these lots indicating high, moderate and low hazard areas for siting future development.

5. Drainage Improvements: Prior to the transmittal of the permit, the applicant shall submit the following:

a. drainage plans as approved by the Humboldt County Department of Public Works that minimize erosion hazards to the maximum extent feasible, to the bluff, the base of the bluff, gulches, and the trail and trail crossing;

b. Compliance with one of the following:

(1) written verification acceptable to the Executive Director that the applicant has the legal authority to construct the drainage improvements on the parcel to the west (AP#510-271-07);

or

(2) revisions to the drainage plans, consistent with condition 5a, that only provide for on-site drainage improvements.

Said drainage plans and easements shall be subject to the review and approval of the Executive Director in consultation with the Humboldt County Public Works Department. Drainage improvements shall be installed according to approved plans. Within 60 days of final installation, the applicant shall submit written certification by either certified engineer or by the Humboldt County Department of Public Works that the drainage improvements have been installed in conformance with the approved plans.

EXHIBIT NO. 6
APPLICATION NO.
1-83-208-A3
ORIGINAL STAFF
REPORT (4 of 13)

Staff Report: California Pacific Ranch, Inc.
1-83-208

FINDINGS & DECLARATIONS: The Commission hereby finds and declares as follows:

A. Project Description

The proposed project is a major subdivision of 24¹/₂ acres, creating 29 parcels as a phased project consisting of: Phase I, three parcels; Phase II, twelve parcels; Phase III, fourteen parcels, and including paving of interior cul-de-sac roads, underground utility installation, drainage improvements, construction of a fence along the east property line and a locked gate near the northern entrance to the subdivision and a dedication of access and open space.

B. Site Description

The subject parcel is located on the coastal terrace of McKinleyville. The project site rises from sand dunes and riparian habitats adjacent to the Mad River to the top of a relatively level terrace approximately 60 feet above sea level and above the adjacent Mad River. The subject parcel had been, until recent years vegetated with a spruce and closed cone pine forest and associated understory. More recently, the terrace top portion of the parcel has been cleared and some pine trees have been planted along the eastern property boundary. Surrounding land uses include single family residential development with up to two dwelling units per acre, an upland multipurpose community trail on a former railroad grade, and a sewage treatment plant.

C. Coastal Issues and Policies

1. Development: Section 30250 of the Coastal Act of 1976 states in part:

"(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it, or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources."

EXHIBIT NO.
APPLICATION NO.
1-83-208-A3
ORIGINAL STAFF
REPORT (5 of 13)

The project site is located within an urban area planned for residential development. Public water and sewer services are available at the site. The project plans include road improvements to be developed to County standards and the installation of fire hydrants. The certified McKinleyville area plan designates the subject property as Residential Estates, at 0-2 units per acre. The proposed land division densities are consistent with the coastal land use plan designation.

The project, as proposed, would have a potential for significant effects on coastal resources, either individually or cumulatively, however, with the above conditions, the Commission finds the following with regard to Coastal Act policies:

a. Public Access & Recreation: The subject parcel is located between the Mad River's estuary and U.S. 101, the first public road parallel to the sea in this portion of McKinleyville. The property is in a scenic setting with forests and riparian woodlands on three sides of the property, the Mad River estuary, sand dunes and ocean to the west, and views of Moonstone and Trinidad Head to the northwest. The property is located between the

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1-83-208

shoreline and the Hammond Trail, an upland coastal trail that provides a key link between State, Federal, and local parklands to the north and the urban areas of Humboldt Bay, including the Crew House Youth Hostel in Arcata, and Mad River County Park. The trail also provides a popular bicycle route between Arcata and McKinleyville, which avoids dangerous freeway bridges and heavy truck traffic.

The State Coastal Conservancy has granted money to Humboldt County for acquisition and trail construction and improvements. Both the adopted Humboldt County Trails Plan and the certified McKinleyville Area Plan (which includes the Trail's Plan policies) place a high priority on developing and improving the Hammond Trail. The County plans to develop the trail at 20 feet in width to accommodate multiple uses, with an additional 20 foot buffer on either side of the trail which is to be vegetated and to provide a natural screen between recreational and adjacent residential uses.

A project history on page 12 of this report describes the various projects proposed by the applicant and access conditions required by the Commission that affect the subject parcel and surrounding area. The access conditions required by the Commission thus far have provided vertical and lateral easements to the County owned portion of the Hammond Trail. The proposed driveway subdivision access road crosses the Hammond Trail.

Section 30210 of the Coastal Act of 1976 states:

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

EXHIBIT NO. 6

APPLICATION NO.

1-83-208-A3

ORIGINAL STAFF REPORT (6 of 13)

Section 30212(a) of the Coastal Act provides:

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

Section 30212.5 of the Coastal Act of 1976 states:

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

Section 30213 of the Coastal Act provides in part:

"Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred."

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1-83-208

EXHIBIT NO. 6
APPLICATION NO..
1-83-208-A3
ORIGINAL STAFF REPORT (7 of 13)

Section 30253 of the Coastal Act states:

"Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible."

The certified McKinleyville land use plan establishes policies for provision of public access and recreation in Plan Sections 4.54 and 3.24. The plan's access component requires dedication of either a vertical pedestrian/equestrian access to the shore, or, if potential bluff erosion hazards preclude this, an improved vista point overlook to be dedicated in conjunction with the division of large parcels in this portion of McKinleyville.

"On each one of the two large parcels fronting the shore, a dedication of access and appropriate improvements should be required in coordination with the subdivision which would provide either vertical pedestrian/equestrian access to the shore or, if potential bluff erosion hazards preclude this, an improved overlook which would provide vistas of the Mad River, Mad River spit, and the Pacific Ocean. Limited parking should be provided at each access."

In addition, Policy 4.54-33 recommends that the coastal trail follow the recommendations of the adopted County Trails Plan. The County Trails Plan recommends that the coastal trail segment in McKinleyville be aligned on the "Hammond Trail" as described herein:

"Following the historic Hammond Lumber Company railroad grade, the trail would begin at the Mad River Railroad Bridge and extend north along Fischer Road until the old railroad grade is reached. The trail would follow the railroad grade all the way to Clam Beach County Park."

While the Commission recognizes that a subdivision would have a substantial impact on the access and recreational facilities in the neighborhood because of increased densities and a higher population, the additional burdens created by a subdivision would be off-set by the vertical access or vista overlook dedication required by the McKinleyville area plan policies. In this case, the only location for vertical access is at the northwest extreme of the parcel, down a steep and eroding drainage gulch. This drainageway was eroding headward to the point of threatening property at the Hammond Trail and at the trail crossing such that on January 30, 1981, the applicant, Harvey Knox, requested and was granted an emergency coastal permit to install drainage facilities including the construction of a hard surface (concrete) lining of the drainage way, removal of a failed culvert and placement of a rubble energy dissipator at the base of the drainage improvement. The applicant's engineer/agent acknowledges that these drainage improvements have not functioned properly and that erosion is again occurring in the drainage way and headward of it. To locate vertical access to the river down the northern drainageway would cause further erosion and instability of the area and would not be consistent with Policy 4.54-29A of the McKinleyville area plan. Therefore the Commission finds that a vista point overlook with support facilities for parking and vertical access to the trail and overlook from the nearest public road is necessary (from the south end of Kelly Avenue) as provided in Special Condition 1.b., in order to bring the project into conformance with both the McKinleyville area plan and the Coastal Act access policies.

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1-83-208

The Commission further finds that in planning for a subdivision for residential use, a non-priority use as defined in the Coastal Act of 1976, in a location adjacent to the shoreline, that the public's right to access to the sea are burdened and that conditions requiring access easements will benefit the public thereby mitigating the impacts of the development on public access and recreational opportunities.

The development of a subdivision that proposes a road access across the Hammond Trail will impact the recreational and access opportunities because of its location west of the first public road and the shoreline and west of the trail, and by introducing a vehicular crossing of the trail.

Sections 30210 - 30212 of the Coastal Act of 1976 requires that public access to the shoreline and along the coast be maximized and provided in all new development projects located between the first public road and the shoreline. The project is between the first public road, Highway 101, and the shoreline (as shown in Exhibit 1). The proposed development will provide a lateral accessway 60 feet wide extending along the Hammond Trail, AP# 510-271-77, Exhibit 4. The lateral accessway will ensure maximum public access to the Hammond Trail consistent with the County Trails Plan and will enable the public to make maximum use of those lands by ensuring an adequate width of land secured for public access use for walking, bicycling, horseback riding, and other recreational activities. The Commission finds that with dedication of the trail as proposed, the development will be consistent with Sections 30210-30212 of the Coastal Act as well as with Policy 4.54-33 of the McKinleyville area plan.

The project proposes vehicular access to the subdivision by means of a private road, the westerly extension of Kelly Avenue. One of the County's conditions of recordation of the tentative parcel map is that this private road be improved to certain standards to insure that, if offered, the road easement could be accepted by the County. This condition of the County, together with the Special Condition number 1.a. that requires the provision of public access easement on the westerly access road, will insure maximum public access by promoting greater use of either the proposed vista point or the Hammond Trail.

The proposed road will cross the Hammond Trail. Another condition of Humboldt County's approval requires that the trail crossing conform with standards set by the County Department of Public Works in order to develop the road consistent with the planned trail improvements and to minimize conflicts of vehicular and non-motorized uses.

b. Visual Resources: The subject parcel is located adjacent to the Mad River estuary, an area used extensively by fishermen and other boaters, and the Hammond Trail, an upland trail planned and partially improved for public recreation. The property is within a scenic area with forest areas and riparian vegetation on the westerly side of the property and within sight of the Mad River estuary, sand dunes, and the Pacific Ocean. Views from the parcel include the above described setting as well as Moonstone and Trinidad Head to the northwest of the parcel.

Section 30251 of the Coastal Act of 1976 provides as follows:

"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development

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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 surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks & Recreation and by local government shall be subordinate to the character of its setting."

In addition, Section 30240(b) of the Coastal Act provides:

"(b) 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."

The applicant is proposing to offer to dedicate to a public agency, a 20 foot wide, 995 foot long strip of land on the southeast side of the proposed subdivision adjacent to the County owned segment of the Hammond Trail. The purpose of this offer of land dedication, is to presumably provide additional visual buffer to the Hammond Trail. The proposed subdivision map illustrates a fence to be located along the eastern property boundary, but no plans for the fence are included with the application. In order to protect visual resources adjacent to a publicly owned trail access and recreation area, a condition of this permit requires the maintenance of landscaping and submittal of fence plans that are subordinate to the setting and that are subject to the Executive Director's approval.

c. Environmentally Sensitive Habitat Areas: Section 30240 of the Coastal Act provides:

"(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas."

The western most portion of the subject property is designated Natural Resources (NR) in the McKinleyville Area Plan. The NR designation applies to the riparian and dune habitats west of the bluff top and adjacent to the Mad River estuary. This vegetation on the slope provides some soil and slope stability in the root systems. The applicant proposed to offer the area west of the break-in slope, or the NR area as an open space easement, to a public agency. By providing protection to the vegetation through the terms of the open space easement, the project can be found to be consistent with the Natural Resource designation.

Proposed drainage improvements in a 15 foot wide drainage easement at the southwest and northwest portions of the property, include the placement of culverts over the bluff, emptying into an energy dissipator at the base of the bluff adjacent to the Mad River estuary. Conditions of approval require that drainage plans incorporate design and construction techniques that minimize the erosion hazards to the bluff, base of the bluff, gulches, trail and trail crossing. As conditioned the revised drainage plans will minimize erosion hazards and will minimize the possible loss of habitat and natural resource areas.

EXHIBIT NO. 6
APPLICATION NO.
1-83-208-A3
ORIGINAL STAFF REPORT (9 of 13)

Staff Report: California Pacific Ranch, Inc.
1-83-208

D. Geologic Hazards and Drainage Improvements: Section 30253 of the Coastal Act provides:

"New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective device that would substantially alter natural landforms along bluffs and cliffs."

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The subject property is located on a gently sloping, uplifted terrace approximately sixty feet above sea level. Both the soil mantle and underlying geology consist of sedimentary deposits. Steep slopes are located adjacent to the northern, western and southern portions of the project area. The slopes at the northern and southern portions descend to unnamed, intermittent drainageways that have incised the marine terrace up to forty feet in depth. The slope west of the project area descends steeply (approximately 85% to 90% slope) to a gently sloping, narrow, alluvial plain that separates the base of the bluff from the Mad River. The bluff face and the alluvial plain are vegetated with alder, spruce, brush, ferns and berries. Boggy areas are vegetated with riparian and wetland species located in the flat, low-lying portions of the alluvial plain.

The estuary and mouth of the Mad River adjacent to and west of the subject property, has had a documented 93 year history of morphological changes including rapid migrations of the river mouth both to the north and to the south. River migrations in the past have contributed to the erosion and loss of sand dunes both to the west and the east of the river channel, and to river bank erosion and wave attack at the base of the bluff approximately one-half mile to the north of the project site.

A geologic report submitted with the application states that "it is conceivable that high rate bluff retreat could occur if the Mad River changes course such that river bank erosion removes the base of the bluff slope or if the river erodes through the barrier bar (the beach between the ocean and the river) which would then expose the base of the bluff to sea wave attack." The report then rates the site for bluff retreat hazard zones, ranging from high to moderate to low bluff retreat hazard zones and maps the project site accordingly (See Exhibit 6).

The geologic report states on page 7 that "deep-seated slope failure is not likely to occur except during very strong seismic shaking that is coincident with saturated soil conditions." In addition, the report surmises that "the potential for surface fault rupture on the development site parcel is considered to be low." However, the seasonal, high volume of precipitation can create saturated soil conditions for close to half of any given calendar year.

The geologic report on page 5 relates the following:

Earthquakes originating in the Mad River fault zone appear to be uncommon. Some of the faults in the Mad River fault zone are considered to be active and therefore capable of generating earthquakes. Several low-angle thrust faults have been identified in the general vicinity of the parcel. Evidence suggests that large to very large magnitude earthquakes would be generated during fault rupture events in the McKinleyville area. Strong to very strong seismic shaking could occur during a large magnitude earthquake originating near the project site

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In addition to the potential erosion hazard due to river migration and possible seismic hazards, the geologic report pointed out that three areas of gully erosion caused by concentrated runoff from the project site. One of these areas is located along the abandoned railroad grade east of proposed parcel number one. Past attempts to improve the drainage way and inhibit gully erosion have failed, according to the geologic report. Gully erosion at this location could effect a segment of the planned Hammond Trail and the access road as well as proposed parcel number one. The geologic report further states:

"A second area of concern is located near the bluff edge near parcel number six and seven. Runoff is concentrated by a linear swale located east of a relatively large sand dune remnant. During high rainfall periods, runoff from the gently sloping terrace surface appears to concentrate in this swale and flow to the northwest where it discharges over the bluff edge. Similar conditions exist near the bluff edge on parcels eleven and twelve where pre-development leveling and grading operations have apparently filled a pre-existing gully. Concentrated runoff in this area is causing headward erosion of fill within the old gully. No other indications of significant slope failure or erosion hazards were noted during our investigation."

The geologic report suggests that increased concentrated runoff could result in accelerated erosion near the bluff edge and on the bluff slope. The report recommends that concentrated runoff be collected in a drain pipe system where it can be discharged to the base of the bluff, that the outlets should include energy dissipation structures and that natural drainageways that are presently eroding should also be discharged to the base of the bluff slope through drain pipe systems. The base of the bluff is not included within the property lines of the subject parcel. The applicant is proposing that a 15' wide drainage easement be located between proposed lots 13 and 14 and that it continue across the adjoining parcel to the base of the bluff. As previously stated, past attempts to improve drainageways including the installation, at the base, of energy dissipators, have failed at the northern drainageway. The applicant does not have a demonstrated legal interest in the adjacent parcel, where some of the drainage improvements are proposed to be constructed. In order to minimize erosion hazards from the drainage improvements the permit includes a condition of approval that requires the submittal of drainage plans as approved by the Humboldt County Public Works Department and subject to the approval of the Executive Director. If the approved plans include the placement of drainage improvements on the adjacent parcel AP#510-271-07, then the applicant must also submit, as required in condition 5b, written verification of the legal authority to make the improvements.

Because of the previously stated geologic, erosion and seismic hazards, the permit includes a condition that requires the recordation of the applicant's assumption of risk in the event of damage to life and/or property due to said hazards. This assumption of risk, together with the geologic report and hazards rating map are to be recorded and will serve to notify potential buyers of the stated hazards associated with the site.

The Commission finds, therefore that the project as conditioned is consistent with Section 30253 of the Coastal Act of 1976.

E. Local Coastal Program and California Environmental Quality Act:

The project site is located within the planning area for the certified McKinleyville Area Plan segment of Humboldt County's Local Coastal Plan. The subject parcel is designated as Residential Estates, 0-2 dwelling units per acre. The parcel sizes and densities are consistent with the land use designation. Special conditions of this

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visual resources, natural resource protection, geologic resources and drainage improvements bring the project into conformance with Coastal Act policies and the McKinleyville Area Plan policies. The McKinleyville Area Plan segment of the Humboldt County Land Use Plan contains the following policy 3.24D, pertaining to recreation dedications:

"1. Within areas planned for residential development, new subdivisions containing fifty-one (51) or more parcels shall, at the option of the County, provide one of the following:

- a. An offer of dedication of land planned for residential use to a public or private non-profit agency for public parks or recreation use such as neighborhood parks or the trails and support facilities identified in the County Trails Plan (in addition to those required by Sections 4.52 and 4.54 (access) of this plan), or
- b. An in lieu fee at a level determined by the County to be sufficient to provide contribution to public parks or recreation and at a level that is economically feasible for small projects.

2. Within areas planned for residential development, new subdivisions containing less than fifty parcels shall provide an in lieu fee consistent with 1b above. . ."

The applicant is proposing to meet this requirement through the land dedication of the trail parcel (AP#510-271-77) pursuant to the policy 1a above. While the proposed subdivision contains fewer than fifty parcels, the offer of the land dedication of the trail parcel will provide an equivalently valued fee dedication, a key segment to the Hammond Trail and conforms to policies 4.52 and 4.54 of the McKinleyville LCP.

The Special Conditions serve to minimize and mitigate any potential impacts to the environment as required by the California Environmental Quality Act.

F. Project History:

Vegetation has been cleared and grading has occurred on the level terrace and on the adjacent proposed Hammond Trail without the benefit of a coastal development permit between November 1979 and February 1980. A permit application for the removal of vegetation for agricultural purposes was subsequently denied by the Regional Commission in June, 1980. An appeal of that decision to the State Commission was also denied. The Commission has filed a lawsuit regarding the alleged violation of vegetation removal and grading of the site and surrounding area.

The applicant has proposed numerous projects on the subject parcel and adjacent parcels. The first application, 80-A-34, as described above, was for vegetation removal on the subject parcel and was denied by both the Regional and State Commissions. An application for a lot line adjustment, 80-A-58, between the subject parcel and a parcel to the west, was approved with a condition requiring the recordation of an open space easement to protect the bluff and streamside vegetation. The offer to dedicate an open space easement has not been recorded and the permit has not been exercised. A permit for two single family residences, 80-CC-65, located east of the subject parcel and east of the Hammond Trail, (AP#510-371-56 and 58) was approved with a condition requiring the recordation

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of a ten foot wide vertical access easement and a 25 foot wide lateral access easement location at the end of Kelly Avenue, and extending west then south to the County owned segment of the Hammond Trail. The offer to dedicate access easements have been recorded and the development is complete. A subsequent permit to construct a stucco and stone wall around the two residences, 80-A-83, was approved without conditions. A permit to construct an access road, 80-A-84 (which is the same road as the subject project's driveway access, AP#510-371-56), was approved with a vertical and lateral access condition that would re-align the easement required of 80-CC-65. The offer to dedicate an access easement has not been recorded and the permit has not been exercised. An application to construct a single family residence on the subject parcel, 80-CC-78, was denied based on conflicts with the local coastal program. An application to construct a single family residence located on a parcel to the north of the access road, 1-81-201, (AP#510-371-43) was approved with a condition requiring an offer to dedicate a 50 foot wide access easement for pedestrian, equestrian, bicycle and vehicular use, located along the access road. This easement would widen the easements required in 80-CC-65 and 80-A-84. The offer to dedicate access easement for 1-81-201 has not been recorded and the permit has not been exercised. The most recent Commission action affecting this property was to approve a permit, 1-82-126, for a single family residence on the subject parcel with conditions to submit a revised site plan, to record an offer to dedicate access easement along the trail parcel, and to prohibit vegetation removal on portions of the parcel. The offer to dedicate access easement has not been recorded and the permit has not been exercised.

G. Alleged Violation:

Although development has taken place prior to submission of this permit application, consideration of the application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Approval of this permit does not constitute a waiver of any legal action with regard to any violation of the Coastal Act that may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

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