

CALIFORNIA COASTAL COMMISSION

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Staff: Jo Ginsberg
Staff Report: May 22, 1998
Hearing on Rev. Findings June 11, 1998
Commission Action on Findings:

STAFF REPORT: REVISED FINDINGS

APPEAL NO.: **A-1-MEN-98-17**

APPLICANT: **DON AND MARGARET PERRY;
HENRY AND MARGARET SMITH**

AGENT: Rick Henderson, Henderson & Mayo

LOCAL GOVERNMENT: County of Mendocino

DECISION: Approval with Conditions

PROJECT LOCATION: 28301 North Highway One, north of Fort Bragg,
Mendocino County; APNs 069-010-20, 069-010-21,
069-010-22, 069-010-34, 069-010-35, 069-020-02,
069-020-05, 069-020-14, 069-050-06, 069-070-07,
069-070-11.

PROJECT DESCRIPTION: Construction of a 20-unit visitor-serving
facility, including 20 guest units in seven
separate structures, a two-story lobby/meeting
room/manager's quarters building, an employee
utility building, 25 parking spaces, a sign,
underground water tanks, wells, leach fields,
driveway, and fence.

APPELLANTS: **Friends of the Ten Mile; Mendocino
Coastwatch; Mendo Lake Group Sierra Club**

AGENTS FOR APPELLANTS: Judith Vidaver, Roanne Withers, Ron Guenther

COMMISSIONERS ON THE
PREVAILING SIDE
(DE NOVO REVIEW) Commissioners Allen, Armanasco, Dettloff,
Fleming, Johnson, Miller, Giacomini, Rose,
Wright, Tuttle, and Chairman Areias

SUBSTANTIVE FILE DOCUMENTS: Mendocino County Local Coastal Program; Mendocino
County Coastal Development Permits No. CDU 8-97
and CDU 8-93.

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STAFF NOTE

At the Commission meeting of May 12, 1998, the Commission found the appeal raised a substantial issue with regard to the project's conformance with the County of Mendocino's certified LCP, and went immediately into a de novo hearing. At the conclusion of the de novo hearing, the Commission approved the project with conditions. However, as the Commission's actions on the de novo portion of the hearing differed from the written staff recommendation, staff has prepared the following set of revised findings for the Commission's consideration as the needed findings to support its action. These findings reflect the action taken by the Commission at the meeting of May 12, 1998 on the de novo portion of the hearing. As the Commission found substantial issue, consistent with staff's recommendation, and made no revisions to those recommended findings, the Substantial Issue portion of the report is not attached, but is incorporated by reference.

The purpose of the hearing is to consider whether the revised findings accurately reflect the Commission's previous actions rather than to reconsider whether the appeal raised a substantial issue or to reconsider the merits of the project or the appropriateness of the adopted conditions. Public testimony will be limited accordingly.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following revised findings in support of the Commission's action on May 12, 1998, approving the project with conditions.

(NOTE: Only those Commissioners on the prevailing side on the Commission's action on the permit at the May 12, 1998 hearing are eligible to vote. See the list on Page 1.)

COMMISSION ACTION:

The adopted resolution and findings in support of the Commission's May 12, 1998 action are provided below.

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DE NOVO ACTION ON APPEAL: REVISED FINDINGS

I. ADOPTED RESOLUTION OF APPROVAL

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 County of Mendocino LCP, is located between the nearest public road and the shoreline of a body of water in the coastal zone 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. Agricultural Easement:

No development, as defined in Section 30106 of the Coastal Act, shall occur on the portion of the 389-acre parcel outside the four-acre building envelope as generally shown in Exhibit 4A, where Coastal Development Permit No. A-1-MEN-98-17 authorizes a 20-unit visitor-serving facility, except for:

(1) the following activities and development:

(a) agriculture including, but not limited to, the cultivation of food, fiber, or flowers, and the grazing, growing, or pasturing of livestock; (b) timber production, harvesting, and management; and (c) planting of native vegetation to improve habitat values.

(2) the following activities and development, if approved by the Coastal Commission as an amendment to this coastal development permit when the Executive Director determines such an amendment is required by the Coastal Act:

(a) non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, and water pollution control facilities for agricultural purposes; (b) repairs, alterations, and additions to existing single-family residences; and (c) drainage improvements.

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PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall execute and record a document in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an agricultural easement for the purpose of preservation of coastal agriculture. Such easement shall be located over the portion of the 389-acre parcel outside the four-acre building envelope, as generally shown in Exhibit No. 4A. The recorded document shall include a legal description of both the easement area and the applicant's entire parcel. The recorded document shall also reflect that development in the easement area is restricted as set forth in this permit condition.

The offer shall be recorded free of prior liens and 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 all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

In the event that the offer is not accepted by a public agency or private association approved by the Executive Director within the 21-year time period, the applicant shall execute and record a deed restriction in a form and content acceptable to the Executive Director, reflecting the above restrictions on development within the portion of the 389-acre parcel outside the 4-acre building envelope. The deed restriction shall include legal descriptions of both the applicant's entire parcel and the deed-restricted area. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Landscaping Plan:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit, for the Executive Director's review and approval, a landscaping plan prepared by a qualified professional with expertise in the field of landscaping, such as a landscape architect. The plan shall provide for the following:

- (1) An evergreen screen of drought-tolerant native or naturalized trees and/or shrubs shall be planted along the western property line to screen the project from views along Highway One. The vegetation strip shall begin 150 feet south of the proposed drive approach onto Highway One and extend south to the southerly property line.

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(2) Drought-tolerant native or naturalized trees and/or shrubs shall be planted along the north-facing side of the proposed structures and the parking lot to minimize visual impacts of the site when seen by motorists traveling south on Highway One.

(3) No fewer than 20 trees shall be planted on the property. The trees to be planted shall be a minimum of five feet high when planted, and must reach a mature height of at least 20 feet. The plan shall specify the type and mature heights of the trees to be planted.

(4) The plan shall further include a tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted trees and a tree replacement program on a one-to-one or greater ratio for the life of the project. The new trees and shrubs shall be planted within 60 days of completion of the project.

(5) The plan shall provide for revegetation of all areas disturbed by construction. 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.

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 trees have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant.

3. County Environmental Health Approval:

PRIOR TO ISSUANCE of the Coastal Development Permit, the applicant shall submit for the review and approval of the Executive Director written evidence of approval of the on-site sewage system from the Mendocino County Department of Environmental Health.

4. Road Approach:

PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit for the review and approval of the Executive Director, a copy of a Caltrans

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encroachment permit for work done within the State right-of-way. A commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures.

5. Design Restrictions:

All exterior siding of the proposed structures shall be composed of natural or natural appearing materials, and all siding and roofing of the proposed structures shall be composed of materials of dark earthtone colors only. In addition, all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare. Finally, all exterior lights, including any lights attached to the outside of the buildings, shall be low-wattage, non-reflective, and have a directional cast downward.

6. Tree Removal:

This permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-1-MEN-98-17.

7. Utility Lines:

All new utility lines shall be placed underground.

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 proposed development consists of a 20-unit visitor-serving facility with a meeting room and manager's residence. The guest rooms would be contained within seven detached buildings, two with five units each, and five with two units each, two of which are two-story. The manager's quarters, reception area, and meeting room would be within a separate two-story structure with an exterior observation deck at the second floor level. A separate building with laundry, storage, and employee facilities is also proposed. Parking would be provided for 25 vehicles. The total floor area of the proposed guest units is 9,932 square feet; the reception/manager's quarters building is 2,865 square feet, and the laundry/employees building is 750 square feet, for a total of 13,547 square feet of floor area.

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Water is proposed to be supplied from wells on the site, and stored in three 10,000 gallon underground tanks. Wastewater disposal would be by a septic tank and leach field system.

A double-faced carved redwood sign measuring approximately 12 1/2 feet by 2 1/2 feet is proposed to be placed near the entrance, approximately 50 feet back from the property line, illuminated by lights recessed below ground.

The subject site is located east of Highway One south of the Ten Mile River, approximately 7 1/4 miles north of Fort Bragg, on a gently sloping marine terrace. The proposed project is sited on approximately four acres of the 389-acre parcel. The entire parcel is part of the 1,400-acre Smith Ranch, which is in agricultural and timber production.

The proposed project is set back from the highway about 300 feet, in the vicinity of an existing dilapidated hay storage shed (not currently in use), which is proposed to be removed. The proposed new buildings are arranged along the contour of the slope, approximately 30 feet above the elevation of the highway at the driveway entrance. The site is partially screened from view along much of the highway frontage by roadside shrubs, but would be visible for about a half-mile stretch of highway, mostly north of the driveway entrance, and mostly for southbound motorists.

2. Project History.

In 1993, the applicants submitted an application for a coastal development use permit (CDU 8-93) for a proposed 20-unit inn at a location approximately 1,500 feet to the north of the currently proposed site, very near the Ten Mile River. In January of 1996, the Planning Commission required an EIR to be prepared, and the application was subsequently withdrawn. In January of 1997, the applicants submitted an application for a coastal development use permit for a relocated and redesigned inn in the currently proposed location.

3. Visual Resources:

LUP Policy 3.5-1 and Zoning Code Section 20.504.010 state 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.

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LUP Policy 3.5-5 states that providing that trees will not block coastal views from public areas such as roads, parks and trails, tree planting to screen buildings shall be encouraged.

LUP Policy 3.5-6 states that development on a parcel located partly within the highly scenic areas delineated on the Land Use Maps shall be located on the portion outside the viewshed if feasible.

Zoning Code Section 20.504.035(A)(2) states that where possible, all lights shall be shielded or positioned in a manner that will not shine light or allow glare to exceed the boundaries of the parcel on which it is placed.

Zoning Code Section 20.436.025(H) states that development of visitor serving facilities shall be compatible with the character of their surroundings, and the design and scale of individual proposed structures shall be subordinate to surrounding landforms.

The proposed development is a 20-unit visitor-serving facility that includes a two-story lobby/meeting room/manager's residence with an exterior observation deck at the second floor level. The guest rooms would be within seven detached buildings, two of which are two-story structures. The two-story structures are proposed to be approximately 25 feet in height. A separate building with laundry, storage, and employee facilities is also proposed. The structures have been designed using spruce batts over Masonite siding, all painted earthtone brown to give the appearance of board and batten siding typical of many coastal structures. Windows are to be non-reflective glass with bronze anodized frames and the metal roofing is to be forest green.

A double-faced carved redwood sign measuring approximately 12 1/2 feet by 2 1/2 feet is proposed to be placed near the entrance, approximately 50 feet back from the property line, illuminated by lights recessed below ground.

The project site is not within a designated "highly scenic area." However, the site is within a scenic and mostly undeveloped rural area. Except for the Ocean Meadows subdivision, located approximately two miles north of the subject site and not visible from the site, the development in the area is mostly located out of the public viewshed. A few barns on the east side of the highway are visible from Highway One. The viewshed from Highway One includes the lower reaches and mouth of the Ten Mile River, over which Highway One crosses north of the subject parcel, gently sloped marine terraces backed by forested ridges to the east, and dunes and beach to the west.

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The proposed inn will be visible from a number of locations along Highway One, especially to motorists traveling southbound on Highway One after they cross the Ten Mile River Bridge. For northbound travelers, the proposed inn structures will be partially screened by existing vegetation growing along the fence line on the east side of the highway. The proposed site is not far from the base of a hill rising to the east from Highway One; thus the structures will not be silhouetted against the skyline but will be somewhat softened by the backdrop of the tree-covered ridge behind them. Furthermore, as the buildings are also set back approximately 280 to 580 feet from Highway One along a section of highway where the highway is recessed into a road cut, at least part of the buildings will be below the line of sight from the highway.

Consistent with LUP Policy 3.5-6, the proposed inn site is on a portion of the 389-acre parcel that is not designated Highly Scenic. Consistent with LUP Policy 3.5-1, to be visually compatible with the rural character of the surrounding area, the structures have been designed to resemble barn-like structures, using dark, earthtone colors. The Commission finds that the proposed inn, which includes several two-story structures with barn-type rooflines that add integrity to the design, is consistent with the surrounding rural, agricultural area.

However, while the structures have for the most part been sited and designed to be in character with the surrounding area, there are some additional mitigation measures that would further minimize visual impacts. Therefore, the Commission has attached to the permit several special conditions that will reduce the impacts of the proposed development on visual resources.

So that the proposed structures will be screened from Highway One, consistent with LUP Policy 3.5-5, the Commission attaches Special Condition No. 2, which includes a tree maintenance program and requires submittal of a landscaping plan that provides for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the western property line and along the north-facing side of the structures and parking lot to screen the project from views along Highway One. In addition, revegetation of disturbed areas shall be accomplished as soon as practical after construction activities are completed, and all areas of bare soil shall be planted, mulched, or otherwise treated to reestablish vegetative cover. When screened from view, the proposed development will be barely visible from Highway One and thus will be more in character with the surrounding undeveloped area, and will be subordinate to the landscape, consistent with Zoning Code Section 20.436.025(H).

To further ensure that the proposed development is visually compatible with the rural character of the surrounding area, and is designed to protect views

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in a scenic coastal area, consistent with LUP Policy 3.5-1 and Zoning Code Section 20.504.010, and that all lights are shielded or positioned so that light will not shine or glare beyond the boundaries of the parcel, consistent with Zoning Code Section 20.504.035, the Commission attaches Special Condition No. 5. Special Condition No. 5 imposes design restrictions, including a requirement that all exterior siding of the proposed structures shall be of natural or natural appearing materials and that all siding and roofing of the proposed structures shall be composed of materials of dark earthtone colors only; that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and that all exterior lights, including any lights attached to the outside of the structures, shall be low-wattage, non-reflective, and have a directional cast downward.

Since the existing trees on the site provide some softening effects and/or backdrop to minimize visual impacts, the Commission also attaches Special Condition No. 6, which states that this permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection, and that any future removal of trees shall require a new coastal permit or an amendment to this permit.

To further minimize the impacts of development on the public viewshed, the Commission also attaches Special Condition No. 7, which requires that all new utility lines shall be placed underground.

The Commission thus finds that the proposed development, as conditioned, is consistent with the certified LCP, including LUP Policies 3.5-1, 3.5-5, and 3.5-6, and Zoning Code Sections 20.504.035, 20.504.010, and 20.436.025(H), as coastal views will be protected, visual impacts will be minimized, and the project will be subordinate to surrounding landforms.

4. Agricultural Resources:

LUP Policy 3.2-4 states that "zoning regulations shall not discourage compatible activities that may enhance the economic viability of agricultural operations," including "limited visitor accommodations at locations specified in the plan. Visitor accommodations shall be secondary to the agricultural activity." This policy requires that such a development must be found to be consistent with a number of standards, and that the project shall:

- Maximize protection of environmentally sensitive habitats;
- Minimize construction of new roads and other facilities;
- Maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;

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Ensure adequacy of water, sewer and other services;
Maximize preservation of prime agricultural soils;
Ensure existing compatibility by maintaining productivity of on-site and adjacent agricultural lands.

LUP Policy 3.2-5 states that all other lands suitable for agricultural use shall not be converted to non-agricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands. The Commission interprets this policy to refer to all lands other than those discussed in LUP Policy 3.2-4; thus, since the site has been designated *2C and a visitor-serving facility is allowable on the subject property pursuant to Policy 3.2-4, LUP Policy 3.2-5 does not apply to the subject development.

The 1,400-acre Smith Ranch, which encompasses the 389-acre subject parcel, is predominantly range and timber land, and much of the property is used for grazing livestock; approximately 700 acres of the ranch are used for livestock grazing and 540 acres are in timberland management. About 240 acres of the 389-acre subject parcel are used for livestock grazing. The parcel contains three main types of habitat: open grassland used for livestock grazing; forested ridges used for timberland production; and environmentally sensitive habitat associated with the Ten Mile River and its estuary.

The property is not within an agricultural preserve or under the Williamson Act, nor are any adjacent parcels. The proposed inn site is designated as non-prime agricultural land on the Blayney-Dyett Land Capabilities and Natural Hazards Maps prepared for the development of the LCP and certified by the Coastal Commission.

The property is classified in the Land Use Plan as Rangeland (RL) with an *2C, meaning that a 20-unit visitor-serving facility may be permitted as a conditional use. The proposed inn site would occupy approximately four acres of the 389-acre parcel; thus approximately four acres out of the 240 acres which are currently used for grazing would no longer be available for grazing.

As noted above, LUP Policy 3.2-4 allows visitor accommodations to be located on agricultural parcels if the project meets a number of specific criteria. The project as proposed meets these criteria. The proposed project maximizes the protection of sensitive habitat by being sited out of the Ten Mile River watershed in an area determined by a biological survey to have no sensitive habitat. The proposed inn has been sited close to Highway One where it will have the least amount of adverse impact on ongoing agricultural and timberland

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production, while avoiding all sensitive habitat. Were the inn to be sited near the Ten Mile River, as originally proposed, there would be adverse impacts to environmentally sensitive habitat. Were the inn to be sited in the forested portion of the site, it would result in a greater disruption to timberland production, as a longer access road from Highway One would be required, trees would have to be removed, the inn site would be higher up on the ridge and therefore more visible (once trees were cut), the visual character of the timberland portion of the site would change drastically, and there would be conflicts between the visitor-serving use and adjacent timberland production, such as noise, dust, etc.

Construction of new roads is minimized by locating the facility near Highway One on a site served by an existing driveway, and by grouping the guest units in close proximity to the administrative building and to each other. The facility's location near the base of a hill on the east side of Highway One prevents the structures from being silhouetted against the skyline or from blocking views of the dunes and shoreline. The ability of the site to support adequate water and sewer services has been demonstrated by preliminary studies. Thus, the Commission finds that the site chosen for the inn causes the least amount of disruption to the existing agricultural and timber operations and the least impact to visual resources and environmentally sensitive habitat.

As noted above, previous surveys have determined that the site does not contain prime agricultural soils; thus, the inn can be developed consistent with maximizing the preservation of prime agricultural soils. Preservation of the rural character of the site is ensured by the Rangeland zoning applied to the parcel, and the small amount of the site being devoted to the visitor facility. Revenue from the inn will enable the applicants to continue the agricultural use of the remainder of the ranch, thereby maintaining or enhancing productivity of the property.

The proposed inn and surrounding grounds will occupy approximately four acres of land which has in the past been used in conjunction with the applicant's cattle raising operation. The primary overall use of the property will continue to be agricultural. The cattle that graze on the subject property are rotated from field to field, utilizing the various portions of the property that are suitable for grazing, particularly those portions in the Ten Mile River floodplain. The grazing land in the immediate area of the proposed inn is composed of Class IV soils, and the native grasses there are very sparse; feed supplements for the cattle are used to augment the native grasses. The number of cattle will not need to be reduced to accommodate the inn site.

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However, the Commission finds that allowing a visitor-serving facility on this agricultural parcel may encourage other visitor-serving uses on the parcel or on other nearby agricultural parcels. The development of visitor-serving uses can spawn other visitor-serving uses nearby. For example, numerous overnight accommodations, such as motels and expansions to existing motels, are being constructed in Fort Bragg, only about five miles to the south.

To ensure the continued compatibility of the approved visitor-serving use with adjacent agricultural uses, and to maintain the productivity of on-site and adjacent agricultural lands consistent with LUP Policy 3.2-4, the Commission attaches to the permit Special Condition No. 1, which requires creation of an agricultural easement on the subject property. Special Condition No. 1 requires recordation of a document that irrevocably offers to dedicate to a public agency or private association approved by the Executive Director an agricultural easement for the purpose of preservation of coastal agriculture, to be located over the balance of the 389-acre parcel not within the designated four-acre building envelope. The recorded document will reflect that development in the easement area is restricted to certain agricultural and agriculturally related uses and development, such as the cultivation of food, fiber, or flowers, and the grazing, growing, or pasturing of livestock; timber production, harvesting, and management; and planting of native vegetation to improve habitat values.

Other agriculturally related uses and development, such as non-residential development customarily considered accessory to agricultural uses including barns, storage/equipment sheds, stables for farm animals, fences, water wells, well covers, pump houses, and water storage tanks, water impoundments, and water pollution control facilities for agricultural purposes; repairs, alterations, and additions to existing single-family residences; and drainage improvements would also be permitted. Future development inconsistent with these uses would be prohibited. In the event the offer to dedicate the agricultural easement is not accepted by a public agency or private association approved by the Executive Director within the 21-year time period of the offer, the special condition requires the applicant to record a deed restriction that would maintain the same restrictions on use for the balance of the 389-acre parcel that would have been established by the easement, had it been accepted.

The Commission therefore finds the proposed project, as conditioned, to be consistent with the certified LCP, including LUP Policy 3.2-4, as the proposed visitor accommodations meet the required standards to be a permitted use on an agricultural parcel; the proposed visitor-serving facility has been sited on a portion of the 389-acre parcel where it will have the least number of adverse impacts on the existing agricultural and timberland production, while still having minimal visual impacts; and the agricultural productivity of the

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property will be protected and maintained. Furthermore, the agricultural easement required over the balance of the subject parcel will ensure that allowing this visitor-serving, non-agricultural use won't encourage other non-agricultural uses on the property that would interfere with maintaining the productivity of on-site and adjacent agricultural lands, inconsistent with LUP Policy 3.2-4.

5. Environmentally Sensitive Habitat Areas:

LUP Policy 3.1-7 and Zoning Code Section 20.496.020(A) state that a buffer area shall be established adjacent to all environmentally sensitive habitat areas to provide for a sufficient area to protect the environmentally sensitive habitat from significant degradation resulting from future developments. Policy 3.1-10 states that areas where riparian vegetation exists, such as riparian corridors, are environmentally sensitive habitat areas and development within such areas shall be limited to only those uses which are dependent on the riparian resources. Zoning Code 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.

LUP Policy 3.1-15 and Zoning Code Section 20.496.040 state that dunes shall be preserved and protected as environmentally sensitive habitats for scientific, educational and passive recreational uses.

A portion of the 389-acre parcel extends to the north bank of the Ten Mile River; thus a portion of the river and its riparian environs is located on the subject parcel. However, the proposed inn site is located approximately a half-mile from the Ten Mile River. A small portion of the subject parcel is located on the west side of Highway One, and includes some dune habitat. This portion of the parcel is also approximately a half-mile from the proposed inn site. The proposed development is not located within or in close proximity to any environmentally sensitive habitat areas. There are no surface watercourses on the development site. A botanical survey conducted on the site did not discover any rare or endangered plants or sensitive plant habitat in the area of the proposed inn site. Thus, the Commission finds that the proposed development has been sited on a portion of the property where construction of the inn development will not have adverse impacts on sensitive habitat.

As noted in the Substantial Issue portion of this report, the appellants opine that the additional visitor use resulting from the proposed visitor-serving

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facility, in combination with the potential future development of a coastal trail on the park property, will have a significant adverse impact on the sensitive coastal resources of the adjacent MacKerricher State Park. While it is true that the park contains sensitive habitat, it is the responsibility of State Parks to manage and protect the resources of the park. A letter submitted by the Park Superintendent (see Exhibit No. 19) indicates that the "proposal does not pose a threat to the resources of MacKerricher State Park, or to visitor enjoyment of a quality park experience."

The appellants have also expressed a concern that future inn guests will trample or otherwise adversely affect sensitive habitat on the subject site itself in the area of the Ten Mile River. The Commission finds that the existing private roads and trails on the subject property that lead down to the river, and the steep terrain overgrown with vegetation off these roads in the vicinity of the river would make it difficult for inn guests to trample through the riparian zone to reach the river rather than using the existing roads or trails.

The Commission thus finds that as conditioned, the proposed project is consistent with LUP Policies 3.1-7, 3.1-10, and 3.1-15, and Zoning Code Sections 20.496.040, 20.496.020, and 20.496.035, as natural resources and sensitive habitat will be protected, and there will be no development within any areas of sensitive habitat.

6. Public Access:

Pursuant to Coastal Act Section 30604, projects located within the coastal development permit jurisdiction of a local government which are between the nearest public road and the shoreline of a body of water in the coastal zone 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.

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HENRY & MARGARET SMITH**

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The Mendocino County LUP includes a number of policies regarding standards for providing and maintaining public access. Policy 3.6-9 states that offers to dedicate an easement shall be required in connection with new development for all areas designated on the land use plan maps. Policy 3.6-28 states that new development on parcels containing the accessways identified on the land use maps shall include an irrevocable offer to dedicate an easement. LUP Policy 3.6-22 and Zoning Code Section 20.528.030 state that no development shall be approved on a site which will conflict with easements acquired by the public at large by court decree. Where evidence of historic public use indicates the potential for the existence of prescriptive rights, but such rights have not been judicially determined, the County shall apply research methods described in the Attorney General's "Manual on Implied Dedication and Prescriptive Rights." Where such research indicates the potential existence of prescriptive rights, an access easement shall be required as a condition of permit approval. LUP Policy 3.6-5 states that vertical accessways from the sites of all existing ocean front visitor accommodations and services and from all sites in which visitor accommodations and services are designated as the principal permitted use shall be considered to be designated as such in the Land Use Plan, and appropriate provisions implementing this policy shall be required in conjunction with all new or expanded developments on such sites.

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 proposed inn site is located east of Highway One, near the tidally influenced Ten Mile River. While a small portion of the 389-acre parcel is located west of Highway One, this portion is not "ocean front" but rather is adjacent to MacKerricher State Park, which lies between it and the ocean. Thus, the parcel has no ocean frontage. The site is not identified on the certified LCP maps as suitable for providing public access. In addition, the proposed development, which is located approximately one mile from the ocean on the opposite side of Highway One, will have no adverse impacts on public access. Furthermore, the inn use is not a designated principal permitted use, but is a conditional use, so LUP Policy 3.6-5 would not apply.

The subject parcel does include some river frontage, so public access to the tidally influenced Ten Mile River must also be considered. However, the proposed inn site is located approximately a half-mile from the river, and the proposed development will not block or impede any existing river access. Furthermore, the LUP maps do not designate this site for public access to the river.

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HENRY & MARGARET SMITH

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The Commission also points out that, given the project's location near MacKerricher State Park, which does provide public access at several locations west of Highway One, there is more than sufficient public access available in the area to offset any additional demand for public access generated by the inn guests. The main entrance to MacKerricher State Park is approximately two miles to the south of the proposed inn site.

The Commission thus finds that the proposed project, which does not include provision of public access, is consistent with the public access policies of the Coastal Act and the County's LCP.

7. 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 is zoned in the County's LCP as Rangeland *2C, meaning that there may be one parcel for every 160 acres, and that a 20-unit visitor-serving facility is permitted as a conditional use. The subject parcel, which is approximately 389 acres in size, is a legal, conforming lot.

A hydrological study prepared in 1993 concluded that there was sufficient water available for the proposed project. Water will be provided by wells. An on-site sewage disposal system proposal dated July 2, 1997 was prepared for the site and has been reviewed by the Mendocino County Department of Environmental Health, which found that it adequately addresses soil conditions on the project site and substantiates that the project will not create a public health hazard or have any adverse impacts. Sewage disposal for the proposed project will be by a private septic tank and leach field system.

To ensure that the sewage disposal system is adequate to meet the septic needs of the project and will not have adverse impacts on coastal resources, the Commission attaches Special Condition No. 3, which requires submittal of written evidence of approval of the on-site sewage system from the Mendocino County Department of Environmental Health.

REVISED FINDINGS

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HENRY & MARGARET SMITH

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The Commission thus finds that the proposed project, as conditioned, 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.

8. Visitor Serving Facilities:

Zoning Code Section 20.436.015(B) allows visitor accommodations as a conditional use on properties that are so designated on the Land Use Plan Maps. Section 20.436.025(C) requires that approval of new visitor accommodation and service facilities shall minimize encroachment on resource lands. Zoning Code Section 20.436.025(H) requires that development of visitor serving facilities shall be compatible with the character of their surroundings; that building materials shall be natural, such as wood or stone, and shall utilize primarily earthtone colors; that proposed tree removal and grading shall be minimized to that which is necessary for accommodation of the main and accessory structures; and that the design and scale of individual proposed structures shall be subordinate to surrounding landforms.

The proposed visitor serving facility is a conditional use on the subject parcel, which is designated with an *2C, allowing a 20-unit inn with a use permit, consistent with Zoning Code Section 20.436.015(B). The proposed inn site is located on a portion of the 389-acre parcel where it will have insignificant effects on the agricultural and forestland resources of the property; the inn site will be fenced to avoid conflicts between inn use and grazing land, consistent with Zoning Code Section 20.436.025(C). Furthermore, the inn site is proposed close to Highway One where an existing road off Highway One can be used to access the site, thus eliminating the need to create an additional road on the property, which might encroach on resource lands.

To ensure that the proposed development will be consistent with the character of the surroundings, and that building materials will be natural, consistent with Zoning Code Section 20.436.025(H), the Commission attaches Special Condition No. 5, which requires that all exterior siding of the proposed structures shall be of natural or natural-appearing materials and that all siding and roofing be of dark earthtone colors only, that all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare, and that all exterior lights shall be low-wattage, non-reflective, and have a directional cast downward.

To ensure that proposed tree removal and grading shall be minimized to that which is necessary for accommodation of the main and accessory structures, consistent with Zoning Code Section 20.436.025(H), the Commission attaches

REVISED FINDINGS

APPEAL NO: A-1-MEN-98-17

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HENRY & MARGARET SMITH

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Special Condition No. 6, which states that the permit does not authorize the removal of any trees from the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection; and that any future removal of trees shall require a new coastal permit or an amendment to the permit.

The Commission thus finds that the proposed project, as conditioned, is consistent with Zoning Code Sections 20.436.015(B), 20.436.025(C), and 20.436.025(H).

9. Traffic Impacts:

LUP Policy 3.8-1 states that Highway One capacity shall be considered when considering applications for development permits.

Based on the trip rate table provided in the State Route 1 Corridor Study prepared by TJKM in 1994, County Planning staff estimates that the proposed inn and manager's residence will generate 7.92 summer weekday PM peak hour trips, and 14.58 summer weekend midday peak hour trips. Thus, no traffic impact study was required. The existing level of service for the roadway segment between Little Valley Road and Ten Mile River Bridge was LOS C for the summer weekday PM peak hour, and LOS B for the summer weekend midday peak hour. The roadway segment north of the Ten Mile River Bridge has a level of service B for both weekend and weekday peak hours. Any level of road service below LOS F is considered to be acceptable. Thus, no significant traffic impacts are anticipated, and the increase in highway use resulting from the proposed inn would not result in an unacceptable LOS for Highway One. The Commission also notes that the certified LCP designates the site for a 20-unit inn. Thus, the traffic impacts of such a use on Highway One capacity were considered at the time the Commission certified the LCP. In certifying the LCP, the Commission found that the growth proposed in the LCP would not be of a scale that would create traffic that would exceed the capacity of Highway One and create pressure to widen the highway to more than two lanes in rural areas, contrary to Section 30254 of the Coastal Act.

The Commission therefore finds that the proposed development is consistent with LUP Policy 3.8-1, as highway capacity for the site is adequate.

10. 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

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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.

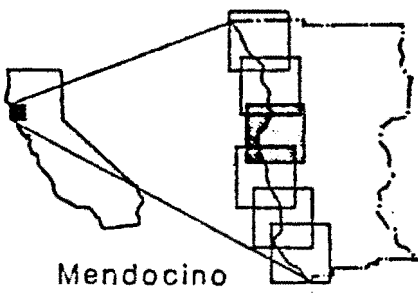
The proposed project has been conditioned to be found consistent with the policies of the Mendocino County LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, which will minimize all adverse environmental impacts, include the following requirements: that (1) the applicant record a document that offers to dedicate an agricultural easement over the balance of the subject parcel not within the designated four-acre building envelope, within which only agricultural and agriculturally related uses and development may take place, for the purpose of preservation of coastal agriculture; (2) the applicant submit a landscaping plan that shall provide for the planting of an evergreen screen of drought-tolerant native or naturalized trees and/or shrubs along the western property line and on the north-facing side of the structures and parking lot to screen the project from views along Highway One, and shall include a tree maintenance program, and that revegetation of disturbed areas shall be accomplished as soon as practical after construction activities are completed; (3) the applicant submit written verification of approval from the Mendocino County Department of Environmental Health regarding the on-site sewage system; (4) the applicant submit a copy of a Caltrans encroachment permit for work done within the State right-of-way, and that a commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures; (5) all exterior siding of the proposed structures shall be of natural or natural-appearing materials and all exterior siding and roofing of the proposed structures be composed of materials of dark earthtone colors only; all exterior materials, including the roof and the windows, shall be non-reflective to minimize glare; and all exterior lights, including any lights attached to the outside of the buildings, shall be low-wattage, non-reflective, and have a directional cast downward; (6) the applicant retain all existing trees on the subject parcel, other than those required to be removed to meet the fire safety regulations of the California Department of Forestry and Fire Protection; (7) all new utility lines be placed underground.

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, 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.



Mendocino

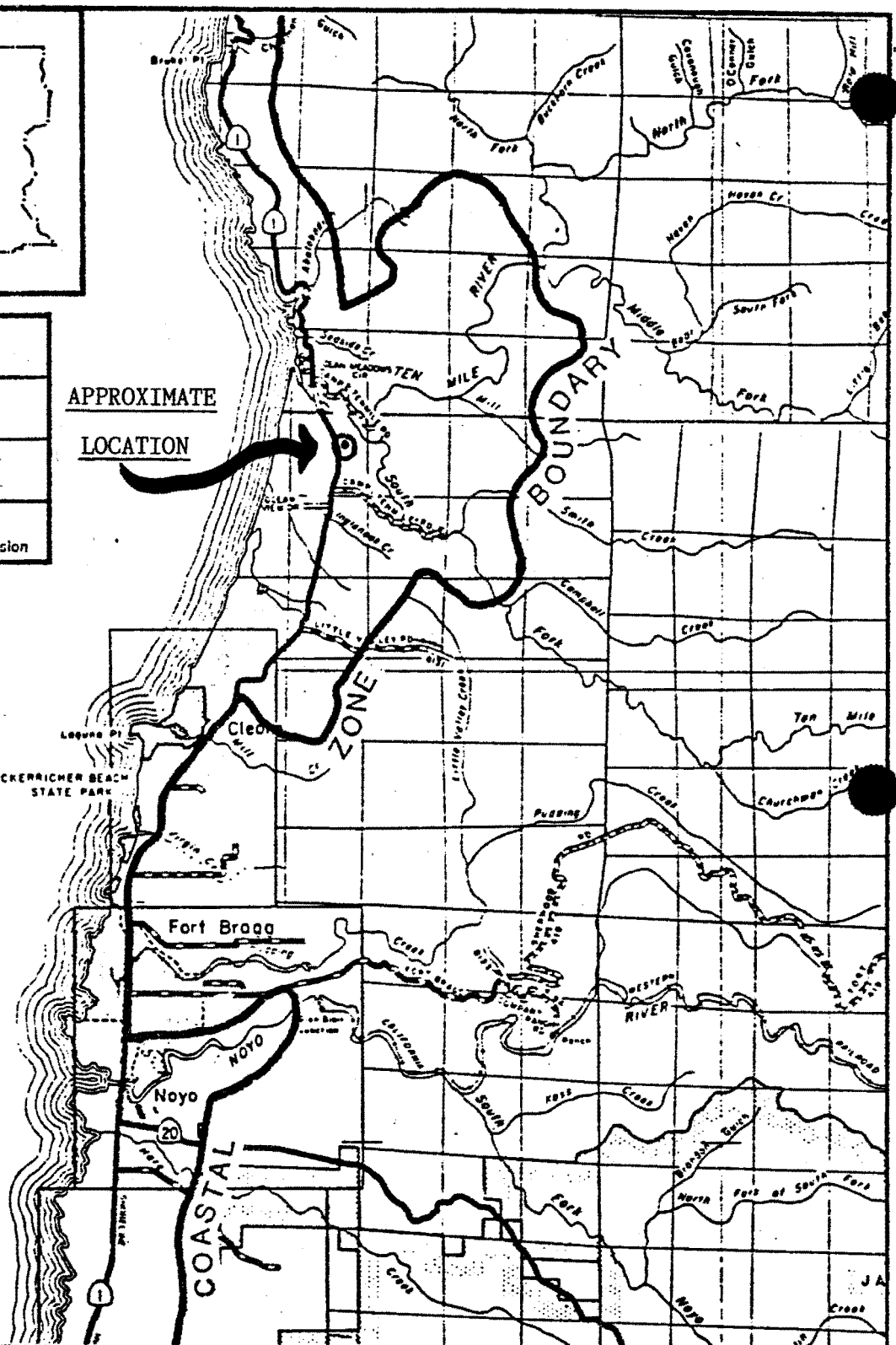
EXHIBIT NO. 1

APPLICATION NO.
A-1-MEN-98-17

PERRY/SMITH


Location Map
California Coastal Commission

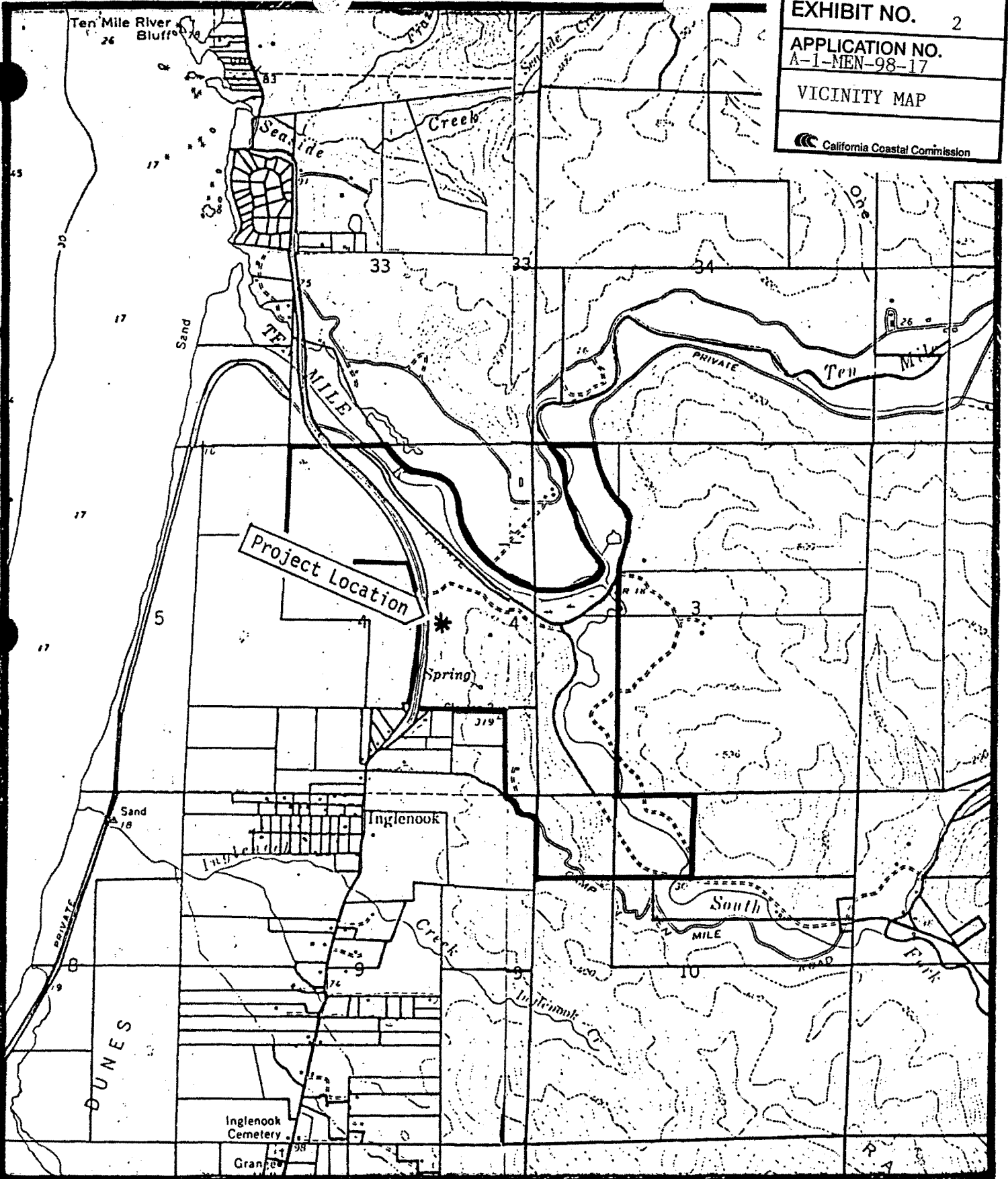
APPROXIMATE
LOCATION



LOCATION MAP



EXHIBIT NO.	2
APPLICATION NO.	A-1-MEN-98-17
VICINITY MAP	
 California Coastal Commission	





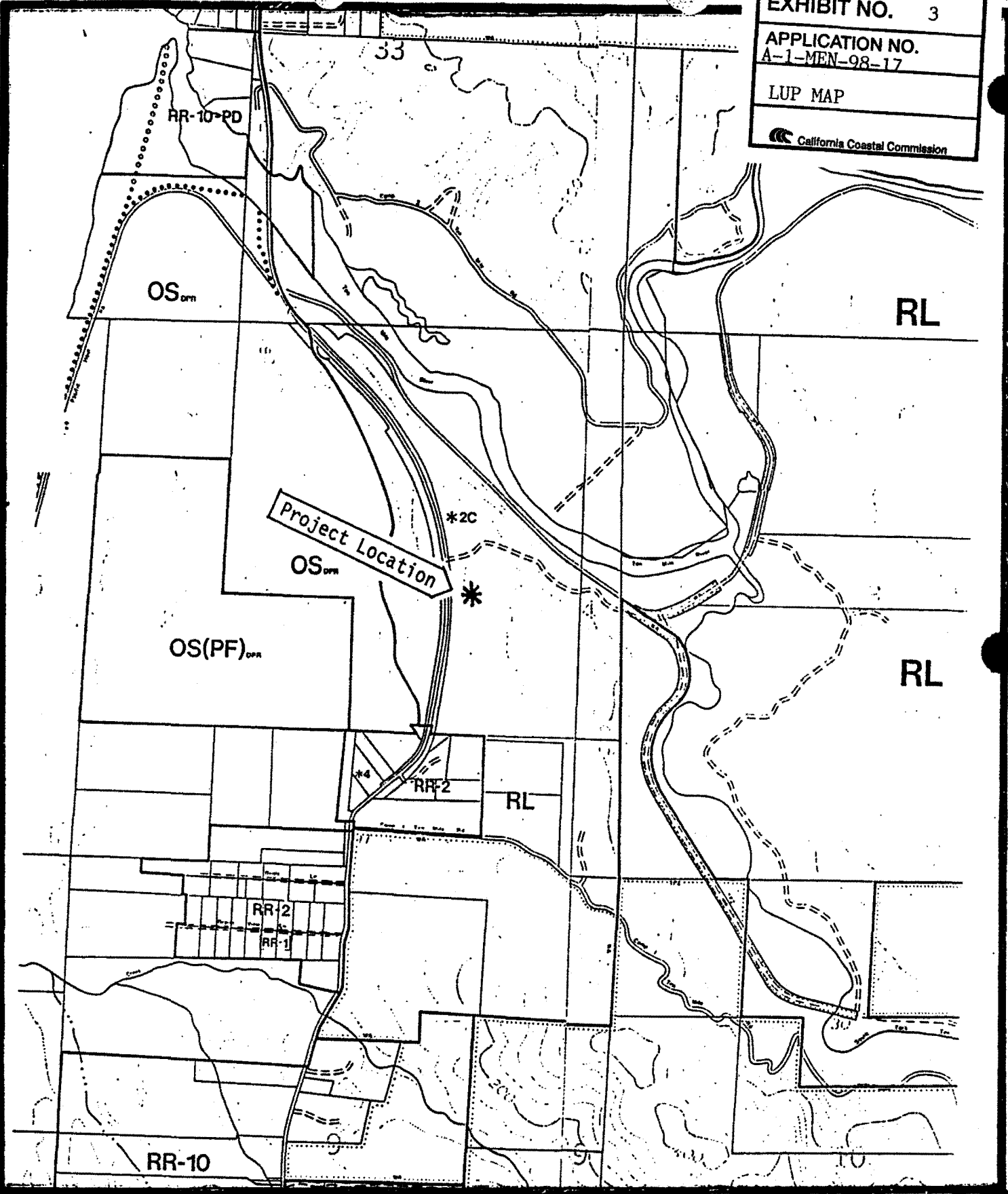
CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	VICINITY MAP	SCALE: 1" = 2000'
		 NORTH

EXHIBIT NO.	3
APPLICATION NO.	A-1-MEN-98-17
LUP MAP	
 California Coastal Commission	




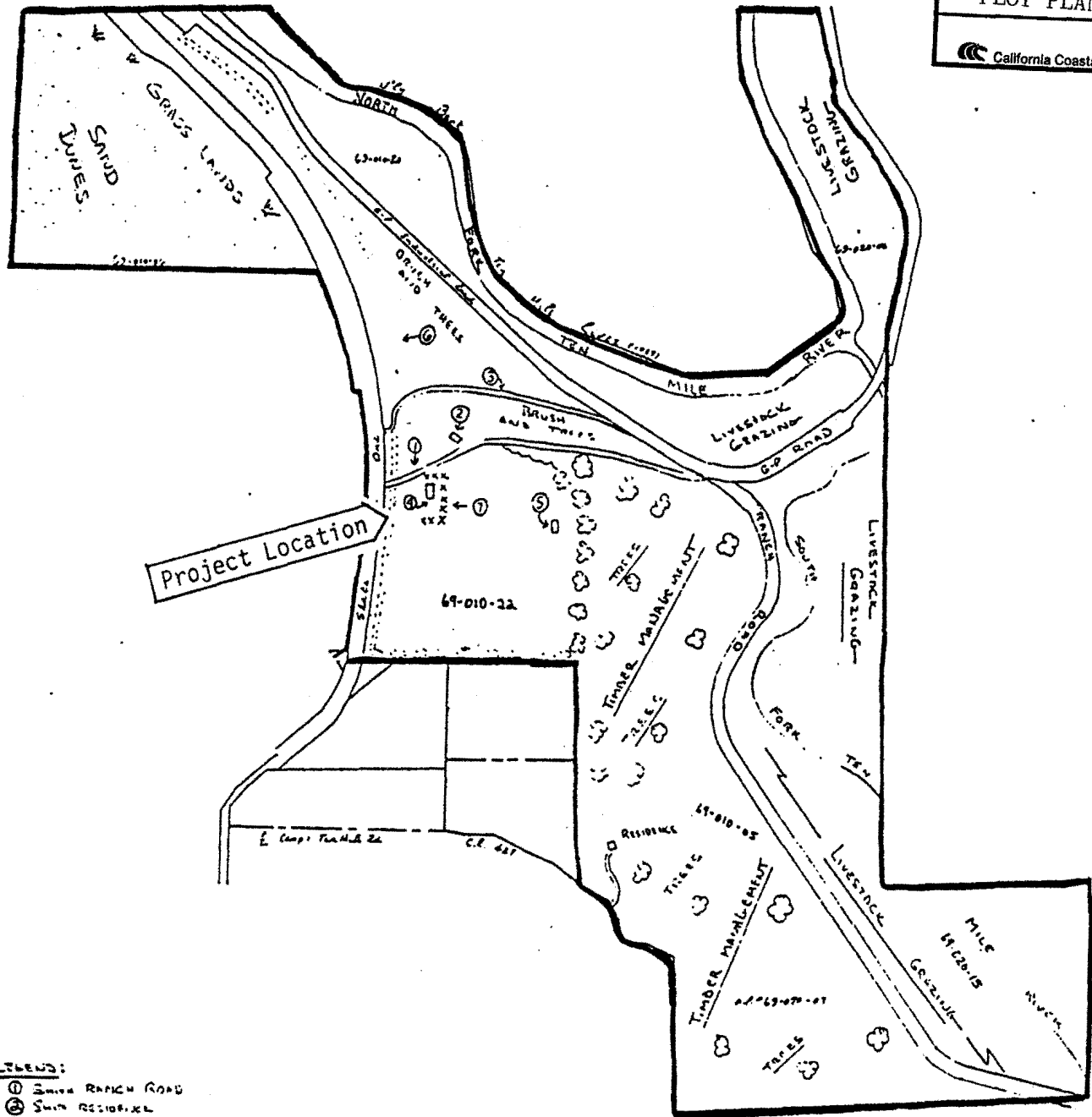
CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	COASTAL PLAN	SCALE: not to scale
		 NORTH

EXHIBIT NO. 4
 APPLICATION NO. A-1-MEN-98-17
 PLOT PLAN
 California Coastal Commission



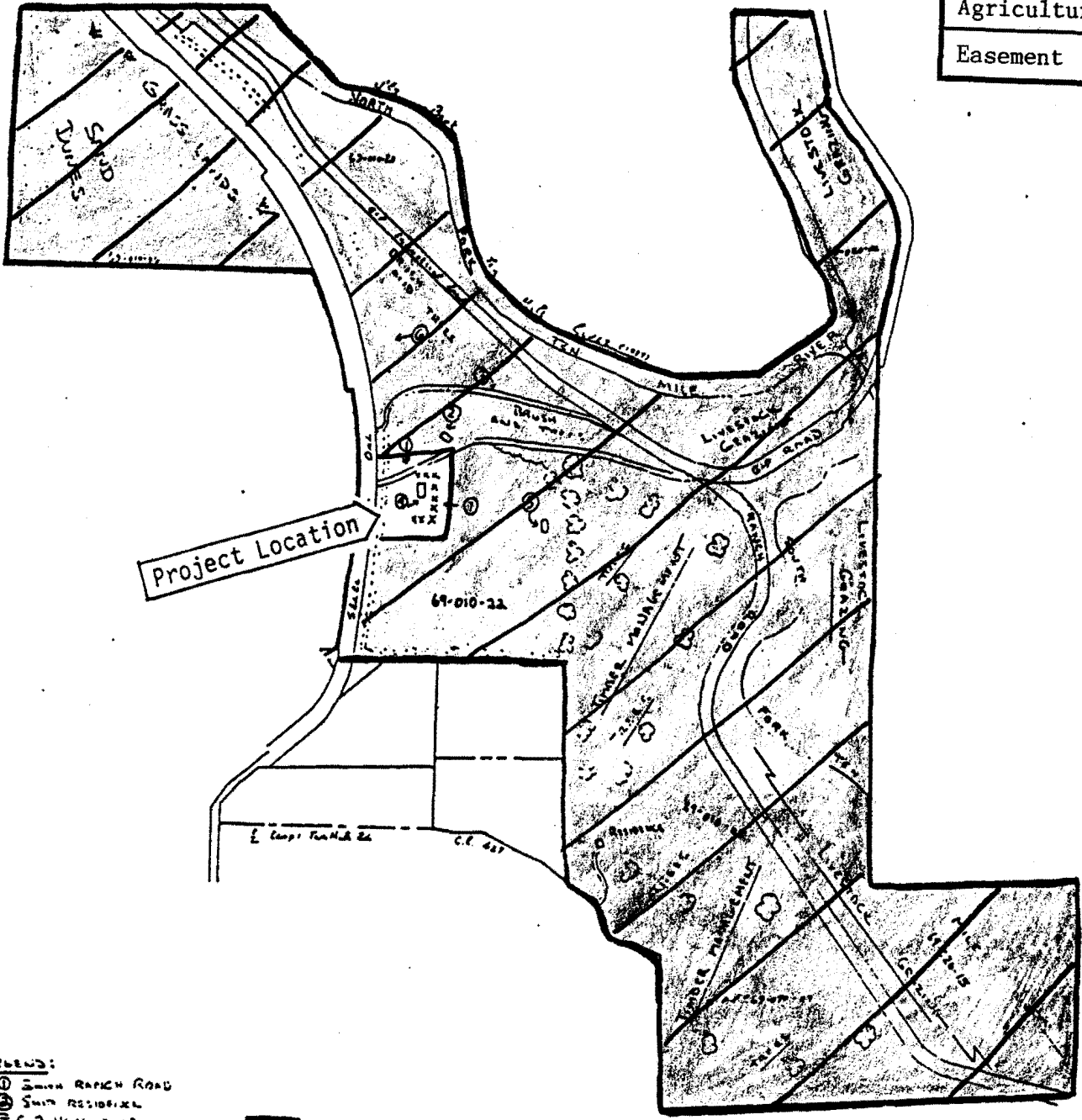
- LEGEND:**
- ① BRUSH AND THICKET
 - ② SAND RESERVE
 - ③ GP HAUL ROAD
 - ④ HAY SHED
 - ⑤ ENTRANCE/HAY BARN
 - ⑥ OLD HQS. ONE
 - ⑦ PROJECT SITE

<p>CASE NUMBER: CDU 8-97</p>	<p>OWNER: HENRY & MARGARET SMITH</p>	<p>AGENT: DON & MARGARET PERRY</p>
<p>A/P NUMBER: 069-010-22</p>	<p>PLOT PLAN</p>	<p>SCALE: not to scale</p>



NORTH

EXHIBIT NO.	4A
APPLICATION NO.	A-1-MEN-98-17
Agricultural Easement	




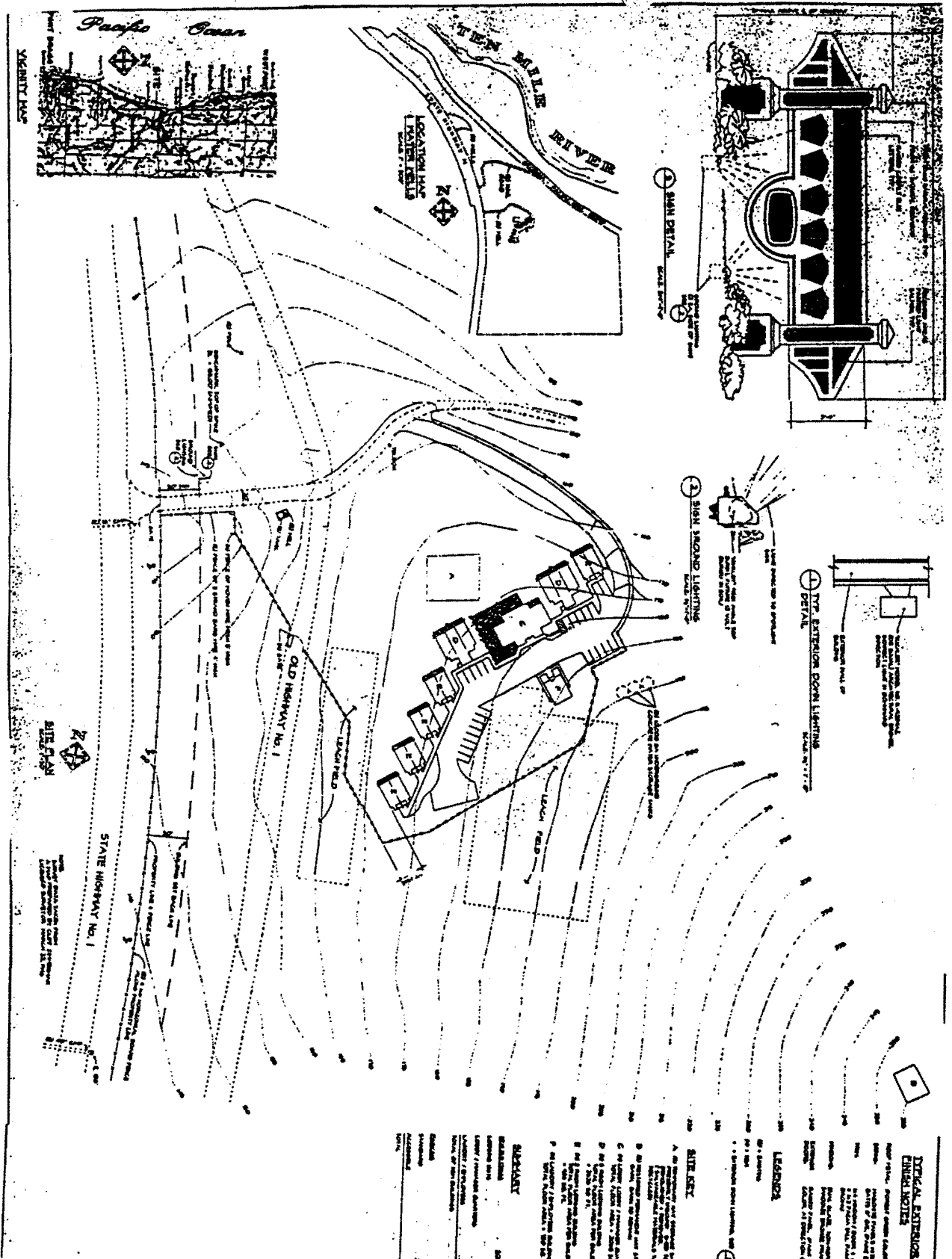
LEGEND:

- ① SOUTH RANCH ROAD
- ② SHED RESIDENCE
- ③ G-P HAUL ROAD
- ④ MAY SHED
- ⑤ EQUIPMENT/MAY BARN
- ⑥ OLD HWY. ONE
- ⑦ PROJECT SITE



= Area Subject to Agricultural Easement

CASE NUMBER: CDU 8-97	OWNER: HENRY & MARGARET SMITH	AGENT: DON & MARGARET PERRY
A/P NUMBER: 069-010-22	PLOT PLAN	SCALE: not to scale
		 NORTH



TYPICAL EXTENSION LIGHTING NOTES

1. All extension lighting shall be provided for the extension of the building.

2. All extension lighting shall be provided for the extension of the building.

3. All extension lighting shall be provided for the extension of the building.

4. All extension lighting shall be provided for the extension of the building.

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9. All extension lighting shall be provided for the extension of the building.

10. All extension lighting shall be provided for the extension of the building.

LEGENDA

1. SIGN BOARD LIGHTING

2. SIGN DETAIL

3. TYP. EXTENSION ROOM LIGHTING

SIGN SET

A. All extension lighting shall be provided for the extension of the building.

B. All extension lighting shall be provided for the extension of the building.

C. All extension lighting shall be provided for the extension of the building.

D. All extension lighting shall be provided for the extension of the building.

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N. All extension lighting shall be provided for the extension of the building.

O. All extension lighting shall be provided for the extension of the building.

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Q. All extension lighting shall be provided for the extension of the building.

R. All extension lighting shall be provided for the extension of the building.

S. All extension lighting shall be provided for the extension of the building.

T. All extension lighting shall be provided for the extension of the building.

U. All extension lighting shall be provided for the extension of the building.

V. All extension lighting shall be provided for the extension of the building.

W. All extension lighting shall be provided for the extension of the building.

X. All extension lighting shall be provided for the extension of the building.

Y. All extension lighting shall be provided for the extension of the building.

Z. All extension lighting shall be provided for the extension of the building.

EXHIBIT NO. 5

APPLICATION NO. A-1-MEN-98-17

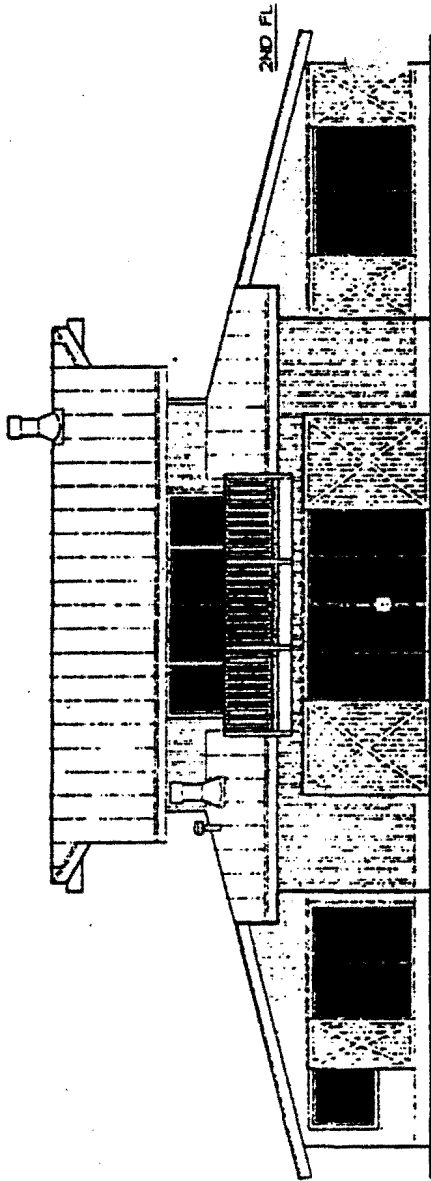
SITE PLAN

California Coastal Commission

TEN MILE RIVER INN

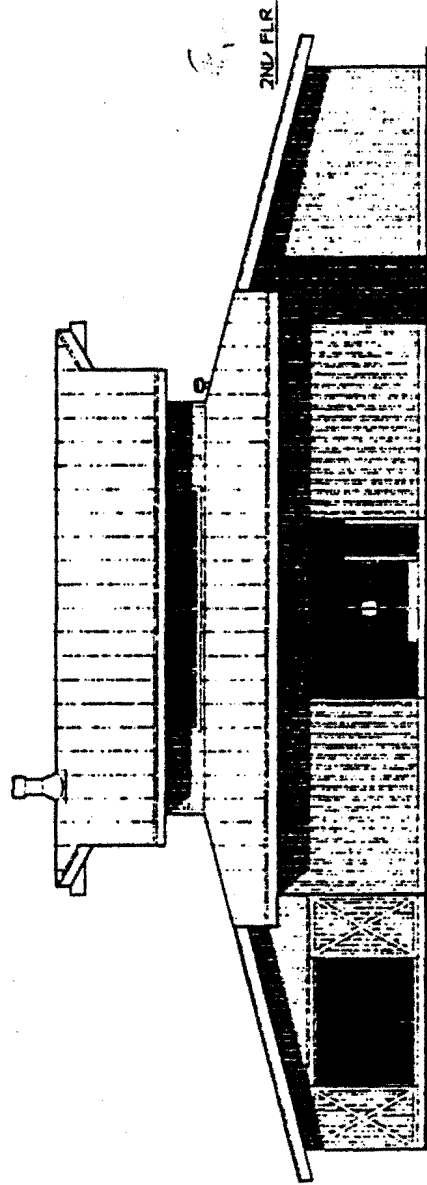
SITE PLAN

EDWARD TAUBOLD AND ARCHITECT



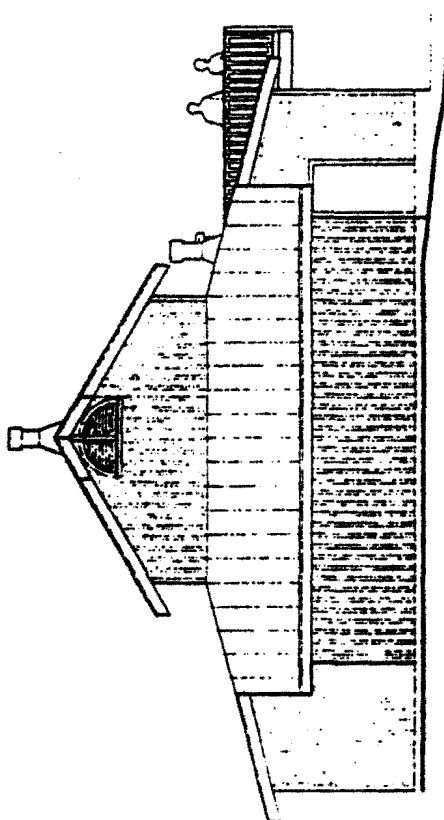
2ND FL

BACK ELEVATION

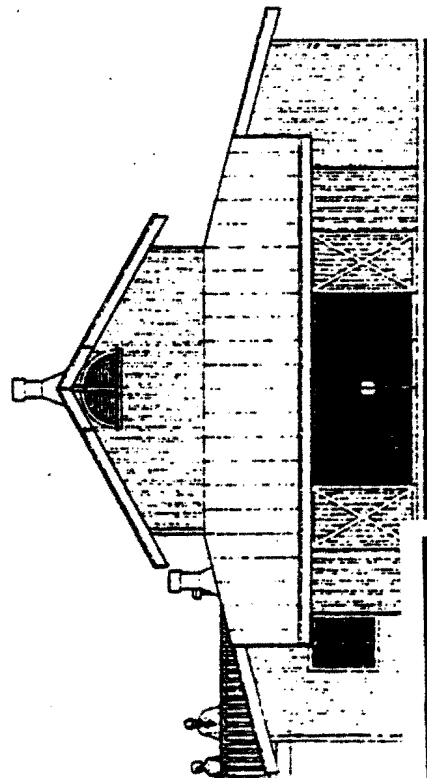


2ND FLR

FRONT ELEVATION



RIGHT ELEVATION

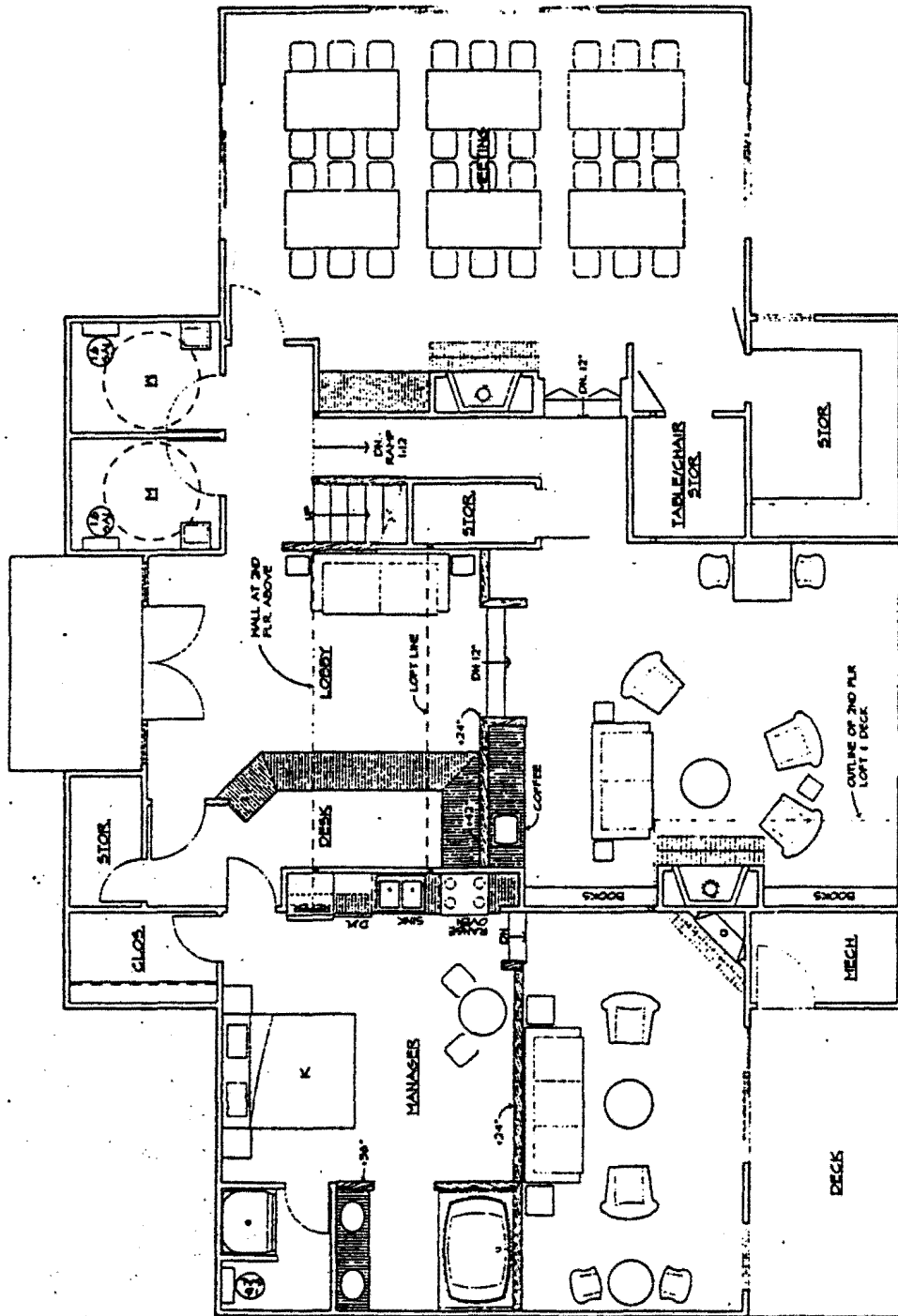


LEFT ELEVATION

LOBBY / MANAGER QUARTERS

SCALE: 1/8"=1'-0"

EXHIBIT NO.
APPLICATION NO. A-1-MEN-98-17
ELEVATIONS



FIRST FLOOR
SCALE: 1/4" = 1'-0"

EXHIBIT NO.	7
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	

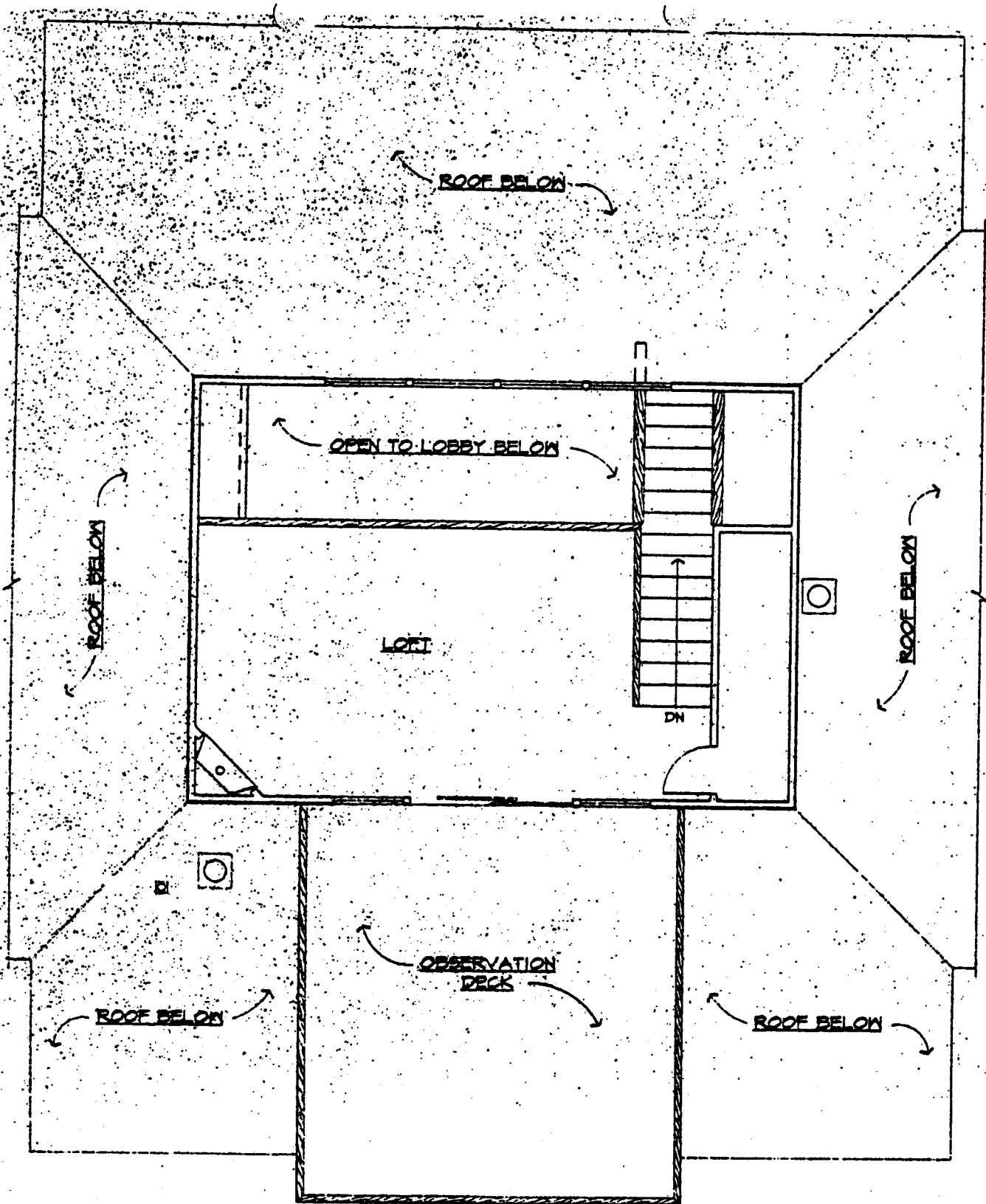
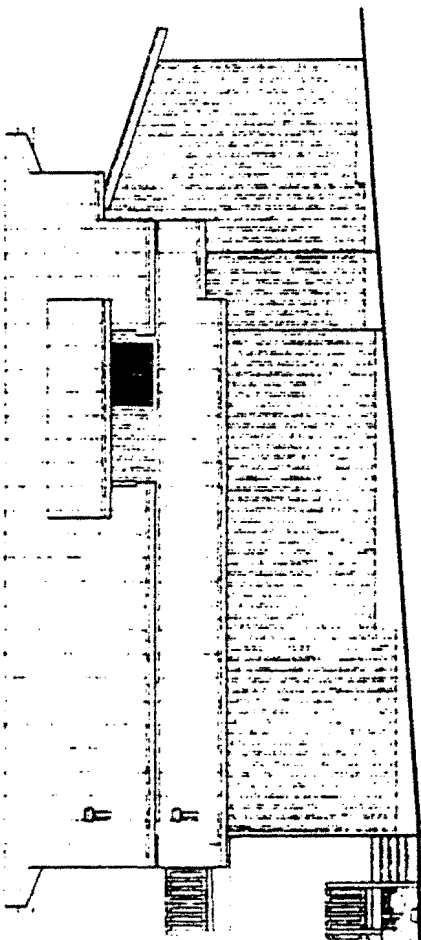
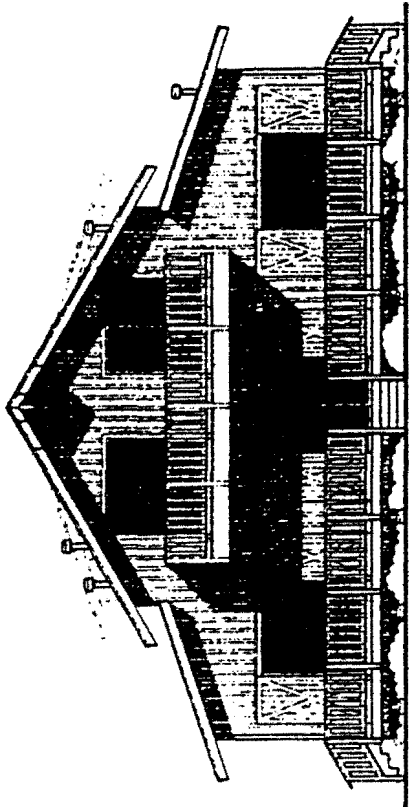


EXHIBIT NO.	8
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	

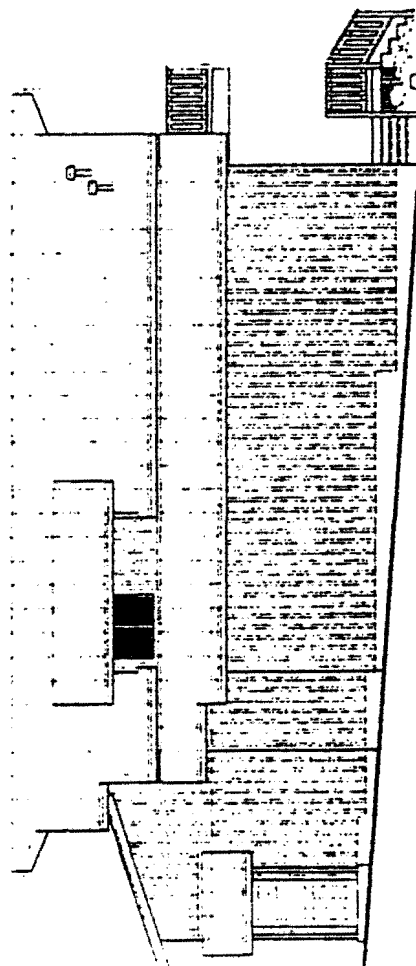
SECOND FLOOR
SCALE: 1/4" = 1' - 0"



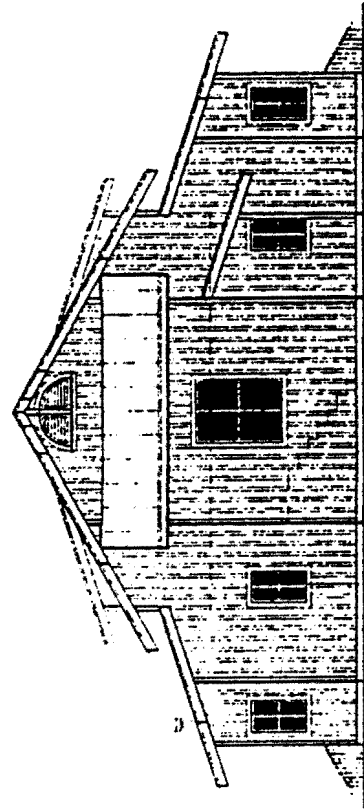
LEFT ELEVATION



BACK ELEVATION



RIGHT ELEVATION

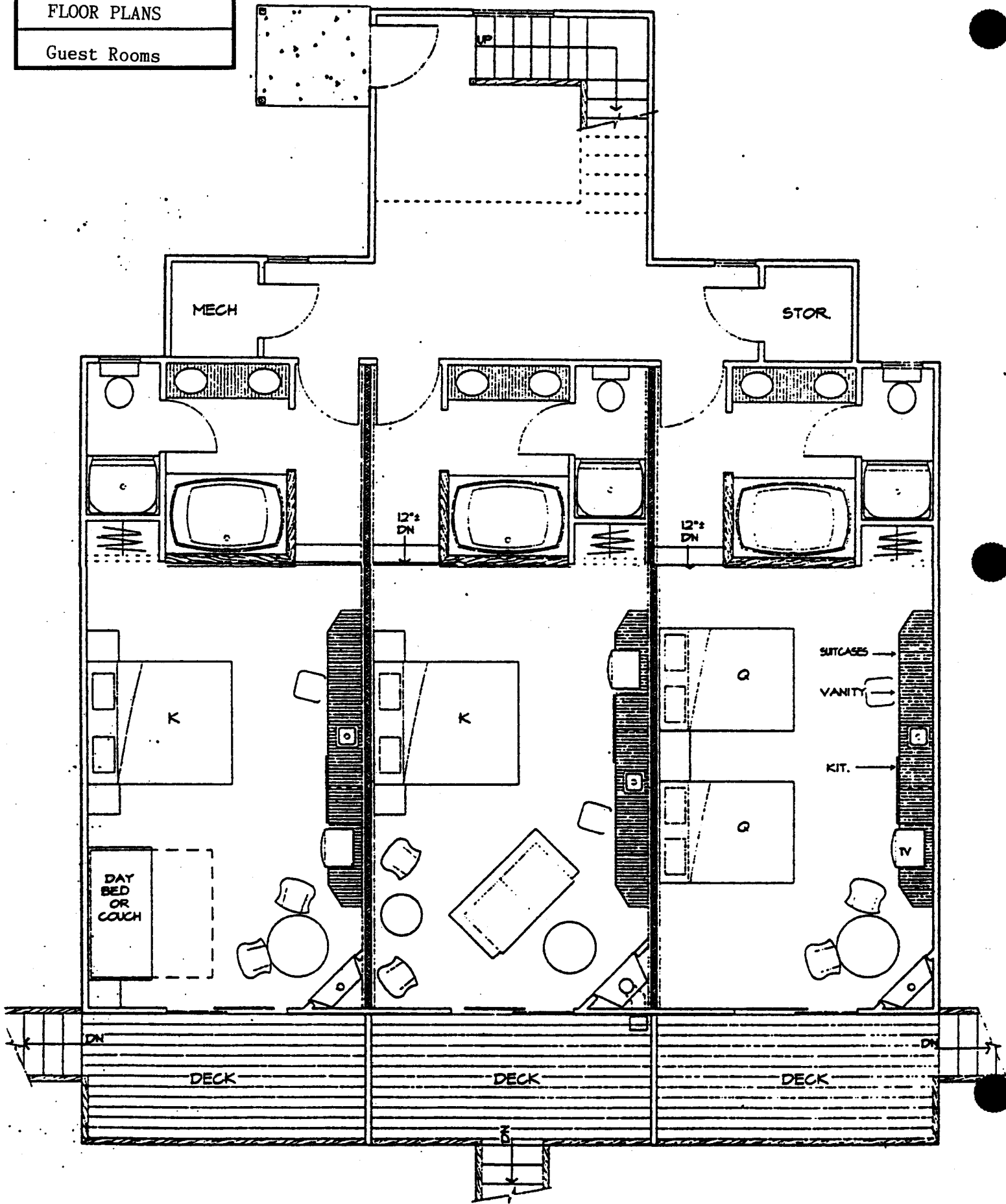


FRONT ELEVATION

GUEST ROOMS
SCALE: 1/8"=1'-0"

EXHIBIT NO.	9
APPLICATION NO.	A-1-MEN-98-17
ELEVATIONS	
Guest Rooms	

EXHIBIT NO. 10
APPLICATION NO.
A-1-MEN-98-17
FLOOR PLANS
Guest Rooms



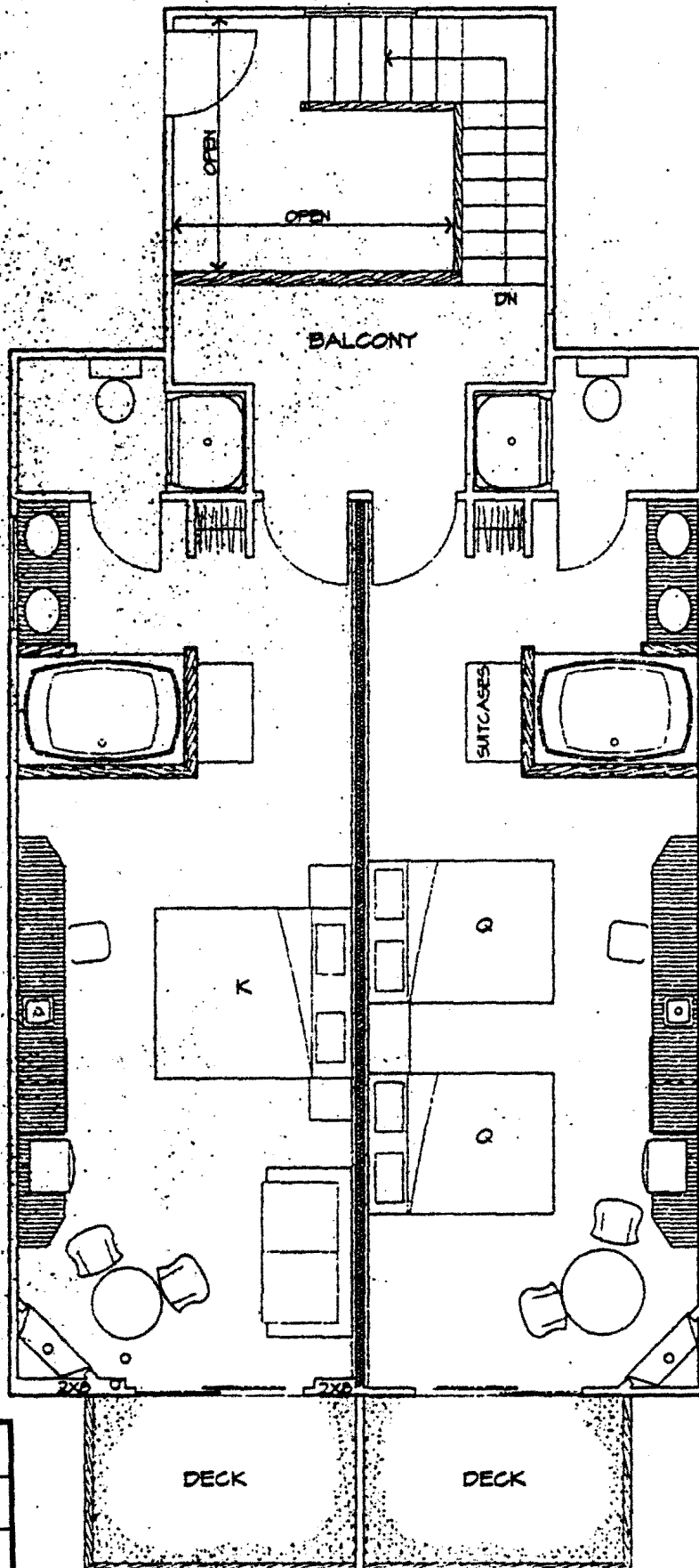
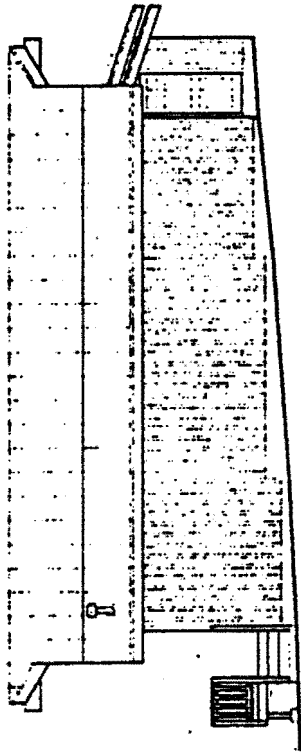
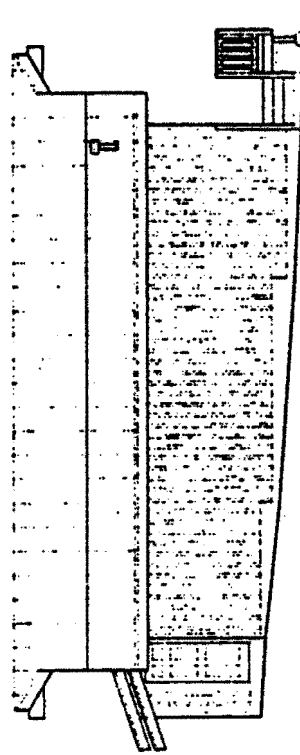


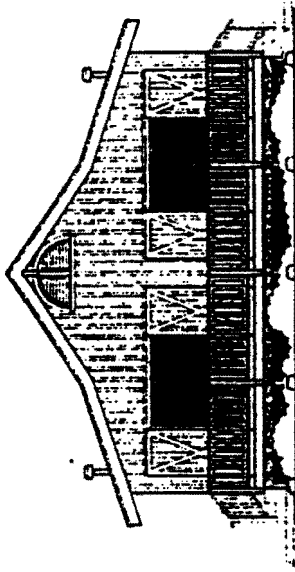
EXHIBIT NO.	11
APPLICATION NO.	A-1-MEN-98-17
FLOOR PLANS	
Guest Rooms	



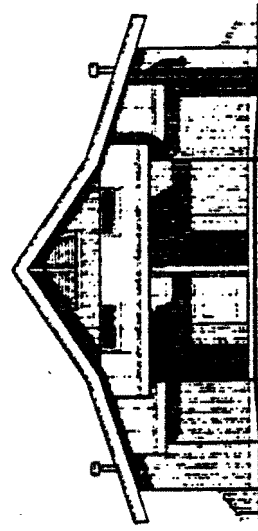
LEFT ELEVATION



RIGHT ELEVATION



REAR ELEVATION



FRONT ELEVATION

TYPICAL DUPLEX UNITS
SCALE: 1/8"=1'-0"

EXHIBIT NO.	12
APPLICATION NO.	A-1-MEN-98-17
ELEVATIONS	
Duplex Units	

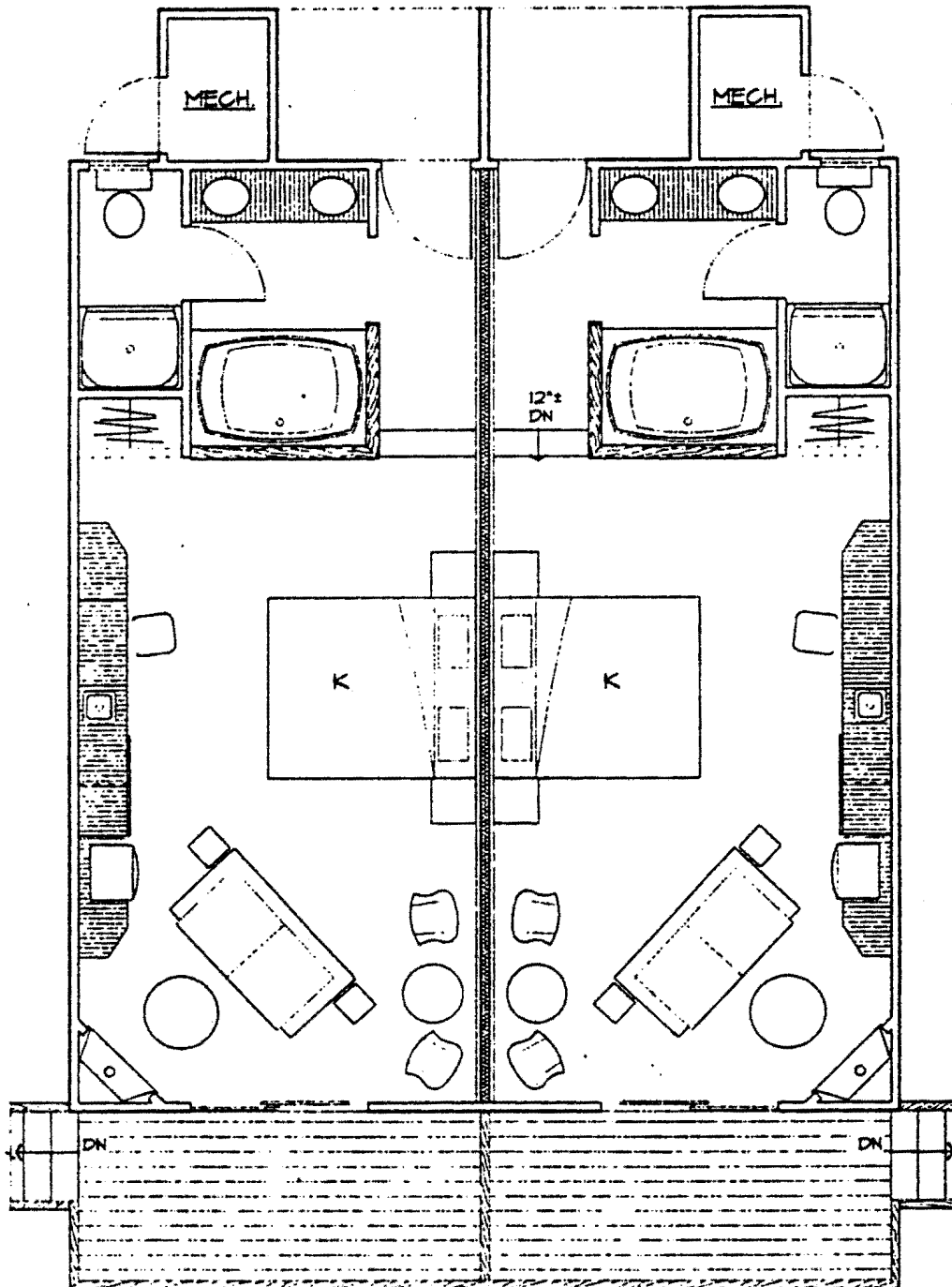


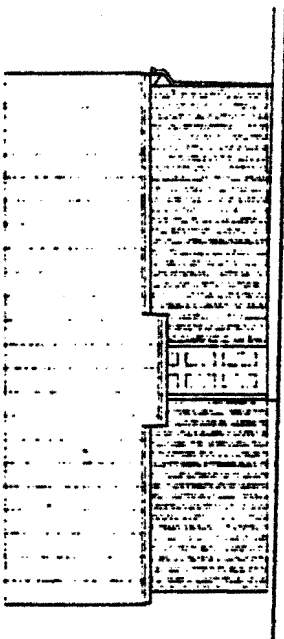
EXHIBIT NO. 13

APPLICATION NO.
A-1-MEN-98-17

FLOOR PLANS

FLOOR PLAN

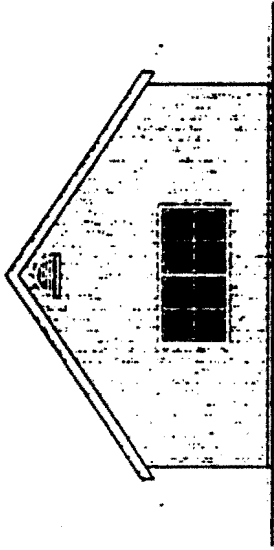
SCALE: 1/4" = 1'-0"



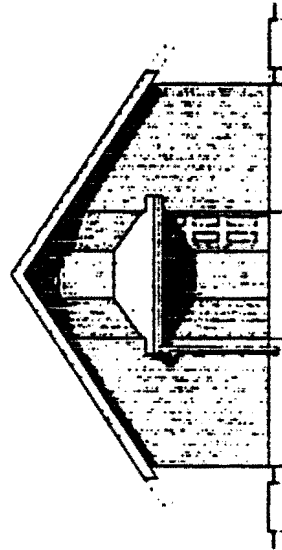
RIGHT ELEVATION



LEFT ELEVATION



BACK ELEVATION



FRONT ELEVATION

LAUNDRY / EMPLOYEES BUILDING
SCALE: 1/8"=1'-0"

EXHIBIT NO.	14
APPLICATION NO.	A-1-MEN-98-17
ELEVATIONS	
Laundry/Employee Bld	

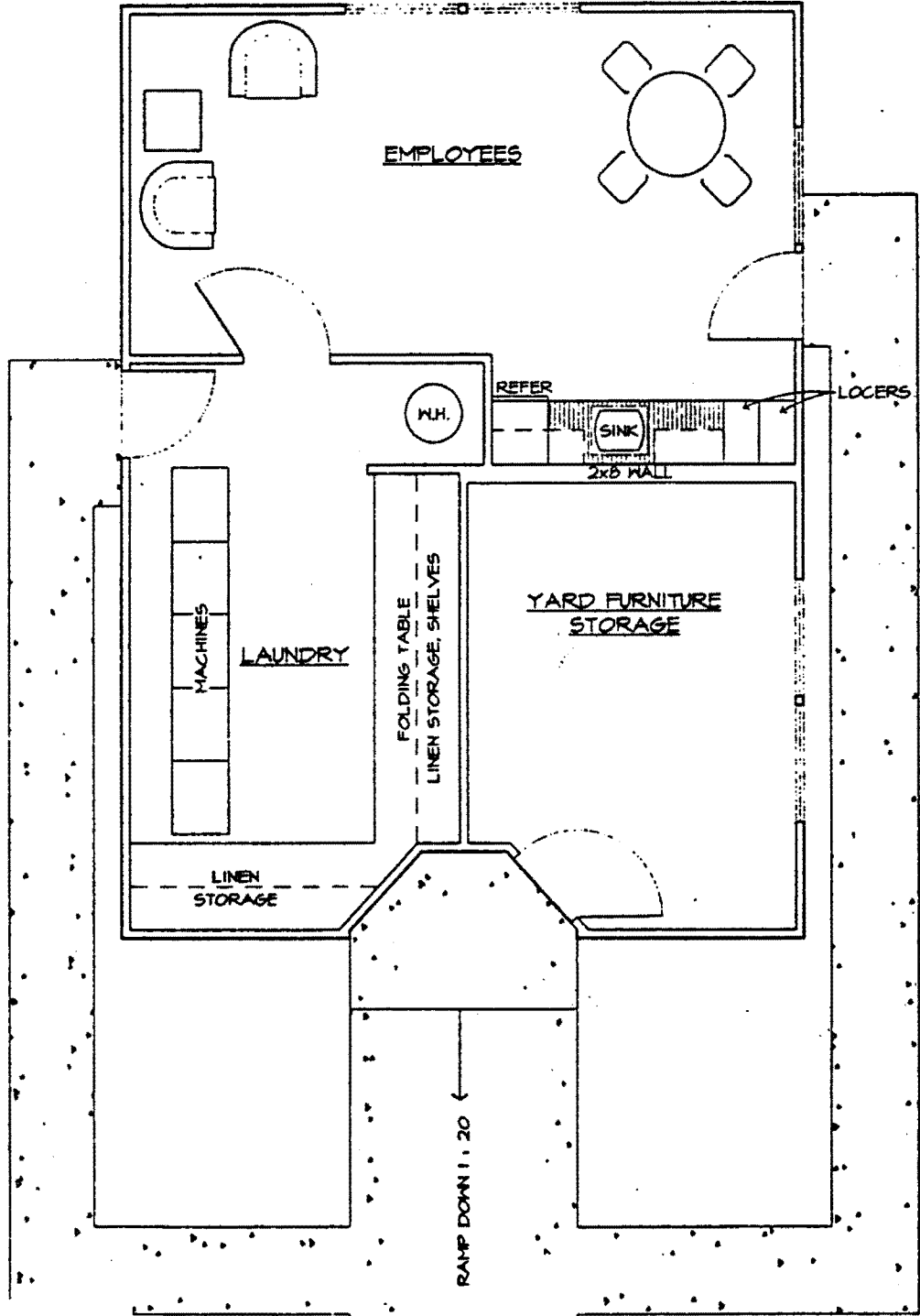


EXHIBIT NO. 15
APPLICATION NO. A-1-MEN-98-17
FLOOR PLANS
Laundry/Employee Bld

**LAUNDRY / EMPLOYEE
FLOOR PLAN**
SCALE: 1/4"=1'-0"

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



FEB 13 1998

CALIFORNIA
COASTAL COMMISSION

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

SECTION I. Appellant(s)

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

JUDITH VIDAVER - Friends of Ten Mile POB 25 FT BRAGG 95437 707-961-2742
MENGLINO COASTWATCH EDANNE WITHERS P.O. 198, FORT BRAGG, CA 95437
MENDOCINO GROUP SIERRA CLUB P.O. 2330, FORT BRAGG, CA 95437
RONGUENNER Zip Area Code Phone No.

SECTION II. Decision Being Appealed

1. Name of local/port government: County of Mendocino

2. Brief description of development being appealed: Construction of a 20 unit inn w/ managers quarters, meeting room, employee utility building 25 parking spaces etc.

3. Development's location (street address, assessor's parcel no., cross street, etc.): In Coastal zone 7 1/4 miles north of FT BRAGG at Ten Mile AP#s 69-010-20, 21, 22, 34, 35, 69-020-02, 05, 14, 69-050-06, 69, 072-07, 11 28301 N. HWY 1 FB.

4. Description of decision being appealed:

- a. Approval; no special conditions: _____
- b. Approval with special conditions: Coastal Development Use Permit
- 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. 16
APPLICATION NO. A-1-MEN-98-17
APPEAL

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 attachment

Project conflicts w/ local LCP: 1) Visual resource policies

3.5-1-3-4-6

2) Environmentally Sensitive Habitat Area policies

zoning code Sec. 30240(a)(b); LCP definitions pg. 39 - STAs p. ³⁸44 - Dunes

3) Public ~~Access~~ Access policies 3.6-5

4) Protection of Agricultural Lands

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.

Ronnie Watkins
Judith Vidour
Signature of Appellant(s) or Authorized Agent

Date Feb 11, 1998

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.

Signature of Appellant(s)

Date _____

EXHIBIT NO. 16
APPLICATION NO. A-1-MEN-98-17
APPEAL

EXHIBIT NO.	16
APPLICATION NO.	A-1-MEN-98-17
APPEAL	

Appeal to The Coastal Commission RE: CD

We make this appeal to the Commission because the Mendocino County approval of this application fails to protect Coastal resources in the following substantive areas.

1) Viewshed Protection of Highly Scenic Area

LCP Map designation Highly Scenic Area: "The entire coastal zone from the Ten Mile River estuary (including its wooded slopes, wetlands, dunes and ocean vistas visible from Highway 1)..

Project site is located on the wooded slope of the Ten Mile River estuary as seen from Highway One and the estuary itself. Project site is also highly visible from other public view areas: County Road 428 and miles of MacKerricher State Park including from the coastal trail, the beach and the dunes. It is also visible from the westerly portion of the Special Treatment Area along the Ten Mile River as designated by the Coastal Commission.

Project site is a highly scenic area within the definition of "highly scenic area," as attested to by Woody Hudson, Mendocino County Planner during Board of Supervisors hearing on application. It is certainly more highly scenic than the Smiley proposal, recently rejected by the Commission.

According to LCP "Definitions" pg. 39 project site is in the designated scenic corridor which begins at the Ten Mile River.

LCP policy 3.5-6 notes that the highly scenic area locations are approximate and subject to correction.

The outdated LCP needs to be updated to reflect these actualities and make the necessary correction.

2) Environmentally Sensitive Habitat Areas (ESHAs)

The LCP classifies sand dunes as ESHAs. This proposal has the potential for significant adverse impacts to the ESHA of the MacKerricher State Park Natural Dune Preserve adjacent to the project site. The 20 units and the allowable 60 seat restaurant and the 36 seat meeting room can conceivably produce over 150 additional visitor trips a day into the fragile Preserve. Much documentation exists showing the intention of the developers for patron access to the Preserve from the motel. DPR is beginning the EIS process to assess the feasibility of opening up the Preserve to

increased visitor access. DPR has failed to comment on this application due to conflict of interest produced by DPR needing to acquire a piece of land from the motel developers in order to proceed with thier own development plans at Ten Mile. We asked the County to require an EIR to discuss the impacts of the motel on the Preserve and were denied.

Within the parcel and along the access route to the Preserve are located numerous ESHAs containing the endangered Horkelia Marinensis and several riparian zones along the estuary.

3) Public Beach Access

At no point during the review of this project has the requirement for the developers to provide beach access to the public been discussed. This proposal, if approved as it stands, will bring in additional thousands of people a year to this area. The parcel, as noted, is adjacent to Park property at the Ten Mile Beach and River. DPR is planning its own development across the highway from and adjacent to this proposed project, yet no mention has been made of a dedicated easement by the developers. This represents a blatant failure under the LCP and the Coastal Act.

4) Conversion of Agricultural Lands

The *2(c) zoning placed on this parcel in 1981 (though not originally on this site), is inappropriate today and will have adverse impacts on the Smith Ranch as well as on other surrounding agricultural uses. An LCP updated as required by the Coastal Act would never allow for such zoning.

For the all the above reasons and more, we request this application be denied.

EXHIBIT NO. 16
APPLICATION NO. A-1-MEN-98-17
APPEAL



**COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES**

501 LOW GAP ROAD, ROOM 1440
UKIAH, CALIFORNIA 95482

February 3, 1998

NOTICE OF FINAL ACTION

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

CASE#: CDU 8-97
DATE FILED: January 17, 1997
OWNER: HENRY & MARGARET SMITH, TRUSTEES
APPLICANT: DON & MARGARET PERRY
REQUEST: Coastal Development Use Permit for a 20 unit visitor serving facility, including 20 guest units in 7 separate structures, a lobby/meeting room/manager's quarters building, an employee utility building, 25 parking spaces, a sign, underground water tanks, wells, leach fields, driveway, and fence.
LOCATION: In the Coastal Zone, 7 1/4+- miles north of Fort Bragg, on the east side of Highway 1, 1/2+- mile north of its intersection with Camp 1 - Ten Mile Road (CR# 427), 3/4+- mile southeast of the Highway 1 - Ten Mile River bridge; AP# 69-010-20, 21, 22, 34, 35, 69-020-02, 05, 14, 69-050-06, 69-070-07, 11.
PROJECT COORDINATOR: Charles Hudson

ACTION TAKEN:

The Board of Supervisors, on January 26, 1998, approved the above described project. See attached documents for the findings and conditions in support of this decision.

The above project was not appealed at the local level.

This project is 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.

Enclosures

cc: Henry & Margaret Smith
Don & Margaret Perry
Judith Vidaver
Roanne Withers
Ron Guenther
Coastal Commission
Assessor

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-98-17
Notice of Final Action for County CDF	

EXHIBIT NO. 17
APPLICATION NO. A-1-MEN-98-17
COUNTY FINAL CDP
CONDITIONS

FINAL CONDITIONS OF APPROVAL
#CDU 8-97, SMITH/PERRY

A. General Conditions:

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 if the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1,275.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to January 30, 1998. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.
2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the permittee to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
3. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
4. The application, supplemental exhibits and related material, including location, design and construction materials of signs and buildings, shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
 - A. Roof color shall be a shade of earth tone brown compatible with the siding. The proposed color scheme shall be submitted to the Department of Planning and Building Services for review and approval prior to issuance of building permits.
5. This permit shall be subject to revocation or modification upon a finding that any one or more of the following:
 - a. That the permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which the permit was granted have been violated.
 - c. That the use for which the permit was granted is being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one 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.

B. Specific Conditions: Compliance with the following conditions shall be achieved prior to issuance of a building permit unless otherwise noted, and compliance shall be maintained for the term of the permit:

1. All appropriate measures shall be taken to suppress dust and prevent erosion during and following construction. Revegetation of disturbed areas shall be accomplished as soon as practical after construction activities are completed. If vegetation cannot be established prior to winter rains, other measures shall be employed as necessary to prevent erosion. All areas of bare soil shall have been planted, mulched or otherwise treated to control erosion and reestablish vegetative cover prior to final inspection of the structures by the Building Inspection Division.
2. Submit acceptable water quality test results and water system design details to the State of California, Department of Health Services, Public Water Supply Branch and the Mendocino County Division of Environmental Health.
3. Obtain a permit for the water system from the State of California, Department of Health Services, Public Water Supply Branch.
4. Submit to the Division of Environmental Health an acceptable site evaluation report and sewage disposal system design prepared by a qualified site evaluator, demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan. The report shall include acceptable soil permeability and soil profile data, wet weather groundwater monitoring, and a cumulative impact assessment.
5. Submit to the Division of Environmental Health an acceptable site development plan prepared by a qualified site evaluator showing the location and dimensions of the sewage disposal system, including primary disposal system, 100 percent replacement area, acceptable setback distances, and other pertinent information.
6. Submit the site evaluation report to the North Coast Regional Water Quality Control Board and obtain their approval, if necessary.
7. Obtain a permit to construct a sewage disposal system from the Division of Environmental Health.
8. Submit to the Division of Environmental Health a conformed copy of a recorded agreement between the applicant and the Division of Environmental Health that sets forth the proposed operation, maintenance, and monitoring of the proposed system. The agreement will be the basis for the system's Operating Permit.
9. Submit to the Division of Environmental Health an acceptable application for an On-Site Sewage Disposal System Operating Permit, to be renewed on an annual basis.
10. Prior to use of the facility, the applicant shall submit documentation to the Planning and Building Services Department from the Division of Environmental Health that Conditions B-2 through B-9 have been satisfactorily completed.
11. Lighting fixtures, including temporary or permanent decorative lighting, both interior and exterior, shall be designed, located and/or shielded so that only reflected light is visible beyond the project parcel boundaries. Compliance with this condition shall be achieved prior to the final inspection by the Building Inspection Division.
12. Development plans submitted with applications for building permits shall show that all utility lines will be placed underground.

EXHIBIT NO. 17

APPLICATION NO.
A-1-MEN-98-17

COUNTY FINAL CDP

CONDITIONS

13. In the event that archaeological resources are encountered during construction of the project, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
14. A commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures. Prior to receiving final building inspection clearance for any of the proposed structures, the applicant shall submit documentation from Caltrans to the Planning and Building Services Department stating that the road approach has been completed to Caltrans' satisfaction.
15. The applicant shall comply with those recommendations in the California Department of Forestry Preliminary Clearance of January 21, 1997, or other alternatives as acceptable to the Department of Forestry. Prior to receiving final building inspection clearance for any of the proposed structures, written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.
16. Prior to issuance of a building permit, the applicant shall submit evidence to the Planning and Building Services Department that water storage and delivery systems included in the project plans for fire suppression purposes are satisfactory to the local fire agency.
17. During construction of the project, a water supply for fire suppression satisfactory to the local fire agency and the California Department of Forestry and Fire Protection shall be maintained on the project site.
18. Wood stoves or wood burning fire places shall not be installed in any of the buildings subject to this use permit.
19. The applicant shall submit to Planning and Building Services for review and approval a landscaping plan which shall identify a vegetation strip of native trees and/or shrubs to be planted in conjunction with existing vegetation along the westerly property line to screen the project from views along Highway 1. The vegetation strip shall begin 150 feet south of the proposed drive approach onto Highway 1 and extend south to the southerly property line. The intent of the vegetation is to partially screen and soften the visual impacts of the inn and not to totally obscure the view from Highway 1. Landscaping shall be established and maintained in accordance with the plan.

EXHIBIT NO.	17
APPLICATION NO.	A-1-MEN-98-17
COUNTY FINAL CDP	
CONDITIONS	

EXHIBIT NO. 18

APPLICATION NO.

A-1-MFN-98-17

COUNTY STAFF REPORT

BOS-2

MENDOCINO COUNTY MEMORANDUM

TO: Board of Supervisors

DATE: 1/13/98

FROM: Charles N. Hudson - Planner II

SUBJECT: Appeal of Planning Commission approval of CDU 8-97, Ten Mile River Inn

The Friends of the Ten Mile, Mendocino Coast Watch and the Mendocino/Lake Group of the Sierra Club have appealed the Planning Commission's approval of CDU 8-97, which would permit a 20 unit inn to be constructed on the Smith property south of Ten Mile River. The appeal letter cites 11 items as grounds for the appeal. Following are staff comments on the items cited by the appellants.

1. *Certificates of Compliance subdivisions' cumulative impacts on protected coastal resources: information has not been provided or addressed; impacts have not been mitigated.*

Comment: Certificates of compliance do not create subdivisions or subdivide parcels of land. A certificate of compliance is a document issued by the County certifying that a particular parcel was legally created in accordance with all applicable regulations at the time the parcel was created. Parcels that receive certificates have been previously created and exist whether or not a certificate is issued. The issuance of certificates of compliance does not change the number of parcels and has no environmental impact.

2. *Local Coastal Plan Amendments' cumulative impacts on protected coastal resources: information has not been provided or addressed; impacts have not been mitigated.*

Comment: Cumulative impacts that may result from Coastal Plan amendments are addressed at the time the amendments are considered for approval. No amendment of the Coastal Plan was required for CDU 8-97. The Smith property was designated as a site for a future visitor serving facility during the original preparation of the County's Coastal Plan, and was found to be consistent with Coastal Act policies when the plan was certified by the Coastal Commission.

3. *Cumulative growth inducement by this and other known projects in the subject area has not been addressed or mitigated.*

Comment: Growth inducement was addressed in the staff report on pages PC-7 and PC-8 and it was staff's opinion that there was no significant impact. Growth inducement was also discussed at the Planning Commission hearing, both during the public testimony and

during the Commission's deliberations after the hearing was closed, and no significant impacts were identified.

4. *Cumulative growth inducement caused by approving a major visitor serving facility in a remote section of the Mendocino coast, which would instigate market forces for conversion of more agricultural land, has not been considered or mitigated.*

Comment: Growth inducement and potential for changes in land use and conversion of ag land were discussed in the staff report on pages PC-7. No significant impacts were identified.

5. *Significant environmental impacts on the fragile Ten Mile Dunes ecological area, the Inglenook Fen, and prehistoric and historic archaeological sites have not been addressed.*

Comment: The project is on the east side of Highway 1, over ¼ mile from the nearest dunes. It is downwind from the dunes in the prevailing winds and will have no impact on wind or wave action that creates the dunes. The Inglenook fen is about 2 miles southwest of the project site. The proposed inn is not in the fen watershed and will have no impact. Archaeological resources are discussed in the staff report on page PC-6. Based on an archaeological survey of the site by Archaeological Services Incorporated which found no resources on the site, it was determined that there would be no archaeological impacts.

6. *This project is being piecemealed absent known information on a neighboring parcel project which is engaging in a complete environmental impact review.*

Comment: It is not possible to address this item because the neighboring parcel and project is not identified.

7. *Project alternatives were not considered.*

Comment: It is not required that alternatives be considered as part of the consideration of an application for a use permit or adoption of a negative declaration. It is only necessary to determine that the project will not cause any significant adverse environmental impacts. Consideration of alternatives is a part of an environmental impact report, which has not been required for this project.

8. *The Department of Air Quality was not noticed of this project and as a result this project's potential for adverse impact on overall air quality of the coast due to wood burning fireplaces, has not been considered or mitigated.*

Comment: Comments from the Air Quality Management District Air Pollution Control Officer were received on November 18, 1997 and were addressed during the Planning Commission hearing on November 20th. The Planning Commission added Condition B-18 in response to ACMD comments.

EXHIBIT NO.	18
APPLICATION NO.	A-1-MEN-98-17
COUNTY STAFF REPORT	

9. *This project, and its own known directly related components of Certificates of Compliance subdivisions, together with a key section of land located across Hwy 1 next to MacKerricher State Park, has not been considered as a whole project, but instead has been isolated in a piecemeal fashion, contrary to well established law.*

Comment: Certificates of compliance and boundary line adjustments issued on the Smith ranch are mentioned in the staff report on page PC-2. As stated in the comment under Item 1 above, certificates of compliance only verify that existing parcels were legally created. Boundary line adjustments only reconfigure existing parcels. Neither certificates of compliance or boundary line adjustments can create additional parcels. The configuration of the parcel on which the inn is proposed, including the portion of the parcel that extends west of Highway 1, is shown on the plot plan accompanying the staff report. The fact that a portion of the parcel extends west of the highway, adjacent to MacKerricher State Park, does not increase the potential impact of the proposed project.

10. *This project as proposed and approved is in conflict with the Coastal Act and the Local Coastal Element of the Mendocino County General Plan and is incompatible with existing land use in its vicinity. These conflicts have been ignored and therefore, have not been mitigated.*

Comment: The project's consistency with the Coastal Plan is discussed on page PC-8 of the staff report, and the project was found to be consistent. Compatibility with existing land use is discussed on page PC-4 and PC-5, and the project was found to be compatible. In the absence of any evidence from the appellants in substantiation of their assertions, no further response is possible.

11. *Noise, light and glare, visual impacts on a Coastal Act and Local Coastal Plan highly scenic area and Highway 1, and increased unprotected pedestrian crossing on Highway 1, causing a traffic hazard, have not been sufficiently reviewed, addressed, or mitigated.*

Comment: The project does not include any significant noise generators. Aesthetic impacts are discussed in the staff report on page PC-6, and 2 conditions were required to mitigate any potential aesthetic impacts. The project does not propose pedestrian crossing of Highway 1. Should visitors to the inn cross the highway, sight distances are sufficiently long that safe crossing of the highway can be accomplished and no adverse impact will result.

EXHIBIT NO.	18
APPLICATION NO.	A-1-MEN-98-17
COUNTY STAFF REPORT	

STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT

#CDU 8-97
November 20, 1997
Page PC-1

OWNER: HENRY & MARGARET SMITH, TRUSTEES
28301 NORTH HIGHWAY ONE
FORT BRAGG CA 95437

AGENT: DON & MARGARET PERRY
28301 NORTH HIGHWAY ONE
FORT BRAGG CA 95437

REQUEST: Coastal Development Use Permit for a 20 unit visitor serving facility, including 20 guest units in 7 separate structures, a lobby/meeting room/manager's quarters building, an employee utility building, 25 parking spaces, a sign, underground water tanks, wells, leach fields, driveway, and fence.

LOCATION: In the Coastal Zone, 7 1/4 ± miles north of Fort Bragg, on the east side of Highway 1, 1/2 ± mile north of its intersection with Camp 1 - Ten Mile Road (CR# 427), 3/4 ± mile southeast of the Highway 1 - Ten Mile River Bridge; AP# 069-010-20, 21, 22, 34, 35; 069-020-02, 05, 14; 069-052-06; 069-070-07, 11.

TOTAL ACREAGE: 4± acres of a 388.8± acre parcel.

GENERAL PLAN: Rangeland

ZONING: RL *2C

ADJACENT ZONING: North and East: RL
South: RL & RR:L-2
West: RL & OS

EXISTING USES: Hay storage, grazing

SURROUNDING LAND USES: North: Rangeland
East and South: Rangeland and Timberland
West: Rangeland and State Park

SURROUNDING LOT SIZES: North: 28± to 338± acres
East: 60± to 345± acres
South: 1± to 40± acres
West: 64± acres and MacKerricher State Park

SUPERVISORY DISTRICT: 4

GOV. CODE 65950 DATE: January 23, 1998

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA: Use Permit U 39-74 and Rezoning R 52-74 submitted for a campground, recreation and education facility, were not pursued after an Environmental Impact Report was required.

Use Permit U 36-79/85, originally approved on May 24, 1979, and renewed in 1980 and 1985, expired on August 14, 1991. The permit allowed the use of a mobile home as a residence for an agricultural employee.

Use Permit U 27-89, approved November 16, 1989, allowed the use of an existing mobile home as a temporary residence while constructing a permanent second residential unit.

EXHIBIT NO. 18
APPLICATION NO. A-1-MEN-98-17
COUNTY STAFF REPORT

EXHIBIT NO. 18

APPLICATION NO.
A-1-MEN-98-17

COUNTY STAFF REPORT

STAFF REPORT FOR COASTAL DEVELOPMENT USE PERMIT #CDU 8-97

Applications for Certificates of Compliance, CC 21-81, CC 22-81, CC 8-87, and CC 9-87 resulted in certificates being recorded for 12 parcels on the Smith Ranch.

Boundary Line Adjustments B 67-89 and B 34-90, both completed in 1990, made various adjustments to the boundaries of parcels recognized with certificates of compliance.

Coastal Development Boundary Line Adjustment CDB 31-93, completed in June, 1995, combined 2 parcels in the easterly portion of the Smith's ownership and established an area of land west of Highway One as a separate parcel. The adjustment resulted in the current configuration of the 389± acre parcel upon which the visitor serving facility is proposed.

Coastal Development Use Permit CDU 8-93, submitted in May, 1993, proposed a 20 unit visitor serving facility with meeting space and manager's quarters at a more northerly location on the same parcel as the present application. The application was not pursued after the Planning Commission, in January 1996, required that an Environmental Impact Report be prepared.

PROJECT DESCRIPTION: The applicant proposes to develop a 20 unit visitor serving facility with a meeting room and manager's residence. The guest rooms will be contained within seven detached buildings, two with five units each, and five with two units each. The manager's quarters, reception area and meeting room will be within a separate two story structure with an exterior observation deck at the second floor level. A separate utility building with laundry, storage and employee facilities is also proposed. Parking will be provided for 25 vehicles.

The total floor area of the guest units is 9,932 square feet. The reception/manager's quarters building is 2,865 square feet, and the laundry/employees building is 750 square feet, for a total of 13,547 square feet of floor area.

The project site is on the east side of Highway One, set back from the highway about 300 feet, in the vicinity of an existing hay storage shed, which is proposed to be removed. The buildings are arranged along the contour of the slope, approximately 30 feet above the elevation of the highway at the driveway entrance. The site is partially screened from view along much of the highway frontage by roadside shrubs, but will be visible for about a ½ mile stretch of the highway, mostly north of the driveway entrance, and mostly for southbound motorists.

Water is proposed to be supplied from wells on the site, and stored in three 10,000 gallon underground tanks. Wastewater disposal will be by a septic tank and leach field system.

A double faced carved redwood sign measuring approximately 12 ½ feet by 2 ½ feet reading "TEN MILE RIVER INN" is proposed to be placed near the entrance, approximately 50 feet back from the property line, perpendicular to the highway. The sign will be illuminated by lights recessed below ground.

ENVIRONMENTAL REVIEW:

Earth (Items 1a, 1b and 1c): The project will be located at the foot of a hillside on slopes not exceeding 20 percent. Most of the site slopes less than 10 percent. Minor grading will be required to shape the ground around the buildings and to construct the access drive and parking area. Approximately 13 cubic yards of earth are estimated to be moved, with cuts and fills not exceeding 2 feet in depth. No known geologic hazards exist in the project area.

The Coastal Commission staff submitted the following comment regarding geologic hazards:

"Having viewed the site, Commission staff is no longer concerned with geologic hazards resulting from the proposed inn. Although the new site is on a slope, it is not a steep slope, and does not appear to pose a threat to bluff stability."

Condition B-1 is recommended requiring that vegetation be reestablished on bare areas to prevent erosion.

Water Drainage (Item 3a): The project will result in an increase in the impervious surfaces on the site, resulting in an increase in storm water runoff. A drainage plan prepared by the project architect shows a drainage swale along the access drive carrying runoff from the driveway to an existing 18 inch culvert under Highway One located at the south side of the project driveway. The plan also shows that runoff from the building roofs and parking area will be carried by an underground drain pipe to an existing 48 inch culvert under the highway approximately 700 feet south of the project

driveway. There is no evidence of any flow of water through the 18 inch culvert, and the amount of water discharged from the 48 inch culvert is not sufficient to create a defined channel, but instead is just dispersed into an area of riparian vegetation that extends westerly across a field. No drainage from the site will flow toward Ten Mile River.

Caltrans submitted the following comment regarding drainage:

"We recommend the applicant provide drainage information showing drainage for the site before and after development. The information should identify the additional cubic feet per second of discharge into the State drainage facility, analysis of potential impacts resulting from the additional drainage, and recommendations to mitigate any identified impacts."

In response to the comments from Caltrans, the applicant had George Rau of Rau and Associates Incorporated, Civil Engineers and Surveyors, evaluate the change in runoff characteristics that would result from the proposed inn. Mr. Rau submitted the following comments:

"At the request of Don and Margaret Perry, I reviewed the culverts draining the proposed project site and have analyzed the potential impacts if the project is approved. The project will consist of seven individual cabins with 20 individual units, a meeting and administration building, and an employee's building. These buildings will all be served by a paved roadway. The roofs of the buildings, the paved roadway and the parking areas will all be surfaces which increase the runoff of the site.

The site is drained by two culverts across Highway One. These culverts discharge onto the west side of Highway One toward the sand dunes and the Pacific Ocean. A review of the outfall areas indicates that there is no distinct channel and the runoff apparently flows through the culverts and dissipates into the ground within a short distance of the outfall of the culverts. It does not reach the Pacific Ocean nor does it flow towards the Ten Mile River. On the site, the drainage would be collected by sheetflow over land to the catch basins on a proposed storm drain system which will discharge at the entrance of the 48 inch diameter culvert at P.M. 68.99. Again, there is no distinct channel and no erosion taking place upstream from these culvert inlets. The ground is simply shaped naturally to drain to the proposed inlets.

I visited the site on the day of some light showers in April, 1997, and observed very little water in the drainage ways. I also observed the cut slopes of the State Highway which range up to about ten feet in height, providing an ample cross sectional view of the soil types. In addition, I reviewed the geologic maps of the area and spoke to the onsite wastewater disposal site evaluator who bored hand auger holes to depths of 10 feet. This information aided in forming opinions as to the amount of runoff which presently occurs and the amount of runoff which will occur in the future.

The site is overlain by marine terrace deposits which are typically sandy soils with some percentage of gravels. They are medium dense below about 1.5 feet from the surface based upon observations of the cut slopes of the State Highway. They are still quite permeable to depths of as much as ten feet. A discussion of the results of hand auger holes done by Carl Rittiman in his investigation for the leachfield indicates that soils on the site are similar to those which were observed by me at State Highway cut sections. From these observations and review of subsurface test pit information, I have concluded that the present runoff factor is about 20 percent.

In the future, the hardened areas described above will have a runoff factor of approximately 90 percent. The analysis which is attached compares the runoff at present with about 20 percent overall against future runoff with 20 percent over the unimproved areas and approximately 90 percent over the hardened surfaces. This analysis was done numerically and is attached hereto for information.

The analysis shows that before the proposed development, total runoff in the two drainages is 2.1 cubic feet per second (cfs) at the 18 inch culvert and approximately 11.3 cfs at the 48 inch culvert from a storm with a 100 year return interval. The development, if approved, will not increase the total runoff to the 18 inch culvert, and will increase the total runoff to the 48 inch culvert by approximately 2.2 cfs. Percentage increase is 0 percent at the 18 inch culvert and 24 percent at the 48 inch culvert for a "100 year storm". Culvert capacity is significantly more than either flow after development.

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Based upon this analysis, I have concluded that the increase in runoff will not overload the culverts across State Highway One and can be considered to be an insignificant impact since it will not drain into either the Pacific Ocean or Ten Mile River."

After reviewing Mr. Rau's analysis, Caltrans stated that it had no further comments.

Sufficient provisions have been incorporated into the design of the project to convey runoff from the site without erosion or other adverse environmental impact. The analysis prepared by Rau and Associates demonstrates that the existing drainage facilities within the Highway One right-of-way are adequate to accommodate anticipated runoff from the site. No additional mitigation measures are recommended.

Water Availability (Item 3c): The Coastal Ground Water Study prepared in 1982 by the Department of Water Resources shows the project to be in an area designated as "Critical Water Resources" (CWR). The study states that development in areas designated CWR shall have a minimum lot size of 5 acres, and demonstration of "proof of water". Coastal Plan Policy 3.8-9 requires that proof of water be demonstrated in accordance with policies contained in the Coastal Ground Water Study.

In conjunction with their 1993 application for a 20 unit inn, the applicants had a hydrological study prepared by Clark Engineering/Hydrology. Wells were drilled and tested, and the study concluded that there was sufficient water available for the project. The current project proposes the same number of units, so water demand will be about the same.

The Division of Environmental Health commented that their recommendations remain the same as for the previous application, specifically, that water quality tests and system design be submitted, and that an application for a public water system be submitted. Conditions B-2 and B-3 requested by the Division of Environmental Health, are recommended to ensure an adequate water supply.

Water Quality (Item 3d): Sewage disposal for the proposed project will be by a private septic tank and leach field system. An On-Site Sewage Disposal System Proposal for the new site, dated July 2, 1997, was prepared by Carl Rittiman, Certified Professional Soil Scientist. The proposal includes the results of soil profiles, laboratory analyses, percolation test data, and groundwater monitoring, together with design calculations for an on-site sewage disposal system to serve the proposed visitor facility. The proposal is certified by Mr. Rittiman to comply with all State and County requirements for on-site sewage disposal at the time of the evaluation. The proposed disposal system consists of five septic tanks from which effluent flows to a 3,000 gallon pumping chamber and then is pumped to a leachfield consisting of eight trenches, each 125 feet long. A 100 percent replacement leachfield site is also identified.

The Division of Environmental Health has reviewed Mr. Rittiman's proposal and found that it adequately addresses soil conditions on the project site and substantiates that the project will not create a public health hazard or have any adverse impacts. Compliance with recommended Conditions B-4 through B-10 will ensure that potential adverse impacts upon water quality from the development of the septic system on the property are mitigated, and that the disposal system is consistent with Coastal Plan policies.

Plant Life (Item 4c): The California Natural Diversity Data Base does not list any rare or endangered species in the area whose habitat might be found on the project site. A botanical survey of the site was conducted on June 18 and July 21, 1996, by Gordon McBride, Ph.D., and no rare or endangered plants or sensitive plant habitat were found on the site. No mitigation measures are recommended.

Wildlife (Item 5a): No significant impacts on wildlife are anticipated. The California Department of Fish and Game did not respond to the request for comments. When asked by phone if the agency had any comments, the response was that it had none. The project will result in the construction of several structures on the property along with driveways, parking areas, landscaping and other human presence that may displace wildlife. Although the Department of Fish and Game had no specific comments regarding the project, the project will contribute to the continuing overall reduction in wildlife habitat and populations on a cumulative basis, and therefore will be subject to the Department of Fish and Game Fee required by Section 711.4 of the State Fish and Game Code. Condition Number A-1 is recommended.

Natural Resource Base (Item 7a): The Smith Ranch is predominantly range and timber land, and much of the property is used for grazing livestock. The property is not within an agricultural preserve under the Williamson Act, nor are any adjacent parcels. On the Blayney-Dyett Land Capabilities and Natural Hazards Maps (prepared for the development of the Local Coastal Program), the proposed inn site is designated as non-prime agricultural land. The Habitats/ESHA/Resources Maps show the site to be Coastal Prairie Grassland. The Coastal Plan classifies the property as Range Lands, with a *2C,

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identifying the property as a conditional site for a 20 unit visitor serving facility. Development of the proposed inn will result in approximately 4 acres of the 389± acre parcel being removed from range use.

The Coastal Commission staff submitted the following comment regarding agricultural resources on the property:

"The new site for the proposed inn is in an area that is used for livestock grazing. LUP Policy 3.2-4 states that on parcels in agricultural operation, visitor accommodations shall be secondary to the agricultural activity, and that when granting a conditional use permit for visitor accommodations, the county must make findings that a number of standards have been met. Commission staff suggests that County staff review these standards and apply them to the proposed project to ensure consistency with the LCP. For example, the proposed inn must be found to be compatible with the existing agricultural use on the site."

In the Coastal Zone, coastal dependent agriculture, timber production and coastal dependent public recreation are the uses of highest priority. Commercial visitor serving uses also have priority over other types of uses. These priorities reflect the objectives of the Coastal Act to maintain the natural resource base of the coast and to make the coast accessible to the public. During the development of the County's Coastal Element, the Smith property was determined to be an appropriate location for these two high-priority uses, and was therefore given the RL *2C classification.

Coastal Plan Policy 3.2-4 states that zoning regulations shall not discourage compatible activities that may enhance the economic viability of agricultural operations. Visitor accommodations are listed as one such activity, however, they are required to be secondary to the agricultural activity and must promote the following objectives:

- Maximize protection of environmentally sensitive habitats;
- Minimize construction of new roads and other facilities;
- Maintain views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
- Ensure adequacy of water, sewer and other services;
- Ensure preservation of the rural character of the site;
- Maximize preservation of prime agricultural soils;
- Ensure existing compatibility by maintaining productivity of on-site and adjacent agricultural lands.

The project maximizes the protection of sensitive habitat by being sited out of the Ten Mile River watershed in an area determined by a biological survey to have no sensitive habitat. Construction of new roads is minimized by locating the facility near Highway One on a site served by an existing driveway, and by grouping the guest units in close proximity to the administrative building and to each other. The facility's location at the base of a hill on the east side of Highway One prevents the structures from being silhouetted against the skyline or from blocking views of the dunes and shoreline. The ability of the site to support adequate water and sewer services has been demonstrated by preliminary studies and will be ensured by recommended conditions of approval. Preservation of the rural character of the site is ensured by the Rangeland zoning applied to the parcel, and the small amount of the site being devoted to the visitor facility. The majority of the property will continue to be used as grazing land or timber land. The inn site is not located on prime agricultural soils. The small portion of the property to be developed with the inn will not adversely affect the continued use of the remainder of the property as grazing land, and revenue from the inn may enable the applicants to expand the agricultural use of the remainder of the ranch, thereby maintaining or enhancing productivity of the property.

Coastal Plan Policy 3.2-5 discourages conversion of agricultural land to non-agricultural use unless agricultural use is not feasible, or the conversion would preserve prime agricultural land or concentrate development.

The proposed inn and surrounding grounds will occupy approximately 4 acres of land which has in the past been used in conjunction with the applicant's cattle raising operation. While this will constitute a conversion to non-agricultural use, the area involved is an insignificant portion of the whole 389± acre parcel. The primary overall use of the property will continue to be agricultural. Any location on the parcel suitable for development of an inn would result in conversion of either agricultural land or timberland. Failure to allow the minor conversion proposed would deny the use of the parcel as a visitor facility site, as designated in the Coastal Plan. Although a minor conversion at the immediate inn site will result from approval of this application, when the parcel is considered as a whole, the parcel is not being converted to non-agricultural use, and agricultural use of the property will continue to be the predominant use.

Natural Resources (Item 7f): The project will not conflict with any state or federal land use policies. The site is not within the Ten Mile River watershed and does not affect any tidelands or submerged lands under the jurisdiction of the State Lands

Commission. The California Department of Parks and Recreation had no comment on the project. As discussed in other portions of this report, the project is consistent with the California Coastal Act.

Aesthetics (Items 8a and 8b): The project site is not within an area designated as highly scenic in the Coastal Plan, nevertheless, the site is in a scenic location. The proposed inn will be visible from Highway One, primarily to southbound motorists as they approach the inn after crossing the Ten Mile River Bridge. For northbound travelers, the buildings will be partially obscured by vegetation growing along the fence line on the east side of the highway. The site's location at the base of the hill rising to the east from Highway One will prevent the buildings from being silhouetted against the skyline.

Consideration has been given in the design of the project to reduction of visual impacts. The 20 proposed inn units have been grouped into seven buildings, reducing the area of the site devoted to the visitor facility. Spruce batts are to be used over Masonite siding, all painted earth tone brown, giving the appearance of board and batten siding typical of many coastal structures. Windows are to be non-reflective glass with bronze anodized frames. Roofing is to be metal, forest green in color. Exterior lights are to be bronze in color, with light directed downward. A 2 foot 6 inch by 12 foot 6 inch double-sided carved wood sign is proposed to be located near the entrance to the site from Highway One, 50 feet back from the property line. Maximum height of the sign is shown not to exceed 15 feet above the centerline of Highway One. Lighting fixtures for the sign are to be set into the ground, with light directed upward toward the sign faces.

The Coastal Commission staff submitted the following comments regarding the aesthetics of the project:

"Concerning visual resources, staff believes the new location of the proposed inn to be an improvement over the originally proposed site. The originally proposed site was prominently visible in the public viewshed of the Ten Mile River area, particularly for motorists heading south on Highway One across the Ten Mile River. As this is a designated Highly Scenic Area, we did not feel this was an appropriate site for a large visitor-serving facility. The new location is not in the designated Highly Scenic Area, is not prominently visible from the Ten Mile River Bridge, and is much less obtrusive.

However, the new site will be visible from portions of Highway One, and while it is not in a designated Highly Scenic Area, it is in a scenic, largely undeveloped, and picturesque portion of the coast. Commission staff therefore suggests that the County impose design restrictions to minimize visual impacts, consistent with LUP Policy 3.5-1, which states that new development shall be sited and designed to protect views to and along the ocean and scenic coastal areas and to be visually compatible with the character of surrounding areas. Appropriate design restrictions would include requiring the use of earthtone colors and natural appearing and non-reflective materials for all structures, and low-voltage and downcast lighting, with restrictions on night-lighting."

Coastal Element Policies 3.5-1 and 3.5-4 address development that may have visual impacts, calling for the protection of views and minimization of visual impacts. While the inn will be visible from public viewpoints, primarily Highway One, it will not obstruct any public views of the ocean or shoreline, or of the Ten Mile River estuary. As mentioned above, it is not in a location where it will appear on the skyline. The building design, materials and colors have been chosen to be compatible with the project's rural setting.

In staff's opinion, the project is compatible with Coastal Plan policies addressing visual resources. Conditions B-11 and B-12 are recommended to ensure consistency with the Coastal Plan and Coastal Zoning Code.

Archaeological Resources (Items 9a, 9b, 9c and 9d): An archaeological survey prepared by Archaeological Services Incorporated in January, 1993, in conjunction with the applicant's previous application, included the site of the present application as well. A records search revealed that no archaeological or ethnographic sites had been recorded within the project boundaries, and no archaeological resources were discovered on the site. Condition B-13 is recommended to ensure compliance with the County's Archaeological Ordinance should any archaeological resources be discovered during construction of the project.

Transportation (Items 11a, 11b, 11c and 11d): Coastal Plan policies 3.8-1 and 3.8-6 require that traffic impacts be considered when reviewing development permit applications, and state that, where possible, provisions should be made for Highway One to be improved to a 32 foot wide paved roadway. Policy 15 of the Circulation Element requires that the County support widening of public roads to accommodate non-motorized travel.

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Caltrans submitted the following comments:

"We recommend the applicant provide drainage information showing drainage for the site before and after development. The information should identify the additional cubic feet per second of discharge into the State drainage facility, analysis of potential impacts resulting from the additional drainage, and recommendations to mitigate any identified impacts.

We recommend the road approach to Route 1 be developed to current Caltrans commercial road approach standards (in accordance with Chapter 200, Index 205.3(4) of the Caltrans Highway Design Manual).

Any work within the State highway right of way as a result of this project will require an encroachment permit from Caltrans (per 1991 Statutes relating to the California Department of Transportation, Chapter 3, Articles 1 and 2). The encroachment permit application submittal must include a copy of the lead agency's conditions of project approval. Provisions for adequate sight distance and turning geometrics are the responsibility of the applicant. Early consultation on engineering plans and drainage plans that affect State highway right of way is recommended."

Drainage impacts are discussed above under Water Drainage.

Condition B-14 is recommended to require that the road encroachment onto Highway 1 meet Caltrans' standards, and that an encroachment permit be obtained from Caltrans for any work done within the highway right of way.

The State Route 1 Corridor Study prepared by TJKM in 1994 calls for a traffic impact study to be prepared for any project that would generate more than 25 peak hour trips. Based on the trip rate table provided in the corridor study, the proposed inn and manager's residence would generate 7.92 summer weekday PM peak hour trips, and 14.58 summer weekend midday peak hour trips. Consequently, no traffic impact study was required. The corridor study found that existing level of service for the roadway segment between Little Valley Road and Ten Mile River Bridge was LOS C for the summer weekday PM peak hour, and LOS B for the summer weekend midday peak hour. The lower level of service during the week is probably due to weekday traffic from the southern end of the segment where there is more development. The roadway segment north of The Mile River Bridge, where level of service is LOS B for both weekend and weekday peak hours, may be more representative of conditions just south of the bridge at the applicant's site. Based on the results of the corridor study, no significant traffic impacts are anticipated, and no mitigation measures are recommended.

Planning Criteria - Location (Item 12a): The Coastal Plan designation of the property is Rangeland, with provision for a conditional 20 unit visitor serving facility (RL *2C). The *2C designation was first assigned to the property by the Planning Commission at a public hearing held on September 10, 1981, as part of the development of the County's Coastal Plan. In the minutes of that meeting the location of the inn site was specified as "...east of Highway 1, north of Smith Ranch Road and south of the GP Haul Road." The specified location was the site of the previous application, which was found to be of sufficient environmental sensitivity that preparation of an environmental impact report was required by the Planning Commission. The present site, while not within the bounds originally specified by the Planning Commission in 1981, is in close proximity and on the same parcel, and avoids environmentally sensitive areas. During consideration of the previous application there was substantial expression of the opinion that the project should be moved to some other location, out of the Ten Mile River watershed, and that the *2C designation on the parcel ultimately adopted by the Board of Supervisors and certified by the Coastal Commission was not limited to the location initially described by the Planning Commission. The current site is within the general area designated on the County's Coastal Plan map as a site for a visitor serving facility, and avoids the Ten Mile River watershed and its environmental sensitivity.

Although the project is located in a rural, predominantly undeveloped area, it is not anticipated to produce growth inducement impacts. Visitor serving facilities can only be developed on sites specifically designated for such use in the County's Coastal Plan. The absence of any other designated sites in the vicinity will prevent the establishment of other similar facilities without approval of a Coastal Plan amendment approved by both the County and the Coastal Commission. Other types of development in the vicinity of the project are limited primarily to agriculturally oriented projects by the Rangeland land use classification. The nearest sites designated in the Coastal Plan for visitor serving facilities are the Newport Inn on the Jackson Grube Family property two miles to the north, and a proposed ten unit facility two miles to the south, across the highway from the Inglenook Grange.

The *2C designating the Smith Ranch as a site for a visitor serving facility was part of the Coastal Plan adopted by the County and sent to the Coastal Commission for certification. The Coastal Commission considered the cumulative impacts of both existing and potential development as part of certification of the County's Coastal Plan in 1985. Partly to reduce

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cumulative impacts to an acceptable level, the Commission called for a reduction of 1500 potential parcels and modification of policies on recreation and visitor serving facilities prior to certification of the County's plan, therefore, the cumulative effects of a 20 unit facility at the Smith Ranch site were considered during the Plan certification process, and found to be consistent with the Coastal Act. In 1996 the County approved a Use Permit for a 20 unit visitor serving facility on the Jackson Grube Family property. The application was appealed to the Coastal Commission by opponents of the project, which found no substantial issues. The County was then taken to court over the project, but the court also found there to be no cumulative impact issue.

Planning Criteria - Access (Item 12a): The proposed inn does not lie between the nearest public road and the sea, and, therefore, will not obstruct or interfere with public access to the shoreline. Based on the decision in *Nolan v. California Coastal Commission*, which restricts requirements for offers of dedication of access to situations where there is a clear impact warranting mitigation provided by such an offer, no requirement for an offer of dedication is recommended.

Planning Criteria - Fire Hazard (Item 12f): The project site lies in an area with a Moderate fire hazard severity rating as determined by the California Department of Forestry and Fire Prevention. The department has issued a Preliminary Clearance (CDF No. 18-97) specifying the minimum requirements necessary to obtain a Final Clearance and Approval for Occupancy from the Department of Forestry. The Preliminary Clearance sets minimum requirements for road standards, for posting of the project address, for gates, and for maintenance of defensible space.

Condition B-15 is recommended to minimize fire hazards to and from future development and use of the project site.

ENVIRONMENTAL RECOMMENDATION: As discussed above, no significant environmental impacts are anticipated which cannot be adequately mitigated, therefore, a Negative Declaration is recommended.

GENERAL PLAN CONSISTENCY RECOMMENDATION: Facilities for visitors are a priority use in the County's Coastal Plan as required by the Coastal Act. Coastal Act Section 30222 states, "The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry." The County's Coastal Plan (Policies 3.7-1, 3.7-4 and maps) has designated sites for visitor-serving facilities, one of which is on the Smith Ranch parcel, and restricts other use of the site to development no more intense than a single family residence, and then only if a visitor-serving facility may still be placed on the site. The site is not appropriate for coastal-dependent industrial use, and the development of the proposed visitor facility will not preclude continued agricultural use of the property.

The proposed project, with recommended conditions, is consistent with applicable goals and policies of the General Plan, including the Coastal Element.

PROJECT RECOMMENDATIONS: Staff recommends approval of CDU 8-97 subject to the conditions listed below, and recommends that the Planning Commission adopt the following motion:

RECOMMENDED MOTION:

General Plan Consistency Finding: The Planning Commission finds that the proposed visitor serving facility, subject to the recommended conditions of approval, is consistent with applicable goals and policies of the General Plan and the Coastal Element.

Environmental Findings: The Planning Commission finds that no significant environmental impacts are anticipated to result from the proposed project which will not be adequately mitigated through the recommended conditions of approval, therefore, a Negative Declaration is adopted.

Coastal Development Permit Findings: The Planning Commission finds that the application and supporting documents and exhibits contain information and conditions sufficient to establish, as required by Section 20.532.095 of the Coastal Zoning Code, that:

1. The proposed development is in conformity with the certified local coastal program; and
2. The proposed development will be provided with adequate utilities, access roads, drainage and other necessary facilities; and

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3. The proposed development is consistent with the purpose and intent of the zoning district applicable to the property, as well as the provisions of the Coastal Zoning Code, and preserves the integrity of the zoning district; and
4. The proposed development will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.
5. The proposed development will not have any adverse impacts on any known archaeological or paleontological resource.
6. Other public services, including but not limited to, solid waste and public roadway capacity have been considered and are adequate to serve the proposed development.
7. The proposed development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act and the Coastal Element of the General Plan.
8. The proposed use is compatible with the long-term protection of resource lands.
9. Agricultural Land Impact Findings.
 - (a) The project maximizes protection of environmentally sensitive habitat areas;
 - (b) The project minimizes construction of new roads and other facilities;
 - (c) The project maintains views from beaches, public trails, roads and views from public viewing areas, or other recreational areas;
 - (d) The project ensures the adequacy of water, waste water disposal and other services;
 - (e) The project ensures the preservation of the rural character of the site.
 - (f) The project maximizes preservation of prime agricultural soils;
 - (g) The project ensures existing land use compatibility by maintaining productivity of on-site and adjacent agricultural lands.
10. Conversion of Non-prime Agricultural Lands: The development would result in protecting prime agricultural land and/or concentrate development.

Project Findings: The Planning Commission, making the above findings, approves #CDU 8-97 subject to the conditions of approval recommended by staff.

RECOMMENDED CONDITIONS:

A. General Conditions:

1. This entitlement does not become effective or operative and no work shall be commenced under this entitlement until the California Department of Fish and Game filing fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Mendocino County Department of Planning and Building Services. Said fee of \$1,275.00 shall be made payable to the Mendocino County Clerk and submitted to the Department of Planning and Building Services prior to December 5, 1997. If the project is appealed, the payment will be held by the Department of Planning and Building Services until the appeal is decided. Depending on the outcome of the appeal, the payment will either be filed with the County Clerk (if the project is approved) or returned to the payer (if the project is denied). Failure to pay this fee by the specified deadline shall result in the entitlement becoming null and void.

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2. This permit shall become effective after all applicable appeal periods have expired, or appeal processes have been exhausted, and after any fees required or authorized by Section 711.4 of the Fish and Game Code are submitted to the Department of Planning and Building Services. Failure of the permittee to make use of this permit within 2 years or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
 3. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
 - ** 4. The application, supplemental exhibits and related material, including location, design and construction materials of signs and buildings, shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless a modification has been approved by the Planning Commission.
 - ** 5. This permit shall be subject to revocation or modification upon a finding that any one or more of the following:
 - a. That the permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which the permit was granted have been violated.
 - c. That the use for which the permit was granted is being conducted so as to be detrimental to the public health, welfare or safety or to be a nuisance.
 - d. A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one 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.
- B. Specific Conditions: Compliance with the following conditions shall be achieved prior to issuance of a building permit unless otherwise noted, and compliance shall be maintained for the term of the permit:**
- ** 1. All appropriate measures shall be taken to suppress dust and prevent erosion during and following construction. Revegetation of disturbed areas shall be accomplished as soon as practical after construction activities are completed. If vegetation cannot be established prior to winter rains, other measures shall be employed as necessary to prevent erosion. All areas of bare soil shall have been planted, mulched or otherwise treated to control erosion and reestablish vegetative cover prior to final inspection of the structures by the Building Inspection Division.
 - ** 2. Submit acceptable water quality test results and water system design details to the State of California, Department of Health Services, Public Water Supply Branch and the Mendocino County Division of Environmental Health.
 - ** 3. Obtain a permit for the water system from the State of California, Department of Health Services, Public Water Supply Branch.
 - ** 4. Submit to the Division of Environmental Health an acceptable site evaluation report and sewage disposal system design prepared by a qualified site evaluator, demonstrating compliance with the North Coast Regional Water Quality Control Board's Basin Plan. The report shall include acceptable soil permeability and soil profile data, wet weather groundwater monitoring, and a cumulative impact assessment.
 - ** 5. Submit to the Division of Environmental Health an acceptable site development plan prepared by a qualified site evaluator showing the location and dimensions of the sewage disposal system, including primary disposal system, 100 percent replacement area, acceptable setback distances, and other pertinent information.

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- ** 6. Submit the site evaluation report to the North Coast Regional Water Quality Control Board and obtain their approval, if necessary.
- ** 7. Obtain a permit to construct a sewage disposal system from the Division of Environmental Health.
- ** 8. Submit to the Division of Environmental Health a conformed copy of a recorded agreement between the applicant and the Division of Environmental Health that sets forth the proposed operation, maintenance, and monitoring of the proposed system. The agreement will be the basis for the system's Operating Permit.
- ** 9. Submit to the Division of Environmental Health an acceptable application for an On-Site Sewage Disposal System Operating Permit, to be renewed on an annual basis.
- ** 10. Prior to use of the facility, the applicant shall submit documentation to the Planning and Building Services Department from the Division of Environmental Health that Conditions B-2 through B-9 have been satisfactorily completed.
- ** 11. Lighting fixtures, both interior and exterior, shall be designed, located and/or shielded so that only reflected light is visible beyond the project parcel boundaries. Compliance with this condition shall be achieved prior to the final inspection by the Building Inspection Division.
- ** 12. Development plans submitted with applications for building permits shall show that all utility lines will be placed underground.
- ** 13. In the event that archaeological resources are encountered during construction of the project, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
- ** 14. A commercial road approach at the project access onto Highway One shall be constructed in conformance with Caltrans design standards and encroachment permit procedures. Prior to receiving final building inspection clearance for any of the proposed structures, the applicant shall submit documentation from Caltrans to the Planning and Building Services Department stating that the road approach has been completed to Caltrans' satisfaction.
- ** 15. The applicant shall comply with those recommendations in the California Department of Forestry Preliminary Clearance of January 21, 1997, or other alternatives as acceptable to the Department of Forestry. Prior to receiving final building inspection clearance for any of the proposed structures, written verification shall be submitted from the Department of Forestry to the Department of Planning and Building Services that this condition has been met to the satisfaction of the Department of Forestry.

MITIGATION MONITORING:

<u>Condition Number</u>	<u>Agency</u>	<u>Monitoring Required</u>
A-1, A-2, B-10	PBS	None after initial compliance.
A-3, A-4, A-5, A-6	PBS	Standard code enforcement.
B-1, B-11, B-14, B-15	PBS	Inspect and verify at time of final building inspection.
B-2, B-3, B-4, B-5, B-6, B-7, B-8	DEH	None after initial compliance.
B-9	DEH	Standard code enforcement.
B-12	PBS	Verify when application for building permit is submitted.
B-13	PBS	Inform applicant of requirement.

APPEALABLE PROJECT: Pursuant to Coastal Act Section 30603, any development approved by the County within the Coastal Zone that is not a principal permitted use under the zoning ordinance may be appealed to the Coastal Commission. Because the proposed project is a conditional use, a decision by the County to approve the application may be appealed to the Coastal Commission.

Oct. 10, 1997
DATE

Charles N. Hudson
CHARLES N. HUDSON
PLANNER II

CNH:ng
10/1/97

Negative Declaration

Appeal Fee - \$435.00
Appeal Period - 10 days

** Indicates conditions relating to Environmental Considerations - deletion of these conditions may effect the issuance of a Negative Declaration.

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
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Planning - FB			X
Public Works			X
Env. Health - FB			X
Building Inspection - FB		X	
Farm Advisor	X		
Ag Commissioner	X		
Caltrans			X
Dept. of Forestry		X	
Dept. of Fish & Game		X	
Coastal Commission			X
RWQCB	X		
Dept. of Health Services			X
Dept. of Parks & Rec.	X		
Dept. of Parks & Rec. - Mendocino	X		

EXHIBIT NO. 18
APPLICATION NO. A-1-MEN-98-17
COUNTY STAFF REPORT

DEPARTMENT OF PARKS AND RECREATION

TEN MILE RIVER / MENDOCINO DISTRICT

Mendocino Sector

Post Office Box 440

Mendocino, CA 95460

EXHIBIT NO.	19
APPLICATION NO.	A-1-MEN-98-17
Correspondence from	
State Parks	

February 26, 1998

RECEIVED
MAR 03 1998CALIFORNIA
COASTAL COMMISSION

Judith Vidaver,
Friends of the Ten Mile
P.O. Box 2330
Fort Bragg, CA 95437

RE: CDU 8-97, Mendocino County - Smith/Perry Motel Proposal

Dear Ms. Vidaver,

Thank you for the background information concerning the subject proposal. We have carefully reviewed this proposal and find it to be consistent with the Local Coastal Plan Policies. In our viewpoint, this proposal does not pose a threat to the resources of MacKerricher State Park, or to visitor enjoyment of a quality park experience.

When our Department reviews "referrals" or development related projects, our review perspective comes from a State Parks viewpoint. We are not qualified to comment on issues other than those that relate to State Parks. Regardless of our feelings concerning various proposals, each is objectively evaluated in terms of potential impact on park operations and resources. We do our best to evaluate, from a parks perspective, and that of the park visitors as well. On this particular project, we have chosen not to provide comments simply because the overall effect on the park and general visitation is of minimal consequence.

In your comments you identify several issues that have a relationship to MacKerricher State Park that I would like to respond to. These include aesthetics, increased visitor use, and the relationship to our proposed coastal trail project. With regard to aesthetics, there is no doubt that the coastal area near the Ten Mile River is highly scenic. It is not clear to us if this motel proposal is actually within a designated highly scenic area. Despite this designation, our interpretation of the plans submitted and recommended conditions concludes that the proposed development would not constitute a visual intrusion generating adverse consequences. While there are sections along the highway where proposed structures will be seen, the primary visual orientation for most people traveling the highway would be towards the coastline and into the State Park. From a park visitor's perspective, the primary use area is on the coastal side of the Ten Mile Dunes (nearly one mile away). The greatest majority of park visitor use is in the area along the Haul Road alignment and near the mouth of Ten Mile River. It is our opinion that the resulting development would remain subordinate to the overall visual character of the area.

The pedestrian and vehicular traffic generated by this project is not anticipated to affect the state park in any measurable fashion. Visitors to the proposed facility would be required to enter the park through designated access points. Currently the closest park access is at Ward Avenue or the main park entrance at Cleone. We would expect that the Perry's would encourage their patrons to use

Page 2
Judith Vidaver
February 25, 1998

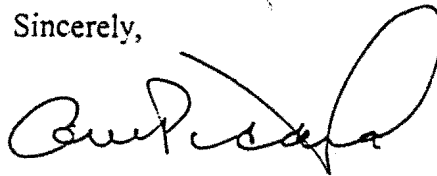
established public access points when entering the park. There is no designated park access north of Ward Avenue.

You make several references to our Department's MacKerricher State Park Coastal Trail Project. There seems to be some confusion about the relationship of this project to the proposed Perry facility. I can assure you that our MacKerricher Coastal Trail Project has no connection to the Perry project other than adjacent ownership.

In your comparison of the relationship between these two projects, you appear to focus on the cumulative effects of both projects together. In addition to being a separate project entirely, the scope and purpose of our coastal trail project is entirely different than that of the proposed Perry facility. The planning currently under way with our coastal trail project is far from complete, and reference to any resulting impacts is premature and speculative. You reference the "Biological Assessment MacKerricher Haul Road Project" as a source identifying potential impacts from the coastal Trail Project and the Perry proposal. The document you reference does not represent our Department's position on either of the two projects. Planning and data is still being gathered regarding the MacKerricher Coastal Trail Project. Before any judgment is made on projects under our control, we will undergo thorough study and objective evaluation in adherence to NEPA and CEQA guidelines.

I can appreciate your concern for the sensitive resources along our coastline. We have a difficult task in providing for protection of our park resources and yet providing recreational opportunities at the same time. Your continued support for our State Parks is appreciated.

Sincerely,



Greg Picard,
Park Superintendent

cc Mendocino County Board of Supervisors
California Coastal Commission
Mendocino County Planning
Bob La Belle, District Superintendent
Don & Margret Perry

EXHIBIT NO.	19
APPLICATION NO.	A-1-MEN-98-17
Correspondence from	
State Parks	